

94th Congress }  
2d Session }

COMMITTEE PRINT

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COLLECTION

LEGISLATIVE HISTORY OF THE COASTAL  
ZONE MANAGEMENT ACT OF 1972, AS  
AMENDED IN 1974 AND 1976 WITH A SEC-  
TION-BY-SECTION INDEX

PREPARED AT THE REQUEST OF  
HON. WARREN G. MAGNUSON, *Chairman*  
COMMITTEE ON COMMERCE

AND

HON. ERNEST F. HOLLINGS, *Chairman*  
NATIONAL OCEAN POLICY STUDY

FOR THE USE OF THE

COMMITTEE ON COMMERCE

AND

NATIONAL OCEAN POLICY STUDY

PURSUANT TO

S. Res. 222



DECEMBER 1976

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DECEMBER 1976

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

65-319



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## LETTER OF TRANSMITTAL

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
*September 29, 1976.*

DEAR COLLEAGUE: It has been 4 years since the enactment of the Coastal Zone Management Act. Currently, all 30 coastal States and three of four eligible territories are in the process of developing coastal zone management programs under this legislation.

Since its enactment, the Coastal Zone Management Act has been amended twice, in 1974 and again in 1976. The 1976 amendments are significant in both scope and concept.

Since the legislative intent of this Act, as amended, is frequently re-examined by the Congress and the Executive, the Committee requested the Library of Congress' Congressional Research Service to compile this history containing the legislative documents and debate.

It is hoped that this legislative history will prove useful to you and others involved in coastal zone management.

We wish to emphasize that the content of this legislative history have neither been approved, disapproved, nor considered by the Senate Committee on Commerce or the National Ocean Policy Study.

WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce.*  
ERNEST F. HOLLINGS,  
*Chairman, National Ocean Policy Study.*



## LETTER OF SUBMITTAL

THE LIBRARY OF CONGRESS,  
CONGRESSIONAL RESEARCH SERVICE,  
*Washington, D.C., July 26, 1976.*

HON. ERNEST F. HOLLINGS,  
*Chairman, National Ocean Policy Study, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request, we are submitting a legislative history of the Coastal Zone Management Act of 1972, and the 1974 and 1976 amendments.

This history contains an introductory section explaining the effect of the Stratton Commission's report on the movement for coastal zone management, and covers the efforts of the 91st and 92d Congresses toward this legislation. In addition, all reports and debates are included.

This work was compiled by Martin R. Lee, analyst in the Oceans and Coastal Resources Project.

We hope that this history will serve the needs of the Senate National Ocean Policy Study as well as those of Committees and Members of Congress interested in coastal zone management.

Sincerely,

NORMAN BECKMAN,  
*Acting Director.*





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**PART 1**

**LEGISLATIVE HISTORY OF THE COASTAL ZONE  
MANAGEMENT ACT OF 1972**

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# I. INTRODUCTION

## BACKGROUND

Man's attraction to the ocean and coastal areas has been heightened and complicated in the last couple of decades. The growth of older cities, the birth of new urban areas, development of offshore resources, the recreation movement and conservation efforts involved deep socio-economic, technological and scientific changes. Every coastal area in the country has experienced immense change of this kind resulting in increased pressure on every resource of these unique areas. The majority of the siting of industries, homes and public recreational facilities has centered in these areas. Even though this growth was obviously alarming during the 1950's and 1960's, there was no legal or administrative mechanism to direct or regulate development in the coastal zone. Coastal Zone Management was an idea born from the need to provide regulation of development of these land-sea interface areas. In the late 1960's two major studies were undertaken which focused on these problems and which later served as the basis for national coastal zone management legislative proposals. These studies were the Commission on Marine Science, Engineering, and Resources' final report, *Our Nation and the Sea*<sup>1</sup> and the Department of the Interior's *National Estuary Study*.<sup>2</sup>

## THE STRATTON COMMISSION

The Commission on Marine Science, Engineering and Resources,\* the Stratton Commission, produced a final investigative report entitled *Our Nation and the Sea*. Since the Commission's mandate was to investigate and offer recommendations on a broad array of marine problems, it naturally devoted considerable effort to the unique problems of the coastal zone and made specific recommendations for solutions of those problems. The Commission's Panel on Management and Development of the Coastal Zone held hearings at eight locations throughout the United States covering problems concerning shorelines, estuaries, governmental jurisdictions, the Great Lakes, socioeconomic trends, industrial development, housing development, recreation, sport fishing, commercial fishing, navigation and spatial conflicts, erosion and dredging.

The results of the panel's investigation were reported in detailed description in a separate volume entitled *Science and Environment*.

<sup>1</sup> U.S. Commission on Marine Science, Engineering and Resources. *Our Nation and the Sea*. Washington, 1969. GPO.

<sup>2</sup> U.S. Department of the Interior, Fish and Wildlife Service, Bureau of Sports Fisheries and Wildlife and Bureau of Commercial Fisheries. *National Estuary Study*. Washington, 1970. GPO.

<sup>3</sup> Established by Public Law 88-454 on June 17, 1966.

The Stratton Commission's summary report noted the uniqueness and importance of the coastal zone :

The coast of the United States is, in many respects, the Nation's most valuable geographic feature. It is at the juncture of the land and sea that the greater part of this Nation's trade and industry takes place. The waters off our shore are among the most biologically productive regions of the Nation.<sup>4</sup>

Perhaps the most valuable feature of the Stratton Commission's final report was that it not only recognized the uniqueness of the area but also the complexity of the problems involved. The report noted that the uses to which the coastal zone was being put had outrun abilities of the local governments who alone had the responsibilities for planning and developing resolutions to these problems. Clearly, planning and development were needed; but the local governments were not able to measure up to the task, and the states did not possess the resources to coordinate the needed effort. There was division as to responsibilities among the several jurisdictions, and no central mechanism existed for formulating sound decisions affecting the coastal zone. In its report, the Stratton Commission put the burden for effective management on the state :

Effective management to date has been thwarted by a variety of government jurisdictions involved, the low priority afforded marine matters by state governments, the diffusion of responsibilities among state agencies and the failure of state agencies to develop long range plans.<sup>5</sup>

Overall, the Commission found that the states were the central link joining the many participants in coastal zone affairs, but the states lacked the machinery for properly setting up a management mechanism. Specifically, the Commission recommended that state coastal zone authorities be formed, the states not be compelled to establish such authorities, the Federal Government meet one-half of the operating costs of the new state authorities and that matching grants be provided.

The Stratton Commission proposed that state coastal zone authorities be created to plan, regulate, acquire lands and develop public facilities. It further recommended that the responsibility for implementation of this program be given to the then proposed National Oceanic and Atmospheric Administration (NOAA) since it would offer a broader and more balanced perspective. Additionally, it urged that Federal and state agencies provide more adequate support for scientific and engineering research on coastal problems.

### THE NATIONAL ESTUARY STUDY

The Estuary Protection Act<sup>6</sup> commissioned the Department of the Interior to undertake "a study and inventory of the Nation's estuaries, including without limitation coastal marshlands, bays, sounds, seaward

<sup>4</sup> U.S. Commission on Marine Science, Engineering and Resources. *Our Nation and the Sea*. Washington, 1969, p. 49.

<sup>5</sup> *Ibid.*, p. 56.

<sup>6</sup> Public Law 90-454, 85 Stat. 625.

areas, lagoons, and land and waters of the Great Lakes.”<sup>7</sup> The study, completed by the Department of the Interior on January 30, 1970, proved to be a complete and thorough statement of estuarine conditions in the United States.

It comprised a discussion of the varied and completing uses to which the estuarine areas of the United States were being put and a graphic display of the conditions of the estuarine systems of the United States. The tone of the report was perhaps most indicative of the estuarine situations, for it presented an awesome picture of the ongoing destruction of the U.S. estuary system. In the introductory letter to the report, the directors of the study described this scenario:

Estuaries are in jeopardy. They are being damaged, destroyed, and reduced in size at an accelerating rate by physical alteration and by pollution. They are favorite places for industry, which finds the land cheap, water transportation easy and waste disposal convenient. They are also favorite places for residential developers who find it exceedingly profitable to dredge and fill an estuary and thus destroy part of it in order to appeal to affluent Americans to live near the water in houses which are accessible by both boat and automobile.<sup>8</sup>

In addition, the study focused on not only the deteriorating estuarine conditions, but also the integrated nature of estuaries and the jurisdictional-management problems involved. While it was not the task of the study to outline the Government alterations needed, this Department of the Interior study did act as a major effort in the move to promote the estuary problem.

#### LAND USE

In addition to recommendations for the development of oceans and coastal areas and the conservation of estuaries, the idea of comprehensive land use planning was gaining acceptance at this time. Two principal studies, the Public Land Law Review Commission's final report, *One Third of the Nation's Land* and the American Law Institute's *Model Land Development Code* focused on this idea. The Public Land Law Review Commission concentrated on planning, utilizing Federally owned lands, but did recognize the need for coordination of land use planning with non-Federal lands.

The American Law Institute's *Model Land Development Code* proved to be the basis for the land use regulations of several states. Also, the National Governors Conference adopted a policy position in 1970 and 1971 supporting not only a bolder and more innovative state role in land use planning but also stronger Federal legislation in support of the new state efforts in this direction. Clearly the movement for comprehensive land use planning was receiving support from a wide range of parties.

<sup>7</sup> Public Law 90-454, sec. 2.

<sup>8</sup> U.S. Department of the Interior. Fish and Wildlife Service. Bureau of Sports Fisheries and Wildlife and Bureau of Commercial Fisheries. National Estuary Study. Washington, 1970. GPO, p. 2.

### *91st Congress Proposals*

Soon after the release of the Stratton Commission report, legislative initiative began on the Commission recommendations. In direct response to the report, Sen. Warren G. Magnuson on August 8, 1969 introduced S. 2802, the Coastal Zone Management Act of 1969, which was referred to the Senate Committee on Commerce. Two other coastal zone management bills were introduced in the Senate shortly thereafter: S. 3183 on Nov. 25, 1969 by Sen. J. Caleb Boggs, referred to the Senate Public Works Committee, and S. 3460, on February 17, 1970, referred to the Senate Commerce Committee. S. 3183 was in response to the Department of the Interior recommendations proposed in the National Estuary Study. H.R. 14145, also reflecting the recommendations of the Interior Department was introduced by Rep. George H. Fallon on November 18, 1969, and referred to the House Committee on Public Works. Two bills referred to the House Committee on Merchant Marine and Fisheries were H.R. 15099 introduced by Rep. Alton A. Lennon on December 4, 1969 and H.R. 16155 by Rep. Robert M. Giaimo on February 24, 1970.

Four of these bills S. 2802, S. 3460, H.R. 15099 and H.R. 16155 assigned the authority for the coastal zone management program to the National Council on Marine Resources and Engineering Development, while S. 3183 and H.R. 14845 would have assigned it to the Department of the Interior. Assignment of responsibility reflected the landward or seaward orientation of the individual bills, with those concentrating on the water-related problems and assigning responsibility to the National Council on Marine Resources and Engineering Development being referred to the Senate Commerce or House Merchant Marine and Fisheries Committees. Those with a landward focus and favoring the Department of the Interior were referred to the the Senate Public Works or the House Public Works Committees. The definition of boundaries aggravated the jurisdictional problems.

The land or sea orientation approach to coastal zone problems was manifested by the definition of the coastal zone itself. Most of the bills were similar in recognizing the seaward boundary as the outward limit of the the territorial sea while there was different interpretations of the landward extent of the coastal zone. Both S. 2802 and H.R. 15099 defined this area as the "landward extent of maritime influences", S. 3460 and H.R. 16155 set the limits as "not to exceed 20 miles inland where maritime influences exercise direct effect on land", and H.R. 14845 defined the area as "that in close proximity and strongly influenced by the coastline". These definitions reflected the various ways of interpreting the land definition of the coastal zone.

Management provisions were similar throughout the bills with some allowing for development grants of either 50% or 66 $\frac{2}{3}$ %. S. 2802, S. 3460, H.R. 15099 and H.R. 16155 provided for state coastal zone authorities, while S. 3183 did not. Providing for a state coastal zone authority would have been instrumental in determining the flexibility the states would have in their individual management program.

Included in some of the proposed legislation were provisions for estuarine sanctuaries, research areas set aside to provide scientists the opportunity to examine the ecological relationship within estuaries. S. 3460 and H.R. 16155 contained provisions for the coverage of 50% of the costs of acquisition, development and operation of estuarine sanctuaries.



## Hearings

The House Committee on Merchant Marine and Fisheries sponsored a conference on coastal zone management on October 28–29, 1969.<sup>9</sup> In these two days of hearings major testimony was received from 26 witnesses partitioned into seven major panels covering a national program for coastal zone management, the need and nature of land use regulation, interstate and intrastate problems in coastal zone management, Federal and State roles in the coastal zone, the Federal focus of coastal zone management, and the Federal action in the coastal zone. The testimony revealed the existence of problems, and that remedial action was necessary. The House Committee on Public Works also held hearings on a specific bill, H.R. 14845,<sup>10</sup> on December 3, 1969. Testimony received at the House hearings further highlighted the problems of the coastal zone.

The Senate Committee on Commerce held hearings covering S. 2802, S. 3183 and S. 3460 on December 17, 1969; February 9, 10, 17, 18, 24, 26, 1970;<sup>11</sup> March 23, 1970; April 2, 9, 16, 21, 1970; and May 4, 1970.<sup>12</sup> In these 14 days of hearings, 52 witnesses testified and some 82 items of information were received. It was indeed an information-gathering series of hearings, with the problems of the inland definition of the coastal zone, the differences in the Federal and State definition of the coastal zone and the need for flexibility in program management surfacing.

## 92nd Congress Proposals

The Administration's position on coastal zone management changed at the beginning of the 92nd Congress, from one of favoring a coastal zone management program under the Department of the Interior to considering the broader realm of comprehensive land use planning. This change was to have a significant effect upon the coastal zone legislation.

S. 582 introduced by Sen. Ernest F. Hollings on February 4, 1971 and S. 638 introduced by Sen. John Tower on Feb. 8, 1971 were the first principal Senate coastal zone management proposals of the 92nd Congress. Both were referred to the Senate Commerce Committee. These bills put responsibility for the coastal zone management program in the Department of Commerce's newly organized National Oceanic and Atmospheric Administration. Both bills defined the coastal zone seaward to the outer limits of the territorial sea, an area in which the states had clear authority to act, and inland to the extent that the land was "influenced by the water". The definition of the coastal zone was thus flexible enough to allow for the various conditions of each state. In its report of December 1, 1971, the Senate Com-

<sup>9</sup> U.S. Congress. House. Committee on Merchant Marine and Fisheries. Coastal Zone Management Conference. Hearings, 91st Congress, 1st Session on the Washington, D.C. Conference on the Organization, Utilization and Implementation of the Coastal Zones of the United States, Including the Great Lakes. Oct. 28, 29, 1969. Washington, U.S. Govt. Print. Off., 1969, 198 pp.

<sup>10</sup> U.S. Congress. House. Committee on Public Works. Coastal Zone Management. Hearings, 91st Congress, 1st Session on H.R. 14845, Dec. 3, 1969. Washington, U.S. Govt. Print. Off., 1970, 48 pp.

<sup>11</sup> U.S. Congress. Senate. Committee on Commerce. Federal Oceanic and Atmospheric Organization. Hearings, 91st Congress, 1st Session, on S. 2841 and S. 2802. Dec. 17, 1969 and Feb. 9, 10, 17, 18, 24, 26, 1970. Part I. Washington, U.S. Govt. Print. Off., 1970, 1–771 p.

<sup>12</sup> U.S. Congress. Senate. Committee on Commerce. Federal Oceanic and Atmospheric Organization. Hearings, 91st Congress, 1st and 2nd Session on S. 2802, S. 2393, S. 3118, S. 3183 and S. 3460, March 23; April 2, 9, 14, 16, 21 and May 4, 1970. Part 2. Washington, U.S. Govt. Print. Off., 1970, 773–1286 p.

mittee on Commerce more specifically defined the inward boundary of the coastal zone as inland to seven miles to allow for future land use planning.

The two major pieces of land use legislation introduced early in the 92nd Congress, and having strong effects on the composition of the coastal zone legislation were S. 632 introduced by Sen. Henry M. Jackson on February 5, 1971 and S. 992 introduced by Sen. Robert C. Byrd, both of which were referred to the Senate Committee on Interior and Insular Affairs, S. 632 would have established a Land and Water Resources Planning Council through a amendment to the Water Resources Planning Act, to assist state and local governments in land use planning. It was S. 992 which was to become the main Senate land use proposal of this Congress and to have the greatest effect on the coastal zone management legislation. For, it provided for cost sharing grants for development and management of state land use programs by the Department of the Interior. Most importantly from the coastal zone management point of view, S. 992 recognized the coastal zone and estuaries as areas of critical environmental concern, and also provided for management grants only if the value of the coastal zone was recognized.

At this time, similar legislative activity was being undertaken in the House of Representatives. Three similar bills were introduced by Rep. Alton A. Lennon and referred to the House Committee on Merchant Marine and Fisheries: H.R. 2492 and H.R. 2493 on January 29, 1971 and H.R. 9229 on June 17, 1971. Their inland definition of the coastal zone also was somewhat flexible defining it as the lands either strongly influenced or affected by the sea. Of the three only H.R. 2493 and H.R. 9229 had provisions for estuarine sanctuaries, and H.R. 9229 was the first bill to contain provisions for marine sanctuaries, which were defined as areas of the high seas set aside for preservation because of their conservation, recreation, ecological or esthetic values. The major land use proposal of the House of Representatives was H.R. 4332, introduced by Rep. Wayne N. Aspinall on February 17, 1971, and similar to S. 992 in recognizing the coastal zone as an area of critical environmental concern. It too was to significantly affect the coastal legislation in the House.

### *Hearings*

The Senate continued coastal zone management hearings during the 92nd Congress. On three days of hearings, May 5, 6, and 11, 1971,<sup>13</sup> testimony was received from a number of executive departments and agencies, and from county and state governments. The hearings focused on S. 582, S. 632, S. 638 and S. 992, the land use bill.

Hearings on the coastal zone management bills referred to the House Merchant Marine and Fisheries Committee were held on June 22, 23, 24; August 3, 4, 5 and November 1, 9, 1971.<sup>14</sup> In these eight days of hearings, testimony was presented by some 34 witnesses with additional comment being accepted from 38 other sources. Discussion of the coastal

<sup>13</sup> U.S. Congress. Senate. Committee on Commerce. Coastal Zone Management. Hearings, 92nd Congress, 1st Session on S. 582, S. 632, S. 638 and S. 992. May 5, 6, and 11, 1971. Washington, U.S. Govt. Print. Off., 1971. 867 p.

<sup>14</sup> U.S. Congress. House. Committee on Merchant Marine and Fisheries. Coastal Zone Management. Hearings, 92nd Congress, 1st Session on H.R. 2492, 2493 and H.R. 9229, June 22, 23, 24; Aug. 3, 4, 5; Nov. 1, 9, 1971. Washington, U.S. Govt. Print. Off., 1972. 463 p.

zone management and land use planning issue dominated this set of hearings.

### *Passage and Enactment*

In the 2d Session of the 92nd Congress, the Senate Committee on Commerce considered the coastal zone management bills before it and favorably reported a "clean bill", S. 3507, introduced on April 11, 1972 and reported on April 19, 1972. The presence of the land use proposals had clearly affected the make-up of the new piece of legislation, for the idea of a specific inland definition of the coastal zone as S. 582 had possessed had been dropped. Instead, a very flexible and water-oriented definition of the inner boundary of the coastal zone was given: "shorelands whose use had a direct and significant impact upon the coastal water". The flexibility of this definition was to allow for adequate coordination with the then proposed land use legislation. Since this was a water-oriented bill, the National Oceanic and Atmospheric Administration, because of its work in the coastal zone, was given authority for the management program. S. 3507's debate and passage emphasized the tightening of jurisdictional boundaries, the provisions for "dovetailing" with future land use legislation if necessary and for cooperation between the states. S. 3507 was passed 68 to 0 with 32 not voting.

Similarly, the House of Representatives Committee on Merchant Marine and Fisheries reported its actions in the form of a new bill H.R. 14146 on May 5, 1972. H.R. 14146 deliberately left the definition of the landward extent of the coastal zone broad to fit the varied and divergent conditions of the states, including "only those shoreland areas the control of which is necessary to the effective management of the coastal waters themselves." It too recognized that these provisions must be acceptable to any future land use legislation, and the National Oceanic and Atmospheric Administration because of its broad and extensive responsibilities in the coastal zone was given the authority for the program.

Action on the H.R. 14146 came on August 2, 1972. Among the issues brought up during debate was whether this was a piecemeal approach, addressing only part of the problem. In addition, the possibility of duplicate land use programs was voiced, along with concern over the Department of Commerce having management responsibility for the program. An amendment was offered and accepted which moved the responsibility from the Department of Commerce to the Department of the Interior. Thus amended, H.R. 14146 was passed by 376 to 6 with 50 not voting. S. 3507 similarly amended was passed by the House in lieu of H.R. 14146. Both Houses insisted on their provisions and conferees were appointed.

The conference report was accepted by both Houses on October 27, 1976. The managers had agreed to adopt the House language as to the seaward extent of the coastal zone because of its clarity, while the definition of the land areas to be included was limited to "those lands which have a direct and significant impact upon the coastal waters", thus reinforcing the water orientation of the legislation. The conferees adopted the Secretary of Commerce as the responsible department citing the National Oceanic and Atmospheric Administration's capability to assist state and local governments. Future concurrence with the Department of the Interior in the event national land use

legislation was provided for. Authorization for the program was reduced to 5 years. The house provision for a National Coastal Resources Board was deleted as were provisions providing for a federal management of the contiguous zone, and penalty provisions.

The President approved the Coastal Zone Management Act on October 27, 1972 as Public Law 92-583. In his remarks, the President noted his disappointment with the act's assigning responsibility to the Department of Commerce rather than the Department of the Interior as he had requested. He urged the passing of comprehensive land use legislation and the formation of a Department of Natural Resources (DNR) to end fragmentation and fractionation of Federal programs.

### *Chronology*

Jan. 8, 1969	Release of the Stratton Commission Report.
Aug. 8, 1969	S. 2802 Introduced.
Oct. 28, 29, 1969	House Conference on Coastal Zone.
Nov. 18, 1969	H.R. 14845 Introduced.
Nov. 25, 1969	S. 3183 Introduced.
Dec. 3, 1969	House Hearings on H.R. 14845.
Dec. 4, 1969	H.R. 14845 Introduced.
Dec. 17, 1969	Senate Hearings on S. 2802.
Feb. 9-10, 17-18, 24, 26, 1970	Senate Hearings on S. 2802.
Feb. 17, 1970	S. 3460 Introduced.
Feb. 24, 1970	H.R. 16155 Introduced.
Mar. 23, 1970	Senate Hearings on S. 2802.
Apr. 2, 9, 16, 21, 1970	Senate Hearings on S. 2802.
Jan. 29, 1971	H.R. 2492, H.R. 2493 Introduced.
Feb. 4, 1971	S. 582 Introduced.
Feb. 5, 1971	S. 632 Introduced.
Feb. 8, 1971	S. 638 Introduced.
Feb. 17, 1971	H.R. 4332 Introduced.
Feb. 25, 1971	S. 992 Introduced.
May 5-6, 11, 1971	Senate Hearings on S. 582, S. 632, S. 638 and S. 992.
June 17, 1971	H.R. 9229 Introduced.
June 22, 24, 1971	House Hearings on H.R. 2492, H.R. 2493, and H.R. 9229.
Aug. 3-5, 1971	House Hearings on H.R. 2492, H.R. 2493 and H.R. 9229.
Nov. 1, 9, 1971	House Hearings on H.R. 2492, H.R. 2493 and H.R. 9229.
Dec. 1, 1971	S. 582 Reported by the Senate Commerce Committee, Senate Report 92-526.
Mar. 28, 1972	H.R. 14146 Introduced.
Apr. 19, 1972	S. 3507 Reported by Senate Commerce Committee, Senate Report 92-753.
Apr. 20, 1972	Senate Proceeds to Consider S. 3507.
Apr. 25, 1972	Senate Passes S. 3507 (68-0-32).
Apr. 26, 1972	S. 3507 as passed, referred to House Committee on Merchant Marine and Fisheries.
May 8, 1972	H.R. 14146 Reported by the House Committee on Merchant Marine and Fisheries, House Report 92-1049.
July 27, 1972	House Resolution 1063 to Consider H.R. 14146.
Aug. 2, 1972	House Passes H.R. 14146 (376-6-50). S. 3507 passed in lieu.
Aug. 7, 1972	Senate Disagrees with House Amendments and Appoints Magnuson, Hollings and Stevenson as Conferees.
Sept. 25, 1972	House Insists on Amendments and Agrees to Conference. Garmatz, Leannon, Downing, Mosler and Pelly Appointed As Conferees.
Oct. 5, 1972	Conference Report Submitted to the House, House Report 92-1544.
Oct. 12, 1972	House and Senate Agree to Conference Report.
Oct. 14, 1972	Speaker Affixes Signature.
Oct. 16, 1972	S. 3507 Submitted to the President.
Oct. 27, 1972	President Signs S. 3507, the Coastal Zone Management Act of 1972, a Public Law 92-583.

## II. SELECTED TESTIMONY—HOUSE MERCHANT MARINE AND FISHERIES CONFERENCE ON COASTAL ZONE MANAGEMENT

STATEMENT OF DR. SAMUEL A. LAWRENCE, FORMER EXECUTIVE DIRECTOR, COMMISSION ON MARINE SCIENCE, ENGINEERING, AND RESOURCES

Dr. LAWRENCE. Thank you very much. It is good to be with you today to report the work of the Stratton Commission. I think we are now entering a period of the conference when we really are going to have some dialog. Both John Knauss and myself have designed our remarks to be very brief \* \* \* sufficient, we hope, to introduce those who have not already been thoroughly familiarized with the Commission materials to know what the background has been for these conferences and the problems which you are going to be discussing here.

We do want to have time so that there really will be some discussion and some questions.

It is always a pleasure for one who has been associated with an effort to see the recommendations emerging from it brought forward for public debate and action. There has been a great deal of action in the past several months when the commission filed its report with the Congress and the President. Draft legislation is now before the appropriate committees and subcommittees of both Houses of Congress; the administration only a week ago has announced its intention to take action through coastal zone management to support the creation of the coastal zone laboratories and move ahead with a pilot project for the restoration of the Great Lakes and I expect I may want to comment a little more on that myself.

At a recent Governor's Conference, I understand that a resolution was passed that there should be a marine States association which would provide a vehicle at the State level in considering mutual coordinating activities. Now we have this very useful forum provided by the Committee on Merchant Marine and Fisheries, the Subcommittee on Oceanography.

This gathering momentum of concern reflects very real and growing problems which vitally affect the people of our coastal States and indeed the entire Nation. You know them well. They include the urgent need to halt the deterioration of our Great Lakes and estuaries, provide more adequate seaside recreational opportunities, improve our ports, accommodate expanding industries seeking shoreline space, capitalize on opportunities to make more effective use of the waterfronts of coastal cities, and protect coastlines from accidental oil spills and other forms of pollution.

We need to establish a firmer legal framework for ownership and use of coastal and offshore lands. Above all, the commission concluded, the pressures for multiple use of these limited coastlands require an organized approach in order to coordinate the separate plans and

activities of Federal, State, and local government agencies and of private corporations and persons.

Dr. Knauss in just a moment will amplify on the recommendations which were made by the commission in reference specifically to the coastal zone. Tom thought that it might be useful if I were to fill in the background on the commission's overall assignment and the manner in which it went about it in its proposal for a national ocean program.

The legislation which established the commission designated as Public Law 89-454, was enacted in June, 1966. This law set the overall policy framework for an expanded marine effort; called upon the President, aided by a Cabinet-level council, to make immediate improvements in the Federal Government's planning and programing for marine affairs; and provided that the President should appoint a public commission to provide a firmer basis for planning over the longer term. More specifically, Public Law 89-454 gave the commission four major tasks:

To examine the Nation's stake in the development, utilization, and preservation of our marine environment.

To review all current and contemplated marine activities and assess their adequacy in reference to the overall goals established in the 1966 act.

On the basis of these studies, to formulate a comprehensive, long-term national program for marine affairs, and finally—

To recommend a plan of Government organization for such a program's implementation, together with estimated costs.

The commission was a temporary body composed of 15 members under the chairmanship of Dr. Julius Stratton of the Ford Foundation and previously the president of Massachusetts Institute of Technology. Membership was drawn from Federal and State Governments, industry, and the universities, and it had a very broad geographical base. I think it was a truly representative commission. All of the members assumed their duties as commissioners in addition to their other responsibilities.

Yet it was a working commission, one that spent 2 to 4 days every month, and many of the members much more time than that, in preparing the studies and report.

The commission's final report to the President and the Congress was submitted last January after 2 years of intensive inquiry, expressed the commission's unanimous conclusion that the Nation's marine interests required major strengthening of existing programs and initiation of certain new activities (such as coastal management) under the leadership of a new National Oceanic and Atmospheric Agency.

Throughout its work, the commission enjoyed the close and cordial cooperation of the national council, yet the two bodies were independent of one another and each separately reached its own judgments on matters within its purview. The commission also benefited significantly in having the support and help of four congressional advisers (two from the Senate and Mr. Lennon and Mr. Mosher appointed from the House), who generously make themselves available to advise and assist the commission in numerous ways, although refraining, per the statute, from participating directly in its work.

A large number of excellent studies and reports had preceded the formation of the commission and provided a secure foundation for its

work. The assignment to the commission, however, extended well beyond the scope of all previous studies in requiring a searching and comprehensive review of the totality of the Nation's nonmilitary interests in the seas.

The commission interpreted its mandate broadly. Pursuant to the clear intent of Congress, it undertook to formulate a plan of national action, which would embrace the activities of local governments, international organizations, and the private sector as well as of Federal agencies.

Whereas previous reports had concentrated largely on scientific and technical matters, the commission looked to the whole range of the Nation's civil marine interests including resource development, environmental prediction, the maintenance of environmental quality, and on a more limited basis, recreation, transportation, and military uses of the oceans.

Its recommendations were directed to improving institutional frameworks as well as to advancing knowledge and improving technical capability to make more effective use of the oceans. A major portion of the commission's work, of course, was addressed to considering the most effective way to organize the very broad spectrum of persons and groups having a stake in marine affairs so as to mobilize effective action, not just within the Federal Establishment, but across the entire Nation.

One of the most important contributions made by the commission, in my mind, was its differentiation of three major zones of geographic interest within the overall plan. Whereas the science of oceanography had focused mainly on the deep oceans, and previous reports had reflected this view, the commission concluded that it was Nation's coasts, estuarine areas, and Great Lakes which presented the most urgent problems and the most immediate and tangible opportunities for improvement.

Development of the sea's resources, while conducted in a variety of environments, required improved technology and survey information chiefly at Continental Shelf depths, which defined a second zone. Beyond the shelves stretch the deep seas, of which present knowledge permits only limited use, and here the major tasks seemed to be exploration and scientific investigation and to establish a monitoring and prediction system to maintain watch over the coupled movements of the global air-sea envelope.

The commission conducted its basic investigations through seven panels, drawn from its membership and supported by staff and consultants. The reports of panels dealing with marine science, technology, resource development, industrial and investment issues, environmental matters, education and training, and international law—provided the primary source material upon which the commission as a whole based its conclusions.

These reports have been published by the commission and constitute an extraordinary rich fund of information and analysis in these more specific fields. You have received copies of one of the volumes, but you might be interested to see all three. There are eight reports within the three volumes entitled, among others, "Science and Environment," "Industry," and "Technology."

In addition to these reports there were a number of other studies, some taken through contract and some by staff which have been made publicly available through the Federal Clearinghouse for Scientific and Technical Information and several may be of interest to this group. They are described at page 283 of the commission's report, "Our Nation and the Sea." Those are available if you would like to order them.

At the time that the Commission began its work, no one to my knowledge had yet coined the term "coastal zone" or formulated the concept that it represented a zone having unique characteristics or requiring a special approach. However, as the panel on environmental interactions, headed by Dr. Knauss, deepened its investigations it concluded that the scope of problems within its purview did not permit a single, unified approach. The scales of motion to be observed differed too greatly, the parties in interest were too diverse, and the problems to be addressed too varied to be covered in a single report.

Dr. Knauss accordingly proposed to the Commission that his panel prepare two reports: One dealing with systems for monitoring and prediction of the global environment and the second with management of the coastal zone. Undaunted by the complexity of its assignment, this panel plunged with really extraordinary energy and dedication into its task.

Over a period of roughly 1 year and supported by only two full-time staffs, Dr. Knauss and his associates held hearings throughout the country at which 126 witnesses presented formal statements. Over 600 additional persons were interviewed or supplied material by mail.

A conference organized by resources for the future provided additional inputs, as did the National Council Committee on the Coastal Zone and several Federal agencies. There were several staff and contract studies and monthly meetings of the panel to review materials and compare notes.

Finally, after all of this labor, the mass of material finally was distilled into two reports running some 300 pages, which I believe have gained recognition as the authoritative works in their fields.

I might mention that throughout this period, Dr. Knauss also was directing the marine program of the University of Rhode Island and dedicating 2 to 4 days each month to the meetings of the Commission as a whole. In sum, whether or not you may agree with the panel's finding, you must credit it with having turned in a truly remarkable job.

I would like to qualify our next panelist as a real expert and turn the microphone over to Dr. Knauss.

Dr. WENK. Thank you very much, Dr. Lawrence. Dr. Knauss is well-known in the field of oceanography and now has graduated to be well-known in the field of marine science affairs. He received his undergraduate degree at MIT and his graduate degrees at the University of Michigan and Scripps. He is world-renowned as a specialist in ocean circulation. Dr. Knauss has been at the University of Rhode Island since 1962 as dean of the Graduate School of Oceanography, and for the past year now, in a new reflection by that university of the importance of the oceans, has been Provost for Marine Affairs. Dr. Knauss.



STATEMENT OF DR. JOHN A. KNAUSS, PROVOST FOR MARINE AFFAIRS,  
UNIVERSITY OF RHODE ISLAND, AND FORMER CHAIRMAN, PANEL ON  
COASTAL ZONE MANAGEMENT, COMMISSION ON MARINE SCIENCE,  
ENGINEERING, AND RESOURCES

Dr. KNAUSS. Thank you. "The coast of the United States is in many respects the Nation's most valuable geographic feature"—in this way the Commission on Marine Science, Engineering and Resources opened its discussion of the coastal zone. Sketched in the Commission report, Our Nation and the Sea, and rather fully elaborated in the report of the panel on Management and Development of the Coastal Zone are a variety of ways in which the shoreline and the coastal waters are being used.

Many of you have read these reports, and all of you are concerned with the coastal zone. There is no need for me to repeat, except insofar as I believe it useful to emphasize one major premise underlying our recommendations.

The premise is as follows: The uses of the coastal zone are increasing. This trend will continue and probably accelerate. The increasing pressure on the coastal zone is causing an increasing variety of management problems. Some uses of the coastal zone are in conflict and some uses may be incompatible with one another. As we look to the future, one can see that these management problems will increase.

#### THE USES OF THE COASTAL ZONE

The most intensive uses of the coastal zone occur at the water's edge. Seaward the problems become fewer, if not simpler, and at the edge of the continental shelf, problems of conflicting uses are the exception today. But we on the Commission were persuaded that problems of multiple uses of the coastal zone are moving seaward and will continue seaward.

Without going into detail, let me remind you of some of the coastal zone problems:

Pressures on shoreline space have mounted dramatically over the past 20 years. The reasons are clear: the shift of the population from rural areas to the cities (the Nation's seven largest metropolitan areas are on the Great Lakes or the sea coast), the spread of suburban development into coastal areas, and the increased affluence and leisure time of a large part of our population.

The revolution occurring in the shipping industry as we move to jumbo tankers, large bulk carriers and container vessels necessitates major changes in our ports and related transportation facilities.

Electrical power production has doubled every 10 years. We need space for the large nuclear power plants of tomorrow and we must locate them in such a way as to minimize the consequences of the large amount of waste heat generated by these plants. One estimate indicated that by 1980 the power industry will use the equivalent of one-fifth of the fresh water runoff of the United States for cooling water.

Recreation is one of this country's fastest growing industries and marine recreation is becoming more popular and varied. Scuba diving and surfing have become major sports in the last 20 years. I think California's plan to develop underwater parks is the trend of the future.

I believe we will see small submarines and underwater habitats widely used for recreation in another 20 years.

Rather than talk about all the fishing problems, let me mention something about aquaculture. If we are to consider aquaculture seriously, we must face up to some of its implications as to water and shoreline use. There are those who believe the major problem facing aquaculture is not learning how to grow seafood economically, but overcoming the variety of local, State, and Federal laws and management practices necessary to encourage such programs. For example, developing a raft oyster industry in navigable waters may be a difficult problem in some States.

The growth of the offshore oil and gas industry is well known. There are now some 16,000 offshore wells in the United States alone. Offshore production accounts for some 16 percent of the total production today and is heading toward 33 percent. Industry investment in offshore programs is about a billion dollars a year and still growing.

Last but far from least, the coastal zone is used as a receptacle for pollutants. If there is one common rallying cry around the country today it is that we must do something more to stop pollution. Pollution is more than a coastal zone problem, but I think our proposed coastal zone authorities will aid in this effort.

#### THE MANAGEMENT PROBLEM OF THE COASTAL ZONE

A major conclusion of our Commission was that the primary problem in the coastal zone was a management problem with all the attendant problems that proper management implies. It is true that the Federal, State, and local governments share the responsibility to develop and manage the coastal zone. In reviewing the situation, we concluded that effective management to date has been thwarted by the variety of Government jurisdictions involved at all levels of Government, the low priority afforded to marine matters by State governments, the diffusion of responsibility among State agencies and the failure of State agencies to develop and implement long range plans.

Having said all this about the problems in the States, I would also add that until relatively recently, navigation—over which Federal authority is preeminent—has tended to dominate other uses of the coastal zone, and perhaps for this reason, States have been slow to assume their responsibilities.

The Federal role in the coastal zone has grown haphazardly. Closely related functions are discharged by the Coast Guard, Army Corps of Engineers, Department of Housing and Urban Development, a number of bureaus of the Department of Interior and several other Federal agencies.

The Federal Government has sponsored planning activities in certain coastal areas through river basin commissions and Federal activity is itself coordinated through the Water Resources Council and the Council on Marine Resources and Engineering Development. However, neither of these groups can be expected to be concerned with the detailed management of particular coastal areas.

If you believe, as did the Commission, that a more effective management system is required, one of the first questions to be settled is the level of Government at which it operates. Our second major conclusion was that the management task was primarily a State responsibility

and that the Federal Government should encourage the States to accept this responsibility.

Even the most ardent federalists amongst us despaired of ever doing an effective job at the Federal level. It seems highly unlikely, even if it were considered desirable, to put together in a single agency all of the authority and functions related to the coastal zone that one now finds scattered throughout the Federal establishment.

Probably the most that one could expect would be a somewhat more powerful and effective Marine Council or Water Resources Council.

However, we in the Commission were of the opinion that the proper level of Government was the State level. Most of the management functions we are suggesting are traditionally State functions. The extent to which any State wishes to delegate authority to local or regional groups can, within certain limits, be determined by the State.

#### THE COASTAL ZONE AUTHORITY

Coming to our recommendations, the Commission was of the opinion that the States must be the focus for responsibility and action in the coastal zone. We also concluded that in most cases the States now lack adequate machinery for that task. We believe an agency of the State is needed with sufficient planning and regulatory authority to manage coastal areas effectively and to resolve problems of competing uses.

Such agencies should be strong enough to deal with the host of overlapping and often competing jurisdictions of the various Federal agencies. In addition, a strong State organization is essential to surmount special local interests, to assist local agencies in solving common problems, and to effect strong interstate cooperation.

Specifically we recommended that :

A Coastal Management Act be enacted which will provide policy objectives for the coastal zone and authorize Federal grants-in-aid to facilitate the establishment of State coastal zone authorities empowered to manage the coastal waters and adjacent land.

We recognize that the Federal Government cannot compel a State to develop a special organization to deal with coastal management problems. However, by such an act it can encourage a State to do so.

We also recognize that the great diversity of resources, scope, and activities of coastal State governments will prevent adoption of a uniform administrative approach to State coastal zone authorities. In some States a single authority might appropriately be given jurisdiction over the State's entire coast ; in others, several groups might be established under a single authority within a State to deal with separate estuarine areas.

The form of a State authority may vary from a volunteer commission with a small staff to an agency like the New York Port Authority with major development authority buttressed by the power to issue bonds.

In our review, the guiding principles for the authorities should include the concept of fostering the wildest possible variety of beneficial uses so as to maximize net social return. When necessary, public hearings should be held to allow all interested parties to express views before actions are taken or decisions are made changing or modifying the coastal zone.

All information and actions of such an authority should be made a matter of public record. The authority must represent all legitimate

interests in the coastal zone, and not be dominated by any single interest whether it be fishing, recreation, industrial development or conservation.

The Commission believed the following powers should be available to the typical coastal zone authority:

1. Planning—to make comprehensive plans for the coastal waters and adjacent lands and to conduct the necessary studies and investigations.

2. Regulation—to zone; to grant easements, licenses, or permits; and to exercise other necessary controls for insuring that use of waters and adjacent lands is in conformance with the plan for the area.

3. Acquisition and eminent domain—to acquire lands when public ownership is necessary to control their use (condemnation procedures should be used if necessary).

4. Development—to provide, either directly or by arrangement with other government agencies, such public facilities as beaches, marinas, and other waterfront developments and to lease lands in its jurisdiction, including offshore lands.

With respect to the later point, I should note that the Commission recommended that:

States develop procedures to permit the leasing of offshore areas for new uses consistent with the overall plan of the State coastal zone authorities for the development of these areas.

We referred to these leases as “seasteads” in analogy with the Homestead Act of 1862.

#### QUESTIONS CONCERNING COASTAL ZONE AUTHORITIES

Of the various questions and objections that were raised to the idea of State coastal zone authorities during the formulation of our report, I'd like to mention two. The first is that State boundaries are usually not natural division lines for the coastal zone and, for example, Lake Michigan, Chesapeake Bay, and Delaware Bay are shared by more than one State; thus regional authorities would be preferable.

The objection is certainly a valid one, but I don't believe most States are willing to transfer to regional groups the kinds of power and authority we have suggested for coastal zone authorities. Furthermore, the Commission was persuaded that “in most cases sound planning and management undertaken by one State probably will not differ greatly from that undertaken by an adjacent State. When differences do arise, they may be settled by direct negotiations between the parties concerned or by the establishment of ad hoc interstate committees or an interstate commission or compact. Strong coastal zone authorities representing the variety of State interests will facilitate such agreements.”

The second question concerns the Federal role vis-a-vis coastal zone authorities. The Federal Government has strong interests in the effective management of a State's coastal waters and a number of special interests and responsibilities including navigation and security.

The Commission felt that some kind of Federal review of coastal zone authorities was desirable to insure that national interests are protected. Recognizing that any action of a coastal zone authority must be consistent with such programs as the Department of Interior's continuing recreation, wildlife and mineral development plans and with those of the Army Engineers relating to navigation and flood

control, we were of the opinion that there should be a single agency in the Federal Government with primary responsibility for reviewing the program of State coastal zone authorities, for coordinating Federal activities in these areas, and for planning, coordination, and management for that part of the coastal zone within Federal but beyond State jurisdiction.

It was our recommendation that these responsibilities be assigned to the new, independent agency recommended by the Commission, the National Oceanic and Atmospheric Agency.

#### COASTAL ZONE RESEARCH LABORATORIES

Finally, let me say a few words about coastal zone research laboratories. Proper management of the coastal zone requires a continuing program of monitoring and research. It also requires a continuing flow of trained people. As a teacher and a scientist, I can't emphasize these points too much. The problems of the coastal zone cut across many disciplines; most of the natural sciences and fields of engineering, as well as law, economics, community planning and political science.

An important aspect of the coastal zone recommendation of the Commission is that concerning the development of coastal zone laboratories affiliated with academic institutions, the possible interaction of these laboratories with coastal zone authorities, and the suggestion that universities affiliated with these laboratories play a more active role in training personnel in these areas.

We considered these coastal zone laboratories as an integral part of the coastal zone recommendations. Further the Commission recommended that these coastal zone laboratories be developed through the sea-grant program.

Thank you.

#### STATEMENT OF DR. EDWARD WENK, JR., EXECUTIVE SECRETARY, NATIONAL COUNCIL ON MARINE RESOURCES AND ENGINEERING DEVELOPMENT

DR. WENK. Thank you very much, John. I have been identified on your program as the moderator, and those of you who are acquainted with the physics of nuclear engineering appreciate that in most instances moderators are present to prevent unwarranted heat from arising from nuclear power reactors.

I am going to depart from that role if I may, to join this panel as a third speaker with the encouragement, I might say, of Dr. Clingan and the committee, because the Administration has had the opportunity of examining these recommendations and has made a decision which was announced on Sunday, October 19.

I would like to share that with you because I believe you are interested in the outcome of this novel, and I at least might tell you what the next to last chapter sounds like. The last chapter will be written sometime next spring and probably on this side of Washington.

First of all the Administration in supporting a five-point program in marine sciences, four of the elements of which bear on the issues that were raised here today: On coastal zone management, on the es-

establishment of coastal laboratories, on the restoration of Great Lakes, and a fourth one having to do with the ecology of the Arctic.

The fifth of these concerns support for the International Decade of Ocean Exploration, and considering the scope of this meeting, I will not comment further on the fifth, although it is a very important and very significant element in this program.

Let me say too that this is not simply a proposal from the Council to the President. This is a proposal that has already gone through the process of Presidential review and approval, and therefore what I am going to report to you is now part of the President's program that he will amplify in his submissions to the Congress in January—amplify both in terms of proposed legislation and in terms of requests for additional funds over and above the current phase of activity in these areas.

With regard to coastal management, I think that the problems that have been enunciated by the Commission, and even prior to the formation of the Commission, by those in the Congress and in the executive branch concerned about our coastal affairs and reflected by activities of a large number of different Federal agencies, have been brought to a point of necessary action in order that we better manage these scarce resources.

The legislative proposal that will be submitted to the Congress will be to establish a national policy for the development of coastal areas, to authorize Federal grants with matching State contributions that will encourage and facilitate the establishment of State management authorities.

Such legislation will assist to assure that rapid coastal development does not destroy limited coastal land and water resources and that all interests in the coastal areas would have consideration. Grants are anticipated in two phases, the first for the initial development by States of planning regulatory mechanisms and a second phase subsequently for the operation of those State management systems that are developed.

The latter grants would be made available to a State contingent on a State demonstrating a capability to propose plans that proved, first, for balanced use of the coastal margin both land and water, second, for access to management-oriented research including coastal ecology studies, third, for regulatory authority, fourth, for consideration of interests of adjacent States, fifth, for land acquisition and power of eminent domain necessary for implementation of the plan, and finally, for review of proposed Federal assistance to State and local projects to assure consistency with the plan.

States already have the responsibility for the management of these resources. They have often lacked the regulatory management capabilities needed and they have been faced with a diversity of coastal jurisdictions and the absence of ecological information.

The intent of the program therefore is to strengthen the States' capabilities, lessen the need for Federal intervention, and facilitate integration of planning, conservation, and development programs among diverse public and private interests.

With regard to coastal laboratories, steps will be taken toward establishment of coastal laboratories, supported by the Federal Government, but strengthening and consolidating existing facilities wher-

ever possible, intending to provide information on resources development, water quality, and environmental factors to assist State authorities and others in coastal management. Existing facilities will be strengthened and consolidated as necessary to provide capabilities to—

Develop a basic understanding and description of the regionally differentiated ecology of our 13,000-mile coastline;

Anticipate and assess the impact on the ecology of alternative land uses, of pollution, and of alterations to the land-water interfaces;

Operate coastal monitoring networks; and

Perform analyses needed for these State-managed coastal authorities.

Establishment of these capabilities will be phased with the development of coastal management plans to foster State access to environmental data and research capabilities.

With regard to the Great Lakes, the step that is being proposed now is to examine the feasibility of restoring the Great Lakes with technological as well as with regulatory mechanisms by a pilot study using a lake of manageable size. Existing environmental technology and techniques will be tested, including pollution measuring devices, methods of artificial destratification by aeration, mixing, and thermal upwelling techniques, thermal pollution control and enrichment, artificial bottom coating, filtering, harvesting of living plants and animals, and restocking of fishery resources.

The program is intended to reinforce current investigations, and bring together additional competence from industry, academic institutions, and Federal laboratories.

The fourth one I realize is of interest to just one State but nevertheless concerned with coastal ecology. It is focused on the arctic environment. Here is a program directed to understanding better the polar icepack, including its impact on transportation and global weather and climate; the polar magnetic field and its effects on communication; geological structures underlying the arctic lands and polar seas both as potential mineral sites and as hazards to construction and resource development; balance of the arctic ecosystem; the presence of permafrost; and slow degradation of liquid and solid wastes under arctic conditions.

Behavior and physiology of man in this environment also will receive increased attention. Initial emphasis will be on strengthening and broadening arctic research capabilities. Consideration will also be directed to formulating an overall policy framework for arctic-related activities.

The administration has further determined that these programs are not just desirable, not just important, but they are urgent. The administration is studying the Commission's proposal to establish a new independent agency, but it was decided not to wait for that resolution before proceeding with the development of these programs and as a consequence the responsibilities for planning these programs on an interim basis until this issue on NOAA is determined have been assigned within the Government on a lead agency basis, responsibility for drafting legislation for the State authorities with the Department of the Interior; preparation of plans for coastal laboratories with the Department of the Interior; the preparation of plans for the pilot

study of lake pollution with the Office of Science and Technology later to be assigned to the operating agencies, and the study of arctic ecology, a matter of interest to a number of Federal agencies, to be coordinated by the National Science Foundation.

I want to say one thing further though, that this is not going to be done just in Washington. The Commission quite adroitly consulted with you and your colleagues as they developed their plans and so have the Federal agencies historically as they have developed plans.

I think you see a growing interest in this matter of partnership intensifying the desire and need for consultation with representatives of the State government. So I am sure that the Department of the Interior for example, will increase within the next 2 months its consultation with you as individual States action collectively through the Council of State Governments and other such councils, even considering local and municipal affairs.

I would like to conclude, and then open this meeting for discussion with just one comment, if I may, to you. Because I think most of you in the audience are officials of State governments, I feel that you have a special responsibility and special opportunity in this matter and I will tell you why.

We have a problem that has developed as a consequence of neglect, of ignorance, and just plain human greed. Someone has to look out for the public interest. I believe the officials of State governments have wanted to do this. We want to make this possible.

I think that you as individuals have a further opportunity now to articulate some of your vision and some of your dreams as to ways and means to see some of these goals in understanding a very complex institutional framework that right within your own State government I imagine involves the same bureaucratic rivalries that exist right here in Washington between our agencies, conflicts between public and private interests, and the need for political courage to make your recommendations stick.

To do this, however, means more than simply desire. It means knowledge. Here, I think you see a pattern reflected in all of these, including the fifth of these proposals by the administration, to pay more attention to the environment and to undertake that research necessary in order that we can assess the impact of man on our ecosystem.

This is not an easy job to do and there are not many equipped yet to do this, and it is going to be necessary during the months and years ahead to understand better the kind of skills and intellects and talents needed for this job and this is where the sea grant program will be so very important.

We are going beyond science. We are using science and this is a message that I, not as an oceanographer, but as a practitioner of this limited art of science policy, am trying to communicate in every way possible, that science is for people, and it is through an example in marine affairs that I think we can see so very clearly how the talents of the scientific community merge with those in public administration, with those in industry, and with those of us who go down to the Chesapeake Bay to boat and swim and fish.

One of the principles of this meeting has been from the outset to invite questions and comments from the floor and I realize we have



run a little bit over half of the time. I don't know how much indulgence the chairman has for the panel to run over, but at this point, I would like to open the meeting for questions.

Ladies and gentlemen, the floor is yours.

Dr. JOHN C. CALHOUN. I am Dr. John C. Calhoun.

VOICE. Who is the individual? Dr. Calhoun?

Dr. CALHOUN. One of the representatives from the State of Texas. I work for Texas A. & M. University. It seems to me a point of clarification is desirable. I have read most of the stuff that the Commission has published on this, but I am interested in the matter of definitions. Do I understand when you say "coastal zone authority" that you are talking about the outer boundary as being the coastal water boundary? That is, you are talking about the waters and lands within the 3-mile limit or its equivalent in those States that might have a greater limit, but you are not talking about Continental Shelf lands or Continental Shelf waters?

Dr. KNAUSS. When we discussed the problems of the coastal zone we talked about the problems irrespective of jurisdiction. When it comes to the recommendations for State managed coastal zone authorities, regardless of what some States might like to do to extend their authority further seaward, the only thing we could possibly recommend was State coastal zone authority over that area of water and land over which the State has jurisdiction which at this time is 3 miles for all States except Texas, and the West coast of Florida which has 9 miles.

Mr. WILLIAM H. STOLL. Bill Stoll, Texas. The Texas Legislature has appropriated some funds for the State to begin a comprehensive coastal planning program. I am very curious when you mention that some funds will be available from the Federal Government in 1970 to begin to establish some type of planning machinery within the coastal and Great Lakes States. My question is, has any thought been given to what type of grants these funds will be used for? Will it be 50 percent, 100 percent funds? What is the thinking on approaching this funding problem?

Dr. KNAUSS. We on the Commission made some recommendations about matching funds. On the other hand, I think that this really is now in the lap of the administration and Congress since they have now made some decisions on this. I think Dr. Wenk should be allowed to answer that question, if he will.

Dr. WENK. Let me repeat again as I did at the outset, that you see a clear and conspicuous similarity between the Administration's proposals and the Commission's recommendations. Nevertheless there are details of this kind that need yet to be worked out. It is my impression that unquestionably this will be a matching fund grant, but it is also my impression that some of the officials in Washington are of the belief that the Federal share may be larger at the beginning and may trend toward a 50-50 grant certainly in phase 2 of the planning. These details will be worked out during the next 2 months, and although it is presumptuous on my part to forecast when the President will transmit a proposal to the Congress, it is my guess that this will be transmitted in January.

I feel very sure that there will be consultation with representatives of the States prior to that time to determine what makes sense.

Remember, now, we are talking planning grants and these are something perhaps on the order of several hundred thousand dollars to each State. These are not operating land grants. These are not land acquisition grants which obviously are going to be in order later.

Dr. KNAUSS. I think I should also add that there has been legislation on coastal zone authorities, introduced in the Senate by Senator Magnuson and although I don't have a copy of that bill with me and I don't recall details, I do believe it makes specific provisions for planning grants. There is also legislation that may be introduced by Mr. Lennon's committee which has rather specific references to the form of the grant.

Dr. WENK. If there are no questions, let me say on the part of this panel, the three of us, how much we appreciate your attention and interest. And I know I can speak for my colleagues here in saying that what you heard this morning could not have been done without your help prior to this meeting.

Thank you very much.

### III. ADMINISTRATION TESTIMONY—91ST CONGRESS

#### STATEMENT OF THE DEPARTMENT OF THE INTERIOR BEFORE HOUSE COMMITTEE ON PUBLIC WORKS, DECEMBER 3, 1969

STATEMENT OF HON. WALTER J. HICKEL, SECRETARY OF THE INTERIOR

Secretary HICKEL. Thank you, Mr. Chairman. I am Wally Hickel; I was born in Kansas in August of 1919. And I don't know how anybody could have missed me during the hearings in January of last year—this past January.

As to your letter, not being facetious, I have no apologies, the January letter of the 19th that you referred to—

Mr. HOWARD. The 14th.

Secretary HICKEL. What happened to that letter—there weren't any intentions because you were of the opposite party, that the letter wasn't answered. It was possible at that time that literally thousands of letters came in saying what a bad guy I was and I was trying to get around to those letters. I read your testimony on the Hill about the letters not being answered, and I literally shook up our Department. And I will say this: That there is a letter now that is about 5 weeks old that is quite lengthy in its reply and you will have that reply, if not today, tomorrow. I have gone over it somewhat two or three times to be sure that all my philosophies are in there and it is not just a bureaucratic reply to a letter.

I am more than concerned about our relationship and our cooperation in those areas in which you are concerned; especially in the Gateway National Recreation Area that you referred to, Sandy Hook, Jamaica Bay, and Breezy Point.

I hope that in the reply that you will get that it will answer those questions to your satisfaction, and I would just say this: That I don't say that we get any more or any less mail than anyone else, but Congress, regardless of where they come from, Congressmen or Senators, or their political party, I want those letters answered as promptly and expeditiously as possible. It hasn't been true in your case, obviously.

I would hope that the next time you write me a letter you pick up the phone and say you are writing me and I will pick up the phone and tell you when I am answering it.

Mr. HOWARD. I have to watch my units. I do thank you for your reply. I never would have indicated that Secretary Hickel was a bad guy, as you referred to it, and I didn't until perhaps 6 or 8 or 10 months went by.

Secretary HICKEL. That is a long enough time to have a baby, and that is too long.

Mr. HOWARD. Thank you very much. And I thank the committee for bearing with me so that I may relieve some of my frustrations.

Mr. Secretary, please proceed.

Mr. GROVER. Mr. Chairman, Mr. Secretary, if I may make one comment. I am one of the cosponsors of the Sandy Hook National Seashore bill, having served there for a short time in the coast artillery. It is a beautiful spot. Maybe we can impress upon the Secretary—maybe we have a little more attention, but we don't have any basis for comparison of the response of the other side of the aisle or this side of the aisle with regard to your correspondence, although I am the cosponsor of the legislation, but I never wrote to the Secretary.

Mr. HOWARD. Thank you.

Secretary HICKEL. All I can say is that I am very much in favor of the Gateway National Recreation area and we are having a little interplay within the administration.

Mr. Chairman, I see Congressman Cramer came in. Welcome Congressman Cramer and members of the committee.

I welcome these hearings today on the administration's coastal zone management bill.

The Clean Water Restoration Act of 1966, which originated with the Public Works Committees of the Congress, authorized the Department of the Interior to study the estuaries and estuarine zones of the United States and report our findings to Congress.

Our findings were to include recommendations for a comprehensive national management program for the Nation's estuaries. That report, now before you, concludes that our estuaries are seriously polluted, and that the unwise use of the lands and waters of our estuarine zones not only contributes to this pollution, but is rapidly destroying valuable natural resources. While the statutory directives was to study the estuarine zones, the findings concluded that the management problems of our estuaries relate directly to the entire coastal zone, and that any management system must deal with the coastal zone in its entirety.

The coastal zone management bill before you, H.R. 14845, which the Department of the Interior recently transmitted to the Congress, represents the first step in President Nixon's administration toward reform of land and water use in the area of our country where population and technology, aided by a rash of overlapping political jurisdictions, are causing alarming pollution and destruction of these resources.

What is happening in the coastal zone of America represents the basic, but too often ignored, conservation issue throughout the United States—the lack of wise use—without abuse—of our land and water. This is essentially an institutional and political problem. It should be dealt with candidly and thoroughly.

The coastal States of the United States, which for the purpose of this bill includes the Great Lakes States, comprises approximately 75 percent of this country's population. Over the last 30 years the population of the coastal counties has increased by 78 percent, compared with a national growth rate of 46 percent.

The population in this area will again more than double by the year 2020—so we do face an imperative need for action.

The coastal zone contains most of America's large metropolitan cities. And it is here that we see the urban crisis of overcrowding. If present trends continue, the populations between Boston, New York, Baltimore, and Washington will, in the not-too-distant future, comprise a single urban mass—a "sardine can" of people in our coastal zones—People pollution.

Obviously these large metropolitan centers demand—and attract—a vast array of industrial and service activities.

The challenge to provide facilities to meet the requirements of a growing population—such as powerplants, housing, and transportation systems—demands vision and anticipation of needs—not just reaction.

Our coastal beaches and increasingly our estuaries are attracting millions of Americans for all forms of recreation. And this is true even though most of this land is in private ownership and inaccessible to the general public.

The concentration of recreation in our coastal zone has, in most places, become so intense that the people who go there and the resources that take the pressure, are too often shortchanged.

Likewise, the public has a legitimate interest in protecting the beauty of our landscape.

And our coastal areas are as beautiful as they are varied.

But too often these values—immeasurable in economic terms—receive inadequate consideration in the marketplace.

Most importantly, the coastal zone of the United States, particularly the estuaries, is rich in the production of vast quantities of both plant and animal life.

Although we usually think only of oysters, crabs, clams, and shrimp, at least two-thirds of all our Nation's commercial and sport fisheries are dependent on the estuaries.

All the wildlife and birds that depend upon marine aquatic life as a food supply are likewise dependent on the natural functioning of our estuaries. The marshes and wetlands provide a rich habitat for large numbers of migratory waterfowl and other fish and wildlife.

The estuarine zones—where fresh water meets the sea—and the lands above and beneath its waters form a complex ecosystem which is subject to cumulative and often subtle destruction by manmade alterations.

The environment of the coastal zone is threatened by all the pressures I have mentioned in basically two forms: Pollution of its waters and the physical alteration—and destruction—of its lands by housing, industry, and transportation development.

I need only mention the Everglades, San Francisco Bay, Biscayne Bay, the Chesapeake Bay as pointed examples of what manmade pressures do to these limited resources.

Industrial and metropolitan sewage, agricultural pollution, and waste discharges are the basic causes of this pollution.

Residential and industrial development, often aided by short-range zoning practices and the dredging and filling of the wetlands, create the most serious physical alteration of the coastal zone.

Of course, the members of this committee are very familiar with the present means of dealing with water pollution. In this area we do have a Federal/State system which is essentially sound. But the use and regulation of the contiguous lands and wetlands pose altogether different regulatory and institutional problems. The unrestricted use of private property by its owner is practically "sacred" in American public thinking. But, in fact, private land is regulated and controlled daily by a great variety of public controls, essentially local in nature.

While there are many complex forces working against rational land use in the coastal zone, two fundamental motivations control: The property tax structure and the short-run economic advantages of dredging and filling wetlands.

In general, the character of land use especially in the metropolitan areas, is shaped by the tax structures of local governments which depend on the property tax for their revenue base.

Considering the minimal revenues available to local governments in the face of their many needs, I can understand their problem.

Much of it results from the fact that the Federal Government has simply sapped the supply of money from incomes and forced the local governments to depend more heavily upon the development of land as its major source of revenue. This, in turn, has often penalized the wise use of land by encouraging local governments to zone just to increase revenues.

The low, flat wetlands of the estuaries provide a cheap source of land for building. The short-run advantages of dredging and filling these wetlands for development are often at the expense of the natural functioning of the estuarine system.

The local governments' "handle" on land use has essentially been zoning.

The powers of zoning, and other forms of private land use regulation, have historically been delegated by the States to the local communities, counties, and cities.

And they now jealously guard these prerogatives.

Consequently, given the motivation of local governments to increase the value of land for tax purposes, the zoning authority exercised by local governments over these lands quite often aid and encourage its rapid and misdirected development.

The Federal Government's role in preserving scenic, recreational, and wildlife areas has emphasized outright acquisition—an expensive process—especially given the fact that land values typically increase so rapidly—between the time purchase of the area is authorized—and the time the funds are ultimately made available.

I want to stress that I am not saying all zoning is bad or that acquisition is necessarily ineffective.

What I am saying is that neither is enough—and something new is imperative.

Consequently, the purpose of this administration's legislation is not simply to impose Federal regulation, nor is it simply to provide more money—for more planning—just for the sake of more planning. Simply put, it is to encourage and assist the State governments of the coastal zone to effectively manage their land and water resources.

The emphasis of our legislation is upon State management of these resources.

States cover a wide enough geographical area for effective regulation of competing uses.

The States possess traditional legal authority over wetland alteration.

Further, the States possess inherent powers over zoning, and our State governments have existing agencies already equipped to deal with a number of activities in the coastal zone.

Finally, the States are not as subject to immediate short-run economic pressures as are local governments—but the States are still closer to many problems than is the Federal Government.

The proposed legislation would provide grants to States for the development and operation of coastal zone management programs. To qualify, the coastal State would be required to assume two necessary functions:

The preparation of comprehensive plans for the development and preservation of its estuarine and coastal zone, and

The ability to regulate alterations in the submerged lands and waters—and the authority, either directly or through partnership with local governments, to see that local zoning conforms with a statewide plan.

The basis of this approach is to develop effective regulatory powers, based on and implementing comprehensive planning.

In the past, regulation has often lacked effective planning, and much planning has lacked regulation.

What is really needed is a national land use policy. We must establish procedures and mechanisms to assure that our lands and waters are devoted to their highest and best use in the interests of society as a whole.

For too long the Federal Government has dealt with tough environmental issues either timidly, irrationally, too late, or simply not at all.

The Federal Water Pollution Control Act is one of the few exceptions.

Our bill presents a rational balance in dealing with the difficult question of land use planning and regulation.

I would like to make one last point. Wise, multiple use of resources does not mean a halt or slowdown in industrial and economic growth.

On the contrary, I believe that estuarine and coastal areas in most cases, can accommodate necessary industry and transportation facilities, and still protect its natural resources and scenic beauty and provide recreation.

But the problem has been that uses not necessary in these areas, as well as necessary, but haphazard, development have preempted important conservation and recreation needs. The present system has worked against sound conservation of resources, which—once lost—are gone forever.

Wise use—without abuse—is the key.

We must wisely use our natural resources to provide suitable housing for our people—electrical power and transportation systems to serve all our needs—large areas to enjoy the solitude of nature, and areas for the preservation of living systems essential to man. As the pressures of population and development continue to threaten the resources of the coastal zone, we must come to grips with the institutional causes of this phenomenon. This requires bold reform. It also requires real dialog. This bill provides the reform. The hearings you hold can provide the latter.

I thank you, Mr. Chairman.

Mr. HOWARD. Thank you very much, Mr. Secretary, for your very informative testimony this morning.

On page 6 of the bill, lines 20, 21 and 22, it speaks of the zoning authority or the authority to require local zoning to conform with the State management plan.

One of the requirements for participation in the grant program is that the agency responsible for implementing the management plan must either have zoning authority or the authority to require local zoning to conform with the State management plan. And you stated this several times in your testimony.

Further, the States possess further power over zoning and State governments have existing agencies equipped to deal with the number of activities in the coastal zones, and following that, the States would have to assume two necessary functions, preparation of a comprehensive plan of development of the coastal zone and the ability to regulate alterations in the submerged waters, and so forth.

This zoning has been a highly controversial requirement in other legislative and compact proposals—usually bitterly attacked by cities and counties which would be required to surrender local authorities they possess.

Has the Department discussed this particular subject with the States, counties, and cities in the coastal States, and, if so, what has been their reaction to this broad authority?

Secretary HICKEL. Mr. Chairman, we haven't discussed this in detail or held any so-called hearings in-house with cities, counties, or townships at that level. We have had in-house discussions on what would be the effect, if I might digress for a moment.

Having been a State Governor; having been on planning commissions in cities and boroughs and counties and such myself, I do know there will be sensitive areas which they will object to. But I also think—and I think this from not only experiences that I have had myself, but in discussing it with various colleagues in-house—that there is a desire in America today that something be done to protect these coastal areas, and that this desire extends even to the people involved and to the governments involved in the local areas.

I know, for a specific example, the State of Washington was wrestling with this problem in its legislature, trying to get some management of its coastal areas.

I think, yes, there will be opposition at the local level, but I think if we approach this problem in a positive nature, showing that the inherent value will increase in the long range, I think we will get them over on our side.

But above all, I think that it is imperative that something be done about it.

Mr. HOWARD. You feel there is a selling job to be done?

Secretary HICKEL. Yes, there is.

Mr. HOWARD. I note that the definition of coastal zones includes the Great Lakes. I have always thought of the Great Lakes as an inland waterway.

How are the problems in the Great Lakes similar to those of what has been traditionally considered our coastal States?

Secretary HICKEL. I will only talk about, in a philosophical way, trying to meet a problem that is inherent on the Great Lakes as much as it is on our coastal areas. I realize that the Great Lakes basically are



inland waters. But I think that the public problem is the same, regardless of the location. So, we are trying to attack the overall situation, knowing full well there is an argumentative approach to the difference in the two areas. But we think the problem is there.

Mr. HOWARD. On page V-33 of volume 3 of your report, you state, and I quote:

The Water Resources Council, established in the Water Resources Planning Act of 1965 (PL 89-90) awards planning grants to the States for their comprehensive planning in the development of water and related land resources, including estuarine resources. This planning considers that the nation's watersheds and to the rivers which supply them with fresh water. These watershed relationships determine the characteristics of estuaries and coastal areas and influence their usefulness to man. Among the many objectives of such planning is a consideration of appropriate regional institutional arrangements necessary to implement the comprehensive plans. It also advises the President on national water policy, maintains a continuing assessment of national water supply needs, and coordinates the activities of Federal water resources agencies. The Council also oversees the execution of congressionally authorized comprehensive water and related land resources planning projects for specific river basins. Existing Federal-State river basin commissions under the aegis of the Council are organized and functioning in 15 of the 30 coastal States, and alternative Federal-State planning coordination mechanisms are organized in all the remaining coastal areas under the general leadership of the Water Resources Council.

Secretary HICKEL. Yes; thank you, Mr. Chairman. I think that the bill provides that I have to coordinate, as Chairman of the Water Resources Council, with all the other Federal agencies that might be involved in this particular act. I think, and I will turn this over to my Undersecretary in a moment—that there is some overlapping. But I also think there are some vacuums in the whole planning between water pollution control, the Water Resources Council activities, and what we are trying to do. And I don't know how to better answer that than to say that what we are trying to do is to finally arrive at legislation for which we don't have the authority in the Water Pollution Act, for an example, or under the Water Resources Council's mandate. Land use in those areas would pinpoint the problem.

Mr. CRAMER. The makeup of the Water Resource Council, as I understand it, was established by the Water Resource Planning Act of 1965, and, Mr. Chairman, as I recall, was made up of members of the Cabinet, with the Secretary to have jurisdiction over water problems generally. Isn't that correct?

Secretary HICKEL. That is correct.

Mr. CRAMER. You indicated you serve on that Water Resources Council. Who else serves?

Secretary HICKEL. The Secretaries of Health, Education, and Welfare, Agriculture, Commerce, and the Army and the Chairman of the Federal Power Commission. That is pretty close; quite a goodly number.

Mr. CRAMER. As I understand it, the objective of that was to provide for general policy decisions on the high cabinet level relating to water resources programs. Of course, in addition to this, the report states that the act also permits awarding of planning grants for their comprehensive planning in the developing of water and related land resources.

Could you indicate how you feel that the bill before us would dovetail into that general planning authority?

Secretary HICKEL. If I could just make it sort of in a nutshell.

The Water Resources Council basically is a planning agency. What we really are trying to arrive at is management in those areas in conjunction with State plans, and then in conjunction with the local areas; in conjunction with the State. I think it is the management of those areas with some legislative power, that is lacking. I think that is what we need.

In a general way, does that answer your question, Congressman Cramer?

Mr. CRAMER. Well, the acting chairman has expressed legitimate concern and question with regard to the overlapping and integration of the two different agencies if this becomes law.

It seems to me it is fully justified to have an estuarine emphasis, as suggested in this legislation. And it is necessary to provide amendatory language that they shall work in cooperation with the Water Resources Council, which they have to do anyway, then I think that would have to be a matter of simply an amendment. But I think, frankly, you have to have emphasis on estuary problems. They are certainly some of the most significant in my area, in the west coast of Florida. And I see this proposal is for establishing a Gulf of Mexico physical region which takes into consideration all the fish and wildlife development on a long-range basis and protection of it in that entire area.

Do you see any difficulty in coordinating the activities of the Council—Water Resources Council, and this estuarine agency?

Secretary HICKEL. You mean in our bill?

Mr. CRAMER. Yes; if this bill becomes law.

Secretary HICKEL. I think that our bill would pinpoint the responsibility of whose jurisdiction it is to really see to it that this comes about.

The Water Resources Council is more of a coordinating agency. They meet four times a year. And if I might say, it is one of those things where really no one has the responsibility but everybody is in the act.

I don't want to really criticize it quite that way, but it is one of those things that happens.

I think in order to solve the problems I see in the coastal areas that we are trying to solve, we have to be given the responsibility and the direction by Congress to say this should be done. And then I think you will see it happen. Otherwise, the Water Resources Council is just a good coordinating agency of the very important planning function, but it really doesn't get to the heart of the problem, which is the ultimate management of the coastal areas.

Mr. CRAMER. Without this, and I don't mean to take up the chairman's time, but I want to follow up with one question. Without this legislation, which specifically provides for management and use in development of water resources in the Nation's estuarine coastal zones; without this legislation having authority, not only for grants, but management grants, there would be no management grant authority in existence; is that correct?

Secretary HICKEL. That is right. Without this legislation that is right.

Mr. CRAMER. No question but what the present Water Resources Council does have such authority?

Secretary HICKEL. That is true.

Mr. CRAMER. That is all I have.

Mr. HOWARD. The Chair is very happy to recognize the chairman of the Subcommittee on Rivers and Harbors, the gentleman from Minnesota, the Honorable John Blatnik.

Representative Blatnik is one of the great leaders in the field of natural resources development and the conservation of our resources. He was the co-author and leader in the fight for the Saint Lawrence Seaway project which opened the sea lanes of the world to the heart of the North American Continent. He has been the leader in the improvement of the Great Lakes Navigation System of canals, locks, and connecting channels to accommodate safe passage of large vessels. He has secured legislation for investigation by the Corps of Engineers of means of extending the navigation season of the Great Lakes and Saint Lawrence Seaway, and it is my understanding that he intends to do even more on this subject later this year.

In addition to all of the foregoing, Representative Blatnik is the "Father of the Water Pollution Control Program", and was the first Member of Congress to recognize the importance of this type of legislation. He is a conservationist's conservationist and is tremendously interested in preserving this Nation's natural resources.

Mr. BLATNIK. Thank you very much.

Mr. Secretary, I welcome you to this hearing this morning. I am sorry I was held up earlier.

Mr. Secretary, if I may proceed for a minute or two in more general terms in trying to get a better idea of what is going to happen in this area of estuaries, planning, and water area, which are so extremely important. I must confess that after reading your statement, and only skipping through parts of your conclusions on the comprehensive national program, I really don't see any program. This is no criticism. This is trying to underscore how complicated this problem is and to double underline how urgent it is that we really work out, you know what.

You outline quite well what is to be done, but do not reveal how it is going to be done.

What I am driving at, you have just about touched the periphery. You talk about the population growth in the Coastal States of the United States, including the Great Lakes States, which comprise approximately 75 percent of the country's population. You stated :

Over the last 30 years the population of the coastal counties has increased by 78 percent compared with a national growth rate of 46 percent. This is twice as fast, and it is going to increase, not at a uniform rate but at an increasingly accelerated speed. The population in this area will again more than double by the year 2020.

I am sure it will quadruple because the total population of the country will also double.

What I am getting at, is not the incredible population growth, but the lopsided way in which it grows.

We are just going to continue to have a population compressed closer and closer together in these large areas. You call them megalopolis.

Do we really know how to go about having a balanced program? You talk about having the States cooperate in resource use and preservation; how are you going to achieve that, due to the fact that there

is no control over this one variable, the absolute certainty with which the population is going to keep on concentrating and compressing and condensing in these areas?

Secretary HICKEL. Congressman, I well agree with what you say and I raised the same question the last several weeks; Can we be strong enough? But I think we have to start, and I think we have to tell the States to act. We are asking the States to come up with their plans and we are asking them to present their plans to us so that we can have a national policy with some sort of continuity. We think this is the way we start.

I think we need a national land-use policy and I so stated in my testimony. I don't know whether this is salable. I don't know whether that is attainable at this time. But I do think this bill will start, start a program where we will have a national policy, because we are asking the States to come in with their programs and we will sort of oversee to see if those programs fit some sort of a national policy.

We are really trying to say: "Let us see if we can't have some general bounds on the use of these coastal areas in conformity of all other areas."

Mr. BLATNIK. I agree with you completely, but how will that be done? How will that be achieved?

Secretary HICKEL. The only lever we will have will be that the grants won't be available to those States that don't want to submit their programs to us. And beyond that it would take much stronger legislation, which might have to happen. I say that very candidly, but I think we have to start; and I think that we have to sell the idea that there has to be some sort of a national land-use policy. I am not just using words; I am trying to implement a program. And I think that the States, which don't have those terrific pressures on the local level, can come up with their programs and present them to us and we can see how they balance out with the contiguous States. Then we can approve their plan, and will be on the right track. It may not be fast enough, but that is the direction we are trying to go.

We don't have any other lever except to grant some money. Isn't that right?

Mr. BLATNIK. That is true. But on page 7 you say in your statement that what is really needed is a national land-use policy. We must establish procedures and mechanisms to assure that our lands and waters are devoted to their best use in the interests of society as a whole.

Secretary HICKEL. That is correct.

Mr. BLATNIK. Again, we have to take a look. What would be our population distribution in, say, 30 years or 50 years from now? And we pretty well see it; it is projected on a chart on a screen ahead of you, much more clearly than we were able to project the mobility of our population when we were considering the highway program in 1955 in this committee. I just don't see how you are going to control our population distribution.

Secretary HICKEL. Let's go on further.

Mr. BLATNIK. For example, right back, obviously, these large metropolitan centers demand and attract a vast array of industrial and service activities; that is going to continue; that is on page 2.

Secretary HICKEL. That is right.

Mr. BLATNIK. Getting back to the desirability, the attractiveness of these areas, the attraction will be there and it will keep on drawing like a magnet, more and more people. You can have industry; you will have commercial uses; home uses, preparational uses. Take all the uses you can think of. The demands and pressures will continue. How are you going to control that?

Secretary HICKEL. No. 1, when I talk about national land use policy, I envision in the next 10 or 20 years, in all the public domains—public lands and public waters—that comprise the coastal zone and Continental Shelf; that we are going to have to set out an inventory and catalog what is the wisest use of that piece of public water. Maybe it is for marine life; maybe it is for recreation; maybe it is for navigation; maybe it is for development. But I think we have never had a real wise use of our lands in America.

I am not saying that it has been wrong; I am just saying when you look to the year 2000, is it going to be the wisest use of public domain to graze a cow on 40 acres, or to do something else. And I am not against grazing cattle. But, I am saying: is that the wisest use? Is it the wisest use of a piece of seashore to use it for a total residential area; to dump garbage in; or is the wisest use maybe for a fishery or for recreation or maybe even for mineral development?

But we have to face the problem. The States can't face it. The public demands it.

I think we have to come up with some sort of a national land-use policy for these public areas, these areas that really belong to the public.

We accept restrictions on our land. We accept it when I buy a lot or you buy a lot. We accept the fact that we can use it for certain purposes. I think it is a responsibility of ownership and the Government has the ownership of these various vast areas. I think it is their responsibility to come up with a plan.

Mr. BLATNIK. What I am trying to emphasize—I am not questioning—is that your objectives are absolutely sound. I agree with you on the utilization as well as the preservation. I agree with that.

What I am trying to say is that I am beginning to feel and to believe more and more that there is something awesome about this population distribution and no matter what we do, we are going to be behind with everything. This goes back to the core of the problem of our cities. We can't keep up with the traffic congestion, the air pollution, the water pollution, the crime, the lack of educational facilities, recreational facilities, open spaces, drug control—you name it. No matter what the activity is, we are behind.

Now, say in water pollution, no matter how great our efforts are, we are falling further and further behind.

Secretary HICKEL. I agree.

Mr. BLATNIK. No matter how good our intentions are or how knowledgeable a few people may be as planners, I still don't see how we are going to put into effect a workable program and to be able to discuss it and put it into effect.

Let me read one paragraph from an article: "Can Anyone Want a City," by Gus Tiler, assistant president of the International Ladies' Garment Workers in the Saturday Review of last November 8. I

thought it was an extremely well-done piece dealing with the population and the problems of the cities; the regional planners, thinking years ago about mass transit, industrial struggling, and other problems facing every major city in America. This has certainly been true here in the Capital City.

Two generations ago they proposed a network of mass transportation. What happened is the whole thing sort of broke down somewhere along the line owing to the piecemeal makeup of an expensive highway system, overloaded with struggling commuters. It couldn't pay its way. The more it declined the more they raised the rates. What happened is this, for example, in one specific area nearby:

"On a hot August weekend this year, in 1969, Jones Beach"—you have been there and you are familiar with the area—"had to close down for a full hour because 60,000 cars tried to get into the parking lot with a capacity of 24,000."

How do you do it unless you stack them one on top of each other? Many, two-thirds of them, were minicars, or Volkswagens.

Secretary HICKEL. Maybe we need a pill for the automobile.

Mr. BLATNIK. The cars moved onto the Robert Moses State Park and so jammed the 6,000-car lot there as to force a 2-hour shutdown. Overcrowding of the recreation spots is due not only to more people with more cars, and to pollution of waters by the dumping of garbage—what I am getting at now is this lopsided growth of the population. It is predictable, quite accurately, that the population growth will continue to be lopsided in certain areas.

How are you going to manage it? No matter how good your intentions are; no matter how good your support may be, and certainly if you are to leave it to the States, each in its own way, individually the States could never build an integrated highway system. It had to be done in a joint effort. It had to be done with the Federal Government and the States and municipalities and private industry working together.

Secretary HICKEL. I agree with you; I totally agree. It is just how strong a bill can we get. I have not argued with what you say. And in our own house, in our own discussions, I mentioned that: are we going strong enough? Then we also have a start selling from the local area on up. We have to take or attain politically what is attainable. I think this is just a bare start. I don't even say it is a good start, but it is a start. We have to start someplace. And when you talk about a national land-use policy. I made them change the word from planning to policy, because people inherently have a fear of Federal encroachment upon individual rights, and there is nothing wrong with that feeling.

What we have to do is sell the idea in the best interest. We must have some national approach to these very pressing problems.

I would welcome any suggestions that are attainable that would achieve those ends.

Mr. BLATNIK. Obviously, as you conclude—again, with no criticism intended, I am trying to underline the importance. It is going to take the combined effort and combined judgment of everybody in the Congress and the administration and at the Federal level, and leaders on the State level and on the metropolitan level, just to determine what must be done.

We pretty well know what is happening.

You conclude, very properly and correctly, on page 8 of your statement:

As the pressures of population and development continue to impinge upon the finite resources of the coastal zone, we must come to grips with the institutional causes of this phenomena. This requires bold reform; it also requires real dialog.

You are just not going to resist the enormous pressures of this population for these attractive sites. And as you conclude: "As the pressures of population and development continue to impinge," to squeeze, to compress and eventually to smother, that is exactly what is going to happen in 30 years. You don't even need a computer or a sliderule; you can see that this is coming; it is on its way. And I am not satisfied we have any mechanism or objectives to cope with the situation. You say we must come to grips with the institutional grips or causes of this phenomena.

It is moving by inches each year, just as certainly as we sit here. This is coming upon us, and our question is: How are you going to meet the challenge? You say this requires bold reform; requires real dialog, and that this bill provides the reform. I don't know where it does, frankly.

I think you state the objectives well.

Secretary HICKEL. I think it basically starts out with giving the States the authority to present the plan to us for approval. And then the next State, if it had a plan completely different or contradictory than the State adjacent to it presented, we could say these plans are not compatible. We are trying to start with compatible management of the area. If you want to strengthen the bill for more regulatory authority, if this is attainable, I don't object, because I see the necessity. I see the necessity completely of what has to happen; but then we have to start.

It is like Apollo 1 to Apollo 12. I think we had some stages in there.

Mr. BLATNIK. I appreciate your statement and we shall, as you state further, hold hearings and get more into the problem. How are you going to resist this glacier of human pressure that is coming upon us? You will have to have some way of just denying access of certain numbers of citizens to the areas.

Secretary HICKEL. I think that is done somewhat by a land use policy. I think that can be done. It is acceptable in the local area; it should be acceptable on a national level.

This bill cannot solve the population problem, but I think if we do have a national land use policy, that better distribution or redistribution of population will really take care of some of the pressures we have in America today, and even throughout the world. I think the problem is how do we attract the population out of these concentrated centers and not use compulsion to do it. And I think therein lies the real direction that I think we have to go on this, which is the use of this national planning of both land and water. We are thinking about it.

Mr. HOWARD. Thank you. I know, Mr. Secretary, you do have to leave in a very few minutes. I do want to recognize the ranking Republican on the subcommittee, Mr. Harsha of Ohio.

Mr. HARSHA. I want to thank you for an excellent statement and certainly for a very imaginative effort to deal with this problem, and I am particularly happy that you went into great lengths as to this,

although there was some question raised about it. This is part of the problem. Certainly if we are going to deal with the problem we ought to deal with it in toto and not piecemeal. We have to be going into this problem and I think due to your initiative in this we are now coming to a point where we will deal with the problem and we ought to deal with the whole package, rather than part of it.

I notice in the bill it provides for certain open end authorization for funding, on page 13 at the bottom of the page:

As of fiscal year 1971 and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1975.

Heretofore, the committee has been, at least rather hesitant about authorizing open end authorization or writing that into the law.

Should the committee continue the practice of using specific amounts or specific sums to further this legislation, do you have any suggestion as to what sums might be used for these years, rather than just the open end authorization?

Secretary HICKEL. Congressman, one of the real problems that we have, when I said: "What are we going to do with \$2 million?" If we don't have the experience of knowing what we really need. I think we are saying that because we don't know.

We tossed around the ideas so we said, "Let's leave it open ended until we have a little experience; until we see what we do need."

I really don't know. I have a feeling we are using a very small figure, when you talk about the coastal areas, and I am apologetic for it, because we don't know where to start.

We welcome your suggestions and the open ended approach is for the very reason that we don't have the answers.

Mr. HARSHA. You indicate how the coastal zoning planning would be accomplished.

Secretary HICKEL. How would it be accomplished?

Mr. HARSHA. Yes.

Secretary HICKEL. Basically, the State would come in, would present a plan to us, and then a contiguous State would present a plan, too. Those plans would have to be compatible and we would be the overseer; and those plans would have to meet our criteria before they were approved or given grants. And so we would be starting to have some sort of continuity of planning or management of those contiguous areas.

Mr. HARSHA. Well, do you have any criteria or suggested criteria of what you think should be these plans?

Secretary HICKEL. Starting on page 7, we identified the boundaries. Do you have a copy of the bill, Congressman?

Mr. HARSHA. Yes.

Secretary HICKEL. That gives a brief description of what we intend to do to give some management to these areas, down to review of performance.

Mr. HARSHA. Who would actually carry out and enforce the land-use zoning?

Secretary HICKEL. Actually, what would happen, once we approved the plan is the State would then have the obligation of implementing the plan. Maybe that is not strong enough, but it is a place to start. And then the reason we use the State level, is the pressures for use of those local areas aren't as great as in the city or county.



Mr. Congressman, Boyd Gibbons, might want to amplify on that, my Deputy Under Secretary.

Mr. HOWARD. May we have your full name.

STATEMENT OF BOYD GIBBONS, DEPUTY UNDER SECRETARY, DEPARTMENT OF THE INTERIOR

Mr. GIBBONS. Boyd Gibbons. Your specific question has to do with how the practice of zoning would be carried out under this bill.

The purpose here is to secure the powers within the State governments to at least have the authority to see that local zoning conforms to a statewide comprehensive plan.

This doesn't necessarily mean that the State, in fact, is going to be zoning every piece of private land within the coastal zone. This will more than likely still be done by the local political subdivisions.

However, this will be done by the political subdivisions in light of a statewide plan that says what uses should be made of certain lands and to the extent that the actual zoning by the local government entity conforms with the plan, the zoning practice would be, in fact, carried out by those local governments. But when the local governments begin to zone, contrary to the statewide land use plan, then we are asking that the States have authority then to see that the local zoning conforms to the statewide plan. And this will, of course, vary from State to State.

Mr. HARSHA. As I understand it, the tool you have to force the State to provide a plan that meets with your criteria, or will eventually receive your approval, is the withholding of grants?

Secretary HICKEL. That is where you start.

Mr. GIBBONS. That is correct. But on the problem of zoning, you are dealing with private land and the attempt of this bill is to build on the existing political institutions and to transfer some of the authority; not all of it.

Mr. CRAMER. I understand the Secretary has to leave in a few minutes. I would like to take this opportunity to make one or two observations and ask a question, if I may, Mr. Chairman.

As I gather, this whole procedure—and I cosponsored it for the purpose of putting before this Congress and the Nation needed emphasis on estuarine control and long-range programing and planning to preserve this very vital resource of this Nation. That is the basic objective, is it not, when it comes to the detail as to exactly how it can be carried out and consistent with the plan contained in volume 1.

But I understand the basic thrust is to get the States into programing a long range or the preservation for estuarine areas and proper use, whatever that proper use is, and to see that program having been set up, is administered on a long-range basis to preserve those areas.

Let me give you an example. On page 1160, part 260 of volume 1, you cite Tampa Bay and Pensacola Bay, and you are familiar with those?

Secretary HICKEL. Yes, sir.

Mr. CRAMER. As I understand it, the State could then say to Tampa Bay area and the Pensacola area, as an example, that those communities surrounding it should get together and come up with a plan, zoningwise, a long-range plan, under the jurisdiction and supervision of the State, as part of their comprehensive plan for the statewide

control of estuarine areas and then you would have the jurisdiction of approving that comprehensive plan as such. But the actual zoning would be done by the local communities under the basic guidance of the State. The objective would be to keep Tampa Bay a live bay. It is going to be a dead bay if this isn't done.

Isn't that the basic thrust of it; so your local communities would retain their basic zoning authority within the State-constituted, comprehensive plan. That is the thrust of this?

Secretary HICKEL. Yes. And we see to it that the State plan would also have some continuity with another contiguous State, if it was overlapping, so we would see to it that they were going in the right direction. That is the thrust of the bill.

Mr. CRAMER. Then one other question and I am finished. You suggested the gulf coast area as one of the reasons, which seems to me to have a lot of logic, because their problems are somewhat similar, the fisheries, the shrimp and wildlife and such are somewhat similar.

Now, it has been suggested by some that there would be established regional laboratories, and what have you, for estuarine research and so forth.

Do you have authority at the present time to establish those? Would it be necessary to give consideration to adding that to this legislation, or what?

I think maybe you presently have authority, but——

STATEMENT OF RUSSELL TRAIN, UNDER SECRETARY,  
DEPARTMENT OF THE INTERIOR

Mr. TRAIN. We do have authority within the Department, within our own programs.

Mr. HOWARD. Could we have your full name.

Mr. TRAIN. Russell Train, Under Secretary of the Department of the Interior.

We do have authority within the Department. We do have certain coastal laboratory facilities, as you know: the commercial fishery, the Board of Fish and Wildlife; the Federal Water Pollution Administration, among others. There is a need which I believe this committee and other bodies recognize for a more comprehensive and better coordinated approach to coastal laboratory needs involving not only the Department of the Interior functions, but related functions of other Federal agencies and probably universities and other institutions, and this is a need the Department feels we should get at very shortly.

Mr. CRAMER. Thank you.

Mr. KLUCZYNSKI. I want to thank the gentleman from Ohio for yielding to me.

To follow up on the comments of my good friend from Minnesota, Mr. Blatnik, I have been talking for some time, as have other members of this committee, as to the need to plan and then actively go to work on providing for the distribution of our population over much greater land areas.

This committee's jurisdiction covers so many of the areas that effort would require.

Would you be prepared, Mr. Secretary, to work with us toward that goal?

Secretary HICKEL. Mr. Congressman, I think that is an excellent goal. It is a long-range goal. After we have the Public Land Law Review Committee report—and I am not hiding behind their report, I want to see what it says—I think we should address ourselves to what I stated before, cataloging and inventorying all of our public domain, both coastal and land, and come up with the wisest uses. As I mentioned, really the redistribution or attraction of population from these highly densified areas to the other areas, is a practical thing. Until we come up and say this is the wisest use of the land, we don't have anything to go on. I think it has to be done.

Mr. KLUCZYNSKI. Mr. Secretary, I am glad to see you here this morning. The legislation before us would also apply to the Great Lakes. And, as you know, I have a great interest in the protection of those lakes, as well as all other waters of the Nation.

I also agree with your philosophy upon which you have based your program—"use without abuse"—with the States and the local governments. I know we will be able to work together effectively to deal with all forms of pollution.

Once again, let me say I am happy to have you here, Mr. Secretary. Secretary HICKEL. Thank you.

Mr. BLATNIK. The gentleman from Chicago has been one of the strong supporters for programs on the Great Lakes, the largest navigational route, I believe, in the world. He was in the forefront and among the leadership for the St. Lawrence Seaway and the coastline that this committee handled, and later the deepening and widening of the channels and the enlargement of the harbors, and the protection of the recreational areas, including the beaches.

Again we have to refer to the population growth, and I hate to get back to it, because I don't care how good the plans are, if they are going to be drawn up in an airtight compartment, they are going to be drawn up in an airtight compartment in a sinking ship. You talk about a long-range program. It is not a long-range program, maybe just a few statistics. The first 100 million people in America were reached in about 1917, in World War I. It took about 300 years to reach that 100 million people.

In the last 50 years, 1967, we got the second 100 million people; that is why we have problems today.

We are behind in any avenue of human endeavor you can think about because we didn't foresee in 50 years, which is one-sixth of 300 years, the coming of the second 100 million people.

We have had 90 million children born since 1945, the year before I was elected to Congress.

Now, in the next 30 years we will have our third 100 million people. We are talking about long-range planning. It has to be planning right now, and more than planning, it has to be working out the mechanisms, whatever they may be, and I don't know what they are, to begin to put these programs into effect.

Frankly, time is of the essence. So, again I will stress the importance, because as I said before, not to have just competition among the population for the uses of these areas, they are going to be pressed, compressed, and eventually just smothered by the human masses. by the density and natural attraction of things pulling these people together—but to develop, not only a plan, but the means for carrying out that plan.

Secretary HICKEL. I agree. Would you excuse me, I have to be someplace at a quarter to 12.

Mr. HOWARD. We have been very happy to have you before the subcommittee. We were very happy to have your testimony.

Mr. HARSHA. Again, I would like to thank you. As usual, we are happy that you came.

What does this legislation do in assisting the States to protect their interests, if those interests happen to differ from the Secretary's? Is there protection afforded the States, if they have interests that are involved in this zoning problem over the comprehensive planning problem that seemed to differ from your overall objectives?

Mr. TRAIN. Of course, the basic protection which the bill provides the States in this connection is that it places the initial responsibility for developing the plan and then in implementing the plan, upon the State itself. So the initiative for the details of a State plan lies with the State itself. And I believe that that arrangement provides a very basic protection against the kind of problem which you refer to.

Mr. HARSHA. What if you have a conflict between the neighboring State, then we arrive at a stalemate some way, don't we, because of these peculiar interests of the first State?

Mr. TRAIN. In the final analysis, I suppose what would happen in such a case, if there is an irreconcilable conflict, I would assume the Secretary would have to not approve one or the other of the two plans. This seems like a most unlikely situation. If that were the case, of course, the only penalty paid by the State would be the loss of this rather modest grant money.

And so I don't really think that there is what you would call a Federal club at all. There is a rather modest—the legislation is designed to encourage the States to develop comprehensive management plans within the framework of a very broad statement of national policy, and not to beat the States over the head into some kind of conformity with a national plan.

Mr. HARSHA. Now, who will make the final determination of the boundaries of the coastal plain, subject to the management plan?

Mr. TRAIN. Each State will make its own determination. The coastal zone as defined by the legislation, gives a seaward boundary that is faced by the 3-mile territorial sea boundary, but the inland boundary is defined as the area strongly influenced by the sea.

Now, that is necessarily a somewhat vague and indefinite boundary, but purposely so. Here again, one of the efforts of this bill is to leave maximum initiative with the States, and it could well be that each coastal State will come up with a somewhat different definition of its coastal zone. And there is nothing in this legislation, nor in the thinking within the Department that would consider this inappropriate. There are local differences; there are regional differences; and it is the whole purpose of the approach the administration is taking in this legislation, to appropriately recognize those differences as long as they do not do violence to the overriding national policy as laid down in the bill.

Mr. HARSHA. All right, can estuaries be separated from whatever rivers in determining the environmental impact?

Mr. TRAIN. That is a very difficult question. I think we all recognize it and I don't think I can answer it. I know I cannot answer it categorically.

In some cases; yes. In other cases, I think that the estuarine aspects, the marine influences, extend sufficiently upstream that a fairly large portion of a river stream could be conceivably considered as part of the estuarine system in the coastal zone.

Mr. HARSHA. Do you contemplate that all rivers that in any way are influenced and affected by water from an estuary would be included in the coastal zone?

Mr. TRAIN. Well, I would like to go back first to reemphasize the point that I have made, that a great deal of leeway is left by this legislation to the State in the definition of the coastal zone which will come under its management plan. And I think it's quite possible that each State could answer the question you have asked, in its own way. So, we may get variances in that respect.

Is that responsive to your question?

Mr. HARSHA. It is probably as responsive as you can be to a difficult question—but in the gray area?

Mr. TRAIN. On that I think that is a very fair and accurate comment. We are exploring new grounds; plowing new fields, so to speak, with this legislation.

Now, there are areas of uncertainty as to definition and scope. These are left purposely.

Now, I would think that we would all welcome a great deal of innovation and imaginative new thinking on the part of State and local governments.

Now, I think we would be making a mistake at this juncture in time to lay down very clear categoric rules, a framework within which all plans would have to fit. I think that it would be a mistake.

What we really look for here is innovation, and hopefully this bill will encourage it.

Mr. HARSHA. It would be difficult to lay out categoric guidelines until we have some experience.

Mr. TRAIN. That is very much the case, and also, as the Secretary points out, in answer to an earlier question, the bill provides for—I would say an unusual degree of cooperation, and consultation with other agencies, and this is to be the case in the drawing up of the regulations which would implement the legislation, and also in the review by the Department of the plan of individual States. That is, it is the intent of this bill and it is the expressed requirement that the Secretary consult with all other agencies that have an interest.

Mr. HARSHA. Thank you.

Mr. HOWARD. The gentleman from California.

Mr. ANDERSON. How did you arrive at the figure of \$200,000 as a limit for each State?

For example, the need of one State with basically few problems with a small coastline, as contrasted to another State with a large, long coastline with many industrial and growth complications, and many estuarine problems. How did you logically arrive at such a figure for both needs? I am thinking of California, where we have many problems and would have some difficulty in trying to get along on a \$200,000 grant, as contrasted to another State that does not have these problems?

Mr. TRAIN. The total authorization is \$2 million for the first fiscal year. And that, of course, is itself an arbitrary amount. And the \$200,000 has no particular magic to it. It wasn't arrived at by any particular mathematical computations.

Mr. ANDERSON. Is it a workable formula to have the same amount for each State? For example I don't see how they can get started in California with a \$200,000 grant, and, at the same time I can see where it would be too much money for another State that doesn't have any complex problems.

Mr. TRAIN. It is quite plain we cannot, under this bill, give \$200,000 to each of the States involved in coastal zone management. There are some 31 coastal States, I believe—coastal and Great Lakes, and they must divide up amongst themselves, assuming total participation by those States, an authorized sum of \$2 million. So, it is quite plain if some get \$200,000, a number of others will get substantially less. And this figure is simply designed to provide and suggest a moving yard stick, depending upon the individual State's needs. And there are certain criteria set out in the bill which the Secretary is to look at in arriving at the amount of the grant, yet at the same time putting on a ceiling consistent with the need to stay under the total authorization of \$2 million.

Mr. ANDERSON. Now, following some of the questions asked earlier; a State, as part of this biophysical regional plan that you have drawn up, takes grant money, submits their report—their plan to the Department of the Interior; and what happens then? What steps are taken to implement it? Does it just become another plan that lays there? Just what do you do with it?

Mr. TRAIN. Well, again, what we are looking to is State programs. The State must come up with not only a plan, but also an institutional arrangement responsible for developing the plan and implementing it. So, I think that this is one assurance that plans once developed will have some teeth in them and will be implemented.

Mr. ANDERSON. Are there any teeth to implement the program? This is one of the concerns that I have. I don't see much that you could identify as teeth for enforcement, except that which you mentioned earlier; the withholding of possible grant money.

Mr. TRAIN. The teeth essentially are in the States, and once again, this is a Federal program that we are talking about, and a national policy; but the plans and the implementation of the plans are to be carried out by the States.

Now, the bill requires that, prior to the Secretary's granting of approval to any comprehensive management plan submitted by a State, that plan must provide, among other things—and I am now going to read from page 6 of the bill, beginning at line 15—

That plan must provide that: the agency or agencies responsible for implementing such management plan have vested in them the regulatory authorities necessary to implement the plan, including but not limited to, permit authority; authority to acquire interests in real property through the power of eminent domain and zoning authority, or authority to require local zoning to conform with the State management plan.

It is not designed to specify in detail how the States will implement these plans.

Once again, I emphasize that the legislation gives the States broad latitude in working out the way best suited to their own institutions and their own traditions for implementing their plans.

Mr. ANDERSON. Is it only the States and the local governments that will implement the plan?

Mr. TRAIN. That is the way this legislation is drawn.

Mr. ANDERSON. Didn't you say in another part of the bill, that "nothing in this section shall be construed to diminish either Federal jurisdiction" and already the Federal Government has jurisdiction in many of these area?

Mr. TRAIN. That is correct. But this bill does not interfere with any existing Government programs.

Mr. ANDERSON. When the Federal authority in an area that is now under Federal jurisdiction comes up against the jurisdiction of the States and local governments—if you are going to have a Federal plan that you have approved and yet allow the State to implement it—what happens to the jurisdiction of the Federal Government?

Mr. TRAIN. I am not sure of your case, Mr. Anderson.

Mr. ANDERSON. I don't have a particular case. I am thinking of several possible instances.

Mr. TRAIN. We are talking essentially here about private lands.

Mr. ANDERSON. Not entirely.

Mr. TRAIN. Not entirely; no, sir. That is perfectly true. But, I think to a very great extent the shorelines of the United States, both coastal shorelines and the Great Lakes shorelines, are in private ownership. I don't know what the percentage is, but certainly a predominant percentage is in private ownership; perhaps not counting Alaska, because I suspect Alaska contains maybe more than half of the coastline of the United States; and most of that is public domain. So that there are really very few Federal programs that would be involved.

Most—well I would say, essentially all—control over private land is a matter of State and local jurisdiction. There is no Federal regulation of the use of private lands that I know of.

Mr. ANDERSON. One last question that I had wanted to ask the Secretary before he had to leave. He had been talking about control. The only real control that you have, as I see it, would be the withholding of grant money. I think he used the words "for the time being," and "as a start."

Do you intend to go beyond this at a later date with other types of muscle to enforce its provisions?

Mr. TRAIN. I don't recall exactly—

Mr. ANDERSON. Something like that. I think he used the words "for the time being," and I think he said later "as a start."

Mr. TRAIN. Without referring back to any earlier statement, I would say that—as the Secretary did—we consider this legislation a first step and we are, as I said, plowing new ground here. It is a reform. I think it provides a somewhat basic departure in many ways, from previous practice. And I think we will want to learn from that experience and I think that as we gain that experience and as we more clearly understand both the needs and ways of dealing with people, that Congress and the executive branch and the States will be improving, adding to, and expanding the scope of this basic authority.

Mr. ANDERSON. Thank you.

Mr. HOWARD. Thank you.

Mr. McEWEN. Thank you, Mr. Chairman.

Mr. TRAIN, on page 2 of the bill, beginning on line 21, the coastal zone is defined. Part 3 states, "including the Great Lakes."

My question is this: Will the term "Great Lakes" include the St. Lawrence River?

Mr. DeCAMP. I would say it would not include the St. Lawrence River.

Mr. TRAIN. That is Mr. Louis DeCamp of the Federal Water Pollution Control Administration.

Mr. McEWEN. The reason I raised the question, if I may be parochial, is that the western and northern boundaries of my congressional district lie on the eastern end of Lake Ontario for possibly something approaching 100 miles, and then approximately 100 miles contains all of the New York-American shore of St. Lawrence River, and I wondered if there would be a line of demarcation where this would leave off on Lake Ontario and exempt the St. Lawrence River, or whether it would include all of that waterway?

Mr. TRAIN. I would prefer to answer your question by going back to what I said earlier, and that is that the definition of the coastal zone in the first instance lies with the State. And I would say this: That if the State of New York felt that the shoreline of the St. Lawrence River, within the State, was fairly what it wanted to treat as the coastal zone for purposes of its comprehensive management plan, that the Department of Interior would take a very good look at that determination, and I would say would not hastily override that, because the purpose of the legislation is to give the States, as I have said, a very free hand, both in the definition of coastal zone and in the development of the plan itself.

Mr. McEWEN. And the second question I would like to ask Mr. Train is this: When we talk of the coastal zone along our seas, we don't have any problem of a contiguous biwater foreign territory in all of the Great Lakes and the St. Lawrence. We border in varying degrees of closeness and proximity with Canada. Maybe Lake Ontario and Lake Erie, a distance of over 100 miles.

In other areas, such as the Detroit River and the St. Lawrence, maybe a mile or less. And I just wondered how this would affect our plan of land use under the American side of these waters, if we had no comparable plans on the Canadian side; whether there would be some working together of the two countries of the Federal Governments or Federal Government with their States and Provinces?

Has that been given any consideration?

Mr. TRAIN. This, of course, has come to mind. The bill does not deal with the problem. I believe that the boundary on the Great Lakes is equidistant between the two shores. I may be incorrect on that.

Mr. McEWEN. I think, approximately, in many areas and then well in the St. Lawrence River sometimes affected by the location of islands where the international line, because of a ship channel there, usually follows approximately the ship channel and may move toward the American shore and toward the Canadian shore.

Mr. TRAIN. Well, the effectiveness of any coastal zone plan adopted by a State with respect to a shoreline and waters, that would have an international boundary or another country contiguous to it, which had



either contrary or conflicting activities permitted, the effectiveness of that plan would obviously be reduced, there is no question about it, and this is a problem that is not created by this bill.

I am sure it exists with respect to our existing water pollution abatement programs and so forth.

Now, this is something we could get at by our International Joint Commission with Canada and by bilateral discussions at various times.

Mr. McEWEN. On page 6 of the bill, Mr. Train, beginning at line 6, it states:

The Governor of the coastal State has designated a single agency to receive and administer the grants.

Would that include this single agency of the State in turn working with a number of agencies within the State?

Let me illustrate that, for example, in my own area. The State has recently instituted a commission charged with the responsibility of studying the land use of the riparian properties along the St. Lawrence River. It would seem to me, as I understand the structure and the purpose of that Commission, that it would be a logical agency to work on just such a plan as this legislation envisions, but their jurisdiction is not statewide. So, using that as an illustration, do you see this bill permitting or prohibiting, let's say, the New York State Department of Conservation, if that were the agency, in turn working with a regional commission of this type within the State, or a number of these regional commissions?

Mr. TRAIN. I would see no problem in this at all. And it is certainly not the intent of this legislation to create any such impediment.

This provision which you have referred to is designed to insure that there is one specific entity that the Federal Government can deal with, particularly in the giving of grants. But we would certainly encourage the State to require that that agency, if it is to be the responsible overall agency for the administration of the coastal zone management plan, actively work with, coordinate with all other State and local regional, et cetera, agencies involved in land-water planning; no question about it.

Mr. McEWEN. Do you envision under this legislation some uniformity of standards to be developed by the States, if I may contrast it with these sections on water quality that we have now, where the States submit their water quality plans to the Department, as I understand it, it looks at certain standards to be uniform nationally.

Mr. TRAIN. I would be very much surprised if we found much uniformity amongst the various State plans.

Now, we may with greater experience in this country, evolve in a certain direction and find certain common trends running through plans as a result of that evolution. But I would again stress that we recognize local differences, regional differences, and we would expect that there would be substantial differences among the States in the nature of their particular plans.

The bill does not set down certain specific requirements. It is quite limited but quite definite at the same time. To that extent the plans would have certain common elements. The provisions of which you have just referred must appear in all plans.

Now, there must be, all of the plans must be within the framework of the national policy which we set out in the bill. And we are looking

to truly comprehensive State plans, so that if some very obvious resource value inherent in the coastal zone were overlooked or ignored by a State plan, such as fisheries, for example, or water pollution, for example, I would assume that that would be called to the State's attention, and if it persisted in ignoring that particular value there might be some question about the approval of the plan.

To that extent there would be a certain trend toward uniformity with respect to obvious coastal zones, but other than that very broad framework, we are not looking for uniformity.

Mr. McEWEN. Well, I share very strongly the view expressed by Secretary Hickel in his testimony of the need looking to the future; the need of land use planning, and I am sympathetic to what the gentleman from Minnesota said about how rapidly that need is moving in on us and in this rapidly growing country in terms of people and the pressures of the population and the industries that furnish those goods and services.

As has been pointed out by the Secretary in his testimony, we have had a tremendous growth of population in our coastal areas. And I think we can anticipate a continuation of that pattern, except as it might be affected by land use restrictions that would be placed.

Now, it seems to me, depending upon what each State does to the extent that they restrict man's changing the estuary areas and the coastal areas, it will affect the future growth and development of that State.

My concern is: How do we encourage, if you restrict the changing of natural conditions, if, let's say, another State isn't going to go as far in that direction and, therefore, will hold up more economic growth development. I know that even zoning as to improvements that people put on their property to protect residential areas, and so forth, is not without its problems. I think it is almost ironic, though, that man has accepted to quite an extent—at least in this country—zoning to protect the meager enhancement that he makes to what the Creator gave us, but when it comes to zoning to protect an irreplaceable resource—and that is what the Secretary recognized in his testimony when he said there is difficulty here—there is a reluctance to restrict the individual or the community, and what it can do in the future and *develop*, and I use the word in italics, it may be destructive to the ecology of that area. But we use the term "development." And I can see that if there is not some uniformity of standard and requirement of the States, one State may lag behind another, and I think we have a real problem in this area.

For example, Mr. Train, I recently responded to a question at a meeting in my district regarding a proposed multimillion-dollar project that raised some possibility of a problem of thermal discharge. It was just in response to a question at a meeting and it was—and very little was reported in the press, but I received scores of letters endorsing what was interpreted to be my position. I received scores castigating me that I am against all progress. All I said was: I thought it was something we should look to and look into the question of thermal discharge.

My district borders Lake Ontario and the St. Lawrence River and Lake Champlain where we have an abundance of cold water and some of us can see increasing demands for both fossil fuel and thermal nu-

clear powerplants and thermal discharge, and I expressed the question I thought there were things we should look into immediately.

I think Secretary Hickel, in the broad outline that he gave before the committee, was recognizing things just like this are real problems.

Immediately, the local community who was looking to a \$2 million facility and seeing what that would mean to their tax base, reacted because they didn't want anyone, certainly not their Congressman, to raise any question about the desirability of a project that would mean what this would mean economically. Yet, I foresee the demand for sites for this type of facility alone in my district, endowed as it is with cold water and in a country whose electrical energy requirements double every decade; we are going to be faced with a tremendous demand.

I had the very enlightening experience of being with the gentleman from South Carolina, Mr. Dorn, in his district and seeing a development by the power company on the upper reaches of the Savannah River and its tributaries, and I was impressed with the fact that they said this project costing \$500 million wasn't going to produce enough hydroelectric energy to justify the investment; that a large part of the benefit they were looking to was the creating of a great impounding of cool water near the headwaters of that river, in order to accommodate both the thermal discharge of nuclear generating facilities and fossil fuel plants.

So, I can see the demand in this one area alone is going to be placed on areas that are endowed with a natural abundance of cool water, and I can see the problem of just how you established the land use as to where those facilities will be located.

Now, having pointed out my concern about some of the problems I see down the road in this legislation, let me hasten to add that I think it is needed—and needed as a first step, and as the Secretary said, it is a little like Apollo 1 had to come before Apollo 2 and before Apollo 3. It is a point of beginning. But I can see real problems to the States in working this out with their communities, because, as the Secretary pointed out, zoning has traditionally—zoning of any kind has been a local function. This may require some substantial changes in State law. It may even in some of the constitutions of our States on this subject—on that point.

Mr. Train, has there been any study of exactly what authority the States have in this area of acting?

MR. TRAIN. Well, it is my understanding that the States possess the residual authority to zone but have, I think, in practically all cases, if not all cases, delegated that authority, either by statute, or perhaps by State constitution, to local governments. And in some cases it is going to be necessary for the States to amend their legislation, and in some cases, conceivably, to amend their constitutions, if they wish.

Now, I think that this aspect of the legislation is the most—I hesitate to say revolutionary—but certainly it is the one that is going to give rise to the most public comment, and yet it is very likely the most important aspect of the legislation.

It is a very big step forward and I don't think that we should downgrade the first step provided by this bill as being an insignificant first step. I think it is a very significant one and I would hope that there would be a great deal of public discussion of this and some of the other problems to which you have just referred, because I think a great deal

of public education is needed on this whole matter of land use, and I believe—I am confident—that this committee can play a very important role in that public educational process in identifying the problems and in encouraging informed public discussion. And I think that there is really a prerequisite to very much forward motion in this whole area.

Mr. McEWEN. Well, I couldn't agree with you more on that, Mr. Train, and I certainly want to make it clear that my questions and comments here in no way disagree with you; and I completely agree this is an important and a meaningful first step.

I do see some real problems in how to carry this out, and I think that you are quite right that we have got to develop a greater public awareness.

For instance, in the field of the abatement of water pollution, we were a little while in coming to an aroused public concern in this area. Pollution usually went downstream to somebody else and if the factory or mill provided jobs, that was the immediate plus that was seen and there was little concern for decades given to what we were doing to our water quantity.

But now there is a concern. And the legislative bodies from the Congress to local governing bodies are responding or endeavoring to respond to meet this need, and I think there is going to have to be the same public awareness here.

While I was in the New York Legislature we dealt to a limited extent with the question of the wetlands and we found the prevalent attitude was on wetlands, any marshy, swampy area where there was an estuary of a tidal water, or whether it was an inland swamp, man looked upon this as sort of a waste; it was something that he thought did nothing but breed mosquitoes; it wasn't pretty, esthetically attractive; it invited him to fill in, to improve it, develop it, until we started to learn a little bit about the word "ecology," and found that these areas, of course, contributed greatly to the balance of marine life. It is where many of the species spawned and their smaller forms of marine life were produced that feed others, and it took some public education to develop an understanding of why this was needed.

I think this is going to be a real area here, too, as we approach this nationally, that people understand what the problem is and why we need to consider these areas.

Mr. TRAIN. I think you also put your finger on an aspect of the problem and the program which would give rise to problems in the future, and that is with the lack of uniformity between the States there could arise a competitive problem, primarily insofar as industrial locations are concerned. It may well be that as we gain experience and as the States gain experience with the program, and this sort of problem arises, and the public begins to understand it, that this will give rise to stronger guidelines and a move toward greater uniformity, I would suspect that would happen.

But, personally, I think that this is something that we should evolve toward, rather than trying to leap to at once.

Now, this is a little bit off the subject of this legislation, but it may well be that aside from State plans, we may need some clearer Federal or national guidelines in some specific areas of major impact, and you have mentioned nuclear powerplants. Commercial jets are another one

that comes to mind. These are very hardsiting problems to be left simply to local initiatives and decision. And I would simply say that I think that there may well be specific problem areas of this sort which do require more national attention than they are getting.

Mr. McEWEN. Very simply, Mr. Train, let's say that States A and B are adjacent to each other and each have the same number of miles of coastline area and one State should decide that 90 percent of it should be protected, its wetlands and so forth, not affected by man's development, while they decide to set 90 percent aside, and the adjacent State finds that only 10 percent in their opinion is needed.

Well, obviously the economic development and growth and job opportunities will be in the area having the greatest land available and unrestricted. And that is why I feel that you have to have under this some uniform standards, as I believe have been pretty well worked out in this field of water pollution, where the States have set standards but there have been standards set and they have been reviewed in the light of what were the conditions on that particular waterway.

I thank you, Mr. Chairman.

Mr. HOWARD. Thank you, Mr. Snyder.

Mr. SNYDER. Just to see if I am clear here, the requirements of the State are set out on pages 6, 7, and 8.

Am I correct in my understanding that the authority of the Federal Government to approve a feasible land and water use plan would be absolute?

Mr. TRAIN. Under this, with respect to plans submitted under this bill; yes.

Mr. SNYDER. Or else they didn't get the money?

Mr. TRAIN. That is correct; subject always to the administrative protection, and a Secretary cannot arbitrarily act without a basis.

Mr. SNYDER. This would, of course, involve litigation, and it probably would not be worth the effort.

Flipping on over to page 8, they have to establish procedures for accurate review, State and local private projects for consistency with management plans.

What is your idea of what that means?

Mr. TRAIN. Well, this goes back to the importance that has been stressed here of not only having plans, but having plans that are meaningful and result in action. And it is our feeling that if a State develops management plans which we approve, but then State projects and local projects within a State proceed in sublime ignorance of that State plan, that the program isn't working the way we want it and—

Mr. SNYDER. Then what you are saying now is that you have cancellation rights?

Mr. TRAIN. Of course, this is the provision we are talking about here with respect to the provision of the State plan in the first instance—the approval of the State plan in the first instance—and if we were satisfied that the State had an adequate process for this kind of review, then there would be no objection to it.

Now, if it does not have, in our view, an adequate procedure, the plan presumably would not be approved.

It does not spell out what the procedure should be. Here again it leaves a great deal of leeway to the State.

Mr. SNYDER. I am having a little bit of trouble in my mind now, in differentiating between what I read to you, which is subparagraph ff, and it seems to me you are describing to me what seems to be described in subparagraph hh. Maybe I need you to differentiate between the two for me.

Mr. TRAIN. I believe that I was misreading the bill. We are talking here not about the adoption of the management plan in the first instance, but the second stage, which is the operation of the plan.

Mr. SNYDER. Yes. But these procedures have to be established before the adoption of the first instance, if I understand it correctly.

I am for the approach, but I am worried about the mechanics. I can see all sorts of problems where there might be insignificant zoning changes.

Let's assume that somebody has a piece of property and it is approved in the plans as zoned for a one family residential, and he wants to build a duplex. He wants to take mama and papa in; he has to get a change of zoning for the duplex. This is fairly inconsequential as far as your planning is concerned, probably nothing that you all would be much concerned about. But as I read this bill, I am concerned that he might not only have to seek approval of the local zoning board but the State agency through which you deal, and the Federal Government, to get that minor change made. I don't think that is what you mean. I don't think it is what the committee would want in the final analysis.

I am not attempting to chop up the bill from the standpoint of what you want to do but we don't want to get ourselves embedded in a lot of bureaucratic redtape where it is not necessary and where it should not be.

This little guy that wants to go from a single family residence to a duplex might not be able to afford the time, effort, and cost that would be involved in this, and I don't think we would want to hamstring him to that point.

Mr. TRAIN. Well, certainly the bill does not intend to reach that kind of result.

Mr. SNYDER. Let me say I am sure it does not intend to. My only inquiry is whether it does without intention.

Mr. TRAIN. Well, on page 9 there are the provisions which cover review of performance by the States. And it does provide that the Secretary shall maintain a continuing review of the operation of State plans that have been approved for which grants have been given.

Now and then it goes on to state that the Secretary shall have the authority to terminate any financial assistance extended under the act, if he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary.

Second, that the coastal State has been given notice of the proposed termination and an opportunity to present evidence of adherence or justification for altering its program.

Now, I can't conceive that the Federal Government in administering this program would be seeking to interfere with or give oversight to individual zoning acts such as you are talking about.

I would say, though, that if there is a pattern that arises in a given State of disregard for the State's own plan which has been approved, then it is possible that the kind of action I have just described could be taken, but certainly not in the case of an individual, a minor individual action of some sort.

That is practically impossible to legislate against, as I think the Congressman is aware of.

Now, there is a rule of de minimus and there has to be a certain amount of administrative judgment embodied in carrying out such a program.

Mr. SNYDER. I am not so sure that it is impossible to legislate against these kind of problems.

Quite frankly, just off the top of my head, I think it might be rather easy if the bill were so drafted as to give the Secretary and the Federal Government the right of approval as to what it does in the original analysis of a comprehensive plan within categories of use, leaving thereafter the decision to a local authority so that they could change this plan provided they kept it within the same category. Category might not be the right word to use here, but I am thinking now of leaving to the local authority the right to change the use within the residential category. In our local community which wouldn't be involved in this, unless you are going up the Ohio River pretty far, there are probably half a dozen classifications within the residential; a half dozen classifications within the commercial category; three or four classifications within industrial.

Now, it seems to me that we could legislate so once the plan were approved as to general use, and so long as the State or local authority did not go outside of that general use, but kept within that category, that they could retain that prerogative, which I think, would be pretty much in keeping with the concept that you want to establish.

I just make those observations. I have a little trouble understanding subparagraph ff, hh, and jj, and their interworking relationships to each other, but I would say to you that I approve very much of the approach you are attempting to make.

Mr. TRAIN. I think if there is a problem of this sort under the bill we would be happy to work with the committee to try and resolve that.

Mr. SNYDER. It seems to me, as I read it, that there could be. I don't know that it would necessarily develop.

Mr. TRAIN. I don't think we have any particular expectations that States will be coming forward with detailed zoning classifications for every acre along their shoreline that would be approved by the Federal Government. I don't think it's intended but I think it could happen under the bill.

Mr. TRAIN. If the State submitted that to us and said this is the way we are zoning it; this was what they asked for; we approved the plan on that basis, we might get into that kind of operation. But this would be only because the States took that kind of initiative.

Mr. SNYDER. But you don't want to. It is an insurmountable task.

Mr. TRAIN. We certainly do not.

Mr. SNYDER. Thank you very much.

Mr. HOWARD. In answer to Congressman McEwen, you stated in some rivers, such as the St. Lawrence River, that you permit the State to determine what areas would be covered under the bill.

Well, suppose other States might want to go all the way up the Delaware or the Potomac or the Ohio or some other river, far beyond what the intent of this bill was, what would be the practical use under this bill for it? How would you handle that if the State determines they wish this base?

Mr. TRAIN. If it was clearly inconsistent with the purposes of the legislation as enacted by Congress, we would not approve the plan.

Mr. McEWEN. On that point, I believe coming up the estuaries, you come up to the point that there is, in effect, from the ocean waters; is that correct?

Mr. TRAIN. That is correct.

Mr. McEWEN. So, you would be going above where that effect would be. Of course, the Chairman knows the reason I raised the question on the St. Lawrence, it is a part of the Great Lakes; the St. Lawrence waterway. It is all one area.

Mr. HOWARD. Thank you, Mr. Train, and the people from your Department who came down here this morning. I am sure that we will be in touch with each other in the future in developing this legislation.

The subcommittee stands in recess pending the call of the Chair. (Whereupon, at 12:30 p.m. the committee was recessed.)

SUBMITTED COMMENT ON S. 2802

FEDERAL MARITIME COMMISSION,  
OFFICE OF THE CHAIRMAN,  
August 18, 1969.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: This refers to your request of August 11, 1969, for the views of the Federal Maritime Commission with respect to S. 2802, a bill "To assist the States in establishing coastal zone management programs."

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely yours,

JOHN HARLEE,  
Rear Admiral, U.S. Navy (Retired), Chairman.

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COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, D.C., September 25, 1969.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate

DEAR MR. CHAIRMAN: Reference is made to your letter of August 11, 1969, requesting our comments on S. 2802.

The bill would amend Public Law 89-454, as amended (33 U.S.C. 1101 *et seq.*), by adding thereto a new title III which would provide financial assistance to coastal authorities for establishing and implementing coastal management programs, and a new title IV which would provide for a special fund in the Treasury to be known as the "Marine Resource Fund."

We have no special information concerning the desirability of the proposed legislation and accordingly, we make no recommendation as to the merits of the bill. However, we offer the following comments for your consideration.

Sections 304(a) and 305(a) and (b) authorize the Council to make grants to coastal authorities for the purpose of developing a long-range master plan and implementing a development program, and to enter into agreements with coastal authorities to underwrite by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

The proposed legislation contains no criteria as to when or under what circumstances each type of financial assistance should be utilized. The Congress may wish to consider the advisability of including criteria which would provide that grants be made only in those instances where a finding has been made by the



Council that the applicant for financial assistance does not have sufficient financial resources to permit the undertaking of a project with bond or loan financing. Also, we note that section 305(b) does not specifically state whether payments on defaulted bonds or loans are to be made from the Marine Resources Fund or funds otherwise appropriated.

Section 312(a) contains what appears to be an unrealistic requirement for a report to the Congress not later than January 1 of each year on the administration of the title for the preceding calendar year. This requirement would provide only one day to finalize and issue a report on the preceding year's activities.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et seq.*")

The word "cosal" appearing in line 16 on page 8 of the bill should be changed to "coastal."

Sincerely yours,

R. F. KELLER,  
(For the Comptroller General of the United States).

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., March 30, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of March 2, 1970, requesting our views on S. 3460, entitled: "A BILL To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management and programs."

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following comments concerning specific provisions of the bill.

The bill calls for all Federal agencies to coordinate their activities in the coastal zone with the coastal States. (Section 303, page 4, lines 16-18.) We suggest that the extent of this coordination may not be sufficient since the activities undertaken by other (noncoastal) States affects the waters draining into the coastal States. The committee may wish to consider the possibility that entire river (or lake) basin coordination may be desirable.

The bill provides for a Federal agency (The National Council on Marine Resources and Engineering Development) to make grants to State agencies (coastal authorities) to assist them in developing a long-range master plan and implementing a development program based upon such master plan. If the coastal authorities borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects, the borrowings and bonds may be guaranteed by the Federal agency. (Section 305(a) page 6.)

We believe that the bill should prescribe the terms and conditions of the borrowings and bonds that may be guaranteed by the Federal agency and the rights of the Federal Government in the case of default. We believe also that the bill could specify the extent to which such borrowings and bonds may be guaranteed by the Federal agency.

Also, in order to effect more comprehensive master planning by the coastal authorities, we suggest for your consideration the following change at page 7, line 19:

" \* \* \* authority shall examine the land *and water* use regulations. \* \* \* "

Similarly, regarding page 8, line 5, we suggest the following change:

" \* \* \* such master plan shall include studies, *analysis*, conclusions, and explanatory diagrams. \* \* \* "

The bill provides for submission by the Federal agency of an annual report to the President for transmittal to the Congress not later than January 1 of each year covering administration during the preceding calendar year. (Section 315 (a), page 17.) We suggest April 1 as being a more practicable report due date.

Page 2, line 5, contains the reference "16 U.S.C. 1121" which should be "33 U.S.C. 1101."

Page 8, line 13, contains the word "popoulation" which should be corrected to population."

Page 9, line 20, contains the word "have" which apparently should be "has."  
Also, page 19, line 5, contains the word "(z)" which should be "(a)."

Sincerely yours,

R. F. KELLER,  
*Assistant Comptroller General of the United States.*

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GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., June 25, 1970.*

Hon. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce, U.S. Senate,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning S. 2802, a bill "To assist the States in establishing coastal zone management programs," to be cited as the "Coastal Zone Management Act of 1969."

S. 2802 would amend the Marine Resources and Engineering Act of 1966, as amended (33 U.S.C. 1101 et seq.) by adding two new titles for the purpose of assisting the States to establish coastal zone management programs. In carrying out the provisions of this bill, the National Council on Marine Resources and Engineering Development established by the 1966 Act would review any planning and development program submitted by a coastal authority and would make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

This Department is in accord with the objectives of S. 2802, but we do not recommend that it be enacted.

On November 13, 1969, the Secretary of the Interior submitted to the Congress the Administration's draft legislation cited as the "National Estuarine and Coastal Zone Management Act of 1970," which has been introduced as S. 3183. S. 3183 would amend the Federal Water Pollution Control Act, as amended (58 U.S.C. 466 et seq.) by adding a new section to establish a national policy and program for the effective management and protection of the coastal zone.

This Department favors the program of coastal zone protection provided for in S. 3183. Accordingly, we recommend enactment of S. 3183 in lieu of S. 2802.

We have been advised by the Bureau of the Budget that there would be no objection to submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

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JAMES T. LYNN, *General Counsel.*

STATEMENT OF THE CORPS OF ENGINEERS BEFORE THE SENATE  
COMMITTEE ON COMMERCE, APRIL 21, 1970

STATEMENT OF HON. ROBERT A. FROSCHE, ASSISTANT SECRETARY OF THE NAVY  
FOR RESEARCH AND DEVELOPMENT, ACCOMPANIED BY MAJ. GEN. FRANCIS  
P. KOISCH, DIRECTOR OF CIVIL WORKS, U.S. ARMY CORPS OF ENGINEERS

Dr. FROSCHE. Thank you, Mr. Chairman.

I have taken the liberty of asking Major General Koisch, Director of Civil Works, U.S. Army Corps of Engineers, to join me to support me should there be any questions that deal with the particular role of the Army Engineers in the coastal zone.

Senator INOUE. Welcome, sir.

Dr. FROSCHE. I appreciate having an opportunity to testify on behalf of the Department of Defense on the three Senate bills, S. 2802, S. 3460, and a bill transmitted to the Congress for the administration by the Department of the Interior, S. 3183.

These three bills deal with the problems of intelligent management of our coastal areas.

The Department of Defense supports the objectives of these bills. However, we have certain observations which are respectfully submitted for you and your committee's deliberations.

I would prefer in some of this to summarize my statement—I believe the committee has complete copies—since some of the observations deal with technicalities and perhaps can be dealt with in that way.

Senator INOUYE. Without objection, your full statement will be incorporated in the record.

Dr. FROSCH. Thank you, Mr. Chairman.

The first general observation has to do with some of the definitions contained in the bills, S. 2802 and S. 3460. Some of these definitions are not consistent with the generally accepted definitions under international law.

We are concerned that the use of the term "coastal zone" could be interpreted, although not intended, as an attempt by the United States to extend its sovereignty beyond its territorial seas without going through the suitable international process to do so.

In the statement there are some comments as to why this interpretation might be possible.

In addition, the term "seaward boundary," which is used in these bills, is not a recognized term of international law, nor does it have a real understood legislative content since it has not been used before.

On the other hand, there is a term or a pair of terms that are used to correspond to what seems to be meant by "seaward boundary," and this is the use of the term "territorial sea" in its recognized content of international law, and the proper use of the term "baseline" which is somewhat different than the definition given in the bills.

Finally, the term "estuarine sanctuary," as used in S. 3460, is a new term which does not have an established meaning in international law, and again we are concerned that if used loosely, it could be interpreted as bearing upon the international law of the territorial seas, again, as a matter of domestic legislation without having gone through any international processes to make such a modification of law.

So we specifically recommend that that definition be modified by adding the sentence: "Such sanctuaries shall not in any event extend beyond the seaward limit of the territorial sea of the United States."

I note that, of course, there is a problem posed by the fact that the legal limit of territorial sea may not correspond to a desired scientific or an engineering or a pollution limit. Nevertheless, it seems to us that some form of international due process would need to be followed in order to establish legal definitions, particularly if they are to extend beyond currently agreed international law.

Senator INOUYE. May I at this point interrupt you, sir?

Dr. FROSCH. Certainly.

Senator INOUYE. What is your legal definition of "territorial sea."

Dr. FROSCH. The "territorial sea" is defined in a Geneva Convention on Territorial Sea, and it generally means that area of waters beyond the internal waters of the state in which it has the rights of sovereignty, that is, to collect taxes, to control, to police, to have exclusive use, with the exception of allowing the right of innocent passage of ships through the territorial sea.

The U.S. definition of our own territorial sea is 3 miles from a certain defined baseline. Most other countries define, 3, 6, or 12 miles as their limit.

There is a U.S. proposal to negotiate internationally a generally agreed limit to end some of the confusion of distances. We have proposed the possibility of agreeing on 12 miles, provided that that agreement would allow for freedom of passage and overflight of international passage.

Senator INOUE. Thank you very much, sir.

Dr. FROSCHE. Now, in connection with these points of definition, I would like to point out that the administration bill, S. 3183, does not present any such problems of definition related to international law, since it uses the definitions, where necessary, that are in accord with that, and we would suggest that these definitions be used in whatever legislation is approved.

The second general observation on these bills relates to the need to have a proper balance between Federal Government responsibilities and State and private responsibilities in the development and implemental of the programs covered by these bills. Of course, we are particularly interested in insuring that national security considerations are reflected in the establishment of these programs.

And in particular, we believe that certain subsections of S. 3460 and S. 2802 do not adequately recognize the need to consider mission or statutory responsibilities of Federal agencies that are aside from their responsibilities in the coastal zone, and in particular, those subsections could be construed to give the Marine Council and the States the power to veto projects and programs in Federal agencies specifically authorized and directed by the Congress.

The two bills provide only that, in preparing the master plan, the coastal authority examine the land use regulations and plans of the various governmental bodies whose jurisdictions extend over the territory in the coastal zone and that they consult with the Federal agencies that are affected.

The administration bill, on the other hand, recognizes the importance of full cooperation by the States and the Federal agencies in the development of the State coastal zone management plans.

This bill would require the Secretary of the Interior, before he approves a State's program, to find that the plan was developed in cooperation with relevant Federal agencies and other interests, and, after soliciting the views of those agencies, to mediate any serious disagreements.

Nevertheless, we consider that even this procedure does not provide sufficient protection from potential encroachment by State coastal authorities for essential national security activities within the coastal zone.

Accordingly, we recommend that section 19(g)(1) be changed to read as follows:

"The Secretary"—and the bill defines the Secretary in each case as being the Secretary of the Interior—"The Secretary shall not approve the plan submitted by the State pursuant to subsection (d)"—and here is the new wording suggested for introduction—"unless he has sought the advice of the Secretary of Defense on matters of national security and the views of the other Federal agencies, principally affected by

such plans or has evidence that such views were provided the State in the development of the plans.”

And here again is a rewording:

“In case of serious disagreement between any Federal agency and the State in the development of the plan, the Secretary in cooperation with the Executive Office of the President shall seek to mediate the differences.”

The point of this alteration is that it seems to us that the original wording had one of the interested parties, by nature of his legal responsibilities, as the mediator, and the sole mediator, without a provision for a higher level of interest and review, should the conflict turn out to be that the Executive Office of the President, as representing all of the interests involved, be concerned also with the mediation.

The third observation relates to the provisions of S. 2802 and S. 3460 that provide for the extension until June 30, 1975, of the National Council on Marine Resources and Engineering Development.

As you know, the President has asked his Advisory Council on Executive Organization to make a special study of the organization of Federal environmental, natural resource, and oceanographic programs, and to report them in its recommendations, and has stated that at the receipt of these recommendations and this report, he will recommend reforms involving major reassignments of responsibilities among departments.

We note that the administration has separately submitted draft legislation providing for the extension of the Council until June 30, 1971. The extension of life for another year will assure that it is available to assist in the coordination of marine science activities while the current studies are being completed, and during the transition period for any executive agency realignment that might result from those studies.

As a final point, it should be noted that administrative action has already been taken to have the Chief of Engineers of the U.S. Army represented in the activities of the Council as an observer.

We feel that the principal objective of that portion of S. 3802 and S. 3460 has already been achieved.

In closing, the Department of Defense is in general concurrence with the goals and objectives set forth in all three bills, but for the reasons I have mentioned, recommend enactment of S. 3183 as modified.

Thank you, Mr. Chairman.

SENATOR INOUE. Dr. Frosch, I thank you very much.

In your statement, you recommended that section 19(g)(1) be amended to provide that the Secretary of Interior not approve the plan submitted by the State unless the Secretary of Defense was brought into his deliberations.

Dr. FROSCH. And the other Federal agencies.

SENATOR INOUE. Can you give us examples for the record of what you consider as being matters of national security that may be involved?

Dr. FROSCH. Well, I think there are certain matters of training, preparation, and basing of military forces that need to be accommodated as matters of national security.

As an extreme case, if one were to try to reserve all of the coastline and ports of the United States for nonmilitary purposes, it would be

impossible to base and train a Navy, a Marine Force, or an amphibious force.

I agree that that is an extreme case, that there could be simpler cases where particular pieces of property or air space were essential to training or development and impossible to locate elsewhere.

It seems to us that if that leads to a conflict between that use and one other use, that it needs to be mediated and dealt with as a matter of overall national priorities, and not just within the context of particular coastal zone uses.

This may go beyond the use of the water and the land in the coastal zone region. It might, for example, include the use of air space for test ranges which would be beyond just the context of individual coastal zone uses.

Senator INOUE. I presume from what you have just said that it could involve areas for target practice?

Dr. FROSCHE. It might involve such areas, yes.

Senator INOUE. With live ammunition?

Dr. FROSCHE. Possibly. Many of our ranges do not use live ammunition, but they are coastal zone ranges because it is safer, both from control of the range and for the safety of people who might be near the range, to fire over the ocean rather than over the land.

Senator INOUE. I bring this up, because we have just missed several disasters by bombs falling into places that are inhabited by people, where our pilots have missed a target by several miles. Our targets are islands, as you know, in the Pacific.

This national security also involves excess soil dug up by the Corps of Engineers?

General KOISCH. I think you could make a case that that would be on. There would be the necessary navigation or carrying on of commerce within the country either in preparation for conflict or otherwise, in which channels might have to be dug to certain depths to accommodate the shipping and they might not be compatible with the plans that some States had, and I think we would have to have the overriding Federal interest there.

Senator INOUE. I may not be up to date, but I recall several years ago receiving testimony in the Committee on Public Works which indicated that the Corps of Engineers was dumping soil and other debris in the Great Lakes. Is this practice still continued?

General KOISCH. Yes, sir; it is continuing, but there was a Presidential press announcement just last week in which the President proposed a plan to the Congress with legislation to take care of the Great Lakes dredging problem in the time frame of the next 10 years in conjunction with other pollution control measures.

Senator INOUE. In other words, for the next 10 years, it would be a matter of national security to dump dredge spoil into coastal zones?

General KOISCH. I do not think we could put a time frame on that, sir. Like all of the other problems in the coastal zones or in the rivers, I think this would have to be approached in the frame that is laid out in the bills before us, and what we are really doing is trying to find sufficient information on which to make wise decisions.

Dr. FROSCHE. Mr. Chairman, it seems to me that the point that I have been making is not that any requirement stated by the Department of Defense is automatically an overriding national security requirement

I think I would not care to state anything stronger than to say that such a requirement might be an overriding national security requirement and might be such in the view of the President and in the view of the Congress. So we would like to be certain that the mechanism in whatever bill that is enacted allows for consideration of that possibility and allows for it to be considered at an overall national government level. And certainly at an overall executive department level inasmuch as it is principally, for administrative purposes, an executive department problem.

What we are concerned with is that Defense requirements might be left out, and that adjustment among uses might be treated simply as a matter of convenient use of the coastal zone, rather than as a matter of adjustment between different kinds of national requirements.

Senator INOUE. Would you construe this amendment as proposed by you to involve a veto by the Secretary of Defense?

Dr. FROSCHE. No, I would not. I would construe it as requiring that the Secretary of Defense be consulted; that if simple discussion, after his opinion was made known, was not a solution to the problem, that the problem go to the level of the Executive Office of the President, which might involve the Marine Council; it might involve the Office of Science and Technology, the Bureau of the Budget, and the National Security Council, and the Domestic Council.

Senator INOUE. Your testimony on the technical defects of these several bills has been most helpful. Would you favor the committee with your amendments, your suggestions for changes that could be made to take these defects away?

Dr. FROSCHE. I would prefer to furnish that for the record, since it becomes a matter of quite precise legal language, if I may, Mr. Chairman.

Senator INOUE. We will appreciate that very much, sir.

(The following information was subsequently received for the record:)

With respect to the definition of "coastal zone," it is recommended that the phrase "or the seaward boundary, whichever is further offshore" be stricken. This deletion is necessary if the United States is not to purport to be extending its sovereignty beyond its territorial sea. The limited rights of a coastal state beyond its territorial sea are defined as a matter of international convention. Such rights are not sufficiently broad in international law to encompass the purposes of these bills. It is true that, as a matter of domestic law, the state governments of Texas and Florida, as distinct from the federal government, have the authority to regulate the exploration and exploitation of the mineral resources of the U.S. continental shelf in the Gulf Coast out to nine miles. These state rights, however, are narrowly limited by both domestic law and by international convention. The rights of regulation and control of coastal development contemplated by subject bills exceed presently existing state rights in exploration and exploitation of mineral resources beyond the U.S. territorial sea. The United States would thus be making a unilateral assertion of jurisdiction in conflict with international law if subject bills were to apply beyond the territorial sea.

It should be noted that the term "seaward boundary" has no recognized content in international law nor domestic legislation. Therefore, it is recommended that its definition be stricken in its entirety. It would be confusing to introduce such a new term into U.S. domestic legislation.

The term "territorial sea" standing alone, without definition, is a recognized term of international law and understood legislative content. Use of the phrase "territorial sea" where appropriate allows the breadth thereof to be such as is consistent with international law and the best interests of the United States. It is recommended, therefore, that the definitions of "territorial sea," be deleted. When definition is deemed requisite, they be amended to read as follows: "The term 'territorial sea' means the belt of sea adjacent to the United States within

which the United States claims the right to exercise its sovereignty." This substitute definition is one generally recognized in international law.

The definition of the term "baseline" is unnecessary and confusing. The well-accepted meaning of "baseline" in international law and usage is that line which decides the territorial sea of a nation from its internal waters. It is recommended that the definitions be deleted, or if definition is deemed requisite, they be amended to read as follows: "The term 'baseline' means that line which is used to divide the territorial sea of the United States from its internal waters." This substitute definition is one generally recognized in international law.

It is recommended that the definition of the term "estuarine sanctuary" be modified by adding the sentence: "Such sanctuaries shall not in any event extend beyond the seaward limit of the territorial sea of the United States." This language is recommended for reasons similar to those set forth above.

Again, it should be noted that all the definitions contained in the Administration bill, S. 3183, are correct as a matter of international law. It is recommended that they be utilized in whatever legislation is adopted.

Senator INOUE. I would like to call on Mr. Miller to ask any questions, if he has any.

Mr. MILLER. Dr. Frosch, in your recommendation that we change the definition of the outer limits of an "estuarine sanctuary," do we understand correctly that the Department of Defense is not objecting enough to the concept of estuarine sanctuaries?

Dr. FROSCH. No objection at all. Our concern is purely to have the definition in a domestic bill consistent with our treaty and internationally agreed to definitions, unless and until we want to make a national effort to get those definitions changed by agreement.

Mr. MILLER. In previous testimony before this committee, others have suggested that these bills might be amended to call for Federal participation in the planning process itself, not just consultation or coordination. Your comments have been going to an after-the-fact review of plans that might be submitted by the State.

Now, there is precedent, it seems to me, in both the San Francisco situation and now what is going on in New England, in the New England River Basins Commission study of southeastern New England, for Federal participation in the planning process, and whatever commitments that may mean as the plans are developed.

Would the Department of Defense support a change in the legislation that would make mandatory Federal participation in the State planning process for the coastal zone?

Dr. FROSCH. I think that would depend on whether it was mandatory in all cases, whether it seemed to be required by the case at hand or not.

I think it would be cumbersome to have all of the Federal Government involved in all of the planning by States, even if there was no a direct interest. I think the wording would have to be quite careful to indicate that if there was some reason for an interest or a direct participation of a Federal agency in a particular local situation, that it might be mandatory.

Generally speaking, it is smoother and easier for all parties to participate in the early foundation of a plan than it is for one of them to be brought in later and then make some objection that causes the plan to have to be examined from the very beginning.

So I think in general the principle of having all parties who are involved participate at the beginning is a good one, but one needs to be careful with the machinery for doing it, or parties who might not really be involved by substance may get involved in rather a cumbersome process.



Mr. MILLER. You stated that the President's Advisory Council on Executive Organization is expected to make its report and recommendations to the President on Federal organization. It has been postponed at least once, and we had understood from the President's February environmental message that the report would be submitted to the Ash Council on April 15. Do I understand correctly that the report was not submitted to the President?

Dr. FROSCH. I have been told so, but I do not know myself.

Mr. MILLER. And that it is expected, perhaps, around May 1?

Dr. FROSCH. I simply do not know.

Mr. MILLER. With regard to the last recommendation, you know that the Chief of Engineers has been designated as an observer on the National Council of Marine Resources and Engineering Development. Would he have any different status or ability to operate as an observer than he would have if he were a full member of that Council?

I am trying to understand why you feel that the objectives of the amendment have been achieved administratively.

Dr. FROSCH. Well, I think the key point is that he would be a direct participant and have a direct voice in the discussions of the Council.

I presume that if the Council were to be a voting body on any particular issue, that observers do not vote. Generally it has acted as a discussion and consensus body, and the issue of whether there would be a distinction between observers and full members has not been raised.

After some consultation among all groups in the Department of Defense, it has seemed to us best that the Department of Defense as a single Department of Government be represented on the executive level by a single voice, whoever that be appointed as, or as a single vote, if voting is involved, without any attempt to block the Corps of Engineers from participation.

In fact, even without the appointment as an observer, it has been our practice to consult pretty thoroughly with the Corps of Engineers as a major Department of Defense agency with an interest in these matters, and, in fact, it has generally been my practice when representing this Department, and the Secretary of the Navy's practice, on his level, to bring with him either the Chief of the Corps or an appropriate representative of the Corps so that those matters in the Corps' purview could be dealt with directly by them.

Do you want to add any comments, General?

General KOISCH. We go along with the recommendation that is made. Not all matters brought up in the Council come within the purview of the Chief. We would rather not comment on all matters, as we would have to if we were a voting member.

Also, as a part of the team that represents the Department of Defense, we feel that we have been well heard, and we would rather iron out within our own family the differences that may occur within the Department of Defense itself.

Mr. MILLER. Dr. Frosch, you have made comments on the definition of the outer limits of the coastal zone. I wonder if the Department of Defense would like to comment on the landward extent of the coastal zone.

Dr. FROSCH. Well, I would think the only thing I can think of off-hand is that there are some statutory requirements, particularly again

in the Army Corps of Engineers, and they would have the most direct interest in that definition.

General KOISCH. I might comment on that. I do not think you can definitely define it.

We view the coastal zone as very, very strongly affected by the river systems and the fresh water runoff. They determine the characteristics of the estuaries. The coastal zone itself, I think, is shaped both physically and biologically by the landward side, particularly the fresh-water side.

So each of these things would have to be taken up in context, and you would have a different landward side for, say, a complex for transportation and cargo, than you would have for a complex for recreation.

We view this thing as something where political boundaries do not even count, and you need physical and geographic type boundaries that define waterways. The real requirement is not separation of planning for the coastal zone from planning for the landward side; it is the bringing together of these two things properly that is the important feature.

So whether you have one planning agency or two, in some way you must bring together the planning of the landside and the oceanside. To us this is far more important than setting a specific boundary.

Mr. MILLER. I notice that the administration's bill has not included Guam, American Samoa, and the District of Columbia in its definition of coastal States, and I wonder if you would have any comments on whether these might be included in its jurisdiction.

Dr. FROSCH. I am sorry. I had not, in fact, noticed that.

I would suspect offhand that they were simply inadvertent omissions; but I do not, in fact, know.

Mr. MILLER. I was wondering if there was any purpose behind the omission, as I noticed the national estuary study does indicate that their study went up to the fall line here above Washington on the Potomac, and so perhaps we are a coastal State.

We have had quite a bit of testimony with regard to Federal participation in the grants, whether it should be matching grants on a 50-50 or a higher percentage. Would this be of any concern to the Department of Defense?

Dr. FROSCH. I know of no reason why it should be of particular concern to the Department of Defense.

Senator INOUE. For the record, General, could you give us your full name and your rank, and responsibilities?

General KOISCH. Maj. Gen. Francis Koisch. I am the Director of Civil Works for the U.S. Army Corps of Engineers.

Senator INOUE. Thank you very much, Mr. Secretary, and General, on behalf of the committee, for your testimony. It has been very helpful.

Dr. FROSCH. Thank you very much, Mr. Chairman.

Senator INOUE. Can we at a later date receive from you for the record the definitions?

Dr. FROSCH. Yes, indeed.

Senator INOUE. Thank you, sir.

[The statement follows:]

STATEMENT OF DR. ROBERT A. FROSCHE, ASSISTANT SECRETARY OF THE NAVY  
(RESEARCH AND DEVELOPMENT)

Mr. Chairman, I appreciate having an opportunity to testify on behalf of the Department of Defense on the three Senate bills S. 2802, S. 3460, and a lot transmitted to the Congress for the Administration by the Department of the Interior, S. 3183. These three bills deal with the problems of intelligent management of our coastal areas.

The DOD supports the objectives of these bills. However, we have certain observations which are respectfully submitted for you and your committee's deliberations. The first general observation has to do with the definitions contained in S. 2802 and S. 3460. Some of the definitions are not consistent with generally accepted international law.

The definition of the term "coastal zone" could be interpreted as an attempt by the United States to extend its sovereignty beyond its territorial sea. The rights of a coastal State beyond its territorial sea are defined as a matter of international convention and are more limited than the scope of these bills. It is true that, as a matter of domestic law, the State governments of Texas and Florida have the authority, as distinct from the Federal Government, to regulate the exploration and exploitation of the mineral resources of the continental shelf in the Gulf coast out to 3 marine leagues. These State rights, however, are narrowly limited by both domestic law and by international convention. The proposed definitions in these bills suggest rights of regulation and control of coastal development that are much broader than presently existing State of Federal rights beyond the U.S. territorial sea.

Therefore, we believe that the use of definitions such as those of S. 2802 and S. 3460 could be interpreted as a unilateral assertion of jurisdiction by the United States in conflict with international law. In addition, the term "seaward boundary" within the definition is not a recognized term of international law or understood legislative content and it would be confusing to introduce it into domestic legislation.

On the other hand, the term "territorial sea" standing alone, without definition, is a recognized term of international law and understood legislative content. Use of the phrase "territorial sea" where appropriate in the legislation would provide sufficient inherent flexibility so that the breadth thereof can mean whatever is consistent with international law.

Furthermore, the definition of the term "baseline" is unnecessary and confusing. "Baseline" has a very clear and well-accepted meaning in international law and usage. Almost universally, the term is used to refer to that line which delimits the territorial sea of a nation from its internal waters. A definition of the term "baseline" appears unnecessary in the legislation under consideration. However, if use of the term is deemed necessary, it should be defined as: "The term 'baseline' means that line which is used to divide the territorial sea of the United States from its internal waters." This definition is one generally recognized in international law.

S. 3460 alone contains a definition of the term "estuarine sanctuary." The term has no established meaning and is subject to the same objections as was "coastal zone" in that it might constitute a unilateral extension of the U.S. territorial sea. To avoid this result the bill's definition must be limited in area to the U.S. territorial sea. Therefore we recommend that the definition be modified by adding the sentence: "Such sanctuaries shall not in any event extend beyond the seaward limit of the territorial sea of the United States."

In connection with the foregoing points, we wish to point out that the Administration's bill, S. 3183, does not present any problems of definition related to international law. Accordingly, we suggest that the definitions contained in S. 3183 should be used in whatever legislation is approved.

The second general observation relates to the need to take federal government responsibilities into account in the development and implementation of state coastal zone management programs. We are particularly interested in assuring that national security considerations are reflected in these programs.

We believe that subsections 312(b) and (c) of S. 3460 and 309(b) and (c) of S. 2802 do not adequately recognize the need to consider the mission or statutory responsibilities of the federal agencies. These subsections could be construed to give the Marine Council and the States power to veto projects and programs specifically authorized and directed by the Congress.

Moreover, it is necessary that any legislation of this type include provisions for consideration of essential national security requirements in the coastal zone.

These two bills provide only that, in preparing its master plan, a coastal authority examine the land use regulations and plans of the various governmental bodies whose jurisdictions extend over territory located in the coastal zone and consult with the various federal agencies affected by the development of the coastal zone. These provisions are insufficient.

The Administration's bill on the other hand recognizes the importance of full cooperation by the States and the federal agencies in the development of State coastal zone management plans. S. 3183 supports the general thrust of improved management and use of the coastal zone by vesting authority within the Department of Interior. The bill would require the Secretary of Interior, before he approves a State's program, to find that the plan was developed in cooperation with relevant federal agencies and other interests, and, after soliciting the views of those federal agencies, to mediate any serious disagreements. It is considered, however, that these procedures do not provide sufficient protection from potential encroachment by State coastal authorities for essential national security activities within the coastal zone. This bill, like any similar bill, should provide necessary protection for such present and future military activities. Accordingly, it is recommended that Section 19(g) (1) be changed to read as follows:

The Secretary shall not approve the plan submitted by the State pursuant to subsection (d) unless he has sought the advice of the Secretary of Defense on matters of national security and the views of the other Federal agencies principally affected by such plans or has evidence that such views were provided the state in the development of the plan. In case of serious disagreement between any Federal agency and the State in the development of the plan, the Secretary in cooperation with the Executive Office of the President shall seek to mediate the differences."

Our third observation relates to provisions of S. 2802 and S. 3460 providing for the extension until 30 June 1975 of the National Council on Marine Resources and Engineering Development. The President has asked the Advisory Council on Executive Organization to make an especially thorough study of the organization of federal environmental, natural resource and oceanographic programs and to report its recommendations. He has also stated that after receipt of this report he will recommend needed reforms involving major reassignments of responsibilities among departments.

We note that the Administration has submitted draft legislation providing for the extension of the Council until 30 June 1971. Extending the life for another year will assure that it is available to assist in the coordination of marine science activities while the current studies are being completed and during the transition period for any executive agency realignment that might result from such studies.

Administrative action has already been taken to have the Chief of Engineers, U.S. Army, represented in the activities of the Council as an observer. Thus, this objective of S. 2802 and S. 3460 has already been achieved.

In closing, DOD is in general concurrence with the goals and objectives set forth in all three bills, but for the reasons mentioned previously recommend enactment of S. 3183, as modified.

#### STATEMENT OF THE DEPARTMENT OF THE INTERIOR BEFORE THE SENATE COMMERCE COMMITTEE, MAY 4, 1970

STATEMENT OF THE HONORABLE WALTER J. HICKEL, SECRETARY OF THE INTERIOR; ACCOMPANIED BY HOWARD H. ECKLES, ACTING DIRECTOR, OFFICE OF MARINE AFFAIRS; DAVID STANG, OFFICE OF THE UNDERSECRETARY; WILLIAM I. PECORA, DIRECTOR, GEOLOGICAL SURVEY; AND FRANK BRACKEN, LEGISLATIVE COUNSEL

Secretary HICKEL. First I would like to introduce the four gentlemen at the table with me. On my far left is Mr. Eckles, Acting Director of the Office of Marine Affairs; David Stang, Office of the Under Secretary; on my far right, Dr. Pecora, Director of Geological Survey; and next to me, Frank Bracken, legislative counsel.

I have a prepared statement, Mr. Chairman, that I would like to read, if there is no objection.

Senator HOLLINGS. You may proceed; yes, sir.

Secretary HICKEL. Senator Hollings and members of the Subcommittee on Oceanography:

I am pleased to have this opportunity to testify on America's vital need for coastal zone legislation. I will be brief as the committee has already heard many capable witnesses in its comprehensive hearings on this important subject.

The legislation before you—S. 3183, S. 2802, and S. 3460—was introduced by a total sponsorship of 16 Senators, a fact which strongly suggests that the Congress recognizes our need for coastal zone legislation. For example, all three bills begin with a strong assertion that our coastal zones present unique problems, desiring special attention. This attention should take the form of a national policy and program.

These bills followed an even earlier congressional awareness of our many unsolved coastal zone problems. And last year, in response to the directive of Public Law 89-753, the Department of the Interior conducted an estuarine pollution study. A second study of our estuaries and coastal zone resources was authorized, in conjunction with the first, by Public Law 90-454.

In passing the Estuary Protection Act of 1968 the Congress declared that "many estuaries are rich in a variety of natural commercial and other resources, including environmental natural beauty, and are of immediate and potential value to the present and future generations of Americans."

The Congress also noted our need to balance conservation with development. And I believe the Congress firmly endorsed the definition of "conservative" we find in Webster: "Wise use of natural resources—without abuse."

The Secretary of the Interior was directed to conduct a study and inventory not only of our estuaries, but also our coastal marshlands, bays, sounds, seaward areas and lagoons, plus the land and waters of the Great Lakes. The study itself was broadened in scope upon recognition that the resources of these areas could not be distinguished—for the purpose of management—from those of the entire coastal zone. Both investigations concluded that no where is the need for effective environmental management more noticeable than in the estuarine and coastal zone. They also concluded that the national interest in the effective management of our estuaries can be promoted most effectively by reinforcing the ability of the States to better protect and manage their coastal zone resources.

This need for a national coastal zone policy was recognized and affirmed by the Nixon administration in the form of S. 3183. We saw hundreds of thousands of Americans participating in the recent Earth Day activities. And these citizens expressed legitimate concern for environmental problems. It is appropriate and important to draw attention to the fact that many, many of the problems which drew attention during Earth Day may be seen in regrettable abundance in our coastal areas.

What is happening in our coastal zones represents a basic—and frequently ignored—conservation issue through the United States. The lack of this wise use, without abuse, of our land and water.

This problem, essentially an institutional and political one, should be dealt with decisively. Clearly the coastal zone reflects a collection of serious environmental problems. It is faced with excessive density of population, constantly increasing industrialization; never-ending revenue demands, and mounting waste disposal and pollution problems.

Is this legislation important? I suggest we ask 151 million Americans (U.S. census estimate for May 1: 204,663,000 in U.S.) for a staggering 75 percent of our population lives in the coastal States. And over the last 30 years the population of the coastal counties has increased by 78 percent, compared with a national growth rate of 40 percent. Further, we expect the population in this area to more than double again in just 50 years. So we do face an urgent need for action.

Obviously these large metropolitan centers demand and attract a great variety of industrial and service activities.

We are facing serious challenges in providing facilities to meet the requirements of this surging population—such as powerplants, housing and transportation systems. To meet these needs demands vision and anticipation of needs, not just reaction.

Our coastal beaches, and increasingly our estuaries, are attracting millions of Americans for all forms of recreation. But the concentration of recreation in our coastal zone has in most places become so intense that the people who go there and the resources that take the pressure are often shortchanged. And, while our coastal areas are as beautiful as they are varied, these values are too often ignored, and they receive inadequate consideration in the marketplace.

Equally as important, the estuaries of America's Coastal Zone are rich in vast quantities of both plant and animal life. And at least two-thirds of all our Nation's commercial and sport fisheries are dependent on the estuaries. In addition, wildlife and birds are critically dependent on our estuaries, for these marshes and wetlands provide them with plentiful food and shelter.

The estuarine zone, where fresh water meets the sea, and the lands above and beneath its waters form a complex ecological system. But great areas of this system are being destroyed by poor planning.

The environment of the coastal zone is threatened in two basic forms: Pollution of its water and the physical alteration and destruction of its lands by housing, industry and transportation development. The Everglades, San Francisco Bay, and Chesapeake Bay are pointed examples of what manmade pressures do to these limited resources.

Industrial and metropolitan sewage, agricultural pollution and indiscriminate discharge of waste are the basic causes of this pollution. Residential and industrial development, often aided by shortsighted zoning practices, or even no zoning, are compounded by the dredging and filling of the wetlands.

Adding to the complexity of these problems are local land use practices, too often shaped by the tax structures of local governments which depend on the property tax for their revenue base. Considering the small revenues available to local governments in the face of their many vital needs, their problem is very understandable. And many of their problems result from the fact that local governments are forced to depend heavily upon the development of land as their major source of revenue. This creates a vicious circle resulting in unwise use of land by encouraging local governments to zone just to increase revenues.

The low, flat wetlands of the estuaries provide a cheap source of land for building. And the short-term advantages of dredged and fill operations for development often takes place at the expense of the natural functioning of the estuarine system.

The local government's control on land use for the most part has been zoning. Historically, zoning powers and other forms of private land-use regulations, have been delegated by the States to the local county and city governments. Out of fear of loss of revenue, they resist new restrictions on zoning authority.

Consequently, given the usual tendency of local government to increase the value of land for tax purposes, the zoning authority exercised over these lands too often encourages misdirected development.

In preserving scenic, recreational, and wildlife areas, the Federal Government has developed a land acquisition program. But that is an expensive process because land value typically increases so rapidly between the time that purchase of an area is authorized until the funds are actually available.

I stress that I am not saying local zoning is bad or that acquisition is necessarily ineffective. What I am saying is that either measure by itself is not enough—something new is needed now.

The purpose of the administration's legislation is not to impose Federal regulation. And it is not merely to provide more money for more planning, for the sake of more planning. It is to encourage and assist the State governments of the coastal zone to manage their own land and water resources effectively.

The thrust of our proposed legislation is on State management of these resources. The States cover a wide enough geographic area for effective regulation of competing uses. The States possess traditional legal authority over wetland alternation, as well as powers over zoning. And our State governments have existing agencies already equipped to deal with a number of activities in the coastal zone.

Finally, the States are not as subject to immediate short-term economic pressures as are local governments. However, the States are still much closer to many of these problems than is the Federal Government.

The administration's bill, S. 3183, would provide grants to the States for the development and operation of coastal zone management programs. To qualify, the coastal States would be required to agree to these functions:

The preparation of comprehensive plans for the development and preservation of its estuarine and coastal zone.

The ability to regulate alterations in the submerged lands and waters, and the authority, either directly or through partnership with local governments, to see that local zoning conforms with a statewide plan.

The purpose of this approach is to develop effective regulatory powers, based on and implementing careful planning. In the past, regulation has often lacked effective planning, and much planning has lacked regulation. We must establish procedures to make sure our land and water is devoted to its highest and best use in the interests of society as a whole. Our bill was designed to do just that.

We have been encouraged by the public response to this bill, and I am pleased we have received support for the approach from many coastal States.

S. 3183 would provide for a cooperative program between the Federal and coastal State Governments. Federal grants would be made to the coastal States on up to a 50-percent matching basis for developing a comprehensive management program for the State's coastal zone. Operating grants also would be made to the coastal State on a matching basis for implementation of the program.

A requirement for the awarding of grants under S. 3183 would be that the State organize to implement the management plan, and that all necessary regulatory authorities are vested in the implementing agency or agencies.

We believe this requirement is essential if the States are to proceed with a truly comprehensive program. We are not dictating the details of the State's organization because we believe the States need freedom to innovate. We are proposing that the Federal Government set the required guidelines and objectives because of the broad national interest in the coastal zone.

Our proposal also provides for a continuing review by the Interior Department of the performance of a State's coastal zone management program, and it also provides for the power to terminate or withdraw financial assistance in case of partial compliance or a failure to comply.

S. 2802 and S. 3460 are similar bills that would authorize the National Council on Marine Resources and Engineering Development to provide financial assistance to the States in establishing coastal zone management programs.

The Department of the Interior has been designated as lead agency for development of a coastal zone management program, for administration of that program, and for identifying the requirements for coastal zone research and development plans for satisfying high priority requirements. We believe that the program should be administered by an operating department with a management focus. And Interior is well equipped to carry out its responsibilities in this area, as supported by testimony of the Marine Council.

The Department of the Interior is broadly concerned with the whole area of natural resources and their most effective management. In recognition of the need for special attention to coastal zone problems, I recently signed an order creating in the Office of the Secretary a new Office of Marine Affairs. I specifically charged it with the responsibility of overseeing Interior's coastal zone and estuarine initiatives, including planning, management, and research.

I established this Office because nowhere is the need for effective management more noticeable than in estuarine and coastal zone. This is a first step, just as our coastal zone management bill, S. 3183, is a useful start on a massive national land use problem.

But we need new legislation to meet the critical need for a soundly based national program to encourage and assist the coastal States in the effective management of the land, water, and other resources of the estuarine and coastal zone. I urge enactment of S. 3183.

I thank you, Mr. Chairman.

Senator HOLLINGS. Thank you very much, Mr. Secretary.

I would like to yield at this time to our distinguished senior colleague, Senator Cotton.

Senator COTTON. Well, Mr. Chairman, I thank you for your kindness. Obviously, you as chairman of the committee would customarily



proceed with your questions. It so happens that I have to leave shortly, and I appreciate your courtesy in giving me a chance to say a word.

The distinguished Senator from South Carolina, with whom I have been associated for so long, is naturally fair and considerate.

Mr. Secretary, I would like to commend you on your statement. I would also like to commend you on the fact that under your leadership, the Department of the Interior is for the first time moving aggressively to deal with the problems of our coastal zones. You have very pleasantly surprised many of your potential critics and many of the people who would not have expected you to be as sympathetic toward conservation as you have proven to be.

I wish I could remain to hear the discussion of pollution problems that will undoubtedly ensue. I realize that many of the actions which you must take are extremely politically controversial. They effect the establishment of industries along sections of our coastline and in States which seek to lure industry and thereby increase both the number of jobs available to their residents and their State and local tax base.

I hope that you will continue to show the courage which you have demonstrated so in these areas.

Your statement and your activities since taking office indicate that you and your Department are thoroughly alert to the situation now existing in our estuaries. It is my hope that you will receive the authority that you and your Department are requesting in that regard.

I wanted to make this brief statement, Mr. Secretary, because I believe you deserve our commendation. I don't intend to ask you any specific questions at this time.

I have known the Senator who is chairman of this subcommittee for many years. I have great confidence in his ability, his sincerity, and his impartiality. Once again, let me thank you for your courtesy, Mr. Chairman. I will stay as long as I can.

Senator HOLLINGS. Thank you very much.

Mr. Secretary, I wanted to ask some questions relative to where we are, and in that light, where we are headed.

Specifically, I want to refer to the estuarine areas and navigable streams emptying into the coastal waters and thereupon into the oceans—I do this to try to clarify an apparent misunderstanding in South Carolina and the coastal estuarine area there. You will remember in our last meeting we were emphasizing the situation with respect to enforcement.

Since that time, I think on April 22, on the Today Show, I saw Secretary Udall and he categorically stated on the Today Show that they had not been enforcing pollution laws. The Department of Interior just had not been doing it. That was his comment.

I noticed since that time that you very promptly got down to the gulf area and the Chevron oilspill, and are in the process now of actually asking for an indictment for various violations. I took a minority viewpoint; the majority of my constituency and the Governor particularly have been very much moved by the notice you gave them in the *BASF* case.

I think that was very timely, because what we want to do is put the industries on notice ahead of time, so we can avoid the spillage, the civil suits, and indictments. Along that line, what is your authority

now relative to the coastal zone, and specifically, the BASF plant, now that you put South Carolina on notice?

Will you elaborate on that so we can see where we are headed with these bills. I will be coming back to your testimony, "The purpose of the administration's legislation is not to impose Federal regulation," but then you say we will have guidelines.

Well, we at the State level know there is no more effective regulation or more constrictive Federal statute than a Federal guideline. So that is what I have in mind. Under what authority did you act in the *BASF* case in South Carolina?

Secretary HICKEL. Thank you.

I will try to answer all of those questions.

First, I am sure Secretary Udall was speaking for his administration, not this one, because we had taken action before he made that statement on April 22. As far as the Gulf of Mexico is concerned, the problem was not that the regulations were there. It is the fact they were not adhering to those regulations, and it becomes impossible to prevent all accidents willingly or otherwise from happening.

If I might make a comparison, we have laws, yet we have to have policemen to see to it the laws are not broken. What happened in the gulf was a disregard for those regulations that were there, so consequently it appeared to be a willful disregard, and they were of a character and a number that we felt we had to recommend a grand jury investigation.

We have taken, I think, a hard line since we came in, as in the Santa Barbara pollution spill, where we recommended absolute liability without fault. Consequently, that standard has been accepted by the industry.

As to the problem in South Carolina related to the BASF plants: it was a case of doing what you have recommended many times—trying to alleviate a minor problem before it becomes a major one. Basically, in our letter to that plant we said if it appeared that they were going in the direction where they would pollute the shrimpbeds and oysterbeds, we would have to take action. It was merely alerting them to the fact that unless the pollution problems that we anticipated were taken care of in the design, that we would oppose it.

We are not trying to stop economic development. In fact, economic development is to be commended. We think as these plants—regardless of where they are in America—are being planned, that we should design them with the idea of avoiding the creation of environmental problems. This is to avoid necessity of obtaining an injunction in cases where pollution problems arose after the plants commenced operating.

Senator HOLLINGS. Yes; you talked about submitting plans. Is that the general procedure? Let's talk of the past administration and up until recently.

Now everyone has become pollution conscious. But the Department of Interior more or less turned over to the States—some used the expression abdicated its authority to the States. And as long as the States didn't bother them, they didn't bother the States.

Is that the policy today or what is the policy with respect of the Department of the Interior with respect to enforcing the pollution law?

Secretary HICKEL. Not necessarily. Let me explain the action we have taken.

For example, we did not have any legal authority in the *Miami Jetport* case. There was a case if it kept on going in the general direction it was going, it would have had drastic effects we thought on the Everglades National Park. Rather than waiting until it became an insurmountable problem to get an injunction, we sat down and discussed this with the Dade County authorities, the Governor and with our own people, to try to see if we couldn't come up with a recommendation prior to the time that it became a greater problem.

So I just want to say that from a legal standpoint we were really acting now rather than reacting sometime in the future when it would actually become a problem. We are committed by statute to protect our national parks.

In South Carolina, that was a case of anticipating the problem of what pollution might do to the oysterbeds and shrimpbeds and only alerting them to the fact. We wanted to insure that the base plans, if implemented, would not pollute the surrounding area. By so doing, we thought we would be by far further ahead not only in the protection of the fisheries' resources, but also in helping the plant get underway,

Senator HOLLINGS. You talked of the injunction in the Florida case under the protective legislation for the national parks. But, with respect to the estuaries, under what section would you get an injunction?

Secretary HICKEL. First, we didn't get an injunction against the Miami jetport.

Senator HOLLINGS. No, I know that. But let's say they didn't take heed. Do you think you have sufficient authority to get an injunction?

Secretary HICKEL. Yes; we did not, however, get an injunction against the South Carolina plant.

Senator HOLLINGS. No; but do you think you have sufficient authority to? We are talking about changing the law now.

Secretary HICKEL. No; I think at this point we could only react after they once polluted the waters down there so far as obtaining an injunction is concerned. I think that would be reacting too late. But on the other hand, I believe we are entitled to notice of plans of industry to insure that industry intends to comply with water quality standards.

Senator HOLLINGS. I am inclined to agree. But what do you think the authority is now? I will put it in a harsh fashion. Suppose they went ahead and built anyway, what would you do?

Secretary HICKEL. Then we would have to get an injunction after they polluted.

Senator HOLLINGS. You would have to wait for the pollution to get an injunction?

Secretary HICKEL. That is right.

Senator HOLLINGS. So what you are saying to the committee is that you are not really legally in a position to act. In other words, under the law you don't have legal authority to give advance notice, you have just done that as a matter of policy, because if they disregarded the advance notice, legally they could go ahead and construct and you would have to sit and wait and watch and then if they did pollute you would act?

Secretary HICKEL. That is right. But by requiring advance notice of plans to ascertain compliance with applicable water quality stand-

ards, we can avert the necessity of the injunction route and thus save both industry and the taxpayer substantial sums of money.

Senator HOLLINGS. Is that the way the law is now and that is the way the Department understands the law to be.

Secretary HICKEL. That is the action we took in South Carolina, just one of advising, nothing else happened.

Senator HOLLINGS. I see. Now with respect to the procedure on plans, is it now the procedure within the Department of Interior that anyone building along these coastal zones and streams emptying into the estuarine areas and thereby into the oceans, would they submit these plans to the Secretary of Interior?

Secretary HICKEL. Mr. Stang?

Mr. STANG. Mr. Chairman, there are several statutes which have a bearing on this problem. One, I think, that would be relevant is the Fish and Wildlife Coordination Act and its relationship to the Rivers and Harbors Act of 1899.

The Rivers and Harbors Act of 1899 calls for issuance of a permit the Secretary of the Army, on the recommendation of the Corps of Engineers, for any dredging or filling which would in any way adversely affect the navigability of a body of water.

Senator HOLLINGS. But sir, that deals with navigability. I am talking about oil, a change in the salinity contents by a variable of over 10 percent, for example, which is State regulation at the present time. That wouldn't interrupt the navigability under the Rivers and Harbors Act which you refer to, which is exclusively relative to the navigability situation.

Mr. STANG. Yes the reason I was addressing that statute is that it is the principal Federal authority in the coastal zone area and one which normally relates to changes by either dredging or filling in navigable waters.

Senator HOLLINGS. Relative to navigability. But what about pollution?

Mr. STANG. The Fish and Wildlife Coordination Act grants the Secretary of Interior the authority to review applications for a Federal permit or license to see what impact such dredging or filling would have on the wildlife resources of the area.

Senator HOLLINGS. Now, that is dredging and filling. Suppose I don't dredge and I don't fill; I just put up a chemical plant and spew out the chemical content that varies the salinity and has an effect on the fish. This is without dredging and filling.

Most of these statutes—and you may correct the committee if we are wrong on it—all allude to navigability. I want to ask the Secretary whether or not he thinks that gap in the line should be filled, that he needs direct authority to be employed prior to pollution, rather than waiting around, finding a violation, and getting an injunction.

Do you think you need additional authority, Mr. Secretary?

Secretary HICKEL. I think we need it in these specific cases. As to offshore oil drilling, we can only do that by regulation. But in the land-based operations that have a potential of polluting the water, I think there is a gap there, from the standpoint of reacting rather than acting.

Senator HOLLINGS. My region shows that gap. Would you like to elaborate, sir?

Mr. BRACKEN. I would like to say, in our legislation we submitted amending some of the other sections of the Water Pollution Act, we included a requirement for establishment of effluents discharges. I think this would probably help what we are talking about here.

The States would establish the effluents requirements, or in the event they didn't do it, the Federal Government would do it and then an injunction could be brought in the event it appeared that the potential industry was going to violate these effluents requirements.

This gets at the points before you get into the water quality standards.

Senator HOLLINGS. In other words, the fundamental law puts the responsibility with the Department, but also provides in the same law that the Department turns over to the States the setting of these standards at the present time, is that correct? The various water pollution control authorities more or less set it?

Mr. BRACKEN. That is right. At the present time it is my understanding there is no set effluents requirement. This is something we are asking authority to establish in the new legislation.

Senator HOLLINGS. Is there an effluents requirement in the *South Carolina* case, Mr. Secretary? Do you know? In the BASF case?

Mr. BRACKEN. I think it is a question of water quality standards rather than effluents requirements.

Senator HOLLINGS. The procedure would be that that plant would first submit its plans to you or not?

Secretary HICKEL. We would expect they would submit their plans and we would review them with respect to effluent discharges so that harm to the marine life in the area would not occur. The following South Carolina nondegradation statement specifies that plants which could constitute new sources of pollution must provide the highest and best degree of waste treatment practicable. In order to judge whether the waste treatment equipment represent the best available, advance notice of plans is required. That is why the South Carolina standards provide for the furnishing of such information to the Secretary of the Interior.

Senator HOLLINGS. Have they submitted those plants to you?

Secretary HICKEL. I don't think they have at this point; no.

[The plans were subsequently received for the record.]

[Published in the official minutes of the South Carolina Pollution Control Authority, December 4, 1968, and approved by the Secretary of the Interior, April 21, 1969]

#### SOUTH CAROLINA

Waters whose existing quality is better than the established standards will not be lowered in quality unless and until it has been affirmatively demonstrated to the South Carolina Pollution Control Authority that such change is justifiable as a result of necessary economic or social development and will not interfere with or become injurious to any assigned uses made of such waters. Any industrial, public or private project or development which could constitute a new source of pollution or an increased source of pollution to high quality waters will be required by the South Carolina Pollution Control Authority as part of the initial project design, to provide the highest and best degree of waste treatment practicable under existing technology. In implementing the policy of this paragraph as it relates to interstate streams, the Secretary of the Interior will be advised and provided with such information as he will need from time to time to protect the interests of the United States and the authority of the Secretary in maintaining high quality of interstate waters.

Senator HOLLINGS. I don't think they have, either. I talked with them about 10 days ago and they said it would take several weeks to complete them and they have yet to submit them. I just wondered whether they had.

Now, with respect to that State, and all of the other States, I will ask you an obvious question, but it has been raised, really, by the Governor and the General Assembly of South Carolina, that this new procedure is being stacked solely against South Carolina.

What is your comment?

Secretary HICKEL. That is not true. We took similar action in Toledo, Ohio, with four major steel mills last September. But these were already in existence. There is a uniqueness here due to the fact that what we have done up until this time was move against activities already in operation. This is a new plant; thus it is different from the other category, in that we are pointing out the problem before it happens.

That is unique, but our action was not taken just because the plant is to be in South Carolina. It is in your State; it could have been in another State. We would take the same action.

Senator HOLLINGS. What you are saying is any chemical plant of a similar nature that would be established along the coastal zone in an estuary area, you would take the same action.

Secretary HICKEL. We would. We asked for the same kind of cooperation in the construction of a chemical plant in the Kenai Peninsula at the time I was Governor, to try to work out a minor problem before it became a major problem.

Senator HOLLINGS. I see. Well, again getting right to the point, if that plant started moving and went up to North Carolina, the Department of Interior would hound dog them there, too, as they have done in South Carolina.

Secretary HICKEL. That is right. We would have to do the same thing; that is, point out the problem of what it will do if you do construct the plant.

If I might make this statement, Mr. Chairman, we received 45,000 signatures from your State thanking us for those actions, especially from the fishermen.

Senator HOLLINGS. I take this question to be objective and certainly legitimate in that I think I saw you on TV meeting the shrimp trawler, *Captain Dave*. And the 45,000 signatures, which has also been brought into question as to whether or not they were authentic, but that wouldn't be appropriate now before this committee.

Secretary HICKEL. I didn't check them out.

Senator HOLLINGS. What about the dredging? They also raise a question that now you have gotten into dredging. Have you categorically stated you can't change the channel in any way? And dredging is going to change the channel. It would technically, I guess, pollute to a certain extent.

What is the policy now of the Department in that respect?

Secretary HICKEL. I wouldn't want to say categorically that any dredging might destroy the marine beds. As I recall in our initial briefing on the problem, we thought that the plant could be built without the dredging that they were contemplating. It is these kinds of decisions that we are trying to arrive at.

Senator HOLLINGS. You notice, also, their complaint. They say, "Look at the golf course at Hilton Head Island, near Port Victoria, the BASF site. You can dredge there to put in pleasure yachts, but if you dredge to give poor people jobs, the Department of Interior comes running."

What is your comment about that?

Secretary HICKEL. I don't know of any dredging they have done since I have been in office for pleasure boats in South Carolina.

Senator HOLLINGS. The same rules would apply.

Senator HICKEL. The same rules would apply. That is what we have been doing since I have been here; that is what we will continue to do as long as I am here unless the legislation is changed to take some of the authority away from us.

I think, yes, we see the necessity of the use of a natural resource. We want to do that without abusing another natural resource. So we could blindly say build the plant, put several thousand men to work and by that same action, or same disregard, possibly put more than that out of work in the fishing industry. It is the balance we are trying to achieve.

Mr. Chairman, I sincerely believe they both are compatible. We just have to make them live together under the kind of regulations that we think is attainable. And, for example, whether it is a chemical plant or a power generating plant or whatever it might be, when they use public water, it is free. We don't charge them for it. All we think they should do for the public is return that resource in the condition it was in when they first obtained it for free—in the same degree of purity.

So, if they get clean water free, fine, we want them to use it. But let them return it in the same state.

Senator HOLLINGS. Finally on that point, Mr. Secretary, I think you and the Governor have corresponded, and over the weekend the Governor did not seem satisfied with your answer. He said it still left it in a confused state.

What do you consider the next step to be?

Secretary HICKEL. I never saw the Governor's statement; I don't know exactly what he meant by confused state. I am not confused in my mind.

What we would have to do if the plant were built, along the lines they want to build it, and then it polluted the oyster or shrimp beds, then I would take action. That is all I said; that is all I have ever done; that is all I can do.

If he would express to me what he is confused about, I would try to clarify the action we did take. It is a matter of public record and I just don't know exactly what he means by confused.

Senator HOLLINGS. I agree with you; the authority should be vested, so you can act in an expeditious manner and not wait for the crime itself to be committed before the Department can act. Specifically I am referring now to an article of last week that says "Oil refinery planned in Charleston." I don't know how we are getting all of these things, but it continues, "Oil refinery, if pollution is permitted." They talk of a \$10 to \$15 million oil refinery by Clinton Oil Co. of Wichita, Kans. They talk about a satellite factory, because the main or principal plant would go into Brunswick-Kernel's Island area, around Brunswick, Ga.

In announcing the plans, Mr. Clinton said, "We are going to pollute, it is only a question of how much. But I think with proper marketing and proper construction, we are not going to pollute this area. We are going to contribute to the pollution of the world. Plans call for piping the effluent into the ocean."

Now what is the Department's authority, if at all, to combat that, and what is your reaction to that?

Secretary HICKEL. I think that is a very, very unwise statement for Clinton Oil to make. If they pollute any part of water under our jurisdiction, they will have me to contend with and I would much rather not have that happen to them, because we are not about to let arrogance like this—I think that is an arrogant statement. I haven't read it. That is the kind of arrogance that industry doesn't need. If they want to challenge me and pollute just because they think they can pollute, I invite them to try it.

Senator HOLLINGS. And you think you have sufficient authority now—

Secretary HICKEL. I will find the authority. With that kind of statement, I would find the authority, Mr. Chairman. That aggravates me.

Senator HOLLINGS. And if you didn't have it, you would ask us for it?

Secretary HICKEL. I might even act and ask you to protect me later. Because I wouldn't wait for that kind of thing to happen. I think that is ridiculous. They ought to be ostracized, from the standpoint of industry, by making a statement like that. That is the problem they have. I am not their problem; I am their solution.

Senator HOLLINGS. Now, Mr. Secretary, I have been taking a good bit of the time. I want to yield to my distinguished colleague before I get into some other items about the bills here.

Senator Baker?

Senator BAKER. I must say, Mr. Chairman, my principal concern at the moment is to look around the audience and see if I can find steam rising. You and the Secretary had such an energetic colloquy going I am reluctant to interevene.

I have only a general observation to make. I arrived late and did not hear all of the Secretary's statement. I assure the Secretary that in the course of time I will read and fully study the excellent statement that he has given. I am sure the chairman feels, as I feel, that the totality of the environment and our legislative concern for it is the principal concern of this committee. You, Mr. Secretary, I am sure would agree that the matter of preserving the ecology of the country and the world and the environmental circumstances is a multidisciplinary undertaking.

We must be concerned with estuarine pollution, with the oceanic problem, fresh water streams within our country, the air envelope that surrounds us, the natural and manmade lakes and all the aspects of pollution as we have come to know it. And they must interrelate one with the other.

Any piece of legislation that we undertake must take into account the various disciplines and not just a single concern for a single area of pollution.

Would you not agree with that, Mr. Secretary?

Secretary HICKEL. Yes, I think that is right, Senator.



Senator BAKER. This isn't meant, Mr. Chairman, to be in derogation of your excellent efforts to produce the maximum effective piece of legislation for the oceanographic concern or the coastal zone area. It simply is to point out that while I serve on this committee I also serve on the Air and Water Pollution Subcommittee of the Public Works Committee, and I am also concerned with the Aviation and Surface Transportation Subcommittees of the Commerce Committee. There isn't a single committee that I serve on that doesn't have some concern with the contribution to the environment.

It is for this reason that I caution in the consideration of this legislation and the Secretary's consideration of these problems, that we balance all of the areas and that we have a decent concern for pollution as a whole and not just a single part of it.

Thank you, Mr. Chairman.

Senator HOLLINGS. Senator Cook?

Senator COOK. Mr. Secretary, in talking to the chairman, you were concerned that at the present time you do not have what you consider to be the necessary injunctive power.

Would it be your desire to request of this committee that that authority be expanded upon?

Secretary HICKEL. I would think so, Mr. Senator.

Senator COOK. We are talking about not only the situation in South Carolina, but also Florida, in regard to the jetport.

Secretary HICKEL. Yes.

Senator COOK. Aren't you really saying that by utilizing injunctive power, it is similar to putting the horse back in front of the cart? It seems that the problem is the desire of the States to obtain a sound industrial base.

All States want as much industry as they can get and they fight like the devil for it. They organize, make concessions, finance on a non-taxable basis, and build access roads in order to attract this industry. Now, when industry begins to operate, many of them pollute the surrounding environment, whether it be the east coast of Carolina, or the Ohio River or Tennessee River.

However, the State and local governments which attracted the industry next realize that they cannot correct the resulting environmental problems at the local level. The Federal Government is then called upon to correct the problem after the fact—rather than taking preventive action.

Isn't this what we are talking about?

Secretary HICKEL. I think that is basically what has happened. I think this progress you are talking about, whether it is generation of power or whether an aluminum plant, whatever it might be, I think what we have to do, at the Federal level, in cooperation with the State governments, is to set guidelines down as to the quality of water that goes into a stream, or the pollution that goes into the air or solid waste, in such a way that we can have progress and still keep the pollution from happening.

The technology exists to achieve this. I think what we have to do at the Federal level is say that this is the real cost of whatever the commodity might be, whether it is a suit of clothes or power. And that when one uses a free public resource such as air or water he should not abuse it, and one should return it to the public the way in which one finds it. To have progress and to alleviate these problems that have

been brought about during the past 50 years such a policy must be followed.

So I think government, where it does get involved, is going to have to help catch up with the pollution of the past, and then establish guidelines with these new plants to be sure that we keep caught up.

I think this is the kind of philosophy we are talking about. Consequently, in our competitive society of industry, where industry used to get "E" awards for putting a product on the shelf as cheaply as possible—that is, award the one that got it there the cheapest because that was the best, is no longer acceptable. The real cost of a product should take into account the cost of using public resources such as air and water. So that is the direction the Government has to take, to make environmental guidelines uniform. Throughout America we can live by those same guidelines, so we can alleviate the problem that is before us. That is the kind of a thing we are trying to do.

Senator COOK. Mr. Secretary, I appreciate your feeling that way. I want to elaborate on what the chairman talked about in regard to the coastal areas of the State of South Carolina. I am just as concerned about other parts of the country. We are now getting applications from communities in my State for new water systems, because the water they draw from their rivers or streams are no longer usable. We are already having the Government called upon to help finance new water systems, to help drill wells, and other things, because the problem is now too large for the local governments.

As the chairman remembers, we talked about the whole problem of coastal zoning, and the problem of the Federal Government assuming some type of zoning jurisdiction. Zoning is such a close personal matter to a county or a city that the local authorities do not want to give it up. I really believe that this basic injunctive power may be the solution we are looking for. Having a former Governor sitting next to me, I know if he interfered in any of the counties along the coast of South Carolina he would become very unpopular with his constituents.

By asking for this Federal injunctive authority, I think you are ultimately going to save the taxpayers of this Nation many millions of dollars, and they will be forever grateful.

I must say that for many of the people throughout the United States who had any misgivings about your ability and sincerity to be Secretary of the Interior, all of those misgivings have been put to rest. I think the people of this country are extremely proud of you.

Thank you.

Senator HOLLINGS. Mr. Secretary, our distinguished friends weren't in when we started with Senator Cotton. It is not any intent to just get you into the South Carolina problem, but since we last met you have been on TV; I have tried to stay off of TV, because I knew how hot it was. Since it has been made public, it is a test case, in a sense. It is one of the first times at least the Department of Interior has stepped in on an industry.

You mentioned an Ohio case, and the Florida power case. But let's suppose, to find out where I am at the moment, suppose I work for the XYZ corporation and I am a chemical engineer and the boss calls and says I am going to locate a plant in the southeast, along the coast, Florida, Georgia, South Carolina, North Carolina, or Virginia. I want you to go over there and see Secretary Hickel and get the guidelines.

You say this is the Federal function, you should set the guidelines. Can I call at your office this morning and find out the guidelines on pollution and what may be expected?

Secretary HICKEL. Yes; in water pollution, I think those guidelines are there, fish and wildlife likewise. If it is a chemical plant or thermal heat, or any of those things that might affect marine life.

Senator HOLLINGS. Under the Water Pollution Control Act or Water Quality Improvement Act of 1970, and the Fish and Wildlife Coordination Act, I could go to those two offices and find out generally what would be required of me. Is that correct?

Secretary HICKEL. Yes.

Is Mr. Gottschalk here?

Mr. GOTTSCHALK. Yes; I am here.

That is correct with respect to the tolerance of fish and wildlife and aquatic organisms to water pollution, those criteria have been developed and are available.

Senator HOLLINGS. Generally they are higher standards or lower standards than what the States require or practically the same, vis-a-vis the States? Are the States requiring what you require that the States do?

Mr. GOTTSCHALK. The States have submitted standards, and we are in the process of working with the States to try to achieve the highest possible standard, and that standard which will most nearly approximate an adherence to the nondegradation policy. That is to say we are trying to make certain the water quality is not impaired beyond that which it is at the present time and hopefully to improve it.

Senator HOLLINGS. Has there been any upgrading in the last 18 months?

Mr. GOTTSCHALK. I think we have seen definite indications where standards have been adopted, although the time interval has not been long enough for any broad indication of an improvement.

Senator HOLLINGS. Has the Department of Interior upgraded its standards or changed them in any way since January of last year?

Mr. GOTTSCHALK. No, sir.

Senator HOLLINGS. They have not?

Mr. GOTTSCHALK. Not in the sense of these criteria for fish and wildlife, and that is all I am speaking of at the moment.

Senator HOLLINGS. I see.

How about the Water Quality Improvement Act? Is there any movement afoot within the Department to upgrade these standards or change them in any way?

Mr. BRACKEN. As I mentioned before, Mr. Chairman, we have a new piece of legislation up on the Hill that will greatly expand our authority under the Federal Water Pollution Control Act. And it not only gives us the effluent requirement authority, but also extends the definition of the waters that are covered. It includes not only interstate waters, but all navigable waters, which will include the coastal zone areas and out to the 3-mile limit as far as the water quality standards and interstate waters, and so forth, are concerned. I think our legislation covering water quality will go a long way toward solving some of the problems we are talking about here. It gives us injunctive authority; it gives us broader enforcement authority, this sort of thing.

Senator HOLLINGS. Now, Mr. Secretary, back to the three bills.

I understand that the administration objects to the Magnuson and Tydings bill's method of financing, using these revenues from the Outer Continental Shelf Land Act. Is that correct? And, if so, why do you object?

Secretary HICKEL. Yes; that is the earmarking of those funds. They are asking for \$75 million or \$125 million, presumably for land acquisition, and we are not addressing ourselves to land acquisition at this time. We have asked for an increase in the land and water conservation fund of 50 percent, up to \$300 million. We hope that is enacted. We are generally opposing S. 2802 and S. 3460 from the standpoint of their earmarking of funds.

Senator HOLLINGS. The announcement you make that the new Office of Marine Affairs now will be directly under you—this was the Assistant Secretary post I think we talked about at the last hearing.

Now this is directly under the Secretary's Office?

Secretary HICKEL. That is right.

Senator HOLLINGS. Will you describe it if it is at all expanded? I think we had one gentleman and three secretaries. Is that the same? That is what they had—the Assistant Secretary. That is my memory of it. I would like the Secretary to tell us budgetwise and staffwise what change if any has occurred.

Mr. STANG. Mr. Chairman, the purpose of moving the Office of Marine Resources up to the Office of the Secretary and changing it to the Office of Marine Affairs is to give Marine Affairs the visibility it deserves. The order, of which we have a copy, and if you are interested, Mr. Chairman, we will be pleased to submit it for the record.

Senator HOLLINGS. We appreciate making it a part of the record. Thank you.

[The order follows:]

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., April 30, 1970.

Order No.: 2932.

Subject: Office of Marine Affairs.

Sec. 1. *Purpose.* This Order establishes the Office of Marine Affairs in the Office of the Secretary. This action is being taken at this time to give priority to the planning, coordination, and execution of marine programs of the Department of the Interior. The National Environmental Policy Act of 1969 (Public Law 91-190) has provided this Department with expanded authority to coordinate and develop broad programs of environmental research and planning. The administration assigned the Department of the Interior the lead role in coastal zone management and the establishment of coastal zone laboratories, both calling for stepped up planning and programs with this Department. The Department must be prepared to advance civilian marine affairs for the Federal Government and the Nation through leadership in all aspects of marine activity germane to marine resources, the marine environment and the coastal zone.

Sec. 2. *Office of Marine Affairs.* The Office of Marine Resources is transferred to the Office of the Secretary and is renamed the Office of Marine Affairs. This Office will be headed by a Director who will be the Secretarial Officer responsible for the planning, coordination and execution of Interior's marine affairs programs and who will work closely with the Assistant Secretaries and bureaus and offices carrying out specific elements of these programs. It will carry out the following functions:

(a) Serve as the Secretary's chief representative for marine and coastal zone affairs.

(b) Advance and provide direction for Departmental policy and programs in marine affairs including international, deep ocean, continental shelf, marine technology and associated environmental problems.

(c) Oversee the Department's coastal zone and estuarine initiatives including planning, management and research.

(d) Analyze proposed marine programs in relationship to the Department's planning, programing and budgetary system to assure the development of Interior marine programs.

(e) Review Departmental reports and studies on marine resources programs and marine related legislation.

(f) Serve as the chief focal point for the Department's broad, multi-bureau relationships in the field of marine resources with Federal, State, and local government agencies, international organizations, private industries, universities and scientific representation on interagency committees, commissions, and panels.

(g) Contract or arrange for special studies related to marine resources and ocean technology.

Sec. 3. *Relationship to Marine Affairs Action Group.* The Office of Marine Affairs will provide staff assistance to the Marine Affairs action group and other support necessary for the completion of its plan for Departmental reorganization as specified in this Department's Secretarial Order No. 2928 of January 28, 1970.

Sec. 4. *Program and Staffing Plan.* The Director of the Office of Marine Affairs will prepare a program plan for the work of the Office. Staffing to carry out the purposes of this order will be provided by the Assistant Secretaries upon request from the Director of the Office of Marine Affairs.

Sec. 5. *Rescission.* This order rescinds Order No. 2909 dated October 22, 1968. The Assistant Secretary for Fish and Wildlife, Parks and Marine Resources, is hereby renamed the Assistant Secretary for Fish and Wildlife and Parks.

Sec. 6. *Effective Date.* This order is effective immediately.

WALTER J. HICKEL,  
Secretary of the Interior.

Mr. STANG. It specifies that new staff will be made available for this office through consultation with and cooperation of the Assistant Secretary for Administration.

The Acting Director of the new office, Mr. Howard Eckles, immediately to my left, can fill you in with more substantial details about the present activities of this office and its plans for expansion.

Senator HOLLINGS. Can you describe those briefly for us, please?

Mr. ECKLES. Mr. Chairman, our present situation is we have on our staff four professional men. And our plans which we will put forward as an interim arrangement to get started with the problem of coastal zoning management and other aspects of management, will be a staff of between 8 and 10 professional men and the Secretary's and Assistant's staff.

Senator HOLLINGS. But the four would have control of the coastal zone management problems?

Mr. ECKLES. They are both a coordinating and planning office on behalf of the Secretary for this function.

We are going to focus on this problem with planning and leadership and also help develop future programs either in subject matter and legislation, and so forth, that we think is needed. So the purpose is to centralize in one place strongly fixed responsibility in the Office of the Secretary on this matter of coastal zone affairs.

Senator HOLLINGS. Again, if I were that chemical engineer with a grocery list trying to find out what the guidelines would be for my particular industry to adhere to on pollution, would I also come to your office? I go to the Fish and Wildlife Office, the Water Quality Administration, and would I also come to your office, too?

Mr. ECKLES. If he comes to our office, we will make sure he gets answers from the Department of Interior and it would come from several places, because there are a lot of different elements of the Department involved.

Senator HOLLINGS. Mr. Secretary, relative to the matter of trying to bring the States along and have them plan in the field of coastal zone management, I think all three bills only call for withdrawal of grants if the States fail to make management plans.

Do you think that authority is sufficient? It has been suggested perhaps that after 3 years if the State failed to submit a plan, then the Federal authority ought to come in and establish guidelines itself. What is your comment along that line?

Secretary HICKEL. I think you touched, Mr. Chairman, on, if I might say, one of the weaknesses of the bills which specifies that the States should have this right. We would hope that they would submit plans for coastal zone management. But having been a Governor, I know the problems, not just within one State, but in conjunction with interstate matters. I would say that in the foreseeable future if we see that this is not working and States are not acting, then we should seek legislation to have the Federal Government get more substantially involved. It is not that we would now want to get more substantially involved, and I am not saying the States will not do a good job, but that is the one weak link, if there is a weak link.

Senator HOLLINGS. What about the 50-percent sharing by way of the Federal Government? The National Association of Counties, the League of Cities, both want the Federal Government to grant a larger portion. What is your comment on that?

Secretary HICKEL. Well, I would say if they do the job, I think it would be money well spent. But just to go to a larger share without having any direct input may not be wise.

Senator HOLLINGS. I think your statement in some measure gave a basis for it. You were talking about the counties and zoning and the lack of revenue from property taxes, and so forth. I think that would emphasize the point they made that perhaps a more equitable share would be 75-25, or  $\frac{2}{3}$ - $\frac{1}{3}$ , rather than 50-50, to really get it off the ground and moving.

Secretary HICKEL. That is a good question. I still say that we have to face those social, economic, and political pressures that come about such as city zoning boards. I have served on a city zoning board and I understand that it takes a very strong man to sit there and do those things that are in the general benefit and welfare of the public.

But I would say if the States does not do it the Federal Government has a public responsibility to 200 million Americans to see to it the coastal zones are managed properly and are not desecrated. This responsibility is not just for the local area involved, but for the Nation as a whole.

I am not trying to editorialize on the problem, but trying to say that this is the first step. If it does not work, let us take another one.

Senator HOLLINGS. Your administration bill excludes American Samoa, Guam, and the District of Columbia.

Secretary HICKEL. It should not have.

Senator HOLLINGS. We should include those?

Secretary HICKEL. Yes; we have no objection to including them.

Senator HOLLINGS. Senator Cook.

Senator COOK. I might say, Mr. Chairman, I was talking to the Senator from Tennessee about Federal matching programs. I am reminded of reading in the paper the other day of a group of local

politicians who are going to be popular because they are talking about reducing the local tax rate. These same officials will ask for more Federal funds to solve all of their air and water pollution problems.

Senator HOLLINGS. Mr. Secretary, we know it is past the hour, and you are extremely busy. We appreciate very much your appearance.

We have a list of questions from some of the members, and if you do not mind we will submit those and the Department can submit their answers in writing.

Is there anything further you or your staff wish to add?

Secretary HICKEL. Dr. Pecora.

Dr. PECORA. Mr. Chairman, the Secretary's philosophy as expressed before this committee goes well beyond the effects upon estuarine ecology caused by industry and construction. Basically it is a matter of water balance. Fresh water is being brought into the estuaries from drainage basins generally draining many States, and it creates a problem because of seasonal variations and the use of water upstream.

There are problems coming up in other estuaries where this study of water balance is a very important part of the entire coastal zone study and review control. For example, there will be coming before us the effect of withdrawal of water upstream from San Francisco Bay, where the San Joaquin and Sacramento River drain into the Bay. If the water is withdrawn, the balance in San Francisco Bay, both in salinity, silica contents, oxygen utilization by plants, will vary with time.

So that broad studies need to be made by the Department with the expertise it has on general water balance for headstream areas of all of these estuaries.

Senator BAKER. Mr. Chairman, may I ask a question in that connection. I think that gets to the heart of this business of ecological balance. I ask a question at this point that is not relevant to the testimony of the Secretary. Is there some examination in your Department, some research by your staff or others, on the possibility of the utilization of fresh water sources or manufactured water sources, such as by distillation, to reduce the salinity content of inland streams that have been encroached on by sea water?

I am thinking specifically of the Colorado River and the situation in Southern California. This is a situation that will ultimately result in most coastal areas of the United States.

Dr. PECORA. Studies by the Geological Survey are involved with this shifting threshold of salt water encroachment and fresh water advance.

Senator BAKER. Has there been any examination of the reinjection of fresh water into the substrata to reduce the salinity content?

Dr. PECORA. Yes, sir. In Long Island one experiment is in process: another one had been going on in California, where treated water is pumped underground for two purposes: One, to get rid of treated water and to form a barrier for salt water encroachment coming from the shore area into the coastal zone area.

This is a very important experiment that is going on and it has been under observation by a number of people. It is this kind of water balance study which I think is the key to the entire problem in the Secretary's philosophy.

Senator BAKER. For irrigation purposes and in the coastal zone area, has there been any investigation of the use of, say distilled water for the adjustment of salinity levels in irrigation to produce a more effective utilization of high purity water?

Dr. PECORA. To my knowledge that has not been studied, but should be part of a program, cooperative Federal and State investigation.

Senator BAKER. Thank you.

Seantor HOLLINGS. Mr. Secretary, we appreciate very much the appearance of you and your assistants here this morning.

Thank you, sir.

Secretary HICKEL. Thank you, Mr. Chairman.

(The questions and answers follow:)

*Question.* In testimony previously offered in these hearings, others have suggested that the bills might be amended to call for Federal participation in the planning process. The bills presently call for consultation or evidence of coordination with the Federal government. Would the Administration support an amendment to its bill that would make mandatory Federal participation in the State planning process for the coastal and estuarine zones?

Answer. Answered on p. 1123.

*Question.* Do we understand correctly that the Ash Council's recommendations Federal organization for environmental, natural resources, and oceanic matters have not been submitted to the President yet? When do you anticipate that the Council's report will be submitted to the President?

Answer. I have no way of knowing the answer to that question.

*Question.* The Administration's definition of a "coastal state" excludes Guam, American Samoa, and the District of Columbia. Should these three be included in the definition?

Answer. Answered on p. 1123.

*Question.* We have received much testimony stating the Federal share of 50 percent in the planning and implementation grants will not be adequate. Would the Administration accept some higher Federal share for the purposes of planning and implementation? If so, do you have any specific percentage recommendations for the Federal share?

Answer. Answered on p. 1123.

*Question.* The coastal zone proposal is one of the high priority items included in the Administration's FY 1971 marine science initiative. For the record, how much money is included in the FY 1971 budget of the Administration for coastal zone management programs?

Answer. Presently, there are no funds specifically budgeted for Coastal Zone management programs. Upon passage of Coastal Zone management programs. Upon passage of Coastal Zone legislation, however, we would seek a supplemental appropriation for this purpose.

*Question.* The Administration has objected to the methods of financing proposed in the Magnuson and Tydings bills, that is, financing out of revenues received pursuant to the Outer Continental Shelf Lands Act. Would you state for the record what the Administration's objection is to that method of financing?

Answer. Answered on pp. 1120-1121.

*Question.* A representative of the Florida Commission on Marine Sciences and Technology stated to us that since the problem of coastal zone management cuts across departmental boundaries it is not wise to invest one department with the responsibility for coordinating the activities of several other departments. If the responsibility for coordinating and administering the Coastal Zone Management Act were given to the Department of the Interior, what additional steps, if any, would the Administration take to coordinate the activities of the other Federal departments and agencies concerned with coastal zone problems?

Answer. Section (g) of the Administration's bill, S. 3183, entitled "Interagency Coordination and Cooperation," provides that the Secretary shall not approve the State plans related to operating grants until he has solicited the views of Federal agencies principally affected by such plans. Other related provisions of the bill spell out methods designed to ensure interagency coordination for coastal zone programs.

*Question.* Concern has been expressed from several quarters that we must accelerate our planning for the coastal zones. The Federal Water Pollution Con-



trol Act of 1966, as amended particularly by the Water Quality Improvement Act of 1970, has several different provisions for ensuring action if the State is recalcitrant in setting water quality standards or enforcing them. Inasmuch as the Administration's bill is an amendment to the Federal Water Pollution Control Act, and in light of the urgency of the coastal zone problems, would it not be desirable for the Senate to include in the Administration bill a provision making coastal State participation in coastal zone planning mandatory?

Answer. Answered on p. 1123.

*Question.* As presently drafted, the three coastal zone management bills provide only for withdrawal of grant support if a State fails to develop a comprehensive coastal and estuarine management plan and program. Two additional steps have been recommended by witnesses before us: (1) Curtail State entitlement to funds under other Federal assistance programs if the State fails to act within a given period; or (2) if the State fails to act within three years, the Federal government should step in and establish land-use development standards and issue development permits.

Would you please comment on the two recommendations?

Do you have any specific recommendations for strengthening the three bills as respects the State's failure to act?

Answer. Part of the philosophy of our bill is that we should rely on the State's good faith in cooperating with us in developing management plans and programs for the coastal zone. For the time being we see no reason to deviate from this assumption. On the other hand, should our expectations not be fulfilled, then we should seek additional legislation which would include provisions such as you have suggested.

*Question.* Testimony has been received in these hearings on incentives that might be applied. These include: (1) Federal matching grants for acquisition of coastal and estuarine lands and adjacent areas, not only for scientific research as provided in the Tydings bills, but also for multiple purpose uses; (2) Grant bonuses for States imposing interim controls sufficient to regulate development, or which already have regulatory authority at the State level, pending preparation and adoption of the State's comprehensive management plan; and (3) an adjustable maximum grant percentage, for instance, up to 80% Federal contribution when a combination of Federal funds from other Federal programs are used in conjunction with funds available under the coastal zone act.

Would you please comment on these proposals?

Do you have any specific recommendations regarding incentives that might be used in the bills pending before us?

Answer. Answer same as for previous question.

*Question.* What is the Administration's position on the enactment of a National Land Use Policy Act, as proposed by Senator Jackson?

Answer. The Administration's position with respect to a National Land Use Policy is still evolving. The Administration's position, as stated to date, regarding Senator Jackson's bill is reflected in the testimony of Russell Train, Chairman of the Council on Environmental Quality, and John A. Carver, Jr., Federal Power Commission. Copies of both statements are attached.

(The statements referred to in the previous answer follow:)

#### STATEMENT OF CHAIRMAN TRAIN

Mr. Chairman. Senator Allott, it is a privilege to appear again before this distinguished committee. You will recall I was last here before you in February, a little over two months ago, with Mr. Cahn and Dr. MacDonald at our confirmation hearing. Since then the Council on Environmental Quality has launched on the plentiful agenda you set before us in the National Environmental Policy Act. Last week I was out talking to the students at environmental teach-ins that literally ranged from coast to coast and I think the National Environmental Policy Act has given hope that our mechanisms of government can respond to the challenge of the problems of the environment.

In my last appearance before you I said that the development of effective land use policies would be part of the long and hard road to environmental quality. We in the Council believe that a national land use policy underlies the concept of conscious protection and enhancement of the environment set out in the National Environmental Policy Act.

Our land is a finite resource and the decisions we make about its use today persist in their effect. In many ways the misuse of our land does more to degrade the quality of our environment than the pollution of air and water. I believe

the issues you have raised in S. 3354, the proposed Land Use Policy Act, are basic questions which should receive wide-spread public discussion and analysis, so that the alternatives may be fully developed and effective policies be evolved.

As illustration of the Administration's concern to help develop such policies is the Coastal Zone Management Bill (S. 3183, now in hearing before the Senate Commerce Committee. It is a useful start on a massive national problem. It is aimed at reform of land and water use in the coastal regions of our country where intense development pressures and over-lapping regulatory jurisdictions are causing alarming and unnecessary damage to the natural environment. The Coastal Zone Management Bill is addressed to a priority sector now under the onslaught of speculative development, where population is concentrated, and where the states are attempting to institute effective planning measures. In other words, we have acted here because the coastal zone is in an area where something must be done now, and where it is not difficult to demonstrate the need or to find support at the state level.

In contrast, evolution of a national land use policy requires no less than the development of planning criteria by which urban decay can be arrested, rural decline reversed, and suburban sprawl regulated across the nation. This is a massive undertaking. It will require a new approach to our use and enjoyment of this nation's land and natural resources. At the base of many of our environmental problems is an attitude that we have unlimited resources and unlimited rights in our time to use them as we please. Our land has taken a major portion of this abuse. We have begun to realize this but the changes which are necessary to insure proper use of our land, public and private, will take time and will be fundamental.

You have raised many of the most important issues in your proposed legislation, S. 3354 the National Land Use Policy Act. We on the Council on Environmental Quality have been concerned about many of the same issues as we attempt to define the Federal Government's role.

We believe that the Federal Government approach to the land use question must be twofold:

First, any land use program involving the Federal Government must identify and coordinate those activities of the Government which have an impact on the use of land in private as well as public ownership. In some cases, this impact is a side effect; sometimes it is not even recognized.

Secondly any effort by the Federal Government to promote national land use policies must take into account the existing relationships between those local, regional, state and federal agencies which are involved in land use planning. We believe that in many cases these relationships are not understood even by those who make decisions within the agencies.

Looking at the first aspect of the problem—the impact of Government activities on the use of land—we have identified many areas of Federal activity which need to be better understood and coordinated to that end. These will require attention in the formulation of legislation on land use policy.

In his State of the Union addresses the President proposed that we develop a national growth policy addressed to the impact of the growth and shifting location of our population. We need to relate this to our use of land and natural resources and in our needs to build new cities and to rebuild old ones.

We must develop a better understanding of the effects on nearby areas brought about by the establishment of major government installations. For example, the development of the NASA complex at Cape Kennedy has caused a massive influx of population in Brevard County, Florida, resulting in huge tracts of poorly planned subdivisions, little open space preservation and unsightly commercial development.

We should understand the effects of location and construction of Federally assisted highways on our urban, suburban, rural and natural environment. At the present time there are numerous highway projects in this country where the effects on people, wildlife, water resources or land are alleged to be unnecessarily damaging.

We need to examine more closely the environmental impact of airport location and expansion. In addition to the difficulties caused by the highway construction program, airports have the additional environmental problem of noise.

We should explore new agricultural land use policies that will insure the preservation of open space and bring some semblance of order to development patterns where suburbs are spreading onto agricultural lands.

We must seek ways to re-direct government-insured home ownership programs toward the encouragement of more creative planning of subdivisions and communities.

We need to relate existing Federally assisted land use planning programs, including the HUD Section 701 Regional Planning Grants, to mechanisms which will effectively control actual land use decisions.

We must work to develop new approaches at appropriate government levels to preserve open space through the use of such devices as conservation and scenic easements, compensatory regulations, purchase an lease-back mechanisms, purchase or donation of development rights, etc.

We should strengthen the relationship of Federal water resource development activities to broader concepts of land use planning.

We must not forget that one-third of all the land in the country is owned by the Federal Government; we need to include in any national land use plan the highest and best use of our public lands. To aid in this, we will want to study carefully the report of the Public Land Law Review Commission due June 30.

Finally we must concern ourselves with the effect of our present tax structure on patterns of land use. I refer here primarily to the need to reform our local property tax structure, and the possibilities for modifying the Federal income and estate taxes in ways that will reduce present negative impacts on land utilization, and encourage desirable land use patterns. Our Council has recently appointed a task force on the impact of the tax structure on the environment. Under the direction of Professor Dan Throop Smith this group will be giving particular attention to the relation of tax policy to land use.

Moving now to the second aspect of the problem of Federal participation in land use planning, a firm relationship must be developed between local, state and Federal levels to assure effective implementation. The Federal Government must be more than an occasional club over the head of local and state officials. It should provide for the states and localities a creative and interrelated inter-departmental program of aids for the formulation and implementation of land use plans. The state government must be more than a delegator of powers to local units. It should establish the guidelines which will prevent the advantage being given to those who are after the quick buck. The local government must be more than a victim of forces and trends beyond its control. It must bring home to all the citizens of the community the fact that proper planning and land use are essential to continued enjoyment of life there.

Much remains to be done before these land use planning relationships between the levels of government can be properly established. Your Committee has examined a recent episode. I refer to the conflict between the local interest of the Dade County Port Authority in developing a Miami jetport, and the national interest in preserving the Everglades National Park. The important lesson that we should learn from the Everglades experience is not that the local decision making authority neglected important environmental considerations, but that it took a major Federal government effort to stop what never should have been started. Rather than imposing a national environmental interest in the form of a veto over development decisions made by local authorities, we must develop a positive planning process by which local, state and Federal authorities will cooperate to insure that development is in harmony with our policy to protect and enhance the environment.

As another example, there is a need for greater cooperation between the private sector and all levels of government in the choice of sites for power plants and rights-of-way for transmission lines. We are only beginning to realize the need to plan now in order to assure both adequate power for development and adequate protection for our natural environment. There is an interagency study group at work on this problem. Although their report is not yet ready, we understand that it will urge that public utilities be required to plan their power needs on a long-term basis in accordance with land use plans. Since final site selection usually requires approval by local governmental units, there is potential here for an imaginative intergovernmental planning process which will deal effectively with a major environmental problem area.

Mr. Chairman, we regard these hearings as a valuable and timely forum in which to discuss the complex issues related to developing policies on the use of public and private land in this country. As you know, our staff has had the opportunity to make a number of technical suggestions concerning S. 3354. In the case of any legislation as important as this, evolution of a policy will result from public debate over time, both in Congress and elsewhere. The Council on

Environmental Quality looks forward to continuing its contributions to this debate.

STATEMENT OF COMMISSIONER JOHN A. CARVER, JR.

This statement is submitted on the basis of my experience as Assistant Secretary for Public Land Management and as Under Secretary of the Department of the Interior, and as a member of the Advisory Council of the Public Land Law Review Commission. The Chairman of the Federal Power Commission will testify with reference to the institutional interests of the Commission on which I now serve.

401(a)<sup>1</sup>; 401  
(d); 402(a);  
403(a)(2)

S. 3354 looks toward a system of public action for a better quality of land-use decisions in this country. A central feature of the bill is the dominant role assigned to the States. Provision is made for interstate agencies to participate in the benefits of the program of technical and financial assistance, but in the bill as presently drafted, detailed attention is given to a Statewide Land Use Plan to be prepared by a "single State agency."

406; 403(a)  
(1)

The system of public action starts, of course, with a Congressional authorization of a program and a means of carrying it out. I approached the contents of the bill in a different order than the one used in the bill. Since I consider the key to an understanding of the bill to be the Statewide Land Use Plan (Plan), an appropriate starting point is to glean from the bill a summary of the attributes of the "Plan."

406(b)(2);  
406(b)(2)  
(A)

It apparently is to cover *all* of the land area of a State, with the discretionary exception of lands within the boundaries of incorporated municipalities which have exercised land use planning and authority. The only other authorized exceptions are those provided in its rules and regulations by the entity authorized by the bill to administer its provisions, the Federal Land and Water Resources Planning Council. These rules apparently could be of specific rather than of general application. The Plan must identify the boundaries of the State subject to the Plan, but it would seem that this is *not* a grant of authority to the State to make additional exclusions.

406(b)(2)  
(B)

A plan is required to *classify* land areas, in the sense of reflecting qualitative judgments of several kinds: Areas where ecological, environmental, geological, and physical conditions dictate that certain types of land use activities are undesirable are to be identified as are areas where the highest and best use is recreation oriented use and those best suited for agriculture, mineral, industrial and commercial development.

405(a);  
406(b)(1)

A classification function may be involved in the bills requirement that the Plan identify present and future transportation and utility corridor locations. The bill seems to recognize that roads, electric transmission lines, and gas lines are going to have to be located *somewhere*. The Plan also requires identification of areas which furnish amenities and basic essentials to the development of new towns and the revitalization of existing communities.

406(b)(3)  
(A)

Flood plain identification *and management* must be provided for in the Plan.

406(b)(3)  
(B)  
406(b)(3)  
(C)  
406(b)(3)  
(D)

A number of the explicit requirements for the contents of the Plan are framed in such a way as to preclude the State from taking a narrow or parochial view of the contribution its land resources and its own State governmental action can make for the good of the Nation. For example, a Plan must include "appropriate" provisions, designed to "insure" that *regional* requirements for material goods, natural resources, energy, recreation and environmental amenities have been given "consideration." It must include provisions designed to insure consistency with both *regional* and *federal* standards (as well as local and State) relating to environmental quality and resource conservation. Explicitly, it must include provisions to "insure" that

406(b)(3)  
(E)

406(b)(8)

406(b)(4)

406(b)(5)

<sup>1</sup>The numbering of section references is to the new Title IV, proposed to be added to the Water Resources Planning Act. In S. 3354, Title IV is added by Section 1.

transportation and utility corridors do not damage *federal* lands dedicated to the maximization of declared public values. To the ultimate benefit of the federal government as landlord, the Plan must contain provisions for helping to preserve the integrity of parks, wilderness areas, and wildlife refuges, by such measures as buffer zones, scenic easements, and prohibition against nonconforming uses.

Additional substantive requirements for State action related to the implementation of the Plan are included in sections of the bill fixing the eligibility standards to be met by a State, in order to receive either initial or subsequent planning grants, and in the section specifying the sanctions which would be applied for failing to follow through. For example, the single State agency required to be designated by a Governor, must be given authority necessary to implement the Plan, which authority must include at least authority to acquire interest in real property necessary to effectuate the purposes of the Plan, and it must have delegated police power authority to place restrictions on the type of land use activities which may take place in areas designated for a special use under the Plan. Furthermore, the agency must have authority to conduct public hearings with full public participation, and a system of judicial review for aggrieved parties, in connection with dedication of any area of the State as an area subject to restricted or special use under the Plan. Finally, the Plan must be capable of being modified to meet changed conditions and requirements.

The bill specifies what must be in a Statewide Plan; it also treats of how a State shall qualify for a "planning grant." It isn't clear, however, that planning grant money is to be applied directly to the devising of a plan, because provision is made for gathering information with the help of the planning grant money.

To qualify for a planning grant, the single State agency must show its competence to develop a Plan, in other words that it has, or can have access to, "a competent and adequate interdisciplinary professional and technical staff." It must also show that it will use available and pertinent State and Federal plans, data, etc., to avoid duplication, and that it will keep records and make reports.

The Council apparently can be selective among the specified list of information-gathering activities, and limit the States accordingly. The authorized purposes for the preliminary phases include:

An inventory of land and related resources.

Compilation and analysis of data and information on population, economic, and urban and rural growth; public works, capital improvement, land acquisition and economic development programs; ecological, environmental, geological and physical data relevant to industrial, commercial, transportation, utility, and new town land uses; projected requirements for agriculture, recreation, urban growth, and commerce, transportation and energy uses, for at least the next fifty years.

Marshalling of governmental and financial resources available for land use planning and management within the State and its subdivisions.

Furnishing of technical information and training, development of data bases, and information exchange programs.

The Statewide Land Use Plan which emerges from the provisions of this bill is clearly required to conform to federal guidelines, and to carry out its terms the States must secure the cooperation of their people and their legislatures for far-reaching changes in their own system of land use decision-making. The States complying with the prescription of this bill would be assuming responsibilities broader than those traditionally defined as related to their own interests, in favor of regional and national interests.

406(b) (6)

406(b) (7)

406(a) (1) ;  
406(c) (1) ;  
406(c) (2) (A)

406(c) (2) (B)

406(c) (2) (C)

406(c) (3)

406(a) (1) ;  
406(a) (2)406(a) (3) ;  
406(a) (4)

403(b)

403(b) (1)

403(b) (2)  
(A) (F)

403(b) (2) (G)

403(b) (3) ;  
403(b) (4) ;  
403(b) (5)

Naturally, the States are likely to take the contemplated action only if inducements outweigh the obvious detriments to their parochial interests.

- 404(a) The main inducement of the measures is the program for federal planning grants. The qualifications for participation are spelled out. The State must ask for one, by making a proposal.
- 404(b) The State can expect to get a grant covering two-thirds of the *estimated* full cost for three full fiscal years. After that, new planning costs are split fifty-fifty, and federal money is authorized to be granted for a quarter of the operating costs. A key feature is that this planning grant money is additive. It is to increase, not replace, State funds presently available for State land use planning; and it may be added to and used jointly with grants or other funds for land use planning or investigation under other federally assisted programs.
- 404(d)

- Once a planning grant has been made, the inducements to stay with the program are found in the harshness of the penalties prescribed for failure. First, the money can be cut off, after notice, if the State agency has failed to adhere to the requirements of the law in the development of the Plan, or if the State has not enacted appropriate legislation to allow the State to acquire land, and restrict its use, and for an appellate procedure, as referred to above.
- 406(d) 406(c)

- More importantly, once a State's entitlement to statewide land use planning funds have been terminated, or if an acceptable plan is not submitted by the fourth year, the State becomes liable to have its entitlement to funds otherwise available under *other Federal assistance* programs, reduced at the rate of 20% per year, as selected by the President.
- 407

- 407(2) Even more harshly, the State is likewise "to be denied the issuance of any right-of-way permit or other permits available under the public land laws and other Federal laws to use or to cross the public domain or other Federal lands within that State, until the State gets in compliance."

Sec. 3 of  
S. 3354

The Federal instrumentality for effectuating this program is an augmented Water Resources Council, now to be known as the Land and Water Resources Planning Council. Seven cabinet secretaries (of whom one is the Army service secretary), and the Chairman of the Federal Power Commission, make up the Council. The Council's chairman is presidentially designated. Its administrative functions, under unchanged provisions of the Water Resources Planning Act, are delegable by the Council to one of its members, or to employees. \$3,000,000 is authorized to be appropriated annually for administration.

Sec. 5(a) of  
S. 3354

- Comparatively little is said in S. 3354 as to how the Council carries on its business, beyond the fact that it may make rules and regulations. It is a stated purpose of the bill that the grant-in-aid program assist State government "to hire and train personnel, and establish procedures to develop, implement and administer the Plan." It is also a purpose to establish reasonable and flexible Federal requirements to give States guidance in developing their Plans.
- 402(b)
- 402(c)

Sec. 3(c) of  
S. 3354

The Council also is charged with maintaining a continuing study of the adequacy of administrative and statutory means for the coordination of federal programs related to land use, and the compatibility of such programs with state and local land-use planning and management. It is given the duty of appraising the adequacy of existing and proposed federal policies affecting land use, and to make recommendations to the President with respect to such policies and programs.

402(d) and  
Sec. 3(c) of  
S. 3354  
402(e)

Finally, after the requirement for the making of a biennial report to Congress, it is a stated purpose of the bill "to develop, and define a coherent national land use policy with respect to the planning, and the management of all federally owned lands."

- Statewide Land Use Plans, when completed, are required to be submitted to the Council, which in turn is required to submit the Plan for a ninety-day period of review and comments to appropriate federal agencies. The Council then must review the Plan and the comments received, and is required to approve the plan if it conforms with policy, guidelines and requirements and is compatible with the plans proposed or submitted by other States, so that regional and national land use considerations are accommodated. 408(a)
- Explicitly, federal agencies with public works responsibilities or activities in areas under an approved Plan shall make their activities consistent with the approved plan, "unless there are overriding considerations of national policy which require departures from the plan." Furthermore, federal agencies "shall not approve proposed projects that are inconsistent with the Plan." 408(b)
- I have organized my discussion around the action features of the bill. The bill itself begins with a legislative recital of the ills it is designed to correct, and a definition of congressional purpose and intent.
- A congressional finding of a national interest "in a more efficient and comprehensive system of national and statewide land use planning and decisionmaking," and a congressional declaration "that intelligent land-use planning and management provides *the*<sup>2</sup> single most important institutional device for preserving and enhancing the environment, for ecologically sound development, and for maintaining conditions capable of supporting a quality life," are key provisions of the measure.
- Under the bill, Congress would make a number of findings about things needing improving:
- For a variety of stated reasons, land-use management decisions at all governmental levels are being made "on the basis of expediency, tradition, [and] short term economic considerations.
- Public and private enterprise has been required "to delay, litigate, and cancel" various developments and to make decisions on industrial and commercial activity siting in areas of least public and political resistance, without regard to relevant ecological and environmental land use considerations.
- There is a lack of consistent policy and conflict among the many federal agencies involved in land use planning and management activities.
- Failure to plan or bad planning often results in irreparable damage to "commonly owned assets" such as estuaries, ocean beaches, and other areas in public ownership.
- Inferentially, federal land use decisions have not included sufficient participation by State and local governments, and therefore have not accorded "with the highest and best standard of land-use management and the desires and aspirations of State and local government." 401(e)
- The bill also calls for the federal government (whether this is a responsibility of the Council isn't clear) to undertake the development of a national land-use policy. The findings and policy-declaring sections of the bill themselves constitute a statement of policy, so the "national land-use policy" clearly is to be some document or statement which builds upon the congressional directives. 401(f)
- It must be developed consistently with the responsibility of State and local governments. There is a specific finding that the primary responsibility and constitutional authority for land use planning and management of non-federal lands rests with State and local government. 401(f)  
401(d)
- It is required to incorporate ecological, environmental, esthetic, economic, social and other appropriate factors. 401(f)
- It should encourage the wise and balanced use of land water resources. 401(g) (1)

<sup>2</sup> Emphasis in quoted sections of the bill is added throughout.

- 401(g) (2) ;  
401(g) (3)       It should foster continued economic growth of all States and regions, but at the same time influence population distribution in a manner to make scenic, environmental and cultural amenities available.
- 401(g) (4)       It should contribute to revitalization of rural communities, and encourage new communities.
- 401(g) (5)       It should prompt States to take a larger view by assuming land use planning responsibility for activities of regional, interstate and national concern within their boundaries.
- 401(g) (6)       It should facilitate coordination of federal programs for more desirable patterns of environmental, agricultural, recreational and industrial land-use planning.
- 401(g) (7)       It should "systematize methods" for land use and environmental information exchange.
- 401(f)           Importantly, such a policy is to serve as a guide in making specific decisions at the national level which affect the pattern for environmental, recreational and industrial growth and development on the federal lands.
- 401(f)           The Policy should provide a framework for development of Interstate, State and local land-use policy.

When this bill was introduced, its author said that a national land use policy is the next logical step to follow the National Environmental Policy Act of 1969. He recognized that it was a starting point for review and analysis, a working draft for comment by State, local, and federal officials and planners, and representatives of industrial and public interest groups.

It would be a great shame if it did not get the constructive response which has been asked for, one consistent with the importance of the subject matter, and the thought and imagination which obviously has gone into its drafting. Every land managing agency of the federal government, from the Bureau of Land Management and all its sister bureaus of the Interior Department to the Forest Service and the Corps of Engineers and the Federal Power Commission, the military services, and the General Services Administration, ought to present comments in terms of their particular program interests. So should the States and their land or resource departments, and the interstate agencies. I would go so far as to suggest that the Committee try to expose the differences of opinion among the experienced professionals, so that the debate can be marked more by its intellectual content, than by bureaucratic jealousies.

I emphasize the importance of the kind of consideration this proposal should get, because I think public understanding will be enhanced by the process. The importance of public understanding transcends any statewide plan, or national land-use policy. To take an example from the utility industry to illustrate my meaning, last Sunday's *Washington Post* had an article by Hans Landsberg who pointed out that ninety per cent of the growth in power generation in the last 30 years has been caused by higher per capital consumption. In other words, if we thought that the right amount of electricity was that which we generated in 1940, only 20 million people could be served at today's consumption rates.

The years since 1940 seem short to some of us. It is when we extrapolate the growth of the last 30 years for the next thirty that we get frightened about the sufficiency of our land and water resources—and that is what this bill is about.

The American people are going to make the compromises necessary for survival only as they understand the problem—and there is vast evidence that they don't now understand it.

Planning in a free society requires planners who are responsive to the citizens of that society. Planners do not achieve political immunity simply by being vested with the mantle of planner. And the process of planning, as the bill recognizes, must take place within the political system and be responsive to it. Coming to understand what our problems are, as a common effort, is the only thing that will make a Plan worth very much.

I confess misgivings about many features of the bill. For example, I do not believe that the experience of the Water Resources Council has been positive enough to prove that an augmented Council can provide the kind of leadership a program of this magnitude requires. Much will depend upon the Council's professional staff, and an organization of designees of members undoubtedly will try to make it work. But in matters as fundamental as land-use planning, the institutional interests of the various departments are likely to preclude the possibility of the Council, as such, resolving policy conflicts.



In this connection, it may be proper to note that the Federal Power Commission was, for its first ten years a cabinet-level Commission, made up by the Secretaries of War, Interior, and Agriculture. As these matters go, the cabinet-level FPC was moderately successful, but its successes were traceable more to the personality of an old Forest Service man who took over as the first Chief Engineer of the Commission than to the hoped-for coordination arising from putting the warring department heads on the same Commission. That form of organization was abandoned in 1930.

Speaking to the overall concept of the bill, I commend to the Committee's attention a very recent book by an old colleague of mine, and friend or acquaintance of most of the members of this Committee, James L. Sundquist. Jim was once administrative assistant to Senator Clark, and served the Kennedy and Johnson Administrations in the Agriculture Department as Deputy Under Secretary. Now at Brookings, he has written a fine book called *Making Federalism Work, a Study of Program Coordination at the Community Level*. (The Brookings Institution, 1969).

In a section headed "A Government Policy for Federalism: A Policy of Deference" Mr. Sundquist points out some of the pitfalls which have been encouraged in other efforts at intergovernmental coordination, and particularly in situations where, as here, a considerable reliance is placed on actions at the State level, is another section he puts his finger on what may be a key problem here. Speaking out that the structures created for it have tended to rely upon systems of mutual adjustment rather than of central direction—upon what could be attained through negotiation among equals rather than through the exercise of hierarchy authority. The Council mechanism is subject to this criticism.

It is fully understandable that there are inconsistencies and gaps within the bill itself, and I hope that my identification of some of them will be regarded as constructive. At a pretty basic level, the bill goes far to negate its own fundamental reliance on the constitutional prerogatives of States in the section which finds that the manner in which State responsibility for land use planning and management impinges upon federal managerial responsibilities for the public domain, and the national parks and recreation areas.

Other criticisms are less basic:

Greater participation by State governments in land use decisions of the federal government does not necessarily insure that decisions will accord with the highest and best standards of land use management. Sometimes the opposite is true.

The bill might well point out who in the federal government ought to undertake the development of a national land use policy. The Congress is a part of the federal government, but given the elaborate prescription in this bill of what the policy should contain. It is apparent that what is contemplated is something which meets the specified guidelines at the executive level.

Multiple-use statutes are the prototype for at least some of the principles enunciated in the bill. From personal experience, I can testify that the existence of such statutes seldom helps in the resolution of particular land use controversies.

Also as noted earlier, the bill does not clearly delineate the areas where interstate agencies may supplant States in the devising of plans, or in their implementation.

I believe that the system of sanctions specified in the bill, and particularly the cutting back of other grants on a selective basis is unduly harsh, and unless modified would effectively bar most States participating.

The provisions that the State agency which manages the plan should have the authority to acquire interests in real property does not specify what authority, if any, that agency must also secure to pay for any interests acquired. Federal constitutional requirements require compensation, and absence of monies to carry out such a program might leave it utterly ineffectual.

The State judicial review procedures ought not be a subject of the federal legislation.

It would be possible for me to devote considerable time to the question of how regulatory agencies, at both the federal and the State level, are affected by the bill as drafted, and how I think this particular governmental mechanism ought to be meshed. Suffice it to say at this point that the very independence of these agencies, coupled with their vital involvement in land use planning decisions with wide impact, makes a careful review of this whole question of vital importance. Licensing of hydroelectric and pumped storage projects, siting of plants, regulation of nuclear generating stations, and location of electric and gas utility lines are activities not easily folded into the system contemplated by this measure.

A valuable public service has been performed to the opening of public debate on these vital questions. As the bill points out, most of our problems are directly or indirectly traceable to the dynamics of growth—and continued economic growth is specifically endorsed in the bill. I look forward to assisting, in any way I can, in the refinement of a congressional statement of policy in this area.

#### IV. ADMINISTRATION HEARING TESTIMONY— 92D CONGRESS

STATEMENT OF THE CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY  
BEFORE SENATE COMMITTEE ON COMMERCE, MAY 5, 1971

STATEMENT OF HON. RUSSELL TRAIN, CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY, ACCOMPANIED BY BOYD H. GIBBONS III, SECRETARY; AND WILLIAM K. REILLY, STAFF MEMBER

Mr. TRAIN. Mr. Chairman, it is a pleasure to be here and to testify on behalf of the administration on the relationship between the coastal zone legislation previously submitted by this administration and now pending in several forms before this committee, and the national land use policy legislation also submitted by the administration and pending before the Senate Committee on Interior and Insular Affairs.

I have a prepared statement, Mr. Chairman, but with your permission, although it is fairly brief, I will simply submit that for the record and proceed extemporaneously.

Senator HOLLINGS. Fine. Your statement will be included in its entirety.

Mr. TRAIN. Thank you, sir.

I am accompanied on my left by Mr. Boyd Gibbons, who is the Secretary of the Council on Environmental Quality; and on my right, by Mr. William Reilly, an attorney on the staff of the Council.

Both of these gentlemen—and particularly under the leadership of Mr. Gibbons—have been closely associated with the work of the Council in developing land use policy. And also, I might say, previously Mr. Gibbons was Deputy Under Secretary of the Interior, with me in the Department of the Interior and closely associated at that time with the development of coastal zone legislation. So I think we have here with us the group who has probably been more closely associated with the development of both areas of legislation than anyone else perhaps in the executive branch.

I think that it goes almost without saying, Mr. Chairman, that this administration is fully and firmly committed to the need for more effective management of the coastal zone and estuarine areas of the United States; there is no question about this whatsoever.

As you are well aware, the administration developed legislation in the last Congress to promote more effective regulation and management of the coastal and estuarine areas and submitted this to the Congress. This committee has had very extensive hearings which have contributed substantially to public understanding of this very critical issue and need.

Since the development of the coastal zone legislation the administration has moved forward to consider the broader realm of land use

generally, including the coastal zone. And the legislation which the President submitted to the Congress on February 8 as part of his environmental message calls for a new, very innovative national land use policy which includes and embraces the coastal zone as part of a broader approach to what the administration sees as a very high priority national need; namely, more effective land use as it affects environmental quality all across the country, both in the coastal zone and within the interior portions of the United States.

By way of a personal note, I was, as the chairman has already indicated, very closely associated with the development of the coastal zone legislation which the President submitted in the last Congress. When I was Under Secretary of the Interior I chaired an interagency task force which developed the legislative proposal. So I can assure this committee, Mr. Chairman, of my own very strong personal interest in this whole field.

I believe that we are now ready to proceed with national legislation covering the entire area of land use rather than simply limiting our approach to the coastal zone. As you quite correctly pointed out, in my testimony on land use legislation before the Interior Committee I did state that at that time the administration felt fully prepared to move forward with coastal zone legislation, and I implied that we needed somewhat more time to examine the broader question of a national land use policy.

Since that time the administration has been actively engaged in considering these broader questions; and its conclusions are in fact embodied in the recommendations submitted by the President on February 8.

The need for a national land use policy was addressed very early by our Council and is the subject of an extensive chapter in our Council's first annual report on environmental quality, which was submitted by the President to the Congress last August.

I do think we are ready to move forward on a broader scale than simply in the area of coastal zone. My very strong impression is that the States are ready to move on this broader basis.

The need for more effective State control over land use has perhaps been most clearly demonstrated at an early date in the coastal zone. I think all of us quite properly first addressed ourselves to that need. On the other hand, it is increasingly plain that interior States are likewise taking a very active, constructive, positive interest in this whole field. States such as Vermont and Colorado, for example, not to be considered coastal zone States, are in fact moving ahead in very constructive fashion; so that we feel that the time has come when a national land use policy such as that proposed by the President can be extended to the entire United States, at the same time—as the President's legislation proposes and as his message makes perfectly clear—giving strong emphasis to the high-priority problems of the coastal zone. And of course, that is done by the President's proposed national land use policy.

A key element in that policy is the requirement that the States inventory and identify and develop a method for control of development in what we call areas of critical environmental concern. These are defined in the legislation as, including first, the coastal zone;

second, as including shorelines, lakeshores, and rivers—all of this evidencing the strong commitment of the administration in developing this legislation to the priority needs of the coastal zone and related areas.

Likewise, in the granting provisions the legislation requires that among the factors to be taken into account in determining the amount of a State's grant is its coastal zone characteristics.

In summary, Mr. Chairman, we strongly welcome this committee's long-time, continuing interest and look forward to working very closely with you on this and related legislation.

We do feel that the time has come when we need one single land use program, a national program. This should definitely give high priority to the need which you and the administration both agree is of such great importance; namely, the protection and wide use of the coastal zones.

I think that concludes my remarks.

Senator HOLLINGS. We appreciate your statement and we appreciate the leadership you have given, Mr. Train.

Specifically, in changing from a trust solely for a coastal zone bill to a land use policy bill that would encompass the coastal zone, you emphasize the fact that you have support from the States. But what about the national municipal associations and the associations of county governments? You are either going to be jacking up these local areas into legislating where there is a legislative void, or you are going to be taking over. This committee agrees that we need a single land use policy; that the need. But what is the practical thing in this session of the Congress?

If we get far down the road on the national land use policy legislation and then find such local misgivings and opposition as to actually block passage, will you go along with the coastal zone management bill? Or do you see anything inconsistent with the coastal zone management bill? Or do you see anything inconsistent with the coastal zone management bill, inconsistent with the overall land use policy bill? Can you comment on that observation and question?

Mr. TRAIN. In general, no. There may be elements of the coastal zone management legislation as submitted by the administration in the last Congress which, on the basis of our further examination of the overall problem of land use, more experience we have gained over the past year or two, we would wish to strengthen or improve in some fashion. But in the overall, there is certainly nothing inconsistent whatsoever—in fact, just to the contrary.

The same basic approach is used in both the national land use policy legislation as is used in the coastal zone legislation. Both proceed through the method of strengthening State management in this area.

So there really is nothing inconsistent at all.

I think that the possibilities of inconsistency or of conflict would arise really through the creation of two separate programs. This would trouble me.

Senator HOLLINGS. It would be unnecessary if we could get the one?

Mr. TRAIN. If Congress should enact a national land use policy the line proposed by the President, which includes, as I have said,

the coastal zones, then you do not need separate legislation. You just need the one; that is correct.

Senator HOLLINGS. Right. I was pleasantly surprised last year when this committee launched forth on the coastal zone hearings, that we had unanimity. We had the county associations, national municipal associations, State port authorities, and various coastal zone interests, all coming in and almost unanimous in support of the legislation.

If we can get that kind of support this year for a single land use policy, that would be fine, too. And I am sure that committee would proceed.

But I am very fearful of the legislation generally covering interchanges, highways, airports, transportation, and all the other things in it that local political entities might have misgivings, and we might have opposition.

Specifically, if we bogged down later on, is the administration going to insist on just the land use policy bill, or can we count on your support for coastal zones?

Mr. TRAIN. Well, as I have said, Mr. Chairman, the administration is strongly committed and remains committed to the need for more effective management in the coastal zones. I think it is too early to speculate at this point as to what the administration's posture would be if it proved impossible to achieve a national land use policy program.

We do at this time give the highest priority to legislation providing an overall national land use policy, which does not give separate and distinct treatment to the coastal or any other zone but, rather, approaches the problem nationally.

Senator HOLLINGS. Does S. 922 contemplate the State governments engaging in major reorganization in order to accomplish the purpose of the bill?

Mr. TRAIN. We would not see that as being necessary at all. In terms of what you might call additional bureaucracy probably we see a very limited need. There would certainly, in many cases, have to be some change in the allocation of powers as between State and local units of government. However, as I believe you know, the legislation would provide tremendous flexibility as to the kinds of allocations which a State would decide best suited its particular needs.

But in terms of bureaucratic reorganization, I think there is a very limited need involved here.

Senator HOLLINGS. Let us address ourselves to the "inward" and "seaward." What width inward does the bill contemplate for the coastal zone under S. 992, and how far seaward?

Mr. TRAIN. Let us first go outward, Mr. Chairman, because that one is a little bit easier; and there we go out to the limit of the territorial sea, which is the 3-mile limit. That, of course, is a fairly clear point.

Senator HOLLINGS. Would you recommend that you include the seabed to 200 meters rather than just the 3 miles?

That is the outer limit of the coastal zone under Senator Tower's bill.

Mr. TRAIN. I have not examined that particular proposal. But we are talking here about State jurisdiction primarily because we are talking about strengthening State approaches to more effective land

use management; and the 200-meter isobar boundary refers to boundaries of national sovereignty over the resources of the seabed.

So I think that perhaps my immediate reaction would be that that particular approach might not be appropriate to fixing the limits of State land use authorities.

Now as to the inward limits, as you know, both under the coastal zone management legislation submitted by the administration and the national land use legislation, there is no fixed line proposed; but, rather, the demarcation is left very flexible so that to the extent that the inward land mass is affected by sea influences, this could be considered part of the coastal zone.

I would refer you to the definition beginning at the bottom of page 3 of S. 992 and running over on to page 4, and if I might just read that briefly into the record?

Senator HOLLINGS. Yes, sir.

Mr. TRAIN (reading) :

Coastal zone means the land, waters and lands beneath the waters in close proximity to the coastline, including the Great Lakes, and strongly influenced by each other, and which extends seaward to the outer limit of the United States territorial sea, and including areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, in-shore waters, channels, and all other coastal wetlands.

And then it goes on to define "estuary."

I would comment at this point, Mr. Chairman, that obviously this is a definition which is susceptible to quite varied application, and this is the intention. The intention is not to draw a hard and fast line to put State administration and management into some kind of a straitjacket, but to permit great flexibility in arriving at the area called coastal zone. That was particularly important when we had separate coastal zone legislation.

I would point out that while that somewhat uncertain inland boundary could give rise to some problems if there were separate programs of management, one for the coastal zone and one for other areas, a single program of national land use as proposed now by the President would avoid, I am confident, problems of definition of that inland boundary of the coastal zone.

Senator HOLLINGS. Specifically, does it contemplate anything more than a wetlands preservation bill? When you try to measure its scope, what about when you get to a highway interchange? For instance, on Long Island, do you include La Guardia airfield? Would that be in the coastal zone?

Mr. TRAIN. Yes; it very definitely could be in the coastal zone.

Senator HOLLINGS. All of Long Island could be in it?

Mr. TRAIN. Very definitely it could be, depending upon the—

Senator HOLLINGS. Maybe that is one way to relieve Mayor Lindsay.

Mr. TRAIN. I think the question of what would be in the coastal zone would arise under both a separate and the broader legislative proposals.

Senator HOLLINGS. We might have to make it a little bit more specific because I think we could get bogged down in debate on that one.

Mr. TRAIN. If I might just comment on the last point, Mr. Chairman, we do recognize that there are problems as to given areas, such

as perhaps Long Island, as you have mentioned, and this is one reason why we have left very great latitude to State administrative discretion rather than trying to solve all these questions by some kind of arbitrary statutory definition; and we do believe that this is the best approach.

Senator HOLLINGS. Earlier drafts of the national land use policy bill provided sanctions through the land and water conservation funds, the Federal aid to highway funds and Federal airport funds for State noncompliance with the legislation. They are removed now, I believe, under the present proposal. Why were they removed, and what sanctions do you now recommend, if any?

Mr. TRAIN. The initial thinking in developing this legislation was to include a series of, shall we say, disincentives to help encourage States to move into this program. It turned out that the available disincentives which we could identify had all, or substantially all, become part of the revenue-sharing proposal. And as you know, one of the hallmarks of revenue sharing is freedom of decision on the part of State and local governments as to how funds shall be used rather than earmarking or attaching conditions to the expenditure of those funds. And essentially, to make the payment of such funds conditional upon the adoption of State land use policies and programs would, it seemed to the administration, be inconsistent with the whole concept of revenue sharing. So that under these circumstances we really go the route of incentive rather than a combination of incentives and disincentives.

The primary incentive here in terms of Federal action is the grant program.

A second incentive provided by the legislation is the requirement that once States have adopted and approved a statewide land use program, all Federal programs and activities in the State must conform to that program. And I think that could prove in practice a very substantial incentive to the States.

I believe that States have very frequently criticized Federal agencies for undertaking acts and programs which in fact were inconsistent with the things that the States were trying to do.

There is also another proposal in the legislation which I think bears comment. In cases where a State does not have an approved statewide land use program as called for by the bill, if the Federal agency proposes some Federal action in that State which could have a major environmental impact, the Federal agency must have a hearing within the State on that particular project some 180 days in advance of a decision being made to go ahead. The purpose of such a hearing, of course, would be to elicit public comment and discussion of the effect on environment and land use generally of the proposal.

I do not think I would describe that as either an incentive or disincentive; but I think it could have a very substantial effect in practice; and that has not received much attention publicly. I think as a part of this legislation it has potentially considerable importance.

Senator HOLLINGS. What about the powerplant siting bill? The administration has a bill, S. 1684. Should S. 992, the land use bill, and S. 1684, the powerplant siting bill, be considered together so as not to proliferate agencies—the very same rationale behind putting the



coastal zone into the overall land use policy? Why should the powerplant siting bill not be included in this land use bill?

Mr. TRAIN. I think it is our feeling that it is proper to treat powerplants, the powerplant siting proposal, as separate legislation. It is not quite the same kind of thing as the coastal zone. There are a wide variety of specific kinds of projects, such as airports or highways or powerplants or housing which, it seems to us, will continue to be appropriately the subject of specific regulatory authority.

The coastal zone is essentially part of the larger problem of general land use. It is a geographically distinct area, although, as our discussion a few moments ago brought out, the distinction becomes a little bit vague as to where the coastal zone lets off and the inland area begins.

Senator HOLLINGS. Thank you very much.

Senator SPONG?

Senator SPONG. Mr. Train, you may have touched on this. What would be the situation if Congress enacted S. 992 or a comparable bill, and a State did not enact a statute to protect wetlands?

Mr. TRAIN. I think that the legislation made quite clear, and I would think that the representative of the Department of the Interior would certainly bear me out, that a State program under those circumstances would not be approved.

Senator SPONG. So you would say that a condition precedent for an approved State program would include a wetlands statute?

Mr. TRAIN. Absolutely.

Senator SPONG. Under section 104, would it be possible for a State agency other than a State highway or transportation agency to have jurisdiction over the location of highways?

Mr. TRAIN. This is the section relating to air and water and other environmental—

Senator SPONG. It begins on page 7 of the bill.

Mr. TRAIN. It is not intended to give the agency responsible for the administration of the land use program any general authority with the siting location of highways.

Senator SPONG. It is not intended?

Mr. TRAIN. That is right.

Senator SPONG. We may have to look at that.

Mr. TRAIN. I think, as you have indicated, Senator, it might be valuable to take a look at this in terms of the technical language of the legislation to assure that result.

There certainly ought to be some correspondence and cooperation as between the agencies at the State level and other legislation, namely, the Air Quality Act of 1970 gives the Environmental Protection Agency certain authority in this respect.

These should be dovetailed.

Senator SPONG. In Virginia, as you know, there has been phenomenal development along the Shirley Highway corridor. We now have commuter traffic into Washington from Prince William County and even farther south. In what ways do you envision that this bill, if enacted, would serve to solve or reduce the problems of the Washington suburbs?

Mr. TRAIN. Assuming we are not talking about what the bill defines as a critical environmental area, a wetland or a shoreline or something of that sort—

Senator SPONG. No; I am not.

Mr. TRAIN. Or major historic area—and I must say it is pretty difficult to think of a highway coming through Virginia that does not touch on a major historic area—but the general thrust here would be to require the State to develop a method of control of development around what the legislation calls key facilities. And this would be major highway interchanges, for example. This is specified in the bill. Development around key interchanges along that highway system would have to be identified by the State and brought under some form of effective control insofar as the development is concerned.

Senator SPONG. Do you see a restriction imposed as to the number of interchanges, for instance?

Mr. TRAIN. The purpose of this legislation is not to intervene in the normal highway planning process at all. I do not see this legislation, in and of itself, as involving a determination or limitation on the numbers of interchanges.

Senator SPONG. I notice that in the definition—

Mr. TRAIN. Let me make one amendment to that. And that is, if we are dealing with an area of critical environmental concern, then I think that the legislation would make it possible for the State, through this program, to put a limitation on the number of interchanges if, for example, they involve the filling of wetlands or something of that sort.

Senator SPONG. Or going through Mount Vernon?

Mr. TRAIN. I think that would be a very good example.

Senator SPONG. I notice in your definition of State that you have all the territories and whatnot, but the District of Columbia is excluded. I realize you are not the sponsor of the bill, but is there any reason for the exclusion? I refer to page 5, paragraph (d).

Mr. TRAIN. Frankly, I was not familiar with the fact that we had excluded the District of Columbia. I believe that the District—and I am speaking really not from any real examination of the subject, Senator—I believe that the District has the kinds of authorities which we are here seeking States to assume, and it may well be that, given the nature of the District/congressional relationship, that the extension of this legislation to the District is not necessary.

But here I think is something that the Congress would want to take a good look at.

Senator SPONG. I think we will.

Mr. TRAIN. As a longtime resident and native of the city of Washington, I certainly do not want to see the District of Columbia excluded from the good results which we think will flow from this legislation.

Senator SPONG. I just have one or two more questions, if the committee will bear with me here. You may have touched on this in response to Senator Hollings, but what effect would S. 992 have on the authority of the FPC to issue licenses for power projects involving reservoirs?

Mr. TRAIN. The powerplant siting policy is generally covered, as I indicated earlier, by the powerplant siting legislation, and we think this is properly treated as a separate program.

At the same time, there is no exception to the requirement in S. 992 that all Federal programs and activities must be consistent with a State land use program once it has been approved. So that—I cannot think of

a hypothetical case at the moment, but I would be absolutely certain that under this legislation the Federal Power Commission would be prohibited from undertaking an act within a State inconsistent with the overall land use program which had been developed by the State and approved by the Federal Government.

I might also note that the approval—or in the consideration and approval of a State land use program, the Secretary of the Interior is required to consult with all other Federal agencies having some particular interest in the subject matter.

I think it would be very likely that the Federal Power Commission would be one of the agencies with whom the Secretary would wish to consult at the outset.

Senator SPONG. This is my final question. Do I understand correctly that a State or local land use plan involving a wetlands area would supersede the authority of the Corps of Engineers to issue a permit sought by a private landowner to dredge and fill a wetlands area?

Mr. TRAIN. A Federal agency such as the Corps would not be permitted under this legislation to undertake any act, including the granting of a license or permit, which is inconsistent with an approved State plan. So if an approved State plan either prohibited some form of development or dredge-and-fill in a wetland area which the Corps sought to grant, it is my understanding that under this legislation the Corps would be prohibited from moving ahead.

Senator SPONG. Thank you very much.

Mr. TRAIN. The State might also require certain procedures to be followed. And here again, aside from the question of black-and-white prohibition, the corps would be required to conform, I would think, to those procedures.

Senator HOLLINGS. But, Mr. Train, there is an exception I believe in your answer to Senator Spong. Under section 106 there is a proviso: "except in cases of overriding national interest." Who determines that?

Mr. TRAIN. I believe the particular reference here requires that the President—

Senator HOLLINGS. Of course, the Secretary of the Interior and the Department of the Interior, as I understand, are solely responsible for the administration of this legislation.

Mr. TRAIN. I'm sorry.

Senator HOLLINGS. I am on page 11, section 106, that third line there, "Federal projects and activities significantly affecting land use shall be consistent with State land use programs under section 104," exactly the answer you gave to Senator Spong. But they have got the exception: "except in cases of overriding national interest." Does the Secretary of Interior decide that?

Mr. TRAIN. It could be a combination, Mr. Chairman, of the Secretary or the President, as you will note elsewhere in this legislation.

Senator HOLLINGS. What do you recommend? Do you have a particular feeling that perhaps it should be fixed, or what?

Mr. TRAIN. The legislation authorizes the President to designate an agency or agencies to issue guidelines for carrying the provisions of this act. Now I would suppose that this would be one of the subjects to which those guidelines would be addressed.

Senator SPONG. Is not the President given this authority in the clear air legislation that we just enacted?

Mr. TRAIN. I believe that is true.

Senator SPONG. I think so. I would think some consistency might be advisable here.

Senator HOLLINGS. Then pursuing what you were stating a moment ago about the responsibility of the Secretary of Interior, addressing my question now to section 105 which provides that the Department of Housing and Urban Development must be satisfied with those aspects of the State's land use program dealing with a large-scale development, key facilities, development and land use of regional benefit and the siting of new communities, but of course, not as it pertains to coastal zones. Does that not mean that HUD has effective control of everything except coastal zone management under S. 992?

Mr. TRAIN. No; because a lot more than coastal zones are comprised in the definition of areas of critical environmental concern.

These do include, most importantly, the coastal zones, but also shorelines and other related areas; rare and valuable ecosystems, scenic or historic areas and such additional areas of similar valuable or hazardous characteristics which a State determines to be of critical environmental concern. So that these could in fact embrace a very diverse selection of areas within a State beyond the coastal zone.

But I certainly agree that the coastal zone clearly is included and very likely would prove out to be the single most significant element in these areas.

Senator HOLLINGS. Mr. Train, with emphasis on authority, rather than on areas, as between the Department of Interior and the Department of Housing and Urban Development, where do you find the authority exactly? Is it not true that under section 105 the Department of Housing and Urban Development must be "satisfied," as is contained in the language there?

Mr. TRAIN. That is true.

Senator HOLLINGS. But it just does not have the last say? It has an interim say, but it does not have the last say?

Mr. TRAIN. The overall responsibility for this program is fixed in the Secretary of the Interior. However, with respect to those aspects of a State-proposed program that involves large scale development, key facilities, development and land use of regional benefit and the siting of new communities, these elements being peculiarly within the expertise of the Department of Housing and Urban Development, that Department must approve those particular elements of the plan to the Secretary of the Interior and I suppose there would be a process of certification or something of that sort worked out.

However, where one of these key facilities or other items is found in an area of critical environmental concern, HUD would not be in a position to approve a development which would be inconsistent with the policy of the Secretary of the Interior with respect to that particular area.

Senator HOLLINGS. HUD could approve, but the Secretary of Interior could still disapprove?

Mr. TRAIN. That is right.

Senator HOLLINGS. Senator Stevens?

Senator STEVENS. Thank you, Mr. Chairman.

Mr. TRAIN. Excuse me. May I just amplify one element of that? I think it might be clarifying. It is not intended that HUD be involved in a project-by-project kind of examination, highway exchange by highway exchange and so forth. What HUD would be involved in examining and approving would be the overall State process which is presented as part of its program.

So I do not think that you would find a difficult split-authority kind of situation arising.

Excuse me.

Senator STEVENS. To return to Senator Spong's comment about the FPC, would you interpret the grant of a license by a Federal agency or the approval of a right-of-way as tantamount to Federal action coming within the provision of section 106(a) of S. 992? It is on page 11. "Federal projects and activities significantly affecting land use should be consistent with State land use programs."

Mr. TRAIN. I certainly would assume that that would be included there.

Senator STEVENS. There is no definition—

Mr. TRAIN. Either the granting of a right-of-way—it says "a Federal project activity significantly affecting land use."

Senator STEVENS. As I understand it in that context, the FPC project is not a Federal project; it is a private project. I wonder if we should have a more clearly defined coverage of what is a Federal project and activity. I assume you mean "Federal projects and Federal activities significantly affecting land use." But I would hope that it would be defined.

Mr. TRAIN. As you know, Senator, we have had a similar question of construction under the National Environmental Policy Act as to what are Federal actions significantly affecting the environment. And we have held these to include licensing activities of the Federal Government and have required environmental impact statements to be filed by the FPC and the AEC and the corps, even though the project itself is a nongovernmental project.

But the fact of the licensing, in our view, is a Federal action which can have a significance in terms of environmental impact, and I would certainly assume that under this legislation such Federal actions could be construed and determined to affect land use. So I would assume that they would be covered; and I would think that a Federal grant of a right-of-way is also a Federal action affecting land use, I think, quite clearly, even though the grant of the right-of-way is to a private entity.

Now I would also point out that this legislation does not cover the public domain, so that we are not talking here about a right-of-way granted across public lands.

Senator STEVENS. You specifically would exclude the concept of any roads or highways or pipeline permits dealing with Federal public lands, in terms of the scope of this definition of "Federal activity"?

Mr. TRAIN. Yes; certainly. As far as this legislation is concerned, our concern is to insure that where there is not what we would consider effective control over certain land use decisions which significantly affect the environment, that the control authority be created.

The Federal Government has complete authority over the public lands, and I think, speaking very generally, we would say that there is not the same need for providing new authority for the Federal Government in this legislation as we see is needed on the part of the States.

Senator STEVENS. That is the basic drift of my questioning. This is a one-way street, then, is it not? The Federal Government is not going to comply with the State land use plans itself, but it will require private entities to comply with the State land use plans in all Federal activities, where Federal activities control the actions of private individuals. Insofar as the use by the Federal Government of its lands for Federal purposes, it will not be regulated by a State land use plan; is that correct?

Mr. TRAIN. Yes; that is correct. We do not subject the Federal public domain to State regulation and control under this legislation. But we do require that all Federal actions within the State be consistent with the State land use plan.

That is not saying quite the same thing. And I think we would consider it not appropriate for the Federal Government to turn over the regulation of the Federal public domain to State regulatory authority.

Senator STEVENS. We have the example in my State of a pipeline that goes through one State. What about a pipeline that might go through several States in the Southwest, along the Pacific Coast line, which would cross through private lands and Federal lands? One of these States which my colleague from Oregon represents—his State decides they do not want any pipelines at all; they have no provision in their land use plan; they specifically prohibit them.

Now is the Federal Government going to require Federal agencies and private individuals in the State of Oregon to comply with the State land use plan, or not?

Mr. TRAIN. The requirement in the legislation is that Federal activities not be inconsistent with the State plan.

Now I presume that the State plan has to be a legal plan, a constitutional plan. I frankly am not sufficiently familiar with the inter-state law involving pipelines to know whether a State has the authority at the present time to prohibit a pipeline coming through the State. If it does, then both at the present time and under this legislation the Federal Government would have to be, in its activities, consistent with that State plan.

I would also point out, I think, a more likely case is that States through which a given pipeline moved would have certain differences in their land use programs. The legislation does require each State to exchange information and otherwise consult with its neighboring States in the development of its programs; and we do not try to tell a State that "your plan must conform to what your neighbor does." We think that would be an interference with the State prerogatives. But we do say "you should at least work closely with them in the development of your plan." Hopefully thereby minimizing radical differences.

Senator STEVENS. You have indicated that the administration favors S. 992 as a first step toward total land policy development. If you

were to become convinced that S. 992 is not going to get anywhere this year, but the coastal management bill could be passed, what would be your position?

Mr. TRAIN. As I said earlier to the chairman, that is a bridge I would prefer not to have to cross at this time, Senator. I do believe that there is increasing support for a national land use bill, and I think that by all odds it is the most effective and most desirable way for approaching land use policy.

The administration is committed to a national land use program, including the coastal zone, and I would prefer to stick to that objective and push for one at this time rather than speculating on what would happen if we cannot get a national land use plan.

Senator STEVENS. The Senator from Oregon wants to carry on with that point.

Senator HATFIELD. I appreciate the Senator from Alaska yielding at this point.

Mr. Train, first of all, for the record, as you realize, I am a co-sponsor of S. 992 and I am in full sympathy with the concept expressed in that bill; I think perhaps that bridge is already here and, therefore, it would be very helpful to this committee if you would respond to this question.

What is the situation in the House of Representatives as it relates to the companion bill to S. 992? And what is the present overall policy of the Interior Committee of the House? What is its situation?

Mr. TRAIN. As I understand it—and I would not want to speak for Chairman Aspinall and I do not pretend to—but my understanding is that the present priority within that committee is with respect to the public lands.

Senator HATFIELD. Emanating from the Public Land Law Commission?

Mr. TRAIN. Yes; it is my understanding—but I am not positive of this, Senator—that the committee would be hopeful of taking up national land use policy somewhat later, following its consideration of public land problems.

Senator HATFIELD. Mr. Train, is it not reasonable to make this judgment: That the Public Land Law Review Commission triggered many bills, not just one, but many bills. Take one, for instance, dominant use, where introducing the varied concept of dominant use is not going to be handled quickly, without extensive hearings, and without probably many bills. Is it not reasonable to make a judgment at this point that there is very little likelihood that the House Interior Committee is going to go beyond these public land law bills upon which they have put first priority? In fact, is it not almost reasonable to say that it is doubtful they will even get through all of those bills?

So if we are looking for any kind of action from the House side on a comprehensive land policy such as the companion bill to S. 992, it is a pretty dismal outlook for any kind of action on that proposal this session. Would you not agree that in the overall picture that is a pretty fair appraisal?

Mr. TRAIN. I would not want to agree to that, Senator.

I have not taken a recent sounding with the House Interior Committee, and so I am really in a position to give this committee a very informed judgment in response to your question.

Senator HATFIELD. Then may I ask you this question? Are you aware of the referral procedure that was used in our S. 992 on the Senate side; that it was referred to the Senate Interior Committee, that the Senate Interior Committee considers it; and then it must be referred, as it is here to the Commerce Committee, to the Committee on Banking and Urban Development, and to the Committee on Public Works, four committees? Therefore, if this committee should act first, it must be referred back to the Interior Committee, or our version in the Commerce Committee must be referred over to the Interior Committee.

I happen to serve on the Interior Committee, and I know we are putting important priority on this bill; but just from the very mechanics of these various committees and their other workloads, in effect we are saying on the Senate side that this S. 992 is going to have to get the approval of four committees.

I have not been here that long, but I would make this kind of a judgment: It looks like there is little likelihood we are going to get four committees to act on this particular bill this session.

Then I have to come back to the language of "critical environmental concern," which causes me a great deal of interest, of course, because I am a coastal State Senator. But I am saying this as one who is a supporter and who believes in S. 992 but also feels that we have got to look at the realities, the practicalities and all the other things that face us here; and I would like to think that, as much as you are committed to S. 992—and I do not ask you to diminish your commitment to that at all, but to perhaps give us a little encouragement as to taking part of the loaf if we cannot get the whole loaf on one of these coastal bills. Would you give it support, or would you certainly undertake to take the concepts in the bill if you cannot get the whole loaf? And assuredly, I for one will press for the whole loaf. But I do not want to feel we do not have some kind of support from you if we have to come to the bridge—and I think we are already there—that you think is maybe still in the future.

Mr. TRAIN. I certainly would not want to discourage this committee from an aggressive, a positive approach toward this legislation; and that certainly is not my intention whatsoever, because I think that that could become a very negative kind of approach to what I think we all agree is an exceedingly important problem and a legislative program which I really believe the country is now ready for.

Senator HATFIELD. You would not put yourself in a position of rejecting a partial loaf if you cannot get the whole loaf, would you?

Mr. TRAIN. I cannot conceive that that would be the administration's posture, Senator. But I do want to really strongly emphasize that we started with this consideration of the coastal zone in the last Congress, and that was the administration's proposal; and at that time it seemed like almost a radical proposal to some.

For years there had been an effort to come up with a coastal zone management program, and it had never gotten anywhere, frequently



simply bogging down in the interagency bureaucratic competitive situation with which we are familiar.

Senator HATFIELD. I thank the Senator from Alaska.

Mr. TRAIN. That action on the part of the administration did represent a very strong positive initiative, which I think this committee recognized. And as I said earlier, we certainly feel that this committee has taken a very constructive interest in that legislation, and its extensive hearings last year have contributed substantially to public understanding and recognition of these problems.

But we now feel we are ready to go the much larger step of a national land use policy, including coastal zones, and this is the program which the President has submitted to the Congress and which we and the administration are committed to.

Senator HATFIELD. Thank you very much.

Senator STEVENS. I would like to follow that up. As you know, I am not concerned at this point in my questioning about the Alaskan pipeline. But I have been under the impression that there has been a great deal of competition developing downtown in the environmental agencies, with your Council on Environmental Quality and the Department of Interior and the Environmental Protection Agency. Perhaps when we passed the National Environmental Policy Act, we should have established your council and asked that you come up with some firm guidelines and recommendations as to how we should implement the new policy, rather than set up the guidelines and then tell your council to somehow or other try to work it out.

With the proposal, are we not getting about the same thing with another new, broad-scale national land use policy by which we are again dividing the total environmental concepts between HUD, Interior, your agency and, as a matter of fact, any Federal agency, as I understand this bill?

To return to the Senator from Oregon's comment, would we not be better off to put a segment of this concept into practice in the coastal zones and then evaluate the results, rather than to have a total national concept develop that would again result in competition between EPA, CEQ, Interior, the corps and a few others, to determine who is the best protector of the environment?

Mr. TRAIN. I would hope, sir, that we are not engaged in that kind of a competitive game. The role of the Council certainly is entirely different from that of the Department of Interior or any other department or executive agency in the EPA. We do not have in the Council administrative responsibilities. We are not a line agency. We are advisory to the President. So, insofar as we are concerned, we are not engaged in competition with EPA or the Department of the Interior.

Now, among the executive agencies, necessarily, administration of many of these programs does involve very close coordination and sometimes some overlap. As we move into areas such as land use, I think we are increasingly recognizing that we are dealing with problems that cut across broad areas of public administration.

There is no way to avoid the necessity for careful coordination of administrative responsibility. The problems of our society today are

so complex that I think there are very few areas where it is reasonable to expect that you can sort of put them neatly into one administrative compartment that go ahead and deal with the problem without some kind of very close coordination with other agencies. This the quality of this Nation's environment.

As you well know, our environment responsibilities within the Federal Government extend to just about every single agency. I cannot think of one, offhand, that does not have substantial impact on the quality of this Nation's environment.

SENATOR STEVENS. Yes; but I hope—and I hope the chairman and Senator Spong would agree—we are looking not only to provide a control mechanism to assist the States in proper land use planning in the coastal zone particularly; we are also looking for mechanisms that would clear the way when they do get into the position where action is necessary. I do not see that that is going to be possible if we wait for S. 992; nor do I see that it would be possible, under the plan that once a State land use plan is approved by the Secretary of Interior and a grant is issued under S. 992 or S. 582, the State has to file an environmental impact statement with EPA, and then file the total concept of involving any further Federal activities, not taking into account the time to approve the plan.

I think that we might well be creating another roadblock in working toward proper protection of the estuaries, the coastal zones, if we are not careful. It seems to me this has to be coordinated in the beginning with the Council on Environmental Quality and EPA and other agencies to insure that what Interior says is the proper State land use plan is, in fact, going to be followed up by the Federal agencies that are involved.

The Senator from Oregon and I share the same viewpoint. We would rather have the smaller bill this time and follow its progress. That is a comment, not a question.

MR. TRAIN. Well, I have tried to answer the comment.

SENATOR HOLLINGS. Just to see where it goes, let me ask a specific question. Last year the administration presented a coastal zone management bill and allocated that responsibility to the Department of Interior. But that was prior to the administration's submission of Reorganization Plan No. 4 establishing the National Oceanic and Atmospheric Administration.

You and I both talk in glowing terms of the development of interests now in coastal zones. I like to think it came in large measure from the bipartisan, very comprehensive study made by the Stratton Commission. That very same Commission recommended, of course, that once NOAA was instituted, that it have the administrative responsibility of the coastal zone.

Now, do you recommend, if we cannot go forward with the whole loaf, as Senator Hatfield was talking about, that we go along with half a loaf? And if we do go along with the half a loaf, do we go along with it in the Department of Interior or within NOAA?

MR. TRAIN. I think here again, we are having to sort of look into a somewhat clouded crystal ball as to the future. As you know, the President has proposed a major reorganization—

SENATOR HOLLINGS. I believe it is too clear. We do not see the clouds that you see.

Senator SPONG. Mr. Train, I think he has asked you the same question three ways.

Senator HOLLINGS. Excuse me for interrupting you.

Mr. TRAIN. I was delighted to be interrupted.

Senator HOLLINGS. Go right ahead.

Mr. TRAIN. If I could be a little facetious, it reminds me—I was on a program known as “Meet The Press” not very long ago and I was discussing with my staff possible questions that might come up, and without identifying what the question was, I will say that I asked them how will I answer so and so? And a response I got back from one member of the staff was, “Ask to have the question repeated and then pray for a station break.”

As you know, the President has proposed a major reorganization which would involve the development and evolution of a Department of Natural Resources which would include the responsibilities, as I understand it, now held by NOAA. Certainly, this would mean that looking at the larger land-use proposal that all elements of land use as they affect the environment, both landward and seaward, would be integrated administratively within one responsible Federal agency, the Department of Natural Resources.

Likewise, if simply a coastal zone management bill were enacted by the Congress, that, too, should be administered in the Department of Natural Resources that the President has proposed.

Now, I suppose the next question would be, well, suppose Congress does not go along with the establishment of the Department of Natural Resources; what then? I would prefer not to answer that question at this time because here, again, the administration is strongly committed to the development of a Department of Natural Resources and I think it is long overdue.

Certainly, as one who spent a year in the Department of Interior as it is presently constituted, I feel very strongly that this is an important step to take and one which we are ready to take, and I would hope that Congress will look very affirmatively upon that proposal and that we look forward to the management of the ocean resources and coastal resources as being part of the Department of Natural Resources.

Senator HOLLINGS. Senator Spong.

Senator SPONG. I just have one last inquiry that does not relate to this bill or to your position as to coastal zone management or a general approach. It is a very small thing, but in response earlier to Senator Hollings you went into a number of Federal agencies and departments that come under the National Environmental Policy Act, particularly with regard to the environmental impact statements required under section 102.

Are you aware that the Justice Department in its administration of the Safe Streets Act does not or has been ruled that it does not come under these provisions?

Now, let me translate this so you will understand an example of what I am talking about. In the location of penitentiaries, for instance—we do not use the word “penitentiaries”—detention facilities—that they are, as the situation now stands, not under this law. Were you aware of that?

Mr. TRAIN. I am not personally aware of that and I am not really—I do not understand why such facilities would be considered not covered by the National Environment Policy Act. Major Federal buildings, we consider, do have or can have an impact on the environment. For example, we have had an environmental impact statement filed by the Department of the Treasury with respect to the construction of a new mint.

Frankly, I am not aware that these facilities are not being included.

Senator SPONG. This would be federally assisted as opposed to federally constructed, but what I would like to do, in the interest of time here this morning—I would like to submit this situation to you for your comment, because we become increasingly concerned about the exclusions where the Federal Government is involved.

Mr. TRAIN. May I ask Mr. Reilly to comment on your question, Senator, because I believe he is somewhat familiar with the background.

Mr. REILLY. Senator, I believe the matter you raise is the one where the Law Enforcement Assistance Administration made a block grant to the State of Virginia, which then proposed to construct a prison facility in a valley of historic farms, which I think included three sites listed on the national register.

I am informed that the Justice Department Law Enforcement Assistance Administration has met subsequent to that decision with members of the Advisory Council on Historic Preservation, and they have agreed that in the future such block grants will be subject to section 106 of the Historic Preservation Act of 1966 and to the Environmental Policy Act of 1969.

Senator SPONG. I am not prepared to comment on the merits of this particular case, but I was somewhat surprised, having participated in the enactment of this legislation, to find exclusions right within my own State. Now, this would not affect what has already taken place, if I understand what you have said.

Mr. REILLY. It would not. The reason that the money was allowed to be used by the State of Virginia in the way that it was is that there were no advance plans required by the Justice Department. In other words, the State of Virginia received the money without having said what it proposed to do with it. It then later decided to construct this facility, and it was at that time concluded that its use of money was not a Federal undertaking in the traditional sense, but that would be corrected by the Justice Department in future cases. That decision is also under appeal right now.

Senator SPONG. I am aware of that. Thank you.

Senator HOLLINGS. Senator Stevens.

Senator STEVENS. Mr. Chairman, I have got some other questions I would like to submit to Mr. Train. There are some technical problems concerning the level of appropriations that relate to the two bills. If that would meet with your approval, I would like to submit them to Mr. Train.

Senator HOLLINGS. Mr. Train will receive those questions.

Senator STEVENS. One last comment relative to my previous comments. I hope that you will assist us in making certain that, if we decide to "buy half a loaf," that it is consistent with the total national

goal of a national land-use policy and that we do it in such a way to prevent what I consider to be the very unfortunate consequences of the National Environmental Policy Act; and that is, the definition by the courts of what the NEPA means. I think Congress should have defined what we meant by NEPA and not left it to the courts. There is an inconsistent pattern, in my opinion, developing throughout the United States in terms of what the National Environmental Policy Act does mean and what it covers.

I am sure you have seen these decisions, and I have been quite disturbed with them in terms of their inconsistency. It would seem to me that your people can give us great assistance to make sure, if we do take the short route, that we do it consistent with the total national land-use policy. I hope you would be of that assistance.

Thank you, Mr. Chairman.

Mr. TRAIN. Let me assure the committee that our Council and staff are most anxious to work closely with the members of this committee and its staff in the development of the best possible legislation, and we would note that we would certainly make that same offer to the other committees involved in this subject here in the Senate; and would urge—although here I am treading on what is manifestly the jurisdiction of the Congress and not the executive branch—that everything be done here, as I am sure is being done, to develop a unified, overall approach to what I think we all agree is a prime national need for more effective land-use control nationwide.

Senator HOLLINGS. Mr. Train, we appreciate very much your appearance here this morning, you and your colleagues, and we thank you very much.

Mr. TRAIN. Thank you very much, Mr. Chairman.

[The statement follows:]

STATEMENT OF HON. RUSSELL TRAIN, CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

Chairman Hollings, Senator Stevens and Members of the Committee, I appreciate the opportunity to testify on the relationship of the pending coastal zone legislation and the national land use policy legislation submitted by the Administration and now pending before the Senate Interior Committee.

As this Committee is well aware, during the last Congress the Administration proposed coastal zone management legislation, which, along with other bills introduced by Senator Hollings and other members of the Senate, was the subject of extensive hearings before this Committee. I had a particular interest in the legislation since, when as Under Secretary of the Interior, I chaired an interagency task force on coastal zone management which developed the proposals submitted by the Administration. On February 8, 1971, the President submitted to Congress his second Environmental Message, laying before Congress a far reaching and innovative set of legislative proposals to deal with the problems of controlling pollution, to deal with emerging new problems such as toxic substances and ocean dumping, and to promote better land use. Among other major proposals in the latter category, the President called for a national land use policy. This legislation, now pending as S. 992 before the Senate Interior and Insular Affairs Committee, recognizes the need for reform of State land use law. It urges States to assume greater regulatory authority, in conjunction with local governments, over significant development and conservation issues of more than local impact. These were the essential objectives of the Administration's initial coastal zone bill, although the geographic area of concern in that legislation was more limited and the issues for State attention less explicit than that contemplated in the national land use policy proposal.

You may find it helpful to have a brief history of the Administration's progress

toward a national policy for land use. The Administration's coastal zone proposal grew out of a number of studies, most important of which were the Stratton Commission Report and the two Estuarine Reports by the Department of the Interior which culminated in the interagency task force chaired by myself when Under Secretary of the Interior, as I have already mentioned. The function of the task force was to develop the Administration's legislative proposal for coastal zone management. The central issue then, as it is now, was to build upon the inherent State regulatory authority in order to better guide development and conservation decisions in the coastal zone. There was some concern even then by the Administration that by urging the coastal States to take back from local governments some of the regulatory powers historically delegated to them over a limited area, the coastal States might complicate the reform of their zoning laws by creating new agencies dealing with only a portion of the problem. But at that time, over a year and a half ago, environmental issues were only beginning to awaken broad public interest and support and it was difficult to predict then what we know now—that the concern for the environment is an overriding domestic issue of sufficient weight that State and local governments are now willing to move much faster to broadly reform their institutional and regulatory processes over land use. Likewise, over this period of time the Administration, concerned congressional committees, and many State Governments have had a better opportunity to gain a deeper understanding of the problem, thus providing support for a broader solution such as represented in the Administration's land use bill.

In the ensuing six months the Council on Environmental Quality was established and submitted to the Congress last August its First Annual Report on the Nation's Environment. In that report the Council devoted a substantial chapter to the problems of land use in this country. The Annual Report recounted the first initiatives on coastal zone legislation but went beyond them to indicate the need for land law reform throughout the 50 States. In his message accompanying the Annual Report to Congress, President Nixon emphasized the importance of land use reform and indicated his desire to develop a national land use policy.

On February 8 of this year the President's national land use policy was articulated in the form of the legislative proposal submitted to the Congress in S. 992.

This Committee has given the problems of coastal zone management the highest priority, having held exhaustive hearings last year over a period of almost six months, hearing witnesses and eliciting testimony from the broadest spectrum of this country. The testimony and information elicited during these hearings have greatly assisted the Administration in assessing how best to meet the critical development issues in this country, particularly in the coastal zone.

The Administration is sensitive to the concern of this Committee that the issues of coastal zone management be given priority attention. We are likewise concerned that the States not complicate their reform of land use law by creating separate institutions over the coastal zone which might later compete with and complicate the ability of the States to address the total problems of land use planning and regulation within their borders. Certainly, the signs around us are unmistakable that States are now more willing to approach the land use regulatory issues on a broader basis, witness the recent legislation in Maine, Vermont and the proposed initiative in such diverse areas as Colorado and the State of Washington.

Now that the Administration is committed to a more extensive policy affecting land use throughout the United States, it seems reasonable to treat the coastal zone within this expanded framework. Thus, the very same objectives embodied in the Administration's coastal zone legislation are incorporated in the national land use policy proposal. Indeed, it is absolutely essential that a national land use policy include the coastal zone because the problems of land regulation in coastal areas are particularly severe, and failure to deal with them can lead to irreversible losses. Thus, the national land use policy proposal makes the coastal zone an area for priority attention (1) by defining the coastal zone as an "area of critical environmental concern" over which States must assert effective control, and (2) by allocating funds with specific consideration to the needs of the coastal States.

We feel that the long labors of this Committee have borne and are continuing to bear fruit and that the experience and insight your research and hearings

have brought to this critical issue provide a sound and useful basis for your Committee, the Senate Interior and other interested Committees, and the Administration to go forward with legislation that will give unified direction to State Governments in a coordinated national policy to implement this needed reform. Thank you.

STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT BEFORE THE SENATE COMMITTEE ON COMMERCE, MAY 5, 1971

STATEMENT OF HON. SAMUEL JACKSON, ASSISTANT SECRETARY METROPOLITAN PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ACCOMPANIED BY FREDERICK A. MCLAUGHLIN, OFFICE OF PLANS, PROGRAMS, AND EVALUATION, AND ROBERT PAUL, DIRECTOR OF THE DIVISION OF PROGRAM DEVELOPMENT, OFFICE OF COMMUNITY PLANNING AND MANAGEMENT

Mr. JACKSON. Thank you, Mr. Chairman.

It is a pleasure to appear before the committee. I am accompanied this morning by Mr. Fred McLaughlin, the Director of our Office of Plans, Programs, and Evaluation on my left; and, on my right, Robert Paul, the Director of our Division of Program Development in the Office of Community Planning and Management.

We appreciate this opportunity to present the views of the Department of Housing and Urban Development on S. 582 and S. 638, the coastal zone management bills, and on other bills, including S. 992 as proposed by the administration, to establish a national land-use policy.

Your committee is aware of the time and effort that has been devoted to the whole problem of national land use planning and management, both within and without the Federal Government, since legislation concerned with coastal zone management was first introduced. The President's first environmental report, for example, stressed the importance of developing a national land use policy. There is no question but that the coastal zones should receive high priority consideration under any national land use policy.

The Department of Housing and Urban Development is deeply interested in the development of the coastal regions. Many of our major cities and densely populated urban areas are located within areas defined as "coastal zones" in this legislation and it is certain that many urban areas—and particularly many areas of crucial importance for imminent urban growth—could be covered by the proposal coastal zone legislation. One of the most difficult of national problems is the achievement of a proper balance between the preservation of coastal lands and their development whether for commercial, industrial, residential, or recreational purposes.

The rising concern with the quality of the environment has been largely prompted by the recognition that the process of converting land to urban use is perhaps the single greatest force on the natural environment. Although urban land in the coastal zone is only a very small fraction of our total land area, it is, and will be, occupied by an overwhelming majority of our people, and its development and maintenance consumes much of the Nation's annual capital and the impact and needs of urbanization go far beyond urban boundaries.

Of course, land use planning will always be primarily a State and local responsibility, although the Federal Government does have a tremendous stake in helping promote sound national policies in this area. This is so because the States and their communities plan, construct, and operate the facilities that affect the use of land, for example, the transportation systems, the location and type of public facilities, and the amounts and uses of open space lands. Furthermore, the States have the basic legal powers to control and shape private development and use of land. Many of these powers have, of course, been delegated to municipalities and take the form of zoning ordinances, subdivision regulations, and various building codes. But the trend is for States to exercise increased land use control powers over specifically designated areas or issues.

Particularly in light of the developmental and governmental complexities I have been describing, we are concerned that the approach outlined in S. 582 and S. 638 will not be broad enough to be effective in areas subjected to growth pressures. For example, both open space planning and land acquisition for urban uses should be a key part of these plans, and housing needs must be considered. More important, we believe that planning and management of the coastal zone should be a key element of a broader, land use planning and management process that encompasses other important environmental areas that are critical to urban growth—and other crucial factors such as transportation systems, human resources and economic development.

S. 992, the administration's proposed National Land Use Policy Act, would do more, in our opinion, to encourage and support the States in establishing meaningful land use planning and management processes in which coastal zones would be an integrated element. Other elements of critical land uses would include river flood plains, areas of historic value, key facilities such as major airports, and land of potential value for new or expanded communities. Thus, a State could identify and weigh the needs of a variety of land areas that are subject to adverse pressures from growth. A State could see the conservation needs of its coastal regions with a perspective of many, often competing, issues of land utilization or conservation.

I would like to point out that S. 992 is designed to establish a national land use policy by emphasizing the management responsibility of the States. A plan, alone, too often is only a map that has no influence on the hard decisions like when and how to change land use patterns. S. 992 clearly requires the States to manage their critical land areas so as to assure their use in ways that are consistent with the long-range interests of their citizens.

The President has proposed another program that relates to this land use management function. To provide assistance to State and local governments in increasing their capacity to use wisely the funds provided by general and special revenue-sharing legislation, the President has recommended enactment of a planning and management assistance program. Of special significance here is that the program would provide grants to the States to help the Governors improve their ability effectively to plan and manage. We would expect, for example, that a Governor might use some of these funds to determine the underlying economic and social policies that clearly



affect the growth of his State and the general ways in which land areas would be developed. We would also expect that a Governor would undertake improvements in the governmental machinery" of the State in order to use all of the State's resources more efficiently in providing services to the citizens.

The point here is that this planning and management assistance program can help in providing the broad framework of planning and management to guide the more specific activities contemplated in any of the bills that we have discussed today.

To summarize, we are clearly in favor of the objectives of the coastal plain bills to improve the management of the valuable land and water resources of our coastal zones. But we believe that this management activity belongs within the broader responsibility of land use policy as contemplated in S. 992, the National Land Use Policy Act of 1971.

Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you.

Senator STEVENS. That is a very good statement. Has your department given careful consideration to the problem of trying to coordinate the environmental activities. By this I mean environmental activities under the National Environmental Policy Act in terms of the concept of planning in advance so that a State would be able to know in advance that the environmental concepts which are covered by the National Environmental Policy Act would be met by a land use plan?

Is this within your concept as to how this national land use policy legislation would work?

Mr. JACKSON. Yes, Senator Stevens. We are already doing that to some extent now. As you know, section 102(c)(2) of the National Environmental Protection Act requires that we file the environmental impact statement that affects all grant programs that are covered in that act.

In addition, we have section 204 of the Demonstration Cities Act of 1966, and the Office of Management and Budget has established a procedure under A-95, which is one of the issuances of OMB, that provides that before any grant for any program covered by section 204—that includes our large-scale housing programs, water and sewer grants, urban mass transportation grants, open space land grants, libraries and so forth—a notice must be filed with the agencies of State and local government that do the metropolitan and area-wide planning for review and comment by these agencies to assure consistency with the planning and activity that is going on in that State and to determine its impact upon other communities that would be affected by the activity.

Now, what S. 992 would do would be to organize that more effectively under the State, especially as it relates to those areas of the State where there are critical environmental concerns.

We believe that it would substantially enhance the Federal mechanism for assisting State and local governments to take into consideration the possible adverse impacts on the environment during the planning process from all development.

Senator STEVENS. As I listened to your answer, I could only think of the sign that used to say "Plan Ahead," and the "d" and everything was down at the bottom because they ran out of space.

I think if we are trying to help the States plan ahead, there has got to be some way to prevent them from running head-on into a problem which was not raised by anybody at the planning stage. To me, that would be an environmental problem.

It does not seem to me that we have done enough to require the advanced coordination of the land use planning with the advance concepts of NEPA. The 102 statement is a good example. I recently received Mr. Ruckelshaus' monthly report, the 102 report. I think the unemployment situation in the country today would be more easily understood if we considered the delay factors of NEPA, which are not presently understood by the Congress, in my opinion. I would hope that your department, in particular the model cities concepts and communities, would have the ability to forestall the environmental problems that might result in the future.

Consider, for instance, constructing a new city around Fairbanks in my State. You could proceed with a nice plan and a State land use plan and everything else. However, if the concept of water pollution that we have in the wintertime with ice fog were not taken into account, it would result in the final approval basis being stalled completely by virtue of not having an environmental aspect properly included in State land use planning from the very first.

Therefore, I would hope that this would be one of your goals, Mr. Jackson. I thank you for your comments and I assume you agree with Mr. Train, in that you would rather have the "whole loaf" rather than the "half a loaf" concept.

Mr. JACKSON. Absolutely, Senator. We think that S. 992 is the proper approach for the Senate to take.

Senator STEVENS. May I ask one more question. I asked Mr. Train this. Do you believe that a Federal activity under section 106 would include insurance activities under Federal housing or grants to States under the various housing programs? In other words, are we really covering all Federal activities or are we just covering the activities of the Federal Government?

Mr. JACKSON. Senator, as you know, the section you referred to refers back to section 204 of the Demonstration Cities Act of 1966. This is what I was referring to when I indicated that the Office of Management and Budget has implemented that through one of its issuances called A-95. That procedure defines what is Federal program activity for the purposes of section 204.

Now, as it relates to the housing programs, it applies to projects of 50 or more contiguous lots—projects of 50 single family homes or multiple family housing of 100 units or more. We have determined that that is the proper size for ascertaining that its impact is significant enough to require the use of the A-95 procedure.

For each of our programs we made an assessment of when the impact is substantial. Whenever the impact is substantial, then the type of predevelopment coordination that you speak of is required.

Senator STEVENS. Unless there are 50 homes, for instance, under that concept, then, a small subdivision of 25 homes would not come within your definition of significant Federal activity. Is that right?

Mr. JACKSON. That is right. It is to cover the big projects that really have impact, but to permit the smaller projects to continue because they are very small.

Senator STEVENS. Do you feel that the meaning of 106 (a) is sufficiently well understood by Federal agencies, so that we are not going to have someone come in after the fact and say, "You should have had our approval before you put this plan into effect?"

Mr. JACKSON. Not only is it understood by the Federal agencies, but also by the State and local governments. There already exists throughout the Nation an extensive network for carrying on this section 204—A—95 activity, and that is the reason why in S. 992 we tied it into an existing mechanism so that it can be expanded rather than creating an additional network.

Senator STEVENS. Thank you very much.

Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you, Senator Stevens.

Mr. Secretary, on your comment that S. 992 is certainly the desired and proper approach, the question is, Is it the practical approach? And in that way, your comment that S. 582 and S. 638 are not broad enough to be effective, are you saying they are not broad enough in the land area or the coastal area to cover it, or are you saying they are not broad enough in their approaches?

Mr. JACKSON. Well, it does not include the dynamics of community and urban development and urban growth that occurs in that portion of the States and in those States that are coastal zone States. Your definitions, your scope of activity, does not consider what actually occurs in these areas.

As you know, we have a large number of our major cities that would be included in the 31 States affected by the coastal zone legislation and their activity. The dynamism that goes on every day in the development and planning and use of that land for housing, for commercial facilities, for large public facilities just is not considered in here, and it just seems to us that for Congress to embark upon legislation that is as significant as this is without including the dynamics that go in urban growth and community development would be a mistake and that it would be far better to include it in the broader concept that S. 992 suggests.

Senator HOLLINGS. Well, are you aware that the National League of Cities, the National Association of Counties, and various other groups came forward last year on the coastal zone bill attesting to the dynamics of urban development and testifying in favor of the enactment of the coastal zone bill?

Mr. JACKSON. Yes, Senator, and the administration did, too, and we support the concept of the coastal zone bill.

Senator HOLLINGS. That is what I am trying to get. If you could not get the whole loaf, again, would you go along with this coastal zone bill?

Mr. JACKSON. We believe that the proper action is to push vigorously for S. 992 and we think—I think that the answer of Chairman Train was the appropriate one in regard to what the administration posture is.

Senator HOLLINGS. Well, it is not that there is a broad divergence between the coastal zone provisions of S. 992 and the coastal zone bills. Or do you see a broad difference?

Mr. JACKSON. Well, the coastal zones is only one of the critical areas that critically affect the environment. We mentioned others included in our provision. For instance, we have shorelines, the flood plains, the rare and valuable ecological systems, scenic and historic areas, conservation areas, key facilities such as airports, highway interchanges, major recreational lands, and public facilities. All of these areas are critical to protecting our natural environment and to prevent the damage to our ecological systems.

We believe that the coastal zone, as important as that is—and we do not want to diminish its importance—should be part of a total system of planning and protecting our natural environment within the States.

Senator HOLLINGS. Do you see any conflict or opposition whatever in the allocation now of all of these functions to the States from the municipalities or urban areas that you represent?

Mr. JACKSON. That is one of the key differences in our bills, also. S. 992 would specifically allow the use by the State of the existing network that exists in the local communities and in these regional planning bodies.

As you know, the bulk of land use planning that goes on in the Nation now is done in the metropolitan bodies or local communities, and S. 992 acknowledges that and would use that, but within the parameters determined by the State. It seems to me it would be very fundamental to the successful use of any major land use planning that is envisioned both by your bill as well as by S. 992 to use that mechanism to the extent that the State in implementing its land use planning program would choose to do.

Senator HOLLINGS. It has been pointed out that S. 992 appears as a State takeover. Can you point out the language in the bill, or sections generally, wherein you find the legislation acknowledges the urban preeminence and leadership in zoning in urban areas?

Mr. JACKSON. Yes, Mr. Chairman. If you look at the bottom of page 9, subparagraph I, it says:

The State has coordinated with metropolitanwide plans existing on January 1 of the year in which the State land use program is submitted to the Secretary, which plans have been developed by an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966;

(2) Coordinate with appropriate neighboring States with respect to lands and waters in interstate areas; (3) take into account the plans and programs of other State agencies and the Federal and local governments.

So it is very clear it contemplates using to the extent that is compatible for the State those plans that already exist and those agencies that already exist, and thereby not reinventing the wheel as part of this valuable function that we want the States to do in the area of land use planning.

Senator HOLLINGS. All right. Mr. Jackson, do you have any further comments or statements you wish to make?

Mr. JACKSON. No. Thank you, Mr. Chairman. We appreciate the opportunity to appear before your committee.

Senator HOLLINGS. And the committee is very grateful for your appearance this morning and your colleagues, too. Thank you very much.

STATEMENT OF THE DEPARTMENT OF THE INTERIOR BEFORE THE SENATE  
COMMITTEE ON COMMERCE, MAY 5, 1971.

STATEMENT OF HARRISON LOESCH, ASSISTANT SECRETARY,  
PUBLIC LAND MANAGEMENT, DEPARTMENT OF INTERIOR

Mr. LOESCH. Thank you, Mr. Chairman. I am very grateful to have the opportunity to appear before your committee.

In view of the time pressures which I am sure you have, you might find it appropriate if I asked to have my formal statement placed in the record.

Senator HOLLINGS. It will be included in its entirety in the record.

Mr. LOESCH. Thank you, Mr. Chairman.

I might just very briefly summarize it by saying that it basically repeats the thrust of the statements of Chairman Train and Secretary Jackson to the effect that while we consider coastal zone management of extreme importance in the overall environmental picture, we believe that at this time and under the circumstances, it is too narrow an approach, and, consequently, support the overall land use planning bill.

In that connection, having listened to the testimony this morning, I would like to say that while, again, certainly I would not want to be stepping on anyone's toes or attempting to read the minds of Members of Congress, I deal every day with the House Interior Committee, and with all the caveats that I have mentioned, I may say that my reading is not anywhere near as pessimistic about the possible actions of the House Interior Committee as Senator Hatfield's were this morning.

I believe that S. 992, and its companion, fit in very well with the concepts which Chairman Aspinall has in mind. He has, as you may be aware, made public announcement that he does not intend to address himself to the particularities of the Public Land Law Review Commission Report before getting overall framework legislation before the Congress.

It is my view that S. 992 is exactly the sort of overall framework legislation in which he is greatly interested.

With that, Mr. Chairman, I am open to any questions you might have.

Senator HOLLINGS. We appreciate it Mr. Loesch. We have your statement. You can understand the concern of the committee, and we have gone right along with the land use bill. But barring being able to do that, we just wondered what the disposition was of the administration relative to its coastal zone bill which it backed so strongly last year.

We do have some questions from Senator Stevens and others that we would like to submit in writing if you do not mind.

Mr. LOESCH. I would be very pleased to respond to them.

Senator HOLLINGS. We appreciate very much your appearance here this morning.

Mr. LOESCH. Thank you very much.  
 [The statement follows:]

STATEMENT OF HARRISON LOESCH, ASSISTANT SECRETARY, PUBLIC LAND MANAGEMENT, DEPARTMENT OF INTERIOR

Mr. Chairman and members of the subcommittee, thank you for this opportunity to discuss briefly S. 582 and S. 638, similar bills whose purpose it is to assist coastal States in their management of estuaries and the coastal zone. As the Committee recognized in scheduling these hearings, the coastal zone issue cannot be considered apart from pending proposals for a national land use policy.

In our report to the Committee, we note in some detail the specific provisions of S. 582 and S. 638. They are quite similar to draft legislation supported last year by the Department of the Interior and reflect a well-founded conviction that effective management of land and water resources can best be promoted by encouraging the States to accept broadened responsibility for land use planning and management. Under S. 582 and S. 638, the Secretary of Commerce would be authorized to share with coastal States their costs in the development and administration of a coastal zone management program.

Studies conducted by this Department pursuant to the Federal Water Pollution Control Act and the Estuary Protection Act of 1968 confirmed our fears that, in the absence of effective protective measures, the finite resources of our coastal and estuarine areas are threatened by population growth and economic development. We observed to this Subcommittee a year ago yesterday that "what is happening in the coastal zone of America represents the basic, but too often ignored, conservation issue throughout the United States—the lack of wise use, without abuse, of our land and water". Also recognizing that land use problems are not limited to the coastal zone, the Council on Environmental Quality last August expressed "a need to begin shaping a national land use policy."

Chairman Train has already spoken of this Administration's commitment to a national land use policy. In his message of February 8, "Program for a Better Environment", President Nixon discussed the relationship of his land use proposal to the question of coastal zone management: "This proposal", he said, "will replace and expand my proposal submitted to the last Congress for coastal zone management, while still giving priority attention to this area of the country which is especially sensitive to development pressures."

Like S. 582 and S. 638, S. 992 would authorize cost-sharing grants both for program development and program management. Our proposal differs from those bills directed solely to the coastal zone, however, with respect to the scope of a State's planning activity and, indeed, the number of States eligible for assistance. The National Land Use Policy Act of 1971 would recognize, nonetheless, that land use pressures and the conflicts they cause are most intense at the point where land meets water. To assure that coastal zone and estuarine management receive the priority attention of coastal States, S. 992 would identify the coastal zones and estuaries as "areas of critical environmental concern and require that a State's land use program include a method for inventorying and designating such areas. Further, the Secretary of the Interior, charged with responsibility for administration of Federal assistance, would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries are adequate for protection of their aesthetic and ecological values. Perhaps most important in terms of State action is the provision that \$100 million would be allocated over five years under regulations which must take into account the nature and extent of States' coastal zone and estuaries.

As the hearings of this Subcommittee have shown, there is a great and growing concern for protection of the Nation's coastal zone and estuaries. That concern, we believe, must extend to land use problems within a much broader context. The Committee is no doubt aware that many of the conflicts felt at water's edge have their origins further inland, and that only comprehensive planning can alleviate the growing pressure. While coastal zone planning is needed, we must also recognize that land use decisions cannot be made effective in the absence of a State-wide policy. The States seem willing to accept this challenge, and the President is committed to a more extensive policy affecting land use throughout the United States. Having learned from the State's growing

experience with land use regulation and cognizant of a growing public concern about the environmental consequences of all land use, we now urge the enactment of legislation that will encourage States to control not only how land will be used, but how well it can be used.

Senator HOLLINGS. The committee will next hear from Mr. James Goodwin, the coordinator for natural resources, State of Texas.

Mr. Goodwin, we have a letter here from your distinguished Governor, Preston Smith, the Governor of Texas, on your behalf which we will include in the record at this time.

STATEMENT OF THE DEPARTMENT OF THE TREASURY BEFORE THE SENATE  
COMMITTEE ON COMMERCE, MAY 11, 1971

STATEMENT OF HON. MURRAY L. WEIDENBAUM, ASSISTANT SECRETARY OF  
THE TREASURY FOR ECONOMIC POLICY

Mr. WEIDENBAUM. Mr. Chairman, I am pleased to be here today to express the views of the Treasury Department on S. 582, a bill to establish a national policy and develop a national program for management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

I would like to offer my full statement for the record and summarize it orally.

Senator STEVENS. Your statement will be printed in the record in full, and you may summarize your statement, Mr. Secretary.

Mr. WEIDENBAUM. My comments will only cover the issues raised by the provision which authorizes Federal guarantee of tax exempt securities. The new section 307 authorizes the Secretary of the Interior to guarantee obligations issued by coastal States for land acquisition or land or water development and restoration. The total amount of guaranteed obligations outstanding at any time cannot exceed \$140 million.

The Treasury Department opposes Federal guarantees of tax-exempt obligations. There are four fundamental reasons for our position.

(1) The guarantee of tax-exempt obligations is an inefficient form of subsidy. The tax revenues loss by the Treasury exceeds the interest savings to the borrower. Let's take the case of the guaranteed bond which would sell in the current market at 5 percent on a tax-exempt basis and 7 percent on the taxable basis. The tax-exempt feature thus saves the State issuing the bond 2 percent. Yet in the case of the typical investor in the 50-percent tax bracket, the Treasury would forgo the 3½ percent, 50 percent of the 7 percent, which would, of course, have been paid in taxes if the taxable bond had been issued. Thus there would be a 2-percent saving to the State or local government but a 3½-percent cost to the Treasury.

(2) The guarantee of tax-exempt disproportionately benefits the investors in the higher tax brackets. For example, an investor in the 30-percent bracket receives roughly the same income after taxes on a 7-percent taxable bond as on a 5-percent tax-exempt, but an investor in the 70-percent bracket who holds a 5-percent tax-exempt bond is receiving as much interest after taxes as he would on a 17-percent taxable bond.

(3) Guaranteed obligations heighten the competition for the limited amount of funds available to State and local borrowers, hence, they raise the cost of financing of other local projects. For instance,

the school board might have to pay a higher interest rate on school bond issues if investors were attracted instead to the added supply of tax-exempt bonds, with Federal guarantees.

(4) These guarantees conflict with our own Federal debt management policy. They create a class of securities which the Federal Government itself by law is prohibited from issuing.

We are also concerned with the growing tendency to rely on Government support of borrowings in the private credit market. There have been many studies in recent years of different ways of providing credit assistance to States and other borrowers. The general conclusion has been that providing credit properly is a function of private lending institutions.

These studies conclude that direct Federal credit assistance should generally be provided only where borrowers are unable to obtain credit on reasonable terms in the private market and only for programs of high national priority.

In this regard, section 307 permits Federal guarantees of tax-exempt bonds for any borrowings for the purposes set forth in that section. Thus, all eligible borrowers would be encouraged to seek this Federal credit aid regardless of their ability to obtain funds from normal private market sources.

The Treasury is not aware of any specific problems which coastal States might have in borrowing for the purposes stated in S. 582 in the private market without Federal guarantees, or, indeed, whether the States desire to borrow for these purposes.

We are especially concerned with the need to husband Federal credit resources. There have been very large increases in these credit programs financed outside the budget. Compared to increases in fiscal 1970 of \$13 billion in outstanding Federal assisted loans, the new budget shows an increase of \$30 billion, a massive increase in just 2 fiscal years.

In the January budget message, the President dealt with this specific problem and I will quote briefly:

Federal credit programs which the Congress has placed outside the budget—guaranteed and insured loans, or loans by federally sponsored enterprises—escape regular review by either the executive or the legislative branch. \* \* \* I will propose legislation to enable these credit programs to be reviewed and coordinated along with other Federal programs.

We are now working on such legislation. We hope to be in a position soon to submit a proposal to the Congress for your consideration.

I now would like to—as requested by the committee—turn to alternative methods of providing credit assistance under S. 582.

Looking at the entire problem from the viewpoint of financial efficiency, the most direct, and least expensive, method of financing is, of course, direct Federal loans. Treasury can borrow at lower interest rates than other borrowers. However, Treasury direct Federal loans show up in the budget and limitations on the budget in recent years have not permitted much expansion of direct Federal lending.

In order to avoid both the budget outlay problem as well as tax-exempt interest coupled with loan guarantees. Congress last year provided—and this is a real innovation—a new method of financing Federal guarantees and interest subsidies on taxable municipal bonds. This new financing technique was first authorized in the Medical Facilities Modernization Act of 1970, which involved credit aid to



public bodies for hospital facilities. The administration submitted legislation proposing guaranteed loans for private hospitals and, in order to avoid guaranteeing tax-exempt bonds, direct loans for public bodies. Yet both the Senate and House committees initially recommended Federal guarantees of tax-exempt bonds.

In the ensuing congressional consideration of that bill, there was no disagreement between the administration and the Congress about the problems of guaranteeing tax-exempt bonds, but the committees felt that guaranteed loans to public bodies were essential to assure the availability of credit to them. Under those circumstances, the administration agreed to a Senate amendment to the House-passed bill, which was subsequently enacted in Public Law 91-296. That amendment provided that the obligations could be purchased by the Federal Government from a revolving loan fund then resold in the private market with a guarantee.

When resold, however, the interest on any obligations guaranteed will be subject to Federal income tax. Similar provisions were later enacted by the Congress for the rural water and sewer loans of the Farmers Home Administration. Public Law 91-617. A somewhat different approach was taken for new community loans guaranteed by the Department of Housing and Urban Development, Public Law 91-609, and in that act, the new community obligations can be issued directly in the market by the public bodies on a taxable basis. Thus, the Congress in 1970 provided for the first time for Federal guarantees of taxable municipal obligations and did this in three separate acts.

Another approach to providing credit assistance to local bodies is our Environmental Financing Authority, our EFA proposal. EFA would purchase tax-exempt obligations issued by local public bodies to finance their share of construction costs of waste treatment facilities eligible for EPA grants. EFA could purchase only obligations guaranteed by EPA and only if the issuing public body is unable to borrow in the market on reasonable terms. EFA would finance its purchases by selling its own securities in the market, and appropriations would be authorized to cover the difference between EFA's taxable borrowing rate and its tax-exempt lending rate.

The EFA legislation, S. 1015, permits a more efficient method of financing than the approach taken in the three bills enacted last year. EFA, as a corporate body, has the power to issue its own obligations, has the advantages of consolidated financing and an ability to adjust the timing, maturities, and other terms of its issues to changing market conditions, and thus minimize its borrowing costs.

Also, since there is an established market for the securities of Federal agencies such as EFA's, EFA would be able to raise quickly the funds necessary to meet the urgent needs for waste treatment facilities.

While the EFA approach may be the most efficient method, short of direct Treasury financing, of providing Federal credit assistance for certain programs, the administration considers that the use of this approach beyond assisting the financing of waste treatment facilities is not justified at this time. In this connection, I will stress our objection to the use of the EFA approach on a program-by-program basis, the inevitable result of which would be to move toward the establishment of a number of small federally sponsored agencies, hence inefficient, competing with each other in the capital markets.

In conclusion, we believe that Federal credit assistance should be authorized only for programs of high national priority and only for borrowers who are unable to meet their needs in the private financial markets. In those cases where the need for Federal credit aid is clearly established, we believe that the financing should be conducted in the most efficient manner available and in the taxable rather than in the tax-exempt market.

I would like to stress again that legislation will be proposed to facilitate overall review and coordination of both the financial and budgetary aspects of the various Federal credit programs which are financed outside the budget. Until the enactment of this legislation, we recommend against the establishment of additional programs of Federal credit aid except for the most urgent credit needs.

Mr. Chairman, this concludes my formal remarks. I would be glad to answer any questions.

Senator STEVENS. Thank you very much Mr. Secretary.

I could ask a semiembarrassing question since I support both the bill and a proposal to help Lockheed. I assume what you are saying relative to the Lockheed situation is they do not have any private money available.

Mr. WEIDENBAUM. I was wondering when you said embarrassing, whether you meant embarrassing to me or you.

Senator STEVENS. Embarrassing to me. I think we ought to help Lockheed, but I think we ought to do this, too. I am just wondering how do you justify the approach to aid Lockheed in terms of the private guarantee of their securities and say, at the same time, that this is an unreasonable one?

Mr. WEIDENBAUM. Of course, we are still drafting the Lockheed legislation; but, in this case, we are talking about guaranteeing tax-exempt securities, and in the Lockheed case everything is fully taxable. So our basic Treasury objection here is not to the guarantee, but to the guarantee of tax exemptions.

The other point that I make in my testimony is that, like our EFA proposal, there should be a demonstration that private credit is not available. That, of course, clearly is the case in the case of Lockheed. Private credit is not available without a loan guarantee.

Senator STEVENS. I think that could be demonstrated for Lockheed. But I think it could be demonstrated for these small municipalities or local governments equally as well. Doesn't the nontaxable status of the local governments derive basically from their situation as a government entity as opposed to Lockheed, which is a normally taxable entity?

Mr. WEIDENBAUM. Well, the key point I tried making in my testimony is that the benefit to the State and local governments issuing the security, which is an important benefit we want to maintain, is far less than the cost to the Treasury. It is not 1 for 1. In other words, as I point out in the case in my testimony, where a State saves 2 percent of interest through the tax-exempt feature, the Treasury loses 3½ percent of tax revenues on interest.

Senator STEVENS. You made a very valid point. The only problem, it would seem to me, is that we ought to be able to find some way to make the impact of the guarantee of tax-exempt securities issued by local governments equal on the Treasury without regard to who purchases them.

That is a technical problem. But, it does seem to me that the guarantee route in permitting the local government agencies to issue their bonds, which is a very simple matter of guarantee, cuts down—in addition, you have not taken into account the total cost to the Federal Government of the programing and the controls that we have over local governments through our national bureaucracy and the cost of that administration in terms of comparing the cost to the Treasury. Certainly, it may cost 2 percent as opposed to 3½ percent, depending upon the tax bracket. But what about the 25 percent of the program that goes to the administration costs if we issue all the bonds from the Federal Government and then turn around and have approval and everything else placed on the local governments?

Mr. WEIDENBAUM. I suggest, Mr. Chairman, that the items I cite in my testimony are examples of ways of achieving the objective of getting needed capital funds into State and local governments without an excessive cost to the Federal taxpayer. We have no quarrel with the objective to put States and localities in a strong position in terms of raising the capital they need for their high priority programs.

In other words, in the system in the Farmers Home Administration program I described, or the HUD program, the same benefit in terms of low interest costs is available to the State and local government and other public bodies, and yet the cost to the Federal taxpayer is much less than contemplated under this bill. The difference, of course, is that the benefit to high bracket investors is reduced.

Senator STEVENS. I think what we are trying to work out is a program whereby we can get a Federal subsidy to local governments through a guarantee of their securities. This is not the same as the housing program or the new communities program, with which I am very familiar. Again, you are dealing primarily with private corporations which would be taxable anyway, and the subsidy there is in the guarantee of the security in the first instance. We would like to work out a program. Would the Treasury Department be willing to work with our staff to see if we could work out a program which would involve a uniform tax treatment of securities of local government which, in fact, did include a subsidy but which would be a constant subsidy no matter who purchased the bond?

Mr. WEIDENBAUM. The Treasury staff certainly would be very pleased to work with your committee, Mr. Chairman, to assist in developing proposals which would meet those objectives. I really do not want to commit myself on the specific recommendation that we might develop, keeping in mind the need to raise funds at State and local levels, coupled with the need for equity—and I have to emphasize that—equity to the Federal taxpayer.

Bear in mind, please, Mr. Chairman, this is the administration that has been urging the Congress to expand Federal financial assistance to State and local governments in a very major way. We are sensitive to the financing problems faced by States and local governments.

To be very personal, I am the man in the Treasury Department who developed the general revenue-sharing proposal jointly with State and local officials throughout the country, and spent most of

the last 2 years dealing with them on their very pressing financial problems. So I assure you we are intimately aware of the financial needs of State and local governments.

Senator STEVENS. I commend you on it as one who supports that proposal. But again, I think the problem in regard to these State and local securities is that there has been an antipathy downtown toward these for many years. It seems that what you are saying to us is that you have no objection as long as we use taxable securities and guarantee them. I agree that there is a built-in advantage in this plan, but I do not think there is a necessary subsidy. We are trying to have the Federal Government bear part of this responsibility through a financing program.

There are some positions, which you have presented, you have in common with us. You have indicated that we should help local governments undertake high priority programs. You also agree that the local governments do not have those resources, and also that the Federal Government's borrowing capacity and its standing will assure the marketability of these, if either a guarantee is given or the Government issues them themselves, if it can be done cheaper by the Federal Government.

Mr. WEIDENBAUM. May I add a proviso? Point one, many State and local governments clearly demonstrate the ability to market substantial amounts of their own securities without any Federal assistance.

Senator STEVENS. I agree, but not in new program areas. We have demonstrated in new communities and other areas that with the Federal guarantee in new program areas, there is a borrower acceptance immediately, whereas, otherwise, you have to have an attractor. I think you agree with that.

Mr. WEIDENBAUM. That is why in our EFA proposal, which is before the Public Works Committee at this time, we have a proviso that EFA will lend only if credit cannot be obtained—if these bonds cannot be issued at a reasonable rate in the private market. I do not think we should underestimate the ability of State and local governments to raise large amounts of funds in private markets without any Federal participation. We certainly do not want to preempt that.

In other words, in an incremental sense, these programs are designed to assist State and local governments but not to replace the great bulk of their efforts to raise their own capital. Again, I need to point out that the administration—the President personally, in his budget message—showed very strong concern over the growing proliferation of Federal credit programs. My formal statement quoted at greater length than I did orally from the President's message. He has instructed us subsequently, of course, to develop specific legislation. When you sit in the Treasury you are impressed by the proliferation—I can use no other term—the proliferation of Federal financing arrangements, whether it be guarantees or other credit programs, outside of the budget. Whether they involve budget expenditures or not, because of the Federal guarantee, they preempt the credit market in the sense the Federal Government is deciding which items in the private sector are going to be financed with private funds.

Senator STEVENS. I do not think we have any disagreement, Mr. Secretary. We just happen to think this is a very high priority

program. That is all. It is a practical matter. Yet we do have a disagreement in one sense, and that is that I commend the administration for what it has done in terms of recognizing the needs of local governments in terms of revenue sharing. But I do not think that there has been an adequate treatment of increasing the ability of small local governments to finance their own programs without the necessity of Federal grants and aids. We have, I believe, an efficient way of doing this through guarantee, assuming as we do that you have made a very valid point about the cost to the taxpayer, the difference between purchaser "A" and purchaser "B" and their own income tax bracket. But I think we ought to be able to work that out and we would truly welcome it if you could do that.

Do you have any last comment? I must tell you that I would like to recess for just 5 minutes. I have to go up for a quorum so they can report out one of my bills.

Mr. WEIDENBAUM. I just want to say that the Treasury would be pleased not only to work with your staff but with you or members of the committee and the staff, and if you have further questions, please do not hesitate to call upon us. We would very much like to be helpful to you.

Senator STEVENS. I think that is a very constructive attitude and I feel certain we can work it out because I am sure we want to have a Federal guarantee of these and permit the local governments to go out into the bond market themselves. Whether the Congress as a whole agrees is another matter.

We will take about a 5-minute recess.

[The statement follows:]

STATEMENT OF HON. MURRAY L. WEIDENBAUM, ASSISTANT SECRETARY OF THE  
TREASURY FOR ECONOMIC POLICY

Mr. Chairman, I am pleased to be here today to express the views of the Treasury Department on S. 582, a bill to establish a national policy and develop a national program for management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

The Administration has provided this Committee with comments on S. 582 and its relationship to the legislation proposed for the Administration, the National Land Use Policy Act, which has been introduced in the Senate as S. 992.

My comments will be addressed to the issues raised by the provision in S. 582 which would authorize Federal Government guarantees of obligations the interest on which would be exempt from Federal income taxation.

S. 582 would add a new title III to the Act of October 15, 1966, and the proposed new section 307 would authorize the Secretary of the Interior to guarantee obligations issued by coastal States for the purposes of land acquisition, or land and water development and restoration projects. The total amount of guaranteed obligations outstanding at any time could not exceed \$140 million.

As stated in the Treasury Department's report of April 14, 1970 to Chairman Magnuson on S. 3460, 91st Congress, which is similar to S. 582, the Treasury Department opposes Federal guarantees of tax-exempt obligations because of four fundamental problems raised by such guarantees:

1. The guarantee of tax-exempt obligations is an inefficient form of subsidy since the Federal tax revenue loss exceeds the interest savings to the borrower because of the tax-exempt feature. For example, a guaranteed bond might sell in the current market at 5 percent on a tax-exempt basis and 7 percent on a taxable basis, in which case the tax exempt feature would result in a savings to the borrower of 2 percent. Yet an investor in the 50 percent Federal income tax bracket would net only 3½ percent after taxes on a 7 percent taxable bond. Thus, only 2 percent of the 3½ percent Federal revenue loss would be realized by the borrowing public body.

2. The guarantee of tax-exempts disproportionately benefits investors in the higher Federal income tax brackets. That is, an investor in the 30 percent tax bracket receives roughly the same income after taxes on a 7 percent taxable bond and a 5 percent tax-exempt bond with the same Federal guarantee; but an investor in the 70 percent tax bracket who holds a 5 percent tax-exempt bond is receiving as much interest after taxes as he would only a 17 percent taxable bond.

3. Such guaranteed obligations heighten the competition for the limited amount of funds available to State and local borrowers from high tax bracket investors and raise the cost of financing other local projects for which direct Federal credit aid is not provided. For instance, a local public body might be required to pay a higher interest rate on its school bond issues if potential investors were attracted instead to the added supply of tax-exempt bonds with Federal guarantees.

4. Such guarantees conflict with Federal debt management policy by creating a class of securities (tax-exempt) which the Federal Government itself is prohibited from issuing by the Public Debt Act of 1941.

In addition to our concern with the problems resulting from Federal guarantees of tax-exempt obligations, we are also concerned with the growing tendency to rely on direct Government support of borrowings in the private market.

There have been several studies in recent years by the Administration, the Congress, and others of the various methods of providing Federal credit assistance to States and local public bodies as well as to private borrowers. The general conclusion from these studies has been that the provision of credit in our economy is properly a function of private lending institutions and that direct Federal credit assistance should generally not be provided except in cases where borrowers are unable to obtain credit on reasonable terms in the private market for programs of high national priority.

In this regard, section 307 would permit full Federal guarantees of tax-exempt bonds for any borrowings for the purposes set forth in that section. Thus, all eligible borrowers might be encouraged to seek this Federal credit aid regardless of the borrower's ability to obtain funds from normal private market sources. The guarantee would effectively shift to the Federal Government the investment risk normally entailed in these obligations so that they would sell on the market at rock bottom interest rates along with other top rated securities. It is easy to see how widespread availability of Federal guarantees would quickly lead to Federal intervention in credit activities throughout the economy.

The Treasury Department is not itself aware of the specific problems which coastal States might have in borrowing for the purposes stated in S. 582 in the private market without Federal guarantees of their obligations or, indeed, whether the States desire to borrow for these purposes.

We are especially concerned with the need to husband Federal credit resources, just as we do Federal budget resources, in view of the current large increases in Federal credit programs which are financed outside of the Federal budget. In the Budget for the fiscal year 1972 it is estimated that the amount of such Federally-assisted loans outstanding will increase by \$30 billion compared to an income in fiscal 1970 of \$13 billion.

In his Budget Message to the Congress on January 29, 1971 the President stated:

Furthermore, Federal credit programs which the Congress has placed outside the budget—guaranteed and insured loans, or loans by federally sponsored enterprises—escape regular review by either the executive or the legislative branch. The evaluation of these extrabudgetary programs has not been fully consistent with budget items. Their effects on fiscal policy have not been rigorously included in the overall budget process. And their effects on overall debt management are not coordinated well with the overall public debt policy. For these reasons, I will propose legislation to enable these credit programs to be reviewed and coordinated along with other Federal programs.

The Treasury Department is currently working with other agencies in preparing the legislation referred to by the President and we hope to be in a position soon to submit a proposal to the Congress.

I understand that your Committee wishes to consider the feasibility of alternative methods of providing credit assistance under S. 582 and that you would also like to discuss the collateral issues raised by the various alternatives.

## DIRECT LOANS

Looking at the problem just from the standpoint of financial efficiency, the most direct, and least expensive, method of financing is direct Federal loans. That is, the Treasury Department is able to borrow at lower interest rates than would be required on the market obligations of other borrowers. Direct Federal loans would, of course, require direct budget outlays. Limited budgetary resources in recent years have not permitted significant expansion of direct Federal lending, and it appears in some cases that the Congress is unwilling to rely on the availability of budget funds to finance Federal credit programs.

## GUARANTEES OF TAXABLE MUNICIPAL BONDS

In order to avoid both the budget outlay problems with direct loans and the tax-exempt interest problem with loan guarantees the Congress provided last year for a new method of financing, namely, Federal guarantees and interest subsidies on taxable municipal bonds. This new financing technique was first authorized in P.L. 91-296, the Medical Facilities Modernization Act of 1970. In that case, which involved Federal credit aid to public bodies for hospital facilities, the Administration submitted legislation proposing guaranteed loans for private hospitals and, in order to avoid the tax-exempt bond guarantee problem, direct loans for public bodies. Yet both the Senate and House committees considering this legislation recommended instead Federal guarantees of tax-exempt obligations.

In the Congressional consideration of the medical facilities bill there was no apparent disagreement between the Administration and the Congress regarding the problems created by tax-exempt bond guarantees. Nevertheless, the committees apparently felt that guaranteed loans to public bodies, since they would not depend upon the availability of direct loan funds in the budget, were essential to assure the availability of credit aid. Under the circumstances the Administration agreed to a Senate amendment to the House-passed bill, which was subsequently enacted in P.L. 91-296. That amendment provided that the obligations could be purchased by the Federal Government from a revolving loan fund then resold in the private market with a guarantee. When resold the interest on any obligations guaranteed under that Act would be subject to Federal income taxation notwithstanding the fact they were obligations issued by States or other public bodies. Similar provisions were later enacted by the Congress for the rural water and sewer loans of the Farmers Home Administration (P.L. 91-617). A somewhat different approach was taken for new community loans guaranteed by the Department of Housing and Urban Development (P.L. 91-609). Under that act the new community obligations can be issued directly in the market by the public bodies on a taxable basis. Thus the Congress in 1970 provided for the first time for Federal guarantees of *taxable* municipal obligations and did this in three separate acts.

The Farmers Home loans and the medical facilities loans are expected to be made directly by the Federal agencies at low interest rates and then sold in the private market with a Federal guarantee and supplemental interest payments to the investor in whatever amounts necessary to meet the market. The new community loans will be made and held by private investors but will also receive a Federal interest subsidy and guarantee. The Treasury Department and the Administration supported these provisions as preferable to guarantees of tax-exempt bonds and in recognition of the urgent needs for Federal credit assistance in these three areas.

## CONSOLIDATED FINANCING

Another approach to providing credit assistance to local public bodies is the Environmental Financing Authority proposal by the President in his Environmental Message to the Congress on February 8, 1971.

The Environmental Financing Authority would purchase tax-exempt obligations issued by local public bodies to finance the non-Federal share of the costs of the construction of waste treatment facilities eligible for Federal grants from the Environmental Protection Agency. EFA could purchase only obligations guaranteed by EPA and only if the issuing public body is unable to borrow in the market on reasonable terms. EFA would finance its purchases by selling its own securities in the market, and appropriations would be authorized to cover the difference between EFA's taxable borrowing rate and its tax-exempt lending rate.

The EFA legislation (S. 1015) would permit a more efficient method of financing as compared with the approach taken in the three bills enacted last year for Federal guarantees of taxable municipal bonds. That is, EFA as a corporate body empowered to issue its own obligations in the market would have the advantages of consolidated financing and an ability to adjust the timing, maturities, and other terms of its issues to changing market conditions in order to minimize its borrowing costs. Also, since there is an established market for Federal agency securities, EFA would be able to mobilize quickly the funds necessary to meet the urgent needs for waste treatment facilities.

While the EFA approach may be the most efficient method, short of direct Treasury financing, of providing Federal credit assistance for certain programs, the Administration considers that the use of this approach beyond assisting the financing of waste treatment facilities is not justified at this time. In this connection, I would particularly like to stress our objection to use of the EFA approach on a program by program basis, the inevitable result of which would be to move toward the establishment of a number of small Federally sponsored agencies competing with each other in the capital markets in the funding of new and comparatively modest Federal financial assistance programs.

In conclusion, we feel that Federal credit assistance should be authorized only for programs of high national priority and only for borrowers who are unable to meet their needs in the private financial markets. In those cases where the need for Federal credit aid is clearly established we believe that the financing should be conducted in the most efficient manner available and in the taxable rather than in the tax-exempt market. I would like to stress again, as indicated in the President's statement on credit programs in the Budget Message, that legislation will be proposed to facilitate overall review and coordination of both the financial and budgetary aspects of Federal credit programs which are financed outside the regular budget. Pending the enactment of this legislation we would recommend against the establishment of additional programs of Federal credit aid except for the most urgent credit needs.

This concludes my remarks on the provision for S. 582 of major concerns to the Treasury and on several alternative methods of Federal financial assistance that have recently been enacted or proposed by the Administration. I would be happy to answer any questions you may have.

#### STATEMENT OF A MEMBER OF THE COUNCIL ON ENVIRONMENTAL QUALITY BEFORE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES, JUNE 24, 1971.

##### STATEMENT OF DR. GORDON J. F. MACDONALD, MEMBER, COUNCIL ON ENVIRONMENTAL QUALITY, ACCOMPANIED BY WILLIAM REILLY

Dr. MacDONALD. Mr. Chairman, Congressman Mosher and members of the committee, it is a pleasure to appear before you today. I am accompanied by William Reilly of the Council staff who is one of our experts on land use.

I appreciate the opportunity to testify for Russell Train, Chairman of the Council on Environmental Quality, who is out of the city, on the relationship of the pending coastal zone legislation H.R. 2492 and 2493 and the national land use policy legislation submitted by the administration and now pending before the House Interior Committee.

As this committee is well aware, during the last Congress, the administration proposed coastal zone management legislation. An interagency task force on coastal zone management, chaired by Mr. Train when he was Undersecretary of the Interior, developed the proposals submitted by the administration. On February 8, 1971, the President submitted to Congress his second environmental message, laying before Congress a far-reaching and innovative set of legislative



proposals to deal with the problems of controlling pollution, to deal with emerging new problems such as toxic substances and ocean dumping, and to promote better land use.

Among several major proposals in the latter category, the President called for a national land use policy. This legislation, now pending as H.R. 4332 before the House Interior and Insular Affairs Committee, recognizes the need for reform of State land use law. It urges States to assume greater regulatory authority, in conjunction with local governments, over significant development and conservation issues of more than local impact.

These were the essential objectives of the administration's initial coastal zone bill, although the geographic area of concern in that legislation was more limited and the issues for State attention less explicit than those contemplated in the national land use policy proposal.

You may find it helpful to have a brief history of the administration's progress toward a national policy for land use. The administration's coastal zone proposal grew out of a number of studies, most important of which were the Stratton Commission report and the two estuarine reports by the Department of the Interior which culminated in the interagency task force which I have mentioned.

The function of the task force was to develop the administration's legislative proposal for coastal zone management. The central issue then, as it is now, was to build upon the inherent State regulatory authority in order to better guide development and conservation decisions in the coastal zone. There was some concern even then by the administration that by urging the coastal States to take back from local governments some of the regulatory powers historically delegated to them over a limited area, the coastal States might complicate the reform of their zoning laws by creating new agencies dealing with only a portion of the problem. But, at that time, over a year and a half ago, environmental issues were only beginning to awaken broad public interest and support and it was difficult to predict then what we know now—that the concern for the environment is an overriding domestic issue of sufficient weight that State and local governments are now willing to move much faster to broadly reform their institutional and regulatory processes over land use.

Likewise, over this period of time the administration, concerned congressional committees, and many State governments have had a better opportunity to gain a deeper understanding of the problem, thus providing support for a broader solution such as represented in the administration's land use bill.

In the ensuing 6 months the Council on Environmental Quality was established and submitted to the Congress last August its First Annual Report on the Nation's Environment. In that report the Council devoted a substantial chapter to the problems of land use in this country. The annual report recounted the first initiatives on coastal zone legislation, but went beyond them to indicate the need for land law reform throughout the 50 States.

In his message accompanying the annual report to the Congress, President Nixon emphasized the importance of land use reform and indicated his desire to develop a national land-use policy. The President said:

We have treated our land as if it were a limitless resource. Traditionally, Americans have felt that what they do with their own land is their own business.

This attitude has been a natural outgrowth of the pioneer spirit. Today, we are coming to realize that our land is finite, while our population is growing. The uses to which our generation puts the land can either expand or severely limit the choices our children will have. The time has come when we must accept the idea that none of us has a right to abuse the land, and that on the contrary society as a whole has a legitimate interest in proper land use. There is a national interest in effective land use planning all across the nation.

I believe that the problems of urbanization which I have described, of resource management, and of land and water use generally can only be met by comprehensive approaches which take into account the widest range of social, economic, and ecological concerns. I believe we must work toward the development of a National Land Use Policy to be carried out by an effective partnership of Federal, State and local governments together, and where appropriate, with new regional institutional arrangements.

On February 8 of this year the President's national land-use policy was articulated in the form of the legislative proposal submitted to the Congress in H.R. 4332.

In developing national land-use policy legislation we identified three fundamental problems which make it difficult for local governments to accord lands which have critical environmental characteristics, such as our coastal and estuarine areas, the regulation they require.

First, small units of government are inherently limited by the confines of their jurisdiction. Scenic or important natural areas are rarely viewed by a locality in terms of their regional importance. Even when one locality acts wisely to fit development to the capacity of the land, it may not be able to affect the adjoining town's land-use control practices. The limits of local jurisdiction are simply not adequate to encompass regional ecological or development systems without policy guidance from larger units of governments.

The second reason for the inadequacy of local solutions to regional land-use management problems derives from the dependency of many local governments upon development-related property tax revenues. Whatever may be in the best interests of the region must confront powerful local economic incentives. American cities find it very difficult to act on concert in planning and controlling land use, partly because neighboring committees compete economically.

A third reason for the inadequacy of our current approach to land-use regulations has to do with the changing character of the United States. Once it could be said that if one community allowed one wetland to be filled or one woodland to be developed there was always another. This is no longer true. The frontier has long since been closed, but the myth of inexhaustible land resources has survived into an era when it has become clear that our supply of land, especially of lands we refer to in H.R. 4332 as areas of critical environmental concern, is finite.

As a consequence of problems largely beyond the control of local governments, the current locally oriented land use regulatory system is doing very poorly at dealing with three kinds of issues: Protecting lands which serve vital natural or esthetic purposes for a regional population; accepting and siting development which the larger areas may badly need but which may represent net tax costs or pose social problems; and controlling growth which is induced on such a scale by certain magnetic developments that it altogether changes the ground rules of the conventional planning and zoning game.

The objective of a national policy for land use must be to reform the institutions of government in such a way that important conservation

areas are protected, vital developmental needs are accommodated, and major developments and facilities are controlled. With this sense of priorities the administration has formulated its land-use policy proposal.

An effort to broaden State authority is timely, for during the past several years a number of States have undertaken promising initiatives in land-use regulation. State laws designed to protect coastal wetlands from draining and filling began in Massachusetts in 1963 and now exist in a number of coastal States. State controls of large-scale development have been established during the past 2 years in Maine and Vermont. Laws to control the development of shorelands are in effect in Wisconsin, Minnesota, and a part of California, and similar laws are being considered by the Washington legislation. Laws to establish special areas of critical State or regional concern have been passed in New Jersey and Colorado and are being considered in New York.

Ohio recently passed a statewide building code designed to encourage industrialized housing. New York and Massachusetts have enacted legislation to assure that local regulations accommodate development needed by a larger region. During the 1960's the number of States with planning offices increased from 39 to 50, and this quantitative increase has coincided with a marked improvement in the quality of State planning.

The time is ripe to ask more, and reasonably to expect more, of the States. This is not to suggest that local governments should relax their concern with land use, but that many land-use problems are too big for local government to handle.

These larger problems require the concern of an agency whose responsibilities are statewide. For this reason H.R. 4332, proposes a selective approach in which the States concentrate on major issues while retaining for local government the responsibility for the great majority of local issues.

H.R. 4332 is designed to focus State attention on selective priorities. States would be encouraged to inventory and control their areas of critical environmental concern. Such areas would include at a minimum the coastal zones and estuaries, rare or valuable ecosystems, shorelands and flood plains of major rivers and lakes, and scenic and historic areas.

The common need in each of these areas is for protection by regulation which takes into account the vulnerability of the lands and waters to destruction through insensitive siting, irregular scale, and excessive development. The ultimate aim is to subject these areas to a comprehensive system of regulations which transcends local jurisdictions where the problems themselves do.

In addition to defining areas of critical environmental concern to include the coastal zone, H.R. 4332 would accord the land-use problems of the coastal and estuarine zone specific consideration in funding.

I share the concern felt by members of this committee that the threat of irreversible losses of coastal wetlands make the coastal zone a high priority and, therefore, a necessary element of national land-use policy.

It is important, however, to make it clear in Federal legislation that we expect a consistent approach within a State to its land-use problems. Accordingly, I strongly urge the Congress to develop a unified approach on land use, as contemplated in H.R. 4332, which will avoid

the confusion to State and local governments that two separate Federal programs would undoubtedly create.

Unified Federal legislation would also discourage the establishment of special State land-use agencies for the coastal zone with different goals and objectives, duplicating on the State level the local fragmentation which we are seeking to overcome.

This committee has given considerable attention to the land-use problems of the coastal zone in your conference in October of 1969, and in these hearings. We share your concerns for protecting our coastal lands, and particularly the wetlands.

However, we believe that the most effective institutional reform that the Federal Government can encourage at the State level is one which would involve the States in addressing the coastal lands in the context of a fundamental reform affecting critical environmental lands throughout the State.

Thank you.

Mr. LENNON. Thank you, Doctor. We are delighted to receive your statement.

I am reminded of the fact that the Council of Environmental Quality was invited to participate in the hearings of this committee which are definitively H.R. 2492, H.R. 2493, and H.R. 9229 which the committee is considering at this time.

We, of course, have been very much interested in your comments on a bill that is not even pending before this committee.

I remember however, this last year, the Council did project thinking with respect to coastal zone management.

Now, this year they have sort of broadened the scope to national land-use management.

Doctor, what is the title, symbol, or name of the National Oceanic and Atmospheric Agency, what does it mean to you?

Dr. MACDONALD. Well, it means a highly competent, very effective institution within the Federal Government with the responsibilities for monitoring, studying, providing of a vast variety of services to the people of the United States and in a broader context, to the world, as a whole.

I would point out that at the present time that agency does not have major responsibilities within the area of land use or land-use management.

Mr. LENNON. They do not have the expertise and capability, or cannot acquire it, is that what you are saying?

Dr. MACDONALD. At present, both that specific organization and the department in which it resides do not have major responsibilities in the regulation or regulatory processes concerned with land use.

Mr. LENNON. What about water use?

Dr. MACDONALD. The agency, particularly in its oceanographic activity is very much focused on the oceans, its views in the coastal zone as it is presently constituted, I would say is from the coastal zone outward.

It does not have the same sort of interest from the coastal zone inward.

We believe because of this, and as is stated in H.R. 4332, that these responsibilities at the Federal level should reside with the Department of the Interior, or with the Department of Natural Resources, when

that is created, where the concern is from the land to the coastal zone or the coastal zone to the land.

Mr. LENNON. Doctor, are you familiar with the organization of the coastal States, Pacific, Atlantic, Gulf, and, of course, the Great Lakes area?

Dr. MACDONALD. Yes.

Mr. LENNON. They have reached a consensus with respect to the legislation pending before this committee and have stated that in their judgment if coastal zone management is administered by any agency of the Federal Government it ought to be NOAA.

Now, who works closer with NOAA than the Coastal States Organization representing some 32 States?

Who is in a better position than this Coastal States Organization, organized from the level of the Governor, consisting of appointees of the Coastal States Governors?

Now, we are dealing here, in the legislation that we are considering, directly with the States.

I cannot get away from this philosophy that after all, if you believe in the so-called Union of Sovereign States which I have always understood and in the Republic that you have to deal with the States and you have touched on it even though we had had testimony from the mayor of Savannah, Ga., who is not inclined to go along with that philosophy, and speaking for the Conference of Mayors, they want this authority put where they think it ought to be, in the municipalities, the counties.

Do you have any comment, Doctor, and I assume you have, while you have given us the other side of the story and confine yourself exclusively to legislation that was introduced at the request of the administration, I call your attention to the fact that legislation was introduced on February 17 was introduced by the chairman of the Committee on Interior and Insular Affairs.

He makes it crystal clear he is introducing it, by request.

Now, have there been hearings on this?

Dr. MACDONALD. Yes, sir, hearings on the Senate side.

Mr. LENNON. I am talking about in the House. How about the House?

Dr. MACDONALD. No; there have not been hearings before the House.

Could I come back to some of the comments you made earlier with regard to the coastal zone States?

Let me first make it absolutely clear that I hold the work of NOAA in the highest admiration, particularly the services that are performed in the coastal zones.

As a scientific technological agency, they are without peer.

You may recall that I chaired a committee of the President's Science Advisory Committee in 1965 that produced a report on the effective use of the sea that made the recommendation that we should create an institution such as NOAA.

I wholly support it.

Mr. LENNON. But at this point you do not agree with the Stratton Commission?

Dr. MACDONALD. At this point we believe that what is involved in land use is a question that is a very broad and deep issue that involves science technology, but involves much more.

We feel that one should approach it as a whole, that coastal zones are clearly the most important in my view, the most important of the environmental critical areas, and deserve very, very special attention.

Mr. LENNON. That is the reason we are here today, sir.

Dr. MACDONALD. And if we look at the Federal Government, the way it is currently organized, we would turn to the Department of the Interior because of its extensive experience in the management of lands through the Bureau of Land Management, its National Park Service, through its various activities and resource management of this sort.

If we look ahead, hopefully, at some time we might have a Department of Natural Resources, which would join the strength of NOAA and the strengths of the Department of the Interior, then we would come to what I would feel was the very ideal situation where we would marry these strengths and have an overall capability for the Federal participation in the management of the coastal zone.

Mr. LENNON. I would like to hear, and I am sure you have had an opportunity to study and review the bills that we thought you were going to speak to, the one that is pending before this committee.

I wonder if you have any comments on the bills that are now before this committee, not what is pending before some other body.

We are familiar with that. We have copies on it, and counsel and I have read it.

We would like to have your views on what you are here today for, to comment on the bills you were invited to comment on.

Dr. MACDONALD. Those bills, of course, address solely the management of coastal zones.

In philosophy, they are compatible with H.R. 4332 in that the responsibility for formulating the regulation of management of a coastal zone is detailed to the States, and we agree.

We think this is where it should be. H.R. 2492 speaks of a coastal zone authority without being very specific.

We are concerned by setting up a special State agency to deal with part of the problem, and both bills provide grants that would enable the States or help the States in developing their management programs, and then, later, the administration of these programs.

Again, this is provided for in the administration's proposal, though I emphasize covering other environmentally critical areas in addition to the coastal zones.

The formula for State and Federal Government participation differs. H.R. 2493 I believe provides for Federal grants of two-thirds rather than the 50-50 provisions in the administration's bill.

H.R. 2493 also provides for sanctuaries, developing of the sanctuaries, I think it is 15.

We think the sanctuaries in and of themselves are insufficient to save the coastal zone. We need much broader areas than just a limited number of sanctuaries.

We believe in criticism of H.R. 2493 that it would be unwise to have both an acquisition program and a regulatory program combined; that this can lead to schizophrenia on the part of the management agency in deciding whether to use its funds to acquire a certain land area for a sanctuary as opposed to using its regulatory powers.

Fundamentally, we believe that land use is perhaps the most critical and pressing environmental problem that we are faced with today, and we should take the jump, go all the way and look at all the environmentally critical areas, recognizing at the same time that the coastal zone which this committee has so rightfully emphasized is the most important of these environmentally critical areas.

Mr. MOSHER. Mr. Chairman, may I make a comment?

Mr. LENNON. Surely.

The gentleman from Ohio.

Mr. MOSHER. I would like to salute the administration for taking the broad view and emphasizing the ultimate necessity for an overall national land use policy.

Dr. MacDonald has used the word the ideal arrangement. I agree that the administration should look to the ideal and the ultimate; but at the same time I wonder about the practicalities.

The chairman has emphasized the fact that no hearings have been held on the administration's bill, and yet Dr. MacDonald has said that the coastal zone problems are critical. They do deserve special attention, and so I would like to ask Dr. MacDonald how he sees the practical situation here on Capitol Hill.

We in this committee have tended to feel that we could provide a very useful, practical service, by looking ahead, where other committees are not likely to move in this session, and begin to get this job moving toward the ultimate and the ideal.

That is why we are so interested in the bills that are before us.

Now, do you see merit in taking the partial steps of moving part way?

Dr. MACDONALD. It is very difficult to respond in a negative tone to what I think are very helpful comments, but I really must.

I think that by taking a partial step we may prejudice the final outcome.

We may, as I mentioned in my testimony, set up at the State level a fragmented institutional base for the longer term development while we fully agree with the need to protect the coastal zones.

As you know, the administration did put forward legislation for this goal.

However, we feel that we would like to press very hard a long way further than just a partial solution so as not to prejudice a long term outcome.

Mr. MOSHER. Let me ask you, do you expect hearings to be held on the administration's bill in the other committee?

Dr. MACDONALD. As we understand it, the House Committee on Interior and Insular Affairs has given its first priority to examination of the public lands as a result of the Public Land Law Review Commission report, but we also understand that the committee intends to hold hearings on the administration's proposal, and when that would happen, we do not know.

Mr. MOSHER. Do you see strong support there in the committee, a real probability that that committee will move ahead on the administration's legislation?

Dr. MACDONALD. We have met with members of that committee, and at least on the Republican side, I think there is a strong interest in the administration's proposal.

Mr. LENNON. Doctor, you mentioned just before the last question put by the gentleman from Ohio, that the administration had recommended specific legislation in the area of coastal zone management.

Was such legislation introduced?

Dr. MACDONALD. Specific legislation for coastal zone management?

Mr. LENNON. Yes; you said the administration had recommended specific legislation in the area of coastal zone management.

Dr. MACDONALD. In the last session of Congress specific legislation was introduced.

Mr. LENNON. What committee was that referred to, and the number of the bill, please, for our record.

Dr. MACDONALD. As I recall, that bill was referred to the Committee on Public Works.

Mr. LENNON. Committee on Public Works, coastal zone management.

You remember last year when that was, and the number of the bill?

Dr. MACDONALD. I do not have the number of the bill. We can provide that.

Mr. LENNON. Well, we would like to have that so we can put our hands on it.

Now, were there hearings held on that bill by the Public Works Committee which you say was introduced at the request of the administration?

Dr. MACDONALD. On the House side I believe there were no hearings. There were hearings on the Senate side.

Mr. LENNON. But there were none in the House.

Dr. MACDONALD. As I recall, there were no hearings on the House side.

Mr. LENNON. Well, what is the administration's view of that bill that was introduced you say at the request of the administration in the Public Works Committee last year, with no hearings whatever with regard to coastal zone management?

I am sure it was drawn in such a way that it would be referred to that committee, was it not?

Dr. MACDONALD. I was not in the administration at the time of the drafting of that legislation, and I would not wish to answer either affirmatively or negatively.

Mr. LENNON. Doctor, I am not belaboring the question I hope unnecessarily. I am not quarreling.

I am attempting to develop what my distinguished friend from Ohio developed, how we are, or how we shall move, or shall we wait, as the administration waited all of last year on this bill related to coastal zone management in another committee, no hearings, and then another bill introduced this year at the request of the administration on February 17, and still no hearings.

You say frankly there is not likely to be any.

Should we not take the first step which you have to take before you take your second?

Somewhere there has to be a beginning.

Now, this committee, and I want you to under this, sir, and those here with the administration, those of us who are involved in, over the period of years in this subject matter have strong convictions about an independent agency, NOAA, but we accepted the philosophy of the administration, maybe not always the philosophy, but the objectives that they are trying to move, and the distinguished gentleman



from Ohio and myself, in our personal appearance before the appropriate committee which was considering Reorganization Plan No. 3, and Reorganization Plan No. 4, which brought in, as you know, EPA as an independent Agency, and we testified as forcefully and as strongly as we knew how, in an effort to get the administration's bill, Reorganization Plan No. 4 establishing NOAA.

Now, it disappoints me that the administration cannot see the cooperation and the objectivity of this committee which will mean to the administration that ultimately it may have difficulty itself in the total land use program, but as I say, we are going to get ready to start to begin to commence some time in the dim distant future, and that does not give me any encouragement.

I will yield to my friend from Minnesota, Mr. Karth.

Mr. KARTH. Thank you very much, Mr. Chairman.

Mr. Chairman, I know how you feel. I guess other members of this committee are most appreciative for the administration's idealistic approach.

I admit that is the best, but we have to face the practical situation as to whether or not it can become law.

How many Members of the House have introduced H.R. 2492 and H.R. 2493? Do you know?

Dr. MACDONALD. No, I do not.

Can I just comment on the administration's proposal?

It has been introduced.

Mr. KARTH. That is the administration's proposal.

Dr. MACDONALD. No, no; 2492 and 2493 are proposals that have been introduced by the chairman here.

Mr. LENNON. For the record, the bill that the gentleman has addressed himself to for the full time is not before this committee.

Mr. KARTH. Yes, I understand.

My question, Mr. Chairman, is how many Members of the House have introduced H.R. 4332 that is before the House Interior Committee.

Dr. MACDONALD. H.R. 4332 was introduced by request.

The identical bill 4337 has been introduced by one Member of the House; and H.R. 4569, also the identical bill, was introduced by one Member; and H.R. 5504 had 15 cosponsors, all of them are the same bill.

Mr. KARTH. So we have about 18 Members of the House introducing the administration's proposal.

Dr. MACDONALD. That is right.

Mr. KARTH. Of the 15 who introduced the one bill, did it indicate pretty well it had bipartisan support, or what is the politics of the authors, do we know?

Dr. MACDONALD. The list I had here, though I cannot recognize all of them, it would be strongly weighted toward the minority party.

Mr. KARTH. That is all, Mr. Chairman.

Mr. LENNON. How many coastal States involved in the sponsorship of the bill which you said had 15 cosponsors?

Dr. MACDONALD. Including the Great Lakes?

Mr. LENNON. Right.

Dr. MACDONALD. OK then, we would say approximately, and I do not want to be held to this figure, but I think eight.

Mr. LENNON. Mr. Mosher?

Mr. MOSHER. I have no further comment.

Mr. LENNON. Mr. Forsythe?

Mr. FORSYTHE. Mr. Chairman, I thoroughly agree with the points that you have made, and the distinguished ranking minority member has made, that we must be starting somewhere on this.

I would ask Dr. MacDonald in relation to support from State governments with regard to the administration's bill, do you have any feel for that?

Dr. MACDONALD. Yes, we had, I would say, some support, for example, through Governor Lucey of Wisconsin, who testified in general support of the administration's bill on the Senate side, and our contacts with the coastal zone States have indicated in general, though I would be less than fair to say it is certainly not unanimous support for it.

Mr. FORSYTHE. Thank you.

Mr. KARTH. Would the gentleman yield?

Are those who oppose the administration's bill in the coastal zone State, did they state what is the purpose of the opposition, what did they object to?

Dr. MACDONALD. I believe there is still a great deal of concern that the administration bill goes too far, that it is in a sense revolutionary in character, and that it does ask these States to develop means for regulating a wide class of areas.

We have spoken today of the environmentally critical areas because the coastal zones would come under that definition.

The bill would require these States to develop land-use regulations for key facilities, highways and airports, and also for areas that are key to regional development.

There is some concern that we are taking a very large step at this time.

We feel that it is required.

Mr. KARTH. Do the States generally oppose or not support the administration's bill, that it is rather expensive for them to embark on such a project, that it would be too much conflict between the municipalities and the State?

Dr. MACDONALD. There is concern about the conflict between State and local municipalities.

We think that the regulatory process is not all that expensive, and I think there is general agreement to that, that the grant programs that are indicated in the administration's bill would be sufficient to provide for the planning and the early administration of State land-use plans.

Mr. KARTIL. Thank you, Mr. Chairman.

Mr. LENNON. Now, doctor, just for the record, in the National Governors' Conference, it took the position and supports the objective of the legislation which is now being considered by this committee, and they have so formally advised us.

No. 2, you are familiar with the National Legislative Conference, an organization representing the legislatures and the general assemblies of the 50 States.

Now, they are officially on record favoring the concept of the legislation that is pending before this committee.

How do we say no when we have the consensus of opinion to at least take the first step?

Dr. MACDONALD. We would like to take not only the first step, but two or three more steps.

Mr. LENNON. We think it is a series of steps.

Dr. MACDONALD. And I guess that is where we differ.

We would hope to move a good long ways in this session of the Congress, maybe this is not being politically realistic, but we are holding to it.

Mr. MOSHER. Mr. Chairman, may I ask a question?

Mr. LENNON. Surely.

Mr. MOSHER. Dr. MacDonald, you are advocating a jump rather than a step. You advocate a leap forward.

Dr. MACDONALD. Not in my present physical condition.

Mr. LENNON. Doctor, we certainly appreciate your appearance.

I am sure you know this committee on both sides is anxious to cooperate in every way that we can.

It has demonstrated this in bringing EPA into being, and in bringing NOAA into being, and we, in turn, solicit the understanding on your part.

Does counsel have any questions or comment?

Mr. HEYWARD. Dr. MacDonald, just for the record, I believe in connection with Governor Lucey's position, is it not correct to say Governor Lucey did indicate his support of the national land-use policy, but in his statement also indicated that if there was any delay he would support a coastal zone initiative?

Dr. MACDONALD. That is correct.

Mr. HEYWARD. Thank you very much.

Mr. LENNON. Thank you, Doctor.

Dr. MACDONALD. Mr. Chairman, I would like to thank you again for this opportunity, and to personally salute you and the committee for its great interest in matters that we consider most important.

Mr. LENNON. Let me remind you, Doctor, that the Committee on Oceanography instituted the ocean dumping hearings as a result of a hangup on the part of the Army in not appealing the decision of the AEC with respect to moving the 15 coffins of nerve gas out, and then we got involved in it. As a result now this subcommittee, jointly with the Subcommittee on Fisheries and Wildlife, is, in depth, trying to relate EPA with the problems of the Corps of Engineers with respect to the maintenance of harbors and waterways, et cetera, which has been authorized and funded, and has to be kept to minimum depths for navigation.

You would not have an ocean dumping bill if it was not for this committee, and we are involved in this thing, and we want you to recognize that we are not trying to obstruct what the administration has way down the road some time in the future.

We are trying to move and give it some help. I think we have demonstrated that, sir.

STATEMENT OF DR. ROBERT M. WHITE, ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ASSOCIATION, DEPARTMENT OF COMMERCE; ACCOMPANIED BY JAMES BRENNAN, OFFICE OF THE GENERAL COUNSEL, DEPARTMENT OF COMMERCE; AND DR. ROLAND SMITH, DEPUTY CHIEF, OCEANIC DIVISION, OFFICE OF PLANS AND PROGRAMS, NOAA

Dr. WHITE. Yes, sir; I do.

Before I begin I would like to introduce my colleagues. On my left is Mr. James Brennan, Office of the General Counsel, and on my right, Dr. Roland Smith of the Oceanic Division.

Mr. Chairman, I welcome the opportunity to appear before you today to discuss with you two bills which the chairman has introduced, H.R. 2492 and H.R. 2493. These bills would authorize new programs to assist the States in establishing coastal and estuarine management programs.

I certainly join with your committee in recognizing the coastal zone and associated bays and estuaries as one of the most important land and water areas of our Nation. In fact, this committee's long-term interest and support of oceanographic legislation has helped to focus nationwide attention on the development of the ocean and its resources. You have made substantial contributions to the study of coastal zone problems through your various hearings and your valuable suggestions to the administration which have resulted from them.

The coastal zone is a unique area. Rational management of activities therein is one of the more critical environmental problems facing our Nation. Much of the area is in a state of degradation and under severe competition for various types of economic development.

We feel that the answer here is not to stop development but to provide for orderly and rational utilization of this region. This clearly is the objective of these bills and we certainly favor their general intent.

Dr. MacDonald of the Council on Environmental Quality has just stated that the administration proposes enactment of H.R. 4332 in lieu of H.R. 2492 and H.R. 2493. H.R. 4332, which carries out recommendations set forth by the President in his environmental message on February 8, 1971, would be known as the "National Land Use Policy Act of 1971." It would authorize grants to States for programs of statewide land use development and grants to States for assistance in managing their land use programs.

H.R. 4332, while providing for statewide land use planning throughout the Nation, gives great emphasis to and provides for special protective measures in the coastal zone. The Department of Commerce supports the approach taken in H.R. 4332, and recommends its enactment in lieu of H.R. 2492 and H.R. 2493.

The rationale for this has been given by Dr. MacDonald and it makes great sense to us.

It is our expectation that in the administration of H.R. 4332, urgent attention will be given to the coastal zone area. We would also expect that the full capabilities of NOAA and Department of Commerce, as well as other Federal agencies would be brought to bear on the coastal zone aspects of the States land use programs.

I would stress that new policies and programs for the development and management of coastal and estuarine zones of the Nation are urgently needed.

Our coastal zones, particularly the inshore bays and estuaries, are amongst the most fragile parts of our environment. They are readily susceptible to degradation by man's activities. If this Nation delays much longer in achieving a balanced use of our coastal zones and providing for a quality environment, we will lose many attributes which now make our seacoasts amongst the most valuable areas for recreation and esthetic, as well as commercial purposes.

We can cite numerous examples where pollution has caused valuable shellfish beds to be closed to fishing. Recreational use is prohibited in

many areas and much of our inshore area is ugly, overcrowded, and polluted by domestic and industrial activities.

I know that this committee surely shares my opinion that priority attention should be given to improved planning and management of the coastal zone areas of the Nation. This has urgency, not only from the point of view of environmental quality and pollution control, as I stressed above, but also for the opportunities that can result from improved resources production and many positive conservation measures.

These could include the constructive use of waste heat from power generating plants, improved methods and techniques in aquaculture, improvements in natural biological productivity, and actions which will generally improve the esthetics of the coastal environment.

I stress again that the answer to our problems in the coastal zone is not to stop development but to allow for multiple use, to undertake new endeavors that will, in fact, reclaim lost and polluted areas and, in general, plan positively to meet our rapidly growing population and economic pressures on coastal zones.

Several agencies of the Department of Commerce, in addition to NOAA, can be of considerable assistance, particularly to give guidance to economic opportunities, to assist industry to meet changing conditions, and to encourage new developments and positive planning for the coastal zone.

For example, the Maritime Administration promotes and encourages the development of port and related transportation facilities. The Economic Development Administration fosters economic development in coastal areas through research and technical planning assistance and through a program of grants and loans. The Regional Action Planning Commissions are now active in coastal zone planning. Through this mechanism, the States receive assistance in planning, legal, and socioeconomic aspects of coastal zone management.

The organization of the National Oceanic and Atmospheric Administration has brought together a significant portion of the Federal Government's oceanographic capabilities, so that NOAA is in a good position to assist the Department of the Interior when appropriate in the coastal zone aspect of its administration of the national land use program envisioned under H.R. 4332.

NOAA administers several programs which, with their services, products and related research, contribute to our knowledge of the coastal zone and consequently to potentially effective management practices therein. These include sea grant, fisheries, mapping and charting, environmental monitoring and prediction, and work in support of environmental quality objectives.

As this committee knows, the sea-grant program is oriented primarily to the coastal zone and its marine resources and utilization. Over 80 percent of the sea-grant research funds have been spent in coastal zone applications. In addition to studies in ecology, the sea-grant program has supported projects to develop models for coastal zone management, projects on legal regimes, and on socioeconomic aspects of coastal zone management.

The National Oceanic and Atmospheric Administration's fishery activities are closely involved with the matters of concern to the coastal zone. Studies in fundamental ecological research, mariculture and

life histories of marine populations for fishery purposes make a substantial contribution to our knowledge of conditions in marine waters. Fish populations are an indication of the success of pollution control and maintenance of a balanced ecology.

Forecasting of the effects which proposed physical alterations in estuarine areas will have upon fishery ecology is one of the most important coastal zone services performed by NOAA marine laboratories. We have extensive work in cooperation with State and National conservation agencies to furnish information that will assist them to maintain adequate habitats, protect spawning and feeding areas, and to provide for fishing activities in the coastal zone as part of multiple-use plans for this area.

The marine mapping and charting program of NOAA provides for the coastal zone nautical charts and related publications necessary for safe and efficient marine navigation. It also provides the precise seaward and coastal boundary delineations necessary for determining ownerships and jurisdictions in the coastal zone.

Nearly all government agencies, Federal, State, and local, are users of the maps and charts produced by this program. In addition, the shipping industry, port authorities, petroleum and mining industries, and ocean-oriented industries all use these charts. They are also used extensively by recreational boaters and sportsmen. The benefits lie in safe navigation, location of resources, settlement of boundary disputes, coastal development, coastal management and zoning.

Rapidly expanding marine activities, including offshore drilling and mining, shipping, fishing, and recreational boating, have created an urgent need for intensified weather and sea forecast and warning services to these diverse marine interests. NOAA has responsibility for providing these forecast and warning services, and does so through weather summaries and area forecasts of visibility, sea and lake conditions tailored to recreationers, fishermen, and others. NOAA specially provides forecasts of severe storms and hurricanes which, with their devastating storm surge, can cause both extensive damage and modification of the coastal area.

These services are growing as pressure for them increase with the rapidly developing use of the coastal zone. They are a vital service to the day-to-day operations in that region and are a basic function which the Federal Government provides.

In addition to the assistance provided in the day-to-day operational climatological information and data on environmental extremes support the planning for coastal installations and for coastal zone operations by industry and local governments. To support its coastal forecast and warning services, NOAA maintains a network of some good sites along the coasts to provide essential data which is supplemental by that collected from coastal radars, ships at sea, and satellites.

NOAA is also active in the area of environmental effects of marine mining. Local, State and Federal regulatory bodies need information on which to base operational criteria and to give guidance to marine mining activities. The program of NOAA's Marine Minerals Technology Center has initiated a study of the impact of marine mining operations on the environment.

NOAA also operates environmental data repositories, the National Climatic Center, the National Oceanograph Data Center, and the

Great Lakes Region Data Center, which archive and inventory data and selected information for nearshore areas. Studies are made for selected areas and special inventories are prepared and maintained to support national needs.

The Great Lakes, though unique in our Nation's coastal zone as fresh-water bodies, constitutes a major coastal region of the United States. This region, which shares many common problems with Canada, is undergoing rapid growth with many of the accompanying problems.

Many of the NOAA programs which provide products and services throughout the country serve this region and contribute to its development.

In addition, a specific program is focused on the Great Lakes and its problems. This provides current and adequate nautical charts to a growing number of mariners using the Lake Waterway Systems; it provides a water resource information service through the Great Lakes Regional Data Center; and it provides estimates of the hydrologic cycle and understanding of the large-scale circulation and thermal features which contribute importantly to economical, efficient, and healthy water management planning.

Mr. Chairman, I have presented here only a brief overview of NOAA's activities in the coastal zone. I would be pleased to supply for the record a more comprehensive description of the role of NOAA in coastal zone activities, particularly as these would support coastal zone management.

Again, it has been a great pleasure for me to be here with you. If you would wish, I would attempt to answer any questions or provide more information that you may wish.

Mr. LENNON. Thank you, Doctor.

Mr. Mosher?

Mr. MOSHER. Mr. Chairman, it seems to me crystal clear that all of us here today join in the goal that is represented by the legislation before us which combines the best of H.R. 2492 and H.R. 2493 and H.R. 9229.

I think all of us recognize that we agree with the goals of that bill.

The question before us is a matter how we can best organize to reach those goals.

Now, Dr. White, on page 3 of your statement, it says this Nation cannot delay much longer in more rationally, more effectively managing the coastal zones. You say this deserves priority attention.

You emphasize the urgency of it, and all these attitudes that you have expressed here certainly are representative of the legislation that the chairman has introduced and which members of this committee have also introduced.

At the same time, Dr. White, you express the administration's point of view that ultimately we must recognize the broader aspects of land use policy, and you have put the Department of Commerce on record as in support ultimately of an organization that is represented in the administration's bill.

My question, after that long preface to set things in perspective, the question I would like to ask Dr. White is this: Do you believe that the legislation that is now before this committee, and in which we are moving vigorously—do you believe that if we could get the Congress

to adopt this legislation, would it in any way, in practical terms, preclude the ultimate goal of the administration for a larger land use policy, if we do what we are trying to do here? Would that throw roadblocks in the way? Would it stand in the way of the ultimate goal?

Dr. WHITE. I suppose, Mr. Mosher, if it were done properly and with full cognizance, and an attempt to adopt the very long view taken by the President, then I guess this would be valuable.

It would have to be done in such a way that we would not compromise the ultimate goals of this administration.

There is, as Dr. MacDonald pointed out, a necessity for a broad overview of our land use policy. There is no question that the coastal zone problems have to be part of that.

There is also no question that the coastal zone areas represent the most urgent part of the problem right now.

Mr. MOSHER. That is what we are emphasizing, of course, that the coastal zones do represent the most urgent part, and your testimony has emphasized that we cannot delay much longer.

Dr. White, we agreed that Dr. MacDonald's point of view and the administration's point of view represent a great leap forward, and we are questioning the practicality of that leap.

I am confident that my memory is correct, that President Nixon very recently emphasized himself that old Chinese proverb that every great journey begins with the first step.

I guess we are agreeing with the President on that point of view.

Mr. LENNON. The gentleman from Texas.

Mr. DE LA GARZA. No questions.

Mr. LENNON. Mr. Forsythe?

Mr. FORSYTHE. No questions.

Mr. LENNON. Mr. Jones?

Mr. JONES. Thank you, Mr. Chairman.

Dr. White, you alluded a moment ago to the broad concept, something in the more distant future, as it relates to the administration's bill or program.

Being more specific, the district I represent contains the Outer Banks, Cape Hatteras, et cetera.

There is a strip of approximately 82 miles of shoreline coming down the Banks, 72 miles is the property of the Department of Interior, of the shoreline.

Beach erosion in recent years and various factors of storms and tides is developing an acute situation.

There are some places along our Banks where there is less than 100 yards separating the ocean from the sound, and it has been predicted by those more knowledgeable than I, that if this barrier ever breaks, and the ocean comes into the sound, that it would affect the water table and the supply of pure water as far inland as some 50 to 75 miles.

I mention that to say that I do not think we can wait too long to correct some of the problems that now exist.

Therefore, that leads me to ask you this. What is the basic difference between H.R. 2492 and the administration's position?

Dr. WHITE. The administration's position visualizes that the coastal zone management problem is a subset, a part of the more general problem of managing the entire land area, and that the two are closely related.



The administration's position also recognizes that the coastal zone is a unique area. It is the point of juncture of land and water, and has special problems that other land areas do not have, and it calls our specifically in the bill the need to pay attention to those coastal zones.

I do agree that the problem we have here is the pace of motion toward management systems.

Now, I think I would concur with you, sir, on the urgency, as I have indicated before. You only have to be associated with fishery problems as we are in NOAA to understand the great urgency of making sure that our coastal zones are properly managed so that our fisheries are protected and they are, in turn, properly managed.

You cannot be involved in the kinds of things that we are involved in without coming up with the same sense of urgency you have expressed, sir.

Mr. JONES. Thank you.

Mr. DE LA GARZA. Will the gentleman yield?

Mr. JONES. Yes.

Mr. DE LA GARZA. Doctor, are you doing any research or any planning in specific items?

Is your agency doing any research or planning like on beach erosion?

Dr. WHITE. We have groups that are working on the interaction of oceans and the land. It is not a large program.

The principal group working on beach erosion is the Corps of Engineers' Coastal Engineering Research Board.

This is a critical problem and we have been looking at it but only in a small way.

Mr. DE LA GARZA. Thank you.

Mr. JONES. Mr. Chairman. I believe I have one more question.

Dr. White, what will be your opinion as to the feasibility of Government participation with private ownership as it relates to erosion occurring on the shorelines of the property owned by individuals?

Dr. WHITE. I would just like to clarify your question, sir.

You are suggesting the joint participation of Government and private groups in taking steps to prevent erosion?

Mr. JONES. Yes.

Dr. WHITE. Stated that way, I think it is something we are probably going to have to do.

Mr. JONES. It appears that we must if we are to protect our shores.

Dr. WHITE. We have similar kinds of problems in agriculture.

Mr. JONES. That is what I was going to get around to. We would not be without precedent.

Dr. WHITE. It would not be without precedent.

Mr. JONES. Thank you.

Mr. LENNON. Dr. White, have you had an opportunity to study, or has your staff studied and reported to you the three bills that are now being considered by the Oceanography Subcommittee?

Dr. WHITE. We have had a chance to study in some detail, sir, H.R. 2492, H.R. 2493, and H.R. 9229, which is the most recent one, includes the provisions of H.R. 2493 and includes additional provisions on marine sanctuaries and management of the contiguous zone.

I have looked at H.R. 9229, sir, but not in depth.

Mr. LENNON. Now, doctor, how does the bill that we are considering differ from the recommendations of the Stratton commission?

Dr. WHITE. Well, sir, I think that your bills parallel very closely the recommendations of the Stratton commission.

Mr. LENNON. You say in your judgment the bills that are being now considered by this committee parallel in substance—at least I think you infer the recommendations of the Stratton commission relating to the coastal zone management.

Dr. WHITE. Yes, sir.

Mr. LENNON. In what respect do they differ in any degree from the recommendations of the Stratton commission concerning the establishment of coastal zone management?

Dr. WHITE. I cannot recall any substantial differences, but I would not want to leave the record indicating there are none since it has been some time since I looked at the details of the Commission's report. But, my recollection is that this conforms very closely.

Mr. LENNON. Now, Doctor, you were a member of the Stratton commission?

Dr. WHITE. That is correct.

Mr. LENNON. In addition to that, Doctor, you were a member of the special panel of the Stratton commission which was authorized to make a study of the problem relating to the management and development of coastal zones?

Dr. WHITE. That is correct.

Mr. LENNON. You joined in the recommendation of the Stratton commission related to coastal zone management in the Stratton commission report to the President, did you not?

Dr. WHITE. In my capacity as a commissioner. I did join in. This was within the context of the Stratton commission's deliberations at that time.

Mr. LENNON. But, as a member of the panel, and there were four of them on that panel, you made a specific recommendation to the full committee, in turn, made the specific recommendation in the Stratton commission report on which this legislation was drafted.

Is that a fair statement, Doctor?

Dr. WHITE. That is correct, Mr. Chairman.

Mr. LENNON. So, we have a situation—I believe I have seen it before, it is institutional restraints related to positions on legislation which is certainly not uncommon.

Now, Doctor, in the light of what you heard here in our colloquy with Dr. MacDonald, do you not believe—and I want you to speak as an individual and not as an administrative spokesman, if you can find yourself in the position to do that—do you not believe, as a member of the Stratton commission and as a member of the special panel that made the study in depth of this question, now you state that in your judgment this legislation parallels to a very substantial degree the recommendation, do you not believe that we ought to go ahead and move forward, that we cannot wait until the time comes in the 1980's when perhaps some legislation that might be passed that involves the total land use.

Dr. WHITE. Mr. Chairman, I would say that my views have not changed since being a member of the Stratton commission. I so stated in my testimony here that there is a great urgency to get a rational

system of management of the coastal zone, and getting one as soon as possible.

I think the difference is in what context it is done.

Mr. LENNON. In addition to the recommendations of the Stratton commission concerning the establishment of coastal zone management, which we are trying to do, did not the Stratton commission recommend specifically and definitively that the coastal zone management should be included in the National Oceanographic and Atmospheric Agency?

Dr. WHITE. That was the proposal, sir, the recommendation.

Mr. LENNON. That was the recommendation of the Commission of which you were a member.

Any other questions, gentlemen?

Mr. HEYWARD. If the chairman will forgive me, Doctor, I will try to get you off the horns of that dilemma.

Mr. LENNON. Dr. White knows the affection and esteem and regard I have for him.

Mr. HEYWARD. Dr. White, I want to go back and I apologize that I really did not raise this with Dr. MacDonald.

He made a statement that, among other things, the Congress should develop a unified approach on land use which will avoid the confusion to State and local governments that two separate Federal programs would undoubtedly create.

I assume he meant by that that there would be a separate land use program and a separate coastal zone program.

May I ask you whether or not you conceive it possible that if this committee goes forward with a coastal zone program, that it might later be married to a total land use program if that legislation moved?

Dr. WHITE. I think that Dr. MacDonald's point is well taken.

I think that there is no question that the links between the coastal zone and the rest of the land must be taken into consideration in any management of land and water areas of this country.

Now, the coastal zones are unique.

You are asking a question: If you started first with the coastal zone management system, would that preclude eventually marrying that in some consistent way into a total land use policy so you have only one system.

I believe that if the Congress takes the proper action and the executive branch takes the proper action, that we can bring that about. Separate programs are not a necessary consequence.

Mr. HEYWARD. I would like to make one additional comment. In this total land use concept, you are certainly not going to have the one point of contact at the Federal level with all the States and all the various programs that are being managed by the Federal Government.

The States are still going to have to deal with the Corps of Engineers on their projects. They are going to have to deal with the Department of Transportation in connection with airport development.

They will have to deal also with the Department of Transportation in connection with highways; with EPA in connection with facilities for abating pollution; with HUD in connection with housing and urban renewal projects; with Interior in connection with its national

parks interest, and in connection with the Bureau of Outdoor Recreation. So, I do not think the argument that a different point of contact is going to be created is very legitimate.

The Congress attempted to solve that in the Intergovernmental Coordination Act of 1968.

The proposed legislation before the subcommittee envisions that the contacts between the States and the Federal Government will be in accordance with the concepts and precepts of title IV of that act.

I thought as a matter of the record we should make it crystal clear that regardless of which department administers a coastal zone program; that is, the grants to assist the States in development, the two departments which have an interest beyond the land area, including the contiguous zone, the two departments that have the primary interest, as I see it, are the Department of Commerce and the Department of the Interior.

Various other departments have interests in this coastal zone area, so to object to making the first step on the grounds that you are creating another point of contact, it seems to me is a rather weak reed to rest an objection on.

Thank you.

Mr. LENNON. Doctor, one other question, if you will, please.

Do you not believe that the estuarine sanctuaries and the marine sanctuaries should be included in consideration of the legislation now before this committee? Are they not inseparable? How can you separate them?

Dr. WHITE. I would say, sir, that both the estuarine and marine sanctuaries are in a logical place, if such a bill were to be passed.

There are other logical places where such things could be considered but, certainly, if you are going to manage the coastal zone areas, and as you point out in H.R. 9229, the contiguous zone, then, clearly, an essential part of that management should be provision of areas for study and special use.

Mr. LENNON. Doctor, if you would rather not answer this question, I will strike it after you hear it, but do coastal zone management—and you recommended that as a member of the Stratton Commission, and of the panel thereto—if it comes into being, should it be in the Department of the Interior or NOAA, or what department should it be in?

If you prefer not to answer, I will strike the question.

Dr. WHITE. Well, sir, it is quite clear that my organization has extensive capabilities and interest in the coastal zone.

However, we are, in the administration, taking the view, which I think is the proper one, that in light of the fact that the coastal zones, the management aspects, have to be part of the general use policy aspects, the Department of the Interior also becomes a logical agency in which to lodge this.

The formation of NOAA, however, did bring into the Department of Commerce many of the oceanographic and coastal capabilities previously in the Department of the Interior.

Mr. LENNON. The sea grant program that came into being is now under NOAA and, through your office, the sea grant program being under NOAA, you are funding a number of projects which certainly are inextricably related to coastal zone management today.

Dr. WHITE. As I indicated in my testimony, 80 percent of the sea grant program, which totals about \$15 million, is directed to coastal zone problems, and a substantial part of those are devoted to problems very closely connected to coastal zone management.

Mr. LENNON. There are a number of other projects.

Well, thank you, Doctor, for your appearance.

We look forward to your continued cooperation and help in trying to implement this program if it ever gets in your department. Thank you, sir.

Excuse me, Doctor. Just one other question, from our counsel.

Mr. HEYWARD. Dr. White, I wonder if you would be willing to address a letter to the subcommittee and specifically address your attention to those parts of HR 9229 which changed or added to HR 2493, not on the philosophical concept of whether we should or should not move forward, but if coastal legislation is enacted, specific recommendations as to language or comments on HR 9229, particularly sections 312 and 313, title IV.

Dr. WHITE. I am sure I will be doing that, sir, as we provide comments on the legislation.

Mr. LENNON. Thank you very much, Doctor. Thank you, gentlemen.

STATEMENT OF THE DEPARTMENT OF THE INTERIOR BEFORE THE HOUSE  
COMMITTEE ON MERCHANT MARINE AND FISHERIES, AUGUST 3, 1971.

STATEMENT OF HON. HARRISON LOESCH, ASSISTANT SECRETARY OF THE  
INTERIOR FOR PUBLIC LAND MANAGEMENT, ACCOMPANIED BY DOUGLAS  
WHEELER, LEGISLATIVE COUNSEL'S OFFICE, DEPARTMENT OF THE  
INTERIOR

Secretary LOESCH. Yes, Mr. Chairman.

Mr. LENNON. You may proceed, sir.

Mr. LOESCH. Thank you very much.

I have with me Dr. Douglas Wheeler of our Legislative Counsel's Office in the Department.

I am happy to discuss briefly with you today H.R. 2493. I think you were furnished my statement at the occasion of the prior hearing when time ran out last June.

These two bills are similar bills whose purpose it is to assist coastal States in their management of estuaries and the coastal zone.

My remarks are addressed as well to those provisions of the administration's proposal for a national land use policy which bear directly on the question of coastal zone management.

Having responsibility for public land management within our Department, I can readily agree with the chairman that enactment of coastal zone legislation would necessarily affect programs administered by Interior. In fact, the essential relationship of coastal zone management to comprehensive land use planning is clearly recognized by the administration bill, H.R. 4332.

In our written report to the committee, we note in some detail the specific provisions of H.R. 2492 and H.R. 2493. They are quite similar to legislation supported last year by the Department of the Interior and reflect a well-founded conviction that effective management of land and water resources can best be promoted by encouraging the

States to accept broadened responsibility for land use planning and management.

Under H.R. 2493, the Secretary of Commerce would be authorized to share with coastal States their costs in the development and administration of an approved coastal zone management plan and program.

Similar authority would be vested in the Administrator of National Oceanic and Atmospheric Administration by H.R. 2492.

Studies conducted by this Department pursuant to the Federal Water Pollution Control Act and the Estuary Protection Act of 1968 confirmed our fears that, in the absence of effective protective measures, the finite resources of our coastal and estuarine areas will continue to be threatened by population growth and economic development.

As reported to the full committee during the last Congress, we and others have concluded that effective management of land and water resources can best be promoted by encouraging the States to accept a broadened responsibility for land use planning and management. Recognizing that land use problems are not limited to the coastal zone, the Council on Environmental Quality last August expressed a need to begin shaping a national land use policy.

Speaking for the Council, Dr. MacDonald has already spoken of his message of February 8, "Program for a Better Environment," \* \* \* President Nixon discussed the relationship of his land use proposal to the question of coastal zone management: "This proposal," he said, "will replace and expand my proposal submitted to the last Congress for coastal zone management, while still giving priority attention to this area of the country which is especially sensitive to development pressures."

H.R. 2493 would authorize cost-sharing grants both for program development and program management. The administration bill differs from those directed solely to the coastal zone, however, with respect to the scope of a State's planning activity and, indeed, the number of States eligible for assistance.

The National Land Use Policy Act of 1971 would recognize, nonetheless, that land use pressures and the conflicts they cause are most intense at the point where land meets water. To assure that coastal zone and estuarine management receive the priority attention of coastal States, our proposed H.R. 4332 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventoring and designating such areas.

Further, the Secretary of the Interior, charged with the responsibility for administration of Federal assistance, would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account the protection of their esthetic and ecological values and the susceptibility of wetlands to permanent destruction through drainage, dredging, and filling.

Perhaps most important in terms of State action is the provision that \$100 million would be allocated to the States over 5 years under regulations which must take into account the nature and extent of States' coastal zones and estuaries.

As the hearings of this committee have shown, there is a great and growing concern for protection of the Nation's coastal zone and estuaries. That concern, we believe, must extend to land use problems within a much broader context. The committee is no doubt aware that many of the conflicts felt at water's edge have their origins further inland, and that only comprehensive planning can alleviate the growing pressure.

While coastal zone planning is needed, we must also recognize that land use decisions cannot be made effective in the absence of a statewide policy. The States seem willing to accept this challenge, and the President is committed to a more extensive policy affecting land use throughout the United States. Having learned from the States' growing experience with land use regulations and cognizant of a growing public concern about the environmental consequences of all land use, we now urge the enactment of legislation that will encourage States to control not only how land will be used, but how well it can be used.

Thank you, Mr. Chairman. That concludes my formal statement. I will be pleased to answer any questions.

Mr. LENNON. Thank you, Mr. Secretary.

Mr. Downing?

Mr. DOWNING. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for a fine statement.

Your views seem to coincide with my distinguished Governor of Virginia.

One of his suggestions for this bill was that our jurisdiction should go right on up into the fresh water areas of the tributaries going to the coast. And I think that is what you intimated in your statement.

Secretary LOESCH. Yes, sir; the administration's land use plans bill, of course, covers the entire area of the States, but with particular attention to the coastal zone and estuarine areas.

Now, I do not suppose—and this is one of the problems with the coastal zone management bill alone—I do not suppose anyone is expert enough to say at this point it is coastal zone and a foot further inland it is not coastal zone.

Mr. DOWNING. Well, under this bill, I do not think it would include, say, the area from Washington, D.C., along the Potomac to Occoquan Creek, and we all know that is the most heavily polluted section of the Potomac.

Secretary LOESCH. Yes.

Mr. DOWNING. We may have to discuss that further.

Thank you very much, Mr. Secretary.

Mr. LENNON. Mr. du Pont?

Mr. DU PONT. Thank you, Mr. Chairman.

We recently cleared out of this committee and are about to bring to the floor a bill concerning ocean dumping; and one of my concerns in that bill also comes into this bill and is the question of what role the States can play in setting regulations.

I notice that you have H.R. 9229 in front of you.

Secretary LOESCH. Yes; I think I do.

Mr. DU PONT. On page 13, and this is in the other bills. but I do not have a page reference, but on page 13 of H.R. 9229 there are two sections that deal with what authority the States shall have. Subsection 2, beginning on line 11, states that Federal agencies shall not undertake any development projects in a coastal and estuarine zone

which, in the opinion of the coastal State, is inconsistent with the management plan of such coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

My question is, how do you foresee the role of the States here?

Do you foresee the building of an oil refinery being designated by the Secretary as somehow in the national interest and therefore being able to override a State's decision not to have a refinery on a specific area?

Secretary LOESCH. Mr. du Pont, I think, of course, that it is incumbent upon the Federal Government to retain final responsibility for management of Federal programs, but I certainly would not conceive that, except in most unusual circumstances, that any Secretary would want to override a State's considered judgment.

MR. DU PONT. Well, if that is true, and maybe the chairman would care to comment on this, I am a little confused as to what these sections really mean, but I can see the national defense exception.

Secretary LOESCH. Yes; of course. I think we can all see that.

MR. DU PONT. But short of that, I am just not sure I understand what we are doing here.

You would see it that if the State decided to set aside an area of land and said we are not going to allow any construction here because we want to preserve the land for noneconomic development, you would see no situation short of a national defense interest that would permit the Federal Government to override that?

Secretary LOESCH. I do not think so, Mr. du Pont, particularly with the advent of the Environmental Protection Act and the President's Council on the Environment.

I would be greatly surprised if any such project by a State were even argued about by the Federal Government.

Thank you, Mr. Chairman.

MR. LENNON. I will say to the gentleman from Delaware he is at liberty at any time to consult with counsel of this subcommittee and the other counsel of the committee in order to get a legal opinion on any matter before the subcommittee.

The gentleman from North Carolina.

MR. JONES. No questions.

MR. LENNON. Mr. Secretary, we recognize that last year the administration, following the recommendations of the Stratton Commission, which I believe made a more definitive study of this problem than any other Commission that has ever been involved in this matter, came up with its recommendations concerning the establishment of coastal zone management.

Now, they have enlarged that to include the land areas, but there is a complete recognition on the part of these 32 coastal States, including the Great Lakes States, through their coastal States and organization, that at a point in time we were looking way down the road for a policy such as enunciated by the President this year.

It was their consensus, and they so stated before this subcommittee, that we ought to move now, at least in this direction that we are considering under the bill that is now before this subcommittee.



In addition thereto, the National Legislative Council, representing the legislatures and the general assemblies of the 50 States have made it crystal clear to this subcommittee in its testimony, speaking for them, that it supports the concepts of this bill.

Now, the language that I find on page 12, Mr. du Pont, beginning on line 3, which makes it crystal clear to me, is the procedural aspect under which these areas may be designated and the purposes therefor and the grants to be used therefor, for the purposes of developing these coastal zones, has to go through a rather not too tortuous, but I say an essential hearing and then determination and considerations before any approval will be given for this purpose; and I think appropriately so.

You are suggesting, Mr. Secretary, that we ignore that and start to commence to wait for another few years because it is obvious that you are not going to have this total program related to your coastal zones and your land use certainly within the next few years.

I think everybody will admit to that.

Are you suggesting that we just get ready and start to commence to stop and wait and do nothing?

That same suggestion was proposed in a sense as to the problems of ocean dumping.

Let me make it crystal clear here now that it was the fault of the administration that precipitated the ocean dumping bill and its unwillingness to meet the situation related to the dumping of the 420 caskets of nerve gas off Cape Kennedy last year after an agency of the Federal Government, the Atomic Energy Commission, on the advice of its St. Lawrence laboratories, made it clear and put it in writing that they had the capability, the finesse, the skills, and the experience, to dispose of that gas without dumping. Everybody agreed to it. Your commission that was created from the National Science Foundation, the scientists gave their total agreement to it, but they did not make this reservation.

We suggested creating a commission composed of people in this area to make a study of this matter. They did. They came up with the identical recommendation of the ad hoc committee created at the request of the Department of the Army from the National Science Foundation and then AEC backed off and said, "Uh-uh, no; politically this would hurt the administration to ship this stuff out here and dispose of it on the ground."

They said, "We would rather not do it," and nobody had the guts, and I use the word "guts" just as it is on this particular matter, to go to the President to get his decision.

That is what, in my judgment, brought about the recognition that something had to be done about the dumping into the ocean of chemical and biological and radioactive warfare agents.

Here we are today, and there is an effort being made now by the Department of the Interior to block that bill; and the Department of the Interior is involved in it, trying to block that bill because it does not like the marine sanctuaries and it wants control of the marine sanctuaries.

Under title III of that bill, it would permit that to be established; and I know what I am talking about and I do not care if it is on the record or off the record; and I do not care if you are here. I am not

impatient; I am a tolerant person, or at least I try to be. But I get a little bit impatient on the lack of recognition of the need and the jealousy among the departments and bureaus as to who is going to have the authority to do this.

I am not lecturing anyone nor am I condemning anyone; but do not get me started, or I might.

We would like your views, Mr. Secretary, as to whether you think we ought to wait at this point in time and do nothing about the creating of the coastal zone management program until such time as we could get a land-use bill through Congress. I think you gentlemen know that some of us have lived with this problem for years and have felt the need for an independent oceanic and atmospheric agency; and we recognize with the administration taking another view that it would be years before that could be brought into being.

We supported, on a nonpartisan basis, the President's recommendation for the establishment of NOAA.

We do not find much support at the national level for NOAA, even though it was the administration's creature, created by Reorganization Plan No. 4 that you are familiar with.

Are you saying now with the recognition that it is very unlikely that the Congress will act anytime in the recently foreseeable future for a total program related to land and water, that we ought not do anything; just go row the boat gently down the stream and let the American public take the consequences?

Is that what you are saying, Mr. Secretary?

I wish you would put it into the record, if so.

Is that what you are saying?

Secretary LOESCH. Mr. Chairman, let me observe that I do not share your view in the first place.

Mr. LENNON. No, sir; I do not expect you to. You would not be here in the first place if you did.

Secretary LOESCH. No, sir; I do not share your view that there is likely to be a great delay in passage of a land-use planning bill. I do not say that will necessarily be the administration's bill, but I think this Congress will devote itself, it has, in part, already, to a general land-use planning bill.

I think the studies of the present Council on Environmental Quality were quite definitive, that we needed more than a coastal zone management bill and, of course, I am well aware, as you are, that the coastal zone management bill you are considering had the support of the administration a year ago or a little more than a year ago.

I just do not think we ought to settle for a half a loaf if we can get it all, and I believe we can get it all.

Mr. LENNON. Well, why does the Department of the Interior think that it ought to have the administrative authority over the designation and the administration of marine sanctuaries?

Secretary LOESCH. Mr. Chairman, I think that the reason that we are concerned with the seaward area to the edge of the Continental Shelf is simply on account of our responsibility concerning the development of those areas under the Outer Continental Shelf Act.

Mr. LENNON. What is the spelled-out functions of the National Oceanic and Atmospheric Agency? Who created it? Who brought it into being, and what is its objectivity as associated with this administration?

Secretary LOESCH. Mr. Secretary, I am not a great expert on that particular agency, but, of course, we all know that the purpose of it was to give some cohesion to management of oceanographic matters.

Mr. LENNON. Well, are we talking about oceanographic matters when we talk about seaward to the Continental Shelf?

Secretary LOESCH. I think we probably are.

Mr. LENNON. I wish you would explain it.

Secretary LOESCH. I do not think, Mr. Chairman, that you would advocate for instance, that NOAA should determine by itself and without input from any other agency whether, when, or if we drill for oil on the Outer Continental Shelf. I doubt if you would.

Mr. LENNON. The bill does not so provide.

Secretary LOESCH. I understand that, but to meet marine sanctuary, that portion of that bill—and let me make it very clear, Mr. Chairman, that the Department of the Interior does not oppose that bill; it does oppose title III of that bill, concerning the marine sanctuaries but not the rest of the bill.

The reason, as I have said, for opposition to title III is simply the collision between our responsibilities for oil and gas matters on the Outer Continental Shelf and the proposed authority for NOAA.

Mr. LENNON. We would like very much, Mr. Secretary, if you would put in writing and recapitulate your objections to title III of the ocean dumping bill. You may have already done that, but I do not recall having seen it and your basic objection to title III of the ocean dumping bill is what? I am talking about the Department of the Interior now; not you as an individual.

Secretary LOESCH. Yes; I understand.

Mr. LENNON. What are they?

Secretary LOESCH. We would be very glad to furnish that, too, Mr. Chairman.

Mr. LENNON. You could not at this point in time, inasmuch as, hopefully, the matter will be considered this week, or certainly when the Congress comes back in September; you could not state it now?

Secretary LOESCH. Mr. Chairman, I can have that for you at the close of business today.

Mr. LENNON. Mr. Mosher, I think you just came in since the Secretary testified.

Mr. MOSHER. Mr. Chairman, since I did just come in, I will not take any time at this point other than to say that personally I see our bill, which I strongly support, for coastal zone management as an immediate, practical, important step toward the larger goals of the administration; and I am interested, but a little surprised to hear Mr. Loesch's optimism about the possibility of passage of the larger land management concept in this Congress.

I have felt that probably was not so. I think we are moving in the right direction in the legislation we are considering here.

Thank you, Mr. Chairman.

Mr. LENNON. Thank you Mr. Mosher.

I recognize the gentleman from Connecticut, Mr. Steele.

Mr. STEELE. My only comment is that I am eager to see the statement that will be prepared by the end of business today.

I am interested in your objections. I do not fully understand your objections, and I think that paper will be very helpful.

I would hope we can all get a copy of it just as soon as possible because I understand that the bill may be coming up this week; is that correct?

Mr. LENNON. Yes.

Mr. STEELE. Thank you.

Secretary LOESCH. I will have it in sufficient copies for the entire committee.

Mr. LENNON. Mr. Mills?

Mr. MILLS. No questions.

Mr. LENNON. Mr. Secretary, inasmuch as it is a possibility, even probability, that the legislation will be considered during this week. I am talking about the bill H.R. 9727, the ocean dumping bill as it is generally referred to, could you not briefly summarize your basic objections, those of the Department of the Interior?

My information is that the Department of the Interior wants this authority rather than to permit the Administrator of NOAA, the Secretary of Commerce, through the Administrator of NOAA, to have it.

That is the scuttlebut information that I have, that the Department of the Interior made the decision that it wants to be designated as the agency of the Federal Government that may designate marine sanctuaries of the ocean and coastal waters as far seaward as the Outer Continental Shelf, and so forth.

Is that basically the objection to title III, the fact that the Department of the Interior was not designated as the agency that would make the determination?

Secretary LOESCH. No, sir; it really was not and let me say also that the Department supports the concept of marine sanctuaries. I could read to you a paragraph which will constitute the essence of the letter that I will have prepared for you today, Mr. Chairman, that may throw some light on our attitude:

With respect to the program responsibilities of this Department, we are most concerned about the prospective effects of Title 3.

It provides generally for a designation by the Secretary of Commerce of marine sanctuaries within a broad area, ranging seaward, to the outer edge of the Continental Shelf for the regulation of any activities permitted within the designated marine sanctuary and for certification by the Secretary of Commerce that otherwise lawful activity is consistent with the purposes of this title and can be carried out without the regulations—and I am not sure that last is not a misprint in the bill itself—promulgated under Section 302 (b).

In letters to the Chairman of the Committee of Merchant Marine and Fisheries, the Departments of State and Defense and the Office of Management and Budget have expressed their concern about the claim to extra territorial jurisdiction proposed in Title 3.

It may suffice to note that any such assertion of jurisdiction beyond established limits has been carefully and properly avoided in Title 1 of the same bill.

To the same extent that the United States does claim jurisdiction beyond the territorial sea and the contiguous fisheries zone, such jurisdiction pertains only to natural resources of the Outer Continental Shelf.

Thus, the only permitted activity lawfully subject to certification by the Secretary, within a marine sanctuary beyond the territorial sea would be that already subject to regulation by this Department under the Outer Continental Shelf Land Act.

The National Environmental Policy Act of 1969 and regulations promulgated by this Department pursuant to the Outer Continental Shelf Lands Act require thorough consideration of environmental impact prior to the leases of mineral leases and during extraction if a lease is issued.

No Federal agency is better able than we to identify those natural values deemed worthy of preservation in Section 302 (a).

Now, in this same letter from which I am quoting, we go on to say that we have long expressed departmental concern about the environmental effects of ocean dumping and that we strongly recommend that dumping be regulated through enactment of H.R. 4723.

We recommend against enactment of title III for the reasons stated and at the same time we have demonstrated our concern for the environment by the suspension, as you are aware, of extraction activity in the Santa Barbara Channel, and the recommendation to Congress that the area be set aside as a national energy preserve.

I regret that we did not receive the opportunity to comment on H.R. 9727 before it was reported. We do not think that title III is appropriate and that is the only portion of the bill that we object to.

Mr. LENNON. Well, if title III of the ocean dumping bill—do you think it ought to be under the coastal zone management regulation rather than coastal dumping, or are you just opposed to it—period?

Secretary LOESCH. Well, my report to the chairman under date of June 23 on H.R. 9229 says this:

The Marine Sanctuary concept proposed in H.R. 9229, as a new title for the Marine Resources Engineering and Development Act of 1966 is deserving of careful study and treatment in a separate bill.

It would be inappropriate, we believe, to embark upon the Federal regulatory scheme required by sections 412 and 413 within the context of legislation designed to assist the coastal states in the exercise of their land-management responsibilities.

Now, that, of course, is the departmental position.

Mr. LENNON. Well, Mr. Secretary, as you well know, the Secretary of Commerce, through the Administrator of NOAA, must consult with the Secretary of State, the Secretary of Defense, the Secretary of the Interior, the Secretary of Transportation, and the Administrator of EPA before he can designate any area as a marine sanctuary.

I will say this to you, that there are amendments pending which will be offered for consideration with H.R. 9727 that would deny the right to the Secretary of the Interior to issue permits for exploration for gas, oil, or anything else; and I and the chairman of the other subcommittee that conducted the hearings on this legislation are adamant in our opposition to those amendments.

I think it would preempt the Secretary of the Interior from going forward with the contracts that you may now have or are now negotiating for the purpose of leasing offshore lands for the development of oil or gas, minerals, or whatever it may be.

I think it is the wrong philosophy and that is the reason I think this is a moderate, in-between bill. Many Members of Congress would designate all areas, if they could, as marine sanctuaries. I think we have struck a happy balance with the language we have written into this bill. It requires the Secretary of Commerce to take many steps, public hearings at the local level, and the local communities, the counties, the State, the Governors, and everybody else is involved before a decision can be made.

I think it is a matter of record that I would have preferred that this title III go into the coastal zone management bill, and that was the consensus of the coastal States and the National Legislative Council. Their thinking was it ought to go in the coastal zone bill. However, the majority of the two subcommittees wanted to put it in the ocean dumping bill, trying to keep it as moderate as we can and to protect

the Department of the Interior and its statutory rights to make the determination with respect to these leases which are so inextricably tied to our power resources that we all have a reason to care for.

I think it is an orderly approach. You have to walk up the hill and down the hill and go around the hill before a designation can ever be made.

Certainly, even the Governors of the respective States have quite an input into this proposal in this particular title.

As a matter of fact, the Governors of the States, before the expiration of a 60-day period, must certify to the Secretary that a specified portion thereof is unacceptable and the Secretary cannot issue a permit until the Governor withdraws the certificate of unacceptability.

We tried to bring into that legislation a cooperation we have not had before with the States and with the political subdivisions that might be involved.

I did not mean to interrupt you, sir. I wanted to call your attention to that language on page 47, lines 5 through 19 of the bill, talking about the bill relating to marine sanctuaries, title III.

Well, I do not want to unduly delay you, sir, in discussing something that is really not before this subcommittee; but I thought this would be proper since we had not had the opportunity to talk with anybody and I was getting different messages, none of them official exactly, that you hope to get this language changed and designate the Secretary of the Interior to make the decision as regards marine sanctuaries.

I question the wisdom of that. If you are going to have a National Oceanographic and Atmospheric Agency, I doubt that the Department of the Interior should make the selection of marine sanctuaries.

The Department of the Interior is inextricably related to the coastal zones, but in the minds of most people, that is the Department of Commerce is primarily involved in designating marine sanctuaries.

Any other questions?

Mr. Counsel?

Mr. HEYWOOD. Mr. Secretary, in connection with the marine sanctuary problem, I noticed in your statement on H.R. 9229, that you say it would be inappropriate to embark upon the Federal regulatory scheme, and so forth, within the context of legislation designed to assist the coastal States in the exercise of their land-management responsibilities.

It seems to me in that statement that you are not really recognizing the purposes of H.R. 9229. Repeatedly in the findings of section 302, the bill addresses itself to water management responsibilities. As a matter of fact, the initiation of this bill came from a consideration by the Marine Science Commission, which was concerned with oceanic management in that part of the coastal zone which related to water resources, particularly the competing uses that were threatening the living marine resources of the coastal zone.

Now, obviously, in any bill, whichever way it starts, the land mass along the coast is obviously going to have to be coordinated, that is, the management of it, with the water resources, whether we talk about land use or whether we talk about water use. But as I review the administration reports and testimony from the administration witnesses, I see that they continue to talk about land management.

This bill is really addressing itself to water management, and such land management as is absolutely necessary in order to manage the resources of the offshore area.

Would you agree that your statement would be equally valid if you put in the exercise of water management responsibilities, or would you at least say land and water management responsibilities and would then the thrust of your statement have quite as much validity?

Secretary LOESCH. Yes; I think it would be appropriate to say land and water management. We do not really separate those two things in our minds. When you get right down to it, what you need is overall planning and management of the area under a particular State or Federal jurisdiction, whether it be land or water.

The great area where land meets the water is, of course, of great significance, and I think it is this, and we just sort of lump it as land management.

Mr. HEYWARD. Well, as long as your statement here is recognizing water management, I just wanted you to clarify that.

Now, second, the bill, as it is drafted, provides assistance to the States in developing a plan. It does not direct the States to separate their land use and their water resource management problems. Obviously, they are going to have to consider them together.

What is objectionable to having the Federal Government under this bill, coastal zone legislation, provide for assistance to the States that have not been able to come forward with total plans?

What is objectionable to now providing that initiative with the understanding if, at a later date, an overall land use program is initiated, that the two must merge together? After all, as far as the States are concerned, while there is a review at the national level, the purpose of the bill is to assist the States financially to get going.

Secretary LOESCH. Yes; and, of course, this is also true of the land-use planning, the national land use planning bill. I think both bills are aiming at institutional reform in the States to get going on proper planning.

Mr. HEYWARD. Is there anything in the administration's approach which provides assistance for the States, for instance, to acquire estuarine areas such as there is in coastal zone legislation?

Secretary LOESCH. To acquire them; no, sir.

Mr. HEYWARD. To acquire rights that may be necessary to protect estuarine areas?

Secretary LOESCH. No; there is not, except that the land-use planning bill basically provides for planning grants and then, upon completion of the plan, program grants, but no acquisition money I am aware of.

Mr. HEYWARD. In connection with the other aspect of the marine sanctuary, would your objection be changed if the marine sanctuary authority did not extend beyond the contiguous zone?

Secretary LOESCH. I am not sure that I can sit here and say to this committee that that change would result in Interior supporting it, but certainly it removes what I have considered the major objection.

Mr. HEYWARD. At least beyond the contiguous zones, the only thing we are talking about preventing, so to speak, in the marine sanctuaries is the exploitation of the mineral resources of the seabed.

If it were limited to the contiguous zone, the argument would not have the validity it presently has.

Secretary LOESCH. No.

Mr. HEYWARD. Is there any language you could furnish the committee which would provide for a later transition into a national land use policy overview if this legislation goes forward?

Now, I understand you do not want this legislation to go forward. You would rather wait for the land use bill. I am asking you whether, if, despite that, a coastal zone bill goes forward, would it be possible for you to furnish legislative language, even reluctantly, that would anticipate later enactment of land use legislation so they could be merged?

Secretary LOESCH. It would be very difficult for us to do this unless we knew the final form of the coastal zone legislation, of course.

We could take the bill as it is and develop language. I am certain, which would phase it into the total land use planning concept if and when that passes. Unless we were pretty certain that the bill would go through just as it is written which, as you know, is sort of always problematical; you can see our problem. We might come up with something inappropriate.

Mr. HEYWARD. Am I correct in saying that the approach of the administration in the past as to the coastal zone itself, its critical environmental quality, is the thrust of it?

Secretary LOESCH. That is right.

Mr. HEYWARD. It really does not address itself to rational decisions on competing uses. It is just silent on that subject.

Secretary LOESCH. No; I do not think that is so. The land planning bill identifies areas of critical environmental concern, of which coastal zones and estuarine areas is one category.

Mr. HEYWARD. That is correct, but it is not true that when the administration supported the coastal zone concept last year that it supported it in the context of amending the Federal Water Pollution Control Act?

Secretary LOESCH. That is correct.

Mr. HEYWARD. Addressed to protection rather than really to a management of competing uses and including within that management scheme the protection system.

Secretary LOESCH. Yes; I think that is correct.

Of course, so far as we are concerned, we are pretty much committed in the Department on land planning—and here I do make a distinction between land and water planning—to the concept of management via a multiple use and sustained yield in which we deal every day with competing uses, competing requirements for the same specific area of ground. I think this can be equated quite appropriately to water planning, but I agree with you that the thrust of the previous administration bill and its current inclusion in the land use bill is pretty much environmental-ecological concern.

Mr. HEYWARD. In that connection, is it not true—and this refers to the question asked previously by Mr. du Pont who has left—in connection with the Federal overview, section 307 of H.R. 9229 provides for a review at the national level with consultation with all of the departmental agencies that might be involved before the Secretary approves the State plan?

Does not this provision adequately insure the Federal input of all departments which are concerned with the plan that is coming up,



including land use by Interior, including housing problems by HUD, including airport development by Transportation, including defense programs in the coastal zone area? I hardly see how you could provide a better coordination of Federal programs at the national level and I would suggest that the States in coming up with a program are going to have to recognize the Federal interest.

It is only after this total coordination occurs and the plan is approved that the plan may be subjected to the national security considerations, which is always one that we have to consider.

The initial input from the Federal Government comes before the plan is ever approved.

Secretary LOESCH. What you say is all very true. However, one of the things that we, and I believe the other Federal agencies, disagree with is the idea that in case of disagreement in this consultative process in every instance if there were irreconcilable conflicts at that level, the President must be dragged into it, and we do not believe it is appropriate his getting into this act in case of a dispute between either a State and a Federal agency or between two Federal agencies.

Even now, if two Federal agencies get into some big wrangle, it is a rare one of those wrangles that ever gets to the Executive Office of the President; is it not? It is settled some other way. We are not too crazy about that provision.

Mr. HEYWARD. Well, when more than one department has a legitimate interest, it is difficult to put final decisions in one department without some provisions—

Secretary LOESCH. Oh, yes.

Mr. HEYWARD [continuing]. For an overview; and this language does not require the President personally to intervene if he does not want to.

It does provide for a mechanism within the Executive Office, either through interagency committee or some other form he may set up to effect the final decision.

It is an attempt to protect the legitimate interests of all departments.

As you know, decisions on funding or anything else by committee is very difficult. Somebody has to be the focal point.

That is all.

Mr. LENNON. Thank you, Mr. Counsel.

Thank you very much, Mr. Secretary. We appreciate your getting here.

Secretary LOESCH. Thank you, Mr. Chairman.

Mr. LENNON. The next witness is representing the Edison Electric Institute, Mr. Shearon Harris, chairman and president of the Carolina Power & Light Co.

Mr. JONES. Mr. Chairman, will you yield?

Mr. LENNON. Yes.

Mr. JONES. I would like to extend a very warm welcome to my friend Shearon Harris. I had the honor of serving with him in 1955 in the North Carolina Legislature, where at that time, at an early age, he showed these marks of leadership which have developed into the position he now occupies.

Thank you, Mr. Chairman.

Mr. LENNON. I join in everything you have said and extend a cordial and hearty welcome to our long time and great friend.

STATEMENT OF ASSISTANT ADMINISTRATOR FOR ENFORCEMENT AND  
GENERAL COUNSEL, ENVIRONMENTAL PROTECTION AGENCY, AUGUST 4,  
1971

STATEMENT OF HON. JOHN R. QUARLES, JR., ASSISTANT ADMINISTRATOR FOR  
ENFORCEMENT AND GENERAL COUNSEL, ENVIRONMENTAL PROTECTION  
AGENCY

Mr. QUARLES. Thank you, Mr. Chairman.

I am pleased to have the opportunity this morning to appear before you and to present the views of the Environmental Protection Agency on bills relating to the management of the coastal zone.

The Environmental Protection Agency does not have primary responsibility for Federal programs affecting land-use management and development in the coastal zone under existing authorities, nor would it receive such responsibility under any of the bills presently pending before Congress. The Environmental Protection Agency, nonetheless, does have important responsibilities relating to the protection of estuaries and other aspects of coastal zone management. We, therefore, are most concerned that any new legislation in this area be placed on the soundest possible basis.

In this regard, certain specific requirements are applicable to development in the coastal and estuarine zones. Wherever a development activity is to be carried out with Federal assistance or through a Federal license or permit, and that activity would have a significant impact upon the environment, the responsible agency is required to prepare a statement of environmental impact pursuant to the National Environmental Policy Act of 1969. The Environmental Protection Agency regularly reviews such statements to determine whether or not adequate provision has been made for the protection of the environment.

In addition to our specific responsibilities under the National Environmental Policy Act, we consult with other Federal agencies to assist them in carrying out their responsibilities to meet air and water quality standards. These responsibilities are set forth in Executive Order 11507.

Our responsibilities with respect to the protection of the coastal and marine environment will be expanded if the Congress acts favorably upon two important legislative proposals which were sent forward by the President this year. The proposed "Marine Protection Act of 1971," H.R. 4247, would require a permit from the Administrator for the dumping of any material into our ocean and coastal waters. In addition, the administration's proposed amendments to section 10 of the Federal Water Pollution Control Act, H.R. 5967, would authorize the Administrator to establish water quality standards to govern discharges into the contiguous zone and to promulgate regulations for the guidance of the States in establishing water quality standards including effluent limitations, for our coastal and estuarine waters.

We believe that the Environmental Protection Agency could carry out its responsibilities more effectively if effective controls are established over land use in the coastal and estuarine zone. One of the most important tools which we could use to protect the environment is a system which would enable us to evaluate actions which may cause

pollution before they occur, rather than after the fact. The environment is certainly subject to the old rule that "an ounce of prevention is worth a pound of cure."

We have seen time and time again that development or other activities, which could have been planned and carried out to avoid disruption of the environment at minimum trouble and expense, have proceeded in an uncontrolled and unplanned manner. In some cases, this has resulted in irremediable damage. In others, efforts made after the fact to correct or prevent damage have been far more expensive and troublesome than would have been the case if the impact upon the environment had been assessed at the planning phase, and corrective measures applied.

The bills before this committee today would establish programs of grants to the States to develop management plans for their coastal and estuarine areas. These management plans would be approved by the Federal activities to be consistent with such plans, and contain varying provisions for insuring that the States implement the plans.

We certainly are in accord with the basic purposes of these bills. They are similar to S. 3183, as proposed by President Nixon during the last session of Congress. As I pointed out earlier, we need some **sort of mechanism** to insure that proposed development and other activities in the coastal zone are examined in advance with respect to their environmental impact. We believe, however, that it would be more appropriate to provide for coastal and estuarine planning in the broader context of land use controls statewide. Decisions affecting development in the coastal zone must be influenced by factors affecting all aspects of land use within a State, including appropriate alternatives to development which would despoil or endanger the coastal zone or estuarine areas.

The administration has provided such an approach in H.R. 4332, the National Land Use Policy Act of 1971. While that bill is not before this subcommittee, I believe that it would substantially achieve the commendable objectives of the bills before you now, and should be considered as a desirable alternative for enactment in their place.

H.R. 4332 designates as "areas of critical environmental concern" all coastal and estuarine areas, and requires State land use programs to include means of exercising State control over the use of lands within such areas, including controls and regulations to insure that applicable air, water, or other environmental quality standards will not be violated. We support this special emphasis on the coastal and estuarine areas of the Nation.

Section 5(g) of the Federal Water Pollution Control Act required the Secretary of the Interior to make a study of the Nation's estuarine and coastal zones. The Secretary delegated the responsibility for carrying out that study to the Federal Water Pollution Control Administration, which is now part of the Environmental Protection Agency. The FWPCA report concluded that one of the major sources of pollution in estuarine zones is extensive, unplanned development, including waste discharges from municipalities and industries, and land runoff from construction. Dredging and filling associated with development can have a severe impact upon the estuarine environment as well.

There exists a growing threat to these delicate areas of our environment. For this reason, we regard planning for estuarine protection as crucial, and we wish to indicate to the committee our complete support for those provisions of H.R. 4332 which require plans to include adequate provisions to protect coastal and estuarine areas.

Mr. Chairman, it might be worth drawing attention to the distinction between planning, itself, and management. Planning sometimes is understood to include long or large volumes on dusty shelves, and this is not what will solve the problem. It is, rather, planning with adequate provisions for implementation of the planning through necessary controls and other management techniques.

In addition, H.R. 4332 would provide what I have suggested is an essential element: the incorporation of coastal zone planning into a comprehensive land use management program on a statewide basis.

In many respects the need for effective management of land use and development is perhaps the most under recognized of our environmental problems. It is critical that the full dimensions of this environmental problem be recognized and that a suitable regulatory mechanism be established. These problems are perhaps more intense in the coastal areas. They are by no means, however, limited to the coastal areas. There must be established at both Federal and State levels governmental programs to control land use management.

The Environmental Protection Agency believes that the National Land Use Policy Act of 1971, recently proposed by President Nixon, would fully cover the most vital problem areas requiring land use management. We are hopeful that enactment of that legislation will not be long delayed. We believe it is preferable at this time to await enactment of such legislation rather than to proceed on an interim basis to establish programs which very likely would have to be substantially changed in the near future.

Since the President has designated the Department of the Interior as the Federal agency with primary responsibility for the administration of the comprehensive program of land use controls which would be established by H.R. 4332, we believe that it would be particularly inappropriate for the bills before this committee today to be enacted. Enactment of these bills would result in administration by different agencies of closely interrelated programs affecting land use. Administration of the more comprehensive National Land Use Policy Act of 1971 would be impeded by the existence of such duplicative authority. We urge, therefore, that the committee defer action on these bills and that the Congress give favorable consideration at the earliest possible date to H.R. 4332.

Mr. LENNON. Thank you, Mr. Administrator. The gentleman from Massachusetts.

Mr. KEITH. Thank you, Mr. Chairman.

I welcome my colleague from the Commonwealth to this committee. I am sorry that he does not agree with the approach those of us who have filed the bill have to resolving this all-important problem.

I, of course, recognize the administration's point of view. It has considerable validity.

Have you any reason to believe that you are going to get the bill out of the Interior Committee? Have the hearings proceeded in a very timely fashion?

Mr. QUARLES. Mr. Keith, I am not as familiar with the details of the proceedings there as others who have appeared before you, and I gather that they are not proceeding there with the speed that I, at least, feel the matter deserves.

I think that one has to be confident that legislation of that nature will be enacted fairly soon because of the need for it and because of the growing recognition of the need for it.

I would be generally hopeful that that legislation would proceed, if not within the immediate future, at least within the medium future.

Mr. KEITH. Well, it seems to me that this committee has had jurisdiction over these matters for a long time. We have studied them.

It is acquainted not only with the problems, but, more particularly, with the way in which they relate to the oceans.

Mr. QUARLES. Yes, sir.

Mr. KEITH. And it would seem to me that the significance of the coastal zone is much more related to the field of oceanography and to this committee's other interests in fish, in wildlife, in marine sanctuaries.

We have recognized the urgency for a long period of time. It is only recently that it has really been brought to the attention of the public.

Do I interpret your remarks to say that you, personally, would like to register a little different philosophy than that expressed in this prepared statement?

Mr. QUARLES. No, I do not believe so, sir.

Mr. KEITH. Well, representing, as I do, a coastal zone, with hundreds of miles of shoreline, and representing at the same time a very important fishing port which is having a hard time staying alive because there is so little fish left in the sea, I think we not only have the jurisdiction, but I think we also have the greater concern.

I hope you would convey that to those for whom you have been speaking.

Mr. QUARLES. Well, I think that all people recognize the leadership that this committee has shown in recognizing these problems and their importance, at an earlier date than others in the country recognized them, and in recognizing that the key to solving the problems lies in establishing instruments of control over the way the land is used.

We have gone on much too long on the total traditional American reliance on letting each property owner do whatever he might wish, subject only to the most modest type of zoning at the most local level.

The game has speeded up enormously.

Mr. KEITH. That is right.

Mr. QUARLES. Since originally the Stratton report, the study and effort began, and others began to become familiar with these problems, within the last year or two there has been a tremendous increase in the general concern for environmental problems, and I think that the recognition of the need for land control, that, perhaps, initially began with the coastal areas because they do represent the most critical need, is spreading so that people recognize now much more broadly the need for total statewide land use controls.

I feel confident that this will come about very soon.

One of the major concerns that we have at EPA—and we have been living with this problem on a daily-weekly basis—is trying to operate programs that relate to very similar problems in an integrated fashion.

The pollution control programs were scattered all over the lot, and this diminished their effectiveness and made it difficult for us, when the Environmental Protection Agency was established, to incorporate all of these different elements into a strong, unified organization.

The problems which are presented by the coastal zone are similar, both, to some extent, in their biological and other characteristics of being natural areas, et cetera, to the problems that affect mountain areas or valleys or river basins, or other inland areas, and also the mechanisms for control are inevitably going to be quite similar.

So that one can look forward to a time within a matter of months or a few years when States and the Federal Government will be working on these problems through organized units of government.

The question that I think we can now very clearly identify as being one that may arise as a possible problem a few years down the road is whether the Government is going to anticipate the development and set itself up in such a way as to focus on these problems in the most efficient manner or not.

Mr. KEITH. If the gentleman will forgive me for interrupting, I regret very much that I have to attend an executive session in which we are marking up a bill to determine what the role of the Environmental Protection Agency will be in the siting of utility plants.

My colleague from Massachusetts assures me that he would start that promptly at 10 a.m. I have to carry on this argument in your behalf over there.

I do have some questions to which I will ask that you reply in writing, not in my absence. I will just give them to you by passing them to the clerk.

Assuming the enactment of H.R. 9229, would EPA have any problem in complying with the bill's requirements and provisions?

And, second, would it not be more logical to enact H.R. 9229 dealing with coastal zones now, and then merge it into a national land use policy if other legislation is enacted?

I will leave these two questions with the staff to relay to you. If the chairman will excuse me.

Mr. LENNON. You want those questions answered as a part of your interrogation of the witness?

Mr. KEITH. Yes.

Mr. LENNON. All right.

Mr. KEITH. Thank you, sir.

[The information referred to follows:]

ENVIRONMENTAL PROTECTION AGENCY,  
Washington, D.C., September 28, 1971.

HON. ALTON A. LENNON,

*Chairman, Subcommittee on Oceanography, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. LENNON: During my testimony on August 4, 1971, on bills relating to coastal zone management, Mr. Hastings Keith of Massachusetts asked that I respond to two questions for the record. The questions and my responses are as follows:

"1. Assuming, then, enactment of H.R. 9229, would EPA have any problem in complying with the bill's requirements and provisions?"

The Environmental Protection Agency would assist in every possible way in the implementation of H.R. 9229 if it were enacted. We feel, however, that it is important to reiterate that the President has designated the Department of the Interior as the Federal agency with primary responsibility for administration of the comprehensive program of land use controls which would be established by

H.R. 4332. It would accordingly be inappropriate for the Department of Commerce to be designated to administer coastal zone legislation.

"2. And, second, would it not be more logical to enact H.R. 9229 dealing with coastal zones now, and then to merge it into a national land-use policy if other legislation is later enacted?"

As I indicated in my testimony before the Subcommittee, this is a very difficult question and the answer is not perfectly clear. It is my feeling, however, that right now there is a great amount of momentum for establishing intelligent systems of land management. Much of the momentum is focused on the coastal zone problems. If a coastal zone management bill were to be passed, some of those laboring for achievement of regulation of land use might feel that the job was done and they could relax; whereas, if the effort can be kept up for a while longer, it is quite probable that a broader program can be realized. There is an opportunity to press on a little farther until we come to a complete land management package. I believe that it is preferable at this time to work for enactment of such broad legislation rather than proceed on an interim basis to establish programs which would have to be substantially changed when integrated into a more comprehensive program.

I thank you and your Subcommittee for the opportunity to testify on the vital issue of coastal zones management.

Sincerely yours,

JOHN R. QUARLES, JR.,

*Assistant Administrator for Enforcement and General Counsel.*

Mr. LENNON. Mr. du Pont.

Mr. DU PONT. Thank you, Mr. Chairman.

Mr. Quarles, the first question I have is this:

If we are going to have some kind of land-use regulation, what legal handle is there for the Federal Government to apply such standards?

In other words, if we are dealing with navigable waters, you have a handle under the Constitution.

If you are dealing with interstate commerce, you have a handle.

But what handle exists for regulating a piece of land?

Mr. QUARLES. I imagine that, while all sorts of legal grounds might exist for some situations or other situations, there are still others. And there might be some situations that would not be covered by any one of the legal handles.

I don't know that. I have not given careful thought to that in advance of your asking the question.

I believe that the approaches proposed by the President's bill of a year ago and the bills that are now pending before the committee would, in general, be justified simply on the basis of the Federal Government providing grants to States for establishment by the States of proposals, and subjecting those grants to approval based on certain conditions being satisfied.

Mr. DU PONT. Well, I think that is very clear, and there is no problem there. But you speak in your statement of it is time that we had a national land-use policy.

Mr. QUARLES. Yes.

Mr. DU PONT. And if by that you mean that somehow the Federal Government is going to set and enforce some kind of land-use standards, I think there are very difficult constitutional problems.

Mr. QUARLES. What I mean by that is the type of proposal that is contained in the President's bill H.R. 4332.

Mr. DU PONT. Well, getting somewhat more specific, you may be aware that the State of Delaware has recently enacted some very far-reaching legislation which, in effect, sets a land-use policy for the coastal zone in Delaware.

Now, that legislation says that no heavy industry, steel mills, oil refineries, paper pulpmills, et cetera, can locate in Delaware within the coastal zone without legislative approval.

Mr. QUARLES. Yes.

Mr. DU PONT. Now, assuming a hypothetical case that the legislature did approve such an installation, would you foresee any Federal statute that would somehow attempt to override that decision?

Mr. QUARLES. I would not at this time foresee any new Federal statute to override that.

The approval of a major industrial facility would have to come not only from the approval by a State legislature, but also it would require a satisfaction of other applicable requirements such as the satisfaction of the existing Federal-State water quality standards.

Mr. DU PONT. Certainly, but assuming that those were met, you would not foresee a Federal override statute that would try to override a decision by a State legislature, assuming that existing environmental laws were met?

Mr. QUARLES. I think that is correct. I think that the Delaware statute represents a tremendous step forward. There may be some aspects of it or some situations in which that approach will work out disadvantageously, but it represents a State coming to grips with the problem and taking bold action. Clearly, it is necessary for the States to do that.

Now, if the proposals were approved in H.R. 9229, or some other similar system, or H.R. 4332, a general statewide plan would have to be approved.

After that plan were approved, I don't know that it would be appropriate for even a State legislature to have the authority to create individual exceptions to that plan.

There might be some required mechanism for providing further assurance that that would not be inconsistent with the overall outlines of the plan as approved by the Federal Government, and as serving as the basis for Federal grants.

Mr. DU PONT. Well, I think it is going to be, and, as long as we are talking just about Federal grants, we are on safe ground, and there is no problem.

But, if we get into questions of overriding State legislatures on land use within a State, we are going to have to think about that carefully, or we are going to find ourselves on constitutional—

Mr. QUARLES. It is perfectly clear to me, as a matter not only of legal foundation, but also policy considerations, that it is not desirable for the Federal Government to try to get into the business of dictating land-management schemes on an acre-by-acre basis throughout the entire United States.

What is necessary is to get the State governments into the business of doing this far more intensively and far more effectively than they have heretofore done.

The problems have been left to the local level, and that is a level at which failure results, because the local communities are subject to their own tax needs which place tremendous incentives toward permitting development. Also, frequently the local communities may not have the strength of political power to withstand the pressures from an individual applicant. So that there are many factors that come to



bear on the effectiveness of the locality in trying to hold up against the tide and undermine that ability.

We need to bring that level of control up from the local level to the State level, but I certainly feel that we do not want to bring it from the State level up to the Federal level, except in simply an overall supervisory sense.

Mr. DU PONT. I think that is very well put, and I think that summarizes the situation exactly as I see it. Thank you very much.

Thank you, Mr. Chairman.

Mr. LENNON. Thank you, sir.

Mr. Quarles, prior to your association with EPA, you were with the Department of the Interior in the legal department?

Mr. QUARLES. Sir, I was with the Department of the Interior. I served initially as assistant to then Under Secretary Train for environmental planning, and subsequently as an assistant to Secretary Hickel for policy and program planning.

I was not working as a lawyer at that time.

Mr. LENNON. At that time.

Mr. QUARLES. No, sir.

Mr. LENNON. Now, what brought EPA into existence?

Mr. QUARLES. EPA was created by Reorganization Plan No. 3 submitted by President Nixon during 1970.

Mr. LENNON. Well, I know the technical procedure that brought it into being, but I am asking you in the broad area what brought EPA into existence.

Let us be realistic. It was the efforts of this committee to implement the recommendations of the Stratton Commission report, and it was this committee that brought the Stratton Commission into being which resulted in the Stratton Commission report and its findings and conclusions and recommendations.

So we have been involved in this thing for about 9 or 10 years, and have some general knowledge about it.

Now, you stated on line 6, page 4, and I quote: "We certainly are in accord with the basic purposes of these bills," meaning the bills that you are here to testify on today. "They are similar to S. 3183, as proposed by President Nixon during the last session of Congress."

Then you move and say, however, that you are wrong; that the administration was wrong in its recommendations to the Congress. And you agree that the basic purpose of these bills conforms to his recommendations, but now you want to move in a new direction under the approach of H.R. 4332, the National Land Use Policy Act of 1971.

Now, of course, I find in the course of approximately 11 months, to be exact, that the administration has a right, as the Congress does, and its respective committees, to change its views.

And I quote, too, beginning on line 11: "We believe, however, that it would be more appropriate to provide for coastal and estuarine planning in the broader context of land-use controls statewide."

Now, that leads me to ask you. When was H.R. 4332 introduced? It was introduced at the request of the administration. It is now pending in the Interior Committee.

Mr. QUARLES. It was introduced near the beginning of this session of Congress.

Mr. LENNON. Near the beginning of this session, February 17, 1971.

Mr. QUARLES. Yes, sir.

MR. LENNON. How many hearings or days of hearings have been held by the Interior and Insular Affairs House Committee on this bill, H.R. 4332?

MR. QUARLES. To the best of my knowledge, hearings have not been held on this bill yet.

MR. LENNON. In fact, they have not been scheduled. No administration or agency witnesses have appeared, much less the 32 States, coastal and Great Lakes States, which are involved.

I know, sir, that you must be advised of the strong position taken by the 32 States which are involved through their Coastal States Organization. They have appeared before this committee in their official capacity, speaking for those 32 States.

I am sure that you must have heard that the National Legislative Council representing the legislatures of the general assemblies of the 50 States have appeared before this committee and have testified, and you must be familiar with the fact that the national—not just the eastern or the western or the northern or the southern Governors conference, but the national—Governors conference has expressed by resolution its approval of the approach that we are taking.

You agree with them, you say we ought to wait, but we cannot believe that we ought to wait.

I cannot perceive of the likelihood, certainly in a period of 6 to 10 years, that you can convince the States how they should bring under one umbrella the coastal zone areas and estuaries and the inland areas, with States like my own, which runs from the mountains to the sea, two ranges of mountains and yet 222 miles of coastline.

It is a critical situation in these coastal areas involving shellfish of all kinds, as well as the propagation of other types of fish.

I do not think we can wait. I think the administration ought to take a position. Having recommended specifically what we have here, they now turn around and say, "Well, we had better wait."

If they could say wait 24 months, 2 more years, yes, but, sir, it will be longer than that. It will be much longer than that.

Counsel has questioned witnesses who have appeared before this committee to suggest some type of language that could be put in this bill which would recognize the ultimate desire for a Department of Natural Resources, and I think it would be the consensus of most of the members of this committee that that is where it ought to be, if we come to that point in time.

But I cannot overlook the fact that we have been actually involved, and if it had not been for the activities of many members of this committee, we would not be at this point in time.

Now, you state on line 7, page 3, and I quote:

One of the most important tools which we could use to protect the environment is a system which would enable us to evaluate actions which may cause pollution before they occur, rather than after the fact.

Well, now EPA has the authority in its research program, as well as its monitoring program and its licensing and permit system, to make studies to determine what should be done in order to protect the environment and to evaluate actions before they actually take place. Do they not now have that authority? If I read the basic act correctly, and the structure of it, I think you do.

Mr. QUARLES. Sir, I wonder if I might respond to that specific point.

Mr. LENNON. Yes.

Mr. QUARLES. And then respond a little more generally to some of the other points you made.

Mr. LENNON. I guess I am just telling you questions, but I did not mean to do that, sir.

Mr. QUARLES. I think all of what you said is most pertinent.

With regard to that last specific issue of evaluating actions before they occur and whether the Environmental Protection Agency can do that now, we can do that to some extent, and we do do it to some extent.

But any analysis of our present authority and program, I think points up the basic fact, which is that mere evaluation is not sufficient unless it is accompanied by some mechanism to have some impact on what happens.

In many cases, we can evaluate a disaster about to occur and say, "Yes, that is going to be a disaster." When the disaster occurs, we might say we saw that one coming.

The need is to have mechanisms for both evaluation and control. I think that that need must be filled not by EPA or any other Federal agency, but by the establishment of institutions at the State and local level which would perform that function.

So that I certainly think that whatever we have now in the Environmental Protection Agency in the way of authority and program is far insufficient to what the need is.

If I might respond to the more general comments you made, I recognize, as I think I said earlier—and I think everyone else recognizes also—that your leadership, Mr. Chairman, and the leadership of the members of this committee played indispensable roles in beginning to get the snowball started for broader public recognition of the need that is here.

While I was in the Interior Department, I did not have any extensive involvement with the coastal zone problems, but I did work a little on the coastal zone legislative proposals and on the final report of the Federal Water Pollution Control Administration at that time. It is tied in closely with the Stratton Commission report.

The issue clearly at this time is simply one of timing and ultimate result.

There is, I think, no dispute between those who have studied the problem that the basic outlines of the legislative proposals are agreed upon, and that it is desirable to have everything under one umbrella when it all gets started.

The only question is whether the coastal zone management plan and program should move out of the train station ahead of the rest of the train. That part of the train is clearly ready to go. The rest of the train is still gathering its luggage and will not be ready to go quite yet.

It certainly is clear that the hearings and consideration of the coastal zone legislation have proceeded in advance of the broader subject as a whole.

However, if one stands back and looks at the subject, it will be only a relatively short period of time, we believe, before the whole thing does move forward. It would seem preferable to wait until it can all be done, rather than start off with one segment.

Now, the significance of this does depend very substantially on what assurance there may be as to the initial part being tied in with the whole, when the whole is established.

I think that if there is some possibility of working out an accommodation or at least in my own analysis of what would be desirable in the event that this legislation pending before your committee were to be enacted, whether or not the administration approves of it, it is most important that a full reflection be given to the desirability of tying this in with the general, overall land-use control.

Mr. LENNON. Well, Mr. Administrator, hearings have been held on the bill that was introduced last year which followed the recommendations of the President concerning a number of bills that are here today.

Now, they are still in the committee. But that same committee is looking at the legislation that is pending, or that has been introduced in the Senate, comparable to what has been introduced this year, like H.R. 4332, but there have been no hearings on that, I am advised, but the subcommittee that is considering like legislation that is now pending before this committee has gone into that, and I understand are trying to incorporate a part of the proposals comparable to H.R. 4332, the one that you referred to as pending over here now before the Interior and Insular Affairs Committee.

Do you have any information on that?

Mr. QUARLES. I do not, sir.

Mr. LENNON. We are advised that that is being done now.

Counsel, do you have any questions, and then I will come back to you, Mr. de la Garza.

Mr. DE LA GARZA. No; I have no questions. Thank you.

Mr. HEYWARD. Mr. Quarles, I wanted to clarify a couple of issues here. This committee, of course, does not have any jurisdiction over H.R. 4332, but it looks like we are compelled to discuss it in connection with our own bills.

I wonder whether it is fair to say that the administration approach, so far as this legislation is concerned, has generally been to protect the environment.

Is it not true that S. 3183, and the comparable House bill, were amendments to the Federal Water Pollution Control Act?

Mr. QUARLES. Yes.

Mr. HEYWARD. And were aimed at environmental protection?

Mr. QUARLES. Yes.

Mr. HEYWARD. And is it not also true that H.R. 4332, as it considers the coastal zone part of land use, is approaching it from the critical environmental viewpoint?

Mr. QUARLES. Yes, sir.

Mr. HEYWARD. If that is correct, then my comment would be generally that I do not think that the land-use proposal of the administration is as all-encompassing as has been generally stated here.

There are gaps, in my opinion, in the administration approach so far as the waters are concerned; not only you, but the other departmental witnesses who have appeared before this subcommittee have continually spoken of "land use." I find in all of the statements a singular, perhaps intentional, deletion or omission of the term "water use."

This committee thinks that water use is a very important part of this total problem, and that, therefore, any bill addressed to the coastal

zone is going to have to recognize competing uses and water management.

Now, it is obvious that the shorelands along the coast are tied in with water use. There is no way you can separate them. So I guess what I am saying is that this subcommittee is really approaching it from a water use viewpoint impinging upon the land, rather than an interior land use viewpoint impinging upon the water.

Having said that, my question to you is:

What is the administration proposal, as envisioned in this land use policy, which would assist the States in connection with water resource management and water uses in the coastal zone area?

Mr. QUARLES. I think, when we use the words "land use control," we are using them as a shorthand expression. From a technical viewpoint, it might be more accurate to say water and land use or land and water use management or land and water use management and control or planning.

Very clearly, the management of activities on the water is an integral part of management of the area, and I am quite sure that the administration bill, H.R. 4332, provides a jurisdictional area of coverage that would encompass the major water areas.

So, frequently the destruction of the water areas, the fishery resources, or other uses and values that are in the water, is a direct result of the use made of the adjacent land, that is, in itself, an important part of the problem. It is not by any means the entire problem.

Mr. HEYWARD. I certainly agree with you there. My real concern here, in connection with the bill, is, for instance, you referred to section 5(g) of the Water Pollution Control Act study.

Now, as I recall, that study was combined with a separate estuarine study, and quite an extensive volume of paper came up here, but we did not see any recommendations for protecting estuaries as a part of that study. That is, no legislation was proposed.

Now, we have attempted in this bill to include a provision for estuarine sanctuaries, and we provide for Federal grants up to \$30 million over a period of 5 years to assist the States on a 50-50 basis to acquire necessary property rights in order to create estuarine sanctuaries.

I notice in the administration bill that there is a prohibition against using any of the funds for acquiring property rights, and, in my opinion, that is a grave deficiency in the approach.

Mr. QUARLES. If I might respond to that, sir—

Mr. HEYWARD. Yes.

Mr. QUARLES [continuing]. I think it also encompasses a question you asked a moment ago that I did not really directly answer: What is the administration's proposal for protection here?

There are two elements that are involved. One is to establish some general regulatory framework over development and other activity within whatever area you are talking about.

The second element is that in some instances it may be desirable to actually acquire fee ownership of an area to preserve that area intact.

The administration proposal does not go into the acquisition of fee. I would recognize that as something which might warrant consideration.

That, however, does not by any means diminish the importance of the administration proposal to establish the regulatory control which

is in many respects a separate, and certainly is the dominant, part of the problem.

This type of proposal was submitted to the Congress as a result of the estuarine study carried out by FWPCA, and is encompassed in the present proposal by the administration.

I think it could be disadvantageous in a way for the establishment of the overall planning, management and regulatory function to become engaged, if it should, in details of consideration of the acquisition, although I am not against the acquisition, personally.

I simply say that that is another feature of the problem, and the administration emphasis is on the first and key feature of the problem: to get some systems established for control.

Mr. HEYWARD. I was merely pointing out, so that the record will show it, that this legislation before this committee is not simply one part of what the administration is proposing. It has features which the administration does not address itself to in H.R. 4332. Thank you.

Mr. LENNON. Do you have any questions?

Mr. DE LA GARZA. No, Mr. Chairman.

Mr. QUARLES. I wonder if I might respond to one other small part of what you said.

Mr. LENNON. Yes, certainly.

Mr. QUARLES. In part of your opening comments, sir, you referred to the administration's emphasis on the environmental aspects of these various subjects.

Perhaps because of my own identification with the environmental problems, I may have a slanted view on the subject, but we strongly believe that the environmental aspects are the ones which require dominant attention.

They are the considerations which normally tend to get slighted. Usually, the commercial, industrial, developmental interests will take care of themselves, because there is a profit motive working which generates the momentum for whatever development or activity is desirable from the viewpoint of society.

Where society finds that its overall concerns are not adequately protected is on the environmental side of the ledger. If there is not some specific governmental protection provided for the environmental values, then those tend to be given short shrift in the workings of the free enterprise system.

The reason that our emphasis in dealing with these proposals may weigh more heavily on the environmental protection is not in any sense because we feel that there are not other values that are important. We recognize that there are. We recognize that there is a need for airports and shipping facilities and all sorts of development and activity.

But, rather, it is our feeling that we need to give greater protection to the environment so that we get what is, in fact, a proper balance of values reflected in the development patterns that occur.

Mr. HEYWARD. I was not attempting to criticize the viewpoint, Mr. Quarles. The point I was making was that I thought the administration bill generally had been slanted toward environmental protection, which I think is correct.

I think this committee has shown by its past activities that they were aware of that problem, and I do not think there is a more important statute on the books in that area than the National Environmental Policy Act, which came out of this full committee.

All I am suggesting is that there are tools now, perhaps, which may be refined, to protect the environment, and what this committee is looking to is a rational bill which will assist the States in making legitimate choices between competing uses for water resources.

That is the thrust of these coastal zone bills, and we are trying to provide sufficient funds so that the States can do it.

Mr. QUARLES. Yes, sir.

Mr. HEYWARD. And I think that these bills, particularly H.R. 9229, would accomplish that.

Mr. LENNON. Mr. Steele.

Mr. STEELE. I have no questions, Mr. Chairman.

Mr. LENNON. I am sure you will remember, if you were in Washington and were involved in the problems such as we are trying to face in this committee, in this direction, that this committee convened in Washington a symposium or a forum.

Having been involved for months in the hearings on the Stratton Commission report, we convened in Washington a symposium or a forum, however you may want to describe it, of the 32 coastal zone States Governors, or the definitive representatives of the Governors of the 32 coastal and Great Lakes States, to try to reach some area of agreement and to get the input of those States with respect to how the recommendations of the Stratton Commission in regard to coastal matters could be done.

It took the States some time, but, as a result of that meeting here in Washington, they formed this organization, and, as a result of their interest, I am sure that the President was motivated to propose what you say are the basic purposes of the bills that we are discussing here today, which are similar to the bill S. 3183, which was introduced in the Senate.

Now, I can understand the disappointment and the frustration of these 32 States, at the National Governors Conference and the National Legislative Council having been encouraged to believe that the administration was for this approach by sending to Congress a bill, and less than 12 months later, come back and say, "No, you had better not do that now. You had better wait until we can provide legislation that would include the broader context of land control statewide."

I do not see how it is not in a sense disappointment and frustration, and I think it is our duty to advise the National Governors Conference by letter, Mr. Counsel, and the National Legislative Council representing the 50 general assemblies of the United States that, in spite of the fact that they were encouraged to believe that the administration supported what it now says, through you, its representative, the basic purposes of what the administration offered, that the administration is now saying, "No, we have to wait until that point in time, in history, when we can work out a program that will involve the broader context of land-use controls statewide."

Now, I am about as nonpartisan as anybody can be, or knows how to be, but I just cannot believe that that is a smart thing. We are being led down the primrose path, Mr. Administrator, that is, these States are.

I think it is our duty to convey to them just what the administration position is.

Then if the administration wants to take another look at this thing and see if it cannot agree with us, that we ought to move forward in

the direction that we all agree that the President was for at this time last year.

It will just be a mistake, in my judgment, regardless of what political spectrum you are in, to disappoint these States.

Now, it takes a long time for them finally to reach an agreement and a consensus, and they have finally.

And now to be told, after the President encouraged them by saying, "We have other legislation which would implement what you all have in mind," the administration wants to change its position and wait.

Do you want to comment on that?

Mr. QUARLES. I would be glad to. I think that there is no question about the sense of moving toward enactment of a much needed program. I do remember that symposium. I made a presentation to it, if you are referring to the symposium held in the fall of 1969.

Mr. LENNON. Yes, that is right.

Mr. QUARLES. The question, though, is, How much can be done at this time, speaking broadly, and what is going to be the most effective way to do it?

Very likely, the legislation that gets passed sets patterns, and those patterns frequently go on for much longer than they are expected to.

Right now, there is a great amount of momentum for establishing intelligent systems of land management. Much of the momentum is focused on the coastal zone bills. It is not limited to that, however.

I suppose that if the coastal zone management bills were to be passed, many of those laboring for achievement in this area might feel that the job was done, and they could relax and go back; whereas, if the effort can be kept up for a little bit longer, it is quite probable that a better achievement can be realized, both in terms of the coverage of the bills and also in terms of the administrative arrangements for the assignment of responsibilities for carrying out these programs.

I grant you, it is a difficult question, and I do not say that the answer is entirely clear. But I think that the position of the administration is one we are perfectly glad for you to convey to others. It is a position that I believe is the right position: that the time is here now to just press on a little farther until we come to a complete package.

Mr. LENNON. I would like your comments on this, too, sir, at this time.

You will recall that in the consideration of the so-called Marine Protection Act, widely known as the Ocean Dumping bill, after public hearings that were rather extensive and which covered many areas, the total economy and society and environmentalists and ecologists and everything else, we sat down here and had hearings—I mean conferences and executive sessions. We had here sitting over on this side EPA and their counsel, or assistant counsel. Over on this side we had the Corps of Engineers and their counsel.

We were trying to reach areas of agreement, and we did.

Now, what has happened?

We find that the Department of the Interior is saying, "You are leaving us out of the picture. We want to be involved in these decisions. We want to make the decisions."

They are overlooking the fact that the authors of proposed amendments to that bill—and I am opposing them; so is Mr. Dingell, the



cochairman of the two subcommittees that had these hearings—would deny the right of the Secretary to issue a permit for a period of as much as up to 2 years, awaiting the designation of the sanctuaries.

Now, I realize that is going too far, but the Department of the Interior wants to go further, and I think maybe we ought to capitulate, just as a little trading basis, and say, "All right, we are not going to accept these amendments which deny you the right to issue a permit, regardless of the fact that negotiations have been about completed between an oil company or a phosphate company or some other kind of company," which to me is wrong—they should—in an effort to keep the Department of the Interior out of this thing.

It is after the fact that they come in and raise these questions.

So, anyhow, Mr. Mosher, we would be delighted to have you ask any questions. Do you have any questions?

Mr. MOSHER. I apologize, Mr. Chairman, for being late. I could not be here. No, not at this point.

Mr. LENNON. Thank you very much. We appreciate your presence and your contribution.

Mr. QUARLES. Thank you, Mr. Chairman.



## V. THE COASTAL ZONE MANAGEMENT ACT OF 1972

(16 U.S.C. 1451 to 1464)

### REFERENCES IN TEXT

The fiscal year in which this Act is enacted, referred to in text, is the fiscal year in which Pub. L. 92-532 is enacted. Pub. L. 92-532 was approved on Oct. 23, 1972.

#### Chapter 33.—COASTAL ZONE MANAGEMENT [NEW]

##### Sec.

- 1451. Congressional findings.
- 1452. Congressional declaration of policy.
- 1453. Definitions.
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  - (a) Authorization.
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  - (e) Construction with other laws.
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  - (g) Concurrence with programs which affect inland areas.
- 1457. Public hearings.
- 1458. Review of performance; termination of financial assistance.
- 1459. Records and audit.
- 1460. Coastal Zone Management Advisory Committee.
- 1461. Estuarine sanctuaries.
- 1462. Annual report.
- 1463. Rules and regulations.
- 1464. Authorization of appropriations.
- § 1451. Congressional findings. (Sec. 302)

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance. (Pub. L. 89-454, title III, § 302, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280.)

#### SHORT TITLE

Section 301 of Pub. L. 89-454, as added by Pub. L. 92-583, provided that: "This title [enacting this chapter] may be cited as the 'Coastal Zone Management Act of 1972'."

#### § 1452. *Congressional declaration of policy. (Sec. 303)*

The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this chapter, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems. (Pub. L. 89-454, title III, § 303, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1281.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1455 of this title.

#### § 1453. *Definitions. (Sec. 304)*

For purposes of this chapter—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone

extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this chapter, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of this chapter, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 1456(f) of this title.

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 1456(g) of this title. (Pub. L. 89-454, title III, § 304, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1281.)

#### § 1454. *Management development program grants. (Sec. 305)*

##### (a) *Authorization.*

The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

##### (b) *Program requirements.*

Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

(2) a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decision;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

*(c) Limits on grants.*

The grants shall not exceed 66⅔ per centum of the costs of the program in any one year and no state shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 1455 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

*(d) Submission of program for review and approval.*

Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval, pursuant to the provisions of section 1455 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 1455 of this title.

*(e) Allocation of grants.*

Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however,* That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

*(f) Reversion of unobligated grants.*

Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

*(g) Grants to other political subdivisions.*

With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 3334 of Title 42, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

*(h) Expiration date of grant authority.*

The authority to make grants under this section shall expire on June 30, 1977. (Pub. L. 89-454, title III, § 305, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1282.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1464 of this title.

§ 1455. *Administrative grants. (Sec. 306)**(a) Authorization.*

The Secretary is authorized to make annual grants to any coastal state for not more than 66⅔ per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) of this section. Federal funds received from other sources shall not be used to pay the state's share of costs.

*(b) Allocation of grants.*

Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however,* That no annual administrative grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

*(c) Program requirements.*

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

- (1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the

Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this chapter and is consistent with the policy decalred in section 1452 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 3334 of Title 42, a regional agency, or an interstate agency; and

(B) establish an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this chapter.

(3) The state has held hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) *Required authority for management of coastal zone.*

Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 3334 of Title 42, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) *Required findings.*

Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone;

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

*(f) Allocation to other political subdivisions.*

With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 3334 of Title 42, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

*(g) Program modification.*

The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the state under the program as amended.

*(h) Segmental development.*

At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable. (Pub. L. 89-454, title III, § 306, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1283.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1454, 1456, 1458, 1461, 1464 of this title.

§ 1456. *Interagency coordination and cooperation.* (Sec. 307)

*(a) Federal agencies.*

In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

*(b) Adequate consideration of views of Federal agencies mediation of disagreements.*

The Secretary shall not approve the management program submitted by a state pursuant to section 1455 of this title unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

*(c) Consistency of Federal activities with state management programs certification.*

(1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith.



At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

*(d) Application of local governments for Federal assistance; relationship of activities with approved management programs.*

State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968. Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

*(e) Construction with other laws.*

Nothing in this chapter shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field or planning, development, or control of water resources, submerged lands, or navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor 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.

*(f) Construction with existing requirements of water and air pollution programs.*

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chapter and shall be the water pollution control and air pollution control requirements applicable to such program.

*(g) Concurrence with programs which affect inland areas.*

When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 1455 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas. (Pub. L. 89-454, title III, § 307, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1285.)

#### REFERENCES IN TEXT

The Intergovernmental Coordination Act of 1968, referred to in text, presumably refers to the Intergovernmental Cooperation Act of 1968. Title IV thereof is classified to section 4231 et seq. of Title 42, The Public Health and Welfare.

The Federal Water Pollution Control Act and the Clean Air Act, referred to in text, are classified, respectively, to section 1251 et seq. of Title 33, Navigation and Navigable Waters, and section 1857 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1462 of this title.

§ 1457. *Public hearings. (Sec. 308)*

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency. (Pub. L. 89-454, title III, § 308, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287.)

§ 1458. *Review of performance; termination of financial assistance. (Sec. 309)*

(a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 1455 of this title and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program. (Pub. L. 89-454, title III, § 309, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287.)

§ 1459. *Records and audit. (Sec. 310)*

(a) Each recipient of a grant under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this chapter. (Pub. L. 89-454, title III, § 310, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287.)

§ 1460. *Coastal Zone Management Advisory Committee. (Sec. 311)*

(a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including travel-time, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for individuals in the Government service employed intermittently. (Pub. L. 89-454, title III, § 311, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287.)

§ 1461. *Estuarine sanctuaries. (Sec. 312)*

The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not

exceed \$2,000,000. No Federal funds received pursuant to section 1454 or 1455 of this title shall be used for the purpose of this section. (Pub. L. 89-454, title III, § 312, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1464 of this title.

§ 1462. *Annual report. (Sec. 313)*

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this chapter for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this chapter during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this chapter and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this chapter, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 1456 of this title, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this chapter in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this chapter and enhance its effective operation. (Pub. L. 89-454, title III, § 313, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288.)

§ 1463. *Rules and regulations. (Sec. 314)*

The Secretary shall develop and promulgate, pursuant to section 553 of Title 5, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this chapter. (Pub. L. 89-454, title III, § 314, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288.)

§ 1464. *Authorization of appropriations. (Sec. 315)*

(a) There are authorized to be appropriated—

(1) the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 1454 of this title, to remain available until expended;

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 1455 of this title to remain available until expended; and

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, as may be necessary, for grants under section 1461 of this title, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this chapter. (Pub. L. 89-454, title III, § 315, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1289.)



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## NATIONAL COASTAL ZONE MANAGEMENT ACT OF 1972

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APRIL 19, 1972.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce,  
submitted the following

### REPORT

Together with

### INDIVIDUAL VIEWS

[To accompany S. 3507]

The Committee on Commerce, having considered various bills to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes, reports favorably on original bill and recommends that the bill (S. 3507) do pass.

#### PURPOSE

S. 3507 has as its main purpose the encouragement and assistance of States in preparing and implementing management programs to preserve, protect, develop, and whenever possible restore the resources of the coastal zone of the United States. The bill authorizes Federal grants-in-aid to coastal States to develop coastal zone management programs. Additionally, it authorizes grants to help coastal States implement these management programs once approved, and States would be aided in the acquisition and operation of estuarine sanctuaries. Through the system of providing grants-in-aid, the States are provided financial incentives to undertake the responsibility for setting up management programs in the coastal zone. There is no attempt to diminish State authority through Federal preemption. The intent of this legislation is to enhance State authority by encouraging and assisting the States to assume planning and regulatory powers over their coastal zones.

## NEED FOR NEW LEGISLATION

The United States is currently experiencing in its coastal zones a phenomenon prevalent in most coastal nations in the world. This phenomenon is well expressed in the recent report, "Man in the Living Environment":

About 70 percent of the Earth's population lives within an easy day's travel of the coast, and many of the rest live on the lower reaches of rivers which empty into estuaries. Furthermore, coastal populations are increasing more rapidly than those of the continental interiors.

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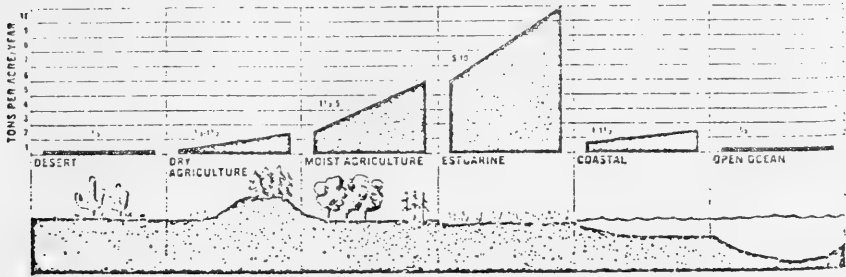
Settlement and industrialization of the coastal zone has already led to extensive degradation of highly productive estuaries and marshlands. For example, in the period 1922-1954 over one-quarter of the salt marshes in the U.S.A. were destroyed by tilling, diking, draining, or by constructing walls along the seaward marsh edge. In the following 10 years a further 10 percent of the remaining salt marsh between Maine and Delaware was destroyed. On the west coast of the United States, the rate of destruction is almost certainly much greater, for the marsh areas and the estuaries are much smaller. ("Man in the Living Environment". Report of the Workshop on Global Ecological Problems. The Institute of Ecology, 1971, at p. 244).

The problems of the coastal zone are characterized by burgeoning populations congregating in ever larger urban systems, creating growing demands for commercial, residential, recreational, and other development, often at the expense of natural values that include some of the most productive areas found anywhere on Earth. Already 53 percent of the population of the United States, some 106 million people, live within those cities and counties within 50 miles of the coasts of the Atlantic and Pacific Oceans, the Gulf of Mexico, and the Great Lakes. Some estimates project that by the year 2000, 80 percent of our population may live in that same area, perhaps 225 million people.

The space available for that increased population will not change significantly in the next 30 years. The demand for that limited space will increase dramatically. But there are only 88,600 miles of shoreline on our Atlantic, Pacific and Arctic coastlines, and another 11,000 miles of lakefront on the Great Lakes. And with that population will come increased demand for recreation. Over 30 million people now turn to the coasts annually for swimming: 40 million are projected by 1975. Sport fishing absorbs the interest of 11 million people today in coastal areas: 16 million are estimated by 1975. Pleasure boating today engages over 10 million: by 1975 this will be 14 million. By 1975 our park and recreation areas will be visited by twice as many as they are today: and by the year 2000, perhaps a tenfold increase.

Seventy percent of the present U.S. commercial fishing takes place in coastal waters. Coastal and estuarine waters and marshlands provide the nutrients, nursing areas, and spawning grounds for two-thirds of the world's entire fisheries harvest. And these areas may be even more important for aquaculture in the future, for they are among the

most productive regions of the world. Most estuarine areas equal or double the production rates of the best upland agricultural areas; from 15 to 30 times the productivity of the open oceans.



Comparative production rates among terrestrial and aquatic systems. Source: Redrawn from Teal and Teal, 1969, in "Man in the Living Environment". Report of the Workshop on Global Ecological Problems. The Institute of Ecology, 1971

Recognizing the importance of the coastal zone, the Commission on Marine Science, Engineering and Resources devoted its first substantive chapter of "Our Nation and the Sea" to management in this important area. The opening paragraphs of that chapter quickly focus on the basic needs and problems of coastal and estuarine zone management:

The coast of the United States is, in many respects, the Nation's most valuable geographic feature. It is at the juncture of the land and sea that the great part of this Nation's trade and industry takes place. The waters off the shore are among the most biologically productive regions of the Nation.

The uses of valuable coastal areas generate issues of intense State and local interest, but the effectiveness with which the resources of the coastal zone are used and protected often is a matter of national importance. Navigation and military uses of the coasts and waters off-shore clearly are direct Federal responsibilities: economic development, recreation, and conservation interests are shared by the Federal Government and the States.

Rapidly intensifying use of coastal areas already has out-run the capabilities of local governments to plan their orderly development and to resolve conflict. The division of responsibilities among the several levels of government is unclear, and the knowledge and procedures for formulating sound decisions are lacking. \* \* \* "Our Nation and the Sea", GPO 1969, at p. 19)

More recently the National Governors' Conference adopted a strong policy on coastal zone management, stating in part:

The coastal zone presents one of the most perplexing environmental management challenges. The 3 States which border on the oceans and the Great Lakes contain 75 percent of our Nation's population. The pressures of population and economic development threaten to overwhelm the balanced and

best use of the invaluable and irreplaceable coastal resources in natural, economic and aesthetic terms.

To resolve these pressures \* \* \* an administrative and legal framework must be developed to promote balance among coastal activities based on scientific, economic, and social considerations. This would entail mediating the differences between conflicting uses and overlapping political jurisdiction.

The ultimate success of a coastal management program will depend on the effective cooperation of Federal, State, regional, and local agencies \* \* \*. ("Policy Positions of the National Governors' Conference, September 1971, at p. 34).

Despite all of this evidence, there still remains the question, "Why single out the coastal zone for special management attention?" The argument has been made that since the environmental system of the earth composes one eco-system, there should be only one policy and one system of management. But experience has shown us that in order to achieve adequate manageability, diverse systems are often needed. The fact is that the waters and narrow strip of land within the coastal zone is where the most critical demands, needs and problems presently exist. These demands will grow even more critical in the years ahead. There is an ever increasing commercial and recreational demand for utilization of wetlands, beaches and other prime areas in the coastal zone. As a result many of the biological organisms in the coastal zone are in extreme danger. These organisms are important, not only economically, but esthetically, ecologically and scientifically as well. Man's utilization of the coastal zone may have a profound impact on our future well being. The vice chairman of the National Advisory Committee on Oceans and Atmosphere, Dr. William Hargis, has stated:

"The coastal zone is the 'key' or gate to the oceans. Effective management in the coastal zone almost automatically assures control over quality of ocean environment and quality of resources." Dr. Hargis, who is also Director of the Virginia Institute of Marine Sciences and chairman of the Coastal States Organization of the Council of State Governments, made that comment during hearings by the Committee on Commerce (Coastal Zone Management, Serial No. 92-15 at page 262).

The coastal zone also represents a sharp contrast with general land utilization when viewed from a social aspect. Most people in the United States either live near the coast or on the coast and many of them are directly involved in this contest between public and private interests. Because of global transportation patterns and the availability of population, most of our great commercial and industrial development is taking place in or near the coastal zone. Additionally, the coastal zone is a politically complex area, involving local, State, regional, national and international political interests.

At present, local governments do possess considerable authority in the coastal zone. However, frequently their jurisdiction does not extend far enough to deal fully and effectively with the land and water problems of that zone. Additionally, there have been numerous



examples of commercial development within the coastal zone taking precedent over protection of the land and waters in the coastal zone. There has been a understandable need to create revenues to provide governmental services demanded by a growing population, thus creating pressures for commercial, residential and other economic development. Local government does have continuing authority and responsibility in the coastal zone. Local government needs financial, planning, political, and other assistance to avert damage to natural values in the coastal zone. Whenever local government has taken the initiative to prepare commercial plans and programs which fulfill the requirements of the Federal and coastal State zone management legislation, such local plans and programs should be allowed to continue to function under the State management program.

Until recently, local government has exercised most of the States' power to regulate land and water uses. But in the last few years a transition has been taking place, particularly as the States and the people have more clearly recognized the need for better management of the coastal zone. There have been many problems arising from the failure of the State and local governments to deal adequately with the pressures which call for economic development within the coastal zone at the expense of other values.

Some States have taken strong action. Hawaii undertook the first and most far reaching reform of land use regulation in 1961, placing statewide zoning power in its State Land Use Commission. The entire State is divided into four zones, urban, rural, agricultural and conservation. County agencies have considerable authority to delineate allowable uses within the boundaries of some zones subject to the general regulation of the Commission. The Commission has no enforcement arm of its own. Enforcement of use restrictions in all zones remains with the counties. Hawaii's action however is predominately land related and full consideration must be given to its surrounding marine environment. Similar situations exist in other States which have attempted to manage utilization of their land and shore areas. The American Law Institute has estimated that at least 90% of the current land use decisions being made by local governments have no major effects on State or national interests. Local governments should maintain control over a great majority of matters which are only of local concern. The range of problems that arise in the coastal zone, however, often calls for wider jurisdictional range.

It is the intent of the committee to recognize the need for expanding State participation in the control of land and water use decisions in the coastal zone. However, the State is directed to draw on local, regional, State, Federal, and private interests in the planning and management process. The States may delegate to local governments, areawide agencies, or interstate agencies some or all of the management responsibilities under this act. The committee has adopted the States as the focal point for developing comprehensive plans and implementing management programs for the coastal zone. It is believed that the States do have the resources, administrative machinery, enforcement powers, and constitutional authority on which to build a sound coastal zone management program. However, there may be instances where a city or group of local municipalities, or areawide agencies or interstate agencies may contain sufficient resources to be

delegated this authority by the coastal State with the approval of the Secretary.

Coastal zone management must be considered in terms of the two distinct but related regimes of land and water. The law of land use management is highly developed. But, as to economic development and preservation of open space and other environment and conservation interests, management of underwater lands and their related waters is a much less developed area of law. But it is one in which the States have considerable constitutional authority. The proposed act provides methods by which the State may comply with the provisions of this legislation, varying in degrees of State involvement and control. The several coastal States need assistance in assuming responsibility for management of the coastal zone. This bill is designed to provide just this kind of assistance. The committee hopes that the States will move forthrightly to find a workable method for State, local, regional, Federal, and public involvement in regulation of non-Federal land and water use within the coastal zone. In light of the competing demands and the urgent need to protect our coastal zone, the existing institutional framework is too diffuse in focus, neglected in importance and inadequate in the regulatory authority needed to do the job. The key to more effective use of the coastal zone in the future is introduction of management systems permitting conscious and informed choices among the various alternatives. The aim of this legislation is to assist in this very critical goal.

#### LEGISLATIVE HISTORY

The roots of this legislation extend at least to the 89th Congress, if not to previous Congresses. In the 89th Congress several years of effort culminated in the creation of the Commission on Marine Science, Engineering and Resources by the Act of June 17, 1966 (80 Stat. 203, 33 U.S.C. 1101). From the outset, the Commission recognized the overriding importance of the coastal zone, and designated one of its panels to prepare a report on the coastal zone. The Commission further highlighted the importance of the coastal zone by devoting the first substantive chapter of its report to "Management of the Coastal Zone."

In response to the Commission's recommendation for Federal coastal zone management legislation, Senator Magnuson introduced S. 2802 late in the first session of the 91st Congress. A hearing was held on the subject in December 1969. Subsequently, in the second session of the 91st Congress, other bills were introduced, including S. 3183, by Senator Boggs on behalf of the administration, and S. 3460, by Senator Tydings.

S. 3183 derived from recommendations of the Department of the Interior in its National Estuarine Study, performed pursuant to the Estuary Protection Act, Public Law 90-454, reported by the Committee on Commerce on July 17, 1968 (Senate Rep. No. 90-1419). The Subcommittee on Oceanography, chaired by Senator Hollings, held 7 days of hearings from March through May 1970, at which 29 witnesses were heard. In addition, 55 articles, letters and statements were received by the subcommittee and incorporated into the record of its hearings, which were published as Serial No. 91-59. The hearings and the statements provided several new ideas that were incor-

porated in a redrafted bill prepared by the subcommittee. The subcommittee also drew substantially upon ideas contained in S. 3183. The redrafted bill was considered by the subcommittee and ordered reported favorably to the Committee on Commerce late in the 91st Congress, but too late for final consideration by the committee before the Congress adjourned *sine die*.

Early in the 92d Congress, Senator Hollings introduced the subcommittee-approved bill, which became S. 582. Shortly thereafter, Senator Tower introduced S. 638, which was also based on the subcommittee bill, but modified to obviate some of the objections expressed by the administration to the subcommittee bill in the 91st Congress. Between Congresses, however, the administration became convinced that more broadly based land use management legislation was both desirable and necessary. Its proposed National Land Use Policy Act of 1971 was introduced on behalf of Senator Jackson (by request) as S. 922.

During the first session of the 92d Congress, the Subcommittee on Oceans and Atmosphere, formerly the Subcommittee on Oceanography, held an additional 3 days of hearings during May 1971. Fifteen witnesses were heard and 39 new letters, articles and publications were received for the record, which was published by the Committee as Serial No. 92-15.

In the ensuing period, S. 582 was redrafted by the subcommittee, incorporating additional ideas from S. 638 and S. 992, which the subcommittee felt strengthened the bill. The subcommittee also drew substantially upon ideas propounded by the Council on Environmental Quality, whose assistance was invaluable. The subcommittee reported the bill favorably to the Committee on Commerce on August 4, 1971, and on September 30, 1974, the committee ordered the bill reported favorably with amendments.

On March 14, 1972, at the request of Senator Hollings, S. 582 was recommitted to the committee. Changes were made in the bill so as to clear up conflicting matters of jurisdiction, to place limitations on the coastal zone, and to broaden the participation of local governments, interstate agencies, and areawide agencies in the preparation and operation of management programs. Additional changes were made to make the bill compatible with proposed land use policy legislation as proposed by the administration (see S. 992). Then, on Tuesday, April 11, 1972, the committee ordered S. 3507 be reported favorably as an original bill.

#### DEPARTMENTAL OPINIONS

During the 91st Congress, testimony was received from the Honorable Walter J. Hickel, Secretary of the Interior, Mr. E. I. Dillon, then Acting Executive Secretary of the National Council on Marine Resources and Engineering Development; and the Honorable Robert A. Frosch, Assistant Secretary of the Navy for Research and Development, representing their various departments and agencies. In addition, the Department of Commerce submitted comments on the redrafted bill.

During hearings in the 92d Congress, the Honorable Russell Train, Chairman of the Council on Environmental Quality; the Honorable

Samuel Jackson, Assistant Secretary, Metropolitan Planning and Development, Department of Housing and Urban Development; the Honorable Harrison Loesch, Assistant Secretary, Public Land Management, Department of the Interior; and the Honorable Murray L. Weidenbaum, Assistant Secretary of the Treasury for Economic Policy were heard. Opinions have been submitted by the Comptroller General, the Department of the Interior, the Environmental Protection Agency, and are incorporated herein.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 301. Short title.*

The short title of the act is the "National Coastal Zone Management Act of 1972".

##### *Section 302. Congressional findings*

This section asserts that there is a national interest in the effective management, beneficial use protection and development of the coastal zone. It is found that the coastal zone is important not only for present needs, but for future generations as well because of the area's broad natural, commercial, recreational, and industrial utilization. It is found that because of these increasing and competing demands upon the coastal zone, the area has lost many of its living resources and that the fish, shellfish and other living marine resources are extremely vulnerable to destruction by man's alterations. Because of the critical needs within the coastal zone, it is found that present coastal State and local institutions do not have sufficient authority to regulate utilization of the land and water within the coastal zone. Therefore, Federal assistance is needed to aid the coastal States, local governments and other vitally affected interests in developing land and water use programs within the coastal zone.

##### *Section 303. Declaration of policy*

It is declared as policy to preserve, protect, develop and wherever possible restore the resources of the Nation's coastal zone. The end shall be achieved through Federal encouragement of management programs within the coastal zone which gives full consideration to ecological, cultural, historical, and esthetic values as well as the need for economic development. All Federal agencies engaging in programs of the coastal zone have a duty and responsibility to cooperate and participate in accomplishing the purposes of the act. The Congress also declares that the policy includes encouragement of the participation of the public, Federal, State, local governments, regional agencies, and port authorities in the development of coastal zone management programs. The words "participate" and "participation" means more than mere cooperation or coordination in the preparation of management programs. The committee intends to emphasize the need for positive participation by State agencies, local governments, regional and Federal agencies in the preparation of coastal zone programs.

##### *Section 304. Definitions*

This section defines the various terms used throughout the bill. Of particular importance is the definition of "coastal zone". The coastal zone is meant to include the non-Federal coastal waters and the non-Federal land beneath the coastal waters, and the adjacent non-Federal

shorelands including the water therein and thereunder. This area includes an interface whose parts strongly effect one another. The zone also includes such transitional and intertidal areas as salt marshes, wetlands, and beaches. The outer limit of the zone is the outer limit of the territorial sea, beyond which the States have no clear authority to act. All Federal agencies conducting or supporting activities in the coastal zone are required to administer their programs consistent with approved State management programs. However, such requirements do not convey, release, or diminish any rights reserved or possessed by the Federal Government under the Submerged Lands Act or the Outer Continental Shelf Lands Act or extends State authority to land subject solely to the discretion of the Federal Government such as national parks, forests, and wildlife refuges, Indian reservations and defense establishments. The inner boundary of the coastal zone is somewhat flexible. It extends inland only to the extent necessary to allow the management program to control shorelands whose use have a direct and significant impact upon the coastal water. The flexibility of this definition is intended to allow for adequate coordination with the proposed national land use policy legislation (S. 992). No single geographic definition will satisfy the needs of all coastal States. Therefore the committee expects at a minimum that beaches, salt marshes, and coastal and intertidal areas such as sounds, harbors, bays, and lagoons will be included in the State's coastal zone. The intent of the committee is that the zone chosen by the State should be sufficiently large to permit effective management programs for the diverse land and water uses of the area, but not so large as to encroach upon land use management.

"Coastal waters" include the Great Lakes, waters within the territorial jurisdictions of the United States, and their connection waters, harbors, and estuary-type areas, such as bays, shallows and marshes. In other areas, the coastal waters are defined as being adjacent to the shorelines and which contain a measurable tidal influence. This includes but is not necessarily limited to sounds, bays, lagoons, bayous, ponds, and estuaries.

The "coastal States" are defined as being those States of the United States which border on the Atlantic, Pacific, or Arctic Oceans, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes, including Puerto Rico, the Virgin Islands, Guam, and American Samoa.

The definition of "estuary" means that part of a river or stream or other body of water which has an unimpaired connection with the open sea. Normally in an estuary, seawater is measurably diluted with fresh water derived from land drainage. The definition is meant to include estuary-type areas of the Great Lakes.

An "estuarine sanctuary" is a research area. It may include part or all of an estuary, the adjoining transitional areas and the adjacent uplands which constitute a natural unit which scientists can study and observe over a period of time to make judgments on ecological relationships within the area.

"Management program" is the term to refer to the process by which a coastal State or other approved agency proposes (1) to manage land and water uses in the coastal zone so as to reduce or minimize a direct,

significant, and adverse effect upon those waters, including the development of criteria and of the governmental structure capable of implementing such a program. In adopting the term "management program," the committee seeks to convey the importance of a dynamic quality to the planning undertaken in this act that permits adjustments as more knowledge is gained, as new technology develops, and as social aspirations are more clearly defined. The committee does not intend to provide for management programs that are static but rather to create a mechanism for continuing review of coastal zone programs on a regular basis and to provide a framework for the allocation of resources that are available to carry out these programs.

"Secretary" is defined as the Secretary of Commerce, who has jurisdiction over the National Oceanic and Atmospheric Administration (NOAA). Administration of such a coastal zone management program by NOAA was originally recommended in the final report of the Commission on Marine Science, Engineering and Resources. After careful review the committee believes that NOAA is the best qualified agency to undertake this complex task because of its capabilities for dealing with the interaction of land and water problems. Enumeration of the activities of the National Oceanic and Atmospheric Administration of the Department of Commerce in the coastal zone indicates a significant beginning capability to administer this legislation properly.

*Section 305. Management program development grants*

This section authorizes the Secretary to make annual grants to any coastal state to aid in the developing management programs for the land and water resources of the coastal zone. The grants shall not exceed 66 $\frac{2}{3}$  percent of the cost of such program development in any one year and are limited to a period of 3 years. From testimony received it is estimated that a 3-year period will be adequate to arrive at such a program. No doubt, the cost of preparing management programs will vary from State to State. So the committee has provided a range of grants to be appropriated to carry out the purposes of the management program development section, that is, not greater than 10 percent nor less than 1 percent of the total amount appropriated for this purpose.

Section 305(b) requires inclusion of the following six elements in the management program.

(1) An identification of the boundaries of the coastal zone of the portions of the coastal State subject to the management program;

(2) A definition of what shall constitute permissible land and water uses within the coastal zone so as to prevent such uses which have a direct significant or adverse impact upon the coastal waters;

(3) An inventory and designation of areas of particular concern;

(4) An identification of the means by which the coastal State proposes to exert control over land and water uses within the coastal zone as to prevent such uses which have a direct, significant, and adverse impact on the coastal waters;

(5) Broad guidelines on priority of uses within the coastal zone, and in particular, areas including those of lowest priority; and

(6) A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of the areawide, coastal State, and regional agencies in the management process.

Subsection (g) permits a coastal State to allocate a portion of its management program development grant to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, 80 Stat. 1255) or to an interstate agency. The intent of this subsection is to acknowledge the important contributions to planning being made on the local and regional level. In addition, this subsection will permit regional economic development commissions, whose jurisdiction includes the coastal zones of certain States, to assist the coastal States in the planning. The committee does not intend at this point to limit what should be included in a management program. However, the following suggestions are made for guidance purposes:

(1) Tides and currents, including their effect upon beaches and other shorelines areas;

(2) Floods and flood damage prevention;

(3) Erosion, land stability, climatology, and meteorology;

(4) Ecology, including estuarine habitants of fish, shellfish, and wildlife;

(5) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming, and pleasure boating;

(6) Open space, including educational and natural preserves, scenic beauty, and public access to the coastline and coastal and estuarine areas, both visual and physical;

(7) Navigation;

(8) Commercial fishing;

(9) Present uses, known proposals for changes, and long-term requirements;

(10) Present ownerships, including administration of publicly owned properties;

(11) Present laws and regulations on land and water uses, and activities by all levels of government;

(12) Present population and future trends, including impact of population growth on the coastal and estuarine zone environment; and

(13) Such other factors as may be considered relevant.

#### *Section 306. Administrative grants*

This section authorizes the Secretary to make annual grants to any coastal State for not more than 66 $\frac{2}{3}$  percent of the cost of administering the coastal State's management program, if he approves the program. The grants are to be allocated to the States based on rules and regulations established by the Secretary. These rules must take into account the extent and nature of the shoreline involved and the area covered by the plan, the population of the area and other relevant factors. No annual administrative grant shall exceed 10 percent nor be less than 1 percent of the total amount appropriated. Before granting approval of the management program the Secretary must make seven specific findings:

(1) That the State has developed a management program for its coastal zone in accordance with the rules and regulations set up by the

Secretary adequate to carry out the purposes of this act. The management program must have been developed with the full opportunity of participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private.

(2) That the coastal State has coordinated with local, areawide, and interstate plans developed by a local government, an interstate agency or an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 applicable to areas within the coastal zone existing on January 1 of the year in which the management program is submitted to the Secretary. Additionally, the State must have established an effective mechanism for continuing consultation and coordination between the management agency and the local governments, interstate agencies and areawide agencies within the coastal zone. This must be done to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) That the coastal State has held public hearings in the development of the management program.

(4) That the management program and any changes of the program have been reviewed and approved by the Governor of the coastal State.

(5) That the Governor of the coastal State has designated a single agency to receive and administer the funds for implementing the management program.

(6) That the coastal State is organized to implement the management program, and

(7) That the coastal State has the authority necessary to implement the program.

Section 306(d) further provides that before granting approval of the management program, the Secretary must find that the State does have the authority to manage the coastal zone in accordance with the management program. Such authority can be exercised by the State through a chosen agency or agencies, where more than one agency has authority to act, or through local governments or areawide agencies designated on interstate agencies under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. The authority must include power (1) to administer land and water use regulations, control development in order to insure compliance with the program, and resolve conflicts among competing uses; and (2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program. The committee knows of no State that does not already have the authorities cited, either in the State government or in local government. Key to this subsection is the flexibility permitted to each State to determine the level of government through which such authority will be exercised.

Under section 306(e) the Secretary must find that the program has provided for any one or a combination of the following general techniques to control land and water uses:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance; (B) direct State land and water use planning and regulation; or (C) coastal State administrative review for consistency with the



management program of all development plans, projects, or land and water regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

Additionally, the program must provide for a method of assuring that local land and water use regulations within the coastal zone will not unreasonably restrict or exclude land and water uses of regional benefit. Section 306(e) requires that State government exercise any one or a combination of the general techniques enumerated, without delegation to local, regional, or other forms of government. The three general techniques vary in the authority that the State would exercise. One or two States already provide for direct State land use planning and regulation; most States do not repose such authority in State government, but have delegated such authority to local governments. Where such authority is delegated to local governments, or where the State constitution provides that local government is to exercise such authority, the State may opt for either of the two remaining general techniques and still qualify for administrative grants under the provisions of this act.

Section 306(f) permits a State, with approval of the Secretary, to allocate a portion of the administrative grants to local governments, interstate agencies, or to areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. However, such allocation is subject to the proviso that the State is not relieved of responsibility for insuring that any funds so allocated are applied in furtherance of the State's approved management program.

Section 306(g) authorizes a State to amend its management program, subject to the procedures required under section 306(c). The Secretary must approve any amendment of modification before additional administrative grants are made to the State under the amended program.

Some States have already adopted programs for management of portions of their coastal zone. Others might find comprehensive planning for the entire coastal zone too great an undertaking even with the assistance provided under this legislation. Accordingly, section 306(h) provides that with the approval of the Secretary a State management program may be developed and adopted in segments so as to permit immediate attention to those areas which most urgently need management programs. However, the State must provide for the ultimate coordination and unification of the various segments of the management program into a single program and for completion of the total unified program as soon as is reasonably practicable.

#### *Section 307. Public hearings*

All public hearings required by non-Federal entities under this title must be announced at least 30 days before they take place, and all relevant materials, documents, and studies must be made readily available to the public at least 30 days before the hearing. Broad-based public participation in the planning for the coastal and estuarine zone is basic to this legislation. Unfortunate experience with comparable provisions of other legislation prompts the committee to provide explicit standards for notice and hearings. Those standards pro-

vide not only for adequate notice of proposed hearings, in order to provide ample time for preparation, but also require all relevant documents, materials, studies, and proposed actions to be available to the public for advance study and preparation.

*Section 308. Rules and regulations*

Provision for making rules and regulations to carry out the purposes of the act also requires an opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested public and private parties.

*Section 309. Review of performance*

Subsection (a) requires the Secretary to conduct a continuing review of the States' management programs and the performance of each State. The planning process and development of the management programs for each coastal State is essentially a continuing process, requiring continuing review. Procedures are required for program modification and updating. Connoted therein is an ongoing process reflective of changes in technology, of funding levels, of social expectations and understandings. The committee is concerned that a static plan might be offered and then shelved, without recognizing the dynamics of the political process, the changing biophysical nature of the coastal and estuarine zone, and the institutional-management framework. Thus, the committee has not only provided for a continuing process of review and updating of management programs by the States, but also for a continuing review by the Secretary.

(b) Where the Secretary determines that a State is failing to adhere to its approved coastal and estuarine zone management program and is not justified in deviating from that program, and where he has given notice of proposed termination and given an opportunity to present evidence on the proposed changes, he may terminate any financial assistance extended as an administrative grant under section 306. The Committee has considered and rejected several different proposals for penalties and sanctions for noncompliance with the terms of this legislation. Until experience dictates the need for greater sanctions than termination of financial assistance under section 306, the Committee believes that this sanction will suffice.

*Section 310. Records*

Each grant recipient is required to keep prescribed records, including those which fully disclose the amount and disposition of grants funds, the total cost of the program supplied from other sources, and other records to ease effective audit. The section requires that the Secretary and the Comptroller General of the United States, or their representatives, shall have access to records of the grant recipient that are pertinent to the determination that funds are used in accordance with the legislation.

*Section 311. National Coastal Resources Board*

The Committee has created in section 311(a) a new National Coastal Resources Board within the executive office of the President. Membership on this Board shall include the Vice rPresident, who shall be chairman, the Secretary of State, the Secretary of the Navy, the Secretary of the Interior, the Secretary of Commerce, the Chairman of

the Atomic Energy Committee, the Director of the National Science Foundation, the Secretary of Health, Education, and Welfare, and the Secretary of Transportation. This Board can be increased by the President at his discretion from other such agencies and by other such officials as he would find advisable. In the case of the absence of the Chairman, the President shall designate one of the members of the Board to preside over the meeting. Each member of the Board except those designated in subsection (b) may designate any officer of his department or agency, with the advice and consent of the Senate, to serve on the Board as his alternate in his unavoidable absence. The Board may employ a civilian executive secretary to head the staff of the Board. He shall be appointed by the President and shall receive compensation at a rate established by the President not to exceed that of level II of the Federal executive salary schedule (\$42,500 per annum). The executive secretary under the direction of the Board is authorized to appoint and establish the compensation of such other personnel as may be needed including not more than seven persons who may be appointed without regard to civil service laws or chapter 51 and subchapter III of chapter 53 of title 5 and compensation is not to exceed the highest rate of grade 18 of the General Schedule. These personnel may be appointed as may be necessary to perform such duties as may be described by the President.

The Board shall meet regularly at such times as the Chairman may direct and will have the following duties:

(1) Provide an effective coordination between programs of Federal agencies within the coastal zone.

(2) In the case of serious disagreement between any Federal agencies and a coastal State in the development of the program, the Board shall do its best to mediate the differences.

(3) Finally, the Board will provide a forum for appeals by any aggrieved areawide planning entity or unit of local government from any decision or action of the Secretary or an areawide planning entity.

The Committee believes that there may be competition between State management programs and other activities of Federal, State, local, and areawide governments in the management of non-Federal land and water uses within the coastal zone. As a result of this competition there may be the need to allow a forum for those parties which may consider themselves aggrieved by the decisions of the State management program or the agency allocated by the State to operate the management program. Therefore, the Committee has created the Board to handle just this task. However, there is no intent in the Committee's action to establish a board which would have the final decision in the appeals process. It is the intent of the Committee that the Secretary of Commerce shall have the final authority to make decisions affecting management programs within the coastal zone. The broad representation provided for on the Board is aimed at allowing input from as many affected agencies as possible which might have ongoing activities within the coastal zone. It is a foregone conclusion that State management programs will affect both public and private utilization of land and water facilities within the coastal zone and that conflict will invariably arise. The Board hopefully will be able to mediate any such differences to the satisfaction of all parties involved. However,

once again, in the case of a deadlock on an issue, the Secretary remains the final authority and court of last resort.

*Section 312. Advisory Committee*

The Secretary is directed to establish a 15-member Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on policy matters concerning the coastal zone. The Committee can serve an important function in extending Federal-State relationships and provide a coordinating mechanism for parties involved in coastal zone management. At the same time it can make recommendations and review Federal policy. It may serve other functions as the Secretary may designate.

*Section 315. Estuarine sanctuaries*

The Secretary is authorized to make grants up to 50 percent of the costs of acquisition, development, and operation of estuarine sanctuaries. These sanctuaries would allow for the creation of field laboratories to gather data and make studies of the natural processes occurring in the estuaries. The act authorizes \$6 million for the initial year's operation of this section and limits the Federal share to no more than \$2 million for any one estuarine acquisition. Federal administrative grant funds for implementing the State coastal zone management program under section 306 may not be used to provide the State share of the costs of the estuarine sanctuaries under this section.

The committee envisions such sanctuaries as natural areas set aside primarily to provide scientists the opportunity to make baseline ecological measurements. Such measurements will be essential to many coastal and estuarine zone management decisions that will have to be made, as well as helping to predict the impact of human intervention on the natural ecology. These sanctuaries should not be chosen at random, but should reflect regional differentiation and a variety of ecosystems so as to cover all significant natural variations.

Scientific research and ecological data can aid significantly in providing a rational basis for intelligent management of the coastal and estuarine zone. In addition, such sanctuaries could be used to monitor vital changes in the estuaries environment; or forecast possible deterioration from anticipated activities. Dr. Eugene Odum, director of the Institute of Ecology, University of Georgia, likened estuarine sanctuaries to "pilot plants": "Scientists have to have 'pilot plants' to check out broad theories on a large environmental scale, just as an industrialist would not want to market a product directly from a laboratory; he would want to have a 'pilot plant' study first." (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization." Pt. 2, serial No. 91-59, at p. 1254.)

The choice of estuarine sanctuaries entails many difficulties. However, where baseline ecological studies of natural conditions are desired, estuaries without much development, industry or habitation in the watershed areas would be desirable. Dr. Joel Hedgpeth of Oregon State University commented on some possible locations:

In southern California, for example, there is nothing left. In northern California, Tomales Bay, which might not fit some definitions, is an ideal candidate because of the 10 years of study that has been carried out there and the circumstances that one entire shore (almost) is within control of the Point Reyes National Seashore. There are some interesting lagoons

in northern California, just north of Eureka. In Oregon the most likely candidate seems to be Alessea Bay, but Netarts is also a good candidate. In Texas the Baffin Bay region of the Laguna Madre, and perhaps Copano Bay should be considered \* \* \*. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization." Pt. 2, serial No. 91-59, at p. 1258.)

Dr. B. J. Copeland of North Carolina State University recommended that "sanctuaries should be established to enable studying estuaries of various ecological types and under various ambient conditions", and gave these examples:

A. Oligohaline estuary—Pamlico River, N.C.

B. Medium salinity plankton system—Chesapeake Bay, Md.

C. Tropical Estuary—Kaneohe Bay, Hawaii.

D. Oyster Reef, grass flat—Barataria Bay, La.

E. Lagoon—Laguna Madre (Baffin Bay), Tex.

F. West coast—plankton system—Yaquina Bay, Oreg. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Pt. 2 serial No. 91-59 at p. 1259.)

Dr. Copeland stated that these types represent most of the estuaries in the United States with the exception of minor ones on rocky coasts and those in the Arctic.

The Committee is convinced that sound coastal zone management must be based upon basic ecological considerations, and to this end are persuaded by the statement of Mr. Sydney Howe, president of the Conservation Foundation:

Traditionally, land-use planning is based largely on economic engineering, design and transportation concepts that consider natural processes only partially and indirectly. The science of ecology—"the systems analysis of nature" is concerned with the impact of man upon natural processes and the total consequences, including the effects on man and his works.

\* \* \* [N]ational policy for coastal management [should be] to give a priority to those uses which are compatible with the productive functioning of coastal natural systems and which cannot be provided elsewhere, and that where development is permitted it should be designed to minimize damage to these natural systems. Such decisions cannot be made without some understanding of these systems. Ecological knowledge, in short, should be a fundamental and initial basis of coastal zone planning and management.

Our own experience with ecologically based development planning already has shown that in many situations it is possible to minimize adverse impacts of development and maximize developmental benefits if one can understand the natural systems affected. This kind of understanding is particularly important in coastal situations where filling, dredging, discharging of wastes, mining, obstruction of tidal or current flows, or removing of vegetation may generate unforeseen destructive effects on highly desirable and useful functions and forms of life elsewhere in the system. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization." Pt. 2, serial No. 91 59 at p. 972.)

Establishment of estuarine sanctuaries will provide information valuable in itself, as well as information on which sound coastal zone management decisions can be based.

*Section 314. Interagency coordination and cooperation*

Subsection (a) provides that unless the views of Federal agencies principally affected by a State's coastal zone management program are adequately considered, the Secretary is not authorized to approve that program. Where serious disagreement exists between a State and a Federal agency in the development of the management program, the Secretary is to seek to mediate the differences. Should such mediation on the part of the Secretary not result in success, then the parties are authorized to turn to the National Coastal Resources Board for further solution of the problems. Once again final authority for decisions on these matters rest in the purview of the Secretary and there is no intent here to diminish that authority.

Section 314(b) (1). This subsection requires all Federal agencies conducting or supporting activities in the coastal zone to administer their programs consistent with approved State management programs except in cases of overriding national interest as determined by the President. In order to determine whether Federal projects and activities are consistent with approved management programs, the subsection requires that program coverage procedures provided for and regulations issued under the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, 80 Stat. 1255) and Title IV of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577, 82 Stat. 1098) shall be applied.

Paragraph (2) of subsection (b) provides that Federal agencies shall not undertake any development project in the coastal zone which in the opinion of the State is inconsistent with the management program of that State unless the Secretary receives comments from the Federal agencies, the coastal State, and the affected local governments, and then finds that the project is consistent with the objectives of this act.

The committee does not intend to exempt Federal agencies automatically from the provisions of this act. Inasmuch as Federal agencies are given a full opportunity to participate in the planning process, the committee deems it essential that Federal agencies administer their programs, including developmental projects, consistent with the State's coastal zone management program. If not, the ordinary course for a State would be to file a complaint with the Secretary or, failing that, with the National Coastal Resources Board. Again, however, once the Secretary has received comments from the Federal agencies, the State, and the affected local governments, he shall make his own findings as to the consistency of the Federal developmental project with the State's management program.

Also, where the Secretary of Defense informs the Secretary that a developmental project is necessary in the interest of national security, the committee intends that the Secretary will make an independent inquiry and finding as to the need for the project and its relationship to the State management program. It is not sufficient, for the purposes of this act, that the Secretary of Defense merely inform the Secretary that the developmental project is needed in the interest of national

security. All reasonable efforts should be made by the Secretary to reconcile national security needs and the State management program in the case of such conflicts.

Paragraph (3) of subsection (b) provides that after final approval by the Secretary of a State's management program, any applicant for a Federal license or permit to conduct any new activity in the coastal zone shall provide in the license or permit application a certification that the proposed activities comply with the State's approved management program. Additionally, the applicant must give reasonable assurance that the activity will be conducted in a manner consistent with that program. The State is to establish procedures for public notice of such applications for certification. The State also must provide public hearings when appropriate. If a State agency fails to grant or deny a request for certification within 6 months from the time that request is received, the certification requirements shall be waived. No license or permit shall be granted until either the certification has been obtained or waived, or the activity has been found by the Secretary to be consistent with the objectives of the legislation or necessary in the interest of national security. Such a finding cannot be made, however, unless the Secretary has received detailed comments from Federal and State agencies and the State has provided an opportunity for a public hearing. Thus, paragraph (3) of section (b) assures that before a Federal license or permit is issued to conduct any new activity in the coastal zone, directly, significantly and adversely affecting the coastal waters, it will be reviewed by an appropriate State agency and a certification of compliance supplied. This is done as both an aid to Federal licensing and permitting agencies and to insure the development projects are consistent with the coastal State's management program. Emphasis is placed upon "new" activity. This activity is after the date of enactment of the legislation. It will thus be appropriate to distinguish between new activities, such as the building of a new marina, or the dredging of a new channel, as opposed to the maintenance of existing facilities or activities begun prior to the enactment of the bill.

Section 314(c) provides that State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone are required under this subsection to indicate the views of the appropriate coastal State or local agency as to the relationship of such activities to the State's approved management program. Federal agencies shall not approve proposed projects that are inconsistent with the management program, unless the Secretary finds that the project is consistent with the purposes of the title or necessary in the interest of national security. Those who seek Federal licenses or permits must receive certification that the proposed project is consistent with the State's approved management program. The same conditions exist for State and local governments seeking Federal assistance from other sources. They must indicate also the consistency of their proposed project with the approved State program.

Section 314(d) is a standard clause disclaiming intent to diminish Federal or State authority in the fields affected by the act; to change interstate agreements; to affect the authority of Federal officials; to affect existing laws applicable to Federal agencies; or to affect certain named international organizations.

### *Section 315. Annual report*

The Secretary is required to submit an annual report to the President for transmittal to the Congress not later than November 1 of each year, covering the administration of the title for the preceding fiscal year. Among other things the report is to include the Secretary's recommendations for additional legislation to achieve the objectives of the title to enhance its effective operation. The report shall include, but not be limited to, the following subject areas:

(1) There shall be an identification of the coastal State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs;

(2) The Secretary shall list the coastal States which are participating in the provisions of this title and describe the status of each program and what has been accomplished during the past fiscal year;

(3) The Secretary shall itemize the allotment of funds to the various coastal States and give a breakdown of the major projects and areas where these funds have been spent;

(4) The report also shall identify any coastal State programs which have been viewed and disapproved or with respect to which grants have been terminated under this title and an explanation of why the action was taken;

(5) A listing of the Federal development projects which the Secretary has reviewed under section 314 of this title and a summary of final action taken by the Secretary on each such project;

(6) A summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; and

(7) A summary of outstanding problems arising in the administration of this title in order of priority.

Additionally, the Secretary may put in any other information as he deems appropriate. Throughout this act, the State has been the major focal point for planning and managing the coastal zone of the United States. It is felt that States do have the authority with the approval of the Secretary to delegate to local, areawide or interstate agencies some of the planning and management functions under this act.

In theory this legislation could result in 35 substantially different management programs lacking the coordination of a national strategy for managing this invaluable resource in the coastal zone. The Committee believes that one of the important functions of the Secretary will be to develop and to coordinate this strategy working closely with the Coastal Zone Management Advisory Committee. Therefore, it is hoped that the Secretary will work closely with a wide range of diverse interest and interested groups both on the local and state level. The result of such work are to be incorporated in the annual report and will serve to assess current status and to guide future decisions.

### *Section 315. Appropriations authorization*

There are authorized to be appropriated (1) \$12 million for the fiscal year ending June 30, 1973, and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1977, for management program development grants under section 305 of the Act, to remain available until expended; (2) not to exceed \$50,000,000 as may be necessary for the fiscal year ending June 30, 1973, and such sums as



may be necessary for each succeeding fiscal year thereafter for administrative grants under section 306, to remain available until expended; (3) not to exceed \$6 million for the fiscal year ending June 30, 1973 for estuarine sanctuaries grants under section 313.

There are also authorized to be appropriated not to exceed \$1,500,000 annually for administrative expenses incident to administration of this title.

#### COST OF THE LEGISLATION

In accordance with section 232(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that the cost of S. 3507 will be as follows for the current fiscal year and succeeding 5 years:

[In millions]					
	1st yr	2d yr	3d yr	4th yr	5th yr
Planning grants (sec. 305).....	\$12.0	\$20.0	\$20.0	\$10.0	\$5.0
Admin. grants (sec. 306).....		50.0	60.0	70.0	75.0
Estuarine sanctuaries (sec. 313).....	6.0				
Administration.....	1.5	1.5	1.5	1.5	1.5
Total.....	19.5	71.5	18.5	81.5	81.5

The committee is not aware of any estimates of costs made by any Federal agency which are different from those made by the committee.

#### CHANGES IN EXISTING LAW

There are no changes in existing law resulting from this legislation.

#### DEPARTMENTAL REPORTS

The following are reports from the various departments and agencies on the coastal and estuarine zone management bills (S. 582 and S. 638) on which the Committee held hearings in the 92d Congress, and on similar bills on which the Committee held hearings in the 91st Congress (S. 2802, S. 3183, and S. 3160, S. 3507 was considered in executive session and ordered reported as an original bill.

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., April 20, 1971.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of February 26, 1971, requesting our views on S. 582 which would amend the Marine Resources and Engineering Development Act of 1966, as amended, to establish a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

We have no special information as to the advantages or disadvantages of the proposed legislation and therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 et seq. Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 et seq.)."

Page 6, line 3, of the bill refers to "Sec. 306." This should be changed to "Sec. 305."

Page 19, line 4, of the bill refers to "Sec. 313." This should be changed to "Sec. 314" and the following section appropriately renumbered.

Section 304(b), page 5, defines coastal and estuarine zone as extending seaward to the outer limit of the U.S. territorial sea. The International Convention on the Continental Shelf recognizes the sovereign rights of the coastal nation to explore the shelf and exploit its natural resources. Therefore, the committee may wish to consider redefining the coastal and estuarine zone to include the Continental Shelf which the Convention defines as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" and "the seabed and subsoil of similar submarine areas adjacent to the coast of islands."

Section 304(c), page 5, defines "Coastal State" as including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia. We assume it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305(a), page 6, of the bill authorizes the Secretary of Commerce to make annual grants to any coastal State in the development of a management plan and program for the land and water resources of the coastal and estuarine zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This provision appears to preclude grants to States which have not yet started to develop a management plan and program. The committee may wish to consider language changes which would allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a), page 7, of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the coastal State's management plan and program. Section 306(c)(4), page 8, of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of administering the management plan and program or if these grants are solely intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(b), page 7, of the bill states that grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary. This provision may not result in an equitable distribution of funds to each of the coastal States in that under section

306(i), page 12, a grant of an amount up to 15 percent of the total amount appropriated may be made to one coastal State. We believe that these grants should take into account the populations of such States, the size of the coastal or estuarine areas, and the respective financial needs of such States.

Section 307, page 12, authorizes the Secretary to enter into agreements with coastal States to underwrite, by guarantee thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311, page 14, authorizes the Secretary to establish a coastal and estuarine zone management advisory committee composed of not more than 15 persons designated by the Secretary. This section does not (1) specify the term of service of the members, and (2) provide for the designation of a chairman. The committee may wish to provide for (1) the term or terms of service and (2) the selection of a chairman.

Section 313(a), page 15, should be clarified as it is now unclear whether it provides that States must adequately consider the views of principally affected Federal agencies prior to submitting their plans to the Secretary or whether the Secretary must adequately consider the views of principally affected Federal agencies prior to his approval of the States plans. In either case, the committee may wish to set a specific time limit within which principally affected Federal agencies must submit their views.

The bill does not require a finding by the Secretary that the State's coastal and estuarine zone management plan and program be consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended. The committee may wish to add a section to the proposed bill to require such a finding.

Sincerely yours.

ROBERT F. KELLER,

*Acting Comptroller General of the United States.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., April 20, 1971.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of February 26, 1971, requesting our views on S. 638 which would amend the Marine Resources and Engineering Development Act of 1966, as

amended, to assist the States in establishing coastal zone management plans and programs. The bill would amend the act by adding title III which would, if enacted, be cited as the "National Coastal Zone Management Act of 1971."

The bill involves matters of policy for determination by the Congress and therefore we have no recommendation with respect to its enactment. However, we have the following comments concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 et seq. Consequently, lines 8 and 9 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. et seq.)."

Section 304(c) defines "Coastal State" as including Puerto Rico, the Virginia Islands, Guam, American Samoa, and the District of Columbia. We assume that it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305 of the bill authorizes the Secretary to make annual grants to any coastal State for the purpose of assisting in the development of a management plan and program for the land and water resources of the coastal zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This language appears to preclude making grants to States which have not yet started to develop a management plan and program. The committee may wish to consider whether the bill should also allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a) of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 50 per centum of the costs of administering the coastal State's management plan and program.

Section 306(c) (4) of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of monitoring the management plan and program or if these grants are intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(c) (2) of the bill requires the coastal State to make provisions for public notice and to hold public hearings on the development of the management plan and program. All required public hearings under this title must be announced at least 30 days before they take place and all relevant materials, documents and studies must be readily available to the public for study at least 30 days in advance of the actual hearing or hearings. The committee may wish to increase the number of days notice for public hearings, in order that the public may have advance notice that relevant studies and documents are to be available at least 30 days in advance of the hearings. This would give the public the benefit of the full 30 days to examine the relevant documents.

Section 307 authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify a maximum amount which the Secretary could guarantee for each bond issue or loan and an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311 authorizes and directs the Secretary to establish a coastal zone management advisory committee composed of not more than 15 persons designated by the Secretary. However, the bill does not (1) specify the term of service of the members, (2) include a provision for the designation of a chairman, and (3) include a provision that would require the Secretary to distribute membership to the advisory committee among various academic, business, governmental or other disciplines. We suggest that the committee consider inclusion of such provisions in the bill.

Section 312(a) of the bill states that the Secretary shall not approve the management plan and program submitted by the State unless the views of Federal agencies principally affected by such plan and program have been adequately considered. The bill does not, however, specify the time period within which the Federal agencies are to submit their views. The committee may wish to set a specific time limit for Federal agencies to consider a coastal State's management plan and program.

This bill does not require a finding by the Secretary that the State's coastal zone management plan and program be consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended. The committee may wish to add a section to the bill for this purpose.

The bill does not provide for the segmented development and adoption of State's management plans and programs and appears to require that only a completed comprehensive plan and program shall be submitted to the Secretary. Such a requirement might tend to impede the giving of immediate attention by States to the more urgent needs of particular coastal zone areas. As further encouragement to the coastal States to undertake the preparation and implementation of plans and programs, the committee may wish to add a provision to the bill to allow the States, with the approval of the Secretary, to develop and adopt a management plan and program in segments, provided that (1) the State adequately allows for the ultimate coordination of the various segments into a single unified plan and program and (2) such unified plan and program be completed as soon as is reasonably practicable, but within specified time limits.

On page 1, line 10, "titles" should be "title."

In section 306(c) (6) the reference to subsection "(g)" should be to subsection "(f)." Subsection "(h)" should be changed to subsection "(g)."

On page 11, "REVIEW AND PERFORMANCE" should be "REVIEW OF PERFORMANCES."

On page 11, line 22, "approved" should be "approved."

On page 13, line 6, "exceediing" should be "exceeding."

On page 15, line 15, "costal" should be "coastal."

The reference to section "313" in section 313(a) (5) should be to section "312."

Sincerely yours,

ROBERT F. KELLER,  
*Acting Comptroller General of the United States.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 4, 1971.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your recent request for our comment on S. 582 and S. 638, similar bills to assist the States in establishing coastal zone management plans and programs. We offer comment as well on those provisions of S. 632 and S. 992, pertaining to the establishment of a national land use policy, which merit discussion in this context.

Because we recognize a real and urgent need for comprehensive land use planning, and because it now appears that the States are prepared to move toward this objective, we recommend the enactment of S. 992 in lieu of S. 582 or S. 638.

S. 582 and S. 638 would both amend the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 *et seq.*) by adding a new title III, the "National Coastal (and Estuarine) Zone Management Act of 1971". Consistent with a congressional declaration that there is a national interest in the effective management, beneficial use, protection and development of the Nation's coastal zone, the Secretary of Commerce would be authorized to assist coastal States in their development and administration of an approved management plan and program. No such program could be approved without a finding by the Secretary that the coastal State has legal authority and institutional organization adequate for the management of its coastal zone. S. 582 would authorize annual grants not to exceed 66 $\frac{2}{3}$ % of a State's costs in developing its management program, provided that no single grant exceeds \$600,000, and a like percentage for costs of administering the program. S. 638 would establish the Federal share at 50%, and limit single development grants to \$200,000.

Both bills would authorize a program of bond and loan guaranties to facilitate land acquisition, land and water development, and restoration projects, provided that the aggregate principal amount of guaranteed bonds and loans never exceeds \$140 million. In addition to these general provisions, S. 582 would authorize cost-sharing for the acquisition, development and operation of not more than 15 estuarine

sanctuaries. The Federal share of the cost for each such sanctuary could not exceed \$2 million.

As the result of two studies conducted by this Department and the Stratton Commission report, this Administration recommended that the 91st Congress enact legislation similar in concept to S. 582 and S. 638. We believed then, as we believe now, that the finite resources of our coastal and estuarine areas are threatened by population growth and economic development. At the Federal level, this Department had already been directed by the Estuary Protection Act of 1968 (82 Stat. 625, 16 U.S.C. 1221 *et seq.*) to conduct a study and inventory of the Nation's estuaries. As we reported to the Subcommittee on Oceanography a year ago, it was a conclusion of our study and others that effective management of land and water resources could best be promoted by encouraging the States to accept a broadened responsibility for land use planning and management.

In its First Annual Report, the Council on Environmental Quality last August recognized "a need to begin shaping a national land use policy". In February of this year, the President urged that we "reform the institutional framework in which land use decisions are made", and recommended enactment of a proposed "National Land Use Policy Act of 1971", now pending before the Senate as S. 992. It is the President's proposal that \$20 million be authorized in each of the next five years to assist the States in establishing methods for protecting lands, including the coastal zone and estuaries, of critical environmental concern, methods for controlling large-scale development, and improving use of land around key facilities and new communities. "This proposal", the President said, "will replace and expand my proposal submitted to the last Congress for coastal zone management, while still giving priority attention to this area of the country which is especially sensitive to development pressures".

Specifically, S. 992 would authorize a two-phase program of grants to be administered by the Secretary of the Interior. In that cost-sharing grants would be awarded both for program development and for program management. S. 992 is similar to S. 582 and S. 638. The administration proposal differs from S. 582 and S. 638, however, with respect to the scope of a State's planning activity and, indeed the number of States eligible for assistance. To assure that coastal zone and estuarine management receive the priority attention of coastal States, S. 992 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventorying and designating such areas. Further the Secretary would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account (1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection and (2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities. Most important, perhaps, funds for program development and management would be allocated to the States under regulations which must take into account the nature and extent of coastal zones and estuaries. While S. 632 also anticipates the initiation of national

land uses planning through assistance to the States in their development of appropriate legal and institutional implements, it would not provide emphasis or priority for protection of the coastal zone and estuaries.

Of the manmade threats to coastal environments described by the Council on Environmental Quality in its first annual report, most have their origin in heavily populated land areas at or near the water's edge. But others can be traced further inland, where eventual impact upon the coastal environment is not so easily recognized. Thus, while pressures become most intense at the point where land meets water, many cannot be alleviated without truly comprehensive planning. This fact, and the related absence of any precise geographic definition for the coastal zone, lies behind the integrated approach embodied in S. 992. It may be noted that several States, coastal and inland, have already expressed a commitment to this concept. We urge that the Congress and your Committee, so effective in its concern for sound management of the coastal zone, join in this initiative to encourage planning for effective management of all the Nation's lands and waters.

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

Sincerely yours,

HARRISON LOESCH,  
*Assistant Secretary of the Interior.*

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ENVIRONMENTAL PROTECTION AGENCY,  
OFFICE OF THE ADMINISTRATOR,  
*Washington, D.C., June 1, 1971.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for our agency's comments on S. 582 and S. 638, bills to provide for a national program of assistance to the States in coastal zone management programs.

These bills would authorize the Secretary of Commerce to award grants to coastal States for the development of management plans and programs for the land and water resources of the coastal zone. Such grants would not exceed 66 $\frac{2}{3}$ % of the planning costs (S. 582) or 50% of such costs (S. 638). If the Secretary found that a plan was consistent with the purposes of the act to balance development and protection of the natural environment; that provision for public notice and hearings on the plan and program had been made; that the plan and program had been reviewed and approved by the Governor; that a single agency would administer and implement the management plan and program; and that the State had the necessary authority to implement the program, including controls over public and private development, he would be authorized to make annual grants for the costs of administering the program, with the same maximum percentages as planning grants. S. 582 also requires minimum grants of at least 1 percent of costs.



With the Secretary's approval, States would be authorized to develop plans in segments so as to focus attention on problem areas, and to revise plans to meet changed conditions. Grants could be terminated if the Secretary determined that a State was failing to implement its plan and program.

Additional provisions would require the Secretary, before approving programs, to consult with Federal agencies principally involved. Federal agencies conducting or supporting activities in the coastal zone would be required to "seek to make such activities consistent with the approved State management plan and program for the area." Federal development activities in the coastal zone would be prohibited if the coastal State deemed such activities inconsistent with a management plan unless the Secretary found such project consistent with the objectives of the bill, or in cases where the Secretary of Defense determines that the project is necessary in the interests of national security. Applicants for Federal licenses or permits to conduct any activity the coastal zone would be required to obtain a certification from the appropriate State agency that the proposed activity was consistent with the coastal zone management plan and program.

The Secretary would be required to submit an annual report to the President for transmittal to the Congress on the administration of the act.

S. 582 would also authorize the establishment of "estuarine sanctuaries" for the purpose of studies of natural and human processes occurring within the coastal zone, and would provide for grants by the Secretary of up to 50 percent of the costs of acquisition, development, and operation of such sanctuaries.

We recommend that these bills not be enacted, and that the Congress instead give favorable consideration to S. 992, the Administration's proposed "National Land Use Policy Act of 1971."

The "national estuarine pollution study," which was developed for the Secretary of the Interior by the Federal Water Quality Administration, now a component of EPA, concluded that urbanization and industrialization, combined with unplanned development in the estuarine zone, have resulted in severe damage to the estuarine ecosystem. In addition, the "national estuary study," developed for the Secretary by the Fish and Wildlife Service, identified the need for a new thrust on the side of natural and esthetic values in the Nation's estuarine areas. Clearly, we need to insure that environmental values are adequately protected in such areas. In this connection, however, we are aware that land-use planning can affect all areas, not simply estuarine areas, and that adequate planning for preservation of estuarine and coastal areas can only be effective if the full range of alternatives to development in such areas can be considered. In other words, estuarine and coastal zone planning must be considered within the larger context of land-use planning statewide.

S. 992 would authorize the Secretary of the Interior to make grants of up to 50 percent of cost to assist the States in developing and managing land-use programs. Programs would be required to include methods for inventorying and exercising control over the use of land within areas of critical environmental concern, including coastal zones and estuaries. States would also be required to develop a system of controls or regulations to insure compliance with applicable environmental standards and implementation plans.

Accordingly, we favor the approach embodied in S. 992, which incorporates provisions for the protection of the coastal and estuarine areas into its more comprehensive scheme. At the same time, we recognize that the coastal zone is an area of special concern, where prompt and effective action is required. Heavy pressures for further development, coupled with the fragility of coastal and estuarine areas, make it imperative that we move immediately to protect these areas. The system authorized by S. 992 will permit a high priority for coastal zone planning within its larger context of land-use planning and programs. We therefore urge prompt congressional approval of S. 992.

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

Sincerely,

WILLIAM D. RUCKELSHAUS,  
*Administrator.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., September 25, 1969.*

B-167694.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your letter of August 11, 1969, requesting our comments on S. 2802.

The bill would amend Public Law 89-454, as amended (33 U.S.C. 1101 et seq.), by adding thereto a new title III which would provide financial assistance to coastal authorities for establishing and implementing coastal management programs, and a new title IV which would provide for a special fund in the Treasury to be known as the "Marine Resources Fund."

We have no special information concerning the desirability of the proposed legislation and accordingly, we make no recommendation as to the merits of the bill. However, we offer the following comments for your consideration.

Sections 301(a) and 305 (a) and (b) authorize the Council to make grants to coastal authorities for the purpose of developing a longrange master plan and implementing a development program, and to enter into agreements with coastal authorities to underwrite by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

The proposed legislation contains no criteria as to when or under what circumstances each type of financial assistance should be utilized. The Congress may wish to consider the advisability of including criteria which would provide that grants be made only in those instances where a finding has been made by the Council that the applicant for financial assistance does not have sufficient financial resources to permit the undertaking of a project with bond or loan financing. Also, we note that section 305(b) does not specifically state whether payments on defaulted bonds or loans are to be made from the Marine Resources Fund or from funds otherwise appropriated.

Section 312(a) contains what appears to be an unrealistic requirement for a report to the Congress not later than January 1 of each year on the administration of the title for the preceding calendar

year. This requirement would provide only one day to finalize and issue a report on the preceding year's activities.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et seq.*)"

The word "cosal" appearing in line 16 on page 8 of the bill should be changed to "coastal."

Sincerely yours,

ROBERT F. KELLER

(For the Comptroller General of the United States.)

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FEDERAL MARITIME COMMISSION,  
OFFICE OF THE CHAIRMAN,  
*Washington, D.C., March 12, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of March 2, 1970, for the views of the Federal Maritime Commission with respect to S. 3460, a bill to establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs.

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

HELEN DELICH BENTLEY,  
*Chairman.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., March 30, 1970.*

B-167694.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reference to your letter of March 2, 1970, requesting our views on S. 3460, entitled: "A bill to establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs."

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following comments concerning specific provisions of the bill.

The bill calls for all Federal agencies to coordinate their activities in the coastal zone with the coastal States. (Section 303, page 4, lines 16-18.) We suggest that the extent of this coordination may not be sufficient since the activities undertaken by other (noncoastal) States affects the waters draining into the coastal States. The committee may

wish to consider the possibility that entire river (or lake) basin coordination may be desirable.

The bill provides for a Federal agency (The National Council on Marine Resources and Engineering Development) to make grants to State agencies (coastal authorities) to assist them in developing a long-range master plan and implementing a development program based upon such master plan. If the coastal authorities borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects, the borrowings and bonds may be guaranteed by the Federal agency. (Section 305(a), page 6.)

We believe that the bill should prescribe the terms and conditions of the borrowings and bonds that may be guaranteed by the Federal agency and the rights of the Federal Government in the case of default. We believe also that the bill should specify the extent to which such borrowings and bonds may be guaranteed by the Federal agency.

Also, in order to effect more comprehensive master planning by the coastal authorities, we suggest for your consideration the following change at page 7, line 19 :

\* \* \* authority shall examine the land *and water* use regulations. \* \* \*

Similarly, regarding page 8, line 5, we suggest the following changes: \* \* \* shall examine to the extent possible land *and water* use plans. \* \* \*

Also, regarding page 8, line 11, we suggest the following change : \* \* \* such master plan shall include studies, *analysis*, conclusions, and explanatory diagrams. \* \* \*

The bill provides for submission by the Federal agency of an annual report to the President for transmittal to the Congress not later than January 1 of each year covering administration during the preceding calendar year. (Section 315(a), page 17.) We suggest April 1 as being a more practicable report due date.

Page 2, line 5, contains the reference "16 U.S.C. 1121" which should be "33 U.S.C. 1101."

Page 8, line 13, contains the word "popoulation" which should be corrected to "population."

Page 9, line 20, contains the word "have" which apparently should be "has."

Also page 19, line 5, contains the word "(z)" which should be "(a)."

Sincerely yours,

ROBERT F. KELLER,  
*Assistant Comptroller General of the United States.*

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DEPARTMENT OF TRANSPORTATION,  
NATIONAL TRANSPORTATION SAFETY BOARD,  
OFFICE OF THE CHAIRMAN,  
*Washington, D.C., April 13, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN MAGNUSON: Recently you requested our comments regarding S. 3460, a bill to establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone plan-

ning and development, and to assist the States in establishing coastal zone management programs.

We find that this legislative proposal does not involve any aspect of transportation safety under National Transportation Safety Board jurisdiction. Accordingly, we do not have any helpful comments to offer.

Sincerely yours,

OSCAR M. LAUREL,  
*Acting Chairman.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., April 16, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the Department's view on S. 2802, a bill to assist the States in establishing coastal zone management programs.

Recently, the Department transmitted to the President of the Senate and the Speaker of the House a proposed bill to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone. The proposed bill was transmitted with, and would implement, the report of the National Estuarine Pollution Study. We recommend the enactment of our proposed bill, which is pending in the Senate as S. 3183, in lieu of S. 2802.

S. 2802 would extend the expiration date of the National Council on Marine Resources and Engineering Development from June 30, 1970 to June 30, 1975 and authorize the Council to provide financial assistance to the States in establishing coastal zone management programs. Such assistance would include grants covering up to 50 percent of the costs of formulating and implementing long-range master plans for the balanced development of the natural, commercial, industrial, recreational, and esthetic resources of the defined coastal zone area (generally land, bays, estuaries, and waters within three miles of the United States Coast). It would also include a guaranty of bond issues or loans for land acquisitions, land and water development, and restoration projects.

A special marine resources fund would receive \$75 million annually, to be derived from revenues obtained under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), to finance such grants and guarantees. All Federal agencies conducting or supporting research or other activities in a coastal zone would be required to make their activities consistent with any applicable State or interstate coastal planning and development program. In addition, Federal agencies would be prohibited from undertaking any development project in a coastal zone which the responsible State or interstate agency deemed to be inconsistent with such planning and development program unless the council found such project, on balance, to be consistent with the general objectives of the bill. Conversely, the council

could reject a Federal development project that had been approved by the appropriate State agency.

This Department has participated actively in the efforts of the marine commission and the marine council which are directly concerned with the many problems of coastal zone management. On an operational level, virtually all of the natural resource-managing bureaus and offices of the Department of the Interior are actively engaged in program activities in the estuarine and coastal zone.

We recognize the great importance of the Nation's estuarine and coastal zone. We are aware of the critical need for a soundly based national program to encourage and assist the coastal States of the Nation in the effective management of the land, water, and other resources in these areas. Thus, we concur in the basic objective of S. 2802 to establish a program for coastal management. We believe, however, that the overall program described in S. 3183 will be more effective, sounder, and comprehensive than that proposed in S. 2802.

S. 3183, as proposed by this Department would establish a national policy for the effective management and protection of the coastal zone. To accomplish this policy, the bill will add a new section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal State governments. Federal grants would be made to the coastal States on up to a 50-percent matching basis for developing a comprehensive management program for the State's coastal zone. Operational grants could also be made to the coastal State on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal State's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial compliance or a failure to comply.

Under S. 2802, the coastal zone management program would be administered by the National Council on Marine Resources and Engineering Development, a body established in the Executive Office of the President and comprised of the Vice President of the United States and eight (or nine if the Secretary of the Army were added to the council as proposed in S. 2802) high-ranking representatives or heads of Departments and agencies of the Government. All council actions would be taken by majority vote of the council membership with the Vice President authorized to cast an additional vote in cases of a tie.

We seriously question the wisdom of assigning the responsibility for administration of a coastal zone management program to the council. We believe that the program should be administered by an operating Department; preferably, the Department of the Interior, which is presently engaged in existing programs in the estuarine and coastal zone.

We also believe that the approach taken in S. 3183 to funding the estuarine and coastal zone management program is preferable to the proposal in S. 2802 which would designate a set amount of revenue each year from the Outer Continental Shelf Lands Act for a marine resources fund.

With respect to extending the life of the marine council as proposed in S. 2802, the administration has recently recommended that the life of the council be extended to June 30, 1971.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

LESLIE I. GLASGOW,  
*Assistant Secretary of the Interior.*

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NATIONAL SCIENCE FOUNDATION,  
OFFICE OF THE DIRECTOR,  
*Washington, D.C., April 20, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for comments on S. 2802, "Coastal Zone Management Act of 1969."

While the National Science Foundation is in general agreement with the purposes of S. 2802, the specific means proposed to carry them out appears to run counter to the coastal zone management plan recently proposed by the administration.

On October 19, 1969, the Chairman of the National Council on Marine Resources and Engineering Development, Vice President Agnew, announced a five-point program to strengthen the country's marine science activities. The first part of this program, entitled "Coastal Zone Management," would establish a new Federal policy to promote improved management of coastal areas and the Great Lakes by means of grants to help States plan and manage their coastal activities through State management authorities. Legislation to authorize such grants with matching State contributions, was recently introduced in the Congress (H.R. 14815; S. 3183), and the Department of Interior has been assigned lead agency responsibility. Inasmuch as legislation to cover the Administration's program has now been introduced, we believe that it would be preferable for the Congress to take affirmative action on H.R. 14845 or S. 3183, rather than to proceed with S. 2802.

The Bureau of the Budget has advised us that there is no objection to the submission of this report from the viewpoint of the administration's program.

Sincerely yours,

W. D. McELROY, *Director.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., April 21, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of April 10, 1970, requesting our views on S. 3183, entitled: "A bill to amend the Federal Water Pollution Control Act to provide for the establishment

of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

At page 3, lines 7 to 10, the term "coastal State," is defined as including Puerto Rico and the Virgin Islands. We assume it is not intended to include the Trust Territory of the Pacific Islands.

At page 8, line 21, regarding Federal approval of coastal State management plans, including State provision for conducting relevant research incident to such plans, the committee may wish to specify whether the research is to be basic, or applied research, or both. Also, regarding such State research supported by Federal funds and carried out in accordance with the grant program, the committee may wish to include provision for free Federal and State access to, and use of, items patented by the coastal States as the result of the development of new processes and techniques in the general area of water protection and pollution control.

At page 9, line 6, we suggest the following change:

(B) No grant funds shall be used for the acquisitions of real property, *or any interest therein.*

Also, page 13, line 12, apparently is erroneous and should be corrected to provide as follows:

(3) The Secretary *or the head of any other* Federal agency concerned, \* \* \*

Sincerely yours,

ROBERT F. KELLER,  
*Assistant Comptroller General of the United States.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., April 23, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your committee has requested the comments of this Department on S. 3460, a bill "To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs."

Recently, the Department transmitted to the President of the Senate and the Speaker of the House a proposed bill "To provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone." The proposed bill was transmitted with, and would implement, the report of the national estuarine pollution study. We recommend the enactment of our proposed bill, which is pending in the Senate as S. 3183, in lieu of S. 3460.



S. 3460 would extend the expiration date of the National Council on Marine Resources and Engineering Development from June 30, 1970, to June 30, 1975, and authorize the council to provide financial assistance to the States in establishing coastal zone management programs. Such assistance would include grants covering up to 50 percent of the costs of formulating and implementing long-range master plans for the balance development of the natural, commercial, industrial, recreational, and esthetic resources of the defined coastal zone area (generally land, bays, estuaries, and waters within 3 miles of the U.S. coast). It would also include a guarantee of bond issues or loans for land acquisitions, land and water development, and restoration projects.

A special marine resources fund would receive \$125 million annually, to be derived from revenues obtained under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*) to finance such grants and guarantees. All Federal agencies conducting or supporting research or other activities in a coastal zone would be required to make their activities consistent with any applicable State or interstate coastal planning and development program. In addition, Federal agencies would be prohibited from undertaking any development project in a coastal zone which the responsible State or interstate agency deemed to be inconsistent with such planning and development program unless the council found such project, on balance, to be consistent with the general objectives of the bill. Conversely, the council would reject a Federal development project that has been approved by the appropriate State agency.

S. 3460 is similar to S. 2802, also pending before your committee. The bills differ in that S. 3460 would authorize the establishment, by the Chairman of the Council, of coastal zone management advisory committees, that would consult with the Council on matters of policy. It would also make available to coastal authorities grants up to 50 percent of the costs of acquisition, development, and operations of estuarine sanctuaries, defined by section 304(h) to be an area not to exceed 10 square miles suitable for use as a natural field laboratory. Other differences include an appropriation authorization of \$125 million in S. 3460 as opposed to \$75 million in S. 2802, and effective dates for those appropriations of June 30, 1969 and June 30, 1970, respectively.

This Department participated actively in the efforts of the Marine Commission and the Marine Council which were directly concerned with the many problems of coastal zone management. On an operational level, virtually all the natural resource-managing bureaus and offices of the Department of the Interior are actively engaged in program activities in the estuarine and coastal zone, including the Great Lakes.

We recognize the great importance of the Nation's estuarine and coastal zone. We are aware of the critical need for a soundly based national program to encourage and assist the coastal States of the Nation in the effective management of the land, water, and other resources in these areas. Thus, we concur in the basic objective of S. 3460 to establish a program for coastal zone management. We believe, however, that the overall program described in S. 3183 will be more effective, sounder, and comprehensive than that proposed in S. 3460.

S. 3183, as proposed by this Department would establish a national policy for the effective management and protection of the coastal zone.

To accomplish this policy, the bill will add a new section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal State governments. Federal grants would be made to the coastal States on up to a 50-percent matching basis for developing a comprehensive management program for the State's coastal zone. Operational grants could also be made to the coastal State on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal State's performance under its program and provides for the power to terminate and withdraw financial assistance in case of partial or noncompliance.

Under S. 3460, the coastal zone management program would be administered by the National Council on Marine Resources and Engineering Development, a body established in the Executive Office of the President and comprised of the Vice President of the United States and eight (or nine if the Secretary of the Army were added to the Council as proposed in S. 3460) high-ranking representatives of heads of departments and agencies of the Government. All council actions would be taken by majority vote of the Council membership with the Vice President authorized to cast an additional vote in cases of a tie.

We seriously question the wisdom of assigning the responsibility for administration of a coastal zone management program to the Council. We believe that the program should be administered by an operating department; preferably, the Department of the Interior, which is presently engaged in existing programs in the estuarine and coastal zone.

We also believe that the approach taken in S. 3183 to funding the estuarine and coastal zone management program is preferable to the proposal in S. 3460 which would designate a set amount of revenue each year from the Outer Continental Shelf Lands Act for a marine resources fund.

With respect to extending the life of the Marine Council as proposed in S. 3460, the administration has recently recommended that the life of the Council be extended to June 30, 1971.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

HOLLIS M. DOLE,  
*Assistant Secretary of the Interior.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 1, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your committee has requested the comments of this Department on S. 3183, a bill "To amend the Federal Water

Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

A draft of S. 3183 was transmitted to the Congress with our report of the national estuarine pollution study. S. 3183 is consistent with the findings of that study and would establish a national policy for the effective management and protection of the estuarine and coastal zone. We strongly urge the enactment of S. 3183 as a first step toward reform of land and water use in the areas of our country where convergence of population and technology are causing pollution and destruction of our coastal resources.

S. 3183, the proposed National Estuarine and Coastal Zone Management Act of 1976, would add a new section 19 to the Federal Water Pollution Coastal Act, as amended, to provide for a cooperative program between the Federal and coastal State governments. Federal grants would be made to the coastal States on up to a 50-percent matching basis for developing a comprehensive management program for the State's coastal zone. Operational grants could also be made to the coastal State on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal State's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial compliance or a failure to comply. A summary of the specific provisions is attached.

S. 2802 and S. 3460 which are also pending before your committee have similar objectives with respect to the estuarine and coastal zone, and the Department generally supports the objectives of those bills. However, there are significant differences between the provisions of S. 2802 and S. 3460 with respect to such provisions as: Federal agency responsibility for administration of the proposed grant program; method of financing the program; requirements with respect to responsibility and organization within the States for implementing the estuarine and coastal zone management program; interagency coordination at the Federal level; and definition of the estuarine and coastal zone. In all cases, we believe the provisions of the administration's bill are superior to those of the other bills being considered. In particular, we believe that a grant program such as the one proposed should be administered by an operating agency rather than an Executive Office organization. The proposed program is closely related to many activities of the Department of the Interior and, we believe the Department is in the best position to administer the program and achieve the necessary interagency coordination at the Federal level.

The Department of the Interior is broadly concerned with the whole area of natural resources and their most effective management. Nowhere is the need for effective management more noticeable than in the estuarine and coastal zone. To meet the critical need for a soundly based national program to encourage and assist the coastal States in the effective management of the land, water, and other resources of the estuarine and coastal zone, we urge enactment of S. 3183.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

LESLIE L. GLASGOW,  
*Assistant Secretary of the Interior.*

Enclosure.

SUMMARY OF S. 3183, "THE NATIONAL ESTUARINE AND COASTAL ZONE MANAGEMENT ACT OF 1970"

The overall objective of the bill is to establish a national policy to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's estuarine and coastal zones through development and implementation of comprehensive management programs. "Coastal States" as defined in the bill, means any State of the United States bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico, and the Virgin Island. An "estuary" is defined as all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage, "Coastal zone" is defined as the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other. For the purposes of identifying the objects of planning, management, and regulatory programs dealt with in the bill, the coastal zone is considered to extend seaward to the outer limits of the territorial sea of the United States. The coastal zone includes areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, and channels.

The operative sections of the bill are cast as a new section 19 of the Federal Water Pollution Control Act, as amended.

Section 19(b) reflects a congressional finding that there is a national interest in the effective management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone. In support of the finding, it notes the increasing number of conflicting demands on the finite resources of the coastal zone resulting from pressures of population growth and economic development; the value of estuaries, marshlands, and other parts of the coastal zone as habitat and life support areas for fish and wildlife, and the susceptibility of such areas to destruction and disruption by man; the threat of increased harm to the coastal zone and loss of its benefits resulting from continued unplanned or uncoordinated development activities; the value of the coastal zone for multiple economic, recreational, and resources uses; and the interest which the citizens of all States have in the coastal zone.

Section 19(c) authorizes the Secretary of the Interior to make program development grants to the coastal States to assist in developing comprehensive management programs for their coastal zones. Grants are limited to 50 percent of the State's cost of developing the program (to a maximum limit of \$200,000 per year for each coastal State).

Other Federal funds cannot be used to match such grants. The initial and subsequent grants are, respectively, conditioned on a demonstration that the funds will be used to develop a comprehensive management program consistent with the requirement of subsection (d)(3) of the bill and a finding that the coastal State is adequately and expeditiously developing such a program. Upon completion of the development of the program the coastal State shall submit it to the Secretary for review.

Operating grants up to 50 percent of costs of administering the program (to a maximum limit of \$200,000 per year for each coastal State) are authorized by section 19(d)(1) if the State's program is approved by the Secretary. Operating grants will be allotted to the States on the basis of regulations developed by the Secretary which will take into account the amount and nature of the coastline and area covered by the management plan, population, and other relevant factors. No grant funds shall be used for the acquisition of real property.

Before approving a State's comprehensive management program, the Secretary must find that the Governor has designated a single agency to receive and administer grants for implementing its management plan; that the management plan has been reviewed and approved by the Governor; that the coastal State is organized to implement the management plan; that the agency or agencies responsible for implementing the management plan have the necessary regular authority; that the coastal State has developed and adopted a coastal zone management plan and that it has provided for adequate public notice and hearings in the development of its management plan.

Each coastal State's management plan must: identify the area covered by the management plan; identify and recognize the national, State, and local interest in the preservation, use, and development of the coastal zone; contain a feasible land and water use plan which reasonably reflects short-term and long-term public and private requirements for use of the coastal zone; describe the coastal State's current and planned programs for the management of its coastal zone; identify and describe the means for coordinating the plan with Federal, State, and local plans for use, conservation, and management of the coastal zone, including State, interstate, and regional comprehensive planning; reflect the State's procedures for reviews of State, local, and private projects in the coastal zone for consistency with the plan and for advising whether Federal and federally assisted projects are consistent with the plan; describe the State's procedures for modification and change of the management plan; indicate that the plan was developed in cooperation with relevant Federal agencies, State agencies, local governments, and all other interests; describe the procedures for regular review and updating of the plan; contain adequate provisions for disseminating information concerning the plan and subsequent modifications or changes; and provide for conducting, fostering, or utilizing relevant research.

The Governor of a coastal State may, with the Secretary's approval, allocate portions of a program development grant or operating grant to an interstate agency if such agency has authority to perform the functions required of a coastal State under the bill.

Section 19(e) requires the Secretary to continually review the management program and performance of the coastal States and author-

izes him to terminate and withdraw financial assistance after notice and opportunity to present evidence have been given a coastal State where such coastal State unjustifiably fails to adhere to the program approved by the Secretary.

Section 19(f) authorizes the Secretary to establish advisory committees in the Department of the Interior to consult with and make recommendations to him on matters of policy concerning the coastal zone. The Secretary is authorized to compensate such members who are not full time Federal employees.

Section 19(g) requires the Secretary, before approving a State's management plan, to solicit the views of the Federal agencies principally affected by the plan or to be satisfied that such views were provided the State in the development of the plan. It directs all Federal agencies conducting or supporting activities in coastal areas to make such activities consistent with the approved plan for the area, and requires such agencies to refrain from approving proposed projects that are inconsistent with the plan without making investigation and finding that the proposals, on balance, are sound.

Section 19(h) establishes that the bill is not intended: to diminish Federal or State jurisdiction, responsibility, or rights in water resource planning, development, or control or to affect any interstate compact or joint agency or two or more States, or two or more States and the Federal Government, or the authority of the Congress to authorize and fund projects; to affect the authority of any Federal official except as may be required to carry out the provisions of the bill; to affect existing law applicable to Federal agencies except as may be required to carry out the provisions of the bill; or to affect the authority of certain named international bodies.

The Secretary is authorized by section 19(i), after consultation with other interested parties, to promulgate rules for submission and review of the grants authorized by the bill and to require reports concerning the status and application of Federal funds and the operation of the approved management program. Access to books and records of grant recipients by the Secretary, heads of other Federal agencies, and the Comptroller General is provided by section 19(i) (3).

The bill authorizes the appropriation of \$2 million for fiscal year 1971 and such sums as may be necessary for the fiscal years thereafter June 30, 1975, for program development grants; such sums as may be necessary for the fiscal year ending June 30, 1972, and for each succeeding fiscal year thereafter for operating grants; and such funds as may be necessary for the Secretary to carry out the provisions of the bill.

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FEDERAL MARITIME COMMISSION,  
OFFICE OF THE CHAIRMAN,  
*Washington, D.C., May 13, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Federal Maritime Commission with respect to S. 3183, a bill to amend the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national pro-

gram for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone.

S. 3183 would establish a national policy which declares a national interest in the effective management, beneficial use, protection and development of the land and water resources of the Nation's estuarine and coastal zones.

The bill is based on a three year comprehensive study of the effects of pollution in estuaries and estuarine zones of the United States on fish and wildlife, on fishing, recreation, water supply, water power by the Department of the Interior as required by section 5 (g) of the Federal Water Pollution Control Act.<sup>1</sup> It encourages the development by coastal States, of comprehensive management programs for the land and water resources of the coastal zones by authorizing grants of Federal funds up to 50 percent of the costs of the programs. The use of other Federal funds to match the grants provided by S. 3183, is prohibited, and various safeguards are established to permit the Secretary of the Interior to assure, as a condition to the continuation of grants, that the States are adhering to the programs as approved by the Secretary.

Although the Federal Maritime Commission has no statutory functions or responsibilities which would be affected by the provisions of S. 3183, we are deeply concerned with the mounting environmental problems daily menacing the peoples of this Nation. The programs contemplated in this bill appear designed to provide effective measures to combat some of these problems in the estuarine and coastal zones of the United States.

The Commission favors its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the administration's program.

Sincerely,

HELEN DELICH BENTLEY,  
*Chairman.*

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GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., June 25, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce, U.S. Senate,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning S. 2802, a bill to assist the States in establishing coastal zone management programs, to be cited as the "Coastal Zone Management Act of 1969."

S. 2802 would amend the Marine Resources and Engineering Act of 1966, as amended (33 U.S.C. 1101 et seq.) by adding two new titles for the purpose of assisting the States to establish coastal zone management programs. In carrying out the provisions of this bill, the National Council on Marine Resources and Engineering Development established by the 1966 Act would review any planning and develop-

<sup>1</sup> 33 U.S.C. 466 (e) (g).

ment program submitted by a coastal authority and would make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

This Department is in accord with the objectives of S. 2802, but we do not recommend that it be enacted.

On November 13, 1969, the Secretary of the Interior submitted to the Congress the Administration's draft legislation cited as the "National Estuarine and Coastal Zone Management Act of 1970," which has been introduced as S. 3183. S. 3183 would amend the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.) by adding a new section to establish a national policy and program for the effective management and protection of the coastal zone.

This Department favors the program of coastal zone protection provided for in S. 3183. Accordingly, we recommend enactment of S. 3183 in lieu of S. 2802.

We have been advised by the Bureau of the Budget that there would be no objection to submission of our report to the Congress from the standpoint of the administration's program.

Sincerely,

JAMES T. LYNN, *General Counsel.*

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TEXT OF S. 3507 AS REPORTED

A BILL To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering, and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101, 1124), is further amended by adding at the end thereof the following new title:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SHORT TITLE

"SEC. 301. This title may be cited as the 'National Coastal Zone Management Act of 1972'.

"CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

"(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

"(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;



"(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in our coastal zone, present coastal State and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective use of the land and water resources of the coastal zone is to encourage the coastal States to exercise their full authority over the lands and waters in the coastal zone by assisting the coastal States, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

#### "DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy:

"(a) To preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal zone for this and succeeding generations, (b) To encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the preparation and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development. (c) For all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with State and local governments and regional agencies in effectuating the purposes of this act. And, (d) To encourage the participation of the public, of Federal, coastal State, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various coastal State and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action, particularly regarding environmental problems.

#### "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone terminates, in Great Lakes waters, at the international boundary between the United States and Canada and, in other areas, extends seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

"(b) 'Coastal waters' means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable tidal influence, including, but not limited to, sounds, bays, lagoons, bayous, pounds, and estuaries.

"(c) 'Coastal State' means a State of the United States in or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Estuary' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

"(e) 'Estuary sanctuary' means a research area which may include any part or all of an estuary, adjoining transitional areas and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

"(f) 'Secretary' means the Secretary of Commerce.

"(g) 'Management program' means a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the coastal State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone so as to minimize direct, significant, and adverse impact on the coastal waters, and governmental structure capable of implementing such program.

#### "MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"Sec. 305. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting the development of a management program for the land and water resources of its coastal zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the coastal zone of the portions of the coastal State subject to the management program;

"(2) a definition of what shall constitute permissible land and water uses within the coastal zone so as to prevent such uses which have a direct, significant, and adverse impact on the coastal waters;

"(3) an inventory and designation of areas of particular concern within the coastal zone;

"(4) an identification of the means by which the coastal State proposes to exert control over land and water uses, within the coastal zone so as to prevent such uses which have a direct, significant, and adverse impact on the coastal waters; including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

"(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of areawide coastal State, and regional agencies in the management process.

"(c) The grants shall not exceed 66 $\frac{2}{3}$  per centum of the costs of the program in any one year and no State shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the coastal State must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial annual grant to a coastal State, no subsequent grant shall be made under this section unless the Secretary finds that the coastal State is satisfactorily developing such management program.

"(d) Upon completion of the development of the State's management program, the coastal State shall submit such program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such planned program by the Secretary, the coastal State's eligibility for further grants under this section shall terminate, and the coastal State shall be eligible for grants under section 306 of this title.

"(e) Grants under this section shall be allotted to the coastal States based on rules and regulations promulgated by the Secretary: *Provided, however,* That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

"(f) Grants or portions thereof not obligated by a coastal State during the fiscal year for which they were first authorized to be obligated by the coastal State, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

"(g) With the approval of the Secretary the coastal State may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 or to an

interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section.

"(h) The authority to make grants under this section shall expire five years from the date of enactment of this title.

#### "ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the coastal State's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(b) Such grants shall be allotted to the coastal States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plain, population of the area, and other relevant factors: *Provided, however*, That no annual administrative grant under this section shall be made in excess of 10 per centum, nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find:

"(1) The coastal State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, which shall be in accordance with the objectives of this act, after notice, and with the opportunity of full participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title.

"(2) The coastal State has:

"(A) coordinated with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the coastal State's management program is submitted to the Secretary, which plans have been developed by a local government, an interstate agency, or an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; and

"(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title."

"(3) The coastal State has held public hearings in the development of the management program.

"(4) The management program and any changes thereto have been received and approved by the Governor.

"(5) The Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(6) The coastal State is organized to implement the management program required under paragraph (1) of this subsection.

"(7) The coastal State has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(d) Prior to granting approval of the management program, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments, interstate agencies, or areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966), has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation of other means when necessary to achieve conformance with the management program.

"(e) Prior to granting approval, the Secretary shall also find that the program provides:

"(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

"(A) Coastal State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

"(B) Direct coastal State land and water use planning and regulations; or

"(C) Coastal State administrative review for consistency with the the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any coastal State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

"(f) Upon the approval of the Secretary, a coastal State may allocate to a local government, to an interstate agency, or an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the coastal State of the responsibility for ensuring that any funds so allocated are applied in furtherance of such coastal State's approved management program.

"(g) The coastal State shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the coastal State under the program as amended.

"(h) At the discretion of the coastal State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the coastal State adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

#### "PUBLIC HEARINGS

"Sec. 307. All public hearings by nonfederal entities required under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

#### "RULES AND REGULATIONS

"Sec. 308. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### "REVIEW PERFORMANCE

"Sec. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal States and of the performance of each coastal State.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary, and (2) the coastal State has been given notice of proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

## "RECORDS

"Sec. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

## "NATIONAL COASTAL RESOURCES BOARD

"Sec. 311. (a) There is hereby established, in the Executive Office of the President, the National Coastal Resources Board (hereinafter called the 'Board') which shall be composed of—

"(1) The Vice President, who shall be Chairman of the Board.

"(2) The Secretary of State.

"(3) The Secretary of the Navy.

"(4) The Secretary of the Interior.

"(5) The Secretary of Commerce.

"(6) The Chairman of the Atomic Energy Commission.

"(7) The Director of the National Science Foundation.

"(8) The Secretary of Health, Education, and Welfare.

"(9) The Secretary of Transportation.

## "Executive Appointments

"(b) The President may name to the Board such other officers and officials as he deems advisable.

## "Alternate Presiding Office Over Board Meetings

"(c) The President shall from time to time designate one of the members of the Board to preside over meetings of the Board during the absence, disability, or unavailability of the Chairman.

## "Alternates for Service on the Board

"(d) Each member of the Board, except those designated pursuant to subsection (b) of this section, may designate any officer of his department or agency appointed with the advice and consent of the Senate to serve on the Board as his alternate in his unavoidable absence.

## "Personnel ; Civilian Executive Secretary

"(e) The Board may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President and shall receive compensation at a rate established by the President at not to exceed that of level II of the Federal Executive Salary Schedule. The executive secretary, subject to the direction of the Board, is authorized to appoint and fix the compensation of such personnel, including not more than seven persons who may be appointed without regard to civil service laws or chapter 51 and subchapter III of chapter 53 of title 5 and compensated at not to exceed the highest rate of grade 18 of the General Schedule as may be necessary to perform such duties as may be prescribed by the President.

"(f) The Board shall meet regularly at such times as the Chairman may direct and shall have the following duties:

"(1) to provide for the effective coordination between programs of the Federal agencies within the coastal zone;

"(2) in the case of serious disagreement between any Federal agency and a coastal State in the development of the program, the Board shall seek to mediate the differences; and

"(3) to provide a forum for appeals by an aggrieved areawide planning entity or unit of local government from any decision or action of the Secretary or areawide planning entity.

"ADVISORY COMMITTEE

"SEC. 312. (a) The Secretary is authorized to establish a Coastal Zone Management Advisory Committee (hereafter referred to 'the Committee') to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

"(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"ESTUARINE SANCTUARIES

"SEC. 313. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal State grants up to 50 percentum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within and directly affecting the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 306 shall be used for the purpose of this section.

"INTERAGENCY COORDINATION AND COOPERATION

"SEC. 314. (a) The Secretary shall not approve the management program submitted by a coastal State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and a coastal State in the development of the program the Secretary, in cooperation with the National Coastal Resources Board, shall seek to mediate the differences.

"(b) (1) All Federal agencies conducting or supporting activities in the coastal zone shall administer their programs consistent with approved coastal State management programs except in cases of overriding national interest as determined by the President. Procedures provided for in regulations issued pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with approved management programs.

"(2) Federal agencies shall not undertake any development project in the coastal zone of a coastal State which, in the opinion of the coastal State, is inconsistent with the management program of the coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State and affected local governments, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

"(3) After the final approval by the Secretary of a coastal State's management program, any applicant for a Federal license or permit to conduct any activity in the coastal and estuarine zone subject to such license or permit, shall provide in the application to the licensing or permitting agency a certification from the appropriate State agency that the proposed activity complies with the State's approved management program, and that there is reasonable assurance, as determined by the State, that such activity shall be conducted in a manner consistent with the State's approved management program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails or refuses to act on a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the

Secretary to be consistent with the objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification.

“(c) Coastal State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate coastal State or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal State’s management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

“(d) Nothing in this section shall be construed—

“(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally joint or common agency of two or more States, or of two or more States and the Federal Government; not to limit the authority of Congress to authorize and fund projects;

“(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

“(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this title; nor 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.

#### “ANNUAL REPORT

“SEC. 315. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the coastal State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the coastal States participating in the provisions of this title and a description of the status of each coastal State’s programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any coastal State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Secretary has reviewed under section 314 of this title and a summary of the final action taken by the Secretary with respect to each project; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of outstanding problems arising in the administration of this title in order of priority; and (8) such other information as may be appropriate.

“(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

#### “AUTHORIZATION OF APPROPRIATION

“SEC. 316. (a) There is authorized to be appropriated—

“(1) the sum of \$12,000,000 for the fiscal year ending June 30, 1973, and such sums as may be necessary for the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

"(2) such sums, not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for grants under section 306 to remain available until expended; and

"(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1973, as may be necessary for grants under section, 313.

"(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$1,500,000 annually, as may be necessary for administrative expenses incident to the administration of this title."

## INDIVIDUAL VIEWS OF MR. COTTON

I do not intend to oppose the bill, S. 3507, which proposes to establish a national policy and develop a national program for the management and development of the Nation's coastal zones. It is fundamentally a good bill and I intend to vote for it. Nevertheless, I feel compelled to file these individual views on the following three points:

(1) The interrelationship between this bill and the administration's national land use bill, S. 992, now pending before the Senate Committee on Interior and Insular Affairs;

(2) Section 311 of S. 3507 establishing a Cabinet-level National Coastal Resources Board; and

(3) The cost of the bill, especially the single year appropriation authorization of \$6 million for funding estuarine sanctuaries provided for in section 313.

### 1. INTERRELATIONSHIP OF NATIONAL LAND USE BILL

S. 3507 is the successor to the bill S. 582, which was reported by the Senate Committee on Commerce on December 1, 1971. On March 14, 1972. S. 582 was recommitted to the same committee in recognition of the potential jurisdictional conflict with legislation pending before other committees, most particularly the Senate Committee on Interior and Insular Affairs, before which is pending S. 992, the National Land Use Policy Act of 1972.

S. 3507 as reported by the Committee on Commerce now has been redrafted in an attempt to overcome this potential jurisdictional conflict. Nonetheless, the Senate should be mindful of the fact that there is pending another and more encompassing legislative measure which does relate to the same subject area covered by this bill.

### 2. NATIONAL COASTAL RESOURCES BOARD

Section 311 of S. 3507 provides for the establishment within the Executive Office of the President of a National Coastal Resources Board comprised of several Cabinet-level officers, to be chaired by the Vice President of the United States. The proponents for the establishment of this Board will point to the National Council on Marine Resources and Engineering Development established under Public Law 89-454 as a precedent. They also will indicate that this Board would have no power to initiate action but rather would serve in a capacity of mediation (e.g., see section 314(a)) so as "to provide a forum for appeals by an aggrieved areawide planning entity or unit of local government from any decision or action of the Secretary [of Commerce] or areawide planning entity." (See section 311(f)(3))



Unfortunately, the National Council on Marine Resources and Marine Development does *not* provide such a precedent. It was established as a coordinating unit for what were then widely disbursed oceanographic activities. It played no role as an appellate authority. Moreover, it had a fixed termination date. The National Coastal Resources Board has no such fixed termination date.

As a matter of fact, the establishment of a Cabinet-level council under the provisions of the Marine Resources and Engineering Development Act of 1966, was a provision found in the Senate-passed measure, S. 944, but not in that bill as passed by the House of Representatives. The report accompanying S. 944 (i.e., House of Representatives Report No. 1025, 89th Congress, 1st Session at p. 12) noted in part the following:

\* \* \* Upon consideration of all the testimony your committee concluded that the views of the witnesses from the executive departments, the Bureau of the Budget and the Office of Science and Technology, *in opposition to the establishment of such a Council, had much merit.* (Emphasis supplied)

Moreover, in adopting the Senate provision for such a Cabinet-level council the statement of the Managers on the Part of the House noted concerning the conference report accompanying S. 944 (See Report No. 1548, 89th Congress, 2 Session) the following:

“\* \* \* In other words, the Council would be self-liquidating after the Commission, with a life of 18 months, complete its study and submits its report.

It may be recalled that a similar measure received a pocket veto by the late President Kennedy in October 1962 (i.e., S. 901, 87th Congress) as was noted in a memorandum of September 17, 1965 to the chairman of the Committee on Commerce from Mr. Edward Wenk, Jr., Chief, Science Policy Research Division, of the Library of Congress, concerning that veto, “[t]he substantive objection lay in possible proliferation of councils that would become unmanageable administratively, develop overlapping functions, and place unacceptable demands on the time of Cabinet officers.”

It is my personal feeling that the same objections would lie against the National Resources Board proposed to be established pursuant to section 311 of S. 3507. More important, I find the precedent which this provision could establish very disturbing. Certainly, there are a multitude of other Federal grant programs, the recipients of which would desire to have a similar “appellate Cabinet-level board” to furnish a forum for their grievances.

### 3. ESTUARINE SANCTUARIES

Finally, in the report accompanying S. 582 (Report No. 92-526) the distinguished Senator from Oregon (Mr. Hatfield) filed individual views which are worthy of repeating here with respect to S. 3507; namely the following:

\* \* \* \* \*

As a member of the Senate Committee on the Interior and Insular Affairs, I remain concerned, however, about the

failure of the Committee to restrict the use to which funds for implementation may be used against their use to acquire land and water areas. *If funds under this legislation are used for such purpose, it would appear to establish a regime for acquisition for lands and waters in the coastal zone which would complete with, if not conflict with, the provisions of the Land and Water Conservation Fund Act.* That act, administered by the Department of the Interior, is at present the principal source of funding for acquisition of outdoor recreation lands. Similarly, and for the same reason, I believe the authorization of funds for the acquisition of estuarine sanctuaries in this bill is ill-advised.

The latter provision was improved somewhat by an amendment offered by the distinguished ranking minority member of our committee, the senior Senator from New Hampshire, Mr. Cotton, which limits authorization for appropriations for the program to a single year. However, I find no reason to believe that the program will not ultimately be extended to the full scope envisioned in the bill. Thus, we have, in effect, authorized a 5-year program providing up to \$30 million in Federal matching funds for the acquisition of up to 15 established sanctuaries. Such funds should, in my opinion, be provided under existing programs and authorities rather than by the operation of an entirely new program for this admittedly worthwhile purpose. [Emphasis supplied.]

\* \* \* \* \*

I believe that this is particularly important when considered in light of the provisions of the companion bill to S. 3507, H.R. 14146, now pending before the House Committee on Merchant Marine and Fisheries which has a comparable estuarine sanctuaries provision (i.e., section 312) but which authorizes appropriations for not 1, but 3 fiscal years. Moreover, the House bill provides for the establishment of marine sanctuaries, in addition to estuarine sanctuaries. This marine sanctuaries provision is comparable to the provision found in the Marine Protection and Research Act. H.R. 9727, now pending in a Committee on Conference between the two Houses.

In connection with marine sanctuaries, it is important to bear in mind that section 12 of the Outer Continental Shelf Lands Act (16 U.S.C. 1341) does provide the President with authority in this area. In fact, this authority was used by President Eisenhower in 1960 (Proc. No. 339, March 17, 1960) to create the Key Largo Coral Reef Preserve off the coast of Florida.

Accordingly, I feel very strongly that the limitation to but a 1-year appropriation authorization for estuarine (not marine) sanctuaries, pursuant to the provisions of S. 3507, is most important (i.e., see section 316(a) (3)). It should be preserved—both with respect to the limitation of 1 year and without extension to authorize marine sanctuaries—in any resulting conference between the two Houses on these measures.

NORRIS COTTON.

SENATE PASSAGE OF S. 3507, APRIL 25, 1972

NATIONAL COASTAL ZONE MANAGEMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3507) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. What is the pleasure of the Senate?

Mr. HOLLINGS. Mr. President, I ask that the Senate proceed with the consideration of S. 3507.

The ACTING PRESIDENT pro tempore. That bill has been laid before the Senate, and is the pending business.

Mr. EAGLETON. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. EAGLETON. If at a later time, prior to offering my amendment, I should desire to move that this bill be referred to the Committee on Public Works, would I have the right to make such a motion, if I do not do so at this particular time?

The ACTING PRESIDENT pro tempore. Such a motion may be made at any time prior to the vote on the bill.

Mr. EAGLETON. I thank the Chair.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. Mr. President, I ask unanimous consent that two members of my staff, Mary Jo Manning and John Hussey, be granted the privilege of the floor during the consideration of this measure.

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

Mr. HOLLINGS. Mr. President, it is with a great deal of pleasure that the Committee on Commerce recommends unanimously the approval of S. 3507, the National Coastal Zone Management Act of 1972. This bill will provide the Federal assistance necessary to help States and local governments plan and operate coastal zone management programs. The aim is to allow the wise and orderly development and growth within this critical area so as to protect the vital waters of our coastlines and Great Lakes.

This bill has been before the Senate for 2 years, first introduced by Senator Warren G. Magnuson, of Washington. I might say that it was the wisdom and leadership of the distinguished chairman

of the Committee on Commerce which gave impetus to the creation of this concept. During the 89th Congress, there was created the National Commission on Marine Science, Engineering, and Resources. This blue ribbon panel of experts—often described as the Stratton Commission—produced the landmark report known as *Our Nation and the Sea*. Part of this overall report was the section on “Management of the Coastal Zone.”

Senator Magnuson introduced the bill, S. 2802, which incorporated the recommendations of the Commission. Subsequently, the Committee on Commerce has conducted 11 days of hearings over the space of 2 years on the various coastal zone proposals. The Subcommittee on Oceans and Atmosphere, which I am privileged to chair, has compiled a remarkable record of testimony in favor of coastal zone management. And last September, the committee ordered its bill, S. 582, reported to the floor. However, during the last year, many Members of the Senate as well as the administration have become convinced that the United States needs a broad-based policy of land use management. There were some who felt that certain provisions within S. 582 were in conflict with the proposed land use policy legislation now pending before the Committee on Interior and Insular Affairs. Additionally, it was felt that many municipalities in coastal States have done an outstanding job of area management, and that S. 582 did not give them the opportunity to participate fully in management programs. Finally, there was concern about conflicts between existing Federal, State, and local matters within the coastal zone. Was too much authority being exercised by the Secretary of Commerce without the opportunity for full hearings and mediation for all parties involved?

Mr. President, these were substantial concerns, and the Committee on Commerce recognized that S. 582 did contain several shortcomings as a result of developments which altered some of the circumstances under which the bill was drawn.

Therefore, on March 14, at my request, S. 582 was recommitted to the Committee on Commerce. For the past month, we have worked over the entire bill in order to accommodate it to present needs and circumstances. This, in brief, is what we have done:

First. The committee has created a bill which will dovetail with the proposed land use legislation. Our definition of the geographic boundaries of the coastal zone itself has been tightened.

Second. We have attempted to make full provision for cooperation and coordination between States, local governments, areawide agencies and interstate agencies. All of these factions must work together in both the planning and the managing phase of the program. Additionally, States can delegate to local governments some or all of the responsibility under this act.

Third. Finally, we have created a National Coastal Resources Board to handle disputes within the management program area. The board can coordinate programs of various Federal agencies. It can mediate differences between any Federal agency and a coastal State at the development stage of a program. And finally, the board can provide a forum for appeals by any areawide planning entity or unit of local government from any decision or action of the Secretary or the management agency of the State or local area.

Having done this, Mr. President, the Committee on Commerce, on April 11, unanimously ordered that an original bill be reported to the floor. This bill is S. 3507, which is before the Senate today.

So what is the program we propose? Essentially, it is this: A means to avoid crisis in the coastal areas of our Nation. We know the States have the will to avoid this crisis of growth and the subsequent despoilation of our valuable coastal waters. But at present, neither the States nor the local government have the financial means to tackle this difficult job. S. 3507 solves this problem by providing Federal grants-in-aid to create and operate management programs within the coastal zone.

The bill I propose today is aimed at saving the waters of our coasts and the land whose use has a direct, significant, and adverse impact upon that water. We all know that the coastal water and our delicate estuaries are the breeding grounds of life in the sea. Yet we use the land of the coastal zone with little or no concern for how his use will affect the water. For the most part, everyone is complaining about the situation, but few are doing any thing about it. S. 3507 does something about it. In other words, we are talking about providing orderly, sound growth in a narrow strip of land and water of our coastal States, Great Lakes States, and our territories. The management program authority may extend inland only so far as to allow control over the use of that land which, as I have said, directly affects the water. So it can be seen that we do not envision huge blocks of inland territory being carved into management program areas. The coastal zone bill would extend coverage basically to beaches, salt marshes, sounds, harbors, bays, and lagoons, and the adjacent lands—but not territory so large as to encroach upon land use management. The waters of this zone, again, are our primary target of concern. In disputed cases, these waters are those which contain a measurable tidal influence.

In the United States today, we are facing a population explosion—and it is being felt with the most impact in the coastal States and in coastal municipalities. The rate of increase for coastal areas is more rapid than for inland areas, and this press of population has led to extensive degradation of our estuaries and marshlands. From 1922 through 1954, more than 25 percent of the salt marshes of this country were destroyed by fill, dikes, drainage, or by construction of walls. From 1954 to 1964, the destruction has continued at an even more rapid pace. Approximately 10 percent has been lost to development.

We know that the land area available for expanding populations will not change. There are only 88,600 miles of shoreline on our Atlantic, Pacific, and Arctic coastlines, and another 11,000 miles along the Great Lakes. Already, 53 percent of our population live within 50 miles of the coast. The overwhelming testimony was that by the year 2000, it may well be 80 percent, or 225 million citizens.

I referred earlier to the Stratton Commission. That group's report, "Our Nation and the Sea," calls the coast the most valuable geographic feature of the United States—the most biologically productive region of all. America looks to the coastlines not only for recreation, but for resources as well. The report makes an urgent plea for adequate management of the coastal zone now, before it is too late.

We hope we have created, in S. 3507, an answer to this plea for help. We know that the mechanism this bill envisions may not be perfect, but nothing is perfect. It may not solve every problem—but few Government solutions can handle everything. It may not make everybody happy—because there are a lot of folks who do not care about the result of rapid development. All they want is a profit. This kind of thinking can no longer be tolerated in America—if America wants any kind of a decent environment for its citizens in the decade ahead. The coastal zone bill will help us build and preserve that kind of America—a place where those of us who support this measure today can take some pride in the years ahead. I urge all my colleagues to join in voting for the bill, for good government, for progressive government, and for protection of our most vital resources in S. 3507.

Mr. President, I ask unanimous consent that the names of the cosponsors of the pending bill be shown in the RECORD here.

Mr. STEVENSON (the presiding officer). Without objection, it is so ordered.

#### LIST OF COSPONSORS

Senator Ernest F. Hollings.  
 Senator Warren G. Magnuson.  
 Senator Lloyd Bentsen.  
 Senator Clifford P. Case.  
 Senator Marlow W. Cook.  
 Senator Sam J. Ervin.  
 Senator David Gambrell.  
 Senator Edward J. Gurney.  
 Senator Philip A. Hart.  
 Senator Vance Hartke.  
 Senator Hubert H. Humphrey.  
 Senator Daniel Inouye.  
 Senator B. Everett Jordan.

Senator Gale W. McGee  
 Senator George McGovern.  
 Senator Thomas J. McIntyre.  
 Senator Joseph M. Montoya.  
 Senator Bob Packwood.  
 Senator John O. Pastore.  
 Senator Abraham Ribicoff.  
 Senator William B. Spong.  
 Senator Ted Stevens.  
 Senator Harrison A. Williams.  
 Senator Alan Cranston.  
 Senator John V. Tunney.  
 Senator J. Glenn Beall.

Mr. HOLLINGS. Mr. President, I yield to the distinguished ranking minority member of the committee, the Senator from Alaska (Mr. Stevens).

Senator Stevens has been of invaluable help. He starts with a primary interest in the matter, because the coastline of Alaska comprises practically half the coastline of the United States, and he obviously has a firsthand knowledge as well. He joined me in all these hearings of the Commerce Subcommittee on Oceans and Atmosphere. He is a member of the Committee on Interior and Insular Affairs. He has served in the Department of the Interior, in the executive branch of Government. He has worked with me in trying to reconcile differences and concerns not only with the administration, but also with the Committee on Interior and Insular Affairs, the Committee on Public Works, and other public concerns.

I am glad to yield to Senator Stevens.

Mr. STEVENS. Mr. President, as a member of the Committee on Commerce and as the ranking minority member of the Subcommittee on Oceans and Atmosphere of that committee, I would like to commend my distinguished friend and colleague from South Carolina, Mr. Hollings, the chairman of our subcommittee, for his leadership on this legislation. Over the past two Congresses he has conducted many days of hearings and worked through many executive sessions to see this bill become a reality. With successful consideration here today and with the action that appears imminent in the House, I feel confident

that we will soon have a law to provide the necessary Federal leadership in this area.

Yet, even though we have been without a congressionally mandated program, the needs of our coastal zones have not been unnoticed. The 1969 Report of the Commission on Marine Science, Engineering, and Resources, entitled "Our National and the Sea"—the so-called "Stratton Commission Report"—discussed at length the special values of our coastal areas and the need for a proper program of coastal zone management:

In that report is the following comment:

Rapidly intensifying use of coastal areas already has outrun the capabilities of local governments to plan their orderly development and to resolve conflicts. The division of responsibilities among the several levels of government is unclear and the knowledge and procedures for formulating sound decisions are lacking.

The key to more effective use of our coastland is the introduction of a management system permitting conscious and informed choices among development alternatives, providing for proper planning, and encouraging recognition of the long-term importance of maintaining the quality of this productive region in order to ensure its enjoyment and the sound utilization of its resources. The benefits and the problems of achieving rational management are apparent. The present Federal, State, and local machinery is inadequate. Something must be done.

It was in response to this void in adequate machinery that the Committee on Commerce began, during the 91st Congress, to consider legislation which would help to protect and manage our biologically productive and commercially invaluable coastal areas. I am pleased to recognize the contributions of the present administration in this area, and note that much of the bill we consider here today is patterned after the bill, S. 3183, introduced at the request of the administration during the 91st Congress. This administration proposal was developed as a result of the National Estuarine Study by the Department of the Interior, performed pursuant to Public Law 90-454, also reported by the Committee on Commerce.

Despite the administration's prior recommendations in this area, however, I shall note, in fairness, that it does not support separate legislation for the coastal zone such as that contained in the bill, S. 3507. However, this does not reflect any change in the administration's position over the need for effective programs. Rather, it has chosen a broader approach with its proposal for a national land use policy as contained in the bill, S. 992. In this connection, on May 5, 1971, the Honorable Russell Train, Chairman of the Council on Environmental Quality—and former Under Secretary of the Interior—appeared before the subcommittee and stated in part the following:

Since the development of the coastal zone legislation the administration has moved forward to consider the broader realm of land use generally, including the coastal zone. And the legislation which the President submitted to the Congress on the 8th of February as part of his environmental message calls for a new, very innovative national land use policy which includes and embraces the coastal zone as part of a broader approach to what the administration sees as a very high priority national need; namely, more effective land use as it affects environmental quality all across the country, both in the coastal zone and within the interior portions of the United States.

Notwithstanding this valid observation concerning the needs of the interior portions of our country, the needs of our coastal zones are such that to delay passage of the National Coastal Zone Management Act of 1972 to await enactment of a more inclusive bill would be unwise

at best. It is the coastal zone that the need for effective control has been most clearly demonstrated. It is in the coastal zone that one can readily recognize the resource of our lands is limited, that it is facing a host of competing demands, that development has been disorderly and in many cases tragic, and that unless management programs are developed, the demands of burgeoning populations and sprawling urban systems will completely choke them off. It is of more than passing interest to me to note that the State of Alaska lays claim to a coastline which is equal to more than half of that boasted by what we call the "Lower 48", and that the passage of such legislation at this point in our development is of the utmost importance.

The need for Federal financial assistance, as well as Federal requirements for cooperation at all levels and the establishment of criteria for the development of adequate management plans, has been demonstrated by the relative inability of most States and localities to proceed without it. As stated by Mr. John Asplund, chairman of the Greater Anchorage Area Borough, Anchorage, Alaska, when he appeared before the subcommittee on May 6, 1971, on behalf of the National Association of Counties:

We at the county level know that we have made many mistakes and allowed economic and other factors to override the requirements for more logical coastal management. But, the State and Federal Governments must also assume part of the blame for not taking a greater interest in coastline reservation, for not providing the necessary broad guidance, and for not providing either financial or technical support. The time, we believe, has come to correct these past failures and take a positive approach toward coastline management and preservation.

I, too, join the distinguished chairman of the committee, the Senator from South Carolina (Mr. HOLLINGS) in believing that the time has come. S. 3507 moves toward this goal by providing the financial assistance necessary for the development and implementation of coastal zone management programs. It furnishes to States and localities the guidance and criteria necessary for them to manage these areas wisely. It is my hope that the Congress will recognize the adequacy of its response and the need which it promises to fulfill, and grant it favorable consideration.

Mr. President, at an appropriate time, I should like to discuss with the chairman of the subcommittee an amendment which would insure that where there are no statewide programs and plans consistent with this act, if a local political subdivision of a State with areawide powers does have a workable plan, the Secretary of Commerce will be able to cooperate with that areawide government. But I leave it to the Senator from South Carolina to determine when it would be an appropriate time to discuss this amendment which I have suggested.

I thank the chairman and will assist in any way I can in connection with this matter.

Mr. HOLLINGS. Is that the amendment relative to the matter of the Secretary's having the authority to go ahead should a particular area of a State itself default in actually promulgating a plan authorizing the Secretary to work with the local government or political subdivision and approve one submitted by it—is that the amendment?

Mr. STEVENS. Yes; that is the intent of the amendment. I have provided the chairman of the subcommittee with a copy of it. It would add a subsection "i"—let me check first, to make sure.



Mr. HOLLINGS. Could we not go on later with that amendment, if the distinguished Senator will permit it, as the Senator from Virginia has concern and the Senator from Missouri also has concern about active consideration at this time of this particular bill. I think perhaps we should go into their concerns first, and then when we began to call up amendments—we are not in a rush here this morning—we can call it up.

Mr. STEVENS. I will be happy to cooperate in every way I can. I just wanted to call the attention of the chairman to the fact that I hope we can consider the concept which would give the local political subdivision with areawide powers, the power to proceed with plans already made if the State has no plan.

Mr. SPONG. Mr. President, the objective of the proposed National Coastal Zone Management Act is to achieve a partnership between man and nature in which man's varied needs are in harmony with nature's processes and resources.

Specifically, the bill now pending would encourage the States to develop programs to protect their coastal resources by authorizing Federal assistance for the preparation and implementation of management programs. At the outset of my remarks, I would emphasize the assertion in the committee report on this measure that—

There is no attempt to diminish state authority through federal preemption. The intent of this legislation is to enhance state authority by encouraging and assisting the states to assume planning and regulatory powers over their coastal zone.

Mr. President, that is as it should be—although the success of coastal zone management programs will be dependent on the cooperation of Federal, State, regional, and local agencies. I wish to commend the distinguished chairman of our Subcommittee on Oceans and Atmosphere for initiating the effort to have the bill recommended.

Reconsideration of the measure resulted in two definite improvements. First, the inland scope of the coastal zone has been changed so as to limit the legislation to the area of greatest environmental concern. Second, the measure now requires broader participation of local governments, interstate, and regional groups in the preparation and operation of management programs.

A review of the testimony clearly demonstrates the need for this legislation. Much more than esthetics is involved in the protection and preservation of our coastal and estuarine waters and marshlands. The many varied types of natural vegetation which are found in the coastal zone provide a constant food source for fish and fowl alike.

It is estimated that three-quarters of our commercial seafoods—fish, clams, oysters, shrimp, crabs, and lobsters—are nurtured in our coastal areas. In addition, these waters and shorelands provide shelter and food for birds and wildlife, and act as a buffer against storms and other natural disasters.

It is in our own economic interest to protect these areas from the ever-increasing pressures of development and misuse. It has been estimated that in the period 1922 through 1954 more than one-fourth of the country's salt marshes were destroyed by filling, diking, or other forms of development. From 1954 to 1964 an additional 10 percent of the remaining salt marshes between Maine and Delaware was destroyed.

In Chesapeake Bay, an area of immediate concern to me, shoreline erosion caused by development has directly affected waterborne commerce, farmers, and fishermen. Deposits of silt have reduced water depths 2.5 feet over a 32-square-mile area at the north end of the bay. Roughly one-half of the oyster grounds in the upper bay have been destroyed or shifted downstream by sedimentation.

In order to encourage the coastal States to protect shorelands and estuarine waters, the bill authorizes the Secretary to make grants of up to two-thirds of the cost of developing management programs. The measure provides that management programs must specify the boundaries of the coastal zone, identify the permissible land and water uses within the zone so as to preclude uses having an adverse impact, and specify how control will be exerted over land and water uses within the coastal zone.

When a management program has been developed and approved, the bill authorizes grants of two-thirds of the cost of administering the program.

Finally, the bill authorizes grants of up to 50 percent of the cost of acquisition, development, and operation of estuarine sanctuaries. These provisions contemplate the creation of field laboratories for the collection of data and the study of natural processes occurring in estuaries. Such research should be of material assistance in establishing a rational basis for the intelligent management of coastal and estuarine zones.

Mr. President, I would be remiss if I failed to thank the committee, and especially the distinguished Senator from South Carolina (Mr. HOLLINGS) for accepting the suggestion I offered during the committee's consideration of the bill to require State certification of activities requiring a Federal license or permit.

This provision parallels a requirement in the Federal Water Pollution Control Act that applicants needing a Federal license or permit must obtain a certificate from the State water pollution control agency that there is reasonable assurance that the activity in question will not violate applicable water quality standards. It seems entirely reasonable to have a comparable provision in this legislation to guard against development that is inconsistent with a coastal zone management program.

It has been a pleasure to have been actively involved in the development of this bill. Its enactment would serve to protect and restore the vast resources of the coastal zone, an objective that is deserving of the highest national priority.

Mr. President, I again commend the Senator from South Carolina (Mr. HOLLINGS) not only for working initially on this bill, but also for having it recommitted and for bringing it back to the floor today in which I consider to be a much better form than when the bill was initially introduced.

Mr. BOGGS. Mr. President, I wish to express my support for S. 3507, the National Coastal Zone Management Act of 1972. This legislation provides significant benefits for every coastal State. It offers these States an opportunity to develop a legal framework "to preserve, protect, develop, and, where possible, to restore the resources of the Nation's coastal zone for this and succeeding generations."

The Committee on Public Works, on which I have the honor to serve, authorized a study of pollution in the estuarine areas at the time the committee reported the Clean Water Restoration Act of 1966.

The Department of the Interior conducted an exhaustive 3-year examination of this question. In 1969 it submitted its three-volume report, "The National Estuarine Pollution Study," together with proposed legislation.

It was my honor in the 91st Congress to introduce S. 3183, which was the recommended legislation that grew out of that study. S. 3183 was originally referred to the Committee on Public Works. In an effort to give the Committee on Commerce the opportunity to consider the Interior Department's proposal in concert with the other important coastal zone proposals, we recommended that S. 3183 be re-referred to the Committee on Commerce.

S. 3183 contained important features to enable the coastal States to give greater attention to the management of their coastal and estuarine zones.

S. 3183 sought to accomplish two goals. First, it declared that there is a national interest in the effective management and protection of the coastal and estuarine zones. The bill set out a "national policy to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's estuarine and coastal zones through development and implementation of comprehensive management programs to achieve effective use of the coastal zone through a balance between development and protection of the natural environment."

Second, the bill sets up a system of matching grants to assist State agencies in achieving more effective management of the coastal and estuarine zone. The legislation authorizes development and operating grants for coastal zone management programs. This would have fostered rational and effective management of our precious coastal and estuarine zone area, encouraging State permit authority in the estuarine areas and conformity between local zoning and the State management plan.

While no Senate action was taken during the 91st Congress on this legislation, the distinguished Senator from South Carolina (Mr. Hollings), last year introduced new legislation incorporating many of the provisions of S. 3183, as well as other coastal zone bills before his subcommittee. The new legislation was S. 582.

I was pleased and honored to cosponsor that bill, which also contained many provisions similar to the legislation considered today. As a sponsor of S. 3183, I would like to discuss these differences, which are actually quite minor in view of the significance of the overall legislation.

This new legislation offers several changes from S. 3183, which I introduced in the 91st Congress. First, it raises the Federal contribution to 62½ percent in the form of a grant, instead of the 50 percent in S. 3183. And the new bill sets no dollar limit on grants, other than a maximum grant of 10 percent of the funds appropriated to any one State.

New features of this legislation, of course, are the creation of the National Coastal Resources Board, to be headed by the Vice President, and authority to purchase estuarine sanctuaries as national field laboratories.

Also, this bill requires review of any Federal permit that would be undertaken in an area covered by an approved coastal zone management plan so that the permit will be carried out "in a manner consistent with the State's approved management program."

In its declaration of policy, this legislation seeks "to preserve, protect, develop, and where possible to restore the resources of the Nation's coastal zone for this and succeeding generations." May I point out that such a goal has largely been achieved in my own State. I am proud of that accomplishment.

In an effort to meet this challenge of our coastal zones' needs, Gov. Russell W. Peterson and the Delaware Legislature wrote legislation that established strict controls over development along the coastal zone of the entire State. This was the Delaware Coastal Zone Act of 1971. This law has been hailed by many conservation groups as among the most significant steps toward environmental excellence ever taken by a State.

Largely as a result of this legislation, Governor Peterson of Delaware was recently honored as 1971 conservationist of the year by the National Wildlife Federation. This distinguished award was made to the Governor for his 'outstanding contributions to the wise use and management of the Nation's natural resources.'

This great honor is one that Governor Peterson richly deserved, for he has demonstrated tremendous knowledge and understanding of the environmental challenge our Nation faces.

The Saturday Review magazine recently carried an extensive interview on this subject with Governor Peterson. I think the interview is a most interesting one and very timely, particularly in view of the Senate's consideration of his legislation today. Therefore, Mr. President, I ask unanimous consent that the text of the interview, "Showdown on Delaware Bay," be printed at the conclusion of my remarks.

Mr. President, I wish to close my remarks by reiterating my support for S. 3507. It is important legislation. It is legislation that is necessary if our Nation is to utilize our coastal and estuarine areas in the best possible manner.

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

#### SHOWDOWN ON DELAWARE BAY

(An interview with Gov. Russell W. Peterson by Sally Lindsay)

A drama is unfolding in Delaware that on one level involves a straightforward conflict over land and water use but on another reflects the current debate over national priorities. At stake is the future of Delaware Bay and the state's coastal areas. Heightening the conflict is the arrival of the era of supertankers and an accident of geography.

Delaware, the country's second smallest state, is best known as the home of the Du Pont family and as a favored location for business incorporation—some 70,000 United States companies are chartered there. Furthermore, Delaware has a priceless natural asset that has made the state the object of not entirely welcome notice: its bay.

Delaware Bay is one of three spots along the entire United States Atlantic Coast with water deep enough to accommodate supertankers of 250,000 to 350,000 dead-weight tons. Now going into service, these vessels have drafts of sixty-five to eighty-five feet. The other deepwater sites are Long Island Sound off Montauk, New York, and Machiasport, Maine. Deep water plus open land and ready access to the major population centers of the Middle Atlantic States have combined to make the lower Delaware Bay region irresistible to entrepreneurs relying on the use of supertankers.

The state thus attracted nationwide attention when its Republican Governor, Russell W. Peterson, signed the Delaware Coastal Zone Act of 1971 that barred heavy manufacturing industry from locating in a two-mile-wide strip along the state's 115-mile coastline. The first state law of its kind, it specifically banned oil

refineries, petrochemical complexes, and basic steel and paper mills. In addition, the act prohibited the construction in the bay of marine terminals for the transshipment of liquid and solid bulk materials. Welcomed under a permit system, however, were such "nonpolluting" enterprises as automobile assembly plants, and garment, jewelry, and leather-goods factories.

"The coastal areas of Delaware are the most critical areas for the future of the state in terms of the quality of life," the act proclaims. "It is therefore the declared public Policy of the state of Delaware to control the location, extent, and type of industrial development in Delaware's coastal areas. In so doing, the state can better protect the natural environment of its bay and coastal areas and safeguard their use primarily for recreation and tourism."

The law's immediate effect was to block several hundred million dollars worth of planned projects.

Shortly after Peterson took office in January 1969, Shell Oil Company, which began buying coastal property in 1961 and today owns a 5,800-acre site near Smyrna at the head of the bay, announced long-deferred plans to build a \$200-million refinery on its land, with an associate petrochemical plant to follow. At present, Shell has eight refineries in the United States, but none on the East Coast, one of its major markets.

The Delaware Bay Transportation Company, a consortium of thirteen of the nation's leading oil companies, Shell among them, proposed in 1970 the construction of a freestanding 3,200-foot-long dock six-and-a-half miles out in the bay to berth supertankers bringing crude oil to the region. Two forty-eight-inch pipelines would run the crude oil to the shore. There, on 1,800 acres of coastal land that the consortium bought in 1958 near the mouth of the bay, it would build a storage tank farm from which onshore pipelines would feed the petroleum to existing refineries.

A Texas-based company specializing in the transportation of solid bulk materials, Zapata Norness, Inc., has another proposal for a transfer facility in the bay: a 300-acre terminal where millions of tons of domestic coal headed for world markets would be stored in fifty-five to sixty-five-foot piles for transshipment from self-unloading barges to giant deep-draft carriers. The Zapata project included subsequent plans to expand the terminal to 500 acres and to add the handling of iron ore for export.

Concern about the impact of these large-scale proposals on the undeveloped lower-bay area caused Peterson to "blow the whistle." By executive order, he slapped a one-year moratorium on all construction along the river and bay and appointed a task force to develop a master plan for the future use of the state's coastal areas. The provisions of the 1971 Coastal Zone Act essentially embody the recommendations made by the Governor's task force.

The basic question raised in Delaware was this: Should a natural asset be exploited simply because it's there?

Delaware's bay frontage, where Shell and the oil consortium hoped to build, is today a stretch of tidal wetlands, salt marshes, woodlands, and shallow estuaries, dotted with wildlife preserves. The state's oceanfront contains a succession of state parks and beaches cut by an inlet leading to small protected coastal bays. The wetlands provide food for fish and birds. The beaches, parks, and bays provide recreation for Delawareans and tourists. Both shore lines are endangered by the threat of oil spills from existing heavy water traffic.

Delaware already has one of the largest oil refineries in America, the 140,000-barrel-per-day Getty facility, situated about three miles north of the Chesapeake and Delaware Canal. Six additional refineries line the Delaware River near Marcus Hook, Pennsylvania, just over the Delaware state border; four are in Pennsylvania, two across the river in New Jersey. About 70 per cent of all the oil coming to the East Coast moves through Delaware Bay and Delaware River. About 175 tankers of up to 50,000-ton capacity ply the river each month to make direct oil-refinery deliveries.

Delaware already has a steel mill near Marcus Hook. The prospect of supplies of coal, iron ore, and petroleum concentrated along a single stretch of the bay area would, it was feared, inevitably lead to the development of additional steel mills and other heavy industry in the area, introducing unacceptable quantities of pollutants into the air and water.

During the six weeks the coastal zone bill was debated before becoming law last June 28, it was vigorously fought by an impressive lineup: the Delaware Chamber of Commerce; the state Building and Construction Trades Council; Shell; Getty (also a member of the oil consortium); the eleven other consortium oil companies; Zapata Norness; and the United States departments of Commerce

and Treasury. Arguments against the bill invoked the importance of economic growth, the need to fill the projected energy requirements of the East Coast, the promise of jobs and tax revenues, and the ubiquitous "national interest."

"All of us . . . are caught at a critical point in time," said a Shell vice president at a hearing before committees of the Delaware legislature. "On the one hand, we have the crisis of the environment. And that is a very real thing. On the other hand, we have a growing energy crisis. That, too, is very real. These two crises have the potential for meeting on a collision course. It is my belief that such a collision does not have to occur."

The crux of Shell's argument was that industries should not be banned by class but rather each industrial proposal should be considered on its individual merits. Shell asserted it could build a clean refinery that would not endanger the environment. To prove its point, the company invited members of the task force and the legislative committees considering the bill to visit two of its existing refineries: the Norco installation near New Orleans, nominated in 1971 for a Louisiana Wildlife Federation conservation award, and the Anacortes facility on Fidalgo Island, Washington, in Puget Sound.

Austin Heller, a task-force member and secretary of the Delaware Department of Natural Resources and Environmental Control, visited those refineries. "They were quite well maintained," he says, "but were not pollution-free by any means." The technology to build a pollution-free refinery, he states, "is not yet here."

Borrowing "a little federal muscle," Zapata Norness enlisted support from the Commerce and Treasury departments to fight the ban on its proposed offshore terminal. "Unless the United States is able to receive these [oceangoing] bulk carriers, our ability to compete will be seriously damaged," wrote a Treasury Department assistant secretary in a letter to the Delaware House of Representatives urging defeat of the zoning bill.

"It is important that a terminal be built . . . to retain United States control and flexibility, promote U.S. flagshipping, and to maintain for U.S. industry the capability to ship and receive goods at the lowest possible cost," wrote the Commerce Department's assistant secretary for maritime affairs in another letter asking rejection of the bill.

Supporting the bill were conservationists, environmentalists, and concerned Delawareans. "It's our coastline," proclaimed a mailing piece issued by a citizens' group, "Coastal zoning will save it for us and our children."

In the middle of the different merits of the debate stood the Governor, pledged to promote the state's economic well-being but equally determined to keep the bay and adjoining areas free from the proposed industrial complex.

Despite his stand, Peterson is not anti-industry, as some have charged. In fact, he comes from industry, having spent twenty-seven years at the Du Pont company as a research chemist and division manager before a mounting interest in community affairs, specifically prison reform, led him into politics. But he does believe that certain industries belong in certain areas. "We can and must be selective," he says.

Passage of the Delaware Coastal Zone Act ended the first chapter in the debate over the future of the bay. But no one considers the issue closed. At the request of the Delaware legislature, the Governor has appointed a twelve-man committee to study oil transport in the bay and river and recommend ways to decrease the danger of spills. The committee will work with the United States Department of Commerce, which is making a feasibility study of offshore transfer terminals in sea water outside state limits. Many officials in the state government expect that efforts will be made to challenge the zoning law in court or amend it to remove the ban on offshore islands. In the meantime, Peterson has initiated a move on the county level to back-zone Shell's property from its present category of heavy industry, fought for in a bitter struggle when the land was first optioned twelve years ago, to its original category of farming and general use. And a bill patterned on the Delaware act has been introduced in the New Jersey Assembly to bar heavy industry and offshore transfer facilities from the Jersey side of the bay and lower Delaware River.

Always eager to talk about the zoning act he fathered and the environmental questions it raises, Governor Peterson recently agreed to an interview in his office on the second floor of Legislative Hall in Dover, the state capital.

Sally Lindsay: I believe you have the distinction of being the only Governor in the United States who has a Ph.D. in chemistry. Have you used your science background in your job as Governor? Governor Russell W. Peterson: Yes, I've found it useful in talking about energy, about atomic energy, about fossil-fuel

plants, and about the biology of the bay and the wetlands. But, more importantly, scientific training is a discipline where you look for the facts, put up certain propositions, and then test them to see if they make sense. You get trained in how to go about solving problems. And I'm convinced the longer I'm Governor, that exactly the same approach is needed in this office. It's really what applies in management in many fields. Most of my career in the Du Pont company, the last ten years anyway, was in management, and I think the background and experience were helpful. There are some other areas—being acquainted with the political forces at work, for example—that my background didn't provide. So I got clobbered a few times.

Do you think that in the future some form of scientific training might become a prerequisite for high elective office? I think that what's primarily needed is a good general education. I would not recommend that everybody running for office to get a Ph. D in chemistry. But I certainly think that anyone who is going to be a leader in the community ought to have an appreciation of the many scientific and technological factors that are involved. I don't want to be disrespectful to lawyers but I think we have a disproportionate number of them in Congress and in Governors' offices around the country. Their training is very valuable in their area, but other areas are equally important. I think a well-rounded education would be best for someone who wants a job like mine.

Your statement in connection with the Delaware coastal zoning bill that "jobs are important but so is the quality of our environment" has been widely quoted. Was the real issue, as you saw it, jobs versus environmental protection? No. It wasn't a question of either jobs or maintaining our natural environment. It was a question of whether to use the same piece of land for recreation and tourism or for one of the most rapid industrial explosions anyplace in the world. The nub of the argument was whether we should make blanket rules outlawing certain industries, like refineries, in certain areas, or whether the decision on zoning should be based on guidelines and the merits of the individual case. We say that you cannot have heavy industry in certain areas; you cannot have certain installations along the coastline. They are incompatible with other valuable uses of the land. All you need to do is drive north from Wilmington to Philadelphia up around the Marcus Hook [Pennsylvania] area, and you see a collection of storage tanks, pipes, towers, and waste-treatment lagoons. Even if you assume that this section is completely free from pollution, the question arises: "Is this compatible with the kind of environment we've built in Delaware, the kind of recreational open country we have here?" And obviously the answer is no. We have a unique setup here, a relatively unspoiled countryside. It's an asset to millions of people, not just Delawareans. In fact, tens of thousands of people from Washington and Baltimore and Philadelphia come here every year to use it, enjoy the hunting, the fishing, the swimming, the boating, the sunbathing close to the ocean. It's a tremendous asset. I therefore look upon Delaware as having a responsibility to the region—to hang on to what we have here.

At the time you made the decision to promote that bill did you consider that a political risk was involved? Oh, absolutely. Most of the reaction that I got in this office for the first few months was against me. From the state Chamber of Commerce and the oil companies directly, law firms that represent the oil companies, farmers who had sold land to the oil companies and who hoped to profit from the increased value of the land they still have, developers. They went right through to the very end fighting. It took the general public months before they began to tune in on the significance of this. Then I got more and more support for the bill. But my training and background are not such that I would weigh things on the basis of the number of votes that I thought a decision would bring.

How were you able to withstand the combined pressure of all those highly organized interest groups when the bill was under discussion? We were just persistent. Fortunately, we had a majority of the votes in both houses. They did a lot of talking and a lot of arguing about it. After the bill got through the House, we had a major problem in the Senate. There was a whole bunch of attempts to amend it. But each amendment was voted down, some of the critical ones by just one vote. The bill finally went through with a few votes to spare. But the pressure will be on for a long time to come. For many, many years. One of the people in the oil companies has been quoted as saying, "We will be around here a lot longer than Peterson will." [Delaware Governors are limited to two four-year terms.]

Former Secretary of Commerce Maurice H. Stans is reported to have said, "You are interfering with the prosperity and security of America." How did he become involved, and what was your response to that statement of his? I don't remember his using precisely those words. He did ask about my loyalty to our region and to our country. He stressed that we needed to have energy in America, we needed to have petroleum coming in, we needed to have a good merchant marine. And therefore we needed ports that could take the big, new, deep-draft vessels. I told him yes, I agreed that some of those things were important. But it was equally important to have some of the open environment we have in Delaware. That was vital to the people. And we ought to put that on the scales along with these other factors to decide which was going to get priority.

Were you able to get him to change his mind when you met with him in Washington? No. When I first went to see him, he wanted to convince me to drop the entire idea of excluding refineries, basic steel mills, and basic pulp mills. I made it clear that the whole objective was to be sure we didn't have those enterprises in this area. That was the whole purpose of the bill. When I left he said, "Let me ask one thing of you; don't exclude the offshore [coal and iron ore] unloading stations." I told him that I would think about it. And I did. And I decided that we ought to exclude those things, too.

Can you imagine a time within the next four years when you might change your mind about offshore oil terminals and a pipeline running to refineries on the coast? Right now I can't. But I'm willing to listen. We have a committee studying how we can move oil that goes up our bay and river more safely. The practice now is for large and medium-sized vessels to come a few miles into the mouth of the bay to get into some deep water and away from the rough seas. They then partially unload onto barges. When the tanker's draft is small enough, the lightened tanker and the barges move up the bay and river to the refineries. That's a hazardous operation. Any day we might have a major oil spill and we're worried about it. I'm sure the committee will consider such things as an offshore unloading station with a pipeline. They also will consider what, in my opinion, might be a reasonable solution—that is, to have a boom [a floating ring] around the area so that until the transfer onto barges is completed the entire procedure is enclosed. Then if a spill occurs, it can be cleaned up before the vessels move out. And traffic might be restricted only to barges moving up the bay and river. They move under the control of a tug and can be manipulated and handled much more safely. That's just one of several possibilities that could avoid a pipeline running up the river and bay.

How would you propose that the country meet its energy demands as projected for the next decade? I think moving to nuclear plants is the way to do it. Nuclear power plants will be the most economical ones and, in my opinion, the ones that will contribute the least pollution—less pollution, at least, than using fuel oil.

The problem of getting rid of the radioactive waste products has not been solved yet, has it? The magnitude of that problem, in my opinion, is less than the problem of the sulfur dioxide and sulfur trioxide that is coming out of the stacks now in our present fossil-fueled power plants. Much of the radioactive waste can be reprocessed and some of the material reused. I believe that putting nuclear plants off the coast, as the Public Service Commission of New Jersey is now investigating, has a lot of merit. Thermal pollution is one of the key problems. A lot of heat is generated in a nuclear plant and a lot of water is needed to cool it. If you go out several miles off the coast where there is a tremendous quantity of water moving back and forth, thermal pollution should be an insignificant problem. Then all you need to run to the shore is an electric cable.

Does the state of Delaware at the moment have any control over reckless development of its coastal area for the purpose of tourism and recreation? Do you have any way of seeing that your coast doesn't become a solid line of motels and hot-dog stands? We certainly don't want that to happen. Local zoning has the responsibility for that. So far they've done a pretty good job in Delaware compared to some of the other states. The local Chambers of Commerce are very, very diligent in setting up their own guidelines to be sure they don't ruin a good thing. But we have no state authority to stop somebody from putting up a hot-dog stand where it shouldn't be.

In your opinion, is there some cutoff point in population growth and industrial development of any kind beyond which Delaware should not go? I don't have any quantitative target but I have a qualitative concern. It is that we should not endeavor to win some record for building up the population of Delaware. I think that much of what makes our state attractive is dependent upon our not having too many people living here. I think it's important that we provide jobs and



opportunities for our own growing population. However, we're not living in a little world all by ourselves. If we have attractive opportunities here people from outside are going to want to move to Delaware, as they have been doing. But I think it would be dead wrong to have some objective of getting the maximum number of industrial establishments here in order to build up our population.

Would you go as far as the Governor of Oregon who said, "I'd like to have you visit, but please don't come to stay"? I wouldn't go quite that far, no.

Oil refineries and steel and paper mills have to go somewhere. Where would you put them? Well, let's talk about oil refineries, I think that existing refineries could markedly increase their capacity. I had the assignment at Du Pont of increasing the capacity of major plants. It's done repeatedly. People say, we can't increase any more than we've already done. Then someone says do it, and it gets done. We have already allocated a certain amount of space to the operation of refineries, and the challenge ought to be to use that space much more effectively instead of messing up some other land around our country. We need to give high priority to some of the other aspects of living, such as enjoying the beaches and the hunting and the fishing and the open spaces. If we give enough priority to those aspects of life, you can bet we'll find alternate solutions to these other problems. I think it's very important that all over America—all over the world, for that matter—people start drawing lines around choice pieces of real estate and say, look, this is off limits for certain kinds of operations.

If the new industrial plants that will be needed are forced to locate in places where it's uneconomic to operate, everything will cost more. Do you think the public is ready and willing to pay more for such things as electric power? I think absolutely that the public is willing and able to pay more to gain this recreational opportunity.

Do you see a way to reconcile growth and environmental protection? Yes. I think population growth in the world—in America—is one of the major problems that leads to fouling up our environment. I believe that a reasonable control over the population is in order. That's why I've been a strong proponent of Planned Parenthood. The tremendous explosion of population in any one area is bound to cause problems with the environment. Take this Delaware coastal zone. If a hundred times more people come to enjoy the hunting, the fishing, the swimming, and the boating here, it would not be a very attractive spot.

How long do you think as highly attractive a piece of real estate as Delaware can protect itself against the persistent incursions of industry? Well, look what's happened in New York City. Central Park is still there. You have a tremendous pressure for building space. Higher and higher office buildings go up all around the park, but still there's a hunk of land right there in the center of the city that people have decided to hang on to.

Do you anticipate a time when the United States might have a national policy concerning land use and energy growth? That's a possibility. We already have a national policy on the interstate arteries of transportation, the highways, the airways, and the waterways. I hope, though, that we don't get to the point where the federal government starts dictating where private enterprise can and should be located in a state or a county. But there can be some legitimate arguments in favor of federal government involvement in this area.

What, in your opinion, can the average citizen who has no political clout do to protect the environment in this country? If you have enough citizens who are determined to protect the environment, and we do have, they can organize so that they do have political clout. One thing that has been driven home to me in the three years I've been Governor is that our democratic process does work. When people really get exercised about something, their representatives respond. If a substantial number of people believe in cleaning up our environment, and if they work at it, they will be heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINS. Mr. President, pending the arrival of the distinguished Senator from Alaska in the Chamber in connection with his amendment, I wish to insert in the record a few comments relative

to the concerns that were expressed by members of other jurisdictional committees, specifically the Committee on Banking, Housing and Urban Affairs, the Committee on Public Works, and the Committee on Interior and Insular Affairs.

With respect to matters of municipalities and regional development, the overall approach of this particular bill is conformance with the land use bill submitted by the administration and sponsored by the distinguished Senator from Washington, Mr. Jackson. We have tried our very best to dovetail, should the land use bill be enacted by this Congress, so that the coastal zone bill would be hand in glove with it.

Additionally, with respect to the urban spiral in housing, we have not tried to preempt the committee having jurisdiction in that regard. As a former member of the Committee on Banking, Housing and Urban Affairs I assure my colleagues that this bill would give appropriate recognition to our housing and community development needs, as well as the needs of our coastal zones.

I believe the legislative history of the measure clearly indicates we intend that the Coastal Zone Act be administered in a way to reflect the concerns of HUD and other public agencies which have planning and development missions.

The statutory language indicates that the bill aims to protect our critical coastal marine areas, and would restrict its jurisdiction inland. The report accompanying the bill specifically states that the coastal zone—extends inland only to the extent necessary to allow the management program to control shorelands whose use have a direct and significant impact upon the coastal water.

In any event, I would anticipate that the officials carrying out this act would work cooperatively with other officials of Federal, State, and local governments in expanding social opportunities and in enhancing the quality of life.

The fact is that the bill was encompassed in S. 582. Pending the hearing last year, and also reported with approval by the Committee on Commerce, it stayed on the calendar for some time. It was felt that the definition of "coastal zone" went too far inland.

We thought we had reconciled the concern with the 7-mile limitation. I had to agree this went into too many things. It was a matter of interest to the Committee on Banking, Housing and Urban Affairs. I had a discussion with the distinguished chairman, the Senator from Alabama, Mr. Sparkman, on the point. The bill is designed not to have any conflict there.

The cities themselves approved, in a general sense, the particular measure in the original hearings. The mayor of the city of Newport Beach, Calif., came forward and said it was not permissive for participation and did not encompass in its approach the use of local governments. So we went back through the bill and included in every respect the terminology "local government" so that wherever possible there be no misunderstanding.

On page 9, section 305, subsection (g) it is now stated:

(g) The approval of the Secretary the coastal State may allocate to a local government. . . .

On page 11, under subsection 306 :

“(1) The coastal State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, which shall be in accordance with the objectives of this Act, after notice, and with the opportunity of full participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title.

Again we include the reference to local governments.

On page 12, section 306, subsection (d), at about line 20, it is stated :

(d) Prior to granting approval of the management program, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments), . . .

So, in fact, as stated—and this would later become law—the city government can be the entity designated by the Governor himself as the coastal zone management agency.

In addition to that, Mr. President, we provided certain flexibility in the bill with respect to whether or not it could be a State group, a local group, or some already established group, to act as the coastal authority. We had testimony with respect to the State or New York that the New York Port Authority was probably the best agency within the State of New York; it had complete authority with respect to coastal zone problems, development, pollution, the Corps of Engineers, water quality, navigation, and almost everything else; and it could be that it would be the State-designated agency.

Mr. President, at this time I yield to the Senator from Rhode Island.

MR. PELL. Mr. President, I thank the distinguished Senator from South Carolina for yielding.

At this point I send to the desk an amendment on behalf of the Senator from Massachusetts Mr. Kennedy, for himself, the Senator from Wisconsin, Mr. Nelson, the Senator from New Hampshire, Mr. McIntyre, the Senator from New Jersey, Mr. Williams, the Senator from South Carolina, Mr. Hollings and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

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

On page 26, after line 19, insert the following :

SEC. 316. (c) The Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce, consultation with the Secretary of the Interior, shall enter into appropriate arrangements with the National Academy of Sciences to undertake a full investigation of the environmental hazards attendant on offshore oil drilling on the Atlantic Outer Continental Shelf. Such study should take into consideration the recreational, marine resources, ecological, esthetic, and research values which might be imparted by the proposed drilling, as well as alternatives to such drilling in meeting the Nation's energy needs. A report shall be made to the Congress, to the Administrator, and to the Secretary by July 1, 1973.

There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next fiscal year thereafter such sums as may be necessary to carry out this section, but the sums appropriated may not exceed \$500,000.

Mr. PELL. Mr. President, this amendment authorizes a study by the National Academy of Sciences as to the risk of offshore oil drilling on the Outer Continental Shelf.

The Administrator of NOAA, after consultation with the Secretary of the Interior, would be authorized to make arrangements with the National Academy for the study with a due date back for a report of July 1, 1973.

The cost of \$500,000; and it does not call for a moratorium, it calls for a study.

Mr. HOLLINGS. Mr. President, I heard the distinguished Senator from Massachusetts at one time urge that the National Oceanic and Atmospheric Administration conduct a study. This is an NOAA bill, I understand the Senator has consulted with other Senators and they agree that NOAA should arrange with the National Academy of Sciences for this study.

Mr. PELL. This would be the thinking of those who press the amendment; yes.

Mr. HOLLINGS. I say to the Senator from Rhode Island I would like to go along with the amendment. I think we would, if given a little time for Senators who are members of the Committee on Interior and Insular Affairs to consider it. I think some of the Senator's cosponsors are members, but I have just been informed that members have not considered it specifically. If the Senator will complete his remarks I believe I can more intelligently comment, and if need be, we can request a quorum and see if the matter can be worked out.

Mr. PELL. Absolutely, I realize that the committee did not take any action on this matter earlier, since it had closed the hearings on the bill, but I share and so do the other cosponsors, the concern of the Senator from Massachusetts (Mr. Kennedy) that an independent study of the potential risks of offshore oil drilling on the Atlantic Continental Shelf should be available to the Congress.

The National Academy of Sciences is a prestigious and competent organization which will enable the Congress to consider the proposals for offshore oil drilling with full knowledge of the potential risks involved.

The study would take into consideration the recreational, marine resources, ecological, esthetic, and research values which might be impaired by the proposed drilling, as well as alternatives to such drilling.

The magnitude of the possible efforts of offshore oil drilling cannot be underestimated. For that reason, it is essential that we have the results of independent analyses of the potential impact of such drilling before it is begun.

While a few of us here would also like to see a moratorium, this is not what we are pressing for at this time. We are pressing the idea of this study, and we hope that our friends on the Committee on Interior and Insular Affairs may also accept this idea as perhaps a middle ground for the moment.

I would ask unanimous consent that the statement by Senator Kennedy, and correspondence from east coast Governors and knowledgeable scientists, be included in the Record at this time. Senator Kennedy originally introduced this amendment in December and the revised version is being introduced today to correspond to the bill S. 3507 reported by the Commerce Committee.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR KENNEDY

I am introducing an amendment of the Coastal Zone Management bill S. 3507 reported by the Commerce Committee to provide for a year-long study by the National Academy of Sciences of the environmental risks, the risk to fishing and the risks to recreational areas of offshore oil drilling on the Atlantic outer continental shelf. The \$500,000 study also would explore alternatives to offshore oil drilling in meeting the nation's energy needs.

Mr. President, this is an amendment similar to the one I introduced in December 1971, to the earlier version of this same measure.

The amendment would authorize the Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce, after consultation with the Secretary of the Interior, to finance a detailed National Academy of Sciences study of this subject.

In this way, the Congress and the nation could be sure that any action taken by the government with regard to offshore drilling in the Atlantic will follow an independent analysis of the possible risks from such a venture.

Currently, the Secretary of the Interior has indicated that internal studies of environmental and other risks related to offshore drilling are underway within the Department. And he notes that public hearings on the matter will be held.

However, it seems clear that a fully independent study by competent scientists will further the public knowledge on this matter.

In that regard, let me repeat the statement of the U.S. representative at a recent United Nations conference. His opening words were: "Subsea mineral exploitation inevitably carries the potential to create hazards to other uses of the sea and to damage other marine resources."

The extent of that risk should be fully evaluated before the nation even considers the possibility of extending the dangers of oil drilling to the Atlantic Continental Shelf, adjacent to the heavily populated eastern seaboard of this country.

The potential dangers not only to the beaches of Atlantic coast states but to the rich fishing grounds off our New England shores requires the utmost caution in any endeavor of this nature.

We already have seen the horror of a Santa Barbara oil blowout. We cannot afford a similar catastrophe off Boston or New York or Charleston.

For that reason, I believe an independent inquiry by the National Academy, which previously has indicated its competence and willingness to undertake such a study, is essential. In addition, I would note that while Secretary of Interior Morton has not requested funds for such a study he stated at a Congressional briefing that he personally would favor such an inquiry.

In addition, I would note that correspondence from several East Coast Governors as well as from prestigious university and scientific institutes, indicates virtually unanimous support for such a study.

(I ask unanimous consent to attach at the conclusion of my remarks correspondence on this matter).

The need for an independent evaluation which would be available to the Congress, to the NOAA administrator and to the Secretary of the Interior is made even more evident by our recent experience with solely governmental studies.

Too often, competent and relevant studies which could help the Congress to draft intelligent public policies have been withheld because the conclusions conflict with the official Administration posture.

We have seen that occur with regard to studies on the SST. We have seen it occur with the U.S. Geological Survey and Council of Environmental Quality comments on the Amchitka underground nuclear test. And we have seen it occur most recently in another area when the Labor Department buried a scathing indictment of its Rural Manpower Service.

Even when the most capable government scientists and professional employees are involved in a study, the Congress cannot be assured that it will benefit because the conclusions of those investigations may never see the light of day.

When this becomes a matter of routine, then we must obtain independent analyses which will provide us with the necessary data for rational decision-making.

For these reasons, I believe the Congress must acquire sufficient information upon which to judge Interior Department assertions concerning both the need for and the danger of Atlantic Coast offshore drilling.

Therefore, I am offering this amendment and urge its adoption.

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COLLEGE OF CHARLESTON,  
GRICE MARINE BIOLOGICAL LABORATORY,  
*Charleston, S.C., February 10, 1972.*

Senator EDWARD M. KENNEDY,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR KENNEDY: This is in reference to your letter of January 14, 1972, concerning the leasing of oil-drilling rights on the Atlantic continental shelf. I applaud your concern for the welfare of the marine environment and hope that similar interest will be generated among other members of Congress.

The varied habitats of the continental shelf support large populations of commercially important organisms. Large numbers of Americans are dependent upon these organisms either directly or indirectly for their subsistence. Any drastic upset, such as an oil spill, of the delicate balances and interdependencies of this marine ecosystem would endanger the biological productivity of an extensive area and could possibly wreak havoc on coastal property. Due to the nature of the currents, the results of an oil spill in the western Atlantic would be shared by many nations. Ocean pollution in any form is a world-wide problem.

I feel that offshore drilling is potentially dangerous to the marine environment. We should have learned from the Santa Barbara and tanker disasters that we must find ways to protect the marine environment. Protection, not compensation for damage done, should be the policy. Alternate sources of oil with fewer dangers of environmental degradation are available and should be utilized, even if more expensive. One may put a monetary value on a single year's shrimp harvest, but no one can do more than estimate the dollar value of the entire western Atlantic marine environment. I urge caution and restraint in any offshore oil leasing. The good of the nation, and indeed that of all nations, must not be sacrificed for the gain of a few.

Once again, I applaud your concern, and I hope that I shall be able to commend your actions on this and similar problems in the future.

Yours very truly,

WILLIAM D. ANDERSON, Jr.,  
*Associate Professor.*

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STATE OF MARYLAND,  
EXECUTIVE DEPARTMENT,  
*Annapolis, Md., December 14, 1971.*

Hon. EDWARD M. KENNEDY,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR KENNEDY: Thank you for your letter of November 22, 1971 expressing your concern about the possibility of offshore oil drilling in the Atlantic Ocean.

On that same date, I addressed a letter to Secretary of the Interior, Rogers C. B. Morton, in response to the telegram you mentioned. I advised Secretary Morton that the State of Maryland is vitally concerned about the plans for the outer continental shelf and informed him that I would be glad to meet at a mutually convenient time for the purpose of exchanging information leading to an appropriate course of action.

When I meet with the Secretary, I will try to impress upon him the need for competent and independent environmental studies as you suggest.

Sincerely,

MARVIN MANDEL, *Governor.*

STATE OF NORTH CAROLINA,  
GOVERNOR'S OFFICE,  
Raleigh, N.C., December 16, 1971.

HON. EDWARD M. KENNEDY,  
U.S. Senate, Senate Office Building,  
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you very much for your letter of November 22 calling my attention to the need for further studies relating to environmental protection associated with exploration for oil off the Atlantic Continental Shelf.

I am attaching a copy of my letter to the Secretary of the Interior responding to his telegram of November 4 informing me of his Department's plans regarding off-shore oil drilling in the Atlantic and inviting me to attend a meeting to discuss this subject. You will note that I recognize both our needs for additional proven oil reserves and for the need to protect our environment while exploring for these reserves. North Carolina's ocean-oriented coastal tourist industry and our commercial fishing industry could hardly afford the massive damage that might be associated with poorly-planned oil exploration.

Accordingly, I am pleased to join you in urging that the National Academy of Sciences and the Environmental Protection Agency carry out independent studies of off-shore oil drilling, with particular emphasis on the specific conditions that pertain off the Atlantic coast of the United States. I can readily see that oil exploration in an environment characterized by frequent storms and common high energy waves will be much different from that undertaken in the Gulf of Mexico.

The need for environmental protection measures during oil exploration was recognized in a bill considered by our legislature last spring and which I backed. Unfortunately, this bill was not passed. Please rest assured that if such studies are carried out, North Carolina will participate in them to the maximum extent that she is able.

May I express my thanks for your concern for our State's environment.

Cordially,

ROBERT W. SCOTT.

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STATE OF NORTH CAROLINA,  
GOVERNOR'S OFFICE,  
Raleigh, N.C., December 16, 1971.

HON. ROGERS C. B. MORTON,  
Secretary of Interior,  
Washington, D.C.

DEAR MR. MORTON: I appreciate your telegram of November 4 concerning your proposed for a meeting of Governors of East Coast states for the purpose of discussing the sale of leases for oil exploration off the east coast of the United States.

Please be advised that I would be most happy to attend a meeting to discuss this important subject. My mind is open concerning the matter of exploration for oil off the Atlantic Continental Shelf. I realize, on the one hand, our nation's tremendous needs for proven energy reserves and, on the other hand, I understand fully the potential environmental damage that can result from uncontrolled and careless exploration and exploitation.

North Carolina will most certainly want to be represented at any meeting where a discussion of oil exploration off the Atlantic Continental Shelf is held. I urge that the subject matter of such a meeting be expanded to include the development of plans for adequate measures to protect environmental quality during such exploration and during any subsequent commercial exploitation of reserves.

Cordially,

ROBERT W. SCOTT.

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STATE OF DELAWARE,  
EXECUTIVE DEPARTMENT,  
Dover, Del., December 22, 1971.

HON. EDWARD M. KENNEDY,  
U.S. Senator, United States Senate,  
Washington, D.C.

DEAR SENATOR KENNEDY: I appreciate receiving a letter of November 22 expressing your concern about offshore oil drilling in the Atlantic. We are especially sensitive to any activity along the eastern seaboard which might seriously impair the quality of the ocean environment.

I have appointed Austin N. Heller, Secretary for the Department of Natural Resources and Environmental Control as a representative to the Department of the Interior in matters concerning offshore oil drilling in the Atlantic. Thereby, I shall be kept apprised of any study to be undertaken and any decision to be reached with respect to offshore oil drilling in the Atlantic.

We in Delaware, have taken a special precaution to protect our coastal zone. Earlier this year we passed a landmark piece of legislation, H.R. 300. I am attaching a copy for your information. Prior to the passage of this act, I had convened a task force on marine and coastal affairs headed by Dr. James M. Wakelin, Jr., a renowned oceanographer. A preliminary report dealing with the coastal zone and its management has been completed. I have also attached a copy of that report for your guidance. We expect to issue sometime in 1972, a more detailed report from that study group. I shall be pleased to forward a copy of that report to you.

We have taken another step in our State to protect the offshore that lies within our jurisdiction. In 1972, we passed a regulation dealing with oil and mineral exploration. I believe you will find this comprehensive document of interest to you. I have also attached a copy of this regulation for you.

I share your concern for adequate environmental studies before a permit is issued for offshore oil drilling in the Atlantic. I am convinced that such studies will, in fact, be carried out. We shall keep an ever mindful eye on this very important issue.

Sincerely,

RUSSELL W. PETERSON, *Governor.*

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STATE OF NEW JERSEY,  
DEPARTMENT OF ENVIRONMENTAL PROTECTION,  
*Trenton, N.J., December 28, 1971.*

Hon. EDWARD M. KENNEDY,  
*U.S. Senator, U.S. Senate,  
Washington, D.C.*

DEAR SENATOR KENNEDY: Governor Cahill has noted and referred to our attention your letter of November 22 concerning the tentative plans of the Department of Interior to permit off-shore oil drilling along the Atlantic Seaboard.

For many years the State Geologist has been advising oil companies and others interested in exploring for oil as to State regulations, probable areas for exploration and general geological conditions. The evidence so far accumulated strongly suggests that oil will not be found within the territorial three mile limit of New Jersey.

Some states are claiming jurisdiction beyond the three mile limit and New Jersey is in agreement with other maritime states that if any state is granted off-shore jurisdiction beyond the three mile limit New Jersey wishes to be given equal rights.

Comparison of conditions off the New Jersey coast within or beyond the three mile limit to conditions resulting in the Santa Barbara oil spill are based on a lack of knowledge concerning the off-shore geology. Off the New Jersey coast, faults and related geologic structure found off the California coast do not occur. A far greater danger to New Jersey beaches are oil spills from the super tankers. The volume of oil from a single tanker accident will considerably exceed any potential spill from an off-shore drilling platform.

New Jersey has statutory powers to control or even prohibit off-shore drilling sufficient to protect our beaches. In particular, we also have authority to force a clean up of an oil spill whether from a tanker or off-shore drilling.

At the present time we feel that it would be premature to take a position on off-shore drilling until we have had adequate time to conduct our own investigations and evaluated the many governmental and independent studies that I am sure will be undertaken before the granting of oil leases is permitted by the Secretary of Interior. This Department would favor as much investigation by any agency to factually and unemotionally determine the environmental risks entailed by off-shore drilling.

Very truly yours,

CHARLES M. PIKE, *Director.*



COMMONWEALTH OF PENNSYLVANIA,  
OFFICE OF THE GOVERNOR,  
Harrisburg, Pa., December 9, 1971.

HON. EDWARD M. KENNEDY,  
U.S. Senate,  
Washington, D.C.

DEAR TED: Appreciate your recent letter regarding the request of the Department of the Interior for my comments on their tentative plans to permit off-shore oil drilling in the Atlantic.

I share the same concerns you do and feel the present program of the Department of the Interior may have to be extended considerably in order to protect the environment.

Your suggestion for independent studies of the hazards of off-shore drilling is a sound one which will receive my support.

Sincerely,

MILTON J. SHAPP, *Governor.*

SKIDAWAY INSTITUTE OF OCEANOGRAPHY,  
UNIVERSITY SYSTEM OF GEORGIA,  
Savannah, Ga., February 2, 1972.

HON. EDWARD M. KENNEDY,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR KENNEDY: The following is in answer to your letter of January 14, 1972, requesting comment on the potential environment hazard of *offshore drilling in the Atlantic*.

As a matter of background, it should be pointed out that the entire cost of Georgia and parts of South Carolina and Florida are characterized by extensive salt marshes. These are protected from the ocean by barrier islands. An average tidal amplitude of 7 ft. causes approximately 20 percent of the volume within the marshes to flush with each tidal cycle. Back and forth sloshing causes the remaining 80 percent of the water to move back and forth resulting in considerable dispersion of floating debris. Marshes are the spawning grounds of major offshore fisheries and are, or can be made, major producers of shell fish and shrimp. These fisheries depend, to a great extent, on the invertebrate fauna of the marshes for food. Significant quantities of organic matter produced within marshes is added annually to continental shelf areas and helps maintain fisheries there. In addition, since much of the South Carolina and Georgia coastlines are low lying, the marshes impose a physical barrier to wave action from the open sea and help buffer the effects of hurricanes and storms which may otherwise cause more extensive coastal flooding.

We are, unfortunately, not in a position to say what the effect of a major oil spill would be on the coastal marsh system. Based on data of British scientists, it is unlikely that there would be a major effect on the marsh grass per se, unless the oil were heavily concentrated and came ashore as a block. In most regions this type of a spill is visible and the effects have serious aesthetic and monetary consequences directly related to the spoilage of beaches, anchorages, etc.

Most of the Georgia coastline is not scrutinized daily and major spills might go unnoticed for some time. The effect of oil on marine life is not clear, and the data contradictory. Mass mortalities of shell fish were demonstrated in the W. Falmouth, Mass., spill but not in the Santa Barbara blowout. In the latter, the most serious visible mortality was to sea birds. The W. Falmouth area is more directly comparable to the Georgia coastline than Santa Barbara since the coastal waters are shallow, not exceeding 200 ft. until 80 miles offshore. The chances of oil mixing vertically to the bottom in these areas is greater than in the deeper waters off California and thus a more direct effect on wildlife on the continental shelf might be expected.

Once oil reaches the marshes one can expect that major mortalities would occur to shellfish and shrimp and that most of the smaller invertebrate fauna of the marshes would be eliminated. The effect of a single injection of oil to this environment would be greatly amplified because tidal action in semi-restricted waters would distribute the oil over a much larger area than would occur on an open shoreline. If the spill reached shore on an above average high tide (spring tides), it would remain intact until comparable high tides occurred many months

later. Additionally, I can conceive of no way that oil could be dispersed or collected once it reached the marsh. Unquestionably, it would have to be intercepted offshore before it reached this environment. The time it would take for the environment to recover after a spill would be variable depending on the tidal and wind conditions at the time of occurrence. We are not in a position to estimate what this time might be. It is an area of badly needed research.

We feel strongly that your recommendation that the Academy of Science initiate studies preceding oil leasing action is a solid one. Yet, at this point in time, I doubt that the group could do more than guess, as I have above, on the environmental impact of a major oil disaster.

Sincerely,

DAVID MENZEL, *Director.*

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COMMONWEALTH OF VIRGINIA,  
VIRGINIA INSTITUTE OF MARINE SCIENCE,  
*Wachapreague, Va., January 20, 1972.*

Senator EDWARD M. KENNEDY,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SIR: I received your letter of January 14 regarding environmental risks attendant to offshore oil drilling in the Atlantic. Needless to say, the past performance of the oil industry has given good reason for expecting catastrophic problems to the local environment. This obviously should not be. An oil well, working properly, without fire, spills, blowouts, etc., should cause relatively little damage to the environment. I am inclined to think that good tough legislation, with teeth, could force the oil companies to use techniques that would prevent problems. If a company knew that a fine would be assessed for every square acre of oil pollution per day, plus the cost of clean up, I believe they would take special pains to prevent spills and blowouts. The oil companies should realize their responsibilities to maintain a clean environment. The costs of failure should be so great that no short-cut methods could be considered.

Provided proper legislation and safeguards are in force, I would rather see oil wells off our Atlantic coast instead of an oil line across Alaska.

I am in favor of a two year moratorium on establishment of marine sanctuaries. This is well worthwhile. I wonder if perhaps a study on conservation of fossil fuels might be just as important. It is unfortunate that a tax could not be imposed that would increase with increased use of oil; for instance a tax of 7¢ per gallon for the first 1000 gallons and double with each succeeding 1000 gallon unit.

Thank you for your letter. I hope this information is of some value.

Sincerely,

MICHAEL CASTAGNA,  
*Scientist in Charge.*

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ENVIRONMENTAL DEFENSE FUND,  
*East Setauket, N.Y., January 21, 1972.*

Senator EDWARD M. KENNEDY,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR KENNEDY: Thank you for your letter of January 14th in which you discussed the Interior Department's plans to lease oil drilling rights along the Atlantic coastline.

Although the Environmental Defense Fund is not yet involved in legal action to oppose such exploitation of offshore oil resources, we are certainly not in favor of the plan. With almost daily news items announcing oil spills, beach contamination, and wildlife mortality due to floating oil, we believe that much improvement in the technology for producing and transporting petroleum products is necessary before the Atlantic shoreline should be exposed to the considerable risks inherent in offshore oil drilling.

I believe the Natural Resources Defense Council in New York City is very much concerned with the offshore oil drilling problem, and I suggest that you might wish to contact them as well as our own organization in this connection.

We certainly are in favor of the efforts you are making to protect the Atlantic

shoreline ecosystem from the threat of oil contamination, and will greatly appreciate being kept informed of future developments in which you are involved.

With many thanks for your interest,

Very sincerely,

DENNIS PULESTON,  
*Chairman, Board of Trustees.*

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AMERICAN LITTORAL SOCIETY,  
*Highlands, N.J., February 29, 1972.*

Senator EDWARD M. KENNEDY,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR KENNEDY: We are happy to submit comments on Atlantic Coast offshore drilling as requested in your letter of January 14 to John Storr, who has asked me to answer in his stead.

Our organization is not convinced that American companies can extract oil from offshore without routine oil spills and periodic drastic spills and blowouts. Nor are we convinced that companies care to conform to federal laws for offshore drilling (see the storm choke fiasco in the Gulf).

We are concerned because east coast marine resources are much more fragile and more susceptible to spills than the west coast resources. The east coast is a thin ribbon of marsh and estuary, dotted with inlets. Oil on rocks and beaches causes nowhere near the environmental damage that oil in the Chesapeake or Pamlico Sound would cause. See Blumer's work at Woods Hole, where a marsh two years after a spill has not recovered its productivity.

We are not convinced that "national defense" demands the exploitation of east coast continental shelf oil deposits now. The big push for deepwater ports and deep draft tankers in Maine, New Jersey, and Maryland/Virginia is also backed by the national defense argument. I don't think it makes sense.

Sincerely,

D. W. BENNETT,  
*Conservation Director.*

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STATE OF MAINE,  
DEPARTMENT OF SEA AND SHORE FISHERIES,  
*Augusta, Maine, February 4, 1972.*

Hon. EDWARD M. KENNEDY,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR KENNEDY: Thank you for the opportunity to discuss the proposed leasing of oil drilling rights on the Atlantic Coast. As you may know, we have had some rather disastrous oil spills in Maine in fairly recent years; and with the oil handling facilities at South Portland and at Searsport in Penobscot Bay, the coastal waters are almost chronically subject to spills of varying magnitudes.

We have worked cooperatively in evaluating results of these spills with EPA, FDA, Maine institutions and agencies, and WHOI. Results of some of this research point up very clearly the disastrous effects of oil spills even though they are listed as small or less than moderate.

On the basis of periodic surveys of Long Cove, Searsport, following the March 1971 oil spill, it has been determined that approximately 5,400 bushels of clams had died from the oil contamination by November 2, 1971. Mortalities are still in progress. The surviving population, as of November 2, was estimated to be 17,732 bushels—down from a pre-spill standing crop of more than 23,000 bushels. Oil-associated mortalities represent 23 percent of the March population.

Six percent of the oil-contaminated clams collected from this area on July 7 and August 3, 1971, for histopathological examination contained gonadal tumors. All sampling stations on the west side of the cove were positive in both months. On the east side only the most northerly station was positive, and then only in August.

Tumor incidence decreased from 27 percent near the source of the contamination at the head of the cove to zero at the most distant station on the northern end of Sears Island.

Although affected clams at the same stations declined from 17 percent in August, the extent of the area affected has increased. Since clam mortality has been progressive, it can be assumed that some clams with tumors at the

time of the July sampling may have died before August collections were made, and that the rate of tumor development may also have declined in those areas which were affected initially.

A preliminary report on a third histopathological sample collected in January 1972 indicates that tumors are now developing in other soft parts of the clam. With oil residues in the sediments of Long Cove, the probability of any reproduction surviving in the area becomes increasingly unlikely. If the cover becomes suitable for clam survival at some future time, it will require at least five additional years to produce a commercial crop. Therefore, the monetary loss becomes an annual loss rather than a single short-term occurrence.

Direct monetary loss to fishermen at current prices has been \$43,000. Using the average CF of 3.4 for mixed processed and wholesale products, the loss becomes nearly \$150,000. The fact that for public health reasons the surviving population cannot be used for self-cleansing, the producer loss for the entire population becomes \$185,000; and the primary wholesale or value-added loss brings the total of \$625,000.

It is of interest that the Searsport spill was reported by the Coast Guard to be "less than moderate and not more than 1½ barrels." Obviously it was a much greater spill than that. This lack of competence in estimating spills is a serious handicap in the evaluation of the effects.

The November 1963 loss of from 20,000 to 25,000 barrels of crude in a daylight grounding of a tanker at the entrance of Casco Bay, Maine, resulted in some forty miles of shoreline being grossly contaminated, including five lobster pounds that were loaded nearly to capacity with lobsters. At the time, we estimated it would cost between \$4 and \$7 million to clean effectively the area contaminated. This sum, of course, was not spent, and the residues of the oil are still visible in at least one of the lobster pounds.

In view of the obvious short-term benefits of oil and the need for intelligent research into alternative sources of energy, it would be most disastrous to destroy a potential of marine, food and drug, and aquacultural development.

Sincerely yours,

ROBERT L. DOW,  
*Marine Research Director.*

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INSTITUTE OF OCEANOGRAPHY AND MARINE BIOLOGY,  
*Oyster Bay, N.Y., February 19, 1972.*

Senator EDWARD M. KENNEDY,  
*Senate Office Building,  
Washington, D.C.*

DEAR SENATOR KENNEDY: This Institute is *opposed* to off-shore drilling on the Atlantic seaboard.

Very truly yours,

WALTER E. TOLLES, Ph.D., *Director.*

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TOWN OF SWAMPSCOTT,  
OFFICE OF THE BOARD OF SELECTMEN,  
*Swampscott, Mass., February 10, 1972.*

Senator EDWARD M. KENNEDY,  
*U.S. Senate,  
Washington, D.C.*

DEAR SENATOR KENNEDY: The Swampscott Board of Selectmen, at its meeting held February 3, 1973, voted unanimously to respectfully request you to vigorously oppose any legislation that would permit the drilling of oil off the New England Coast.

Very truly yours,

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
*Board of Selectmen.*

TOWN OF ROCKPORT,  
BOARD OF SELECTMEN,  
*Rockport, Mass., March 13, 1972.*

The Honorable EDWARD M. KENNEDY,  
*Senate Chamber,  
Washington, D.C.*

DEAR SENATOR KENNEDY: The Rockport Board of Selectmen voted unanimously in favor of being recorded as opposed to any legislation that would permit drilling for oil off the New England coast. Your support would be appreciated.

Very truly yours.

NICOLA A. BARLETTA,  
*Chairman, Board of Selectmen.*

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CITY OF SALEM, MASSACHUSETTS,  
OFFICE OF THE CITY CLERK,  
*Salem, Mass., March 3, 1972.*

Senator EDWARD M. KENNEDY,  
*Senate Office Building,  
Washington, D.C.*

DEAR SIR: At a regular meeting of the Salem City Council held in the Council Chamber on Thursday, February 24, 1972, it was voted to oppose any legislation that would permit the drilling for oil off the New England Coast.

This action was approved by Mayor Samuel E. Zoll on March 2nd.

Very truly yours,

AUGUSTINE J. TOOMEY,  
*City Clerk.*

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask that the aisles be cleared and that staff members not talking with Senators take seats, so that we may have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PELL. Mr. President, I ask unanimous consent that I be permitted to modify the amendment I have offered to the Senate in two regards: First, to delete the phrase "as well as alternatives to such drilling in meeting the Nation's energy needs," which appears in section (c), the penultimate paragraph.

The PRESIDING OFFICER. The Senator has the right to modify his amendment without unanimous consent.

Mr. PELL. I thank the Chair. I so modify the amendment, and in addition I modify it by adding the phrase "after consultation with the Secretary of the Interior and with the Administrator of the Environmental Protection Agency."

I hope that with these modifications, this amendment, offered in behalf of a group of Senators including, incidentally, the Senator from Delaware (Mr. Boggs), who has asked that his name be added as a cosponsor—

The PRESIDING OFFICER. If the Senator will send his modifications to the desk, the amendment will be so modified.

The amendment, as modified, is as follows:

On page 26, after line 19, insert the following:

SEC. 316. (c) The Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce, after consultation with the

Secretary of the Interior and the Administrator of the Environmental Protection Agency shall enter into appropriate arrangements with the National Academy of Sciences to undertake a full investigation of the environmental hazards attendant on offshore oil drilling on the Atlantic Outer Continental Shelf. Such study should take into consideration the recreational, marine resources, ecological, esthetic, and research values which might be impaired by the proposed drilling. A report shall be made to the Congress, to the Administrator, and to the Secretary by July 1, 1973.

(d) There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next fiscal year thereafter such sums as may be necessary to carry out this section, but the sums appropriated may not exceed \$500,000.

Mr. PELL. I hope the amendment as so modified will be acceptable to the manager of the bill and to my fellow Senators.

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

Mr. PELL. I yield to the Senator from Delaware.

Mr. BOGGS. As the Senator has so kindly pointed out, I have asked to be listed as a cosponsor of the amendment, and I have a brief statement at this time in support of the amendment.

Mr. President, I wish to support the amendment offered in behalf of the distinguished Senator from Massachusetts, Mr. Kennedy. I would point out that it follows very closely the lines of S. 2892, which I introduced on November 22, 1971. That bill is cosponsored by Senators, Roth, Beall, Brooke, Buckley, Case, Muskie, and Pell.

S. 2892 authorized a detailed environmental study by three agencies, each with great expertise in matters relating to offshore oil drilling and its potential environmental effects.

The agencies involved would be the Interior Department, the National Oceanic and Atmospheric Administration, and the Environmental Protection Agency. I believe such a three-agency study would be effective and utilize the best resources of the Federal Government.

In addition, my bill would also declare a moratorium on oceanic mineral exploration for the period of the study, which is up to 2 years, as well as for a period of 1 year after submission of the study to the Congress. Such an extra 1-year moratorium would assure the public sufficient time to evaluate the study and seek possible legislative changes, if such might be necessary.

While Senator Kennedy's amendment is somewhat different from my bill, the intent of the two provisions appears to me to be identical.

Thus, I wish to express my support for the Senator's amendment and express my belief that it is needed to protect our valuable coastal areas.

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

Mr. PELL. I yield.

Mr. STEVENS. Mr. President, I am not going to belabor this issue, but it does seem to me that the impact of the amendment is to add to the total framework of the laws that we have already passed for environmental protection.

We passed a National Environmental Protection Act, and we set up an elaborate procedure—and Alaskans know just how elaborate that procedure is—for anyone who wants to propose to develop the energy resources of this country.

As I understand, the amendment says "which might be impaired by the proposed drilling."

I do not know that anyone has proposed to drill. To my knowledge, no portion of American industry has to date said, "we want to drill here on the Eastern Shore." But I think the time has come when some people had better start looking at their hole card. They have said we cannot build our Alaska pipeline; they have said they cannot drill on the Louisiana offshore lands; and now we have an independent study of the Atlantic Outer Continental Shelf, which is not even covered by this bill. This bill covers the territorial seas; it does not cover the Outer Continental Shelf. But this says someone has proposed that they ought to examine the feasibility of the Outer Continental Shelf of the Atlantic Coast to determine whether there is any energy there.

I can understand the fears that have come about as a result of the accidents off of California, and the fears of the people in Louisiana; but somewhere they have got to make up their minds that we have to find energy, American energy to meet American needs. This seems to me to be going in the wrong direction, because it adds to the functions of the Administrator of the EPA, it adds to the Council on Environmental Quality, it adds to the National Oceanic and Atmospheric Administration, and it adds to the existing duties to the Secretary of the Interior, and presumes every one of them are prejudiced. I cannot buy that at all. I cannot buy that they are prejudiced.

If there is some way, I say respectfully to the Senator from Rhode Island, that we can incorporate this into the framework of the National Academy of Sciences so that they can conduct an investigation of the total potential of the Outer Continental Shelf in the Atlantic, and not just look at the hazards attendant to the drilling, I will not object. I think they ought to be looking into the total concept of the Outer Continental Shelf. This is a negative thing, as far as I can see. I say that most respectfully to the Senator from Rhode Island.

Mr. PELL. Mr. President, if the Senator will yield there, I thought it was the wish of the Senator from Alaska and those who share his views that we delete the phrase in the amendment "as well as alternatives to such drilling in meeting the Nation's energy needs," because the original amendment which I offered did just what the Senator has suggested. It was wider in scope, however, I thought it was disagreeable to him. If he would prefer that we widen it, I would withdraw my modification.

Mr. STEVENS. I thank the Senator for his suggestion. However, that is not my point. It was suggested, I believe, by members of the Interior and Insular Affairs Committee. I understand what they are saying, because if we get into those alternatives, this study is not going to be conducted solely off the Atlantic coast but also off the Pacific coast, off the gulf coast, and everywhere else.

I am saying that if a Senator wants the National Academy of Sciences to undertake the investigation of the environment, including the environmental problems related to the concept of offshore drilling on the Outer Continental Shelf, I should think the National Academy of Sciences also ought to be in the position of telling us if there is any way to mitigate the hazards that might come about, and if there is any way to drill safely in the Atlantic Outer Continental Shelf. Why should we adopt an amendment which presumes that it could not be done without creating a hazard to the Atlantic Outer Continental Shelf?

I know that there are problems in connection with drilling offshore. Every time I travel home, I fly over platforms in the Cook Inlet. Those platforms are pumping oil to be sent to the industrial establishment of this country, basically. If we pump oil from our Cook Inlet, which is full of salmon, and we have taken the attendant risks of energy production for the good of the Nation, then I think the people on the Atlantic coast have to look at this, also. Where is the oil going to come from? They have to look at it from the positive point of view of whether we can get oil out of the Atlantic Outer Continental Shelf safely. Are there methods by which we can extract it without creating unwarranted hazards to the people on the Atlantic coast?

This assumes that someone should make a full investigation of the environmental hazards attendant to this study. What about the positive side? Does the Senator not think that the National Academy of Sciences could say what could be done to overcome the hazards?

Mr. PELL. If the Senator from Alaska would like to modify the amendment by inserting that phrase, it would be acceptable, or he may prefer the amendment as originally submitted.

Last Friday, in Boston, I had the honor of addressing a thousand people interested in the marine and fishing industry, fishery resources, from all over the country. Those on the Atlantic coast had very real worries about the impact of offshore oil drilling, and it was brought up time and again in the course of the discussion.

The amendment simply proposes a study by an independent group. Such a study could do a great deal to help settle the fears in the minds of many people in my part of the country.

Mr. STEVENS. I appreciate that concern. My State is the richest State in terms of fishery resources. We have the constant problem in terms of difficulties in developing other resources at the same time we examine the energy resources off shore.

The courts have said that this Nation cannot develop the Louisiana offshore leases at this time. The California development is stalled. At the present time we have been stalled in the development of Alaska's oil and gas resources. Yet, we have declining energy resources throughout the interior of the United States.

Naturally, anyone in the position of looking at this energy deficit—which is not just creeping but which is overcoming us almost at the speed of a rocket—is looking at the Atlantic Outer Continental Shelf and saying, “Is it possible that there are oil and gas resources that could be recovered without undue risk to the United States?” If the Senator wants to study it from the positive point of view, in terms of whether or not oil and gas resources are there and can be recovered safely. I am in agreement.

Mr. PELL. I assure the Senator from Alaska that we, too, have needs for power in the Northeast. We find ourselves crucified by the oil import quota, system now, which prevents us from purchasing inexpensive foreign fuel oil. We have a stake in trying to get cheap power. We have the most expensive power in the country because of the crucifixion of our part of the country on the cross of oil import quotas.

I hope that, just as the Senator from Alaska wanted a study concerning his area, the Senator from Alaska could agree, as a matter of comity, that this study be made for our part of the country.



Mr. STEVENS. I assure the Senator that I do not have any objection if he wants to have a study made. I think the National Academy of Sciences should be directed also to include in its study recommendations as to how to overcome such hazards, if they find there are any.

Mr. PELL. Such a modification of the amendment would be acceptable to the proponents of the amendment, if the Senator would care to offer it.

Mr. STEVENS. I suggest to the Senator from Rhode Island that he add to the end of the first sentence the words "and shall include recommendations to eliminate such environmental hazards, if any." That would meet my objection.

Mr. PELL. That modification would be acceptable to us, if the Senator would care to offer it.

Mr. STEVENS. I offer such a modification.

Mr. PELL. I can modify the amendment, and I modify it accordingly.

The PRESIDING OFFICER. The Senator has the right to modify the amendment.

Mr. STEVENS. I send the modification to the desk.

I say to the Senator from Rhode Island that, as far as the import quota is concerned, we are most aware of the concern of the east coast about the import quotas and their effect on the east coast.

I point out to the Senator from Rhode Island that if we could proceed with our Alaska pipeline and add 3 million barrels a day to the supply of American oil reaching American markets, it would automatically displace 3 million barrels a day that presently are going into the markets on the west coast and in the Midwest, and under the present import system there would be an additional supply of oil so far as the east coast is concerned. But I am becoming most concerned that the people who look at each segment of the country, whether it be Louisiana, California, or the Atlantic Outer Continental Shelf, just look at their own backyard and say, "Do not drill here, but give us some energy and give it to us quickly." We have an energy shortage, while at the same time we try to develop the oil shale reserves of Colorado and Wyoming, and we cannot do it due to environmental concerns. We cannot even build a pipeline across the State of Alaska

We have been waiting for 2 years.

I think it is time that we started questioning the addition of more environmental barriers to the decisionmaking process of where the oil and gas supplies for our country are going to come from.

I am not going to oppose the amendment, and I appreciate his courtesy in modifying it to meet my objection. I say to the Senator from Rhode Island, respectfully, that even without this amendment, the Administrator of the Environmental Protection Agency would have studied offshore drilling. The Council on Environmental Quality would have studied offshore drilling. The Secretary of Interior would have had to have an environmental impact hearing, a total hearing—and the thousand people to whom the Senate referred could express their views. But someone would have to make a decision on a proposed project. There is no proposed project at the present time, and the National Academy of Sciences is going to be investigating the potential without anyone being willing to commit himself and say, "If we are going to do it, this is the way we want to do it."

I thank the Senator from Rhode Island for his courtesy.

The PRESIDING OFFICER. Does the Senator from Rhode Island desire the modification of the amendment stated?

Mr. PELL. Yes. I ask that my amendment be modified in line with the suggestion of the Senator from Alaska.

The amendment, as further modified, reads as follows:

On page 26, after line 19, insert the following:

SEC. 316. (c) The Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce, after consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall enter into appropriate arrangements with the National Academy of Sciences to undertake a full investigation of the environmental hazards attendant on offshore oil drilling on the Atlantic Outer Continental Shelf. Such study should take into consideration the recreational, marine resources, ecological, esthetic, and research values which might be impaired by the proposed drilling and shall include recommendations to eliminate such environmental hazards, if any. A report shall be made to the Congress, to the Administrator, and to the Secretary by July 1, 1973.

There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next fiscal year thereafter such sums as may be necessary to carry out this section, but the sums appropriated may not exceed \$500,000.

Mr. HOLLINGS. Mr. President, I would support the amendment as modified.

While the matter of the study by the National Academy of Sciences is a new approach, the matter of study generally, relative to oil exploration on the Continental Shelf, is not new. This subject came up with respect to sanctuaries and oil pollution in the National Water Quality Control Act which is in conference. We are talking about a half-million-dollar study. The Committee on Interior and Insular Affairs expended \$400,000 to \$500,000 in doing that. It made its own study and held its own hearings at that particular time. The Secretary of the Interior reported in the press that he had no intention to grant any lease rights within the next 2-year period pending his study and intimating at that time a private study. Whatever the results would be, they would be submitted to Congress, particularly to the Senate by the Committee on Interior and Insular Affairs. If the study by the National Academy of Sciences arranged by the National Oceanic and Atmospheric Administration of the Department of Commerce in conjunction with the Interior Department and the Environmental Protection Agency would be of help, I would support it. It would certainly give more support and more credibility to the ultimate proposals on this all-important score and, therefore, I would go along with the amendment, with those comments.

Mr. MOSS. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I yield.

Mr. MOSS. Mr. President, I would be pleased to support the amendment. When the Senator from Rhode Island (Mr. Pell) was discussing the original wording it was necessary, I thought, to point out that the line included therein, which called upon the study to suggest alternatives to such drilling in meeting the necessary energy needs, was duplicative of work already being done in the National Fuels and Energy Study being conducted by the Committee on Interior and Insular Affairs pursuant to Senate Resolution 45. Moreover, since the State coastal zone management programs relate only to the territorial

sea, we should therefore, be very careful of a study which extends beyond the territorial sea to encompass the Continental Shelf. I agree that the amendment, as modified and the additional language which has since been added, merely asks for recommendations as to how to preserve the environmental quality of the coastal zone and the nearby ocean areas. I have no objection to that. Everyone else seems to be in the act studying the environment, so it would be fine to have this study made by the National Academy of Sciences.

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

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

Mr. ROBERT C. BYRD. May I ask the distinguished manager of the bill whether it is his intention to ask for the yeas and nays on final passage of the bill?

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays just on final passage.

The yeas and nays were ordered.

Mr. BOGGS. Mr. President, the bill, S. 3507, represents the fruits of a cooperative effort involving the Commerce and Public Works Committees. I think the members of the committees and the respective staffs are to be complimented for working together in bringing this matter to the Senate.

Upon giving S. 3507 its final review, the Committee on Public Works has recommended three very short, but important, amendments to keep the coastal zone bill in harmony with other pollution control legislation which had its origin in the Public Works Committee. These amendments have been discussed with the staff of the Commerce Committee and Senator Hollings and it is my understanding they are acceptable.

I think it is appropriate to give a brief description of each of these amendments and their purpose.

As stated in S. 3507 the purpose of the coastal zone management plan is primarily to regulate land and water uses in the interests of environmental quality. Pursuant to the Federal Water Pollution Control Act, the States, working together with the Federal Government, develop and implement programs necessary to achieve water quality objectives. In order to avoid confusion it is necessary to define water uses in the context of S. 3507 so that the program which will be developed by the Secretary of Commerce and State agencies will in no way conflict or overlap with the program administered by the Environmental Protection Agency in concert with State governments. The amendment proposed would define "water use" to make it clear that the coastal zone management bill in no way alters the requirements established pursuant to the Federal Water Pollution Control Act but rather that such requirements are incorporated into the coastal zone program. The scope of the Federal Water Pollution Control Act and the Coastal Zone Management Act are therefore defined and made compatible and complementary.

Another amendment is also necessary to make clear the relationship of the Coastal Zone Management Act and other environmental protection acts, specifically the Federal Water Pollution Control Act and the Clean Air Act. It is essential to avoid ambiguity on the question whether the Coastal Zone Management Act can, in any way, be in-

terpreted as superseding or otherwise affecting requirements established pursuant to the Federal air and water pollution control acts.

In both the Clean Air Act and the Federal Water Pollution Control Act authority is granted for effluent and emission controls and land use regulations necessary to control air and water pollution. These measures must be adhered to and enforced. Taken together, the amendments that we offer would achieve this results.

The bill, S. 3507, would establish a Federal Board to assist in coordinating the activities of various agencies of the Federal Government in meeting the objectives of coastal zone management. Perhaps through oversight the Administrator of the Environmental Protection Agency is not made a member of that Board. The third amendment, which I offer for the Public Works Committee, would add statutory membership for the Administrator of the Environmental Protection Agency.

In our judgment, it is absolutely essential that the Administrator of the Environmental Protection Agency, the primary official for environmental quality in the executive branch, be included in any activity dealing with environmental quality, especially environmental quality relating to land and water use. Among other things, this addition would make meaningful the preservation of authority under the Clean Air Act and the Federal Water Pollution Control Act as proposed in the other amendments. At the same time it would result in close coordination in implementing the objectives of the Coastal Zone Management Act.

Mr. President, I send the three technical amendments to the desk and ask that their reading be dispensed with.

Mr. EAGLETON (the presiding officer). Without objection, it is so ordered; and the amendments will be printed in the record at this point.

The texts of the three amendments are as follows:

On page 24 between lines 17 and 18 insert the following new subsection:

"(e) Notwithstanding any other provision of this Act nothing in this Act shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this Act and shall be the water pollution control and air pollution control requirements applicable to such program.

On page 17 between lines 22 and 23 insert the following new paragraph:

"(10) The Administrator of the Environmental Protection Agency.

On page 7 between lines 6 and 7 insert the following new subsection:

"(b) 'water use' means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except as such standards or criteria or regulations shall be incorporated in any program as provided by Sec. 314 (e).

Mr. BOGGS. Mr. President, I understand that these amendments will be accepted by the distinguished floor manager of the bill.

Mr. HOLLINGS. Mr. President, substantially, the three amendments include on the one hand the Administrator of the Environmental Protection Agency on the National Coastal Resources Board, and then spells out that, notwithstanding any other provision of the act, the provisions of the Water Pollution Control Act or the Clean Air Act shall govern. We are not trying in this particular measure to set any standards. As the third amendment says, we are not trying to spell

out any criteria or regulations as encompassed in this one act. In fact, we have tried to protect the Federal Water Pollution Control Act as we have it now in conference. It is a tenuous thing to try to touch on coastal zones and on the matter of water use and then say in the development of coastal zones that they not be given any consideration. We think water use should be considered, among other things, and we do not think we should try, and do not try, to preempt in any manner or means the provisions of either the Federal Water Pollution Control Act or the Clean Air Act which we are supporting in conference with the House. Therefore, I would be glad to accept the amendments.

Mr. BAKER. I would like to have the understanding of the floor manager of the bill as to the intent of these amendments because this is the only opportunity we will have to make any legislative history and elaborate upon congressional intent.

I wonder whether the Senator from South Carolina would agree with me that the amendment which provides, and I quote in part:

"Such requirement shall be incorporated in any program developed pursuant to this Act and shall be the water pollution control and air pollution control requirements applicable to such program" means "the" water pollution and air pollution control requirements, including State and local requirements pursuant to the Federal Clean Air and Water Acts to the exclusion of any other requirements? What I am saying is that the word "the" as used in "and shall be the water pollution control and air pollution control requirements," the word "the" for our purposes of emphasis, would be underscored to mean exclusive of any other pollution control program; is that not correct?

Mr. HOLLINGS. That is my understanding. That is perfectly clear. That is the intent of the bill.

Mr. BAKER. I thank the manager of the bill. That is a helpful addition to the legislative history. I am happy to support the amendments as offered by the distinguished Senator from Delaware, Mr. BOGGS.

Mr. STEVENS. Mr. President. I want to make certain I understand correctly the answer of the Senator from South Carolina to the Senator from Tennessee, Mr. BAKER.

Do I understand correctly that the effect of the amendments offered on behalf of the Public Works Committee will be such that the State and local government which presents a plan to the Secretary pursuant to our Coastal Zone Management Act would refer to the standards of criteria and regulations that are in effect at that time under the Federal Water Pollution Control Act or the Clean Air Act? Is that the understanding of the Senator from Tennessee?

Mr. HOLLINGS. Including any other amendments made to the substance of the legislation, the Water Pollution Control Act or the Clean Air Act. In other words, this is not a pollution control or clean air control measure. This is a coastal zone management bill. I think—if we could conceive of both measures, in the development of the coastal zones regulations for air and water pollution—that they are both concerns of both measures. But where they could be, I cannot imagine in this bill there could be a conflict with the substance of the Water Pollution Control or Air Pollution Control Acts. They would govern, and some programs approved by the Governor and amended, amended from time to time by the Governors and the Department of Commerce for coastal zone management have got to conform to the Water Pollution Control and the Clean Air Acts.

Mr. STEVENS. Mr. President, I understand the comment of my good friend, the Senator from South Carolina. In the event a State or local government intends to increase these standards—and we have testimony that some desire to do this—and they present a plan which is more stringent than the controls and criteria contained in either of these two acts, then I am assuming that we are providing in the amendment that it must be at least equivalent to the criteria established in the two acts. Is that correct?

Mr. HOLLINGS. The basic Water Pollution Control Act permits that as of now.

Mr. BAKER. Mr. President, if the Senator from South Carolina would yield, the Senator from Alaska made reference to my previous comment.

Mr. HOLLINGS. I yield to the distinguished Senator from Tennessee.

Mr. BAKER. Mr. President, I think that the amendment from which I read in part does provide that the effect would be to include any future amendments to the Federal Water Pollution Control Act or the Clean Air Act.

As a matter of fact, I will read the first clause from subsection (e) of the third amendment:

Notwithstanding any other provision of this Act, nothing in this Act shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended. . . .

I think clearly this language is intended to include any future amendment, including S. 2770, the 1972 amendments to the Federal Water Pollution Control Act, which is now in conference. I think, from my vantage point and from my understanding of it, the answer to the question put by the Senator from Alaska as to whether a local jurisdiction, State, or local agency might require standards in excess of those spelled out in the act, is yes; it is clearly provided for under the Federal Water Pollution Control Act and the Federal Clean Air Act. The amendment would provide that such more stringent standards or requirements would be made a part of the coastal zone management program.

So, not independently, nor by reason of this amendment, but by reason of authority already in the Federal water and air pollution acts, local authorities could require standards in excess of Federal criteria.

The important thrust of these amendments, as I understand them, and as I understand the Senator from South Carolina to express his sense of that understanding, is to make sure that regulatory requirements under the air and water acts are the ones included in the coastal zone program under this act and not some other separately established requirement.

Mr. HOLLINGS. The Senator is correct.

Mr. STEVENS. Mr. President, I understand the Senator from Tennessee. However, I want to make certain that the Water Control and Clean Air Act requirements contained in this plan may exceed the requirements set out under the two Federal laws.

Mr. BAKER. Mr. President, my answer is yes, that authority is in both of those acts. This does not change it but incorporates it into this coastal zone program.

Mr. HOLLINGS. So long as it does not increase the authority of the Federal Government.

Mr. STEVENS. I thank the Senator.

Mr. BAKER. Mr. President, I serve on three committees of the Congress which have important jurisdiction over areas of environmental quality; the Committee on Public Works, the Committee on Commerce, and the Joint Committee on Atomic Energy. As a result of my experience in these committees I have a growing concern with the lack of coherence and integration of the environmental quality laws and the regulations. It is my belief that we are rapidly approaching the time when we must look at the environmental protection laws Congress has enacted in their totality, and perhaps intergrate all of the laws and regulations that presently exist into a more coherent body of procedural and substantive law.

In the interim Congress should not act to further confuse the scope of environmental laws and regulations, especially by enacting mandates to different agencies of the Government to perform the same or parallel activities.

The bill S. 3507, coastal zone management, without the amendments recommended by Senator Boggs, would have this effect. In the Federal Water Pollution Control Act, especially as it would be amended by S. 2770, the Congress has enacted an elaborate scheme for the control of water pollution and the achievement of water quality. Good government dictates that this must be the vehicle for the regulation of water quality. We should not enact additional statutes directing other agencies of Federal and State Governments to perform overlapping and possibly conflicting tasks through an elaborate scheme of their own.

In addition to causing confusion and waste, such action would operate at great disadvantage to those who seek to comply with the law. In addition to increasing procedural costs, such action would create a climate of uncertainty which ultimately leads to poor performance. The public expects more from its government.

I therefore support these amendments.

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

The amendments were agreed to.

Mr. BOGGS. Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be reported.

The assistant legislative clerk proceeded to state the amendment.

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

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

The amendment reads as follows:

On page 24, after line 17, add a new subsection (e) :

“(e) (1) That Congress finds that consideration is being given to the construction beyond the territorial sea off the coast of the United States of ship docking, electric generating, and other facilities. Since adjacent coastal States might be adversely affected by pollution from such facilities. It is hereby established as Federal policy to require approval of any States which may be so affected before any such facilities are constructed.

(2) Notwithstanding any other provision of this Act, no Federal department or agency shall construct, or license, or lease, or approve in any way the construction of any facility of any kind beyond the territorial sea off the coast of the United States until (1) such department or agency has filed with the Administrator of the Environmental Protection Agency, a complete report with respect to

the proposed facility; (2) the Administrator has forwarded such report to the Governor of each adjacent coastal State which might be adversely affected by pollution from such facility; and (3) each such Governor has filed an approval of such proposal with the Administrator. Any Governor who does not, within ninety (90) days after receiving a report pursuant to this subsection, file an approval of the proposal in such report shall be considered for the purpose of this subsection to have approved such proposal."

Mr. Boggs. Mr. President, I am offering an amendment that will assure our coastal States a meaningful role in the location and design of any offshore oil transfer station that might be constructed to serve the so-called "supertankers."

The amendment would add a new subsection (e) on page 24 of the bill. The new subsection would be at the end of section 314, "Interagency Coordination and Cooperation."

A number of Federal, State, and other studies are currently underway to evaluate the need and potential sites for one or more major bulk cargo transfer stations. Such stations will be needed if the United States is to receive the economies of scale offered by supertankers, whether transporting oil or other bulk commodities.

Present harbors, I am told, cannot handle such vessels because the channels simply cannot be dredged to a sufficient depth. The solution may involve offshore terminals, where the supertankers could pump their cargo into storage tanks. From those tanks the oil could be piped ashore in underwater pipelines, or transferred to barges or smaller tankers.

The Maritime Administration, through a contract with Soros Associates, is in the process of evaluating the feasibility of such offshore terminals, as well as possible sites for such terminals. This study, I understand, is to be made public in a month or two.

At the same time, the Army Corps of Engineers is undertaking, under Senate resolution, similar studies, one of which covers the coast from Maine to Virginia.

In any case, it is expected that the Federal studies may recommend sites outside the 3-mile territorial limit of the United States. Such sites, of course, would place these facilities in the contiguous zone, or in international waters on the Continental Shelf. If that were so, of course, the facility would be outside the jurisdiction of the neighboring States.

Yet, the coastal zones of these neighboring States could be severely and adversely affected by pollution that might come from such an offshore facility.

While such a pollution discharge would be subject to the cleanup provisions of the existing Federal Water Pollution Control Act, this might be insufficient protection for the coastal States. Rather than protecting a State and its coastal zone subsequent to a discharge, I believe it is important that the affected States play a meaningful role in the plan to construct such a facility.

And such a facility will be of mammoth proportions. It will, of course, cover many acres of the ocean. It may permanently affect tidal currents and the quality of fisheries within the coastal zone of the State.

The amendment I am offering today would require that any Federal agency constructing, leasing, or issuing a permit for the construction of such facilities must obtain the concurrence of the Governor or



Governors of the States that would be potentially affected by such a facility.

The amendment would require the Administrator of the Environmental Protection Agency to study such facilities and report on such facilities to any State that is potentially affected adversely.

For example, a State would be affected adversely if such a facility might discharge pollutants that enter the waters of the State. Or the State might be affected adversely if the facility could be seen from the coastal area or the waters of the State and damage recreational values.

In either case, the Governor must affirmatively concur in the construction of the facility within 90 days of the EPA report to him. The Governor may report adversely. If he does, the facility could not be built, licensed, leased, or permitted. If the Governor did not report back within 90 days, it would assumed that he concurred in the facility.

Mr. President, I hope that the distinguished chairman, the floor manager of the bill, might consider accepting the amendment.

Mr. HOLLINGS. Mr. President, in response to the thrust of the particular amendment and the leadership on this point given by the distinguished Senator from Delaware, I would personally think this is a good amendment.

Mr. President, you can read it and see that, but I meet myself coming around the corner. We started out this morning with last minute concerns by my colleagues that we might infringe on an area of jurisdiction of the Committee on Public Works. I assured everyone in my discussion that we were trying to finally and once and for all establish a coastal zone management program to give financial assistance to the States in the development of these programs, and that is all this bill pertains to; that we were restricting it, in other words, to the territorial sea.

The amendment of our distinguished friend from Delaware goes beyond the territorial sea and goes into what we agreed on and compromised on awhile ago. It goes beyond any territorial sea to construction of any facility on the ocean floor, into what we call a contiguous zone from the 3-mile limit to the 12-mile limit.

This amendment provides the Governor would have a veto over such matters. I do not think the Senate wants to go that far. The amendment comes without public hearing and full consideration, which we have not had the benefit of.

While I had discussed earlier this morning with the distinguished Presiding Officer that the Committee on Public Works have a chance to hear this matter, I believe the Committee on Interior and Insular Affairs and the Committee on Commerce should have an opportunity to go into the matter before it is ruled on.

Therefore, Mr. President, I would have to oppose the amendment.

Mr. MOSS. Mr. President will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. MOSS. Mr. President, I would point out that the Committee on Interior and Insular Affairs is very deeply concerned with this matter and is making a study of it now. In fact, this very afternoon, starting at 2 p.m., we are having public hearings dealing with deepwater harbors and tankers. The matter is therefore in process.

Therefore, I hope very much the Senator from Delaware will not press his amendment but permit us to go through the legislative process and report a bill to the floor dealing with this matter, based on hearings, at which time he well might wish to modify or suggest amendments. It would be germane at that time, rather than now, as this bill attempts to deal with the Territorial Sea, not the Outer Continental Shelf.

Mr. BOGGS. Mr. President, will the chairman yield further?

Mr. HOLLINGS. I yield to the Senator from Delaware.

Mr. BOGGS. Mr. President, I appreciate the very kind and generous remarks of the distinguished chairman of the subcommittee and the manager of the bill, and also the remarks of the distinguished Senator from Utah, Mr. Moss, who is chairman of the hearings just referred to. I am happy that these hearings and studies are continuing. I believe and hope they will shed full light on this important subject so that the Senate can give the fullest consideration in light of these hearings and further studies.

Mr. President, with the chairman's permission, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment. The amendment is withdrawn.

Mr. BOGGS. Mr. President, I thank the distinguished chairman, the Senator from South Carolina, Mr. Hollings, and the Senator from Utah, Mr. Moss.

Mr. Moss. If the Senator from Delaware is available, we would like to ask him to come and participate in the hearings.

Mr. BOGGS. I thank the Senator.

Mr. HOLLINGS. Mr. President, to complete the record on this particular score, when I talked in terms of jurisdiction, I talk not in terms of exclusivity in that any one committee was concerned with the problems of offshore development and related ocean pollution. The Committee also is deeply concerned. The fact is that yesterday the Maritime Administrator, before the Committee on Appropriations, in trying to pursue the administration's ship construction measures and develop a maritime policy, was talking about construction of supertankers. When we originally talked about the bill, it was 30 ships a year for 10 years, some 300 vessels. Now, rather than 40,000 and 50,000 tonners we are going to 200,000 and 400,000 tonners and rather than 30 ships a year for 10 years we will have 60 or 70 supertankers, and where are they going to dock when they have in excess of an 80-foot draft? They could not come in on the east coast of the Gulf of Mexico. So we in the Commerce Committee and Appropriations Committee were talking about what the Senator from Idaho is discussing, the development of offshore landing facilities.

The Senator from Alaska has been pointing out this morning that we will need such development for nuclear powerplant siting, for offshore loading, both coal and oil, and other supertankers. Of course, the FAA is considering this approach in the development of offshore airports.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. STEVENS. Mr. President, I have an amendment at the desk. First, I wish to note what the Senator has said.

Coming from a State which hopes to be filling some of these super-tankers to send American oil to foreign markets, we want to make certain that the desires of the Senator from Delaware are fulfilled, and that there is absolute safety in any one of these terminals offshore. We would be the first to lose if someone made a mistake and did not require absolutely safety in those facilities. I assure the Senator I will work with him to make certain the role of the State in supervising this construction and eliminating any hazards or esthetic barriers to the development that will be needed is taken care of.

Mr. BOGGS. Mr. President, I especially thank my good friend, the Senator from Alaska. I know and value his interest in these matters and I appreciate the remarks that he just made. It is reassuring to the people of our State and to all concerned.

While I am on my feet I take this opportunity to compliment my good friend, the distinguished chairman of the subcommittee and the manager of the bill, Mr. Hollings, the Senator from Alaska, Mr. Stevens, and other members of the committee for the fine job they have done in the past several months in studying and bringing forth this legislation. They have done a fine job and they and the fine members of the staff are to be congratulated.

Mr. STEVENS. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 10 between lines 6 and 7 and on page 15, between lines 12 and 13, insert the following:

(i) The Secretary is authorized to make management program development or administrative grants to a political subdivision of a State with areawide powers, if the Secretary finds that the State has not developed a management program required by section 306 of this title, provided that if the State completes such a program the authority of this subsection shall terminate with regard to any political subdivision of such State.

Mr. STEVENS. Mr. President, I did not make the usual request to stop the reading of the amendment, because it is short and addresses a point that was raised by the chairman of the largest political subdivision of my State, which is the Greater Anchorage Borough, which completed a plan that would set up this program. The State has not done so.

In an area such as ours, with a coastline equal to more than half of that of the continental United States, it will take time, and this will assure the political subdivision of my State, which prepared such a plan, that they could receive financial assistance from the Secretary until the State completes its plan. I have discussed this matter with the distinguished chairman of the committee and he has stated he will be able to accept the amendment so that the Greater Anchorage Borough plan may proceed under this act.

Mr. HOLLINGS. Mr. President, I join with the Senator from Alaska on this amendment. The committee is glad to accept this particular amendment because it strengthens the bill and fills the gap pointed out by the Senator from Alaska, where we just do not want to move forward with development, and we do not want to tie our hands so that progress cannot be made, particularly for an important State like Alaska, which has the biggest coastal area and is more directly concerned than any of the several States.

So I move the adoption of the amendment.

Mr. STEVENS. I thank the Senator.

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

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I think there is only one remaining amendment, by my distinguished colleague from the State of Virginia, Mr. Spong, who has been very active on the Subcommittee on Oceans and Atmosphere and has worked on the coastal zone issue. We visited the Virginia Marine Sciences Center and got many of our ideas firsthand there, not only for the need, but the proper approach for the Federal Government to employ and profit from the experience to date in his native State.

I think we have one more amendment that he will offer, and after that we will be prepared to vote on final passage.

Mr. SPONG. Mr. President, I thank the distinguished Senator from South Carolina.

Shortly before the Commerce Committee voted to report this bill, it occurred to me that the measure might have a prejudicial effect upon the matter of United States against Maine, et al. The United States in this case is seeking a determination of rights in all the lands and natural resources of the bed of the Atlantic Ocean more than 3 geographical miles from the coastline. The Federal action, against the 13 Atlantic coastal States, is in the nature of a suit to quiet title.

I have requested the views of Virginia Attorney General Andrew P. Miller on this matter, and have received three suggested amendments from him which I intend to offer. I hope the distinguished Senator from South Carolina will find it possible to accept the amendments, the sole purpose of which is to assure that the bill will have no prejudicial effect upon the litigation.

I might say to the Senate and to the Senator from South Carolina that the staffs of the Commerce Committee and of the Committee on Interior and Insular Affairs reviewed these amendments.

The PRESIDING OFFICER. Does the Senator wish to send his amendments to the desk?

Mr. SPONG. I send the amendments to the desk.

The PRESIDING OFFICER. The clerk will please read the amendments of the Senator from Virginia.

The assistant legislative clerk read the amendments, as follows:

On page 5, line 14, insert the following: strike "United States territorial seas." and insert the following: "legally recognized territorial seas of the respective coastal states, but shall not extend beyond the limits of State jurisdiction as established by the Submerged Lands Act of May 22, 1953, and the Outer Continental Shelf Act of 1953."

On page 23, line 20, insert the following: a comma after "resources" and insert the following "submerged lands"

On page 23, line 17, insert the following: strike "section" and insert the following: "Act"

The PRESIDING OFFICER. Does the Senator from Virginia desire to have the amendments considered en bloc?

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

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. HOLLINGS. Mr. President, I support the amendments. We have been trying to reconcile the amendments so that we would not interfere with any legal contention of any of the several States at the present time involved in court procedures. At the same time we wanted to make certain that Federal jurisdiction was unimpaired beyond the 3-mile limit in the territorial sea. If we do not go beyond that, I think these amendments take care of it.

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

Mr. HOLLINGS. I yield.

Mr. BOGGS. Mr. President, I wish to express my support for the distinguished Senator from Virginia, Mr. Spong. This amendment will insure that this legislation in no way prejudices the present consideration by the courts of a case involving State rights over the seabed. I believe this amendment is important, and I commend the Senator for this amendment.

Mr. SPONG. I thank the Senator from Delaware.

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

Mr. SPONG. I yield.

Mr. MOSS. I simply wish to say that the amendment offered by the Senator from Virginia is very acceptable from the viewpoint of the Interior and Insular Affairs Committee in relation to the National Fuels and Energy Study which our committee has undertaken. This makes clear that this bill focuses on the territorial sea or the area that is within State jurisdiction, and preserves the Federal jurisdiction beyond, which is not to be considered or disturbed by the bill at this time. If we want to do something about that later, we will have another bill and another opportunity.

I am, therefore, very happy to support the amendment offered by the Senator from Virginia.

Mr. SPONG. Mr. President, I am very pleased that the Senator from Utah has made this expression. Members of the Interior and Insular Affairs and the Public Works Committees, the Senator from Delaware and the Senator from South Carolina, have agreed to accept the amendment.

The PRESIDING OFFICER. The question is on adopting, en bloc, the amendments of the Senator from Virginia.

The amendments were agreed to en bloc.

Mr. HOLLINGS. Mr. President, if there are no other amendments to be offered, I have one final amendment to offer, which I send to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be read?

The assistant legislative clerk read the amendment, as follows:

On page 2, line 6, insert the following: Strike the word "National" and insert "Magnuson."

Mr. HOLLINGS. Mr. President, on line 2, page 6, we entitle the bill the "National Coastal Zone Management Act of 1972." The intent of this amendment, of course, is to call it the "Magnuson Coastal Zone Management Act of 1972." All of our colleagues have been personally indebted to the contributions made by many Senators, including the Senator from Delaware, in the coastal zone management bill some 3 years ago, on which we had hearings. The Senator from Alaska has given outstanding leadership to this particular measure. The senior Senator from New Hampshire, Mr. Cotton, has been very helpful.

But in going over the record of the past 12 years, the reason this bill, as controversial as it is in nature, has gone through the floor so smoothly this morning has been due to the leadership of the distinguished Senator from Washington, Mr. Magnuson. Some 12 years ago he started in this particular field. It was under his leadership, in the mid-1960's, that he introduced legislation instituting the Commission on Marine Sciences, Engineering, and Resources, resulting in the Stratton Commission report. It was under his leadership that the temporary Oceanographic Subcommittee was established and the Oceans and Atmosphere Subcommittee was instituted as a standing subcommittee under his Committee on Commerce, and through the past 2½ years now, we have had hearings and different discussions with respect to moving forward in this particular field. It was the Senator from Washington who gave us the leadership, spreading oil on troubled waters, and we finally got a bill. I wish to mention his role as chairman of the Subcommittee on Health Appropriations, which encompassed hearing some 427 witnesses. I do not see how an individual chairman can listen that long and not abolish the whole Department, but he has given leadership there.

He had an executive session this morning. He had other witnesses scheduled. Rather than try to be here, after he had worked out his language, he went forward with those witnesses.

I think this body would like to recognize his leadership in this field, and I hope my colleagues will join in supporting the amendment.

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

Mr. HOLLINGS. I yield.

Mr. BOGGS. I hasten to join in this amendment. I am privileged to serve on the Appropriations Subcommittee the Senator referred to, under the leadership of the Senator from Washington, Mr. Magnuson. I think the Senator's remarks have been most appropriate. I wish to join in those comments.

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

Mr. HOLLINGS. I yield.

Mr. STEVENS. I, too, join the chairman of the subcommittee on this amendment. Those of us who know our neighbor to the south, the Senator from Washington, well realize how the chairmen of the subcommittee and the full Commerce Committee worked. An article I recently read said, "What Maggie wants, Maggie gets." "Maggie" has been a big help in this area. He has pursued for many, many years his great interest in our State. He was once referred to as the Senator from Alaska, as the senior Members of this body will recall, because we had no Senator, then, and he took care of the territory of Alaska as well as the State of Washington, and has done it well. Thus I think it is fitting testimony that the subcommittee chairman has made this suggestion.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina, Mr. Hollings.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I am pleased to both cosponsor and vote for the passage of S. 3507, the National Coastal Zone Management Act of 1972.

The ocean front is the single most valuable natural resource in California. The bulk of the State's population is concentrated within a few miles of the sea, and its impact upon the people's way of life is great. But the California coastline is shrinking rapidly as demand for its values increases and as public access to attractive frontage decreases. Undeveloped shoreline, including bays, estuaries, and salt water marshes, can no longer be regarded as ordinary real estate subject to residential or commercial-industrial development.

In California, coastal and seaward areas must be protected for present and future generations. The ecologically rich Kelp Forests, for example, which grow from 100 to 1,000 feet off shore must be protected. Kelp was once prevalent along the entire California coast, but sewage, pesticides, industrial wastes and thermal pollution have greatly reduced this forest to a mere 18 square miles. For scientific, economic, and ecological reasons, as well as scenic and recreational considerations, this remarkable oxygen producing plant must be allowed to make a comeback.

Only prompt and bold action can protect the quality of one of the world's most spectacular shorelines from further deterioration.

S. 3507 is an important first step in that it encourages and assists the various States in preparing and implementing management programs to preserve, protect, develop, and restore the resources of the coastal zone of the United States. This bill authorizes Federal grants-in-aid of up to 66⅔ percent to coastal States to develop coastal zone management programs. In addition S. 3507 authorizes grants to help coastal States implement these management programs, once approved by the Secretary of Commerce, and States would be aided for up to 50 percent of the costs in the acquisition and operation of estuarine sanctuaries.

In fiscal year 1973 the bill authorizes \$12 million for management program development grants, not to exceed \$50 million for administrative grants and \$6 million for estuarine sanctuaries grants.

Dr. Joel Hedgpeth of Oregon State University makes the following very tragic comment with regard to the acquisition and preservation of estuarine sanctuaries in California.

In southern California, for example, there is nothing left. In northern California, Tomales Bay, which might not fit some definitions, is an ideal candidate because of the 10 years of study that has been carried out there and the circumstances that one entire shore (almost) is within control of the Point Reyes National Seashore. There are some interesting lagoons in northern California, just north of Eureka.

Clearly we are already too late. We must act quickly to begin to save what is left of our coastline and to attempt to restore past despoliation.

Recently the Institute of Governmental Studies at the University of California at Berkeley published a book entitled "California's Disappearing Coast: A Legislative Challenge" by Gilbert E. Bailey and Paul S. Thayer.

The book summarizes the condition of California's coastline as follows:

Today—a quarter of the 1,000 mile coastline—from the Mexican border to Santa Barbara—is already largely occupied by cities, suburbs, industries, military bases, power plants, sewage discharge pipes, tract homes and high-rise blockades of buildings interposed between the coast and the people. From Monterey to coastal areas north of San Francisco the story is much the same.

Beaches are posted because of contamination and fish catches are seized because of mercury and DDT poisoning.

Some reaches of the coast, from Morro Bay north to Monterey and Marin County to the Oregon border, are still relatively untouched. . . .

But much of this is private ranchland, and at the moment there is absolutely no assurance it will escape the fate of other private ranchland that, for example, could be found in the Santa Clara Valley 25 years ago.

The authors conclude by saying that—

There is no coordinated public regulation of this priceless stretch of land and sea.

For the past several years the California Legislature has been wrestling with the problem of enacting an effective piece of legislation to preserve and protect the California coastline.

The report quotes California Assembly Speaker Bob Moretti as saying that the best planning available would be worthless without money to finance the agencies involved, but more importantly, to purchase coastal land for public use.

S. 3507—if implemented in a tough manner and if adequate funds are appropriated—could assist California to extricate itself from its coastal quagmire.

It is my hope that Federal legislation such as S. 3507 with its hope of Federal financial assistance will act as a catalyst and encourage the California Legislature to come up with effective legislation to deal with the “disappearing California coastline.”

Mr. TOWER. Mr. President, I am very pleased today to join in supporting S. 3507, of which I am a cosponsor. The passage of this bill will bring to fruition many years of work by a great many people. After several years of study, Senator Hollings last year introduced S. 582 as a comprehensive proposal to deal with the problems manifest in the coastal zone. About that same time, I introduced S. 638, dealing with the same subject. I have been concerned for some time with the unique problems of pollution and land use in the coastal zone and believe that we will now be able to begin to work to correct them. This new bill, S. 3507, takes into consideration the best aspects of S. 582 and S. 638, along with some ideas that were developed by the Subcommittee on Oceans and Atmosphere in the hearings that they held. I wish at this time to congratulate the members and the staff of that subcommittee, both past and present, for their fine work on this bill and the outstanding cooperation that has been shown to me and my staff as we were working with them.

Mr. President, the heart of this bill will be the encouragement of the coastal States to survey the needs and problems of their coastal zones and assistance to them in establishing comprehensive programs for dealing with those recognized needs and problems. In my State of Texas, nearly 40 percent of all our citizens live in the area 50 miles from the Gulf of Mexico.

In addition, a great deal of our industrial and commercial activity takes place in the same area. In the Nation as a whole, an even greater percentage of activity takes place in the coastal zone. The situation everywhere is becoming more acute. Pollution and land use problems are proliferating as the coastal zone becomes more congested. This bill is an attempt by the Government to assist the States in correcting pollution, and planning for the best use of limited land and water resources.



The emphasis in this bill is on cooperation with the States, not coercion by the Federal Government. During the hearings on this subject, there was detected an acute awareness by the States of the problems of the coastal zone. Indeed, Texas has in many respects led the way toward categorizing the different uses of land in the coastal zone and in pinpointing likely problem areas. I believe that it is safe to say that we in Texas will probably lead the way in devising and carrying out our coastal zone plan. What the States have needed for so long are the resources to act to resolve the evident problems of their coastal zones. We are today providing that assistance. Under the terms of the bill, up to 66 $\frac{2}{3}$  percent of the cost of devising and then carrying out the plans will be borne by the Federal Government. The major responsibility for drawing up the plans, marshaling the necessary personnel, and then carrying out the plans would fall to the State governments. This is a somewhat unique approach by the Federal Government in relying on the States to solve this problem rather than simply federalizing the area and creating a new bureaucracy to deal with it. I believe that the States will prove that they can handle this program and will make it work.

Mr. President, I look forward to early enactment of this bill to aid the coastal States and in so doing to aid the entire Nation. We in the Congress have located a real need for action and have acted upon that need. The unique problems of coastal pollution and the varied competing land uses will undoubtedly be faced up to by the State governments and the local governments—the units that are best prepared by their locale to deal with them. I know that all of us involved in this effort will keep in close contact with the developments in the coastal zone and stand ready to make adjustments and provide more assistance if that seems necessary. I urge the Senate to give this bill its overwhelming support.

THE PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

THE PRESIDING OFFICER (Mr. EAGLETON). The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

MR. ROBERT C. BYRD. I announce that the Senator from Indiana, Mr. Bayh, the Senator from Florida, Mr. Chiles, the Senator from Mississippi, Mr. Eastland, the Senator from Oklahoma, Mr. Harris, the Senator from Michigan, Mr. Hart, the Senator from Indiana, Mr. Hartke, the Senator from Iowa, Mr. Hughes, the Senator from Minnesota, Mr. Humphrey, the Senator from Washington, Mr. Jackson, the Senator from North Carolina, Mr. Jordan, the Senator from Arkansas, Mr. McClellan, the Senator from Wyoming, Mr. McGee, the Senator from South Dakota, Mr. McGovern, the Senator from Maine, Mr. Muskie, the Senator from Rhode Island, Mr. Pastore, the Senator from Alabama, Mr. Sparkman, the Senator from Mississippi, Mr. Stennis, and the Senator from New Jersey, Mr. Williams, are necessarily absent

I also announce that the Senator from Montana, Mr. Mansfield, and the Senator from Massachusetts, Mr. Kennedy, are absent on official business.

I further announce that, if present and voting, the Senator from Florida, Mr. Chiles, the Senator from Indiana, Mr. Hartke, the Senator from Minnesota, Mr. Humphrey, the Senator from Washington, Mr. Jackson, the Senator from Massachusetts, Mr. Kennedy, the Senator from Wyoming, Mr. McGee, the Senator from South Dakota, Mr. McGovern, the Senator from Rhode Island, Mr. Pastore, and the Senator from New Jersey, Mr. Williams, would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma, Mr. Bellmon, the Senator from Tennessee, Mr. Brock, the Senator from Massachusetts, Mr. Brooke, the Senator from New Hampshire, Mr. Cotton, and the Senator from Kansas, Mr. Dole, are necessarily absent.

The Senator from Oregon, Mr. Hatfield is absent because of death in his family.

The Senator from Maryland, Mr. Mathias and the Senator from Delaware, Mr. Roth, are absent on official business.

The Senator from Pennsylvania, Mr. Scott, is absent by leave of the Senate on official business.

The Senator from South Dakota, Mr. Mundt, is absent because of illness.

The Senator from Arizona, Mr. Goldwater, and the Senator from New York, Mr. Javits, are detained on official business.

If present and voting, the Senator from Tennessee, Mr. Brock, the Senator from Massachusetts, Mr. Brooke, the Senator from Oregon, Mr. Hatfield, the Senator from New York, Mr. Javits, and the Senator from Delaware, Mr. Roth, would each vote "yea."

The result was announced—yeas 68, nays 0, as follows:

[No. 155 Leg.]

YEAS—68

Aiken	Ellender	Packwood
Allen	Ervin	Pearson
Allott	Fannin	Pell
Anderson	Fong	Percy
Baker	Fulbright	Proxmire
Beall	Gambrell	Randolph
Bennett	Gravel	Ribcoff
Bentsen	Griffin	Saxbe
Bible	Gurney	Schweiker
Boggs	Hansen	Smith
Buckley	Hollings	Spong
Burdick	Hruska	Stafford
Byrd, Harry F., Jr.	Inouye	Stevens
Byrd, Robert C.	Jordan, Idaho	Stevenson
Cannon	Long	Symington
Case	Magnuson	Taft
Church	McIntyre	Talmadge
Cook	Metcalf	Thurmond
Cooper	Miller	Tower
Cranston	Mondale	Tunney
Curtis	Montoya	Weicker
Dominick	Moss	Young
Eagelton	Nelson	

NAYS—0

## NOT VOTING—32

Bayh	Hartke	McGee
Bellmon	Hatfield	McGovern
Brock	Hughes	Mundt
Brooke	Humphrey	Muskie
Chiles	Jackson	Pastore
Cotton	Javits	Roth
Dole	Jordan, N.C.	Scott
Eastland	Kennedy	Sparkman
Goldwater	Mansfield	Stennis
Harris	Mathias	Williams
Hart	McClellan	

So the bill (S. 3507) was passed, as follows:

## S. 3507

An act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to provide for a comprehensive, long range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering, and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

## "TITLE III—MANAGEMENT OF THE COASTAL ZONE

## "SHORT TITLE

"SEC. 301. This title may be cited as the 'Magnuson Coastal Zone Management Act of 1972'.

## "CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

"(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

"(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

"(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in our coastal zone, present coastal State and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective use of the land and water resources of the coastal zone is to encourage the coastal States to exercise their full authority over the lands and waters in the coastal zone by assisting the coastal States, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone,

including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

"DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy :

"(a) To preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal zone for this and succeeding generations; (b) To encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the preparation and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development. (c) For all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with State and local governments and regional agencies in effectuating the purposes of this Act. And, (d) to encourage the participation of the public, of Federal, coastal State, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various coastal State and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action, particularly regarding environmental problems.

"DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone terminates, in Great Lakes waters, and the international boundary between the United States and Canada and, in other areas, extends seaward to the outer limit of the legally recognized territorial seas of the respective coastal States, but shall not extend beyond the limits of State jurisdiction as established by the Submerged Lands Act of May 22, 1953, and the Outer Continental Shelf Act of 1953. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

"(b) 'Coastal waters' means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable tidal influence, including, but not limited to, sounds, bays, lagoons, bayous, pounds, and estuaries.

"(c) 'Coastal-State' means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Estuary' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

"(e) 'Estuarine sanctuary' means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

"(f) 'Secretary' means the Secretary of Commerce.

"(g) 'Management program' means a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the coastal State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone so as to minimize direct, significant, and adverse impact on the coastal waters, and governmental structure capable of implementing such a program.

"(h) 'Water use' means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except such standards, criteria or regulations shall be incorporated in any program as provided by section 314(e).

"MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the coastal zone of the portions of the coastal State subject to the management program;

"(2) a definition of what shall constitute permissible land and water uses within the coastal zone so as to prevent such uses which have a direct, significant, and adverse impact on the coastal waters;

"(3) an inventory and designation of areas of particular concern within the coastal zone;

"(4) an identification of the means by which the coastal State proposes to exert control over land and water uses, within the coastal zone so as to prevent such uses which have a direct, significant, and adverse impact on the coastal waters; including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

"(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of areawide, coastal States, and regional agencies in the management process.

"(c) The grants shall not exceed 66 $\frac{2}{3}$  per centum of the costs of the program in any one year and no State shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the coastal State must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial annual grant to a coastal State, no subsequent grant shall be made under this section unless the Secretary finds that the coastal State is satisfactorily developing such management program.

"(d) Upon completion of the development of the State's management program, the coastal State shall submit such program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such planned program by the Secretary, the coastal State's eligibility for further grants under this section shall terminate, and the coastal State shall be eligible for grants under section 306 of this title.

"(e) Grants under this section shall be allotted to the coastal States based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

"(f) Grants or portions thereof not obligated by a coastal State during the fiscal year for which they were first authorized to be obligated by the coastal State, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

"(g) With the approval of the Secretary the coastal State may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 or to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section.

"(h) The authority to make grants under this section shall expire five years from the date of enactment of this title.

"(i) The Secretary is authorized to make management program development or administrative grants to a political subdivision of a State with areawide powers, if the Secretary finds that the State has not developed a management

program required by section 306 of this title: *Provided*, That if the State completes such a program the authority of this subsection shall terminate with regard to any political subdivision of such State.

"ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the coastal State's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(b) Such grants shall be allotted to the coastal States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however*, That no annual administrative grant under this section shall be made in excess of 10 per centum, nor less than 10 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find:

"(1) The coastal State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, which shall be in accordance with the objectives of this Act, after notice, and with the opportunity of full participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title.

"(2) The coastal State has:

"(A) coordinated with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the coastal State's management program is submitted to the Secretary, which plans have been developed by a local government, an interstate agency, or an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; and

"(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title."

"(3) The coastal State has held public hearings in the development of the management program.

"(4) The management program and any changes thereto have been reviewed and approved by the Governor.

"(5) The Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(6) The coastal State is organized to implement the management program required under paragraph (1) of this subsection.

"(7) The coastal State has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(d) Prior to granting approval of the management program, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments, interstate agencies, or areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966), has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(e) Prior to granting approval, the Secretary shall also find that the program provides:

"(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

"(A) Coastal State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

"(B) Direct coastal State land and water use planning and regulations; or

"(C) Coastal State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any coastal State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

"(f) With the approval of the Secretary, a coastal State may allocate to a local government, to an interstate agency, or an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the coastal State of the responsibility for ensuring that any funds so allocated are applied in furtherance of such coastal State's approved management program.

"(g) The coastal State shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the coastal State under the program as amended.

"(h) At the discretion of the coastal State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the coastal State adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

"(i) The Secretary is authorized to make management program development or administrative grants to a political subdivision of a State with areawide powers, if the Secretary finds that the State has not developed a management program required by section 306 of this title: *Provided*, That if the State completes such a program the authority of this subsection shall terminate with regard to any political subdivision of such State.

#### "PUBLIC HEARINGS

"SEC. 307. All public hearings by nonfederal entities required under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

#### "RULES AND REGULATIONS

"SEC. 308. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### "REVIEW PERFORMANCE

"SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal States and of the performance of each coastal State.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary, and (2) the coastal State has been given notice of proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

## "RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

## "NATIONAL COASTAL RESOURCES BOARD

"SEC. 311. (a) There is hereby established, in the Executive Office of the President, the National Coastal Resources Board (hereinafter called the 'Board') which shall be composed of—

- "(1) The Vice President, who shall be Chairman of the Board.
- "(2) The Secretary of State.
- "(3) The Secretary of the Navy.
- "(4) The Secretary of the Interior.
- "(5) The Secretary of Commerce.
- "(6) The Chairman of the Atomic Energy Commission.
- "(7) The Director of the National Science Foundation.
- "(8) The Secretary of Health, Education, and Welfare.
- "(9) The Secretary of Transportation.
- "(10) The Administrator of the Environmental Protection Agency.

## "Executive appointments

"(b) The President may name to the Board such other officers and officials as he deems advisable.

## "Alternate Presiding Officer Over Board Meetings

"(c) The President shall from time to time designate one of the members of the Board to preside over meetings of the Board during the absence, disability, or unavailability of the Chairman.

## "Alternates for Service on the Board

"(d) Each member of the Board, except those designated pursuant to subsection (b) of this section, may designate any officer of his department or agency appointed with the advice and consent of the Senate to serve on the Board as his alternate in his unavoidable absence.

## "Personnel; Civilian Executive Secretary

"(e) The Board may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President and shall receive compensation at a rate established by the President at not to exceed that of level II of the Federal Executive Salary Schedule. The executive secretary, subject to the direction of the Board, is authorized to appoint and fix the compensation of such personnel, including not more than seven persons who may be appointed without regard to civil service laws or chapter 51 and subchapter III of chapter 53 of title 5 and compensated at not to exceed the highest rate of grade 18 of the General Schedule as may be necessary to perform such duties as may be prescribed by the President.

"(f) The Board shall meet regularly at such times as the Chairman may direct and shall have the following duties:

"(1) to provide for the effective coordination between programs of the Federal agencies within the coastal zone;

"(2) in the case of serious disagreement between any Federal agency and a coastal State in the development of the program, the Board shall seek to mediate the differences; and

"(3) to provide a forum for appeals by an aggrieved areawide planning entity or unit of local government from any decision or action of the Secretary or areawide planning entity.



**"ADVISORY COMMITTEE**

"SEC. 312. (a) The Secretary is authorized to establish a Coastal Zone Management Advisory Committee (hereafter referred to as 'the Committee') to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

"(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

**"ESTUARINE SANCTUARIES**

"SEC. 313. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal State grants up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within and directly affecting the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 306, shall be used for the purpose of this section.

**"INTERAGENCY COORDINATION AND COOPERATION**

"SEC. 314. (a) The Secretary shall not approve the management program submitted by a coastal State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and a coastal State in the development of the program the Secretary, in cooperation with the National Coastal Resources Board, shall seek to mediate the differences.

"(b) (1) All Federal agencies conducting or supporting activities in the coastal zone shall administer their programs consistent with approved coastal State management programs except in cases of overriding national interest as determined by the President. Procedures provided for in regulations issued pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with approved management programs.

"(2) Federal agencies shall not undertake any development project in the coastal zone of a coastal State which, in the opinion of the coastal State, is inconsistent with the management program of the coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State and affected local governments, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

"(3) After the final approval by the Secretary of a coastal State's management program any applicant for a Federal license or permit to conduct any activity in the coastal and estuarine zone subject to such license or permit, shall provide in the application of the licensing or permitting agency a certification from the appropriate State agency that the proposed activity complies with the State's approved management program, and that there is reasonable assurance, as determined by the State, that such activity will be conducted in a manner consistent with the State's approved management program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails or refuses to act on a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the Secretary to be consistent with the

objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification.

"(c) Coastal State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate coastal State or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal State's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(d) Nothing in this Act shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this title; nor 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.

#### "ANNUAL REPORT

"Sec. 315. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the coastal State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the coastal States participating in the provisions of this title and a description of the status of each coastal State's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any coastal State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Secretary has reviewed under section 314 of this title and a summary of the final action taken by the Secretary with respect to each such project; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of outstanding problems arising in the administration of this title in order of priority; and (8) such other information as may be appropriate.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

#### "AUTHORIZATION OF APPROPRIATIONS

"Sec. 316. (a) There are authorized to be appropriated—

"(1) the sum of \$12,000,000 for the fiscal year ending June 30, 1973, and such sums as may be necessary for the fiscal year 1974 through 1977 for grants under section 305, to remain available until expended;

"(2) such sums, not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for grants under section 306 to remain available until expended; and

"(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1973, as may be necessary for grants under section 313.

"(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$1,500,000 annually, as may be necessary for administrative expenses incident to the administration of this title.

"(c) (1) The Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce, after consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall enter into appropriate arrangements with the National Academy of Sciences to undertake a full investigation of the environmental hazards attendant on offshore oil drilling on the Atlantic Outer Continental Shelf. Such study should take into consideration the recreational, marine resources, ecological, esthetic, and research values which might be impaired by the proposed drilling and shall include recommendations to eliminate such environmental hazards, if any. A report shall be made to the Congress, to the Administrator, and to the Secretary by July 1, 1973.

"(2) There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next fiscal year thereafter such sums as may be necessary to carry out this subsection, but the sums appropriated may not exceed \$500,000."

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3507, as amended.

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



# VI. HOUSE REPORT ON H.R. 14146

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } { No. 92-1049

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## COASTAL ZONE MANAGEMENT

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MAY 5, 1972.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. GARMATZ, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.R. 14146]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 14146) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That the Act entitled "An Act to provide for a comprehensive, long-range and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following title:

#### "TITLE III—MANAGEMENT OF THE COASTAL ZONE

##### "SHORT TITLE

"SEC. 301. This title may be cited as the 'Coastal Zone Management Act of 1972'.

##### CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

"(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

"(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development,

including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

"(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

#### "DECLARATION OF POLICY

"SEC. 303. The Congress declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control those shorelands, the uses of which have a direct impact on the coastal waters.

"(b) 'Coastal waters' means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

"(c) 'Coastal state' means a state of the United States in, or bordering on the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Estuary' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

"(e) 'Estuarine sanctuary' means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

"(f) 'Secretary' means the Secretary of Commerce.

#### "MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the portions of the coastal state subject to the management program;

"(2) a definition of what shall constitute permissible land and water uses;

"(3) an inventory and designation of areas of particular concern;

"(4) an identification of the means by which the state proposes to exert control over land and water uses, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

"(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

"(c) The grants shall not exceed 66⅔ per centum of the costs of the program in any one year. Federal funds received from other sources shall not be used to match the grants. In order to qualify for grants under this subsection, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. Successive grants may be made annually for a period not to exceed two years: *Provided*, That no second grant shall be made under this subsection unless the Secretary finds that the state is satisfactorily developing such management program.

"(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

"(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

"(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

"(h) The authority to make grants under this section shall expire on June 30, 1975.

#### "ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66⅔ per centum of the costs of administering the state's management program, if he approves such program in accordance with

subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

"(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary, which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however*, That no annual administrative grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

"(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in Section 303 of this title.

"(2) The state has:

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

"(3) The state has held public hearings in the development of the management program.

"(4) The management program and any changes thereto have been reviewed and approved by the Governor.

"(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

"(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

"(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

"(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, of interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(e) Prior to granting approval the Secretary shall also find that the program provides:

"(1) for any one or a combination of the following general techniques for control of land and water uses:

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;



"(B) Direct state land and water use planning and regulation; or

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

"(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for insuring that any funds so allocated are applied in furtherance of such state's approved management program.

"(g) The State shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are to be made to the state under the program as amended.

"(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need management programs: *Provided*, That the state adequately allows for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

#### "INTERAGENCY COORDINATION AND COOPERATION

"Sec. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

"(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(c) (1) Each Federal agency conducting or supporting activities in the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

"(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

"(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own

initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved, and from the state, that the activity is consistent with the objectives of his title or is otherwise necessary in the interest of national security.

"(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(e) Nothing in this section shall be construed—

"(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Committee, 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.

#### "PUBLIC HEARINGS

"SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

#### "REVIEW OF PERFORMANCE

"SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

#### "RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

#### "ADVISORY COMMITTEE

"SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone.

Such committee shall be composed of not more than ten persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

“(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

#### “ESTUARINE SANCTUARIES

“SEC. 312. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

“(b) When an estuarine sanctuary is established by a coastal state, for the purpose envisioned in subsection (a), whether or not Federal funds have been made available for a part of the costs of acquisition, development, and operation, the Secretary, at the request of the state concerned, and after consultation with interested Federal departments and agencies and other interested parties, may extend the established estuarine sanctuary seaward beyond the coastal zone, to the extent necessary to effectuate the purposes for which the estuarine sanctuary was established.

“(c) The Secretary shall issue necessary and reasonable regulations related to any such estuarine sanctuary extension to assure that the development and operation thereof is coordinated with the development and operation of the estuarine sanctuary of which it forms an extension.

#### “MANAGEMENT PROGRAM FOR THE CONTIGUOUS ZONE OF THE UNITED STATES

“SEC. 313. (a) The Secretary shall develop, in coordination with the Secretary of the Interior, and after appropriate consultation with the Secretary of Defense, the Secretary of Transportation, and other interested parties, Federal and non-Federal, governmental and nongovernmental, a program for the management of the area outside the coastal zone and within twelve miles of the baseline from which the breadth of the territorial sea is measured. The program shall be developed for the benefit of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the protection of the environment and shall include, but not be limited to, provisions for the development, conservation, and utilization of fish and other living marine resources, mineral resources, and fossil fuels, the development of aquaculture, the promotion of recreational opportunities, and the coordination of research.

“(b) To the extent that any part of the management program developed pursuant to this section shall apply to any high seas area, the adjacent seabed and subsoil of which lies within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the program shall be coordinated with the coastal state involved.

“(c) The Secretary shall, to the maximum extent practicable, apply the program developed pursuant to this section to waters which are adjacent to specific areas in the coastal zone which have been designated by the states for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

#### “ANNUAL REPORT

“SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding Federal fiscal year. The report shall include but not be restricted to (1) an identification of the state

programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's program and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

#### "RULES AND REGULATIONS

"SEC. 315. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### "PENALTIES

"SEC. 316. (a) Whoever violates any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable to a civil penalty of not more than \$10,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(b) No penalty shall be assessed under this section until the person charged shall have been given notice and an opportunity to be heard. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon failure of the offending party to pay the penalty, as assessed or, when mitigated, as mitigated, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect such penalty and to seek other relief as may be appropriate.

"(c) A vessel used in the violation of any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(d) The district courts of the United States shall have jurisdiction to restrain violations of the regulations issued pursuant to this title. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

#### "APPROPRIATIONS

"SEC. 317. (a) There are authorized to be appropriated—

"(1) the sum of \$15,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 305 to remain available until expended;

"(2) the sum of \$50,000,000 for fiscal year 1974 and for fiscal year 1975 for grants under section 306 to remain available until expended; and

"(3) the sum of \$6,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 312, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the two succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

## PURPOSE OF THE LEGISLATION

The purpose of the legislation is to encourage the various coastal States to exercise their full authority over the lands and waters in the coastal zone by assisting the States, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the zone, including unified policies, criteria, standards, methods, and processes for dealing with land- and water-use decisions of more than local significance.

In accomplishing this purpose, the Federal Government would provide funding to assist the States in developing their programs, and once the programs are approved, as meeting certain specified criteria, additional Federal funding would be provided to assist the States in the administration of the approved programs.

## BACKGROUND AND NEED FOR LEGISLATION

The coast of the United States, together with the immediately adjacent land and water areas, is in a general sense the Nation's most valuable geographic asset. At the same time, it is probably the area most threatened with deterioration and irreparable damage.

The coasts and the coastal waters have played a major role in the Nation's development, growth, and defense since its earliest days. In recent years it has become increasingly apparent, however, that the coastal area has been undergoing drastic changes which, unless checked, will ultimately result in irreversible damage to many of the area's features upon which its values largely depend.

One of the first instances of serious consideration being given to the problems of the coastal zone was contained in the report of the Commission on Marine Science, Engineering, and Resources, entitled "Our Nation and the Sea." Based on a detailed review by one of the inter-agency committees established by the Marine Science Council and a similar consideration by one of the panels established by the Commission, the Commission's report, dated January 1969, recommended "that a Coastal Management Act be enacted which will provide policy objectives for the coastal zone and authorize Federal grants-in-aid to facilitate the establishment of State coastal zone authorities empowered to manage the coastal waters and adjacent land. In addition to the recommendation of the Marine Science Commission, the national estuarine pollution study of the Federal Water Pollution Control Administration and the national estuary study of the U.S. Fish and Wildlife Service, both examined the coastal zone problem in specific areas. Each of these efforts resulted in recommendations urging concerted attention to the problems of the coastal zone, citing both the richness of its resources and the mounting threat to their continued existence.

The Subcommittee on Oceanography sponsored a Coastal Zone Management Conference which was held on October 28 and 29, 1969. Seven panels of that Conference considered various aspects of the coastal zone problem, and statements, testimony, and ideas were submitted by various experts who attended the Conference from all over the Nation. The overwhelming consensus of that Conference was in complete agreement with the recommendation contained in the Marine Science Commission report.

During the 91st Congress, several bills were introduced in both Houses of the Congress relating to legislative proposals for solving the coastal zone management problem. On the House side were included H.R. 14730, H.R. 14731, H.R. 14845, and H.R. 15099. Similar bills were introduced in the other body. While differing in detail, the various bills provided for the implementation of the basic Marine Science Commission recommendation. In view of the delays attended upon the creation of a National Oceanic and Atmosphere Administration and a desire to resolve that organizational problem prior to enacting coastal zone legislation, only preliminary hearings were held on any of the House bills. In the other body, a series of hearings was held from March through May 1970. Various bills similar to the House bills were all considered, and a new version was introduced early in the 92d Congress. In the House, additional bills were introduced in the 92d Congress, and of those bills, H.R. 9229, in particular, reflected many of the views elicited during the previous Congress.

The Subcommittee on Oceanography held hearings on H.R. 2492, H.R. 2493, and H.R. 9229 on June 22, 23, and 24, August 3, 4, and 5, and November 1 and 9, 1971, with the primary attention being devoted to the provisions of H.R. 9229. Twenty-four witnesses appeared before the subcommittee, and additional statements were received from various organizations as well as departmental reports from eight departments and agencies. On March 21, 22, and 23, 1972, the Subcommittee on Oceanography met in executive session to consider the bills in question and completed its executive sessions by unanimously approving H.R. 9229 with various amendments. It reported its action to the Committee on Merchant Marine and Fisheries in the nature of a clean bill, H.R. 14146.

Your committee met in executive session to consider H.R. 14146 on April 12, 18, and 26, 1972. On April 26, H.R. 14146, with an amendment, was ordered reported by your committee unanimously.

The information developed during the course of the hearings on this legislation was remarkably consistent with the findings of all the predecessor groups that have considered the problem. Witnesses representing the National Governors' Conference, the National Legislative Conference, the Coastal States' Organization, individual State governments, and various conservation and public interest groups, were uniformly concerned for the deteriorating condition of the coastal zone and were united in their support for early legislative action. Similar support was indicated in letters from various States and public organizations which were unable to furnish witnesses during the hearings.

For 2 successive years, the National Governors' Conference has established a strong policy position relating to coastal zone policy, planning, and management. Underscored has been the need for a balanced approach to conservation and development through appropriate administrative and legal devices. At its 1971 meeting in San Juan, Puerto Rico, the following statements were included in the Governors' policy positions:

States must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and waters of the coastal zone. \* \* \* Coastal States, because of unique conditions existing along their shorelines, have advantages in coping with coastal zone planning and management that the Federal Government does not have. The Federal Government, however, should

establish incentives and assistance to help the coastal States prepare plans and action.

The ultimate success of a coastal management program will depend upon the effective cooperation of Federal, State, regional, and local areas \* \* \*.

In 1970, the Intergovernmental Relations Committee of the National Legislative Conference included the following statements in its final report:

**The need for coastal zone management legislation derives from the inestimable importance of the estuarine and coastal environment to the Nation's economy, environmental health and quality of life \* \* \*.**

**While Federal and local government involvement is essential to any effective coastal management program, States must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and waters of the coastal zone.**

The simple fact of the matter is that the coastal zone needs urgent attention. Located within the zone is an interior and exterior shoreline of approximately 100,000 statute miles, and residing within the States bordering that shoreline is approximately 75 percent of the Nation's population. At the shoreline itself, approximately 65 million of the Nation's population elbow for room, almost \$100 billion worth of imports and exports cross paths here, more than an annual \$300 million worth of commercial fish landings depends upon the nourishment of its coastal waters, and several billions of dollars are spent here annually for recreational purposes.

Large metropolitan areas with their suburban sprawl have blotted out great stretches of the shoreline. Heavy industrial complexes and their supporting industries have entered the zone, lured by available land, labor, and water supplies. An affluent society has descended in large numbers to enjoy the recreation available in the coastal waters and the relaxation available on the coastal beaches. Housing developments in many places have covered the landscape in what were once remote, relatively inaccessible areas, and massive landfill operations have covered valuable areas of the estuarine marshlands. Each of these activities has contributed to the pollution and attendant deterioration of the coastal waters.

As the demand for uses in the coastal zone has risen and continues to rise, and as population crushes continue to increase, the conflicting and competing use demands for this area will necessarily increase in terms of greater pressures for industrial sites, powerplants, housing, shipping facilities, harbors, and recreational needs. With these increased pressures, we are in danger above all of the unfortunate destruction of the living resources of the coastal waters. Seventy percent of the present U.S. commercial fishing effort takes place in coastal waters. In addition, other species depend upon the estuarine areas and marshlands as nursery areas and spawning grounds, and these areas may become even more important as future uses develop, such as the expansion of aquaculture activities.

Hard choices must be made. If these choices are to be rational and devised in such a way as to preserve future options, the program must be established to provide the guidelines which will enable the selection of those choices. That program must give attention not only to present demands but also to future needs. Your committee believes that it is of national importance that the Federal Government encourage the States to arrange for the optimum utilization of coastal zone resources, coupled with an adequate protection of the zone's natural environment.

There is no question that local governments do possess considerable authority in the coastal zone, but in many cases their authority does not extend far enough to deal fully with the problems of the zone. This fact has been recognized in several of the coastal States, and legislation which partially meets the total coastal zone needs has been enacted in the past few years in those States. This proposed legislation is designed to encourage those States and others to move forward more rapidly in the development of a coordinated, cohesive program. The legislation further recognizes that various local interests must be drawn into the State management processes, and throughout the bill provisions are made for coordination on as wide a basis as possible.

The coastal zone problems are related to but are significantly different from problems of general overall land use. It is for that reason that your committee did not agree with the positions of the various departmental witnesses who, while all recognizing the critical nature of the coastal zone problems, proposed that the solution of those problems should be merged under an overall land use policy. It is true that almost any combination of management approaches is theoretically possible. However, if solutions are to be meaningful, large overall ecosystem problems must be divided into manageable units. It is for that reason that your committee urges the immediate adoption of this coastal zone management legislation, leaving to future action proposed legislation concerning land use policy relating to interior lands. The problems of the coastal zone and in particular the coastal waters are significantly unique and should be treated in a separate program. Once this program is initiated and solutions are found, those solutions will serve well in consideration of overall land use problems to the extent that the two are similar.

#### SECTION-BY-SECTION ANALYSIS

The bill amends the act of June 17, 1966, which established a National Council on Marine Resources and Engineering Development and a Commission on Marine Science, Engineering and Resources, by adding a new title to that act.

Section 301. *Short Title.* Title III may be cited as the "Coastal Zone Management Act of 1972."

Section 302. *Congressional Findings.*—This section contains a series of findings concerning the Nation's coastal zone. The findings relate to the national interest in the management, use, protection, and development of the coastal zone; the resource values of the zone; the losses suffered to the zone resources because of increased demands for various uses of the zone; the vulnerability of the zone to man's activities; the values being lost and the special characteristics being damaged; the inadequacies of present planning and regulatory arrangements; and the necessity for encouraging and assisting the coastal states to develop national management programs for land and water uses in the coastal zone.

In enumerating the types of activities which are threatening the special values of the coastal zone, your committee intends to emphasize that uncoordinated and uncontrolled uses can no longer be tolerated if the values of the zone are not to be completely destroyed. At the same time, coordinated, controlled, and rational use allocations can serve not only to protect but also to enhance zonal values and will



permit the utilization of zone resources while protecting the natural values of the zones from further degradation.

Section 303. *Declaration of Policy*.—This section establishes a national policy to protect, preserve, develop, and, where possible, to restore or enhance the resources of the coastal zone, to encourage and assist the States in exercising their responsibilities in this critical area, to provide for the close cooperation and active participation of all Federal agencies with responsibilities for Federal interests in the zone, and to insure the widest possible involvement of all instrumentalities and individuals, public and private, governmental and non-governmental, Federal, regional, State, and local, in the decisionmaking and implementation process designed to maintain the proper resource protection utilization balance. The resources involved include natural, commercial, recreational, industrial, and esthetic resources.

Section 304. *Definitions*.—This section defines the terms “coastal zone”, “coastal waters”, “coastal state”, “estuary”, “estuarine sanctuary”, and “Secretary”.

(a) “Coastal zone” is defined as meaning the coastal waters and the adjacent shorelands, strongly influenced by each other and in close proximity to the shorelines of the coastal States. This general definition is deliberately left broad and flexible, providing a basic concept which will fit the varied and divergent situations which exist among the several coastal States involved. The reference to coastal waters, hereafter specifically defined, encompasses the islands and other built-up lands located within those waters, as well as the submerged lands beneath them. The reference to shorelands encompasses any bodies of water located within those shoreland areas, including fresh or brackish lakes or ponds, as well as any fresh water aquifers that may be present beneath those lands.

As to the outer and inner limits of the zone, it extends outward, in the Great Lakes area, to the international boundary between the United States and Canada and, in other areas bordering on the oceans, seas, gulfs, and sounds, to the outer limit of the territorial sea which, under the present posture of international law, means 3 miles from the base line from which the territorial sea of the United States is measured. Should the United States, by future action, either through international agreement or by unilateral action, extend the limits of the U.S. territorial sea further than the present limits, the coastal zone would likewise be expanded, at least to the extent that the expanded water area and the adjacent shore lands would strongly influence each other, consistent with the general definition first referred to above.

The inland reach of the coastal zone extends only as far inland as is necessary to control the shorelands adjacent to the coastal waters where the uses of those shorelands have a direct impact on coastal waters. The phrase “direct impact” is intended to cover only those impacts of a significant nature. The purpose of limiting the inland reach is to restrict the operation of this legislation to its basic underlying purpose, that is the management and the protection of the coastal waters. It would not be possible to accomplish that purpose without to some degree extending the coverage to the shorelands which have an impact on those waters. It is, therefore, the intent of your committee to bring under the coverage of this legislation only those shoreland areas the control of which is necessary to the effective management

and protection of the coastal waters themselves. It is further the committee's intent that the legislation should not in any way inhibit a coastal State in its desire to combine the management and control of inland areas with the management and control of those areas within the coastal zone if such a combination is considered appropriate. Nevertheless, in the case of such an election on the part of a state, this legislation would not provide Federal assistance funds for the implementation of that part of the program related to lands beyond the limits of the coastal zone. Furthermore, it is anticipated that the provisions of this title would be compatible with the provisions of any future overall national land use policy. Indeed, the management programs developed under this title could well serve as prototypes for management programs related to overall land use, at least to the extent that the problems to be solved are similar. In any case, since under both this title and the various proposals for national land use policy, the regulation of uses of non-Federal lands is a matter for the States, there is no impediment created under this title to the abilities of the various States to integrate their coastal zone and inland land management programs. As stated above, the solution of problems faced by the State in the development of a coastal zone management program will materially assist in the subsequent development of an overall land use program.

(b) "Coastal waters" is defined as meaning (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the lakes themselves, their connecting waters, their harbors and roadsteads, and estuary-type areas such as bays, shallows, and marshes along the lake shore lines and (2) in other areas, bordering on the oceans, seas, gulf, and sounds, those waters adjacent to the coast line, which contain a measurable quantity or percentage of sea water. The bodies containing salt or brackish water include but are not necessarily limited to sounds, bays (either natural or artificial), lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" is defined as meaning a State of the United States located in, or bordering on, the Atlantic, Pacific or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of the title, the term includes Puerto Rico, the Virgin Islands, Guam and American Samoa.

(d) "Estuary" is defined as meaning that part of a river or stream or other body of water along the coastline having an unimpaired connection with the open sea, in which the sea water is measurably diluted with fresh water drained from the land. Through this definition, your committee intends to make it clear that the inland reach of any estuary can go no further than the line where the ocean tide actually intrudes. In other words, it does not extend all the way to the line of tidal influence but only to the line of tidal action. The term includes areas of a similar type on the Great Lakes such as bays, shallows, and marshes along the lake borders.

(e) "Estuarine sanctuary" is defined as meaning a research area set aside to provide an opportunity for scientists and students to examine over a period of time the ecological relationships within the area and the impact of drainage intrusions into the area. The research area may include a part of an estuary or the entire estuary and also may encompass transitional areas and adjacent uplands where desirable to create one single natural unit.

(f) "Secretary" is defined as meaning the Secretary of Commerce. Various possibilities were considered as the Federal focal point for coastal zone coordination. After careful consideration, it was concluded that the logical repository for that coordination was the National Oceanic and Atmospheric Administration, which was established in 1970 as the lead agency in ocean research and resource development. While other Federal departments and agencies have responsibilities involving the coastal waters, none has so broad and extensive an involvement as does NOAA. This involvement includes programs relating to fisheries, mapping and charting, marine minerals technology, and environmental monitoring and prediction, together with the research activities involving each of these, in addition to the administration of the national sea grant program, 80 percent of which is addressed to research relating to coastal waters and their estuaries.

Just as NOAA is extensively involved in ocean coastal water programs, it is also charged with responsibilities as to Great Lakes waters, including hydrographic surveys, mapping and charting, basic research in water motion, water characteristics, and water quality, and the collection, coordination, analysis, and publication of data relating to Great Lakes water resources.

Because this legislation is designed to assist the States in exercising their responsibilities in the national management of their coastal waters and the adjacent impacting shorelands, your committee concluded that NOAA as a water-oriented agency, could best coordinate the program and administer the allocation of Federal funds rather than other possible choices which are predominantly land oriented. The coordination provisions of section 307 will insure that the interests of all other Federal agencies are recognized and adequately protected.

In view of the fact that NOAA is a constituent element of the Department of Commerce, the responsibility for Federal supervision and coordination under this title is placed in the Secretary of Commerce. It is the committee's intent and firm expectation that the Secretary will exercise that responsibility through the Administrator of the National Oceanic and Atmospheric Administration.

Section 305. *Management Program Development Grants.*—This section authorizes the Secretary to make annual grants to assist the coastal States in developing their coastal zone management programs. No more than two grants, in successive years, may be made to any single State, and the Federal share may not exceed two-thirds of the total development cost, nor may funds received from the Federal Government through other programs be utilized to pay the State's share of the cost. In addition, no second grant may be made to a State unless the Secretary finds that the State is satisfactorily developing its program. This latter provision was included to insure that the State, once embarked on the development of its program, will proceed expeditiously.

The allocation of grants under this section will be made in accordance with regulations to be promulgated by the Secretary. It is intended that those regulations will take into account all relevant factors, including, but not limited, to the complexities existent in the various localities, the nature and extent of the area to be covered by the program, the intensity of the pressures for competing uses, the

population of the area, present and predicted, and the anticipated cost in developing the program. In order to be sure that the grants are adequately divided among the States involved, a maximum of 15 percent of the amount appropriated in any 1 year may be allocated to a single State. While no minimum percentage or amount is specified, it is intended that the Secretary make funds available to every eligible State, consistent with each State's overall needs and with its ability and intention to proceed expeditiously with the development process.

The authority of the Secretary under this section is deliberately left broad and flexible in order that unforeseen contingencies may be accommodated. The committee intends to carefully review the proposed allocation regulations and if necessary, to take any corrective action to insure that the allocations are fair and equitable for all States concerned.

As an additional incentive for expeditious action by the State, any portion of an allocated grant not obligated by the State during the first year of allocation, or the first year immediately following, will revert to the Secretary to be added to the funds available for grants under this section. Any portion of the funds allocated to a State may, with the approval of the Secretary, be reallocated in turn to any recognized agency or authority, whether a local government, a regional agency, an areawide agency, or an interstate agency, which in the State procedures is qualified to assist the State in the development of its program. This type of reallocation would be particularly appropriate when the agency involved would later have responsibility in the program administration.

Subsection (b) lists certain items that must be included in the State's program: (1) specification of the State's coastal zone boundaries, (2) a delineation of uses permissible within zone areas, (3) a designation of particularly critical areas, (4) an identification of the State's intended methods to control uses within the zone, (5) broad guidelines on the priority of uses, including specifically those uses of lowest priority, and (6) a description of the State's proposed implementation structure, including the responsibilities and the interrelationships of all the elements involved, whether State, interstate, regional, areawide, or local.

The items listed above are in no sense inclusive and there are many additional subject areas that must be included if the program is to be comprehensive. These to be considered for coverage should certainly include recreation, transportation, housing, fishing, power, communication, industrial, and mineral resource needs; protective requirements for water quality, fish and wildlife habitats, open space, and esthetic values; present and long-range use requirements which will not foreclose all options for future generations; flood control and shore line erosion prevention; and all other matters impinging upon coastal zone resource conservation—in the finest sense of that often abused word. It bears repeating and cannot be overemphasized that the above list is not intended to be exhaustive and that all additional pertinent matters must be carefully considered, depending upon the particular circumstances which prevail in the State involved.

Section 306. *Administrative Grants.*—This section authorizes the Secretary to make annual grants to assist the coastal States in administering the State programs which the Secretary has approved. The

Federal share of the total administrative cost may not exceed two-thirds of the cost, and Federal funds received through other programs may not be used by the State to pay any part of its share. This latter limitation is similar to other successful grant programs, such as the national sea grant program, where it has been evident that the interest and involvement of the recipient is often best demonstrated by the amount of its own funds that it is willing to commit in order to obtain the Federal grant. There are other provisions, such as the regulatory authority of the Secretary, the 15 percent maximum allocation, the lack of a minimum allocation, and the procedures for reallocating funds to local governments and other recipients, the discussions of which as to section 305 provisions are applicable to the similar provisions of this section. It should be pointed out that the grants under this section are designated for use in administration of the State program. They are not intended and are not available for any acquisition costs of property or property interests that the State may need or desire in implementing its coastal zone program.

Before allocating funds under this section, the Secretary must make certain specific findings as to the State program which has been submitted for approval. He must find—

(1) that the program has been developed in accordance with regulations promulgated by him, after the State has given appropriate public notice and has provided an opportunity for full participation by all interested parties;

(2) that the State has coordinated its program with applicable plans already existent in its coastal zone area and has provided for a continuing consultation and coordination with all responsible local governments and various agencies to assure their full participation in carrying out the purposes of the title;

(3) that the State has held public hearings in developing its program;

(4) that the program and any changes have been reviewed and approved by the Governor;

(5) that the Governor has designated a single agency as a contact point to receive and administer the grants;

(6) that the State is properly organized to expeditiously and effectively implement its program;

(7) that the State possesses the necessary authorities to implement its program;

(8) that the program takes into consideration the national interest involved in the siting of facilities, such as powerplants and transportation facilities, which may be necessary to meet requirements other than local in nature; and

(9) that the program provides for procedures for preserving or restoring specific areas.

The items listed are in the main self-explanatory and in some cases refer to specific requirements found in other sections of the title. As to the national interest requirements referred to under item 8, your committee wishes to make it clear that the primary responsibility for developing the State program remains in the State. Nevertheless, if the program as developed is to be approved and thereby enable the State to receive funding assistance under this title, the State must take into account and must accommodate its program to the specific requirements of various Federal laws which are applicable to its coastal zone.

It must also recognize that there is no provision of this title which relinquishes any Federal rights in and powers of regulation of Federal lands, or of the paramount Federal interests in navigable waters, or of any of the constitutional powers of the Federal Government, including those relating to interstate and foreign commerce, navigation, national defense, and international affairs. To the extent that a State program does not recognize these overall national interests, as well as the specific national interest in the generation and distribution of electric energy, adequate transportation facilities, and other public services, or is construed as conflicting with any applicable statute, the Secretary may not approve the State program until it is amended to recognize those Federal rights, powers, and interests.

In addition, prior to granting approval of the State program, the Secretary must find that the State has the authority necessary for the management of the coastal zone, including the power to administer use regulations to control development in order to insure compliance, to resolve conflicts among competing uses, and to acquire property interests in lands, water, and other property through condemnations or otherwise when necessary to achieve conformance with the program. Furthermore, prior to granting approval, the Secretary must find that one or more combinations of land and water use control techniques are provided for—local implementation of State-established criteria and standards subject to State administrative review; State land and water use planning and regulation; or State administrative review for consistency with the program of all development plans, projects, or use regulations proposed by any State or local authority or private development, with the State's power to approve or disapprove after public notice and an opportunity for hearings. The program must also provide that local use regulations do not unreasonably restrict or exclude uses of regional benefit.

Finally, this section provides that the State may amend or modify its program provided the modification is in accordance with the same procedures required for development of the original program, and any such amendment or modification must be approved by the Secretary before additional administrative grants are made under the amended program. With the approval of the Secretary, the program may be developed and adopted in segments to meet urgent needs of specific areas, but any such segmented development must adequately allow for ultimate coordination into a simple unified program which will be completed as soon as is reasonably practicable.

Section 307. *Interagency Coordination and Cooperation.*—This section contains requirements for the coordination and cooperation among Federal agencies and between Federal and State agencies, which will be necessary to achieve the purposes of this title, as reflected in the Congressional declaration of policy in section 303. The term agency as used here and elsewhere in the title should be construed in a broad sense to cover all forms of organizational units, unless a particular provision indicates otherwise.

There are numerous existing Federal programs and activities conducted in the coastal zone which must be taken into account in the administration of this title. This is also true of future programs and activities, whether under present consideration or not yet contemplated. Potential duplication among these programs can and must be prevented by careful coordination procedures. It is the committee's

intent that "coastal zone management" be complementary to other Federal and State programs and that it serve in the coastal zone as a coordinating rather than duplicating mechanism.

Subsection (a) requires the Secretary to work closely with all other Federal agencies which are involved in coastal zone activities. The consultation and cooperation required under this subsection will insure that the Secretary carefully considers the viewpoints of those other agencies when their interests are involved. In addition, in those instances where it is possible to do so, the Secretary shall coordinate his activities with those of other agencies. It is intended that this coordination be accomplished, where possible, through existing mechanisms. For instance, your committee would anticipate that the Secretary would utilize, as feasible, the interagency activities of NOAA's Associate Administrator for Interagency Relations, the advisory committee established under section 311 of this title, or the National Advisory Committee on Oceans and Atmosphere, and the departmental observers provided in the legislation establishing that committee, or all of these. In subject areas falling within their expertise, the Water Resources Council and the various River Basin Commissions could also furnish valuable assistance.

Subsection (b) provides that, prior to approving any State program, the Secretary must insure that the State, in developing those programs, has adequately considered the views of any Federal agency, the activities of which would be affected by the State program. Should serious disagreement between a State and an agency persist, the Secretary will seek to resolve the disagreement, with the assistance of the Executive Office of the President, as might be appropriate. To the extent that the disagreement is not completely resolved, it could result in a decision by the Secretary not to approve the State program or, where appropriate circumstances existed, the Secretary could approve the program and the provisions of paragraphs 1 and 2 of subsection (c) would thereafter govern the Federal agency actions.

Subsection (c) provides that once a State management program has been approved pursuant to the procedures set forth in the bill, it is expected that each Federal agency in conducting and supporting activities in the coastal zone will see that those activities are consistent with the program. Under the procedures established, the Secretary is required to consult with all cognizant Federal agencies prior to approval of a program. It is anticipated that during this process any aspects or phases of the proposed program which are deemed by any agency to be impractical to carry out or support will be brought to the attention of the Secretary and steps will be taken at that point to iron out whatever difficulties appear to be established. There may, however, arise, after the approval of the program, some circumstances not foreseen at the time of its approval which may present a Federal agency with an obstacle or situation which as a practical matter may prevent complete adherence to the approved program. For that reason, the committee felt that some leeway should be written into the statute with respect to activities of Federal agencies in connection with approved programs.

It is not anticipated that there will be any considerable number of situations where as a practical matter a Federal agency cannot conduct or support activities without deviating from approved State management programs.

The same provisions are applicable to any development projects which are undertaken by a Federal agency in the contiguous zone. In addition, this subsection provides for a concurrent State review of applications for Federal licenses or permits in the coastal zone to insure that the proposed activity is consistent with the State's approved program. A review and appeal procedure is provided whereby the Secretary may, in effect, overrule a State's objection when he finds that the activity for which the license is being sought is consistent with the purposes of this title or is otherwise necessary in the interest of national security.

Subsection (d) provides essentially the same procedure and possibility for an overriding decision by the Secretary as to applications for Federal licenses or permits when State and local governments submit applications for Federal assistance under other Federal programs.

Subsection (e) emphasizes that whatever coordinating procedures are required by this section in order to carry out the purposes of this title, there is nothing in those requirements which shall be construed to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters. Nor is anything in the coordinating mechanism intended to displace, supersede, limit, or modify any duly constituted interstate compact or the jurisdiction of any legally established joint or common agency of two or more States or of two or more States and the Federal Government, nor to limit the authority of the Congress to authorize and fund projects.

In addition, the subsection specifically provides that the coordinating requirements of this section shall not be construed as superseding, modifying, or repealing existing laws applicable to the various Federal agencies. Those laws continue to apply, and the specific requirements as to their implementation must be taken into account in the development of the States' programs. The laws referred to would include, among others, the Federal Water Pollution Control Act, the Clean Air Act, the Solid Waste Disposal Act, the Refuse Act of 1899, and the Fish and Wildlife Coordination Act.

Finally, nothing in the coordinating mechanism is intended to change the jurisdiction, powers, or prerogatives of certain entities created under international agreements between the United States and Canada and the United States and Mexico, the two countries bordering the coastal zone of the United States.

Section 308. *Public Hearings.*—This section provides that, when public hearings are required under this title, such as in the development or amendment of the State program, the hearings must be publicly announced at least 30 days prior to the date on which the hearings are held. At the time of the announcement, all pertinent agency materials must be made available to the public for review and study. In addition, similar materials subsequently developed must also be made available to the public expeditiously. To the extent feasible, it is the committee's intention that the same procedures be followed when public hearings are held, even though not specifically of applications for Federal licenses or permits under section 307(c) (3). The requirements for public hearings under this section are in addition to any other requirements of law and are not in any way intended to replace or supersede remedies otherwise available to the public, whether



through statutory enactment or court decision, for the protection of the coastal zone or its resources.

Section 309. *Review of Performance.*—This section provides for a continuing review of approved State programs by the Secretary. After adequate notice of the State involved of his intention, and after an opportunity for the State to be heard on the issue, the Secretary may terminate any Federal assistance under section 306 if he finds that the State is not adhering to its approved program and is not justified in its action. Upon the termination action by the Secretary, he may withdraw any unexpended portion of allocated Federal assistance.

Section 310. *Records.*—This section provides that each grant recipient, including those receiving grants through State reallocation, must maintain adequate records as prescribed by the Secretary, which shall be readily accessible to the Secretary and to the Comptroller General of the United States or any of their duly authorized representatives, in order that proper and effective audits may be facilitated to insure that the funds granted under this title are being used in accordance with the provisions of the title and the implementing regulations.

Section 311. *Advisory Committee.*—This section authorizes and directs the Secretary to establish a coastal zone management advisory committee to advise him on coastal zone policy matters. In considering the size of the committee, it was concluded that it would be preferable to keep the membership comparatively small in number in order that its work may prove productive rather than to create a larger and therefore another potentially unwieldy discussion group. In order to permit some flexibility, no specific requirements are included as to the exact representation on the groups. It is intended, however, primarily as a governmental group and should include representatives of those Federal departments with major coastal zone interests, as well as representatives of State and local government constituencies. To the extent feasible, the various coastal regions should be represented.

As experience develops concerning the committee's functions and activities, the Secretary is expected to make any pertinent recommendations for necessary changes in the provisions of this section. While your committee believes in the value and efficacy of a properly constituted advisory groups, it prefers to start with a small group and later to expand it as necessary rather than to contribute to its ineffectiveness by creating a large, cumbersome mechanism merely to insure that all possible group interests are represented in the membership. The committee believes that the interests of various segments of the general public are properly protected under the bill by the various requirements for public notice and participation, as well as by representation on the other committees, such as the National Advisory Committee on Oceans and Atmosphere, which was recently created by Public Law 92-125.

This section further provides for compensation and travel expenses for those members of the advisory committee who are not regular full-time employees of the United States.

Section 312. *Estuarine Sanctuaries.*—This section authorizes the Secretary, in accordance with rules and regulations to be promulgated by him, to make available to coastal States grants of up to 50 percent

of the cost of acquisition, development, and operation of estuarine sanctuaries, to be established for the purpose of providing research areas in which scientists and students would have an opportunity to examine the effect of processes occurring within the area. No limit upon the number of sanctuaries is established, but a maximum of \$2 million is established for the Federal share of the cost of any such sanctuary. Federal funds received under section 305 or section 306 may not be used for the purposes of this section, to constitute a part either of the Federal or of the State share.

This section also authorizes the Secretary, when it is requested by the State concerned, to extend an established sanctuary seaward beyond the coastal zone, that is, the territorial limits, if such an extension is necessary in order to effectuate the purposes for which the established sanctuary was created. The Secretary is also authorized to issue necessary and reasonable regulations related to such a sanctuary extension. The creation of estuarine sanctuaries under this section is considered to be essential for research purposes in order to provide some of the information essential to coastal zone management decisionmaking. It is for that reason that it is expected that the regulations promulgated by the Secretary will provide for regional variations and for estuaries of various ecological types in order that these sanctuaries might serve the widest possible needs. Careful consultation with the scientific community will be required, and the wealth of information already assembled in such studies as the National Estuary Study by the U.S. Fish and Wildlife Service should be utilized. The sanctuaries which are established can also be used to monitor significant changes in the environment and to serve as a means for forecasting future impacts. The exact number of sanctuaries to be established in any single year will depend upon the funds available and will vary in accordance with the acquisition costs, depending upon whether the State concerned has retained or relinquished its fundamental property rights in the areas proposed for selection.

Section 313. *Management Program for the Contiguous Zone of the United States.*—This section provides for the development by the Secretary in coordination with the Secretary of the Interior, and after appropriate consultation with other interests, both governmental and nongovernmental, of a management program for the area outside the coastal zone and within 12 miles of the base line from which the territorial sea is measured. The basic program criteria are outlined in general form. It is possible that the Secretary, after considering the various problems involved in such a program development, may find that additional statutory authority is required under this section. However, the intention of the language as presently proposed is that present authorities should be utilized in the development of the program. It is for that reason that the program development is specified as a coordinated effort between the Departments of Commerce and the Interior since those two departments have the responsibilities for resource management in the contiguous zone.

Since the program provided for under this section is intended to be complementary to the approved State program of an adjacent State, it is expected that the Secretary will consult the appropriate State in developing a program in the contiguous zone. In addition, this section requires coordination with the coastal State involved, where the State's

rights, title, and interests in subsoil and seabed resources extends beyond the territorial limits of the United States, under the provisions of the Submerged Lands Act. At the present time, this applies only to the coastal waters of the States of Florida and Texas in the Gulf of Mexico.

Subsection (c) requires that the Secretary shall, to the maximum extent practicable, apply the coastal zone program to waters immediately adjacent to the coastal waters of a State, which the State has designated for specific preservation purposes.

Of course, any Federal program within the contiguous zone must be administered consistent with the obligations of the United States under international law. The program is, therefore, restricted as far as its external impact is concerned. It can be enforced as to foreign citizens only as far as those citizens are, in accordance with recognized principles of international law, subject to specific elements of the program.

Section 314. *Annual Report*.—This section requires that the Secretary prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a complete report on the administration of this title for the preceding Federal fiscal year. The date of November 1 was selected as providing sufficient time to prepare the report and yet not to coincide with numerous other reports that are required to be filed at the beginning of the calendar year. This section further lists specific items that must be included within the annual report without in any way limiting the Secretary in any appropriate information or recommendations which he may desire to include.

One of the anticipated values of the report, which will include details of State participation and fund expenditures is the opportunity for the Congress to insure that the various State programs are in fact consistent with the desire for a coordinated national initiative in the utilization and protection of coastal zone resources. The annual report is intended to serve as the basis for an annual congressional review of the program, looking to changes that may be necessary in order to achieve the objectives of this title and to enhance the value of the coastal zone management processes.

Section 315. *Rules and Regulations*.—The regulations envisioned under this section are basically administrative regulations necessary to implement the various sections of the title, including the establishment of procedures whereby program development grants are requested and reviewed, regulations governing the program approval procedures and allocation of administrative grants, regulations concerning the procedures under which continuing review of approved programs is implemented, and regulations concerning the procedures for applications and allocations for establishment of estuarine sanctuaries. In addition, the committee expects the Secretary to utilize the authority of this section to establish standards and criteria which must be met by the States in connection with the issuance of their own regulations under their management programs. Any such criteria or standards established must necessarily be broad in nature so that the differing requirements and situations in the various States are taken into consideration, as well as the specific techniques which the States have elected to use in controlling land and water uses, as provided for in section 306(e) (1).

Section 316. *Penalties.*—This section provides that whoever violates any regulation applicable to the estuarine sanctuary extension provisions of section 312 or the implementing regulations for the Federal management program for the contiguous zone under section 313 shall be liable to a civil penalty of not more than \$10,000 to be assessed by the Secretary. The regulations involved under both section 312 and section 313 must be applied in accordance with recognized principles of international law, and no foreign citizen may be subjected to such penalties except as he may be subject to U.S. jurisdiction by virtue of the principle of international law or by specific agreement of the foreign state of which he is a subject.

This section also provides for mitigating procedures, for collection procedures and for injunctive procedures to restrain violations of applicable regulations. In addition, it provides that when a vessel is used in the violation of an applicable regulation, that vessel shall be liable in rem for any civil penalty assessed for that violation.

Section 317. *Appropriations.*—This section authorizes a 3-year program and appropriations for that 3-year period consisting of \$15 million for each of the 3 years beginning with fiscal year 1973 for program development grants under section 305, \$50 million for each of fiscal year 1971 and 1975 for administrative grants under section 306, and \$6 million for each of the 3 fiscal years beginning with fiscal year 1973 for estuarine sanctuary grants under section 312.

In addition, there are authorized such necessary sums, not to exceed \$3 million for each of the 3 fiscal years beginning with fiscal year 1973 as may be necessary for general administrative expenses to implement this title.

#### COST OF THE LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates the cost of the legislation as follows:

Current fiscal year: no cost.

[In millions of dollars]

	Fiscal year—				
	1973	1974	1975	1976	1977
Planning grants (sec. 305).....	15	15	15	0	0
Administrative grants (sec. 306).....	0	50	50	0	0
Estuarine sanctuaries (sec. 313).....	6	6	6	0	0
Administration.....	3	3	3	0	0
Total.....	24	74	74	0	0

The legislation as drafted provides for authorization of funds through June 30, 1975. Any costs for succeeding years including fiscal year 1976 and fiscal year 1977 will require additional legislative action. The total estimated cost through June 30, 1975, is \$172 million. The committee is not aware of any estimates of costs made by any Federal agency for planning grants, administrative grants, or estuarine sanctuaries (sections 305, 306 and 313). The Department of Commerce estimates the annual administration costs as being approximately \$2,830,000 per year.

## DEPARTMENTAL REPORTS

The following are reports from the various Federal departments and agencies on coastal and estuarine management bills. As a result of the hearings, H.R. 14146 was considered in executive session and ordered reported, with an amendment, as a clean bill.

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COMPTROLLER GENERAL,  
OF THE UNITED STATES,  
*Washington, D.C., April 21, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.*

DEAR MR. CHAIRMAN: This is in reference to your letter of February 22, 1971, requesting our views on H.R. 2193, entitled "A bill to assist the States in establishing coastal and estuarine zone management plans and programs."

We have no special information as to the advantages or disadvantages of the proposed legislation and therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et. seq.* Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et. seq.*)."

Page 6, line 3, of the bill refers to "Sec. 306." This should be changed to "Sec. 305."

Page 19, line 4, of the bill refers to "Sec. 313." This should be changed to "Sec. 314" and the following section appropriately renumbered.

Section 304(b), page 5, defines coastal and estuarine zone as extending seaward to the outer limit of the U.S. territorial sea. The International Convention on the Continental Shelf recognizes the sovereign rights of the coastal nation to explore the shelf and exploit its natural resources. Therefore, the committee may wish to consider redefining the coastal and estuarine zone to include the Continental Shelf which the Convention defines as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" and "the seabed and subsoil of similar submarine areas adjacent to the coast of islands."

Section 304(c), page 5, defines "coastal State" as including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia. We assume it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305(a), page 6, of the bill authorizes the Secretary of Commerce to make annual grants to any coastal State in the development of a management plan and program for the land and water resources of the coastal and estuarine zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal

State is adequately and expeditiously developing such management plan and program.

This provision appears to preclude grants to States which have not yet started to develop a management plan and program. The committee may wish to consider language changes which would allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a), page 7, of the bill authorizes the Secretary to make annual grants to any coastal State for not more than  $66\frac{2}{3}$  percent of the costs of administering the coastal State's management plan and program. Section 306(c) (4), page 8, of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of administering the management plan and program or if these grants are solely intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(b), page 7, of the bill states that grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary. This provision may not result in an equitable distribution of funds to each of the coastal States in that under section 306(i), page 12, a grant of an amount up to 15 percent of the total amount appropriated may be made to one coastal State. We believe that these grants should take into account the populations of such States, the size of the coastal or estuarine areas, and the respective financial needs of such States.

Section 307, page 12, authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311, page 14, authorizes the Secretary to establish a coastal and estuarine zone management advisory committee composed of not more than 15 persons designated by the Secretary. The section does not (1) specify the term of service of the members, and (2) provide for the designation of a chairman. The committee may wish to provide for (1) the term or terms of service and (2) the selection of a chairman.

Section 313(a), page 15, should be clarified as it is now unclear whether it provides that States must adequately consider the views of principally affected Federal agencies prior to submitting their plans to the Secretary or whether the Secretary must adequately consider the views of principally affected Federal agencies prior to his approval of

the States' plans. In either case, the committee may wish to set a specific time limit within which principally affected Federal agencies must submit their views.

Sincerely yours,

R. F. KELLER,  
*Acting Comptroller General  
of the United States.*

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COMPTROLLER GENERAL  
OF THE UNITED STATES,  
*Washington, D.C., June 28, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of  
Representatives.*

DEAR MR. CHAIRMAN: By letter of May 5, 1971, you requested our comments on H.R. 2492, 92d Congress, which would amend the Marine Resources and Engineering Development Act of 1966, as amended, to provide for the effective management of the Nation's coastal and estuarine areas by adding title III which, if enacted, would be cited as the "Coastal and Estuarine Area Management Act."

We have no information as to the advantages or disadvantages of the proposed legislation and therefore we have no recommendation with respect to enactment. However, we have the following comments concerning specific provisions of the bill.

Section 303(c) authorizes the Administrator of the National Oceanic and Atmospheric Agency to enter into agreement with any coastal State to underwrite, by guarantee, bonds issued or loans obtained by such State for land acquisition, water development, or restoration projects undertaken by such State in connection with the implementation of a coastal or estuarine management plan. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Administrator. We also believe that an aggregate principal amount of guaranteed bonds and loans that may be outstanding at any time should be stated in the bill. Further, assuming that the appropriations authorized by section 308(b) relate to activities under section 303(c)(2), the bill makes no provision for the possibility that the liability for payments under section 303(c)(2) might exceed the amounts appropriated. Also it does not identify the recourse or rights of the Federal Government in the event of any defaults.

Section 306(5) defines "coastal State" as any of the several States which include coastal or estuarine areas within their boundaries, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. We assume that it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Sections 303(a) and (b) of the bill would provide the Administrator with authority to make grants to any coastal authority to carry out the purposes of the proposed legislation. There is no provision in the bill, however, authorizing the Administrator or the Comptroller General or their representatives to have access to the books and records of the recipients of the Federal grants for the purpose of audit and examination. Such authority is provided to Federal grantor agencies and the Comptroller General with respect to grant-in-aid to States pursuant

to section 202 of the Intergovernmental Cooperation Act of 1968, 82 Stat. 1101. We recommend that similar authority be provided with respect to recipients of funds under the proposed legislation. This could be accomplished by the following language:

"Each recipient of a grant under this Act shall keep such records as the Administrator may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

"The Administrator 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 the recipient of any grant under this Act which are pertinent to any such grant."

Section 304(a)(1)(A) of the bill lists factors to be considered in the determination of allotments among participating coastal States. The committee may wish to be more specific as to the financial needs which the Administrator is to take into consideration in the making of allotments and the relative weight to be accorded to the three factors listed in this section.

Section 304(c)(1) contains a list of Federal assistance programs with which coordination must be assured by the Administrator. The committee may wish to add the following acts to that list: the Clean Air Act, as amended; the Federal Water Pollution Control Act, as amended; and the Solid Waste Disposal Act of 1965, as amended.

On page 2, line 24, "Agency" should be "Administration."

Sincerely yours,

R. F. KELLER,  
*Assistant Comptroller General  
of the United States.*

COMPTROLLER GENERAL  
OF THE UNITED STATES,  
*Washington, D.C., August 19, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.*

DEAR MR. CHAIRMAN: By letter of June 21, 1971, you requested our comments on H.R. 9229, 92d Congress, which would amend the Marine Resources and Engineering Development Act of 1966, as amended, by adding titles III and IV which, if enacted, would be cited as the "National Coastal and Estuarine Zone Management Act of 1971" and the "Marine Sanctuary Act of 1971," respectively.

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

Section 304(b), page 5, defines coastal and estuarine zone as extending seaward to the outer limit of the U.S. territorial sea. The International Convention on the Continental Shelf recognizes the



sovereign rights of the coastal nation to explore the shelf and exploit its natural resources. Therefore, the committee may wish to consider redefining the coastal and estuarine zone to include the continental shelf which the Convention defines as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" and "the seabed and subsoil of similar submarine areas adjacent to the coast of islands."

Section 304(c), page 5, defines "coastal State" as including Puerto Rico, the Virgin Islands, Guam, and American Samoa. We assume it is not intended to include the Trust Territory of the Pacific Islands, the District of Columbia, and the Panama Canal Zone.

Section 305(a), page 6, of the bill authorizes the Secretary of Commerce to make annual grants to any coastal State in the development of a management plan and program for the land and water resources of the coastal and estuarine zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This provision appears to preclude grants to States which have not yet started to develop a management plan and program. The committee may wish to consider language changes which would allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a), page 7, of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 66 $\frac{2}{3}$  percent of the costs of administering the coastal State's management plan and program. Section 306(c)(4), page 8, of this bill states that the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of administering the management plan and program or if these grants are solely intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(c)(2), page 8, requires the coastal State to make provisions for public notice and to hold public hearings on the development of the management plan and program. All required public hearings under this title must be announced at least 30 days before they take place and all relevant materials, documents, and studies must be readily available to the public for study at least 30 days in advance of the actual hearing or hearings. The committee may wish to increase the number of days notice for public hearings in order that the public may have advance notice that relevant studies and documents are to be available at least 30 days in advance of the hearings. This would give the public the benefit of the full 30 days to examine the relevant documents.

Section 307(a), page 12, should be clarified as it is now unclear whether it provides that States must adequately consider the views of principally affected Federal agencies prior to submitting their plans to the Secretary or whether the Secretary must adequately consider the

views of principally affected Federal agencies prior to his approval of the States' plans. In either case, the committee may wish to set a specific time limit within which principally affected Federal agencies must submit their views.

Section 310, page 17, authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 310 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311, page 17, authorizes the Secretary to establish a coastal and estuarine zone management advisory committee composed of not more than 15 persons designated by the Secretary. The section does not (1) specify the term of service of the members, and (2) provide for the designation of a chairman. The committee may wish to provide for (1) the term or terms of service and (2) the selection of a chairman.

It is suggested that section 316, page 22, be preceded by the caption "PENALTIES."

The committee may wish to provide captions for the sections in title IV of the bill other than section 401.

Section 402(d), page 25, states that the Secretary shall submit a report annually to the Congress setting forth a comprehensive review of his actions under the authority under this section. The committee may wish to set a specific date for the submission of this report.

Sincerely yours,

R. F. KELLER,  
*Acting Comptroller General  
of the United States.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., June 11, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of  
Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for our comments on H.R. 2492, H.R. 2493, and H.R. 3615, similar bills to assist the States in their establishment of coastal zone management plans and programs.

Because we recognize a real and urgent need for comprehensive land use planning, which would include the coastal zone and estuaries, we recommend the enactment of this Administration's National Land Use Policy Act of 1971, now pending as H.R. 4332, H.R. 4337, H.R. 4569, and H.R. 5504, in lieu of H.R. 2492, H.R. 2493, or H.R. 3615.

H.R. 2492 and H.R. 2493 would both amend the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) by adding a new title III, to be cited as the "Coastal and Estuarine Area Management Act" and the "National Coastal and Estuarine Zone Management Act of 1971", respectively. Consistent with a congressional declaration that there is a national interest in the effective management, beneficial use, protection, and development of the Nation's coastal and estuarine zone, the Administrator of the National Oceanic and Atmospheric Administration (H.R. 2492) of the Secretary of Commerce (H.R. 2493) would be authorized to assist coastal States in the development and administration of an approved management plan and program. No such program could be approved without a finding that the coastal State has legal authority and institutional organization adequate for the management of its coastal zone. H.R. 2492 would authorize grants not to exceed 50 percent of 2 years' operating expenses for a coastal authority, and a like percentage annually for long-range planning or implementation of a management program. H.R. 2493 would authorize cost-sharing grants of 66 $\frac{2}{3}$  percent for development and subsequent administration of an approved management program.

Both bills would provide for bond and loan guarantees to facilitate land acquisition, land and water development, and restoration projects. In addition, H.R. 2493 provides for appointment of a 15-member advisory committee and Federal assistance in the States' acquisition of estuarine sanctuaries.

H.R. 3615 would amend the so-called Estuary Protection Act of August 3, 1968 (16 U.S.C. 1221 et seq), by adding a second title, the "National Estuarine and Coastal Zone Management Act of 1971".

The Secretary of the Interior would make grants not to exceed 50 percent of costs for program development and operation, and would be directed to develop a comprehensive Federal plan for that portion of the coastal zone beyond the territorial sea. There is provision, too, for the appointment of advisory committees to "consult with and make recommendations to the Secretary on matters of policy concerning the coastal zone".

As the result of two studies conducted by this Department and the Stratton Commission report, this administration recommended that the 91st Congress enact legislation similar in concept to H.R. 2492, H.R. 2493 and H.R. 3615. We believed then, as we believe now, that the finite resources of our coastal and estuarine areas are threatened by population growth and economic development. At the Federal level, this Department had already been directed by the Estuary Protection Act of 1968 to conduct a study and inventory of the Nation's estuaries. As we reported to the committee during the last Congress, it was a conclusion of our study and others that effective management of land and water resources could best be promoted by encouraging the States to accept a broadened responsibility for land use planning and management.

In its first annual report, the Council on Environmental Quality last August recognized "a need to begin shaping a national land use policy". In February of this year, the President urged that we "reform the institutional framework in which land use decisions are made", and recommended enactment of a proposed "National Land

Use Policy Act of 1971". It is the President's proposal that \$20 million be authorized in each of the next 5 years to assist the States in establishing methods for protecting lands, including the coastal zone and estuaries, of critical environmental concern, methods for controlling large-scale development, and improving use of land around key facilities and new communities. "This proposal", the President said, "will replace and expand my proposal submitted to the last Congress for coastal zone management, while still giving priority attention to this area of the country which is especially sensitive to development pressures".

Specifically, H.R. 4332 would authorize a two-phase program of grants to be administered by the Secretary of the Interior. In that cost-sharing grants would be awarded both for program development and for program management. H.R. 4332 is similar to H.R. 2492, H.R. 2193 and H.R. 3615. The administration proposal differs from the bills under consideration, however, with respect to the scope of a State's planning activity and, indeed the number of States eligible for assistance. To assure that coastal zone and estuarine management receive the priority attention of coastal States, H.R. 4332 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventorying and designating such areas. Further, the Secretary would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account (1) the esthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection and (2) the susceptibility of wet lands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities. Most important, perhaps, funds for program development and management would be allocated to the States under regulations which must take into account the nature and extent of coastal zones and estuaries.

Of the manmade threats to coastal environments described by the Council on Environmental Quality in its first annual report, most have their origin in heavily populated land areas at or near the water's edge. But others can be traced further inland, where eventual impact upon the coastal environment is not so easily recognized. Thus, while pressures become most intense at the point where land meets water, many cannot be alleviated without truly comprehensive planning. This fact, and the related absence of any precise geographic definition for the coastal zone, lies behind the integrated approach embodied in H.R. 4332. It may be noted that several States, coastal and inland, have already expressed a commitment to this concept. We urge that the Congress and your committee, so effective in its concern for sound management of the coastal zone, join in this initiative to encourage planning for effective management of all the Nation's lands and waters.

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

Sincerely yours,

HARRISON LOESCH,  
*Assistant Secretary of the Interior.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, DC., June 23, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries House of  
Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: We respond to your request of June 21 for our comment on H.R. 9229, a bill "To establish a national policy and develop a national program for the management, beneficial use, protection and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes".

By letter of June 11, we furnished comment on H.R. 2492, H.R. 2493 and H.R. 3615, all similar to H.R. 9229 in that they would authorize assistance to the States in their establishment of coastal zone management plans and programs. H.R. 9229 is also similar to S. 582, coastal zone legislation now pending before the Senate Committee on Commerce.

H.R. 9229 would amend the Marine Resources and Engineering Development Act of 1966 by adding new titles III, the "National Coastal and Estuarine Zone Management Act of 1971", and IV, the "Marine Sanctuary Act of 1971". The bill would (1) authorize annual grants not to exceed 66 $\frac{2}{3}$  percent of a State's costs in developing its coastal zone management program, provided that no single grant exceeded \$600,000, and a like percentage for costs of administering the program; (2) authorize a program of bond and loan guarantees to facilitate land acquisition, land and water development, and restoration projects; (3) authorize cost-sharing for the acquisition, development and operation of not more than 15 estuarine sanctuaries; and (4) provide for designation by the Secretary of Commerce of marine sanctuaries within areas of the high seas outside the coastal and estuarine zone and "superjacent to the subsoil and seabed of the Continental Shelf", "Marine sanctuary" is not defined, nor is there provided a distinction between "marine sanctuary" and "estuarine sanctuary", which, under terms of section 312(b), might also be established "seaward beyond the coastal and estuarine zone."

Our earlier comments are generally applicable to those provisions of H.R. 9229 which would provide for land use management within the coastal zone. We strongly recommend the enactment of H.R. 4332, this administration's proposal for assistance to the States in their development of comprehensive plans for effective management of all the Nation's lands and waters. As we noted in the earlier report, the National Land Use Policy Act of 1971 (H.R. 4332) is intended to broaden the coverage of coastal zone legislation submitted during the last Congress, while still giving priority attention to those areas of the country which are particularly sensitive to development pressures.

The marine sanctuary concept proposed in H.R. 9229 as a new title IV of the Marine Resources and Engineering Development Act of 1966 is deserving of careful study, and of treatment in a separate bill. It would be inappropriate, we believe, to embark upon the Federal regulatory scheme required by sections 412(f) and 413 within the context of legislation designed to assist the coastal States in the exercise

of their land management responsibilities. Further, absent clarification, the proposed title IV is in conflict with the mineral leasing provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

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

Sincerely yours,

HARRISON LOESCH,  
*Assistant Secretary of the Interior.*

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ENVIRONMENTAL PROTECTION AGENCY,  
*Washington, D.C., June 23, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the comments of the Environmental Protection Agency on H.R. 2492, H.R. 2493, H.R. 3615, and H.R. 6605, bills relating to protection of coastal and estuarine areas.

H.R. 2492

H.R. 2492 would amend the Marine Resources and Engineering Development Act to authorize the Administrator of the National Oceanic and Atmospheric Administration to make grants to "coastal authorities" established by States and having a broad interest in the development of coastal areas. Such grants would be authorized to pay up to 50 percent of the costs of operation of such an authority for the first 2 years of its existence. Further grants at the 50-percent-level would be authorized upon the submission and approval of a proposal for long-range planning with respect to coastal and estuarine area management, or for the implementation of such a plan. In evaluating such proposals, the NOAA Administrator would be required to consider the extent to which they identified important areas, fostered multiple uses, and provided methods for conflict resolution with respect to such uses, established machinery such as zoning, easements, or land acquisition to ensure compliance with plans, provided for public participation and coordination with other agencies and organizations and fostered research on shoreline and estuarine resources. Five million dollars annually would be authorized for operation and planning grants.

The Administrator of NOAA would also be authorized to enter into agreements to underwrite loans or bond issues, and to pay for a 5-year period up to 25 percent of amortization charges or loan interests, with respect to such loans or issues, for the purpose of land acquisition, water development, or restoration projects in connection with the implementation of an approved plan. Two million dollars (\$2,000,000) per year would be authorized for this purpose.

Grant funds would be allocated among coastal States according to regulations based on the populations of such States, the size of the coastal or estuarine areas, and the respective financial needs of the States.

This bill would authorize the Secretary of Commerce to award grants to coastal States for the development of management plans and programs for the land and water resources of the coastal zone. Such grants would not exceed 66 $\frac{2}{3}$  percent of the planning costs. If the Secretary found that a plan was consistent with implementation plans under the Clean Air Act, the Federal Water Pollution Control Act, and the Solid Waste Disposal Act of 1965; that provision for public notice and hearings on the plan and program had been made; that the plan and program had been reviewed and approved by the Governor; that a single agency would administer and implement the management plan and program; that the State had the necessary authority to implement the program, including controls over public and private development; and that the program would carry out the purposes of the bill, he would be authorized to make annual grants for the costs of administering the program, with the same maximum percentages as planning grants.

With the Secretary's approval, States would be authorized to develop plans in segments so as to focus attention on problem areas, and to revise plans to meet changed conditions. Grants could be terminated if the Secretary determined that a State was failing to implement its plan and program.

Additional provisions would require the Secretary, before approving programs, to consult with Federal agencies principally involved. Federal agencies conducting or supporting activities in the coastal zone would be required to "seek to make such activities consistent with the approved State management plan and program for the area." Federal development activities in the coastal zone would be prohibited if the coastal State deemed such activities inconsistent with a management plan unless the Secretary found such project consistent with the objectives of the bill, or in cases where the Secretary of Defense determined that the project was necessary in the interests of national security. Applicants for Federal licenses or permits to conduct any activity in the coastal zone would be required to obtain a certification from the appropriate State agency that the proposed activity was consistent with the coastal zone management plan and program.

The Secretary would be required to submit an annual report to the President for transmittal to the Congress on the administration of the act.

H.R. 2493 would also authorize the establishment of "estuarine sanctuaries" for the purpose of studies of natural and human processes occurring within the coastal zone, and would provide for grants by the Secretary of up to 50 percent of the costs of acquisition, development, and operation of such sanctuaries.

This bill is derived from S. 3183, the administration's proposed coastal zone management bill introduced in the 91st Congress.

H.R. 3615 would authorize the Secretary of the Interior to make program development grants to the coastal States to assist in developing comprehensive management programs for their coastal zones.

Grants would be limited to 50 percent of the State's cost of developing the program (to a maximum limit of \$1 million per year for each coastal State). Other Federal funds could not be used to match such grants. The initial and subsequent grants would be, respectively, conditioned on a demonstration that the funds would be used to develop a comprehensive management program consistent with the requirement of section 202(d) (3) of the bill, and on a finding that the coastal State was adequately and expeditiously developing such a program. Upon completion of the development of the program the coastal State would be required to submit it to the Secretary for review.

Operating grants up to 50 percent of costs of administering the program (to a maximum limit of \$1 million per year for each coastal State) would be authorized by section 202(d) (1) if the State's program were approved by the Secretary. Operating grants would be allotted to the States on the basis of regulations developed by the Secretary, taking into account the amount and nature of the coastline and area covered by the management plan, population, and other relevant factors. No grant funds could be used for the acquisition of real property.

Before approving a State's comprehensive management program, the Secretary would be required to find that the Governor had designated a single agency to receive and administer grants for implementing its management plan; that the management plan had been reviewed and approved by the Governor; that the coastal State was organized to implement the management plan; that the agency or agencies responsible for implementing the management plan had the necessary regulatory authority; that the coastal State had developed and adopted a coastal zone management plan, and that it had provided for adequate public notice and hearings in the development of its management plan.

Each coastal State's management plan would be required to: identify the area covered by the management plan; identify and recognize the National, State, and local interests in the preservation, use, and development of the coastal zone; contain a feasible land and water use plan reasonably reflecting short-term and long-term public and private requirements for use of the coastal zone; describe the coastal State's current and planned programs for the management of its coastal zone; identify and describe the means for coordinating the plan with Federal, State, and local plans for use, conservation, and management of the coastal zone, including State, interstate, and regional comprehensive planning; reflect the State's procedures for review of State, local, and private projects in the coastal zone for consistency with the plan and for advising whether Federal and federally assisted projects are consistent with the plan; describe the State's procedures for modification and changes of the management plan; indicate that the plan was developed in cooperation with relevant Federal agencies, State agencies, local governments, and all other interests; describe the procedures for regular review and updating of the plan; contain adequate provisions for disseminating information concerning the plan and subsequent modifications or changes; and provide for conducting, fostering, or utilizing relevant research.

The Governor of a coastal State would be authorized, with the Secretary's approval, to allocate portions of a program development grant



or operating grant to an interstate agency if such agency had authority to perform the functions required of a coastal State under the bill.

Section 202(e) would require the Secretary to review the management program and performance of the coastal States and would authorize him to terminate and withdraw financial assistance, after notice and an opportunity to present evidence, where a coastal State unjustifiably failed to adhere to the program approved by the Secretary.

Section 202(g) would direct all Federal agencies conducting or supporting activities in coastal areas to make such activities consistent with the approved plan for the area, and would require such agencies to refrain from approving proposed projects inconsistent with the plan without a finding that the proposals, on balance, were sound.

The Secretary would be required to develop a comprehensive management plan for the resources of the coastal zone beyond the territorial sea. Such plans would provide for the exploitation of living marine resources, mineral resources, and fossil fuels.

#### H.R. 6605

H.R. 6605 would create a national coastline conservation commission, consisting of two representatives from each coastal State, one representative from each interested executive department, and five representatives from the public at large, who would be appointed by the President with the advice and consent of the Senate. The commission would be required to prepare a comprehensive study of all factors significantly affecting the present and future status of the coastal marine zone, including all relevant natural and physical characteristics, all noneconomic human activities and needs, all industrial, economic and commercial needs, existing legislation and regulations, and geological and demographic factors affecting the coastal zone. The commission would be further required to consider the powers necessary for balanced conservation and development of the coastal zone, and which agency or agencies would be appropriate to exercise such powers.

After the preparation of the comprehensive study, the commission would be required to prepare a comprehensive, coordinated and enforceable plan and management program for the conservation and development of the coastal zone. Before any part of the plan could be adopted, the commission would be required to hold public hearings in all areas affected by the plan, and general public hearings on the plan itself. Such plans would set forth the results of the comprehensive study, recommended policies for the coastal zone, powers consistent with those policies, recommended agencies to carry out the plan, and legislative and budgetary actions necessary.

While completing the plan and management program, the commission would be authorized to comment upon and seek to influence proposed actions in the coastal marine zone.

The commission would be required to file an annual report with the President and the Congress no later than December 31 of each year.

H.R. 2492, H.R. 2493, and H.R. 3615 are essentially similar in that they would establish a program of grants to the States for the purpose of developing management and conservation programs for the coastal

zone. H.R. 6605, however, calls for a study of these areas, and would eventually result in recommendations for further action, including legislation, which would be necessary to enforce the recommended conservation measures.

EPA believes that the time for studies of the coastal zone is past. Two major studies have already been completed of these areas which document in detail the actions which would be required to protect them. The "National Estuarine Pollution Study," which was developed for the Secretary of the Interior by the Federal Water Quality Administration, now a component of EPA, concluded that urbanization and industrialization, combined with unplanned development in the estuarine zone, have resulted in severe damage to the estuarine ecosystem. In addition, the "National Estuary Study," developed for the Secretary by the Fish and Wildlife Service, identified the need for a new thrust on the side of natural and esthetic values in the Nation's estuarine areas. Clearly, we need to insure that environmental values are adequately protected in such areas. In this connection, however, we are aware that land use planning can affect all areas, not simply estuarine areas, and that adequate planning for preservation of estuarine and coastal areas can only be effective if the full range of alternatives to development in such areas can be considered. In other words, estuarine and coastal planning must be considered within the larger context of land use planning statewide.

Accordingly, EPA does not recommend the enactment of legislation which would deal only with development and other activities in the coastal zone. Controls are needed over all aspects of land use which can affect delicate or endangered areas of environmental concern. Such controls would be provided by H.R. 4332, the administration's proposed "National Land Use Policy Act of 1971."

H.R. 4332 would authorize the Secretary of the Interior to make grants of up to 50 percent of cost to assist the States in developing and managing land use programs. Programs would be required to include methods for inventorying and exercising control over the use of land within areas of critical environmental concern, including coastal zones and estuaries. States would also be required to develop a system of controls of regulations to insure compliance with applicable environmental standards and implementation plans.

EPA favors the approach embodied in H.R. 4332, which incorporates provisions for the protection of the coastal and estuarine areas into its more comprehensive scheme. At the same time, we recognize that the coastal zone is an area of special concern, where prompt and effective action is required. Heavy pressures for further development, coupled with the fragility of coastal and estuarine areas, make it imperative that we move immediately to protect these areas. The system authorized by H.R. 4332 will permit a high priority for coastal zone planning within its larger context of land use planning and programs. We therefore urge prompt congressional approval of H.R. 4332, and recommend that the bills discussed previously not be enacted.

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

Sincerely,

WILLIAM D. RUCKELSHAUS,  
*Administrator.*

DEPARTMENT OF THE NAVY,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, D.C., June 24, 1971.

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of  
Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Your request for comment on H.R. 2492 a bill "To provide for the effective management of the Nation's coastal and estuarine areas," has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

This bill would amend the Marine Resources and Engineering Development Act of 1966 by adding thereto a new title III to be known as the Coastal and Estuarine Area Management Act. This act would declare it to be the policy of Congress to foster effective utilization of coastal and estuarine areas through assistance to coastal States in their management of such areas. The bill would authorize the Administrator of the National Oceanic and Atmospheric Agency to make grants to any coastal authority for the purpose of defraying their operating expenses. The Administrator would be directed to review plans submitted by any coastal authority and to approve such plans, if they fulfill the objective of the act. The Administrator would also be authorized to enter into agreements with any coastal State to underwrite, by guarantee, bonds issued on loans obtained by such States for land acquisition, water development, or restoration projects undertaken by such State in connection with the implementation of a coastal or estuarine management plan.

The Department of the Navy, on behalf of the Department of Defense, is sympathetic with the basic objectives of H.R. 2492; however, we wish to note that the comprehensive "National Land Use Policy Act of 1971 (H.R. 4332) which is part of the President's environmental program also contains provisions which give explicit recognition to the importance of the Nation's coastal and estuarine areas. We would defer to the Council on Environmental Quality and the Department of the Interior as to the desirability of legislation such as H.R. 2492, in light of the proposed "National Land Use Policy Act of 1971."

For the committee's benefit, however, we would like to mention certain points that should be kept in mind in connection with any legislation designed to influence use of our coastal and estuarine areas. First, certain parts of such areas may be of great importance in connection with such national defense activities as weapons testing and development. Thus, it is vital that provision be made in any legislation in this area for consultation with the Secretary of Defense in connection with the Federal approval of any State plan or program governing the use, development, or disposition of the resources of the coastal estuarine areas. We note in this connection that provision is made in the "National Land Use Policy Act of 1971" for consultation by the Department of the Interior with other concerned Federal agencies, including, of course, the Department of Defense.

Second, as a matter of international law it is imperative that any legislation in this field contain language to the effect that nothing in such legislation should be construed as authorizing, and does not authorize any rules or controls which are in derogation of the interna-

tionally recognized right of innocent passage, through international straits or the sovereign immunity afforded certain vessels under international law.

Third, under international law a nation has a right to exercise certain types of jurisdiction over portions of the seas. The United States at present claims a 3-mile territorial sea in which, subject only to the right of innocent passage, and the sovereign immunity of certain vessels, the United States exercises complete jurisdictional control. From 3 to 12 miles international law recognizes a contiguous zone. Within such high-seas area the United States may exercise limited additional powers including control over fisheries, custom, fiscal, immigration, and sanitation matters. Beyond these general and specialized jurisdictional zones, the United States may unilaterally exercise only exclusive sovereign rights over exploration and exploitation of the natural resources of the Continental Shelf (Convention on the Continental Shelf, TIAS 5578). Extreme care must be taken to avoid the inference that the United States is attempting to extend unilateral control to offshore areas beyond that which is permitted by international law.

Further, the President has recently issued an ocean policy statement which calls for current law-of-the-sea questions, most of which involve questions of the limits of permissible coastal State jurisdictional control, to be resolved in the context of a multilateral convention. This initiative has been actively pursued by the United States in the United Nations, and has resulted in a General Assembly Resolution calling for a new Law-of-the-Sea Conference to convene in 1973. For the United States at this time to enact legislation appearing to unilaterally extend its offshore jurisdiction could be looked upon by many nations as a sign of bad faith with respect to our commitment to resolve law-of-the-sea problems in a multilateral context.

To avoid the possibility of any legislation being expansively interpreted, which would violate both international law and stated U.S. policy, it should be made clear that the U.S. coastal zone extends seaward only to the outer limit of the U.S. territorial sea.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report on H.R. 2492 for the consideration of the committee.

Sincerely yours,

LANDO W. ZECH, Jr.,  
*Captain, U.S. Navy, Deputy Chief*  
 (For the Secretary of the Navy).

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DEPARTMENT OF THE NAVY,  
 OFFICE OF LEGISLATIVE AFFAIRS,  
 Washington, D.C., June 24, 1971.

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Your request for comment on H.R. 2493, a bill "To assist the States in establishing coastal and estuarine zone

management plans and programs," has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The bill would amend the Marine Resources and Engineering Development Act of 1966 by adding thereto a new title III to be known as the "National Coastal and Estuarine Zone Management Act of 1971." This act would establish a national policy to preserve, develop, and restore the Nation's coastal and estuarine zone through the preparation and implementation of State management plans and programs. The act would authorize the Secretary of Commerce to make grants to the coastal States to assist in the development and administration of their management plans and programs. In addition, the Secretary would be authorized to underwrite bond issues or loans for State land acquisition or State land and water development and restoration projects and to make grants to coastal States to acquire, develop, and operate estuarine sanctuaries for the purpose of creating natural field laboratories.

The Department of the Navy, on behalf of the Department of Defense, is sympathetic with the basic objectives of H.R. 2493; however, we wish to note that the comprehensive "National Land Use Policy Act of 1971" (H.R. 4332) which is part of the President's environmental program also contains provisions which give explicit recognition to the importance of the Nation's coastal and estuarine areas. We would defer to the Council on Environmental Quality and the Department of the Interior as to the desirability of legislation such as H.R. 2493, in light of the proposed "National Land Use Policy Act of 1971."

For the committee's benefit, however, we would like to mention certain points that should be kept in mind in connection with any legislation designed to influence use of our coastal and estuarine areas. First, certain parts of such areas may be of great importance in connection with such national defense activities as weapons testing and development. Thus, it is vital that provision be made in any legislation in this area for consultation with the Secretary of Defense in connection with the Federal approval of any State plan or program governing the use, development, or disposition of the resources of the coastal estuarine areas. We note in this connection that provision is made in the "National Land Use Policy Act of 1971" for consultation by the Department of the Interior with other concerned Federal agencies, including, of course, the Department of Defense.

Second, as a matter of international law it is imperative that any legislation in this field contain language to the effect that nothing in such legislation should be construed as authorizing, and does not authorize any rules or controls which are in derogation of the internationally recognized right of innocent passage, passage through international straits or the sovereign immunity afforded certain vessels under international law.

As a technical matter, it is noted that the bill does not contain a section 305, but does contain two sections numbered 306 and two sections numbered 313.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the stand-

point of the administration's program, there is no objection to the presentation of this report on H.R. 2493 for the consideration of the committee.

Sincerely yours,

LANDO W. ZECH, JR.,  
*Captain, U.S. Navy, Deputy Chief,*  
 (For the Secretary of the Navy).

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U.S. ATOMIC ENERGY COMMISSION,  
*Washington, D.C., July 26, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives*

DEAR MR. GARMATZ: The Atomic Energy Commission is pleased to reply to your requests for our views on H.R. 2492, H.R. 2493, H.R. 3615, and H.R. 9229, bills designed to assist the States in establishing coastal and estuarine zone management plans. We note that similar bills were introduced in the 91st Congress, viz., H.R. 14730, H.R. 14731, H.R. 14845, H.R. 15099, and H.R. 16155. Our views on those bills were submitted to you in our letter of May 5, 1970.

The present bills would establish a national policy for the management and protection of the coastal zone. To effectuate this policy, Federal financial assistance in the form of grants would be made available to coastal States to aid them in the development and administration of coordinated and comprehensive plans for the management of the coastal and estuarine areas of such States.

As indicated in our reply on the earlier coastal zone bills, we fully support meaningful efforts directed to the proper management of this Nation's coastal and estuarine resources, and we support the objectives of these bills.

On February 8 of this year, the President transmitted to the Congress a message on the environment in which he proposed a wide-ranging program for the further preservation and enhancement of the quality of our environment. In his message, he discussed the need to promote environmental quality in land use decisions. To further this goal, he proposed the introduction of legislation that would establish a "National Land Use Policy", by which the states would be encouraged to plan for and regulate major developments affecting the growth and use of, what he termed, "critical land areas".

This legislation has since been introduced in the House as H.R. 4332. As the President stated, this legislation is designed to replace and expand his proposal for management of the coastal zone introduced in the last Congress (H.R. 14845, noted above), "while still giving priority attention to this area of the country which is especially sensitive to development pressures."

In our view, the more comprehensive approach to the land management problem embodied in the administration legislation, which recognizes the need to concentrate our planning efforts on other areas of "critical environmental concern", as well as the coastal zone, is preferable to that of the subject bills. Moreover, we believe the President's bill would effectively realize the objectives of H.R. 2192, H.R. 2493, H.R. 3615 and H.R. 9229.

While H.R. 4332 would be applicable generally to AEC licensing proceedings, as we understand it, the bill would not affect in any way AEC's exclusive statutory authority with respect to radiological health and safety and the common defense and security.

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

Sincerely,

E. J. BLOCH,  
*Deputy General Manager.*

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DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE,  
*July 30, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of June 21, 1971, for a report on H.R. 9229, a bill "To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes."

H.R. 9229 would authorize the Secretary of Commerce to make grants to any coastal State for the purpose of assisting in the development of a comprehensive management program for the land and water resources of the coastal zone. The bill would also provide for the designation of certain areas as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or esthetic values.

The views of this Department on the bill are those expressed in a report to your committee on June 8, 1971, on H.R. 2493 and H.R. 3615, bills which would provide authority similar to that in H.R. 9229. For your convenience a copy of that report is enclosed.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

ELLIOT L. RICHARDSON,  
*Secretary.*

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DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE,  
*June 8, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. GARMATZ: This letter is in response to your request of February 22, 1971 for a report on H.R. 2493, a bill "To assist the States in establishing coastal and estuarine zone management plans and programs", and H.R. 3615, a bill "To amend the Act of August 3, 1968, relating to the protection and restoration of estuarine areas, to provide for the establishment of a national policy and comprehensive na-

tional program for the conservation, management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

H.R. 3615 would authorize the Secretary of the Interior to make grants to any coastal State for the purpose of assisting in the development of a comprehensive management program for the land and water resources of the coastal zone. H.R. 2493 would grant this authority to the Secretary of Commerce.

On February 17, the Secretary of the Interior transmitted to the Congress the administration's proposal which is embodied in H.R. 4332, the "National Land Use Policy Act of 1971". H.R. 4332 implements the proposals made by the President in his message of February 8, 1971, "Program for a better Environment." This Department strongly supports the administration's proposal.

This Department would defer to the views of the Department of Interior, as to the merits of H.R. 2493 and H.R. 3615 in light of the proposals embodied in the administration's bill, H.R. 4332.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

ELLIOT L. RICHARDSON,  
*Secretary.*

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SMITHSONIAN INSTITUTION,  
*Washington, D.C., August 6, 1971.*

Hon. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on H.R. 9229, a bill "To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes."

Your request, dated June 21, 1971, for Smithsonian comments on H.R. 9229 was received too late to prepare a detailed reply in time for hearings on this bill scheduled before the Subcommittee on Oceanography for June 22-24, 1971. However, it is noted that H.R. 9229 is a modification and expansion of H.R. 2493, a bill whose general objectives the Smithsonian supports and upon which the Institution reported accordingly in a letter to you dated June 24, 1971 (copy attached).

The Smithsonian continues to support these basic objectives as now set forth in H.R. 9229. However, as observed in the report on H.R. 2493, the Institution notes the administration's comprehensive and integrated "National Land Use Policy Act of 1971" (introduced as H.R. 4332) which gives concrete recognition to the importance of the Nation's coastal and estuarine areas by encouraging the coastal States to adopt special protective measures pertaining to these areas. For this reason, the Smithsonian defers to the views of the Council on Environmental Quality and the Department of the Interior regarding the specific implementing provisions set forth in H.R. 9229.

With respect to Marine Sanctuaries (title IV of the proposed legislation), the Smithsonian firmly believes that serious consideration



must be given to the need for marine sanctuaries. However, decisions of a complex nature will be involved in determining scientifically, economically, and politically (1) which areas should be delineated as marine sanctuaries, (2) the effect of the establishment of such areas upon competing biological and commercial uses; and (3) the posture, vis-a-vis international law, of such sanctuaries located beyond the 3-nautical-mile limit. For this reason, the matter of establishing marine sanctuaries may warrant special consideration on its own merits and very likely is the proper subject of a separate bill. Further, it might be useful to delay specific legislation until some of the planned international conferences, dealing with law and the ocean environment, have been completed in order to determine the type of legislation needed in the light of such agreements as may emerge from these conferences.

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

Sincerely yours,

S. DILLON RIPLEY, *Secretary.*

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SMITHSONIAN INSTITUTION,  
Washington, D.C., June 24, 1971.

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on H.R. 2492, a bill "To provide for the effective management of the Nation's coastal and estuarine areas," and H.R. 2493, a bill "To assist the States in establishing coastal and estuarine zone management plans and programs." Essentially, H.R. 2492 would empower the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to make grants, subject to certain limitations, to State coastal authorities for the purpose of developing long-range planning and management of their respective coastal and estuarine areas. Further, the Administrator would be authorized to underwrite a guarantee, bond issue, or loan obtained by a coastal State for land acquisition, water development, or restoration projects undertaken pursuant to a coastal or estuarine area management plan. Such plans would require approval by the Administrator as one condition to the making of a grant or underwriting loans, etc.

H.R. 2493 also would encourage coastal States to develop effective management plans for coastal and estuarine areas subject to competitive uses. Encouragement would assume the form principally of grants by the Secretary of the Department of Commerce to such States for the purpose of assisting in the development and administration of management plans and programs. The Secretary also would be authorized to underwrite bond issues or loans incurred by coastal States for the purpose of land acquisition, or land and water development and restoration projects accomplished in accordance with approved management plans and programs. The Secretary would be required to submit an annual report to the Congress, through the President, setting forth the undertakings and programs in the administration of this legislation. Finally, effective interagency coordina-

tion and cooperation would be required in accomplishing the objectives of the bill.

The Smithsonian Institution agrees that (1) the coastal and estuarine zones are ecologically fragile; (2) there are increasing and competing demands made upon the lands and waters of our coastal and estuarine zones; and (3) an integrated management and planning mechanism is necessary for effective development and protection of coastal and estuarine resources. Accordingly, the Smithsonian supports the basic objectives in H.R. 2492 and H.R. 2493. However, it should be noted that the Administration's comprehensive "National Land Use Policy Act of 1971" (introduced as H.R. 4332) also gives concrete recognition to the importance of the Nation's coastal and estuarine areas, by encouraging the coastal States to adopt special protective measures pertaining to these areas. For this reason, although the Smithsonian supports the general objectives of H.R. 2492 and H.R. 2493, the Institution defers to the views of the Council on Environmental Quality and the Department of the Interior regarding the specific provisions set forth in those bills.

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

Sincerely yours,

S. DILLON RIPLEY, *Secretary.*

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THE GENERAL COUNSEL OF THE TREASURY,  
*Washington, D.C., August 9, 1971.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 9229, "To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes."

The bill would authorize Federal guarantees of obligations issued by coastal States for land acquisition, water development, and restoration projects. It would not alter the tax status of obligations guaranteed under the bill. Thus, the bill would result in Federal guarantees of tax-exempt obligations.

The bill raises a number of questions of overall Federal credit program policy, including problems with Federal guarantees of tax-exempt obligations and the need to husband Federal credit resources. The enclosed statement by Assistant Secretary Weidenbaum before the Subcommittee on Oceans and Atmosphere of the Senate Committee on Commerce on S. 582, a similar bill, contains a detailed discussion of the Federal credit program policy questions which are also raised by H.R. 9229.

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

Sincerely yours,

SAMUEL R. PIERCE,  
*General Counsel.*

THE SECRETARY OF HOUSING  
AND URBAN DEVELOPMENT,  
*Washington, D.C., March 23, 1972.*

HON. EDWARD A. GARMATZ,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further response to your request for our views on H.R. 2492, H.R. 2493, H.R. 3615, and H.R. 9229, all of which relate to the establishment, development, protection, and management of the Nation's estuarine and coastal zones.

The four coastal zone bills in question are so broadly drawn as to encompass most of the heavily populated areas along our coasts. In this respect, it appears to us that enactment of any of the bills could result in State programs dealing heavily with urban and metropolitan land use and management issues as well as with issues peculiar to the narrower purpose of protecting coastal and estuarine areas from development, pollution, and other adverse impacts. In our view, a broad approach extending to a consideration of State and areawide needs is desirable but should be provided through legislation which is specifically designed for this purpose and which is not limited to particular parts of the country. We would recommend, in this respect, early enactment of the administration's proposed National Land Use Policy Act (H.R. 4332).

We would also like to point out that even if the above bills were narrowed by amendments to their now broad definition of "coastal zone," enactment of the resulting legislation might create an adverse precedent in terms of approach and State organization should subsequent broader legislation be enacted. Also, the narrower legislation appears to us unfair as to inland States which may also have critical environmental and land use problems.

Finally, two of the bills, H.R. 2493 and H.R. 9229, raise questions relating to Federal guarantees of State bond issues and loans. These matters are of particular concern to the Department of the Treasury, and we would invite the committee's attention to the testimony of Secretary Connally on similar Senate legislation, S. 582, with respect to these matters.

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

Sincerely,

GEORGE ROMNEY.

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GENERAL COUNSEL OF THE  
DEPARTMENT OF COMMERCE,  
*Washington, D.C., May 2, 1972.*

HON. ALTON A. LENNON,  
*Chairman, Subcommittee on Oceanography, Committee on Merchant  
Marine and Fisheries, House of Representatives, Washington,  
D.C.*

DEAR MR. CHAIRMAN: This is in reply to your recent request for the Department of Commerce to provide you estimates of costs involved in H.R. 14146, a bill "to establish a national policy and develop a national program for the management, beneficial use, protection, and

development of the land and water resources of the Nation's coastal zone, and for other purposes."

The bill would amend the act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes," by adding to the end thereof the following new titles: title III, Coastal Zone Management Act of 1971"; and title IV, "Marine Sanctuary Act of 1971."

It is estimated that initially the annual cost of administering H.R. 14146, if enacted, would be \$2,830,000 with 89 employees, consisting of 62 professional and 27 secretarial. The cost is based on the following breakdown: (1) salaries of staff, \$1,740,000; (2) benefits of staff and overhead, \$490,000; (3) travel of staff, \$100,000; (4) contract funds, \$400,000; and (5) advisory committee per diem and travel, \$100,000. In the absence of information indicating otherwise, we would assume level funding for the first several years of this program.

It is anticipated that the professional employees would include but not be limited to attorneys, ecologists, geologists, economists, social scientists, contract specialists, coastal zone planners, and systems analysts.

The amount required for administration of title IV, the "Marine Sanctuary" portion of the bill is not separately broken out because it is expected that the nucleus of personnel required under provisions of the major portion of the bill, title III, will also be required under the marine sanctuary portions.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

KARL E. BAKKE,  
*Deputy General Counsel.*

#### CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, as amended, changes in existing law made by the bill as reported, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes

[80 Stat. 203 (33 U.S.C. 1101-1124)]

#### TITLE I—MARINE RESOURCES AND ENGINEERING DEVELOPMENT

\* \* \* \* \*

#### TITLE II—SEA GRANT COLLEGES AND PROGRAMS

\* \* \* \* \*

## TITLE III—MANAGEMENT OF THE COASTAL ZONE

## SHORT TITLE

SEC. 301. *This title may be cited as the "Coastal Zone Management Act of 1972".*

## CONGRESSIONAL FINDINGS

SEC. 302. *The Congress finds that—*

(a) *There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;*

(b) *The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;*

(c) *The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;*

(d) *The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;*

(e) *Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;*

(f) *Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;*

(g) *In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and*

(h) *The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.*

## DECLARATION OF POLICY

SEC. 303. *The Congress declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively*

their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control those shorelands, the uses of which have a direct impact on the coastal waters.

(b) "Coastal water" means (1) in the Great Lakes areas, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

## MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the portions of the coastal state subject to the management program;

(2) a definition of what shall constitute permissible land and water uses;

(3) an inventory and designation of areas of particular concern;

(4) an identification of the means by which the state proposes to exert control over land and water uses, including a listing of relevant and constitutional provisions, legislative enactments, regulations, and judicial decisions;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(c) The grants shall not exceed  $66\frac{2}{3}$  per centum of the costs of the program in any one year. Federal funds received from other sources shall not be used to match the grants. In order to qualify for grants under this subsection, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. Successive grants may be made annually for a period not to exceed two years: Provided, That no second grant shall be made under this subsection unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: Provided, however, That no management program development grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) With the approval of the Secretary, the State may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act

of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

(h) The authority to make grants under this section shall expire on June 30, 1975.

#### ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

(b) Such grants shall be allowed to the states with approved programs based on rules and regulations promulgated by the Secretary, which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: Provided, however, That no annual administrative grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in Section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to



receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local government, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(f) With the approval of the Secretary, a state may allocate to a local government, or an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: Provided, That such allocation shall not relieve the state of the responsibility for insuring that any funds so allocated are ap-

plied in furtherance of such state's approved management program.

(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are to be made to the state under the program as amended.

(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need management programs: Provided, That the state adequately allows for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

#### INTERAGENCY COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c) (1) Each Federal agency conducting or supporting activities in the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the

*applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved, and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.*

*(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.*

*(e) Nothing in this section shall be construed—*

*(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;*

*(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, on the International Boundary and Water Commission, United States and Mexico.*

#### PUBLIC HEARINGS

*SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.*

## REVIEW OF PERFORMANCE

*SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performances of each state.*

*(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.*

## RECORDS

*SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.*

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

## ADVISORY COMMITTEE

*SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than ten persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.*

*(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.*

## ESTUARINE SANCTUARIES

*SEC. 312. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creat-*

ing natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost of each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

(b) When an estuarine sanctuary is established by a coastal state, for the purpose envisioned in subsection (a), whether or not Federal funds have been made available for a part of the costs of acquisition, development, and operation, the Secretary, at the request of the state concerned, and after consultation with interested Federal departments and agencies and other interested parties, may extend the established estuarine sanctuary seaward beyond the coastal zone, to the extent necessary to effectuate the purposes for which the estuarine sanctuary was established.

(c) The Secretary shall issue necessary and reasonable regulations related to any such estuarine sanctuary extension to assure that the development and operation thereof is coordinated with the development and operation of the estuarine sanctuary of which it forms an extension.

#### MANAGEMENT PROGRAM FOR THE CONTIGUOUS ZONE OF THE UNITED STATES

SEC. 313. (a) The Secretary shall develop, in coordination with the Secretary of the Interior, and after appropriate consultation with the Secretary of Defense, the Secretary of Transportation, and other interested parties. Federal and non-Federal, governmental and non-governmental, a program for the management of the area outside the coastal zone and within twelve miles of the baseline from which the breadth of the territorial sea is measured. The program shall be developed for the benefit of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the protection of the environment and shall include, but not be limited to, provisions for the development, conservation, and utilization of fish and other living marine resources, mineral resources, and fossil fuels, the development of aquaculture, the promotion of recreational opportunities, and the coordination of research.

(b) To the extent that any part of the management program developed pursuant to this section shall apply to any high seas area, the subjacent seabed and subsoil of which lies within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the program shall be coordinated with the coastal state involved.

(c) The Secretary shall, to the maximum extent practicable, apply the program developed pursuant to this section to waters which are adjacent to specific areas in the coastal zone which have been designated by the states for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

#### ANNUAL REPORT

SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding

*Federal fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's program and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.*

## DEBATE AND PASSAGE OF H.R. 14146, AUGUST 2, 1972

### COASTAL ZONE MANAGEMENT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1063 and ask for its immediate consideration.

The Clerk read the resolution as follows:

#### HOUSE RESOLUTION 1063

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14146) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 14146 the Committee on Merchant Marine and Fisheries shall be discharged from the further consideration of the bill S. 3507, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 14146 as passed by the House.

Mr. BOLLING. Mr. Speaker. I yield 30 minutes to the gentleman from Nebraska (Mr. Martin) pending which I yield myself such time as I may consume.

Mr. Speaker, I know of no present controversy on this rule. Initially the matter was held up in the Committee on Rules because there was a controversy or conflict between the committee bringing this bill to the floor, the Committee on Merchant Marine and Fisheries, and the Committee on Interior and Insular Affairs. Since the conflict began, it has somehow been reconciled and objection to the granting of a rule on this particular matter was withdrawn by the chairman of that committee, and to the best of my knowledge, there is no controversy over the resolution.

The SPEAKER. The Chair recognizes the gentleman from Nebraska (Mr. Martin).

Mr. MARTIN. Mr. Speaker, the pending resolution, House Resolution 1063 provides for an open rule with 1 hour of debate on the bill H.R. 14146, coastal zone management bill.

This came out of the Committee on Merchant Marine and Fisheries unanimously, and as the gentleman from Missouri has explained, there are no further objections from the chairman of the Committee on Interior and Insular Affairs to the consideration of this bill.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. LENNON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14146) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes.

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

The motion was agreed to.

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14146, with Mr. Landrum in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. Lennon) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Mosher) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. LENNON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and members of the Committee: I rise at this time to urge the support of this committee for H.R. 14146, the coastal zone management bill, because I am convinced that it is imperative to implement such a program now before this Nation witnesses the tragic and wanton destruction of an irreplaceable natural resource, our estuaries, our wetlands, and our shorelines.

My interest, and I believe that interest is shared by a majority of the Members of this body, my concern for this precious and rapidly dwindling resource stems from the deep-seated personal conviction as well as from personal involvement over a period of at least 7 years during which I have worked with many other colleagues in the House to come to grips with the critical problems of the coastal zone, hopefully to produce meaningful legislation to cope with these problems.

Mr. Chairman, H.R. 14146 is the end product of these number of years of effort. Basically and fundamentally, it is designed to manage and in that management to insure the protection of the resources of the Nation's vital shoreline and estuarine areas. This bill authorizes funds during an initial 3-year program to develop the compatible State programs for the responsible conservation, development, and utilization of the Nation's coastal zones.



I want to emphasize, Mr. Chairman, that this legislation is truly national in scope. In addition to States bordering the Nation's coast, it will also provide for the active participation by the Great Lakes States, or a total of 30 States out of the 50 and four possessions or territories who are fundamentally concerned and involved and will participate.

I want to emphasize, Mr. Chairman, that we are talking today about the most dynamic and growing area of our Nation. Approximately, today, 75 percent of the Nation's population lives within the zone that we are discussing which encompasses approximately 100,000 statute miles of interior and exterior shoreline.

On the actual shoreline itself, approximately 65 million of the Nation's population are living and working, and there, industrial and recreational activities are placing unprecedented pressure upon these coastal areas.

As the population increases, these pressures will mount and become intolerable; unless rapid action—such as envisioned in this bill—is taken, these pressures will also become destructive, because competition for use of the remaining land areas in coastal zones will also increase; industrial and economic interests are already headed on a collision course with environmental interests, and the States will be caught in the middle, with no rational plan and no capability to cope with the situation.

Actually, the States are already experiencing these tremendous pressures—and those who live in a coastal State know what I am addressing myself to. Entire stretches of once beautiful shoreline have been engulfed and covered with concrete to meet the demands of ever-expanding metropolitan areas; the proximity of water and a stable labor sources has lured more heavy industry to the shorelines; marine terminals and dredging for harbor channels have added to the destruction; and, ironically, the people who work for these industries—with more affluence and more leisure time than ever before—are descending upon the shores and beaches, the rivers and bays in a great and hungry quest for relaxation and recreation, and they find it in swimming, and fishing, and boating.

And yet, the very industries that provide these people with their new wealth and leisure are polluting the rivers and bays and gobbling up the last remaining, unspoiled areas that should be preserved for recreational and esthetic uses—such as wildlife refuges. The wildlife and the fish, which breed and spawn in these coastal areas are also being decimated by the encroachments and relentless demands of our industrially oriented society.

It is just part of human nature and we understand it. This legislation has a rational, fair, even-balanced approach. That is the reason we bring it here today.

What is the answer? How can these opposing interests of conservation and recreation on one hand and industry and urbanization on the other both be satisfied? It is a perplexing question. We think we have certainly the first giant step of the right answer in this legislation. Is it possible to maintain our high economic standards through more industrial development and continued urban expansion—and at the same time, conserve our precious and beautiful natural resources for

future generations of Americans to enjoy? That is the real question and we must face it today.

Mr. Chairman, I feel that a delicate but practical balance can be achieved. I believe it is possible to find a rational middle ground, where the forces of industry and ecology can live and work together, and I believe the solution to this dilemma can be found in H.R. 14146, the coastal zone management bill. I want to make it crystal clear that I do not claim—nor do I believe—that this legislation is the panacea to the manifold problems I have touched upon in my remarks here today. But I do sincerely believe this legislation can be the foundation—the touchstone, if you will—to a more sensible, happier, healthier America of tomorrow; it may represent nothing more than the opening wedge, but it is an intelligent approach to an extremely complex problem, and I am convinced that it will provide an emergency bastion in our fight to defend and preserve our vital coastal zones from increased pollution and eventual destruction.

Mr. Chairman, I think the \$145 million called for in this legislation is a small price to pay to preserve and properly utilize these invaluable areas. The first installment of these funds would be made available in grants to the States, on a matching-fund basis, to encourage them to initiate the planning phase of the program, which would be developed in the first 3 years.

All programs—I repeat, all programs would require the approval of the Secretary of Commerce, who would have the responsibility for this program, and the national program would be administered, appropriately, by the National Oceanic and Atmospheric Administration.

I digress from my prepared remarks to say that this House, this Congress, brought the National Oceanic and Atmospheric Administration into being by a vote of this House in 1970, by about 99 to 1 or less.

Even though the matter was considered by the Committee on Government Operations, some Members introduced a resolution to kill the so-called Reorganization Plan No. 4, but the Committee on Government Operations after hearings brought a favorable report to this body, and this body overwhelmingly, almost unanimously, on a rollcall vote, adopted it.

All other Federal agencies which would be involved or affected by proposed programs would also actively participate in the approval process.

No existing laws would be amended by the coastal zone management legislation, and Federal agencies would be required to conform—to the maximum extent practicable—with the programs submitted by the individual States; additionally, I call attention to the fact that the States would be required to consider the views and concerns of the local governments and agencies, and all these concerned entities would be encouraged to participate in the development and implementation of State programs.

Mr. Chairman, I must also reiterate the sense of urgency which I expressed in my opening remarks today. I cannot impress upon my colleagues too strongly the urgent need to take action now, today, and pass this legislation. It is already very late in the game, and we have

waited too long to take the offensive. We dare not listen to those dissenting voices who—after all these years of procrastination and study and indecision—now tell us that we should wait a bit longer.

I must warn my colleagues, Mr. Chairman, that nothing better than H.R. 14146 is in the works. The basic concepts embodied in the legislation we are considering today was first conceived almost a decade ago, 10 years ago, when the problems and possible programs relating to the coastal zones were considered by the Marine Science Council and the Marine Science Commission, created by the Marine Resources and Development Act of 1966. Now we are in 1972. Detailed studies and recommendations followed, and a number of subsequent Federal studies examined the coastal zone problem in depth, recommended rapid action and warned of the ever-increasing threat to the continued healthy existence of these vital areas. The now-famous 1969 Stratton Report of the Marine Science Commission, known as "Our Nation and the Sea" made pertinent recommendations which resulted in legislation being introduced in both houses of the Congress.

On the House side our Subcommittee on Oceanography sponsored a Coastal Zone Management Conference in October 1969. I do not recall another time when a committee of the Congress has ever sponsored a national conference. That is usually done by an executive branch of the Government.

We brought together in Washington people from all of the coastal States of the Union, from Puerto Rico, from the Virgin Islands, and from Samoa, people sent here by the respective governors who were knowledgeable about this problem. Seven panels were created. And from this came this legislation.

Our Subcommittee on Oceanography also held 8 full days of hearings on coastal zone problems in 1971, when a total of 24 witnesses representing every possible area of interest and expertise testified, and departmental reports were received from nine departments and agencies. Our Subcommittee on Oceanography also held 3 long and full days of executive sessions. The bill we are considering today is the final product of that long and extensive inquiry into the problem of coastal zones.

The legislation reflects the concepts and recommendations of the best minds in the business, not Members of Congress but governors, conservation experts, and agencies at every level I am speaking of. I do not think the bill could be much improved even if we might take another decade, and I hope we will not.

Mr. Chairman, the States of our great Nation cannot save their coastal areas without help. We know that. We may as well face up to it. They need Federal aid and they need the vote of every Member of this House here today in support of this vital legislation.

I hope the Members here today respond to the urgent message contained in the legislation and not in what I have said and overwhelmingly vote for its passage here today so that the Record will indicate that this vote is a vote for the preservation of our country's economic and environmental health, because it is now abundantly clear that one cannot survive without the other.

Mr. Chairman, let me close my remarks by making this brief comment. You say that this has been under consideration over a number

of years and why have we not been here before. Well, I am one of those people who believe that before you bring a bill to the floor of this House that involves the States, 30 States, if you please, in this Nation of ours, you ought to attempt to obtain the consensus of those people who would be affected, involved, and concerned, and participate in the meaningful implementation of this legislation. That is why, even though we got a consensus of the Governors and their departments of conservation and development and their respective marine science councils from all of those States, the thought occurred to me that this matter ought to be presented to the National Governors' Conference and not just the Southern or Eastern or Western Governors' Conference.

They went into this matter and passed a resolution supporting this bill. Then someone suggested to me, "well, how would the legislatures of the States of the Union react to this kind of legislation; will they understand it and will they participate in this program?" What did we do? We said "At your next national legislative conference involving the legislatures of the 50 States of the Union get into this thing and give us your views." We have the consensus by resolution of 50 legislatures of the States plus the 50 Governors of the 50 States. We also have your County Commissioners Association and your National League of Municipalities, because they are involved. We wanted to discuss it with them and get their reactions and get them out of the committee room and go to their respective conferences to resolve any differences they have.

So we are here now saying, my friends, that this legislation we present to you today is one of the few pieces of legislation I have been privileged to participate in which has the united support of all of the participants who will be involved in it; that is, the Governors of the States, the legislators, the county commissioners, and the members of the town and city councils.

What else can we do? We can give our support to this legislation today enthusiastically, which I believe is in the total national interest or else I would not be in the well of this House today saying what I have.

Thank you, Mr. Chairman.

Mr. MOSHER. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I enthusiastically support H.R. 14146.

Our bill will establish a national policy and develop a national program for the management, beneficial use, protection and development of the land and water resources of the Nation's coastal zones, including the Great Lakes area; and the evidence is completely convincing that this national policy and program development is crucially needed, is in fact long past due.

I strongly associate myself with the remarks of the gentleman from North Carolina (Mr. Lennon) the distinguished chairman of our Oceanography Subcommittee, with whom I have had the privilege of working closely for several years in the preparation of this bill and other important legislation concerning the oceans.

Mr. Chairman, I want to digress a moment to recognize that we in the Congress in the future will sorely miss Al Lennon's wise, effective leadership in matters of marine policy. It is a very sad fact that

he will not run for reelection this year. I already have a profound feeling of personal loss that he will not be here in the 93d Congress. All of us on the Merchant Marine Committee will especially feel this loss. He has accomplished here a very solid, creative record of great importance to our Nation, in addition to very effectively, conscientiously representing the interests of his own district. Al Lennon is greatly respected by all of us as a truly distinguished legislator's legislator. I say again, Al, we are going to miss you very, very much.

Also, Mr. Chairman, as I said on an earlier occasion, all of us are also going to miss the loss of the gentleman from Washington (Mr. Pelly) in much the same way as I have just mentioned the loss of the gentleman from North Carolina (Mr. Lennon). Our committee is going to be seriously handicapped by the loss of these two gentlemen.

Mr. Chairman, Congressman Lennon has just explained the many ramifications of this complex legislation. Since the days that both he and I were privileged to serve on the Stratton commission during the early part of the 91st Congress, he has worked diligently for the enactment of this legislation which is of such vital importance to the continued well-being of our economically and environmentally important coastal zones. To a great degree, his tireless energy and dedication to the problems of the coastal zone over these many years has proved fruitful by the consideration, and hopefully, ultimate passage of this vital piece of legislation which we are considering today.

The coast of the United States, certainly including the so-called fourth coast, the Great Lakes, is in many respects the Nation's most valuable geographic feature. There are some 99,600 miles of American shoreline, and 30 million people turn annually to those shoreline areas for swimming, boating and other recreational purposes; 40 million are projected by 1975. Sport fishing attracts 11 million people now and the number should increase to 16 million by 1975. By 1975, park and recreation areas in the coastal zone will be visited by twice as many people as now, and the number is expected to increase wayfold by the year 2000.

But, of course, recreation is only one of our many important uses of the coastal zone. Extremely important are the many commercial uses, including the many forms of commercial fishing, and these are rapidly expanding.

All of us should be aware that a huge proportion of our American population is crowding into the coastal zones.

So, Mr. Chairman, it is no wonder that the uses of valuable coastal areas have generated issues of intense national, State, and local interest.

Navigational military uses of the coasts and waters offshore are direct Federal responsibilities; economic development, recreation, and conservation interests are shared by the Federal Government and the States.

Rapidly intensifying commercial uses of coastal areas has outrun the capabilities of local governments to plan their orderly development and to resolve conflicts on a larger State and regional basis. The division of responsibilities among several levels of government is today unclear and knowledge and procedures for formulating sound management and utilization decisions are lacking.

Thirty-one of our States border on the coastal zone and contain 75 percent of the total national population. Pressures of population and economic development threaten to overwhelm the balanced and best use of the invaluable and irreplaceable coastal resources in natural, economic, and esthetic terms.

To resolve these pressures—an administrative and legal framework must be developed to promote balance and harmony among coastal zone activities based on scientific, economic, and social considerations. This is what the legislation before the House today will do.

The concepts, objectives, and framework of the bill had received the strong and vocal support of the Coastal States Organization, the National Governor's Conference, National Legislative Conference, innumerable individual State governments, conservation organizations, and other public interest groups.

Basically, the bill vests regulatory authority for the coastal zone management program on the Federal level in the National Oceanic and Atmospheric Administration—NOAA—located in the Department of Commerce; and on a State level, in the State agency designated by each State's Governor.

The coastal zone, and thus the ultimate parameters of the legislative impact, is closely defined. Within this "zone" the Secretary of Commerce is authorized to make annual grants to the applying States for financial assistance in actual development of a comprehensive coastal zone management program and plan for the first 2 years after enactment. Then, during the next 2 years, the Secretary may provide additional assistance to the States in actual administration of the plan subsequently developed.

Other provisions of the bill provide appropriate requirements for public hearings, review of approved State programs by the Secretary of Commerce, recordkeeping procedures, establishment of an Advisory Committee, annual report to Congress, authority for the Secretary of Commerce to promulgate rules and regulations, and the following authorization levels.

Section 305 planning grants—\$15 million for fiscal years 1973, 1974, and 1975.

Section 306 administrative grants—\$50 million for fiscal years 1974 and 1975.

Section 313 estuarine sanctuaries—\$6 million for fiscal years 1973, 1974, and 1975.

Total authorization level through 1975 is \$172 million. Administration cost to the Federal Government is estimated to be \$3 million per year.

Mr. Chairman, there currently exists a myriad of overlapping and, at times, conflicting Federal, State, and local laws applicable to the coastal zone area. Section 307 avoids potential duplication of these and future legislative programs by requiring very close and continuing interagency coordination and cooperation among Federal agencies and between Federal and State agencies.

This "coastal zone management" legislation is complementary to other Federal programs and serves as a "coordinating mechanism rather than one of "duplication." Specifically, section 307 states that the measure does not diminish Federal or State jurisdiction, respon-

sibility, or rights under other programs and does not supersede, modify, or repeal existing Federal law.

The legislation further recognizes that appropriate land water research areas are needed for scientific uses in key areas of the coastal zone as an aid in developing an appropriate State management plan and has provided, in section 312, for Federal financial assistance to coastal States for up to 50 percent of the cost of acquisition, development and operation of "estuarine sanctuaries" for purposes of research.

In addition, the measure provides for a Federal management program in the contiguous zone of the United States to insure that both Federal action in this zone, and State action within their jurisdictional limits offshore are coordinated and compatible with each other.

Mr. Chairman, this legislation is timely, comprehensive, balanced in scope and application. It will insure that future uses which we as a nation and a people desire to make of our valuable coastal zone, are done in a logical, orderly, and coordinated manner at all levels of Federal, State, and local government.

I urge an overwhelming vote for its approval.

Mr. PELLY. Mr. Chairman, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Washington.

Mr. PELLY. Mr. Chairman, I thank the gentleman for yielding, and I join the distinguished gentleman from Ohio (Mr. Mosher) in paying tribute to the great contribution made during his service in the House of Representatives by the gentleman from North Carolina (Mr. Lennon), as a member of the Committee on Merchant Marine and Fisheries, and especially as chairman of the Subcommittee on Oceanography.

All of us who serve with Alton Lennon recognize his great interest in marine science, and as such, of course, he is one of the chief architects of the legislation which established the National Oceanographic and Atmospheric Agency. Similarly, as the chief sponsor of this bill, H.R. 14146, to protect and develop the land and water resources of the Nation's coastal areas, the gentleman from North Carolina (Mr. Lennon) again establishes himself as an author and architect of landmark conservation legislation.

Congressman Lennon, Mr. Chairman, will be greatly missed, but his legislative record and achievements assure that he will be remembered and honored by all those who in the future recognize the importance of oceanography, and the value of our land and water resources.

Mr. Chairman, I thank the gentleman for yielding.

Mr. LENNON. Mr. Chairman, I yield such time as he may consume to our distinguished chairman of the full Committee on Merchant Marine and Fisheries, the gentleman from Maryland (Mr. Garmatz).

Mr. GARMATZ. Mr. Chairman, the Nation's vital shorelines and estuarine areas—the wetlands, woodlands, and wildlife habitats which are so valuable and irreplaceable—are facing constant and ever-growing absorption and destruction due to the demands of our modern society. H.R. 14146 is designed to protect and preserve these invaluable areas, and I feel that every member of the House has a responsibility to vote for passage of this important legislation.

I want to make it clear that, although I support the concepts of conservation. I am also acutely aware of the ever-growing needs of our

dynamic industries; these industries need water and land—they need areas for more urban development; they need room for factory sites and other industrial expansion. All of these are compelling and legitimate needs, and I am convinced they must be fulfilled if our Nation is to remain economically healthy.

Despite the fact that industrial and environmental interests appear on a collision course, despite the fact that these two opposing forces must compete for the same valuable coastal zones, I am convinced that these two competing interests can learn to live together harmoniously. Indeed, unless they learn to do just this, future generations of Americans will be sentenced to an unthinkable hell where chaos will rule, and where industry and environment will both strangle in a quagmire of inadequate and decimated land resources, solely because proper planning for utilization of those resources was not carried out by this, our present generation of Americans.

Mr. Chairman, as President Truman so often said, "The buck stops here." This Congress and this generation must make hard decisions and take prompt action now—not next week or next month or next year, but right now—today, by this 92d Congress.

The legislation being considered by the Congress today is appropriately entitled the coastal zone management bill. It represents the first essential step toward discharging our responsibility because it would authorize funding for an initial, 3-year program to lay down guidelines and to help the individual States develop intelligent, planned programs for the future conservation, development, and utilization of the Nation's coastal zones.

Mr. Chairman, I would like to reiterate that this bill is not just environmental oriented legislation. As chairman of the House Committee on Merchant Marine and Fisheries, I have always had a special concern for the American Merchant Marine and the maritime industry and I think everyone in this Chamber is well aware of my desire to see this industry grow and prosper. The maritime industry is also extremely important to the State of Maryland. As a matter of fact, the port of Baltimore, and its related maritime industries, represent Maryland's largest economic asset. And yet, unless the State of Maryland begins now to make intelligent plans and decisions for the future, in 10 or 20 years from now, the port of Baltimore may find itself incapable of competing with other east coast ports.

The legislation before us today will eventually set up the machinery and provide the funds to help States like Maryland make intelligent and rational long-range plans for things such as port facilities which will be big enough and accessible enough to attract the huge super-ships which will dominate the commerce of tomorrow.

And while the State of Maryland plans for its ports of tomorrow—together with the channel dredging and other harbor installations that will be needed, it will also be forced to respond to pressure for more industrial sites, for more powerplants and for more living space for its ever-expanding population. Let us not forget that, while it is planning for all this, it must simultaneously plan to provide additional recreational space so that this increasing population can still enjoy the pleasures of the ever-shrinking coastal zones. In my State of Maryland, the Chesapeake Bay is also a primary economic asset—



from the standpoint of commercial fishing as well as sports fishing and recreation oriented activities. Obviously, the State of Maryland must conserve and protect what is probably the biggest water playground on the east coast; and at the same time, it must also provide some of the waterfront space of that playground to industries which will be essential to the future economic health of the State.

Mr. Chairman, I have attempted to outline, in microcosm, the problems which are facing all the coastal States. Although these problems are mammoth, they are not insuperable. But these problems will never be resolved unless the States are provided the Federal aid which is embodied in H.R. 14146.

H.R. 14146 is good legislation. It was not rammed through our committee hastily; conversely, it was given serious and prolonged consideration, through 8 days of hearings and 3 days of executive sessions under the auspices of our Subcommittee on Oceanography. My distinguished colleagues, Congressman Alton Lennon, the chairman of the Oceanography Subcommittee, and Congressman Charles A. Mosher, the ranking minority member of the subcommittee, devoted much of their time and effort to the development of the legislation we have before us today, and I hope my colleagues in the House will reward their efforts by supporting it.

As a Marylander, I want to preserve and maintain the Chesapeake Bay—the greatest estuarine area in the world—for the enjoyment of future Marylanders; and I want to maintain the health and vitality of the port of Baltimore. As an American, I want to protect and utilize the countless resources of thousands of miles of coastal beaches, wetlands, and invaluable estuary areas—before they are forever destroyed by a haphazard, piecemeal approach, and by a few generations of Americans too greedy and in too much of a hurry to see or care about the needs of the future.

Mr. Chairman, the buck stops here. The need to act is clear, and I am confident that the record will show that the 92d Congress did care about the future. I urge every Member of the House to vote for passage of this important legislation.

Mr. MOSHER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. Forsythe).

Mr. FORSYTHE. Mr. Chairman, I thank the gentleman for yielding.

I rise in strong support of H.R. 14146. I think this is a very important bill for this Nation. As was pointed out by our distinguished chairman of the subcommittee and the distinguished chairman of the full committee, life itself starts in these coastal waters, and if we are to preserve these coastal areas and the environment needed by so many of our citizens this legislation must be passed.

New Jersey has attempted with a wetlands bill to move into this area and provide protection, but it needs the help of this type of Federal support to insure management of these coastal zones so as to protect them for the future enjoyment of our citizens.

Mr. MOSHER. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. du Pont).

Mr. DU PONT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I commend my colleague from North Carolina (Mr. Lennon), chairman of the Merchant Marine Subcommittee on Ocean-

ography for all his efforts to see that a sound coastal zone management bill was brought before the Congress before the end of the session. I think that we all recognize that after years of indiscriminate development and exploitation of our coastal areas, the Congress must immediately encourage each coastal State to develop a plan for orderly use and development of our coastal resources, consistent with long-range social, economic, and environmental goals.

While many States are only now coming to realize the irreparable damage which has been done to their coastal ecosystems by uncontrolled and uninformed development, I am proud that Delaware was one of the first States to take an inventory of their coastal and estuarine resources and formulate viable and effective coastal zoning policy. Delaware, with a coastline of only 120 miles, lies below a river valley containing over 7 million people and a concentration of major industrial firms. As a result of these pressures, the Delaware coast has been subjected to the pressures of people looking for recreation, for industries looking for places to expand. In addition, the shoreline is constantly being threatened by the less obvious forces of industrial and human waste from upstream.

Fortunately, the coastal zone policy pioneered by Governor Peterson and the State legislature has already begun to take effect and stem haphazard growth of the past. Projects, which in years past would have been approved without hesitation and which probably would have caused irreparable despoliation of the local environment are now being given careful long-range consideration.

I am hopeful that other coastal States will be able to follow the lead set by Governor Peterson and the State of Delaware. I am pleased that the coastal zone bill now being considered by the Congress has set rational useage of our precious shorelines as a national priority. I think the provisions of the bill allow the maximum amount of incentives by providing generous assistance while at the same time avoiding undue Federal interference with the State's priorities. This will insure that each coastal State will have a sound scientific basis upon which to draw their plans, while at the same time having the flexibility to determine their own State's priorities in shoreline use.

I am hopeful that the coastal zoning concept will prove as successful in other States as it has in Delaware, and I urge my colleagues to support this bill and encourage the type of farsighted planning displayed by my State.

Mr. MOSHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I, too, want to associate myself with the remarks of Mr. Mosher, the gentleman from Ohio, and Mr. Pelly, the gentleman from Washington.

Alton Lennon and I became friends when I first came to Congress.

As a member of the subcommittee he chairs, I have always found him eminently fair, willing to listen to dissenting views, fair in all his dealings.

I join with my two colleagues who have stated he will not only be missed by the Merchant Marine and Fisheries Committee, but by the entire House.

I wish him well as he retires from the Congress.

Mr. Chairman, I rise to associate myself with the comments and views of my colleagues on the Committee on Merchant Marine and Fisheries and to strongly urge passage of H.R. 14146.

The significance of the legislation under consideration by this body lies neither in its approach nor in its organization, but, rather, in the recognition of an overwhelming national need.

The coastal zone of these United States is, indeed, a national treasure, and the bill before us today, H.R. 14146, recognizes both its permanence and the emphasis which must be given to preserve it. We are now wisely viewing the coastal zone portion of land as deserving separate consideration in that it gives up its resources for our gain, often replenishes those resources, and provides a lifestyle for a disproportionately large number of our people while asking little in return. But we have begun to ask too much of our coastal zone. We ask it to assimilate our waterborne wastes from deep within the interior part of our country including municipal, industrial, and agricultural refuse. We ask the coastal zone to accept an overburden of recreational activities which lead to haphazard and uncontrolled development for economic gain with associated social loss in the form of widespread destruction of valuable wildlife habitat. We ask it to assimilate larger and larger populations with attendant urban problems without regard for a carrying population enabling us to maintain a balance between man and nature.

Enactment of this comprehensive legislation will enable our States, already deeply involved in coastal zone management through commitment of State funds, resources, personnel, to develop a sound, logical, and rational basis for coordination of competing uses of our coastal zone areas and to insure that this valuable natural resource is preserved, protected, developed, and utilized to the benefit of both man and nature.

Mr. LENNON. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. Griffin).

Mr. GRIFFIN. Mr. Chairman, I rise in support of H.R. 14146, the Coastal Zone Management Act of 1972. Coming from a State that is on our gulf coast line and as a cosponsor of this bill, I am vitally concerned about the protection and development of our coastal areas.

Our Nation's coastal zone shoreline consists of approximately 100,000 statute miles. Residing within the States bordering that shoreline is almost 75 percent of our population. Further evidence of the great importance of this areas is the \$300 million annual worth of commercial fish landings. Nearly \$100 billion worth of imports and exports cross paths here. Several billion dollars are spent annually for recreation.

The popularity of our coastal zones for recreation, industry, and housing development has created serious problems in achieving orderly economic growth. The attractiveness of our coastal areas to live and play will not continue if the present situation is to remain unchecked. The development and growth of these areas has unfortunately contributed to the pollution and deterioration of our coastal waters. As these pressures for growth and development run rampant we become increasingly in danger of destruction of the living resources of the coastal waters.

It is indeed a hard choice we must make. But, if we are able to provide adequate protection of our coastal zone's natural environment as well as to arrange for the optimum utilization of its resources—we must act now.

The Coastal Zone Management Act is a call to action to confront this serious situation. The proposed legislation, H.R. 14146, is designed to encourage coastal States to move forward more rapidly in the development of a coordinated and cohesive coastal zone management program. This program of cooperation between the Federal, State, and local governments would significantly aid in the development of land and water use programs for the coastal areas.

In accomplishing the purpose of this bill, the Federal Government would provide funding to aid the States in the development of their programs and later the administration of them.

The bill establishes a grand program to the States to allow contributions, sharing up to two-thirds of a State's costs in their management plan programs. Each State affected would be able to share equally in this program as only a maximum of 15 percent of the total amount appropriated can be spent in any one State.

Only those programs that are progressing satisfactorily will be allowed to receive funding for a second grant. The legislation will be administered by the National Oceanic and Atmospheric Administration. NOAA will serve as the focal point in the Federal Government for coastal zone coordination and for the funding of approved State programs.

This legislation, I believe, represents a great step forward in recognizing the tremendous importance of the orderly development and protection of our coastal areas. It recognizes that various local interests must be drawn into State management programs. Throughout the bill provisions are made for broad coordination to insure the best possible approach to the problem.

I believe this is a workable program for the solution of a serious program that might continue to menace us in even greater proportions in the future. I welcome this legislation to meet the challenge and I welcome this opportunity to support it.

Mr. Chairman, I urge the approval of H.R. 14146.

Mr. LENNON. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding.

I rise in strong support of H.R. 14146.

Mr. Chairman, it is past time that we establish a national policy and develop a program to assist States in the effective management, protection, and development of the coastal zones. I am particularly glad to see the management program grants authorized so that the States might present plans to manage these zones, and if the development grants are approved then the possibility follows that the administrative and estuaries sanctuary grants would be provided.

Texas has done a great deal of work in the planning for our coastal zones. Legislative and advisory committees are at work now, and I think our State will be in position to take advantage of some of these grants if this bill is passed. I commend the Merchant Marine and Fisheries Committee for the advancement of this measure because we

have no more important work ahead than the preservation of our coastal zones, bays, and estuaries.

Because of its coastline expanse, Texas faces the problems that face the industrialized urban coastal States, the undeveloped coastal States, the forested lowlands, the interior farm States, and the mountain States. The coastal zone of Texas is rich in natural, recreational, commercial, industrial, and esthetic resources. Competing demands on the resources of the coastal zone are increasing. Population growth and economic development have resulted in the loss of living marine resources, wildlife, and the nutrient-rich wetlands, and have caused permanent and adverse changes to ecological systems.

The Texas coastal zone includes 1,800 miles of bay and gulf shorelines and 2,100 square miles of shallow bays and estuaries, adjacent to 18,000 square miles of coastal lands. Within the coastal zone are more than 135 distinct environments ranging from those relatively stable to those delicately balanced. There is a wide ranging climate. The Texas coastal zone is a dynamic natural system with a spectrum of active geological, physical, biological, and chemical processes. Shoreline erosion and accretion operate to alter continually the boundary between land and water. Hurricanes strike the Texas coast with almost any impact, flooding more than 3,200 square miles of coastal lowlands in the past decade. Active and potentially active faults abound. Land surface subsidence occurs locally.

Concentrated in this zone of dynamic natural systems and abundant natural resources are nearly one-third of the State's population and nearly one-third of its total industry. Traffic on extensive artificially constructed intracoastal waterways and channels supports major port cities with a large volume of imports and exports. The State is the owner of more than 15 percent of the coastal zone, as well as the 3-league offshore extension—10.35 miles. The State's 15 percent includes the bays and estuaries. The other 85 percent is privately owned.

The anticipated future growth of population and industry in Texas coastal zones will have a significant effect on the natural resources of these areas of the State, and will also result in greater potential environmental pollution. Thus, the State of Texas must develop and maintain a coordinated plan for the judicious use and protection of its coastal air, water, and land resources.

A multidisciplinary research team at the University of Texas was formed at the request of the Governor's office, acting in concert with Interagency Council on Natural Resources in the Environment. It was charged with enumerating the various uses of coastal resources, as well as the effects of those uses. The long-range goal of that initial charge is the development of operational guidelines for effective management of the Texas coastal zone.

The continuing growth of the population of Texas, expanding urban development, industrial and economic growth, fragmented and uncoordinated planning, development of hazardous areas such as flood plains, and inadequate waste disposal planning, have contributed to a number of specific, pressing problems of environmental quality of regional and local concern throughout Texas. Scientific solutions and knowledgeable planning must be built on a sound scientific base. For example, the development of patterns of land use planning, manage-

ment, and development that are based on sound environmental economic, and social values must be preceded by research. The University of Texas has been conducting such functional research for years. Four years ago, the bureau of economic geology, the State geological survey in Texas, began the preparation of an inventory of the State's land and natural resources. This work began an inventory of environmental, geological, and physical conditions that determine the capability of the land to sustain various uses in harmony with the environment. This inventory has served as the basis upon which other researchers have determined population densities and trends, and made economic projections. The environmental health engineering investigators have used this data to project the needs of sewage treatment facilities, including the pollution dangers of inadequate facilities. Potential environmentally safe areas for solid waste disposal are readily determined from the basic data accumulated.

This work has been completed on 20,000 square miles and is currently under way on an additional 30,000 square miles. This research has shown that the utilization of the multidiscipline team approach in environmental research is essential.

Research is also in progress at the University of Texas in an attempt to find solutions for the many and varied problems that are created by the need to use natural resources and maintain environmental quality. A detailed environmentally oriented study of surface mining in Texas was undertaken at the University of Texas last year. This study is in cooperation with the Texas General Land Office.

Mr. Chairman, these are only examples of the tremendous contributions the University of Texas is making toward the further development of coastal zones and I think this university will be recognized as one of the major leaders in this field.

Probably the greatest single problem related to coastal zone management is acquiring sufficient knowledge upon which to base policy decisions. I believe the University of Texas Marine Science Institute at Port Arkansas and the planned laboratory in Galveston will put Texas in a leading position to take the multifaceted approaches required for proper use and management of our coastal zones.

As early as 1935, Dr. E. J. Lund of UT, founder of the institute, recognized the importance to Texas of natural resources of the gulf, the uniqueness of the Texas marine environment, and the need for public education and research on that environment. Today, under the leadership of its director, Dr. Carl Oppenheimer, and his assistant, Peter Perceval, the institute's staff of faculty and students is pursuing with great competence and vigor the two objectives of the institute: First, to encourage educational activities in the coastal environment; and second, to do both basic and applied research that will allow sensible use and management of the coastal environment.

The work of this institute will, I believe, effectively lay the foundation of knowledge necessary to put Texas in the forefront of those States which will give great emphasis to the proper care and use of their coastal areas.

It is my hope that this committee may be able to visit these facilities later to see the tremendous work we have underway for the development of the Texas coastal zone.

Mr. LENNON. Mr. Chairman, I yield 3 minutes to my distinguished colleague from Colorado (Mr. Aspinall).

Mr. ASPINALL. Mr. Chairman, I, too, wish to join in the tribute to our colleague and friend, Al Lennon. His approach to legislative matters has always been constructive. His cooperation with all his colleagues has been of the highest order.

I personally wish to thank him for his understanding of the position in which I find myself on this particular legislation. I am most happy he has been willing to overlook the delay I apparently caused him in bringing the legislation to the floor of the House.

I should like also to pay my tribute to our colleague from Washington, Tom Pelly, for his effective contributions throughout the years.

I am most happy that the bill has finally come to the floor. I am only sorry I am unable to support it in its present form.

I want it distinctly understood that what I have to say is not prompted by an endeavor on my part to maintain a committee jurisdictional position.

Mr. Chairman, although I agree with the objective of H.R. 14146, I am unable to support it. It may appear to some that since I come from a landlocked State I am not interested in the coastal zone or the estuaries, but this is not true. A great deal of my committee work has been given to this particular part of our national welfare.

My purpose today is to state very briefly why I cannot support H.R. 14146.

This is legislation whose time has come but it addresses itself to only part of the problem. It involves a piecemeal approach to land use planning, and if it is enacted it will be more difficult to pass comprehensive legislation to take care of the entire problem. Should this bill and the national and use planning legislation both become law the result will be a duplicative and wasteful approach to a problem we all recognize as serious and demanding attention.

I regret that it has not been feasible to report the land use planning legislation developed by the Committee on Interior and Insular Affairs for House debate prior to our consideration today of H.R. 14146, H.R. 7211, identified as the "National Land Policy, Planning, and Management Act of 1972" is a comprehensive land use planning bill, covering all of the lands in the United States, including those lying in coastal zones. It provides for one planning program administered by one Federal agency—the Department of the Interior, which should have this responsibility.

In summary, the passage of H.R. 14146 does not seem to be a wise course of action because—

It is a piecemeal approach to land use planning and may imperil the comprehensive land use planning program;

It gives the responsibility for land use planning to the wrong department. It should be placed in the Department of the Interior. The need for planning the management of the coastal zone includes a need to regulate the development of mineral resources which is already a function of the Secretary of the Interior;

It provides grants for planning and regulating land use in the coastal zones that are equal to the amount contemplated for planning and regulating land use throughout the Nation;

Its State grant program would require the States to set up duplicate planning programs—one for the coastal zones and one for the State generally; and

It would lead to wasteful and inefficient Federal administration—administration by the Secretary of Commerce for the coastal zones and administration by the Secretary of the Interior for the whole State—after comprehensive legislation is enacted. The two systems are incompatible and competitive.

For these reasons, I question the advisability of enactment of this legislation today.

Mr. MOSHER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. Keith).

Mr. KEITH. I thank the gentleman for yielding me this time.

Mr. Chairman, 5 years ago, the bill before us today could not have existed, for it is only in the fairly recent past that we have come to recognize the coastal zone for what it is—a closely interrelated ecological entity. Different agencies and different levels of Government each regulated, or failed to regulate, their own little place of the coastal zone and its resources, with little coordination and little understanding of the interconnections they were dealing with.

Today, though, we know better. We know that filling in an estuarine marsh in one place may affect the fisherman's catch miles away; a chemical factory at one location can affect the quality of recreational beaches somewhere else; a marina built at point A could wipe out a productive shellfish bed at point B.

We know this—and we know that at the present time, the coordination and cooperation between governmental bodies at the State and local level is entirely inadequate to the situation.

This is the main purpose of this bill—to encourage, through Federal aid and assistance, the kind of coordination and planning, at the State level, that will be necessary if the vast resources of the coastal zone are to be used most appropriately.

Such coordination can also be of help in another way. One of the biggest problems facing the nuclear power industry, for example, is the bureaucratic maze they must go through to get approval for their plants, which are very often located in the coastal zone. Certainly the task would be much easier and faster if the State and local regulations were coordinated. Both the environment and the need for power could be better served than they are by today's diffusion of responsibility.

This bill does not address itself to the overall question of land use management—in fact, it specifically is restricted to the coastal zone. Some have urged that this bill be held until a comprehensive land use measure could be passed that would include the coastal zone as well.

To wait, however, seems to me to be a mistake. The coastal zone is in great danger of overdevelopment, and while the same kind of problems face us with respect to the land, they are not so immediate. The coastal zone, too, is a much more manageable undertaking, and may indeed serve as a valuable precedent and example for later land use management legislation.

The bill before us today is the result of lengthy hearings, many meetings, and inputs from a great variety of experts and concerned citizens. It is a well-thought-out measure that, if enacted, will be of



great benefit to the cause of saving our Nation's immensely valuable coastal zone resources. It is an important and timely start to finding a solution to a very pressing problem, and I urge its adoption.

Mr. MOSHER. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. Kyl).

Mr. KYL. Mr. Chairman, the gentleman from Colorado has put this matter in proper context.

I would first like to straighten out one matter which was suggested by the subcommittee chairman when he spoke, but I think he unintentionally left a misunderstanding. He said that the committee had contacted and worked with the National League of Cities and United States Conference of Mayors on this matter and thereby gave the impression that they were approving the legislation which is before us. I would, therefore, like to read into the Record at this point a letter dated August 2, 1972, from the National League of Cities and the United States Conference of Mayors. It is addressed to me and it reads as follows:

NATIONAL LEAGUE OF CITIES,  
U.S. CONFERENCE OF MAYORS,  
August 2, 1972.

HON. JOHN KYL,  
*U.S. House of Representatives,*  
*Washington, D.C.*

DEAR CONGRESSMAN KYL: The National League of Cities and the United States Conference of Mayors are deeply concerned that approval of H.R. 14146, the "Coastal Zone Management Act of 1972", would cause irreparable harm to cities' ability to engage in effective and comprehensive land use planning and management. H.R. 14146 would fragment local planning by establishing a coastal zone management program separate and distinct from cities' land use programs. A broad national growth policy to define national goals and then a national land use policy to guide state and local implementation is needed, not further fragmentation of local planning by isolating coastal zones for separate and distinct management. The problems associated with our coastal zones can be adequately dealt with through a comprehensive land use policy. Broad land use controls would be granted to the Department of Commerce, which has little experience in land use planning, and could lead to serious administrative difficulties with the land use management responsibilities of the Departments of Interior and Housing and Urban Development, particularly if H.R. 7211, National Land Use Policy Act, is adopted.

Cities would have only a minimal involvement in land use decisions that affect vital concerns of every city. The National League of Cities and the U.S. Conference of Mayors have proposed numerous ways which, if adopted, would have provided criteria and procedures to assure adequate protections for local governments and coordination with other local planning and implementation programs, while at the same time protecting our coastal resources. H.R. 14146 does not provide those protections. Undeniably, the protection and the development of our coastal zones is necessary, but we feel that this can best be achieved by those closest to the problem, rather than those most removed. We respectfully urge that H.R. 14146 not be adopted at this time.

Sincerely,

ALLEN E. PRITCHARD, JR.,  
*Executive Vice President, National League of Cities.*  
JOHN J. GUNTHER,  
*Executive Director, U.S. Conference of Mayors.*

Mr. MOSHER. Mr. Chairman, will the gentleman yield briefly?

Mr. KYL. Why, of course.

Mr. MOSHER. I think it is important for the Record to state that when this organization representing the mayors testified before our committee it is true they objected to the bill and urged that this au-

thority be placed in HUD. I feel confident that the Members of this House of Representatives would recognize that the coastal zone management function should not be placed in HUD, but that was their argument at the time they came before our committee.

Mr. KYL. May I tell the gentleman that this letter is dated August 2, 1972, from the National League of Cities and the U.S. Conference of Mayors and says nothing about granting authority to HUD but calls for a national land use planning program in lieu of that being suggested here, and it is dated, as I say, August 2, 1972.

However, the gentleman's comment is interesting because it gets right to the point of this matter.

Here we have a bill in land use management—land and water management—and it is proposed here that this authority for the management be given to the Secretary of Commerce. If we were to follow this kind of fragmentation in land use planning, then I suppose we would have a separate department governing land use in the mountainous areas and one for the public areas and one for the private areas and one for the country under that department and one for the city under HUD.

There are a whole lot of problems in even defining this matter, for how far back from the beach does the authority of the Department of Commerce go in this matter? What is the seashore? We will get into a situation ultimately where we have a national organization and the Department of the Interior administering the national land use policy.

If we did adopt this bill we would be consolidating, Mr. Chairman, under the Department of Commerce not only those cities and rural areas but the Department of Commerce would have authority up to a certain boundary line, perhaps a street, and then the Department of the Interior and the National Land Use Agency would have the authority beyond that point.

This bill is a good bill if it were included as a part of the national land use plan.

Mr. Chairman, it is my intention when we get to the amending stage to offer an amendment which would put this activity not in the Department of Commerce, but in the Department of the Interior.

A report is now ready on a bill which has come from the Committee on Interior and Insular Affairs of the House which places the primary responsibility for national land use management in an agency in the Department of the Interior with a very much better developed and coordinated effort among the various departments of the Government than we find in this proposal which is before us today.

I think the only sensible way to act is in a unified fashion so that we can have national goals, and so that we can have a national program so that the local governments, the county governments and the State governments will not have to be running to six or seven different departments of the Government to get their attention.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. MOSHER. Mr. Chairman, I yield 1 additional minute to the gentleman from Iowa (Mr. Kyl) inasmuch as I consumed 1 minute of the gentleman's time.

Mr. KYL. Mr. Chairman, I thank the gentleman.

Mr. Chairman, there is even in the bill itself which is before us today a contradiction which I think would render this program rather

useless, and that is in section 307 on interagency coordination and cooperation.

In paragraph (b) it says:

“(b) The Secretary shall not approve the management program submitted by a State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the State in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

These amendments which I will offer have been proposed by the administration. That does not make it a political matter because I believe that any administration would ask for the same amendments because no administration wants the fragmentation which is called for under the bill which is before us, Mr. Chairman.

Mr. MOSHER. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. Pelly).

Mr. PELLY. Mr. Chairman, I would like to first say with regard to what the gentleman from Iowa (Mr. Kyl) said, that our committee considered that viewpoint, and we saw nothing inconsistent in this bill with the eventual overall land and water planning for conservation.

Mr. Chairman, I rise to voice my support for passage and enactment of H.R. 14146, coastal zone management legislation. I completely concur in the previous remarks of the distinguished chairman of the Subcommittee on Oceanography (Mr. Lennon) and the subcommittee's ranking minority member (Mr. Mosher). Both of these gentlemen have worked on this fine piece of legislation going back as far as 1969 when the subcommittee first held a symposium on this issue and when both were privileged to serve on the Stratton Commission which further identified the coastal zone problems and the need for legislative solution. Their combined efforts have resulted in a measure which is equitable, strongly supported by a host of organizations, States, and Members of Congress, and which identifies and provides for solutions to the immediate and long-range planning and administration needs of this valuable natural resource—the Nation's coastlands and related waters.

The demand for coastal zone uses has and will continue to rise. Conflicting and competing use demands for this area will necessarily increase in terms of greater pressure for industrial sites, powerplants, housing, shipping facilities, harbors, wilderness areas, and recreational needs. Hodgepodge and willynilly development, in the absence of a sound area management plan, will further perpetuate and increase the damage which we, as a Nation, have done to our coastal areas in the past as evidenced by continued increases in the level of air pollution, water pollution, urban sprawl and blight, and total destruction of our valuable estuarine areas, spawning and food sources for practically every species which lives in the oceans and coastal waters.

The importance of enactment of national legislation on the coastal zone becomes readily apparent if you look at the tremendous amount of executive and legislative attention that has been paid to coastal zone problems on a State level. The State of Hawaii has a strong

coastal zone act, as does the State of Delaware. Florida, Texas, California, Maine, New Hampshire, Oregon, Virginia, and Missouri are all in various stages of either enactment of their version of coastal zone management or establishment of administrative control mechanisms. My own State of Washington, recently in the last legislature, enacted "coastal zone" legislation. In fact, I am not aware of a single coastal State in this country which has not addressed itself to the complexities of coastal zone management in one form or another.

Yet, individual States are unable to solve the many complexities of coastal zone problems, which cross political and geographical boundaries, on their own initiative. There must be a total Federal, State, and local statutory framework within which each State can function in close coordination with all levels of our governmental structure. Failure to pass and enact the legislation pending before us now will continue to perpetuate the "limbo" status which this country has been in, in regard to a wise management and utilization of coastal zone resources, for some time.

This Nation can ill afford to "continue to wait to begin to commence" in solving coastal zone resource utilization problems. I urge the passage and enactment of H.R. 14146 which will insure that past mistakes in management are rectified, that present utilizations are well thought out and planned, and that future plans, programs, and projects all complement each other, on a Federal, State, and local level, by becoming integral parts of an overall management and administration plan.

Mr. MOSHER. Mr. Chairman, I have no further requests for time on this side, and I yield the balance of the time remaining on this side to the gentleman from North Carolina (Mr. Lennon).

Mr. LENNON. Mr. Chairman, I thank the distinguished gentleman from Ohio.

Mr. Chairman, I yield to the distinguished gentleman from California (Mr. Anderson) such time as he may consume.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the bill H.R. 14146, the Coastal Zone Management Act, and in so doing, I wish to commend the distinguished chairman of our subcommittee for the tremendous amount of input and great deal of time and effort on this bill.

H.R. 14146, is a bill to encourage various coastal States to develop plans and programs to manage our coastal areas in the public interest. I think it is a very good bill.

It is estimated that about 53 percent of our Nation's population is concentrated within 50 miles of the coastline and the Great Lakes. Predictions of population trends suggest that by the year 2000 this same area will be inhabited by 80 percent of the national population.

Large industrial complexes are lured to the coastal areas by available land, labor, and water.

Housing development have covered the landscape in what were once remote areas. In California alone, landfills have destroyed 75 percent of the coastal marshes.

Hard choices must be made between protecting the environment and developing the coastal areas. If those choices are going to be rational, we must encourage the States and localities to devise plans which will

both protect the environment and allow controlled uses within the coastal zone.

The bill before us today, H.R. 14146, which I coauthored, would authorize the Secretary of Commerce to make grants to the coastal States to develop management programs.

Under the bill a State must:

First, specify the zone boundaries;

Second, establish permissible activities within the zone area;

Third, designate particularly critical areas;

Fourth, issue guidelines on the priority of uses, and

Fifth, describe the State's method of implementing the plan.

In addition, the Secretary of Commerce is authorized to pay the State up to 66 percent of the cost of the administration of the State program.

Mr. Chairman, of particular interest to me is a subsection, which I authored, designed to protect State-established coastal sanctuaries, such as exists off California, from federally authorized development.

The State of California in 1955 created five marine sanctuaries to protect the beaches from oil spills. In 1963, two more sanctuaries were created.

These State-established sanctuaries, which extend from the coastline seaward to 3 miles, account for nearly a fourth of the entire California coast.

However, the Federal Government has jurisdiction outside the State area, from 3 miles to 12 miles at sea. All too often, the Federal Government has allowed development and drilling to the detriment of the State program.

A case in point is Santa Barbara where California established a marine sanctuary banning the drilling of oil in the area under State authority.

Yet, outside the sanctuary—in the federally controlled area—the Federal Government authorized drilling which resulted in the January 1969 blowout. This dramatically illustrated the point that oil spills do not respect legal jurisdictional lines.

In order to protect the desires of the citizens of the coastal States who wish to establish marine sanctuaries, I offered a provision which "requires that the Secretary of Commerce shall, to the maximum extent practicable, apply the coastal zone program to waters immediately adjacent to the coastal waters of a State, which the State has designated for specific preservation purposes." The Merchant Marines and Fisheries Committee approved this provision.

Our Federal policy must be in support of State laws; for without conformity, State laws may be useless.

Our coasts are both a State and National treasure, and must be protected from unwise, ill-planned usage. The bill before us today would be a giant step toward the establishment of a rational policy to meet present demands and also to protect future needs.

Mr. LENNON. Mr. Chairman, I yield to the gentleman from Ohio (Mr. Vanik).

Mr. VANIK. Mr. Chairman, I take this time, first of all, to commend the gentleman from North Carolina (Mr. Lennon) for his leadership on this bill. I certainly hope he might be considered by the President as

one who might be in line to head up the Coastal Zone Management Advisory Committee. I know of no other person in the Congress who has worked so diligently and so long on this issue.

I would like to ask the gentleman what assurance he can provide that the members of the Coastal Zone Management Advisory Committee will not be entirely dominated by those people who own property or riparian rights or who have a beneficial interest and beneficial rights along the coastal land?

What assurance can the gentleman provide that this Advisory Committee which has a great deal to do about policy will not be dominated by those who have property rights rather than those who are interested solely in the public interest?

Mr. LENNON. I can say to my friend that that particular query or question was not developed in the hearings related to the Advisory Committee.

It gives a National Advisory Committee to the Secretary. It would not be of an advisory capacity if on the State, county, or municipal level.

I can only express the hope—and I am sure the majority of the Members of this House do—that this committee of 10 will be constituted primarily in substantial majority of people who are interested primarily not only in keeping what we have, but in reclaiming that which has been damaged in the past.

However, if you say that anyone owning property or having a fee simple interest in property, who is living in the coastal zone, you are immediately going to knock out over 66 million people who live in the coastal zone areas that we have defined.

I would say to you I will write a letter, assuming that this legislation becomes law—I will immediately write a letter to the Secretary in which I will express my strong view that the majority of those members of the Advisory Committee ought to be people who do not have a land interest.

I can think of a man who may have a fishing shack somewhere on one of your lakeshores. He could not be a member. Or some man who might have a cottage, a small cottage along the 100,000 miles of beachland in this country—he could not be on this committee. We have to have a balance, and we will do what we can to get that. I assure you I have the same feelings you do about it.

Mr. VANIK. I thank the gentleman.

Mr. LENNON. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. Downing), a member of the subcommittee and one of the prime sponsors of this bill.

Mr. DOWNING. Mr. Chairman, I rise in full and enthusiastic support of this legislation. It is probably one of the most important ecological bills that has or will come to us during this session of Congress.

Our coastal zones are deteriorating badly and rapidly and I think it is a proper obligation of the Federal Government to assist those States in halting this decay.

If this bill becomes the law of the land, as I hope it will, most of the credit must belong to the distinguished gentleman from North Carolina (Mr. Alton Lennon) who has worked long and hard to bring this into being. This is not his only monument of achievement; he has

many others which will inure to the benefit of the country he loves so well.

Of course, the same holds true for our dear friend, the Honorable Tom Pelly of Washington, who has contributed so much to this legislation.

Mr. Chairman, if there has been some reservation expressed on the part of the cities of the United States, certainly that does not apply so far as the States themselves are concerned.

I would like to bring to your attention the specific positions of three organizations which represent different aspects of the State governmental structure. The first of these is the National Governors' Conference. That organization, which represents the Governors of all the States, was represented at the subcommittee hearings by Gov. Jimmy Carter of Georgia, who spoke in support of the legislation.

Consistent with Governor Carter's testimony, a report of the Committee on Natural Resources and Environmental Management at the 63d annual meeting of the National Governors' Conference, in September 1971, stated:

. . . for two successive years the National Governors' Conference has adopted a strong policy position relating to coastal zone policy, planning and management. Underscored has been the need for a balanced approach for conservation and development through appropriate administrative and legal devices . . . the Committee considers (this need) of even greater significance in 1971 than . . . in the previous two years.

The Conference itself subsequently reaffirmed its policy position on coastal zone planning. In effect, it endorsed the legislation before the subcommittee and urged its immediate enactment.

Consistent with his testimony is the following excerpt from the final report of the intergovernmental relations committee of the National Legislative Conference, dated August 1970:

The need for coastal zone management legislation derives from the inestimable importance of the estuarine and coastal environment to the nation's economy, environmental health and quality of life. . . .

While Federal and local government involvement is essential to any effective coastal management program. States must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and waters of the coastal zone.

In summarizing, the committee recommended that Federal coastal zone management legislation should be flexible, nonpreemptive, and adequately funded on a two-thirds Federal, one-third State basis.

The third organizational group to which I would like to refer is the Coastal States Organization, which is composed of the representatives of the Governors of the several coastal States, all of which will be directly affected by the bill. Representing that organization, Dr. William J. Hargis, Jr., chairman of the Virginia Institute of Marine Science, strongly urged the enactment of coastal zone legislation.

I hope that my colleagues will overwhelmingly support this bill.

Mr. HARRINGTON. Mr. Chairman, I rise today in support of the coastal zone management bill, which would take a vital first step toward a program of rational planning to preserve and protect our coastal areas.

It is clear that the current state of these areas dictates immediate action. The coastal areas, crowded with more than half of the Nation's

population, experience the squeeze between conflicting demands for use with great intensity. The fragile ecological chain, with its complex string of interconnections between plant, animal, and human life there, is being irrevocably damaged. The crush of population growth further increases the pressure on the finite resources of the coastal areas. We have taken from the coastal zones in a helter-skelter pattern of development, without serious thought to the longrange consequences of our actions. The affluent society grows, and the coastal zone suffers.

As with any areas of environmental concern, solutions do not come easily. Sitting here in Congress, we cannot merely reach for simple answers. We cannot deal with one aspect of the environmental system without examining all of its parts. It would be irresponsible and unproductive for us to impose the proper course for handling our coastal zones.

The value of this bill is that it recognizes this reality, and places basic management in the hands of State and local authorities most familiar with the needs of their areas. Armed with the assistance of scientific, environmental, economic, and social advisers, these officials can develop the most feasible local plan for managing coastal lands and waters.

Without abandoning our responsibility to set national goals and expectations for policy in this area, the bill accomplishes this delegation of authority essential to sound management practice.

However, it is not without some reservation that I vote for this measure. I recognize that it provides grants and guidelines for planning State management programs, and does not provide comprehensive coastal area protection. Thus, I vote for the coastal zone management bill with the hope that it does not become just another trumpeted planning bill without subsequent substantive action. It is essential for Congress to follow through on its commitment to national coastal area policy while maintaining State authority over local policy formulation. We cannot allow this bill to join those other high-sounding Federal programs we have abandoned in midstream. We must fight the remainder of this environmental battle.

Nevertheless, the policy statement in this bill is clear: programs must "give full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development." In other words, social and ecological concerns will be weighed in the balance sheet of coastal zone development. We are now paying the costs of disregarding these factors in past cost-benefit analyses, creating what is generally recognized as an environmental crisis. By acknowledging the importance of the environmental factors, this bill achieves the balance essential to the continuation of human life on this fragile and threatened planet.

Another critical concern when dealing with features of our environment is the need for regional planning. Coastal waters flow freely across State boundaries, affecting many jurisdictions. The principle of compatible land uses applies to the entire stretch of coastal land, irrespective of legally created dividing lines. Clearly the answer is coordination between various jurisdictions in the planning of coastal zone management. This bill embodies that ideal in a national policy to encourage cooperative regional and joint action. Although these provisions might not provide the strongest means to overcome jurisdictional difficulties, it is a forthright and workable recognition that this



problem must be met before rational policies on coastal zone use can be set forth.

The concept of estuarine sanctuaries is an essential one, to preserve and restore selected coastal areas as natural laboratories to study processes which we still do not fully comprehend. In some cases, man's forceful entry into the coastal zone ecology has irretrievably disrupted the natural situation. But we must arrest this process before we have lost all natural coastal areas, and with them a valuable source of scientific knowledge about life there. Coastal estuaries are among the most productive areas on this planet. They are critical areas for the breeding of many species of commercially important fish, for example. As our "spaceship Earth" faces its finite resource capability, we must gather the knowledge necessary in the biologically active estuaries so that we can deal with future life needs.

The bill goes further in the creation of such sanctuaries, but not far enough. It requires procedures in State plans for the designation of preserves and restored areas for ecological and recreation uses. Steps must be taken to further encourage such preserves, and I urge the administrators of this bill—if it is finally approved—to make such actions a central part of any coastal zone management operation.

In short, I support this bill because it recognizes that rational planning of natural resources has come of age. More than that, it has become a basic requirement of survival at a stage of history where uncontrolled growth is now confronting a limited capacity for expansion. Recent studies have sounded the warning that mankind—and especially Americans with our technologically advanced society—must begin to examine the value of development without regard for environmental preservation. To maximize the use of our common natural heritage for all citizens, some restraints must be placed on the onward rush of development oftentimes blindly disguised as "progress." These restraints should come in the form of rational resource analysis, and allocation to various compatible uses with regard to the basic needs of human existence.

The protection of our coastal zones does not mean that we are merely saving fish and ocean plant life; the future of human life is at stake. Just as laissezfaire capitalism became a threat to human development and was discarded, so too must we begin to shake off the constraints of a system which dictates that commercial development is our only priority. In the crucial area of coastal zones, which require immediate attention lest they be lost forever, we can take this step toward a planned approach to resource allocation. If we do not, future generations will be forced to pay, and pay dearly, for our lack of concern and understanding.

Mr. KYROS. Mr. Chairman, as a representative from a coastal State vitally affected by this legislation, I gladly rise in support of H.R. 14146, the Coastal Zone Management Act, which I also co-sponsored.

Maine's coastline is justly famous for its beauty, and is certainly one of the State's most valuable resources and economic assets. Maine has recently suffered one of its worst oil spills ever, and this tragic accident, dumping over 100,000 gallons of oil on our lovely shores, only reenforced the urgency to act now to protect and preserve our

irreplaceable national coastlines and Great Lakes areas. With Maine's 4,052 miles of shoreline, we will be one of the many States directly benefiting from the long-range planning found in this act. However, all Americans will profit from the national policy established in this legislation, creating management programs to protect and wisely develop the water resources and adjacent lands of our country.

It is almost a truism to state that our population is most heavily concentrated near waterways and bodies of water, thereby placing the most intense pressures on these areas through industrial, recreational, and housing uses. This trend will continue in the future, making it imperative that special guidelines and programs be established now by the affected States, with the assistance of the Federal Government, to insure that our shorelines and Great Lakes areas are used in the most effective way possible. This means to protect, preserve, and restore the beauty of our coasts, in addition to insuring their most efficient use by all sectors of our economy.

This act also covers two areas often neglected by other legislation: Estuaries and marshlands. These valuable sanctuaries for nurseries and spawning grounds must be protected to insure adequate marine resources for the future, because it is estimated that 70 percent of the commercial fishing in the United States is done in coastal waters. This industry has already suffered greatly in recent years, a fact well known in Maine and the rest of New England, due to pollution and contamination in breeding waters.

Our national coastline totals more than 88,000 miles, and we must enact this legislation—which was pressed by the Senate without a dissenting vote—to insure that all future generations of Americans will be able to enjoy this most valued national resource.

Mr. STEELE. Mr. Chairman, I wish to express my support of the coastal zone management bill. This environment legislation encourages States to meet the urgent problems of their coastal areas. The Federal Government offers funds to cover 66½ percent of the States' expenses and establishes guiding criteria for those States electing to conserve, regulate, plan, and develop coastal regions. The initiative and authority to contend with the web of demands upon the coastal zone remain with the States.

About 75 percent of the American people today reside in the 30 States bordering the oceans and the Great Lakes. Increasingly, we turn to the border waters for our recreation needs. Our commercial fishermen concentrate 70 percent of their efforts in coastal waters. Our industrial plants, oil wells, powerplants, and shipping increasingly utilize our coastal lands and waters.

Yet today we lack the technical information crucial to successful coastal management decisions. We know little about the impact of man's activities or of natural processes on the ecology of the coastal area. The coastal zone management bill's general principles, and especially its estuarine sanctuaries provision, will support the kind of scientific studies necessary to wisely plan and protect the Nation's coastal regions.

Our immediate need for imaginative State research and management programs is clear if we are to successfully conserve and optimally utilize this invaluable resource.

Mr. VANIK. Mr. Chairman, I would like to commend the Committee on Merchant Marine and Fisheries for the fine work on this bill. Because I represent a district with a long coastal zone on Lake Erie, I am well aware of the need for a Coastal Zone Management Act as the one under discussion.

I am particularly happy to note that the committee has included flood control and shoreline erosion prevention as items which it expects to see included in the comprehensive State programs which must be approved prior to the allocation of Federal funds. Certainly no bill whose purpose is to protect, preserve, develop, and, where possible, to restore or enhance the resources of the coastal zone would be complete without addressing the problem of shoreline erosion prevention, a problem which endangers the very existence of much of the present coastal zone. In this sense, the improved coastal zone management which will result from the enactment of this bill will be an important first step in the fight against shoreline erosion; but, it will only be a first step.

What really is needed is a comprehensive national program for the prevention of the shoreline erosion of both public and private lands where the benefit-cost ratio justifies such protection. Because of the high percentage of shoreline property which is held in private hands, a program which only attempts to protect public lands, such as the one currently administered by the Army Corps of Engineers, simply is not sufficient. For example, in the Great Lakes region, 150 miles of the 216 miles of critically eroding shoreline are held in private hands and are not, therefore, eligible for Federal funds for shoreline erosion prevention.

In the Lake County area of my own district, the problem of shoreline erosion on private land, and the helplessness of the private landowner, was tragically brought to light when four houses tumbled into the lake as a result of the crashing waves and high water levels caused by tropic storm Agnes. In this area of high bluffs composed of soft glacial till and clay, the shoreline has been eroding at a fantastic pace, in some spots as much as 30 feet per year, and, therefore, the occurrence of some type of a catastrophe was simply inevitable. But, because the residents of this area did not have the financial resources to undertake an effective shoreline erosion prevention program, they had no choice but to live with the constant fear of losing their homes in an unpredictable and life-threatening manner. This is an intolerable situation, and I believe it ought not to be allowed to persist.

In sum, Mr. Chairman, the inclusion of shoreline erosion prevention plans in coastal zone management programs will hopefully do much to make both State and Federal officials more aware of the existence of this important problem. But, to bring shoreline erosion really under control, far more must be done for both our public and our private coastal shorelines. If much more is not done, we must anticipate the loss of not only many more houses, and the tax revenue from those houses, but also the loss of streets and public utilities. Surely, the time to act on this problem is now.

Mr. LEGGETT. Mr. Chairman, our continental coastal areas are remarkable for their beauty, for their economic importance, and for the degree to which we have neglected them.

Our coastal areas include 100,000 miles of shoreline on which 65 million Americans live. Our coasts are crossed by almost \$100 billion worth of exports and imports annually.

The development of our coastal areas has been literally without planning. The result has been severe and steadily worsening air and water pollution. We have major and growing conflicts between the interests of industry, power, housing, shipping, recreation, and conservation.

We cannot please everybody, but we can try to make the most reasonable and satisfactory compromises between the various interests. We can only do this with an intelligent coordinated management program, which at present we do not have.

The purpose of this bill is to provide Federal support for State to establish such a program. In future years we will wonder how we ever did without it.

Mr. LENNON. Mr. Chairman, I would like to express my deep appreciation for the very gracious remarks made by my colleagues. Had the compliments which have been suggested come a little earlier. I might have reconsidered the decision I made last November.

Mr. Chairman, we have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the amendment in the nature of a substitute printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203) as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:*

### "TITLE III—MANAGEMENT OF THE COASTAL ZONE

#### "SHORT TITLE

"Sec. 301. This title may be cited as the 'Coastal Zone Management Act of 1972'.

#### "CONGRESSIONAL FINDINGS

"Sec. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

"(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

"(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resource and fossil fuel transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

"(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

#### "DECLARATION OF POLICY

"SEC. 303. The Congress declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Coastal zone' means the coastal waters (including the land therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control those shorelands, the uses of which have a direct impact on the coastal waters.

"(b) 'Coastal waters' means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

"(c) 'Coastal state' means a state of the United States in, or bordering on, Atlantic, Pacific, or Arctic Ocean, the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Estuary' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

"(e) 'Estuarine sanctuary' means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

"(f) 'Secretary' means the Secretary of Commerce.

"MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the portions of the coastal state subject to the management program;

"(2) a definition of what shall constitute permissible land and water uses;

"(3) an inventory and designation of areas of particular concern;

"(4) an identification of the means by which the state proposes to exert control over land and waters uses, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

"(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local area-wide, state, regional, and interstate agencies in the management process.

"(c) The grants shall not exceed 66 $\frac{2}{3}$  per centum of the costs of the program in any one year. Federal funds received from other sources shall not be used to match the grants. In order to qualify for grants under this subsection, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. Successive grants may be made annually for a period not to exceed two years; *Provided*, That no second grant shall be made under this subsection unless the Secretary finds that the state is satisfactorily developing such management program.

"(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

"(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

"(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

"(h) The authority to make grants under this section shall expire on June 30, 1975.

"ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

"(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however*, That no annual administrative grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

"(1) The state, has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

"(2) The state has:

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

"(B) establish an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

"(3) The state has held public hearings in the development of the management program.

"(4) The management program and any changes thereto have been reviewed and approved by the Governor.

"(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

"(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

"(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

"(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(e) Prior to granting approval, the Secretary shall also find that the program provides:

"(1) for any one or a combination of the following general techniques for control of land and water uses;

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

"(B) Direct state land and water use planning and regulation; or

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

"(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for insuring that any funds so allocated are applied in furtherance of such state's approved management program.

"(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are to be made to the state under the program as amended.

"(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need management programs: *Provided*, That the state adequately allows for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

#### "INTERAGENCY COORDINATION AND COOPERATION

"Sec. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

"(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(c) (1) Each Federal agency conducting or supporting activities in the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

"(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

"(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certification and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or unit, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

"(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activ-



ities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(e) Nothing in this section shall be construed—

"(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor 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.

"SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

#### "REVIEW OF PERFORMANCE

"SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

#### "RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

#### "ADVISORY COMMITTEE

"SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than ten persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

"(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime may receive compensation at rates not exceeding \$100 per

diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

#### "ESTUARINE SANCTUARIES

"SEC. 312. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal State grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

"(b) When an estuarine sanctuary is established by a coastal State, for the purpose envisioned in subsection (a), whether or not Federal funds have been made available for a part of the costs of acquisition, development, and operation, the Secretary, at the request of the State concerned, and after consultation with interested Federal departments and agencies and other interested parties, may extend the established estuarine sanctuary seaward beyond the coastal zone, to the extent necessary to effectuate the purposes for which the estuarine sanctuary was established.

"(c) The Secretary shall issue necessary and reasonable regulations related to any such estuarine sanctuary extension to assure that the development and operation thereof is coordinated with the development and operation of the estuarine sanctuary of which it forms an extension.

#### "MANAGEMENT PROGRAM FOR THE CONTIGUOUS ZONE OF THE UNITED STATES

"SEC. 313. (a) The Secretary shall develop, in coordination with the Secretary of the Interior, and after appropriate consultation with the Secretary of Defense, the Secretary of Transportation, and other interested parties. Federal and non-Federal, governmental and nongovernmental, a program for the management of the area outside the coastal zone and within twelve miles of the baseline from which the breadth of the territorial sea is measured. The program shall be developed for the benefit of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the protection of the environment and shall include, but not be limited to, provisions for the development, conservation, and utilization of fish and other living marine resources, mineral resources, and fossil fuels, the development of aquaculture, the promotion of recreational opportunities, and the coordination of research.

"(b) To the extent that any part of the management program developed pursuant to this section shall apply to any high sea area, the subjacent seabed and subsoil of which lies within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the program shall be coordinated with the coastal state involved.

"(c) The Secretary shall, to the maximum extent practicable, apply the program developed pursuant to this section to waters which are adjacent to specific areas in the coastal zone which have been designated by the states for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

#### "ANNUAL REPORT

"SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding Federal fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's program and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title and a

statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

#### "RULES AND REGULATIONS

"SEC. 315. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### "PENALTIES

"SEC. 316. (a) Whoever violates any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable to a civil penalty of not more than \$10,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(b) No penalty shall be assessed under this section until the person charged shall have been given notice and an opportunity to be heard. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon failure of the offending party to pay the penalty, as assessed or, when mitigated, as mitigated the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect such penalty and to seek other relief as may be appropriate.

"(c) A vessel used in the violation of any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(d) The district courts of the United States shall have jurisdiction to restrain violations of the regulations issued pursuant to this title. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

#### "APPROPRIATIONS

"SEC. 217. (a) There are authorized to be appropriated—

"(1) the sum of \$15,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 305 to remain available until expended;

"(2) the sum of \$50,000,000 for fiscal year 1974 and for fiscal year 1975 for grants under section 306 to remain available until expended; and

"(3) the sum of \$6,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 312, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the two succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

Mr. LENNON [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kyl: On page 34, line 16, delete "Commerce" and substitute therefor "the Interior."

Mr. KYL. Mr. Chairman, this is a land water management bill which the chairman says involves management of land on which we have 66 million people living. It is a land-use management bill.

The Department of the Interior has been designated to administer the National Land Use Policy Act of 1972, which is proposed in H.R. 4332, which has cleared the Committee on Interior and Insular Affairs, and it is so designated because of its expertise in and its statutory responsibility for natural resource management. For the same reasons that Interior is the Federal agency best able to administer a program of assistance for comprehensive statewide land use planning, it is the department best able to assist with land-use planning in the coastal zone. Interior bureaus with coastal zone competence include the National Park Service, the Bureau of Sport Fisheries and Wildlife, the Geological Survey, the Bureau of Outdoor Recreation, and the Bureau of Land Management.

If coastal zone management is to be a meaningful first step toward comprehensive statewide land-use planning, the program authorized by H.R. 14146 should be structured to anticipate integrated administration by a single department whose capabilities are adequate to achieve this objective. If the Department of Commerce were to administer a program of assistance for coastal zone planning, and the Department of the Interior a program for the balance of each State, the resulting duplication or arbitrary division of effort would hinder the States' adoption and implementation of a truly comprehensive land-use policy.

Adoption of this amendment would in no way affect the continued availability to States of the expertise in marine affairs which is unique to the National Oceanographic and Atmospheric Administration.

We can almost reduce this matter to an absurdity. If Commerce is going to administer coastal zones, then why should not the Agriculture Department administer rural areas and the HUD the city planning, and so on ad infinitum. This matter belongs in the Interior Department and not in the Commerce Department.

Mr. ASPINALL. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Chairman. I wish to state to my colleagues, the gentleman from Iowa and my colleagues of the committee, that if this amendment could be approved by the committee, it would remove a great deal of my objection to the bill as it now is for the simple reason that I do not like to see fractionated administrative operations and procedures. This would put the matter of the administration of the public lands—and these are part of the public lands and also related to private land uses—in one Department and there would not be this difficulty of duplication.

I support my colleague's amendment.

Mr. KYL. I would ask the gentleman from Colorado, in this offshore area which is included by some coordinated effort in this bill, in spite of the protestations that there is no setting aside of other law, do we

not come into conflict with laws on the books with respect to mining use in that outer continental area?

Mr. ASPINALL. My colleague's position is entirely logical. Of course, two jurisdictions are involved, the Department of the Interior and the other is under the agency administering the Outer Continental Shelf legislation. This is one of the deficiencies in this legislation. I think if we could put it in the one Department we would remove a great many of the difficulties I see lying ahead.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

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

Mr. LONG of Maryland. Mr. Chairman, is it the gentleman's feeling in offering this amendment that the Department of the Interior would be somewhat more vigilant in protecting the public interest than possibly the Commerce Department?

Mr. KYL. No. My argument is simply this. In the first place we are going to have national land-use planning calling for statewide comprehensive land-use plans.

Under any such bill I am absolutely confident that the burden for administration will be a land use planning agency within the Department of the Interior, because it is now that Department which is in charge of land use planning.

As a matter of fact, under the land and water conservation fund each State has to have a comprehensive outdoor recreation plan already under the Interior Department.

So far as the one-third of the Nation under public lands is concerned, the Interior Department has complete jurisdiction.

There is no way of taking the Interior Department out of this picture. Because it is so deeply involved, because it has expertise, because it has departments involved in land use planning now, it is the logical place to put this.

My argument is that we should not fragment the effort, frustrate the States and frustrate the local governments by having them go to six or seven departments to get the word as to what they must do on land use planning.

Mr. LONG of Maryland. The gentleman's reasoning sounds persuasive to me. I support his amendment.

Mr. LENNON. Mr. Chairman, I rise in opposition to the amendment.

I believe this is typical, once again. We anticipated this.

I should like to make it crystal clear that the gentleman who was just in the well was not reflecting the administration downtown on Pennsylvania Avenue. If the gentleman wishes to respond to that, will he please document it and read the letter from the person downtown in which it is requested, in spite of the fact that the White House, with the wholehearted, concurrence of this body as well as the other body, created NOAA, the National Oceanic and Atmospheric Agency, where this function would be.

Does the gentleman wish to respond that he has a letter in his possession from the White House in which they say they are requesting this legislative authority be transferred to the Department of the Interior?

Mr. KYL. I will say to the gentleman, to be absolutely accurate and frank, that these amendments which I offer at this time were prepared by the administration on a sheet which came to me from the administration. They are called administration amendments.

Mr. LENNON. Meaning the Department of the Interior?

Mr. KYL. No, sir; that is not my understanding at all.

Mr. LENNON. Well, it is my understanding, sir, because I have in my possession a letter signed by the General Counsel of the Department of Commerce, which I received today at 12 o'clock noon, in which they definitively and objectively spoke for the administration. They made one suggested "period, close of quote" which I will in turn offer as an amendment.

If I may, I should like to return to what I have to say in regard to the gentleman's amendment, the proposal to change from the Secretary of Commerce to the Secretary of the Interior.

We should keep in mind, gentlemen, that NOAA, the National Oceanic and Atmospheric Agency, is in the Department of Commerce. We put it there by our votes in 1970. I believe there were about 12 votes, out of 400, against it.

This proposal to change from the Secretary of Commerce to the Secretary of the Interior the responsibility for the coordination of coastal zone management is not a new proposal. It has been raised over and over again, ever since the gentleman did what he did at the request of the administration. Each time it has been raised, it has been rejected. There is no more justification today than existed on the previous occasions.

Human nature is the same all over the world. "Let us take everything we put in NOAA out and hand it back to the Department of the Interior." That is human nature. Everybody wants to grow like Topsy.

The Secretary of the Interior was proposed as the lead agency for coastal zone management by some people in the Interior Department way back in 1969.

The Commission report—I am talking about the Stratton Commission report—after careful consideration, based upon the objective viewpoints of nongovernmental personnel, recommended a coastal zone management program to be administered by the independent agency of NOAA, the National Oceanic and Atmospheric Agency.

Now, the President, with your concurrence, decided that it would not make it a national agency but, rather, put it in the Department of Commerce. Nevertheless, it does exist in major part now by virtue of Reorganization Plan No. 4 of 1970. The next time the Department of the Interior's responsibility was suggested was in connection with the administration proposal in 1969 for a coastal management bill in the guise of an amendment to the Water Pollution Control Act.

Yes; the Department of the Interior suggested it then, and in that case the Department of the Interior lead position was based on the fact that it contained the Federal Water Quality Administration and therefore they ought to have this.

When the Subcommittee on Oceanography convened in 1969 they brought people here from 30-odd States to develop these problems and the then Under Secretary of the Interior stated that his Department was well qualified to administer such program by virtue of the fact that the Department of the Interior contained the Federal Water Quality Administration and the Bureau of Commercial Fisheries.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Lennon was allowed to proceed for 2 additional minutes.)

Mr. LENNON. That was true at that point in time, but Reorganization Plan No. 4, recommended by the President and concurred in by this Congress, removed from the Bureau of Commercial Fisheries from the Department of the Interior and put it in NOAA.

Mr. KYL. Will my respected friend yield?

Mr. LENNON. Of course, if I have the time.

Mr. KYL. Of course, this NOAA is designed for scientific purposes. The gentleman a moment ago in an earlier speech referred to the fact that 66 million people live in this area that is going to be managed. That is hardly a matter for ocean scientists to determine, I would suggest to the gentleman. That is a land management proposition and not a matter of ocean science.

Mr. LENNON. Let me respond by saying this is a coastal zone management bill. It is an ocean-oriented and not land-oriented bill. That is the difference.

One other point has been brought out. A complete land use management program for this country this year or next year is necessary, and it is your suggestion that we put it in the Department of the Interior until such time as we take up the whole thing.

I urge the Committee to vote this amendment down.

Mr. MOSHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do strongly oppose the amendment.

I would like to remind the House that just 2 years ago President Nixon by Executive order but then with the compliance of the House by almost unanimous action created the—National Oceanic and Atmospheric Administration—NOAA—and for the express purpose of focusing its attention on the marine environment. I assert that the coastal zones are a vital part of that environment.

By the way I beg to differ with the gentleman from Iowa when he just referred to NOAA as essentially a scientific agency. It is in part a scientific agency, but it goes well beyond that in the management authority in many areas.

Mr. KYL. Would the gentleman yield?

Mr. MOSHER. Yes; I yield.

Mr. KYL. A moment ago he said that because this ocean area was different the management ought to be in the hands of an oceanographic agency. We have a forestry department in the National Government and we have national land-use planning. Does the gentleman think we ought to have those national forests planned under the Forest Service and outside any national land-use planning?

Mr. MOSHER. I think that the gentleman should understand that in writing this legislation the committee fully recognized that ultimately the Congress will probably approve overall land management legislation, and we very conspicuously adopted this legislation to that ultimate effect.

I do not think that this legislation in any way conflicts with the probability that in the future there will be legislation for overall land-use management.

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

Mr. MOSHER. I will yield to the gentleman from Iowa in just one moment, but first let me complete with this statement.

I think it is a practical fact of life that in his 92d Congress there is strong probability against any overall Land Management Act. I think that the problems that the States and the local governments are struggling with in the coastal zone are so essential and so necessary now that until the time that the Congress gets to overall land management legislation, maybe sometime in the next year or two, that this legislation fills a very necessary gap.

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

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

Mr. KYL. Mr. Chairman, I would like to clarify the inference made by the gentleman. Is the gentleman suggesting that when we have a national land-use management plan that then this jurisdiction should be changed to the agency that has the overall authority?

Mr. MOSHER. Of course, that is up to the Congress to decide. Eventually we might have a Department of National Resources, as has been recommended by the President, and I would assume that NOAA would be definitely a part of that overall natural resources arrangement.

But I believe it is at this point very logical to place this in NOAA.

NOAA, through its National Marine Fisheries Service, is now responsible for the exploration, conservation, and development of marine resources so vitally dependent upon coastal waters. Its network of coastal laboratories represents a unique national capability in marine ecological knowledge.

NOAA, under the sea-grant program, promotes the scientific and technical capabilities on which the State must draw.

NOAA, through its National Ocean Survey, is the central agency responsible for mapping and charting the coastal waters for boundary determinations.

NOAA, through the National Weather Service, provides all essential forecasts and warnings of ocean and weather condition.

NOAA carries out most of the Government-supported research and development in coastal zone waters within their laboratories and sea-grant institutions.

In addition to that, NOAA, as associated in the Department of Commerce, is closely associated with the Maritime Administration, which already is in the Department of Commerce. And NOAA is allied with the Economic Development Administration, which is in the Department of Commerce already, and which is vital to the coastal zone concept.

\* \* \* \* \*

Mr. Chairman and Members of the House, I believe that this amendment should be defeated.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

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

Mr. RUPPE. Mr. Chairman, today as we consider the coastal zone management bill, I believe that we should keep in mind another piece of potential legislation, the national land-use planning bill, which has



been ordered reported by the Interior and Insular Affairs Committee. As a member of both the Interior Committee and the Merchant Marine Committee which reported the coastal zone management bill, I would like to point out the important relationship between these two bills.

The coastal zone management bill we are considering today is intended to be a first step toward a comprehensive, statewide program of land-use planning, designed to protect our coastal zones in particular. The Department of Commerce would be designated to provide for management and protection of the coastal zones and the adjacent shorelands and transitional areas.

The national land-use planning bill also provides for land-use planning of these areas, but on a larger scale and with the responsibility assigned to the Department of the Interior.

I hope that in voting on this measure today my colleagues will take into consideration the need to coordinate the activities that will be the result of this bill and those of the land-use planning bill, if passed. If both of these measures are to be meaningful in their stated goals of protection, regulation, and preservation of our land resources, they must not be entangled in a maze of waste, duplicity, and interagency dispute.

If we hope for a truly comprehensive land use policy in this country, we must not handicap it with unnecessary duplication or arbitrary division of effort which might hinder the States' adoption of land use plans.

It is my considered opinion that the administration proposal has merit and I urge my colleagues to support the amendment offered by Mr. Kyl.

Mr. ASPINALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take very much time, but I do wish to ask my friend, the gentleman from North Carolina (Mr. Lennon) a couple of questions.

As I understand the way the bill is now drawn, the administration would be under the Secretary of the Department of Commerce because NOAA is part of the Department of Commerce; is that correct?

Mr. LENNON. Yes, NOAA is part of the Department of Commerce.

Mr. ASPINALL. Then I notice also in the report that the only reference that we have to the Department of Commerce, as far as the reports are concerned, was a question apparently that was sent to the Department of Commerce to provide an estimate of the costs involved in this legislation. The Department of Commerce has taken no other position on this legislation, but the report is still full of reports from the Department of the Interior, a representative of which Department apparently appeared before the committee as it made its case, and that the Department of Interior must have some jurisdiction or other, and now asks for this amendment.

What is the reason that we do not have a report from the Department of Commerce as such?

Mr. LENNON. I consider that a report, which is signed—I believe you will find it. I think you said, on page 63 of the report?

Mr. ASPINALL. It is on page 53 of the report.

Mr. LENNON. On page 53 of the report where the Department of

Commerce was asked to estimate the administrative costs on an annual basis, and they broke it down into scientists, engineers, planners, programmers, and so forth.

Mr. ASPINALL. My colleague is correct. But there is nothing in the report to show that the Department of Commerce has taken any position other than to answer the committee's question.

Mr. LENNON. Yes. They have never raised a question that they were going to have the administrative responsibility. If they did, they would have responded and given us the figures. I think that is an indication. It is just in recent weeks that the thought developed that this ought to be transferred from NOAA to the Department of the Interior. Hopefully, they believe that the total land use management bill would come out.

Mr. ASPINALL. Let me ask my colleague one simple question.

Why did you not have the Department of the Interior give you a report and appear before the committee unless it has jurisdiction?

Mr. LENNON. I think the distinguished gentleman knows that we always circularize all the potential and even slightly affected agencies and ask them for their comments. Is that not true with your committee?

Mr. ASPINALL. The gentleman is absolutely correct.

But the parent department having jurisdiction over this matter as the bill is now written has not stated in the report its position on the legislation.

Mr. LENNON. The Department of Commerce has not?

Witnesses testified, sir. We do not have here the volumes of testimony, but they testified—they did not write—they testified.

Mr. ASPINALL. My colleague knows that we can read the report but cannot read all the hearings.

Mr. LENNON. I realize that.

Mr. ASPINALL. This report is silent on this particular matter.

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

Mr. ASPINALL. I yield to the gentleman.

Mr. KYL. In answer to the question propounded by the subcommittee chairman, a moment ago, in a couple of minutes I will have in his hands an official letter from the Council on Environmental Quality which reads:

In response to your request, I am pleased to advise that the administration and the Council on Environmental Quality strongly recommend that the coastal zone program anticipated by H.R. 14146 be administered by the Department of the Interior.

Mr. ASPINALL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Kyl).

The question was taken; and on a division (demanded by Mr. Lennon) there were—ayes 46, noes 24.

#### TELLER VOTE WITH CLERKS

Mr. LENNON. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. LENNON. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Kyl, Lennon, Mosher, and Aspinall.

The Committee divided, and the tellers reported that there were—  
 ayes 261, noes 112, not voting 59, as follows:

[Roll No. 293]

[Recorded Teller Vote]

YEAS—261

Abernethy	Chisholm	Gonzalez
Abourezk	Clancy	Grasso
Abzug	Clausen,	Gross
Adams	Don H.	Gubser
Addabbo	Clawson, Del.	Gude
Alexander	Cleveland	Haley
Anderson, Ill.	Collier	Hall
Andrews,	Collins, Tex.	Hammer-
N. Dak.	Colmer	schmidt
Archer	Conable	Hansen, Idaho
Arends	Conover	Hansen, Wash.
Ashbrook	Conte	Harrington
Ashley	Conyers	Harsha
Aspin	Coughlin	Harvey
Aspinall	Crane	Hastings
Badillo	Culver	Hawkins
Baker	Curlin	Heckler, Mass.
Baring	Danielson	Heinz
Begich	Delaney	Hicks, Mass.
Belcher	Dellenback	Hicks, Wash.
Bell	Dellums	Hillis
Bergland	Denholm	Horton
Biaggi	Dennis	Hosmer
Biester	Devine	Howard
Bingham	Dickinson	Hull
Blackburn	Drinan	Hunt
Boggs	Dulski	Ichord
Boland	Duncan	Jacobs
Bolling	Dwyer	Johnson, Pa.
Bow	Eckhardt	Jonas
Brademas	Edmondson	Jones, Ala.
Bray	Edwards, Ala.	Karth
Brinkley	Erlenborn	Kastenmeier
Brotzman	Esch	Kazen
Brown, Mich.	Eshleman	Keating
Brown, Ohio	Evans, Colo.	Kemp
Broyhill, N.C.	Fascell	King
Buchanan	Findley	Kluczynski
Burke, Fla.	Fish	Koch
Burleson, Tex.	Fisher	Kyl
Burlison, Mo.	Foley	Landrum
Burton	Ford,	Latta
Cabell	William D.	Link
Camp	Fraser	Lloyd
Carey, N.Y.	Frelinghuysen	Long, Md.
Carlson	Frenzel	Lujan
Carter	Frey	McClory
Cederberg	Fuqua	McCollister
Chamberlain	Goldwater	McCormack

McDade	Quie	Talcott
McEwen	Quillen	Taylor
McKay	Railsback	Terry
McKevitt	Randall	Thompson, Ga.
McKinney	Reuss	Thomson, Wis.
Macdonald,	Riegle	Thone
Mass.	Robinson, Va.	Udall
Madden	Robison, N.Y.	Ullman
Mahon	Rodino	Van Deerlin
Mallary	Roe	Vander Jagt
Martin	Roncalio	Vanik
Mathias, Calif.	Rosenthal	Veysey
Matsunaga	Roush	Vigorito
Mayne	Rousselot	Waggonner
Meeds	Roybal	Waldie
Melcher	Runnels	Wampler
Mikva	Ruppe	Ware
Miller, Ohio	Sandman	Whalley
Mills, Md.	Saylor	White
Montgomery	Scherle	Whitehurst
Moss	Scheuer	Whitten
Myers	Schmitz	Widnall
Natcher	Schneebeli	Williams
Nelsen	Schwengel	Wilson, Bob
Obey	Sebelius	Wilson,
O'Hara	Seiberling	Charles H.
O'Konski	Shoup	Winn
Passman	Shriver	Wolff
Patman	Sikes	Wright
Patten	Skubitz	Wyatt
Perkins	Slack	Wydler
Pettis	Smith, Calif.	Wylie
Peyser	Smith, Iowa	Wyman
Pirnie	Spence	Yates
Poage	Staggers	Yatron
Powell	Steiger, Ariz.	Young, Fla.
Price, Tex.	Steiger, Wis.	Young, Tex.
Pryor, Ark.	Stratton	Zablocki
Pucinski	Stubblefield	Zion
Purcell	Symington	Zwach

## NAYS—112

Abbitt	Gaiamo	Morgan
Anderson,	Gibbous	Mosher
Calif.	Goodling	Murphy, Ill.
Andrews, Ala.	Gray	Nichols
Annunzio	Green, Oreg.	Nix
Barrett	Green, Pa.	O'Neill
Bennett	Griffin	Pelly
Betts	Griffiths	Pepper
Bevill	Grover	Pickle
Blatnik	Halpern	Pike
Burke, Mass.	Hamilton	Podell
Byrne, Pa.	Hanley	Poff
Byron	Hanna	Preyer, N.C.
Carney	Hathaway	Price, Ill.
Casey, Tex.	Hays	Rangel
Celler	Hechler, W.Va.	Rogers
Chappell	Helstoski	Rooney, Pa.
Clark	Henderson	Rostenkowski
Collins, Ill.	Hogan	Roy
Corman	Hungate	Ruth
Cotter	Johnson, Calif.	St Germain
Daniel, Va.	Jones, N.C.	Sarbanes
de la Garza	Keith	Satterfield
Dent	Kyros	Scott
Dingell	Lennon	Shipley
Donohue	Lent	Smith, N.Y.
Dorn	McCloskey	Snyder
Dow	McFall	Stanton,
Downing	Mailliard	J. William
du Pont	Mann	Stanton,
Edwards, Calif.	Mathis, Ga.	James V.
Eilberg	Mazzoli	Steed
Evins, Tenn.	Metcalfe	Steele
Flood	Minish	Sullivan
Flowers	Mitchell	Teague, Calif.
Forsythe	Mizell	Tiernan
Fountain	Mollohan	Whalen
Garmatz	Monagan	
Gaydos	Moorhead	

## NOT VOTING—59

Anderson,	Gallagher	Mink
Tenn.	Gettys	Minshall
Blanton	Hagan	Murphy, N.Y.
Brasco	Hébert	Nedzi
Brooks	Holifield	Rarick
Broomfield	Hutchinson	Rees
Broyhill, Va.	Jarman	Reid
Byrnes, Wis.	Jones, Tenn.	Rhodes
Caffery	Kee	Roberts
Daniels, N.J.	Kuykendall	Rooney, N.Y.
Clay	Landgrebe	Ryan
Davis, Ga.	Leggett	Sisk
Davis, S.C.	Long, La.	Springer
Davis, Wis.	McClure	Stephens
Derwinski	McCulloch	Stokes
Diggs	McDonald,	Stuckey
Dowdy	Mich.	Teague, Tex.
Flynt	McMillan	Thompson, N.J.
Ford, Gerald R.	Michel	Wiggins
Fulton	Miller, Calif.	
Galifianakis	Mills, Ark.	

So the amendment was agreed to.

## AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kyl: On page 42, line 25 through page 45, line 6—delete the second sentence of subsection 304(b), and revise subsections (c) and (d) to read as follows:

“(c) Federal projects and activities significantly affecting land use within the coastal zone and estuaries shall be consistent with coastal zone management programs funded under section 306 of this Act except in cases of overriding national interest. Program coverage and procedures provided for in regulations issued pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with coastal zone management programs funded under section 306 of this Act.

“(d) After December 31, 1974, or the date the Secretary approves a grant under section 306, whichever is earlier, Federal agencies submitting statements required by section 102(2) (C) of the National Environmental Policy Act shall include a detailed statement by the responsible official on the relationship of proposed actions to any applicable State land use program which has been found eligible for a grant pursuant to section 306 of this Act.”

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Iowa is recognized for 5 minutes in support of his amendment.

Mr. KYL. Mr. Chairman, the proposed language in this amendment is language which was worked out very carefully over a long period of time in the national land use policy proposal. The language is intended here to assure that the same requirements of consistency are applicable to the coastal zone as elsewhere within a State which has adopted a comprehensive land use plan. I point out a number of States already have developed comprehensive plans. It is my feeling that the language of this bill ought to be consistent with the language and the purpose which the State has and which the Federal Government has in calling for comprehensive plans.

This language would accomplish exactly the same results as section 307 in that the Federal activities within the coastal zone are consistent with a State's management program, but it does not establish, as does the bill under consideration this afternoon a cumbersome certification procedure in addition to all of the other procedures which are established by law.

Mr. LENNON. Will the gentleman yield?

Mr. KYL. Certainly I yield.

Mr. LENNON. I ask the gentleman to a little more definitively identify his amendment. It says—I have difficulty in finding it, but it says page 42, line 25, through page 45, line 6. It would strike out the beginning of line 25 on page 42 and continue through line 6 on page 45.

Mr. KYL. It would eliminate, I would say to the gentleman from North Carolina, that section dealing with the certification program in the gentleman's bill.

Mr. LENNON. Mr. Chairman, I think the gentleman from Iowa has the wrong section referred to in his amendment because that section is not the one.

If the gentleman refers to section 304(b), it is not within either one of those several pages in which the section is referred to, certainly not

in that range. We have reserved a point of order, Mr. Chairman, on the amendment.

Mr. KYL. Mr. Chairman, I would like to point out to the gentleman from North Carolina what we are amending is the language that says that:

Each Federal agency conducting or supporting activities in the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

Mr. LENNON. Mr. Chairman, would the gentleman from Iowa object to having the Clerk identify the amendment, and relate it to the page?

Mr. Chairman, I ask unanimous consent that the amendment be reread. The amendment which the gentleman from Iowa is offering refers to section 304(b), and is not found in any of the pages that the gentleman has identified that he would strike in the bill. I do not know about in the committee report, but in the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina that the Clerk reread the amendment?

There was no objection.

The Clerk reread the amendment.

#### POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I think in order to facilitate the business of the House, it would be appropriate for me to insist on my point of order, and if the Chair will recognize me at this time, I will give the reasons for the point of order being made.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I believe a reading of the point of order makes it plain that the amendment offered referred to legislation and to statutes not presently before the House and not under the jurisdiction of the committee having the legislation before the House, and, also, not referred to elsewhere in the statute.

As a matter of fact, the jurisdiction over the legislation referred to in the amendment is found in other committees such as the Committee on Banking and Currency.

Mr. Chairman, I would point out further that the amendment refers to the Demonstration Cities and Metropolitan Development Act which refers to matters entirely different than the coastal zone, and, also, the Intergovernmental Cooperation Act, which again is an act which treats of other matters.

In subparagraph (d) of the amendment which is the paragraph following that which I have just been discussing, it refers to the National Environmental Policy Act, section 1022(c), which again is not before the House at this time and which treats matters entirely different than those which are before us with regard to the management of coastal zones. Even though the provisions of section 1022(c) referred to in the amendment would be applied to major actions which would have a significant impact on human environment.

Therefore, I make the point or order at this time that the amendment is not germane to the legislation before us, and it goes beyond and is different in scope and purpose from the legislation before us, and, therefore, should be ruled against by the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. Kyl).

Mr. KYL. Mr. Chairman, it is the opinion of the gentleman from Iowa that the chairman is capable of rendering his decision without this gentleman's assistance.

The CHAIRMAN. The Chair is prepared to rule.

The Chair has read the committee amendment which this amendment proposes to amend.

On page 41, at lines 16 and 17, the committee amendment amends the Demonstration Cities and Metropolitan Development Act of 1966, and on page 43, line 5, paragraph (C) (1) it speaks of each Federal agency conducting or supporting activities in the Coastal Zone.

And on page 43, line 10, paragraph (2) it speaks also of any Federal agency which shall undertake any development project in the coastal zone.

Therefore, the Chair finds that the committee amendment is very broad and already covers matter proposed in the amendment of the gentleman from Iowa (Mr. Kyl). The Chair overrules the point of order and holds that the amendment is germane.

Mr. DINGELL. Mr. Chairman, I would like to be heard further to bring to the attention of the Chair matters which the Chair has not treated as to this particular point, and I would remind the chairman I have pointed to two acts referred to by the Chair in his ruling.

The CHAIRMAN. The Chair has already made his decision on the point of order and has ruled that the amendment is germane.

Mr. DINGELL. I think the Chair has not observed that I made a point of order dealing with the second paragraph.

The CHAIRMAN. Does the gentleman from Michigan wish to strike out the last word and speak on the amendment?

Mr. DINGELL. No. I simply want a ruling on the point of order that treats all parts of the point of order.

The CHAIRMAN. The Chair has ruled on the point of order and has ruled the amendment is germane.

If the gentleman from Michigan desires to strike out the last word and speak in opposition to the amendment, the Chair will recognize the gentleman. Otherwise the Chair will not recognize the gentleman further.

Mr. LENNON. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, I think those who have read the language of the National Land Use Policy Act that has been pending in the Committee on Interior and Insular Affairs recognize that there is little likelihood, and I think our distinguished chairman of that committee, the gentleman from Colorado (Mr. Aspinall), will tell you frankly that there is little likelihood that that bill will come out during this calendar year.

But what we have done here—this amendment takes the language that is used in the bill that is pending in the committee and that has not been reported out of a committee and brings it here and offers it as a substitute for language that was considered in a committee for 28 legislative days' hearings.



With a consensus of 100 percent of the subcommittee and the full committee, I just frankly do not believe that we ought to anticipate what may happen sometime in the future. I can say frankly that it is an administration amendment, if you please, and this committee was given today at 12:10 information that suggested that they adjust the cost on an annual basis from what was originally in our bill to meet the possibility that sometime in the future we may have actual land use legislation. We were prepared to do this, and this was the administration's position; not the position of the Department of the Interior or the Department of Commerce. It is approved by the Office of Management and Budget, but unfortunately a majority of the Members reacted, I am told now, and I am going to repeat it, that there was a lobbying campaign and some of the Members from some of the costal States—I shall not call their names—told me that the American Petroleum Institute started to work today just before noon, so here we are and so the world goes around.

But I do suggest there is no purpose in adopting this particular amendment.

Mr. GARMATZ. Mr. Chairman, I would like to ask the gentleman from Iowa, is this so-called administration amendment from the administration, the Nixon administration?

Mr. KYL. It is.

Mr. GARMATZ. It is?

Mr. KYL. Yes.

Mr. GARMATZ. Signed by whom? Who suggested this amendment?

Mr. KYL. I have, as I noted a moment ago, a letter from the Council on Environmental Quality.

Mr. GARMATZ. That was the other amendment from Rogers Morton, Secretary of the Interior. Whose amendment is this?

Mr. KYL. This amendment has the concurrence of the Council on Environmental Quality.

Mr. GARMATZ. Is that the administration? Is that the Nixon administration you are speaking about or just one branch of the administration?

Mr. KYL. I think the gentleman understands the Council on Environmental Quality—

Mr. GARMATZ. I understand the difference between one part of the administration and the administration itself; yes. Are you speaking about the Republican administration as a whole or just one department of the administration? Are you speaking about Rogers Morton, Secretary of the Interior? Is that the administration?

Mr. KYL. A few moments ago—

Mr. GARMATZ. If the gentleman does not wish to answer the question, I will yield back the balance of my time.

Mr. KYL. I would be happy to answer the question.

Mr. LENNON. Mr. Chairman, I urge the rejection of the amendment.

Mr. ASPINALL. Mr. Chairman, I move to strike the necessary number of words.

I want the gentleman from Iowa to have the opportunity of answering the question of the gentleman from Maryland (Mr. GARMATZ).

Mr. KYL. I thank the gentleman for his courtesy. A few moments ago I read into the record a letter and promised the gentleman that I would have a formal copy of the letter, a letter from the Council on Environmental Quality on behalf of the Council and the administration in support of these amendments. They sent these to me not before noon today but on yesterday.

They also reflect the attitudes of the Department of the Interior. This is from the Council on Environmental Quality on behalf of the administration, period. Will the gentleman yield further?

Mr. ASPINALL. I shall be glad to yield further to the gentleman from Iowa.

Mr. KYL. I would ask my much respected and beloved friend who is the chairman of the subcommittee if he would not want to reflect a moment more on his statement that whatever is being done here this afternoon is being done because someone from the National Petroleum Institute got to Members today about noon. I wish to state for the record that no one who is associated with the National Petroleum Institute or any other commercial group in the country has contacted me regarding this piece of legislation, today, or any day in the past.

Mr. ASPINALL. The chairman of the Committee on Interior and Insular Affairs, wishes to say that he has not been contacted in this respect on any such matter. He will also state that no one, except a few members on the Interior and Insular Affairs Committee, has seen the language of the amended bill and its report. The report on H.R. 7211 is not out as yet. I have not seen the amendment which is now being offered.

I have listened to the argument. I think it comes nearly in line with the language to take care of the matter which the Committee on Merchant Marine and Fisheries desires to take care of in this bill.

I will say that I have never found my friend from Iowa in any position where he would mislead anybody whether he was for or against a matter, and the language is undoubtedly language he received from those in charge of the administrative departments.

The CHAIRMAN. The question is or the amendment offered by the gentleman from Iowa (Mr. KYL).

The question was taken; and on a division (demanded by Mr. Kyl) there were ayes 43, noes 72.

So the amendment was rejected.

#### AMENDMENT OFFERED BY MR. CLARK

Mr. CLARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Clark: On page 50, lines 10 and 11, after the word "Secretary delete the following words: "shall, to the maximum extent practicable," and insert in lieu thereof the word "may".

Mr. CLARK. Mr. Chairman, the purpose of this amendment is to make it permissive rather than mandatory for Federal sanctuaries to be established adjacent to areas set aside by State designations. Without this revision, vast resources of the Outer Continental Shelf could

be locked automatically without having had congressional or administrative review.

The amendment would also make this subsection consistent with the provisions of title III of H.R. 927, already passed by the House, which gives the Secretary permissive—not mandatory—authority. “Shall” means mandatory and “may” means permissive.

Mr. ANDERSON of California. Mr. Chairman, I rise in opposition to this amendment which would weaken the provision in the bill designed to protect State-established coastal sanctuaries from federally authorized development.

Coastal States, such as California, have established marine sanctuaries in areas under their jurisdiction. The purpose of these State laws is to protect the scenic beauty, and the beaches, from commercial exploitation which could ruin the environment.

However, the Federal Government—which has jurisdiction outside the 3-mile limit—has all too often allowed development, to the detriment of State programs.

A perfect example is the case in Santa Barbara, Calif., where the California Legislature in 1955, created a marine sanctuary, and thus, closed the area to petroleum drilling.

Some 10 years later, the Federal Government issued leases for petroleum exploration immediately seaward of the State sanctuary.

Then in 1969, a blowout on one of the Federal leases in the Santa Barbara channel resulted in widespread oil pollution of the State sanctuary dramatically illustrating that oil spills do not respect legal jurisdictional lines.

In short, the bill, as reported by the committee, encourages the Secretary to apply Federal programs in a manner consistent with State programs.

If the State wants economic development, then the Secretary would be encouraged to consider this factor.

If the State wants to preserve certain recreational or scenic areas, then the Secretary would be encouraged—not required—to consider the States wishes.

Mr. Chairman, the Merchant Marines and Fisheries Committee recognizes that our coastal areas are national resources and, thus, the Federal Government must share the responsibility for protecting them. We must recognize that State legislation—standing alone—is, in this case—no more than half a remedy.

I, thus, urge my colleagues to stand with the committee, and defeat this amendment.

Mr. LENNON. Mr. Chairman, I move to strike the last word.

For the benefit of the members of the Committee of the Whole, I believe we should indicate that the language as reported from the Oceanography Subcommittee to the full Committee on Merchant Marine and Fisheries read as follows:

The Secretary shall apply the program developed pursuant to this section—and so forth. When the language went to the full committee, it was

the consensus of the full committee that the word "shall" should be modified in this manner:

The Secretary shall, to the maximum extent practicable, apply the program—

I believe the members of the Committee of the Whole are entitled to that explanation. The language was modified.

In my mind, there is some question as to whether or not the "Secretary may apply" is as strong as or a little less strong than the "Secretary shall apply, to the maximum extent practicable."

I indicated to my friend here I would have no basic objection to the acceptance of his amendment as a Member, but at that time I had not been advised that the gentleman from California and one or two other Members opposed the amendment. So my position will be to stay with the original position of the full committee.

Mr. TEAGUE of California. Mr. Chairman, I move to strike the requisite number of words.

I compliment the gentleman from California (Mr. Anderson) on the statement he made. I associate myself with that statement.

Inasmuch as Santa Barbara is in my district, I can say we have a continuing pollution problem in that district.

I am delighted to hear the chairman of the subcommittee, the gentleman from North Carolina, state that he, too, will stick with the committee in opposing the amendment, as I do.

I urge that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Clark).

The question was taken, and the chairman announced that the yeas appeared to have it.

Mr. CLARK. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

#### AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kyl: On page 48, line 7, through page 49, line 8, delete section 312 and renumber subsequent subsections accordingly.

Mr. KYL. Mr. Chairman, this bill before us is primarily a land and water management bill. An authorization for the establishment of estuarine sanctuaries as natural field laboratories purchased in part with Federal funds is not appropriate to the objectives of this legislation, that is, the adoption by coastal States of a viable land-use policy.

At the present time, under existing statute, the Secretary of the Interior is empowered by the so-called Estuary Protection Act, 16 U.S.C. 1221 and following, to participate in cost sharing and in the management, administration, and development of estuarine areas and is directed to encourage the acquisition of these estuarine areas with Federal funds made available to States under categorical grant programs administered by the Department.

In other words, we already have essentially the kind of thing which is proposed in this bill.

In addition to that, the Secretary of the Interior has, pursuant to existing authority now on the books, already acquired estuarine areas for administration as units of the national park and national wildlife refuge systems.

In addition to the Interior programs, we have also NOAA provisions and National Science Foundation programs.

Under existing authority the Department of the Interior has done extensive work in this matter in such legislation as that establishing the Cape Cod seashore, Cape Hatteras, the Gulf Island, Point Reyes, and those points off the Virgin Islands area.

This is appropriate language for the bill that is before us and duplicates programs that already exist. Therefore I urge the adoption of this amendment.

Mr. LENNON. Mr. Chairman, I rise in opposition to the amendment.

This is not a duplication of existing law. There was a consensus of the witnesses who testified over a number of days of hearings and over a long period of time for the estuarine program. I shall not delay the matter longer but simply say that those who were involved for weeks, months, and years in the recommendations of the Stratton Commission report, which you gentlemen brought into being, made this one of their prime recommendations. We found no conflict at all on the matter, and I think we ought to simply turn down the requested amendment offered so graciously by the gentleman from Iowa.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the bill before you has been reported unanimously by the Committee on Merchant Marine and Fisheries and has been carefully studied for a long time. It has the support of all the members of the committee.

I recognize the concern of my friend from Iowa. I think he is proper in having an interest in the matter before us. I think he is equally right in expressing the views I am sure he properly feels.

The fact of the matter is, Mr. Chairman, that not only did the gentleman from North Carolina (Mr. Lennon) and his subcommittee but also the subcommittee I have the honor of chairing go into the matter of the need for the preservation of areas of this kind through Federal-State cooperative effort. In each instance we came to the conclusion that this kind of preservation is urgently needed. It would be fair to say to the Members of the House, I think, that this is a good proposal. It is not duplicated elsewhere.

The matter has been carefully studied over a number of years both by Mr. Lennon's Subcommittee on Oceanography and my Subcommittee on Fisheries and Wildlife Conservation. In each instance we came to the conclusion that the proposal for areas of this kind is urgently needed.

If we are to have a Federal-State cooperative program—and this proposal does authorize it—then it is inherent and necessary that there should be some Federal funds put into it.

The level of funding is modest. The goal to be achieved is great. The need is equally great, and the benefits to be derived are immense.

For that reason I hope the amendment offered by my good friend from Iowa will be rejected.

MR. MOSHER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Iowa (Mr. Kyl) .

I think the gentleman from Iowa is mistaken when he suggests that the Department of the Interior already has this authority to do entirely what this section would provide for, and which he is trying to delete from the bill.

I would like to call the attention of the House to a statement made by the National Wildlife Federation before our committee in their strong support for this provision which the gentleman from Iowa (Mr. Kyl) would seek to delete.

The National Wildlife Federation says that this provision "for the establishment of estuarine sanctuaries for the purposes of creating natural field laboratories to be used in further ecological studies is viewed by the National Wildlife Federation as a wise move and one that should help insure a continued high quality coastal and estuarine environment for future generations."

I would believe that the marine science world would not agree with our friend, the gentleman from Iowa, that this authority, under the Estuary Protection Act, in the Department of the Interior, is adequate. And now that we already have transferred the authority of this legislation to the Department of the Interior I would think that the Department of the Interior would welcome this new, additional authority.

MR. KYL. Mr. Chairman, would the gentleman yield?

MR. MOSHER. I yield to the gentleman from Iowa.

MR. KYL. Mr. Chairman, I would ask if the gentleman from Ohio is familiar with 16 U.S.C. 1221, which is the empowering of the Department of the Interior to purchase, administer, and develop estuarine areas, the act known as the Estuary Protection Act?

MR. MOSHER. Mr. Chairman, it is my impression that the act just quoted by the gentleman from Iowa does not contain any specific authorization at all for the acquisition of estuarine sanctuaries.

MR. DINGELL. Mr. Chairman, will the gentleman from Ohio yield?

MR. MOSHER. I yield to the gentleman from Michigan (Mr. Dingell).

MR. DINGELL. Mr. Chairman, I might say that it was my subcommittee that reported that bill to the House, and the purposes and the functions of the legislation now before us is different from the legislation referred to by the gentleman from Iowa, and additionally the legislation sets up field laboratories. In addition to that, the Department of the Interior, although it has had some authority in this area, has never chosen to act, and it is for this reason the Committee in its wisdom, and frustration with the failure of the Department of the Interior, in choosing to direct it through this legislation to take some action.

MR. MOSHER. I thank the gentleman from Michigan for his statement, and I believe that it reinforces my point that the Department of the Interior has never in the past chosen to accomplish the purposes of this legislation, it needs this new direction and incentive.

THE CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Kyl).

The amendment was rejected.

Mr. GROSS. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, very little has been said this afternoon about the financing provisions of this bill. As I understand, the bill authorizes the expenditure of \$172 million.

I note that present on the floor is the distinguished gentleman from Texas (Mr. Mahon) who has seen fit, on occasion, to warn the House of authorizations that call for the expenditure of substantial amounts of public money. This is another one, if I am correct, in that it authorizes the expenditures of \$172 million.

I would like to ask the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. Lennon), if the provision is still in the bill which would provide Federal guarantees of obligations issued by coastal States for land acquisition, water development, and so forth?

Mr. LENNON. No such provision is in the bill.

I would appreciate the gentleman reading specifically what he is referring to.

Mr. GROSS. Is the provision still in the bill to authorize Federal guarantees of obligations issued by coastal States for land acquisition, water development, and so on and so forth? Is that provision still in the bill?

Mr. LENNON. That is not in the bill.

Mr. GROSS. That has been removed?

Mr. LENNON. That has been removed.

Mr. GROSS. Therefore, the bill would not result in Federal guarantees of tax-exempt obligations?

Mr. LENNON. I think the answer I gave to your first question should assure you on the second question. The answer is again "No."

Mr. GROSS. The answer is "No?"

Mr. LENNON. That is right.

Mr. GROSS. I might ask the gentleman where it is proposed to get the \$172 million for the financing of this latest antipollution bill?

Mr. LENNON. I can ask the gentleman where the Nation expects to get the money to finance the national land-use management program that the gentleman so exuberantly supported the philosophy of.

Mr. GROSS. I am not acquainted with the national land-use bill and therefore I do not know whether I would support it.

This bill also provides for the creation of another advisory committee. They are coming at about the rate of one a day although we have already some 3,000 advisory boards, commissions, councils, and committees.

Must this bill be accompanied with still another advisory committee?

Mr. LENNON. This bill relates to an advisory committee.

And also the provisions that you had yesterday advising the committee every time you create any spectrum of a medical faculty practice society agreeing to a special advisory committee.

But in this instance I do not agree with you that we should not bring into being the top expertise in this area to advise the Secretary of the Interior—not that the Under Secretary of the Interior under a no vote—rather than the Secretary of Commerce.

I cannot agree with that at all.

Mr. Gross. I have read the report rather carefully, but nowhere do I find a letter or statement of any kind from the Office of Management and Budget concerning this proposed expenditure. Therefore it appears to be completely unbudgeted.

Is there a statement in the report?

Mr. LENNON. There is not.

I would expect today to offer an amendment related to authorization in the bill which has been approved by the Office of Management and the Bureau of the Budget.

Then I want to say to my friend the only thing that this administration has approved—not the transfer of this—as this House voted to do on the recommendation of some of its Members—the administration has appealed to our committee based upon the fiscal affairs of this Nation, both for fiscal 1973 and the potential for 1974 to cut back the figures that we had.

I shall offer an amendment for that purpose. That is all that the administration stated to me in writing that they were interested in—and not a transfer as you voted, to turn it back to the Department of the Interior despite what you heard on the floor.

#### AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kyl: page 53, lines 14-24, delete subparagraphs (a) (1), (2), and (3), and substitute therefor:

“(1) the sum of \$6,000,000 in each of fiscal years 1973 and 1974, and the sum of \$4,000,000 in fiscal year 1975, for grants under section 305, to remain available until expended; and

“(2) the sum of \$18,000,000 in each of fiscal years 1974 and 1975 for grants under section 306, to remain available until expended.”

Mr. KYL. Mr. Chairman, these sums represent approximately 60 percent of the amounts recommended for the development and implementation of statewide land-use plans under the National Land Use Policy Act of 1972, reflecting the ratio of coastal States to all States. They are sound figures, based on careful study of anticipated needs and the States' ability to make effective use of such assistance.

They reflect the ratio to start for those Coastal States. They are sound figures, I believe, based on these studies of anticipated needs and the States ability to make effective use of that assistance.

#### SUBSTITUTE AMENDMENT OFFERED BY MR. LENNON FOR THE AMENDMENT OFFERED BY MR. KYL

Mr. LENNON. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from Iowa (Mr. Kyl).

The Clerk read as follows:

Substitute amendment offered by Mr. Lennon for the amendment offered by Mr. Kyl:

On page 53, line 14, through line 5, revise paragraphs (1), (2), (3) of section 317a, to read as follows:

“(1) the sum of \$6,000,000 for fiscal year 1973 and fiscal year 1974 and



\$4,000,000 for fiscal year 1975 for grants under section 305 to remain available until expended;

"(2) the sum of \$18,000,000 for fiscal year 1974 and for fiscal year 1975 for grants under section 306 to remain available until expended; and

"(3) the sum of \$6,000,000 for fiscal year 1973 for grants under to section 312 remain available until expended."

Mr. LENNON. Mr. Chairman, with reference to the language used by the Clerk in reading the substitute, and I quote: "On page 53, line 14, through line 5."

I ask unanimous consent that the "5" be changed to "24".

The CHAIRMAN. The Clerk will report the amendment as requested in the unanimous-consent request.

The Clerk read as follows:

On page 53, line 14, through line 24, revise paragraphs (1), (2), and (3) of Section 317 (a) to read as follows:

"(1) the sum of \$6,000,000 for fiscal year 1973 and fiscal year 1974 and \$4,000,000 for fiscal year 1975 for grants under section 305 to remain available until expended;

"(2) the sum of \$18,000,000 for fiscal year 1974 and for fiscal year 1975 for grants under section 306 to remain available until expended; and

"(3) the sum of \$6,000,000 for fiscal year 1973 for grants under section 312 to remain available until expended."

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. GROSS. Mr. Chairman, reserving the right to object, what are the changes in the dollar amounts?

Mr. LENNON. Mr. Chairman, if the gentleman will yield, I intended, if the gentleman will permit me, to address myself to it.

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

The CHAIRMAN. Without objection, the amendment is modified as requested.

There was no objection.

Mr. LENNON. I yield to the gentleman from Iowa for a question.

Mr. KYL. As I understand it, the substitute simply restores the money for the grant program which would have been eliminated by my amendment, is that correct?

Mr. LENNON. That is in substance what it does, but I would like to state that I have had quite a bit to say today about the administration position on this bill, and this is the only position that the administration has taken. I am not talking about agencies or departments or bureaus, but the administration, and this is after consultation through the Office of Management and Budget. I appreciate the fiscal situation we find ourselves in now after we have already entered into fiscal year 1973, and what happened in fiscal 1972 and the potential deficit for fiscal year 1973. We discussed this matter, and I read:

The Administration proposes that the appropriation authorization be limited to \$6 million in fiscal year 1973; \$24 million in fiscal year 1974; \$22 million in fiscal year 1975. These figures are based on pending grants of \$6 million for fiscal year 1973 and fiscal year 1974, and \$4 million for fiscal year 1975 and \$18 million for fiscal year 1974 and fiscal year 1975 for administrative grants.

This constitutes the total authorization for the 3 years, and so I am told, technically they are ball park figures of \$67 million; considerably less than one-half of what the authorization was.

Mr. KYL. Will the gentleman yield?

Mr. LENNON. I will yield to the gentleman from Iowa.

Mr. KYL. My purpose for asking the previous question and taking the time now is to tell the gentleman that I support his substitute amendment.

Mr. LENNON. Let me tell you why the administration offered this. I want to explain something else. I read on:

These figures represent a percentage of the proposed Administration amendment to the pending National Land Use Bill, which would limit the appropriations.

The Administration believes this percentage is justified since the land use bill to be applied to all States in the land use zone would be as applied roughly . . . and so forth.

Now, these figures are relating I will say to my other good friend, the gentleman from Iowa, to the potential we may have possibly for the next year on the national land use bill.

Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from North Carolina (Mr. Lennon) for the amendment offered by the gentleman from Iowa (Mr. Kyl).

The substitute amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Kyl), as amended.

The amendment, as amended, was agreed to.

#### AMENDMENT OFFERED BY MR. LENNON

Mr. LENNON. Mr. Chairman, I offer an amendment which is a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. Lennon:

On page 34, line 28, delete "(2)" and insert in lieu thereof "(1)".

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. Lennon).

The amendment was agreed to.

#### AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 52, after line 8, insert new section 315(a):

"Nothing contained in this act shall be construed as prohibiting any citizen free and unlimited access to the public beaches and beach lines in all coastal areas."

Mr. GONZALEZ. Mr. Chairman, this amendment is very plain and to the point. It just makes sure that nothing in the act could be construed to prohibit or prevent or limit a citizen's access to the public beaches. We are living in a day and time in which our coastal areas and beaches are limited. They are very definitely constricted. I think it is a very paramount issue affecting the well being of the overwhelming and preponderant majority of the citizens of our country. I think one freedom we ought to maintain unencumbered is the freedom of the enjoyment

of our public beaches. All this amendment says is that nothing in this act shall be construed as impeding that fundamental freedom.

Mr. Chairman, I ask for approval of this amendment.

Mr. LENNON. Mr. Chairman, will the gentleman yield?

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

Mr. LENNON. Mr. Chairman, will the gentleman define for us the legal definition of "public beaches" for the benefit of those of us who are trying to relate this to this bill?

Mr. GONZALEZ. My interpretation of the phrase "public beaches" would be those areas along our beach line or coastal areas which are accessible and have been traditionally and legally accessible to the public.

Mr. LENNON. In other words, where they have conveyed to the municipalities, say, from the residential line to the low waterline for public use, such as we have in so many places.

Again, please, will my friend define "beach line," what he has in mind about beach lines and coastal areas?

Mr. GONZALEZ. That is in my opinion just a refinement or further definition of public beaches and public beach lines to make sure we are talking about the coastal areas and access to those beach lines existing along the coastal areas.

Mr. LENNON. It has been suggested to me that this is perhaps not the appropriate type of legislation for this bill. I have no personal objection to it, myself, since the gentleman defines, as he has, public beaches and beach lines.

I thank the gentleman for yielding.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. MOSHER. Undoubtedly the gentleman in the well has good intentions, but it seems to me his amendment as now worded would open up all sorts of horrendous possibilities which might completely work against the purposes of the act, our purpose to responsibly protect the coastal zone areas.

When it is said, "free and unlimited," though I am no attorney, it appears that almost abolishes Federal/State/local criminal laws or safety regulations.

To mention a few possibilities:

What about trespass legislation, and zoning laws? How about the question of the Interior Department levying certain reasonable fees, as it does in national parks? What about the regulation of automobiles, traffic, and access?

It seems to me this is a terrific can of worms; and, speaking of a can of worms, what regulations would we have about fishermen as opposed to bathers on these beaches?

Mr. GONZALEZ. In the context of the act itself, it has nothing to do with police or regulatory authority, or duly constituted political subdivisions that do exist along the coastal areas, and the gentleman's fear there would be based on an unreasonable interpretation of that phrase.

As I look upon it, the activities that would be called for are sanctioned by the bill itself we are considering. My amendment would simply mean that no present citizen right of access which is unlimited in the legal sense of his ability to get to the beach shall be considered

as impaired by anything obtained in this law. I do not see any contradiction there.

We are not talking about inherent powers such as the police power and other inherent power in a political subdivision legally constituted to govern along the coastal line.

Mr. DELLENBACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with reluctance I rise to oppose the amendment, because I believe there is not any question that the goal for which the gentleman from Texas is reaching is one that has much desirable about it.

I believe the points made by the gentleman from Ohio are really fundamental. We should just look at the proposed language, which says, "Nothing contained in the act shall be construed as prohibiting any citizen free and unlimited access to the public beaches," and so on. It raises frightening possibilities.

It raises very serious questions as to the validity of any reasonable restrictive laws imposed in the sense of criminal penalties.

The matter of trespass has been touched upon. We may get into a situation where there is a public beach and the duly constituted authorities feel they must restrict entrance to some degree, or there may be an instance they feel they must charge fees for a part of the use. This amendment might prohibit even such valid and proper restrictions. It goes on and on and on, under the language involved in this amendment.

I am sure, under the haste of putting this together, there have been words put in here that would not stand careful scrutiny. I believe we would be creating a monster that would fly right in the face of proper and careful planning, which is the purpose of this legislation.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I am glad to yield to the gentleman from Illinois.

Mr. COLLIER. I would certainly agree with my colleague in the well. We must consider the implications of the proposed amendment, well-meaning as it might be. They are far-reaching, too far-reaching to be handled on the basis of having the amendment adopted here today.

I would hope that with proper deliberation at the proper time the committee could consider this approach and do it in the proper way, rather than on the basis it is presented here.

Mr. DELLENBACK. I appreciate the comments of my colleague, and I am glad to yield now to my colleague from New Jersey.

Mr. PATTEN. I thank the gentleman for yielding.

May I say that we have no authority under the Constitution to pass this amendment. Atlantic City, and the gentleman's beaches in New York, such as Coney Island and so on, and the rights to real estate therein, are under State laws and not under the U.S. Constitution. I think this bill would violate those interpretations.

There is no such thing as a free beach. If Members have ever had the responsibility of regulating a million people at Coney Island, they understand that there is no such thing as a free beach. We have to pay a lot of money in order to bring those people to the beaches.

Mr. DELLENBACK. I appreciate the comments of the gentleman, and now I am happy to yield to my colleague and friend from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I merely make two points.

You may very well be negating the possibility of wanting to preserve an area by this amendment.

The other thing is I think the essential objectives of this legislation are to get the States and the political subdivisions into the planning process so far as the coastal management is concerned.

Mr. DELLENBACK. I thank the gentleman, and I now yield to the gentleman from New York.

Mr. GROVER. I think the gentleman's objection is well founded.

There is one fault in the amendment of the gentleman from Texas, and that is it points to public beaches and complete access to public beach lands.

You must remember that a great deal of our public beach lands was not designed for recreational use. A good deal of it along the Atlantic coast is used for purposes of waterfowl and bird sanctuaries, nature study laboratories, and wet lands. This would open up the wet lands to use.

Mr. DELLENBACK. The point the gentleman makes is very well taken. The motives are exceptional. The amendment is bad.

I urge, ladies and gentlemen, that we defeat this amendment today and let the matter be considered at the proper time by the proper committee at a later date.

Mr. HANNA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the point that Mr. Gonzalez tried to make is very well worth our consideration and the points made in objection to the present language are very well taken. I would suggest to Mr. Gonzalez that his objective can be reached and I think all of the objections can be overcome by rewording the amendment as follows:

Nothing contained in this Act shall be construed as changing any citizen's access and enjoyment of the public beaches and beachlands in all coastal areas as now by law exists.

I think what the gentleman wanted to be sure of is that this legislation did not in any way supersede existing law which created certain rights of enjoyment to the great and yet very limited resource of public beaches.

I think the points being made against the language are valid, but I think the point being sought by the gentleman from Texas, if I understood the thrust of his remarks correctly, is also valid.

He wanted to be sure in passing this law at this point in time and context we were not superseding existing rights that by State law exist for State citizens all over this country.

Mr. GONZALEZ. Will the gentleman yield?

Mr. HANNA. I am glad to yield to the gentleman.

Mr. GONZALEZ. If my distinguished friend will yield for just one moment, I want to thank my good friend from California. I do not quibble with the refined language that the gentleman offers. I will accept it, if it is in order, because it certainly refines my intention.

I can certainly assure this body there is no desire or even the least scintilla of an intention to intrude on the freedom of religion, the freedom of expression, or any of the other traditional American freedoms except to pinpoint that the freedom that a citizen now has of ac-

cess to the public beaches will not in any way be impaired by any provision contained in this act, and that is all.

That is all. So I will be delighted to accept the suggestion.

Mr. HANNA. I think the language suggested, and I believe the gentleman from Texas will agree with me, is simply to make the point which is fairly simple. No one here wants the amendment offered by the gentleman from Texas (Mr. Gonzalez) to change existing law. And the gentleman from Texas I am sure will agree with me the suggestion that this particular act does not change existing law relative to the present rights of citizens to enjoy public beaches. I do not think there is any quarrel in this body with that.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. HANNA. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, may I ask the gentleman if the gentleman is offering this as a substitute to the amendment offered by the gentleman from Texas (Mr. Gonzalez)?

Mr. HANNA. Yes; that is correct.

Mr. WHITE. Then, in order to make legislative history, this then would not prevent other legislative and competent legal authorities from changing the law in the future; your amendment merely goes to this particular bill?

Mr. HANNA. That is right. Nothing in this bill shall in any way be construed to interfere with the existing rights of citizens to enjoy public beaches. I think we can all be in agreement on that, and I believe that the gentleman from Texas has captured the purpose of the amendment offered by the gentleman from Texas (Mr. Gonzalez).

Mr. WHITE. I thank the gentleman.

Mr. HANNA. Might I say that I am offering this as a substitute to the amendment offered by the gentleman from Texas (Mr. Gonzalez).

AMENDMENT OFFERED BY MR. HANNA AS A SUBSTITUTE FOR THE  
AMENDMENT OFFERED BY MR. GONZALEZ

Mr. HANNA. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Texas (Mr. Gonzalez).

The Clerk read as follows:

Amendment offered by Mr. Hanna as a substitute for the amendment offered by Mr. Gonzalez:

Page 52, after line 8, insert a new Section 315(a).

Nothing contained in this act shall be construed as changing any citizen's access and enjoyment of the public beaches and beach lines in all coastal areas as now by law exist.

Mr. HANNA. Mr. Chairman, I think that the issue is joined. I think all of the Members who have been interested enough to be listening understand what the point is here. There are those who have reacted to the amendment offered by the gentleman from Texas (Mr. Gonzalez) feeling that he might be changing the relationship that now exists under the law. The gentleman from Texas (Mr. Gonzalez) wanted to be sure that this bill we are now passing will not interfere with existing law, and I think that this language along with the colloquy that has taken place make it abundantly clear that all this

language asks for is that this act shall not be construed to interfere with existing rights of citizens to use public beaches.

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

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

Mr. KYL. Mr. Chairman, does the gentleman think that this language is essential in view of the language which appears on page 45 of the bill:

Nothing in this section shall be construed—

“(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government;

Or (2) nothing in this section shall be construed—“as superseding, modifying or repealing existing laws applicable to the various Federal agencies:”

Mr. HANNA. I think that in a very large sense what I have said could be interpreted as being in the first part the gentleman referred to. It certainly is different from the language of the second part the gentleman is talking about, because as I read the language the gentleman read I am sure that refers only to Federal agencies, and what we are talking about here is the possibility which often comes up when we pass legislation of a Federal nature that it is taken as preempting certain State laws.

I think that it does not harm anything to be abundantly clear that we are not intending that this legislation will preempt State laws.

Mr. DELLENBACK. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, I will make this very brief, and I will not take the full time.

The amendment, again, is well intentioned, but it is either absolutely worthless and adds nothing whatsoever to it, or it is actually harmful for the same reason alluded to by several speakers before, and I would urge that this problem be handled by the proper committee at the proper time and that we defeat the substitute amendment.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from California (Mr. Hanna) to the amendment offered by the gentleman from Texas (Mr. Gonzalez).

The question was taken; and on a division (demanded by Mr. Dellenback) there were ayes 66, noes 59.

So the substitute amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Gonzalez) as amended.

The question was taken: and on a division (demanded by Mr. Gonzalez) there were—ayes 56, noes 89.

#### TELLER VOTE WITH CLERKS

Mr. GONZALEZ. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. GONZALEZ. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Gonzalez, Mosher, Dellenback, and Hanna.

The Committee divided, and the tellers reported that there were—  
 ayes 190, noes 191, not voting 51, as follows:

[Roll No. 294]

[Recorded Teller Vote]

YEAS—190

Abourezk	Eilberg	Metcalf
Abzug	Evans, Colo.	Mikva
Adams	Fascell	Miller, Ohio
Addabbo	Findley	Minish
Anderson,	Fish	Mink
Calif.	Fisher	Mitchell
Anderson, Ill.	Flowers	Mollohan
Annunzio	Foley	Moorhead
Archer	Fraser	Morgan
Ashley	Fuqua	Moss
Aspin	Gaydos	Murphy, N.Y.
Aspinall	Giaimo	Nichols
Badillo	Gibbons	Nix
Baring	Gonzalez	Obey
Barrett	Gray	O'Hara
Bell	Green, Oreg.	O'Konski
Bennett	Green, Pa.	O'Neill
Bergland	Griffiths	Patman
Bevill	Gude	Perkins
Biaggi	Halpern	Pickle
Biester	Hamilton	Pike
Bingham	Hanley	Preyer, N.C.
Blatnik	Hanna	Price, Ill.
Boggs	Harrington	Pryor, Ark.
Boland	Harvey	Pucinski
Bolling	Hastings	Purcell
Brademas	Hathaway	Quie
Brinkley	Hawkins	Randall
Brooks	Hechler, W. Va.	Rangel
Broyhill, N.C.	Heckler, Mass.	Rees
Buchanan	Heinz	Reuss
Burke, Mass.	Helstoski	Riegle
Burton	Hicks, Mass.	Rodino
Cabell	Hicks, Wash.	Roe
Carney	Holifield	Rogers
Casey, Tex.	Howard	Roncalio
Celler	Ichord	Rooney, Pa.
Chisholm	Jacobs	Rosenthal
Cleveland	Kastenmeier	Roush
Collins, Ill.	Kazen	Rousselot
Conte	Keating	Roy
Conyers	Kee	Roybal
Corman	Kemp	St Germain
Coughlin	Koch	Sarbanes
Culver	Kyros	Scheuer
Curlin	Link	Seiberling
Danielson	Lujan	Shibley
de la Garza	McClory	Slack
Dellums	McCormack	Smith, Iowa
Dent	McDade	Staggers
Diggs	McKay	Stratton
Donohue	Macdonald, Mass.	Sullivan
Dow	Mann	Teague, Calif.
Drinan	Mathias, Calif.	Thompson, Ga.
du Pont	Matsunaga	Thompson, N.J.
Eckhardt	Mazzoli	Thone
Edmondson	Meeds	Tiernan
Edwards, Calif.	Melcher	Udall



Ullman	Whalen	Yates
Van Deerlin	White	Yatron
Vander Jagt	Wilson, Charles H.	Young, Fla.
Vanik	Wolff	Young, Tex.
Vigorito	Wright	Zablocki
Waldie	Wyatt	

## NAYS—191

Abbutt	Forsythe	Mayne
Alexander	Fountain	Michel
Andrews, Ala.	Frelinghuysen	Mills, Ark.
Andrews, N. Dak.	Frenzel	Mills, Md.
Arends	Galifianakis	Mizell
Ashbrook	Garmatz	Monagan
Baker	Gettys	Montgomery
Begich	Goldwater	Mosher
Belcher	Goodling	Murphy, Ill.
Betts	Grasso	Natcher
Blackburn	Griffin	Nelsen
Bow	Gross	Passman
Bray	Grover	Patten
Brotzman	Gubser	Pelly
Brown, Mich.	Haley	Pettis
Brown, Ohio	Hall	Peyster
Broyhill, Va.	Hammerschmidt	Pirnie
Burke, Fla.	Hansen, Idaho	Poage
Burleson, Tex.	Harsha	Podell
Burlison, Mo.	Hays	Poff
Byrne, Pa.	Henderson	Powell
Byron	Hogan	Price, Tex.
Camp	Horton	Quillen
Carey, N.Y.	Hosmer	Robinson, Va.
Carlson	Hull	Robison, N.Y.
Carter	Hungate	Rostenkowski
Cederberg	Hunt	Runnels
Chappell	Johnson, Calif.	Ruth
Clancy	Johnson, Pa.	Sandman
Clark	Jonas	Satterfield
Clausen, Don H.	Jones, Ala.	Saylor
Clawson, Del.	Jones, N.C.	Scherle
Collier	Karth	Schmitz
Collins, Tex.	Keith	Schneebeli
Colmer	King	Schwengel
Conable	Kluczynski	Scott
Conover	Kyl	Sebelius
Cotter	Landgrebe	Shoup
Crane	Landrum	Shriver
Daniel, Va.	Leggett	Sikes
Delaney	Lennon	Sisk
Dellenback	Lent	Skubitz
Denholm	Lloyd	Smith, Calif.
Dennis	Long, Md.	Smith, N.Y.
Devine	McCloskey	Snyder
Dickinson	McCollister	Spence
Dingell	McCulloch	Springer
Dorn	McEwen	Stanton, J. William
Downing	McFall	Stanton, James V.
Dulski	McKevitt	Steed
Duncan	McKinney	Steele
Dwyer	Madden	Steiger, Ariz.
Edwards, Ala.	Mahon	Steiger, Wis.
Erlenborn	Mailliard	Stephens
Esch	Mallary	Stubblefield
Eshleman	Martin	Symington
Flood	Mathis, Ga.	

Talcott	Ware	Wilson, Bob
Taylor	Whalley	Winn
Terry	Whitehurst	Wydler
Thomson, Wis.	Whitten	Wylie
Veysey	Widnall	Wyman
Waggonner	Wiggins	Zion
Wampler	Williams	Zwach

## NOT VOTING—51

Abernethy	Ford William D.	Minshall
Anderson, Tenn.	Frey	Myers
Blanton	Fulton	Nedzi
Brasco	Gallagher	Pepper
Broomfield	Hagan	Railsback
Byrnes, Wis.	Hansen, Wash.	Rarick
Caffery	Hébert	Reid
Chamberlain	Hillis	Rhodes
Clay	Hutchinson	Roberts
Daniels, N.J.	Jarman	Rooney, N.Y.
Davis, S. C.	Jones, Tenn.	Ruppe
Davis, Wis.	Kuykendall	Ryan
Derwinski	Latta	Stokes
Dowdy	Long, La.	Stuckey
Evins, Tenn.	McClure	Teague, Tex.
Flynt	McDonald, Mich.	
Ford, Gerald R.	McMillan	
	Miller, Calif.	

So the amendment, as amended, was rejected.

The CHAIRMAN. Are there any further amendments to be reported? If not, the question is on the committee amendment in the nature of a substitute, as amended.

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. Landrum, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration, the bill (H.R. 14146) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes, pursuant to House Resolution 1063, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered. Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

The SPEAKER. The question is on the passage of the bill.

Mr. GROSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 376, nays 6, not voting 50, as follows:

[Roll No. 295]

YEAS—376

Abbitt	Chappell	Fountain
Abourezk	Chisholm	Fraser
Abzug	Clancy	Frelinghuysen
Adams	Clark	Frenzel
Addabbo	Clausen, Don H.	Frey
Alexander	Clawson, Del	Fuqua
Anderson, Calif.	Cleveland	Galifianakis
Anderson, Ill.	Collier	Garmatz
Andrews, Ala.	Collins, Ill.	Gaydos
Andrews, N. Dak.	Collins, Tex.	Gettys
Annunzio	Colmer	Giaino
Archer	Conable	Gibbons
Arends	Conover	Goldwater
Ashley	Conte	Gonzalez
Aspin	Conyers	Goodling
Aspinall	Corman	Grasso
Badillo	Cotter	Gray
Baker	Coughlin	Green, Oreg.
Baring	Crane	Green, Pa.
Barrett	Culver	Griffin
Begich	Curlin	Griffiths
Belcher	Daniel, Va.	Grover
Bell	Danielson	Gubser
Bennett	Davis, Wis.	Gude
Bergland	de la Garza	Haley
Betts	Delaney	Halpern
Bevill	Dellenback	Hamilton
Biaggi	Dellums	Hammerschmidt
Biester	Denholm	Hanley
Bingham	Dennis	Hanna
Blackburn	Dent	Hansen, Idaho
Boggs	Devine	Harrington
Boland	Dickinson	Harsha
Bolling	Diggs	Harvey
Bow	Dingell	Hastings
Brademas	Donohue	Hathaway
Bray	Dorn	Hawkins
Brinkley	Dow	Hays
Brooks	Downing	Hechler, W. Va.
Brotzman	Drinan	Heckler, Mass.
Brown, Mich.	Dulski	Heinz
Brown, Ohio	Duncan	Helstoski
Broyhill, N.C.	du Pont	Henderson
Broyhill, Va.	Dwyer	Hicks, Mass.
Buchanan	Eckhardt	Hicks, Wash.
Burke, Fla.	Edmondson	Hogan
Burke, Mass.	Edwards, Ala.	Holifield
Burlison, Mo.	Edwards, Calif.	Horton
Burton	Eilberg	Hosmer
Byrne, Pa.	Erlenborn	Howard
Byrnes, Wis.	Esch	Hull
Byron	Eshleman	Hungate
Cabell	Evans, Colo.	Hunt
Camp	Fascell	Ichord
Carey, N.Y.	Findley	Jacobs
Carlson	Fish	Johnson, Calif.
Carney	Fisher	Johnson, Pa.
Carter	Flood	Jonas
Casey, Tex.	Flowers	Jones, Ala.
Cederberg	Foley	Jones, N.C.
Celler	Forsythe	Karth

Kastenmeier	Nelsen	Sisk
Kazen	Nichols	Skubitz
Keating	Nix	Slack
Kee	Obey	Smith, Calif.
Keith	O'Hara	Smith, Iowa
Kemp	O'Konski	Smith, N.Y.
King	O'Neill	Snyder
Kluczynski	Passman	Spence
Koch	Patman	Springer
Kyl	Pelly	Staggers
Kyros	Perkins	Stanton, J. William
Landrum	Pettis	Stanton, James V.
Latta	Peyster	Steed
Leggett	Pickle	Steele
Lennon	Pike	Steiger, Ariz.
Lent	Pirnie	Steiger, Wis.
Link	Poage	Stephens
Lloyd	Podell	Stratton
Long, Md.	Poff	Stubblefield
Lujan	Powell	Sullivan
McClary	Preyer, N.C.	Symington
McCloskey	Price, Ill.	Talcott
McCollister	Price, Tex.	Taylor
McCormack	Pucinski	Teague, Calif.
McCulloch	Purcell	Terry
McDade	Quie	Thompson, Ga.
McEwen	Quillen	Thompson, N.J.
McFall	Railsback	Thomson, Wis.
McKay	Randall	Thone
McKevitt	Rangel	Tiernan
McKinney	Rees	Udall
Macdonald, Mass.	Reuss	Van Deerlin
Madden	Rhodes	Vander Jagt
Mahon	Riegler	Vanik
Mailliard	Robinson, Va.	Veysey
Mallary	Robison, N.Y.	Vigorito
Mann	Rodino	Waggonner
Martin	Roe	Waldie
Mathias, Calif.	Rogers	Wampler
Mathis, Ga.	Rooney, Pa.	Ware
Matsunaga	Rosenthal	Whalen
Mayne	Rostenkowski	Whalley
Mazzoli	Roush	White
Meeds	Rousselot	Whitehurst
Metcalfe	Roy	Whitten
Michel	Roybal	Widnall
Mikva	Runnels	Wiggins
Miller, Ohio	Ruth	Williams
Mills, Ark.	St Germain	Wilson, Bob
Mills, Md.	Sandman	Wilson, Charles H.
Minish	Sarbanes	Winn
Mink	Satterfield	Wolff
Mitchell	Saylor	Wright
Mizell	Scherle	Wyatt
Mollohan	Scheuer	Wylder
Monagan	Schneebeli	Wylie
Montgomery	Schwengel	Wyman
Moorhead	Scott	Yates
Morgan	Sebelius	Yatron
Mosher	Seiberling	Young, Fla.
Moss	Shipley	Young, Tex.
Murphy, Ill.	Shoup	Zablocki
Murphy, N.Y.	Shriver	Zion
Natcher	Sikes	Zwach

## NAYS—6

Ashbrook  
Burleson, Tex.

Gross  
Hall

Roncalio  
Schmitz

## NOT VOTING—50

Abernethy	Ford, William D.	Miller, Calif.
Anderson, Tenn.	Fulton	Minshall
Blanton	Gallagher	Myers
Blatnik	Hagan	Nedzi
Brasco	Hansen, Wash.	Pepper
Broomfield	Hébert	Pryor, Ark.
Caffery	Hillis	Rarick
Chamberlain	Hutchinson	Reid
Clay	Jarman	Roberts
Daniels, N.J.	Jones, Tenn.	Rooney, N.Y.
Davis, Ga.	Kuykendall	Ruppe
Davis, S.C.	Landgrebe	Ryan
Derwinski	Long, La.	Stokes
Dowdy	McClure	Stuckey
Evins, Tenn.	McDonald, Mich.	Teague, Tex.
Flynt	McMillan	Ullman
Ford, Gerald R.	Melcher	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Gerald R. Ford.  
 Mr. Rooney of New York with Mr. Broomfield  
 Mr. Roberts with Mr. Chamberlain.  
 Mr. Blatnik with Mr. Derwinski.  
 Mr. Brasco with Mr. Myers.  
 Mr. Teague of Texas with Mr. Hutchinson.  
 Mrs. Hansen of Washington with Mr. Minshall.  
 Mr. Fulton with Mr. Hillis.  
 Mr. Blanton with Mr. Davis of Georgia.  
 Mr. Anderson of Tennessee with Mr. Miller of California.  
 Mr. Jones of Tennessee with Mr. Landgrebe.  
 Mr. Nedzi with Mr. Ruppe.  
 Mr. Evins of Tennessee with Mr. Kuykendall.  
 Mr. Pepper with Mr. McClure.  
 Mr. Flynt with Mr. Long of Louisiana.  
 Mr. William D. Ford with Mr. McDonald of Michigan.  
 Mr. Reid with Mr. Pryor of Arkansas.  
 Mr. Daniels of New Jersey with Mr. Dowdy.  
 Mr. Gallagher with Mr. Clay.  
 Mr. Melcher with Mr. Ullman.  
 Mr. Stokes with Mr. Ryan.  
 Mr. Davis of South Carolina with Mr. Hagan.  
 Mr. Stuckey with Mr. Jarman.  
 Mr. Abernethy with Mr. Rarick.

The result of the vote was announced as above received.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1063, the Committee on Merchant Marine and Fisheries is discharged from the further consideration of the bill (S. 3507) to establish a national policy and develop a national policy for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

The Clerk read the title of the Senate bill.

## MOTION OFFERED BY MR. LENNON

Mr. LENNON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Lennon moves to strike out all after the enacting clause of S. 3507 and to insert in lieu thereof the provisions of H.R. 14146, as passed, as follows:

That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Coastal Zone Management Act of 1972'.

"CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection and development of the coastal zone:

"(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation:

"(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

"(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

"DECLARATION OF POLICY

"SEC. 303. The Congress declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs

for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control those shorelands, the uses of which have a direct impact on the coastal waters.

"(b) 'Coastal waters' mean (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

"(c) 'Coastal state' means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Estuary' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

"(e) 'Estuarine sanctuary' means a research area which may include any part or all of an estuary, adjoining transition areas and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

"(f) 'Secretary' means the Secretary of the Interior.

#### "MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the portions of the coastal state subject to the management program;

"(2) a definition of what shall constitute permissible land and water uses;

"(3) an inventory and designation of areas of particular concern;

"(4) an identification of the means by which the state proposes to exert control over land and water uses, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) broad guidelines, on priority of uses in particular areas, including specifically those uses of lowest priority;

"(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationship of local areawide state, regional, and interstate agencies in the management process.

"(c) The grants shall not exceed 66⅔ per centum of the costs of the program in any one year. Federal funds received from other sources shall not be used to match the grants. In order to qualify for grants under the subsection, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements

set forth in section 306 of this title. Successive grants may be made annually for a period not to exceed two years: *Provided*, That no second grant shall be made under this subsection unless the Secretary finds that the state is satisfactorily developing such management program.

"(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. One final approval of such program by the Secretary, the states' eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

"(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

"(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purposes of carrying out the provisions of this section.

"(h) The authority to make grants under this section shall expire on June 30, 1975.

#### "ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

"(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary, which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area and other relevant factors: *Provided, however*, That no annual administrative grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

"(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

"(2) The state has:

"(A) coordinated its program with local, areawide and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

"(3) The state has held public hearings in the development of the management program.



"(4) The management program and any changes thereto have been reviewed and approved by the Governor.

"(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

"(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

"(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values.

"(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(e) Prior to granting approval, the Secretary shall also find that the program provides:

"(1) for any one or a combination of the following general techniques for control of land and water uses:

"(A) State establishment of criteria and standards for local implementation subject to administrative review and enforcement of compliance;

"(B) Direct state land and water use planning and regulation; or

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

"(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for insuring that any funds so allocated are applied in furtherance of such state's approved management program.

"(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are to be made to the state under the program as amended.

"(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need management programs: *Provided*, That the state adequately allows for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

## "INTERAGENCY COORDINATION AND COOPERATION

"SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

"(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(c) (1) Each Federal agency conducting or supporting activities in the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

"(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

"(3) After final approval by the Secretary of a State's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that State shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the State's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the State or its designated agency a copy of the certification, with all necessary information and data. Each coastal State shall establish procedures for public notice in the case of all such certification and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the State or its designated agency shall notify the Federal agency concerned that the State concurs with or objects to the applicant's certification. If the State or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the State's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification or until, by the State's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

"(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal State's management program; except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(e) Nothing in this section shall be construed—

"(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor 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.

"PUBLIC HEARINGS

"SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

"REVIEW OF PERFORMANCE

"SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

"RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

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

"ADVISORY COMMITTEE

"SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than ten persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

"(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"ESTUARINE SANCTUARIES

"SEC. 312. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

"(b) When an estuarine sanctuary is established by a coastal state, for the purpose envisioned in subsection (a), whether or not Federal funds have been

made available for a part of the costs of acquisition, development, and operation, the Secretary, at the request of the state concerned, and after consultation with interested Federal departments and agencies and other interested parties, may extend the established estuarine sanctuary seaward beyond the coastal zone, to the extent necessary to effectuate the purposes for which the estuarine sanctuary was established.

"(c) The Secretary shall issue necessary and reasonable regulations related to any such estuarine sanctuary extension to assure that the development and operation thereof is coordinated with the development and operation of the estuarine sanctuary of which it forms an extension.

"MANAGEMENT PROGRAM FOR THE CONTIGUOUS ZONE OF THE UNITED STATES

"SEC. 313. (a) The Secretary shall develop, in coordination with the Secretary of the Interior, and after appropriate consultation with the Secretary of Defense, the Secretary of Transportation, and other interested parties, Federal and non-Federal, governmental and nongovernmental, a program for the management of the area outside the coastal zone and within twelve miles of the baseline from which the breadth of the territorial sea is measured. The program shall be developed for the benefit of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the protection of the environment and shall include, but not be limited to, provisions for the development, conservation, and utilization of fish and other living marine resources, mineral resources, and fossil fuels, the development of aquaculture, the promotion of recreational opportunities and the coordination of research.

"(b) To the extent that any part of the management program developed pursuant to this section shall apply to any high seas area, the subjacent seabed and subsoil of which lies within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the program shall be coordinated with the coastal state involved.

"(c) The Secretary shall, to the maximum extent practicable, apply the program developed pursuant to this section to waters which are adjacent to specific areas in the coastal zone which have been designated by restoring such areas for their conservation, recreational, ecological, or esthetic values.

"ANNUAL REPORT

"SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding Federal fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each states' program and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been previewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

"RULES AND REGULATIONS

"SEC. 315. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full partici-

pation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

“PENALTIES

“Sec. 316. (a) Whoever violates any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable to a civil penalty, of not more than \$10,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

“(b) No penalty shall be assessed under this section until the person charged shall have been given notice and an opportunity to be heard. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon failure of the offending party to pay the penalty, as assessed or, when mitigated, as mitigated, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect such penalty and to seek other relief as may be appropriate.

“(c) A vessel used in the violation of any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

“(d) The district courts of the United States shall have jurisdiction to restrain violations of the regulations issued pursuant to this title. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

“APPROPRIATIONS

“Sec. 317. (a) There are authorized to be appropriated—

“(1) the sum of \$6,000,000 for fiscal year 1973 and fiscal year 1974 and \$4,000,000 for fiscal year 1975 for grants under section 305 to remain available until expended;

“(2) the sum of \$18,000,000 for fiscal year 1974 and for fiscal year 1975 for grants under section 306 to remain available until expended; and

“(3) the sum of \$6,000,000 for fiscal year 1973 for grants under section 312 to remain available until expended.”

“(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the two succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

The motion was agreed to.

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

A similar House bill (H.R. 14146) was laid on the table.



## VII. CONFERENCE REPORT ON S. 3507

92<sup>D</sup> CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } { No. 92-1544

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### COASTAL ZONE MANAGEMENT ACT OF 1972

\_\_\_\_\_  
OCTOBER 5, 1972.—Ordered to be printed  
\_\_\_\_\_

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

### CONFERENCE REPORT

[To accompany S. 3507]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3507), to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommended to their respective Houses as follows:

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

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

*That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat.*

203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

### TITLE III—MANAGEMENT OF THE COASTAL ZONE

#### SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

#### CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, has resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values of the coastal zone which are essential to the well-being of all citizens as being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, parent state and local institutional arrangements for planning and relating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone, assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water for programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

#### DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore, to enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effec-



tively their responsibilities in the coastal zone through the development and implementation of management programs to achieve the use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpared connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside

to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307 (f).

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in Sec. 307 (g).

#### MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

(2) a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions.

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(c) The grants shall not exceed 66 $\frac{2}{3}$  per centum of the costs of the program in any one year and no state shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial

grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: Provided, however, That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

(h) The authority to make grants under this section shall expire on June 30, 1975.

#### ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the state's management program. If he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

(b) Such grants shall be allotted to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: Provided, however, That no annual administrative grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the

purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(b) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Department Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) *Prior to granting approval, the Secretary shall also find that the program provides:*

(1) *for any one or a combination of the following general techniques for control of land and water uses within the coastal zone;*

(A) *State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;*

(B) *Direct state land and water use planning and regulation; or*

(C) *State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.*

(2) *for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.*

(f) *With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: Provided, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.*

(g) *The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the state under the program as amended.*

(h) *At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone, which most urgently need management programs: Provided, That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.*

#### INTERAGENCY COORDINATION AND COOPERATION

*Sec. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.*

*(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency*

and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c) (1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title is otherwise necessary in the interest of national security.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Nothing in this title shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as, superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor 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.

(j) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

#### PUBLIC HEARINGS

SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

#### REVIEW OF PERFORMANCE

SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion and such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

## RECORDS

*SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.*

*(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.*

## ADVISORY COMMITTEE

*SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.*

*(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.*

## ESTUARINE SANCTUARIES

*SEC. 312. The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.*

## ANNUAL REPORT

*SEC. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of*



each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing at the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects, and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operations.

#### RULES AND REGULATIONS

SEC. 314. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 315. (a) There are authorized to be appropriated—

(1) the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeed-

*ing fiscal years, as may be necessary for administrative expenses incident to the administration of this title.*

And the House agree to the same.

EDWARD A. GARMATZ,  
ALTON LENNON,  
THOMAS N. DOWNING,  
CHARLES A. MOSHER,  
THOMAS M. PELLY,

*Managers on the Part of the House.*

WARREN G. MAGNUSON,  
ERNEST F. HOLLINGS,  
TED STEVENS,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3507), to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report :

The House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the Senate bill and the House amendment. Except for technical, clarifying, and conforming changes, the following statement explains, as appropriate, the differences between the Senate bill, and the House amendment thereto, together with an explanation of the conference substitute.

### PROVISIONS OF THE CONFERENCE SUBSTITUTE

SEC. 304. The managers agreed to adopt the House language as to the seaward extent of the coastal zone, because of its clarity and brevity. At the same time, it should be made clear that the provisions of this definition are not in any way intended to affect the litigation now pending between the United States and the Atlantic coastal States as to the extent of State jurisdiction. Nor does the seaward limit of the coastal zone in any way change the State or Federal interests in resources of the territorial waters or Continental Shelf, as provided for in the Submerged Lands Act and the Outer Continental Shelf Lands Act. The conferees also adopted the Senate language in this section which made it clear that Federal lands are not included within a State's coastal zone. As to the use of such lands which would affect a State's coastal zone, the provisions of section 307(c) would apply.

The conferees adopted the Senate definition of "Secretary" to mean the Secretary of Commerce. As the bill was passed by the Senate, and as a companion bill was reported to the House, it was provided that the administration of the Coastal Zone Management Act should be the responsibility of the Secretary of Commerce, and it was expected that actual administration would be delegated to the Administrator of the National Oceanic and Atmospheric Administration. The rationale behind this decision, as discussed in both Senate Report 92-753 and House Report 92-1049, was based in large part on NOAA's capability

to assist State and local governments in the technical aspects of coastal problems since it houses such entities as the National Ocean Survey, Environmental Data Service, Environmental Research Laboratories and Office of Sea Grant, among others. When the House bill was considered on the floor, however, an amendment was proposed and adopted which would place the responsibility for administration from the Secretary of Commerce with the Secretary of the Interior. The argument in support of this change addressed itself to the fact that the Coastal Zone Management Act involved land use decisions and since pending land use legislation in both Houses gave the administrative responsibility to the Secretary of the Interior, that official should also administer the Coastal Zone Management Act so that the land use aspects of the coastal zone legislation and the national land use legislation could be readily coordinated and not result in conflict between the two programs.

The conferees adopted a final approach which acknowledges the validity of many of the arguments advanced to justify the placement of responsibility in the Department of Interior rather than the Department of Commerce. First, the definition of what land areas shall be included in the "coastal zone" has been limited to those lands which have a direct and significant impact upon coastal water. Second, those lands traditionally managed by the Department of Interior or the Department of Defense, such as parks, wildlife refuges, military reservations, and other such areas covered by existing legislation, were specifically excluded from the coverage of the bill. Third, it is provided that upon enactment and implementation of national land use legislation, the Secretary of Commerce shall coordinate with and obtain the concurrence of the Federal official charged with managing the national land use program.

Until such time as a State begins its participation in any national land use program, the question of this required concurrence will not of course arise. The conferees expect that the concurrence procedure will take place after Federally supported land use programs become effective, and would take place when the coastal zone program is submitted for original approval under title 306 or where a modification is proposed. It is also expected that where a coastal zone program already exists in a state when the state federally supported land use program is proposed, that necessary changes in the coastal zone program consistent with the concept of land use responsibility, as outlined in section 307(g) would be accomplished. The conferees also agreed to include definitions for "management program", for "water use", keyed to the requirements of section 307(f) and "land use", keyed to the requirements of section 307(g).

Therefore, what the conferees agreed upon was basically a water-related coastal zone program administered by the Secretary of Commerce with required full coordination with and concurrence of the Secretary of Interior. This compromise recognizes the need for making coastal zone management fully compatible with national land use policy, while making use of the special technical competence of the National Oceanic and Atmospheric Administration in the Department of Commerce in managing the nation's coastal areas.

SEC. 305. The conferees adopted the Senate approach of providing for a maximum for any one State of ten percentum of the total amount

appropriated for development grants, and likewise for a minimum of one percentum for any single state. It goes without saying that this minimum percentum applies only when the state elects to participate under the program. The conferees also agreed to extend the program through June 30, 1977, in view of the fact that the initial actions under the program may be slow in some states due to the necessity for changing state laws in order that the state may be eligible under the title.

The conferees agreed not to include a provision which would authorize direct grants to political subdivisions of states pending the adoption of a statewide program, concluding that individual situations which were alluded to, such as the Anchorage plan in the State of Alaska and bicounty plans in the State of New York, can be taken care of by the provisions of section 306(h). The conferees also agreed to exclude a similar provision which had been contained in the Senate version of section 306.

SEC. 306. The conferees accepted the Senate maximum and minimum percentages for State administrative grants similar to those for development grants in section 305. In addition, the conferees accepted the two additional items required by the House in State management programs, the first as to adequate consideration for the national interests involved in the siting of facilities representing regional or national requirements, and the second relating to inclusion of procedures whereby specific areas may be set aside for certain listed purposes, in each case endorsing the rationale for those inclusions as contained in House Report 92-1049.

SEC. 307. In the language adopted for Interagency Coordination and Cooperation, the conferees agreed that the Secretary must coordinate his activities under this title with all other interested Federal agencies and may not approve State programs until the views of those agencies have been considered. They also agreed that as to Federal agencies involved in any activities directly affecting the State coastal zone and any Federal participation in development projects in the coastal zone, the Federal agencies must make certain that their activities are to the maximum extent practicable consistent with approved State management programs. In addition, similar consideration of State management programs must be given in the process of issuing Federal licenses or permits for activities affecting State coastal zones. The conferees also adopted language which would make certain that there is no intent in this legislation to change Federal or State jurisdictions or rights in specified fields, including submerged lands.

The conferees adopted the Senate provisions making it clear that water and air pollution control requirements established by Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, shall be included as a part of the State coastal zone program. Finally, the conferees adopted language making it clear that the Secretary of the Interior or such other Secretary or Federal official as may be designated in national land use legislation, must concur in any State coastal zone program requirements relating to land use, before those requirements may be approved by the Secretary.

SEC. 312. The conferees agreed to delete the provisions of the House version relating to extension of estuarine sanctuaries, in view of the

fact that the need for such provisions appears to be rather remote and could cause problems since they would extend beyond the territorial limits of the United States. The conferees retained the authority to establish estuarine and sanctuaries within State waters.

SEC. 313. In the provisions for an annual report, the conferees included the requirement, among others, that the Congress be notified specifically as to Federal activities or projects which are not consistent with an approved State management program thereby enabling the Congress to take corrective measures as it deems appropriate.

SEC. 315. The conferees agreed to compromise the appropriation authorization provisions, by including a provision for \$9 million each year for a period of 5 years for development grants, a provision for necessary sums, not to exceed \$30 million for each of 4 fiscal years beginning with fiscal year 1974 for administrative grants, and a provision for necessary sums not to exceed \$6 million for the single year of fiscal year 1974. In addition, conferees agreed to authorize necessary sums not to exceed \$3 million per year for 5 years for administrative expenses.

#### MATTERS EXCLUDED IN CONFERENCE PROVISIONS

In addition to deleting the Senate provisions relating to direct grants to certain political subdivisions of States, discussed earlier as to section 305, the conferees also deleted the Senate provisions (in section 311 of the Senate version) establishing a National Coastal Resources Board. The conferees concluded that such a Board was cumbersome, expensive, and unnecessary. The conferees also excluded the House provisions (in section 313 of the House version) authorizing a Federal management program for the contiguous zone of the United States, because the provisions relating thereto did not prescribe sufficient standards or criteria and would create potential conflicts with legislation already in existence concerning Continental Shelf resources. Having deleted the estuarine sanctuary extension authority and the Federal contiguous zone program authority, the conferees also deleted the penalty provisions which were contained in section 316 of the House version, as no longer necessary.

EDWARD A. GARMATZ,  
ALTON LENNON,  
THOMAS N. DOWNING,  
CHARLES A. MOSHER,  
THOMAS M. PELLY,

*Managers on the Part of the House.*

WARREN G. MAGNUSON,  
ERNEST F. HOLLINGS,  
TED STEVENS,

*Managers on the Part of the Senate.*

## VIII. PRESIDENT'S STATEMENT ON SIGNING THE COASTAL ZONE MANAGEMENT ACT, OCT, 27, 1972

### *Managing Coastal Zones*

S. 3507, the Coastal Zone Management Act of 1972, is also an outgrowth of earlier efforts by this administration to provide for rational management of a unique national resource.

More than 75 percent of our population now lives in States bordering the Atlantic and Pacific Oceans, the Gulf of Mexico, and the Great Lakes. The number of people who use our coastal zones is rapidly increasing—and so are the purposes for which these areas are utilized. Commercial fisheries, ports, beaches, and other recreation areas, the extraction of minerals, the siting of powerplants, the building of homes and factories, the development of transportation systems—these are among the competing functions which our coastal zones are being called upon to serve. Yet these same areas, it must be remembered, are the irreplaceable breeding ground for most aquatic life.

S. 3507 recognizes the need for carefully planned, comprehensive management programs to insure the most rational and beneficial use of the coastal zones. This bill also recognizes that the States can usually be the most effective regulators of such a planning process. I will instruct the Secretary of Commerce to carry out this statute in a way which focuses Federal efforts on the adequacy of State processes rather than to become involved in the merits of particular land use decisions.

But the coastal zones are not the only areas which need this sort of long-range attention. This is why I proposed to the Congress in February of 1971 the National Land Use Policy Act—a bill which would help the States establish management programs for a wide range of areas which are of critical environmental concern. It is my strong hope that the next Congress will expand on the coastal zone bill which was passed this fall by approving my National Land Use Policy Act. I signed S. 3507, then, as an important first step toward a more comprehensive program.

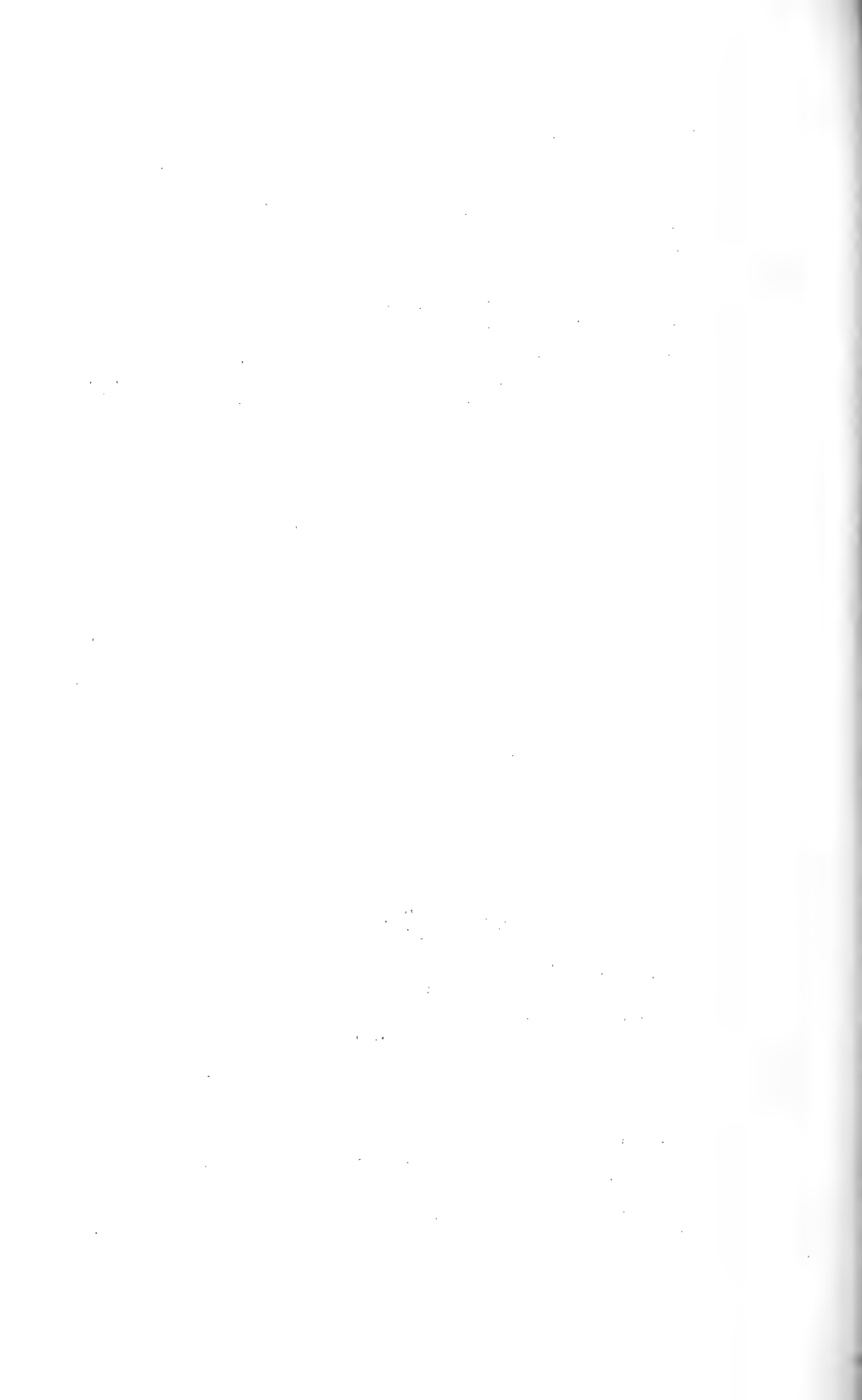
S. 3507 locates administrative responsibility for this program in the Department of Commerce rather than in the Department of the Interior as I would have preferred—and as I called for in my proposed Land Use Policy Act. This action is not sufficient reason in my judgment for vetoing the bill, but it does underscore once again the importance of creating a new Department of Natural Resources, as I have recommended, so that we can reverse the trend toward the fragmentation and fractionalization of Federal programs and begin to coordinate our environmental efforts more effectively.

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## APPENDIX

[S. 2802, 91st Cong., 1st Sess.]

A BILL To assist the States in establishing coastal zone management programs

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved October 15, 1966, as amended (16 U.S.C. 1121 et seq.), is amended by adding at the end thereof the following new titles:

### "TITLE III—MULTIPLE USE OF THE COASTAL ZONE

#### "SHORT TITLE

"SEC. 301. This title may be cited as the 'Coastal Zone Management Act of 1969'.

#### "STATEMENT OF POLICY

"SEC. 302. The Congress finds and declares that the coastal zone of the United States is rich in a variety of natural, commercial, industrial, recreational, and esthetic resources of immediate and potential value to the present and future development of our Nation; that unplanned or poorly planned development of these resources has destroyed or has the potential of destroying, the basic natural environment of such areas and has restricted the most efficient and beneficial utilization of such areas; that it is the policy of Congress to preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal zone for this and succeeding generations through comprehensive and coordinated long-range planning and management designed to produce the maximum benefit for society from such coastal areas.

#### "DEFINITIONS

"SEC. 303. For the purposes of this title—

"(a) The term 'coastal zone' means lands, bays, estuaries, and waters within the territorial sea or the seaward boundary, whichever is the farther offshore, of the various coastal States and States bordering the Great Lakes and extending inland to the landward extent of maritime influences.

"(b) The term 'territorial sea' means a belt of sea adjacent to the coast of the United States and extending three geographic miles offshore from the baseline and within which the United States exercises sovereign rights, subject to the right of innocent passage.

"(c) The term 'baseline' means the reference line from which the outer limits of the territorial sea and other offshore zones are measured by the United States Government.

"(d) The term 'seaward boundary of the various coastal States' means a line drawn three geographic miles offshore the baseline or nine geographic miles offshore the baseline in the cases of Texas and Florida in the Gulf of Mexico, or such other seaward boundaries as may be recognized by the United States Government.

"(e) The term 'coastal State' means any State bordering on the Atlantic, Pacific, or Gulf Coast or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(f) The term 'landward extent of maritime influences' means such amount of land running back from the high water mark which in contemplation of human and natural ecology may be considered to come under the direct and immediate influence of the adjacent sea or lake.

"(g) The term 'Council' means the National Council on Marine Resources and Engineering Development.

"(h) The term 'coastal authority' means a commission, council, center, agency or other governmental entity, broadly representative of coastal needs, problems, and uses, designated by the Governor of a coastal State through legislative or other processes. Coastal States may jointly designate an interstate agency of which they are a member, including a river basin commission, to serve as a coastal authority, in which case such an authority shall be subject to the same provisions as a State agency for the purposes of this title, and shall be entitled to funding equivalent to the sum of the allotments of its member States.

#### "APPROVAL OF STATE PROGRAMS

"SEC. 304. (a) In recognition of the need for increased participation by the States in the comprehensive planning and development of the coastal zone, the Council shall review any planning and development program submitted by a coastal authority and may, in accordance with the provisions of this title, make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

"(b) The Council shall approve any planning and development program for the coastal zone which is submitted by a coastal authority, if such program—

"(1) provides for the formulation of a master plan for the coastal zone over which such authority has jurisdiction as follows:

"(A) such master plan shall include general planning principles and provide a statement of desired goals and standards to help shape and direct future development of the coastal zone, and such standards shall be based on a study of current population and development trends and existing or potential problems within the coastal zone, and be designed to promote the balanced development of natural, commercial, industrial, recreational, and esthetic resources and to accommodate a wide variety of beneficial uses;

"(B) in preparing such master plan, the coastal authority shall examine the land use regulations and plans of the various governmental bodies whose jurisdiction extends over territory located in the coastal zone; shall consult with interested parties, including local governmental bodies, regional development agencies, port authorities, and other intrastate agencies, the various Federal agencies affected by the development of the coastal zone, adjacent coastal States or authorities, and private groups concerned with the commercial, industrial, recreational and esthetic development of the coastal zone; shall examine to the extent possible land use plans and regulations of any adjacent foreign countries; and shall conduct or support such research, studies, surveys, and interviews as are necessary to assist it in making informed decisions on the most beneficial allocation of uses of coastal waters and lands;

"(C) such master plan shall include studies, conclusions, and explanatory diagrams with respect to (i) the estimated future population growth within and adjacent to the coastal zone, including an indication of those areas which may anticipate the greatest future growth; (ii) a description of the location and characteristics of water currents and tidal movements in the coastal zone, and an analysis, including diagrams, of the probable effect of such currents and tides on the interrelationship of various types of uses; (iii) an estimate of the future need for use of the coastal zone for commercial, industrial, residential recreational, conservation, and esthetic purposes, including diagrams for the most efficient, beneficial, and livable interrelationship of these various uses, so that the plan may serve to direct the course of future development in a manner which promotes economic efficiency and the general welfare; and (iv) such additional information as the Council deems necessary to promote the orderly and beneficial development of the coastal zone;

"(D) in formulating such master plan, the coastal authority shall hold public hearings on the proposed master plan or on various alternative

master plans in order to obtain all points of view in the final preparation of the master plan;

“(E) the coastal authority shall be authorized to amend such master plan at any time that it determines that conditions which existed or were foreseen at the time of the formulation of such master plan have changed to such a degree as to justify modification of such plan, and authority for such modification shall provide for adoption of amendments only after a full opportunity for comment, including hearings, have been afforded to interested parties; and

“(F) at the discretion of the coastal authority and with the approval of the Council, a master plan may be developed and adopted in segments so that concerted and early attention may be devoted to those areas of the coastal zone which most urgently need comprehensive planning and development: *Provided*, That each such segment does not exclude any portion of the coastal zone which is substantially interrelated economically, socially, or by peculiar geographic configuration or movement of ocean tides or currents with the area which is included within such planning segment: *And provided further*, That the coastal authority adequately allows for the ultimate coordination of the various segments of the master plan into a single unified plan and that the coastal authority satisfies the Council that such unified plan will be completed as soon as is reasonably practicable;

“(2) provides authority for the development of the coastal zone in accordance with such master plan, and such authority shall include power—

“(A) to draw up land use and zoning regulations which shall control public and private development of the coastal zone in order to assure compliance with the master plan and to resolve conflicts among competing uses;

“(B) to acquire lands within the coastal zone through condemnation or other means when necessary to achieve conformance with the master plan;

“(C) to develop land and facilities and to operate such public facilities as beaches, marinas, and other waterfront developments, as may be required to carry out such master plan;

“(D) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects; and

“(E) to exercise such other functions as the Council determines are necessary to enable the orderly development of the coastal zone in accordance with such master plan; and

“(3) provides authority for the coastal authority to review all development projects or regulations proposed by any State or local authority or private developer to determine whether such project or regulation is consistent with the principles and standards set forth in the master plan and to reject a development plan which fails to comply with such principles and standards: *Provided*, That such determination shall be made only after there has been a full opportunity for hearings: *And provided further*, That such determination shall be subject to judicial review.

#### “ALLOTMENTS

“Sec. 305. (a) In making grants pursuant to section 304, the Council may make available to a coastal authority up to 50 per centum of the costs of developing a long-range master plan and implementing a developing program pursuant to such action. The actual amount of the allotment to each coastal authority shall be determined, in accordance with the Council's regulations, on the basis (1) the population of the State, (2) the area of public water within the State's coastal zone, and (3) the need for comprehensive planning and development of such coastal zone.

“(b) In addition to grants-in-aid, the Council is authorized, under such terms and conditions as the Council may prescribe, to enter into agreements with coastal authorities to underwrite by guaranty thereof bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

## "PAYMENTS

"Sec. 306. The method of computing and paying amounts pursuant to this title shall be as follows:

"(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each coastal authority under the provisions of this title for such period, such estimate to be based on such records of the coastal authority and information furnished by it, and such other investigation, as the Council may find necessary.

"(2) The Council shall pay to the coastal authority from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such coastal authority for any prior period under this title was greater or less than the amount which should have been paid to such coastal authority for such prior period under this title. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

## "REVIEW

"Sec. 307. Whenever the Council after reasonable notice and opportunity for hearing to a coastal authority finds that—

"(a) the program submitted by such coastal authority and approved under section 304 has been so changed that it no longer complies with a requirement of such section; or

"(b) in the administration of the program there is a failure to comply substantially with such a requirement, the Council shall notify such coastal authority that no further payments will be made under this title until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such coastal authority under this title.

"Sec. 308. (a) Each recipient of a grant under this Act shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Chairman of the Council 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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

## "FEDERAL PROJECTS

"Sec. 309. (a) All Federal agencies conducting or supporting research or other activities in a coastal zone shall seek to make such activities support and be consistent with the program of the appropriate coastal authority.

"(b) Federal agencies shall not undertake any development project in a coastal zone which, in the opinion of the appropriate coastal authority, are inconsistent with the master plan of such coastal authority unless the Council, after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, finds that such project is, on balance, consistent with the general objectives of this title.

"(c) When the appropriate coastal authority approves a development project of any Federal agency in the coastal zone as consistent with its master plan, the Council may, upon petition of at least six of its members, review such development project, and after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, reject such development project if it finds that such project is, on balance, inconsistent with the general objectives of this title.

"(d) All Federal agencies shall include in any request for authorization or funding of Federal projects in a coastal zone a statement of their relevance to the plan of the appropriate coastal authority.

## "REGULATIONS

"Sec. 310. In carrying out the provisions of this title, the Council may issue such regulations as may be appropriate.

## "VOTING

"Sec. 311. All Council actions taken under this title shall be by majority vote of its members. In the event of a tie vote, the Chairman is authorized to cast an additional vote.

## "ANNUAL REPORT

"Sec. 312. (a) The Council shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a comprehensive report on the administration of this title for the preceding year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding calendar year and a description of these programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding calendar year; (3) an itemization of the allotment of funds to the various coastal authorities and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Council has reviewed under section 308 of this title and a summary of the final action taken by the Council with respect to each such project; (6) a summary of the regulations issued by the Council or in effect during the preceding calendar year; and (7) a summary of outstanding problems arising in the administration of this title in order of priority.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Council deems necessary to achieve the objectives of this title and enhance its effective operation.

## "TITLE IV—MISCELLANEOUS

## "MARINE RESOURCES FUND

"Sec. 401. The sum of \$75,000,000 of all revenues received in each fiscal year beginning after June 30, 1969, to the extent such revenues otherwise would be deposited in miscellaneous receipts of the United States Treasury, under the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1337 et seq.), including the funds held in escrow under the interim agreement of October 12, 1956, between the United States and Louisiana, to the extent the United States is determined to be entitled to such escrow fund, shall be placed in a special fund in the Treasury to be known as the 'Marine Resources Fund'. Money in such fund shall be used only for the purposes of (1) assistance to States qualifying under the provisions of title III of this Act, and (2) funding of programs authorized under title II of this Act, and are hereby authorized for such use to the extent made available in appropriation Acts."

SEC. 3. Section 3(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102(a)) is amended by adding at the end thereof the following:

"(10) The Secretary of the Army."

SEC. 4. Section 3(f) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102(f)) is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1975".

SEC. 5. Section 9 of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1108) is amended by striking out "\$1,200,000" and inserting in lieu thereof "\$3,000,000".

[S. 3183, 91st Cong., 2d sess.]

A BILL To amend the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as a result of a comprehensive study*

carried out pursuant to section 5(g) of the Federal Water Pollution Control Act, as amended, and the information derived therefrom of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on navigation, flood control, recreation, water supply, and water power and on other beneficial purposes, the Congress finds and declares that it is necessary to establish a national policy to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's estuarine and coastal zones through development and implementation of comprehensive management programs to achieve effective use of the coastal zone through a balance between development and protection of the natural environment.

Sec. 2. This Act may be cited as the National Estuarine and Coastal Zone Management Act of 1970.

Sec. 3. Section 19 of the Federal Water Pollution Control Act, as amended, is redesignated as section 20. After section 18 of the Federal Water Pollution Control Act, as amended, there is hereby inserted the following new section:

"Sec. 19. (a) For the purposes of this section—

"(1) 'Estuary' means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

"(2) 'Coastal zone' means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other. For purposes of identifying the objects of planning, management, and regulatory programs the coastal zone extends seaward to the outer limit of the United States territorial sea. Within the coastal zone as defined herein are included areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, and channels.

"(3) 'Coastal State' means any State of the United States bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico and the Virgin Islands.

"(4) 'Secretary' means the Secretary of the Interior.

"(b) CONGRESSIONAL FINDINGS; DECLARATION OF POLICY.

"(1) Congress hereby finds that there is a national interest in the effective management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone for the following reasons:

"(A) The pressures of population growth and economic development, including requirements for industrial, commercial, residential development, recreation, exploitation of mineral resources and fossil fuels, transportation and other navigation, waste disposal, and exploitation of fish and other living marine resources, impose an increasing number of conflicting demands upon the finite resources of the coastal zone.

"(B) Estuaries, marshlands, and other parts of the coastal zone contain extremely valuable habitat for fish and wildlife which move beyond State boundaries; such areas are vital to the life support of a major part of the Nation's commercial and sport fisheries harvest; such areas, particularly the estuaries, constitute ecological systems which are susceptible to destruction and disruption by man.

"(C) Continued unplanned or uncoordinated development activities in the coastal zone pose an immediate threat of irreversible harm to the coastal zone and its resources and a loss of the benefits it offers.

"(D) The coastal zone is a valuable area for multiple economic, recreational, and resource uses.

"(E) The interest in the coastal zone extends to the citizens of all the States, and is not limited to the citizens in the coastal States.

"(c) PROGRAM DEVELOPMENT GRANTS.

"(1) The Secretary is authorized to make grants to any coastal State for the purpose of assisting in the development of a comprehensive management program for the land and water resources of the coastal zone. Such grants shall not exceed 50 per centum of the costs of such program development. Other Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection, the coastal State must demonstrate to the satisfaction of the Secretary that such grants will be used to develop a comprehensive management program consistent with the requirements set forth in subsection (d) (3) hereof. Successive grants may



be made annually: *Provided, however,* That no subsequent grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such a comprehensive management program. Upon completion of the development of the coastal State's comprehensive management program, the coastal State shall submit such program to the Secretary for review.

"(2) No annual grant to a single coastal State shall be made under this subsection in excess of \$200,000.

"(d) OPERATING GRANTS.

"(1) The Secretary is authorized to make annual grants to such coastal State for not more than 50 per centum of the costs of administering such program if he approves a coastal State's management program, in accordance with subsection (3) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(2) Such grants shall be allotted to the States with approved programs based on regulations of the Secretary, which shall take into account the amount and nature of the coastline and area covered by the plan, population, and other relevant factors.

"(3) Prior to granting approval of a comprehensive management program submitted by a coastal State, the Secretary shall find that:

"(A) The Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management plan set forth in subsection (D) hereof and the management plan and changes thereto have been reviewed and approved by the Governor;

"(B) The coastal State is organized to implement the management plan set forth in subsection (D) hereof;

"(C) The agency or agencies responsible for implementing such management plan have vested in them the regulatory authorities necessary to implement the plan, including but not limited to, permit authority, authority to acquire interests in real property through the power of eminent domain and zoning authority, or authority to require local zoning to conform with the State management plan;

"(D) The coastal State has developed and adopted a management plan for its coastal zone adequate to carry out the purposes of this section and containing the following provisions:

"(aa) An identification of the boundaries of the portions of the coastal State subject to the management plan;

"(bb) An identification and recognition of the national, State, and local interests in the preservation, use, and development of the coastal zone;

"(cc) A feasible land and water use plan, consistent with applicable water quality standards, within specific sections of the coastal zone reasonably reflecting the needs of industry, transportation, recreation, fisheries, wildlife, natural area protection, and residential development and other public and private needs, taking into account both short-term and long-term requirements;

"(dd) A description of the coastal State's current and planned programs for management of its coastal zone consistent with the management plan;

"(ee) An identification and description of the means by which the management plan and other resource use and management plans at the Federal, State, and local levels in which the coastal State is represented or is a participant concerning use, conservation, and management of the coastal zone will be coordinated, including the relationship of the management plan to State, interstate, and regional comprehensive planning as appropriate;

"(ff) Procedures for adequate review of State and local and private projects for consistency with the management plan;

"(gg) Procedures for furnishing advice as to whether Federal and federally assisted projects are consistent with the management plan;

"(hh) Procedures for modification and change of the management plan, including public notice and hearing;

"(ii) The plan was developed in cooperation with relevant Federal agencies, State agencies, local governments, and all other interests;

"(jj) Procedures for regular review and updating of the management plan;

"(kk) Adequate provisions for disseminating information concerning the management plan and any subsequent modification or changes therein; and

"(II) Provision for conducting, fostering, or utilizing relevant research.

"(E) The coastal State has provided for adequate public notice and public hearings in the development of the management plan.

"(4) Grants under this subsection shall be subject to the following limitations:

"(A) No annual grant to a single coastal State shall be made under this section in excess of \$200,000; and

"(B) No grant funds shall be used for the acquisition of real property.

"(5) With the approval of the Secretary, the Governor of a coastal State may allocate to an interstate agency a portion of the grant under subsections (c) and (d) of this section for the purpose of carrying out the provisions of said subsections provided such interstate agency has the authority to meet the applicable provisions of subsection (d) (3) of this section otherwise required of the coastal State.

"(e) REVIEW OF PERFORMANCE.

"(1) The Secretary shall conduct a continuing review of the comprehensive management programs of the coastal States and of the performance of each coastal State.

"(2) The Secretary shall have the authority to terminate any financial assistance extended under subsection (d) of this section and to withdraw any unexpended portion of such assistance if: (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the coastal State has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

"(f) ADVISORY COMMITTEES FOR MANAGEMENT OF THE COASTAL ZONE.

"(1) The Secretary is authorized to establish in the Department of the Interior advisory committees to consult with and make recommendations to the Secretary on matters of policy concerning the coastal zone. Any such committee shall be composed of persons designated by the Secretary and shall perform such functions and operate in such manner as the Secretary may direct.

"(2) Members of such advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including traveltime may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"(g) INTERAGENCY COORDINATION AND COOPERATION.

"(1) The Secretary shall not approve the plan submitted by the State pursuant to subsection (d) until he has solicited the views of Federal agencies principally affected by such plans or has evidence that such views were provided the State in the development of the plan. In case of serious disagreement between any Federal agency and the State in the development of the plan the Secretary shall seek to mediate the differences.

"(2) All Federal agencies conducting or supporting activities in the coastal area shall seek to make such activities consistent with the approved plan for the area. State and local governments submitting applications for Federal assistance in coastal areas shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved plan for the coastal area. Federal agencies shall not approve proposed projects that are inconsistent with the plan without making investigation and finding that the proposal is, on balance, sound. The Secretary shall be advised by the heads of other agencies of such problems and be provided an opportunity to participate in any investigation.

"(h) Nothing in this section shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; not to displace, supersede, limit, or modify any interstate compact or the juris-

diction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this section;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this section; nor 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.

"(i) MISCELLANEOUS.

"(1) The Secretary shall develop, after appropriate consultation with other interested parties, both Federal and non-Federal, such rules and regulations covering the submission and review of applications for grants authorized by subsections (c) and (d) as may be necessary to carry out the provisions of this section.

"(2) A coastal State receiving a grant under the provisions of subsections (c) and (d) of this section, the agency designated by the Governor to administer such grant, and an interstate agency allocated a portion of a grant under the provisions of subsection (d) shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved management programs the Secretary may require, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

"(3) The Secretary, the head of another Federal agency concerned, 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 grant recipient that are pertinent to the grant received under the provisions of subsections (c) and (d) of this section.

"(j) APPROPRIATIONS.

"(1) There are authorized to be appropriated:

"(A) the sum of \$2,000,000 for fiscal year 1971 and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1975, for grants under subsection (c) of this section; and

"(B) such sums as may be necessary for the fiscal year ending June 30, 1972, and for each succeeding fiscal year thereafter for grants under subsection (d) of this section.

"(2) There are also authorized to be appropriated such sums as may be necessary for the Secretary to carry out the provisions of this section."

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[S. 3460, 91st Cong., 2d sess.]

A BILL To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as a result of the report of the Commission on Marine Science, Engineering, and Resources carried out pursuant to section 5(a) of the Marine Resources and Engineering Development Act of 1966, as amended, and the information derived therefrom, the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources, Engineering, and Development, and a Commission on Marine Science, Engineering, and Resources, and for other purposes", approved October 15, 1966, as*

amended (16 U.S.C. 1121 et seq.), is amended by adding at the end thereof the following new titles:

**"TITLE III—PLANNING FOR MULTIPLE USE OF THE COASTAL ZONE**

**"SHORT TITLE**

**"Sec. 301. This title may be cited as the 'Coastal Zone Management Act of 1970'.**

**"FINDINGS OF FACT**

**"Sec. 302. The Congress finds—**

**"(a) That the welfare of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment.**

**"(b) That there is a national interest in the effective management, beneficial use, proper protection, and balanced development of the air, land, and marine resources of the Nation's coastal zone.**

**"(c) That the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future development of our Nation.**

**"(d) That the increasing and conflicting demands, particularly those occasioned by the rise in population, on the finite resources of the coastal zone have resulted in the loss of fish, wildlife, and nutrient rich areas, permanent and adverse ecological changes, decreasing open space for public use, and shoreline erosion.**

**"(e) That the coastal zone, particularly the estuaries and the fish and wildlife therein, is ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.**

**"(f) That present land-use patterns in the more populated coastal areas cannot accommodate the diverse requirements of the coastal zone resource.**

**"(g) That in light of conflicting demands and the need to protect our coastal zone, the institutional framework responsible is currently diffuse in focus, neglected in importance, and inadequate in regulatory authority.**

**"(h) That economic development has usually taken precedence over other equally desirable uses of the coastal zone.**

**"(i) That the key to more effective use of the coastal zone is the introduction of a management system permitting conscious and informed choices among development alternatives.**

**"(j) That the absence of a national policy and planning mechanism for the coastal zone resource has contributed to the impairment of the Nation's environmental quality.**

**"DECLARATION OF POLICY**

**"Sec. 303. The Congress declares that planning and development of the coastal zone should be carried out on the principle of multipurpose use of the resource and preservation of the natural environment; that priority should be given to preserving nonrenewable resources; that Federal, State, and local governments as trustees of the natural and human environment have the responsibility to protect the coastal zone and insure multipurpose use of the resource; that the States have the primary role in planning and developing the coastal zone resource; that the Federal Government has a major role in protecting the coastal zone and in cooperating with the States in developing an effective coastal zone management system; that all Federal agencies shall seek to coordinate their activities in the coastal zone with the coastal States; and that planning and developing a coastal zone management system requires public participation and the greater use of the hearing mechanism.**

**"DEFINITIONS**

**"Sec. 304. For the purposes of this title—**

**"(a) The term 'coastal zone' means lands, bays, estuaries, and waters within the territorial sea or the seaward boundary, whichever is the farther offshore, of the various coastal States and States bordering the Great Lakes and extending inland, up to a distance not to exceed twenty miles, where maritime influences exercise a direct effect upon the land.**

"(b) The term 'territorial sea' means a belt of sea adjacent to the coast of the United States and extending three geographic miles offshore from the baseline and within which the United States exercises sovereign rights, subject to the right of innocent passage.

"(c) The term 'baseline' means the reference line from which the outer limits of the territorial sea and other offshore zones are measured by the United States Government.

"(d) The term 'seaward boundary of the various coastal States' means a line drawn three geographic miles offshore the baseline or nine geographic miles offshore the baseline in the cases of Texas and Florida in the Gulf of Mexico, or such other seaward boundaries as may be recognized by the United States Government.

"(e) The term 'coastal State' means any State bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(f) The term 'Council' means the National Council on Marine Resources and Engineering Development.

"(g) The term 'coastal authority' means a commission, council, center, agency, or other governmental entity, broadly representative of coastal needs, problems, and uses, designated by the Governor of a coastal State through legislative or other processes. Coastal States may jointly designate an interstate agency of which they are a member, including a river basin commission, to serve as a coastal authority, in which case such an authority shall be subject to the provisions as a State agency for the purposes of this title, and shall be entitled to funding equivalent to the sum of the allotments of its member States.

"(h) The term 'estuarine sanctuary' is an area, not to exceed ten square miles, within the coastal zone and unhampered by the mounting pressures thereon, set aside to provide scientists the opportunity to examine over a period of time the ecological relationships within estuaries.

#### "APPROVAL OF STATE PROGRAMS

"SEC. 305. (a) In recognition of the need for increased participation by the States in the comprehensive planning and development of the coastal zone, the Council shall review any planning, development, and operating program submitted by a coastal authority and may, in accordance with the provisions of this title, make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

"(b) The Council shall approve any planning and development program for the coastal zone which is submitted by a coastal authority, if such program—

"(1) provides for the formulation of a master plan for the coastal zone over which such authority has jurisdiction as follows:

"(A) such master plan shall include general planning principles and provide a statement of desired goals and standards to help shape and direct future development of the coastal zone, and such standards shall be based on a study of current population and development trends and existing or potential problems within the coastal zone, and be designed to promote the balanced development of natural, commercial, industrial, recreational, and esthetic resources and to accommodate a wide variety of beneficial uses;

"(B) in preparing such master plan, the coastal authority shall examine the land use regulations and plans of the various governmental bodies whose jurisdiction extends over territory located in the coastal zone; shall consult with interested parties, including local governmental bodies, regional development agencies, port authorities, and other intrastate agencies, the various Federal agencies affected by the development of the coastal zone, adjacent coastal States or authorities, and private groups concerned with the commercial, industrial, recreational, and esthetic development of the coastal zone; shall examine to the extent possible land use plans and regulations of any adjacent foreign countries; and shall conduct or support such research, studies, surveys, and interviews as are necessary to assist it in making informed decisions on the most beneficial allocation of uses of coastal waters and lands;

“(C) such master plan shall include studies, conclusions, and explanatory diagrams with respect to (i) the estimated future population growth within and adjacent to the coastal zone, including an indication of those areas which may anticipate the greatest future growth; (ii) a description of the location and characteristics of water currents and tidal movements in the coastal zone, and an analysis, including diagrams, of the probable effect of such currents and tides on the interrelationship of various types of uses; (iii) an estimate of the future need for use of the coastal zone for commercial, industrial, residential, conservation, and esthetic purposes, including diagrams for the most efficient, beneficial, and livable interrelationship of these various uses, so that the plan may serve to direct the course of future development in a manner which promotes economic efficiency and the general welfare; and (iv) such additional information as the Council deems necessary to promote the orderly and beneficial development of the coastal zone;

“(D) in formulating such master plan, the coastal authority shall hold public hearings on the proposed master plan or on various alternative master plans in order to obtain all points of view in the final preparation of the master plan;

“(E) the coastal authority shall be authorized to amend such master plan at any time that it determines the conditions which existed or were foreseen at the time of the formulation of such master plan have changed to such a degree as to justify modification of such plan, and authority for such modification shall provide for adoption of amendments only after a full opportunity for comment, including hearings at the affected areas, have been afforded to interested parties; and

“(F) at the discretion of the coastal authority and with the approval of the Council, a master plan may be developed and adopted in segments so that concerted and early attention may be devoted to those areas of the coastal zone which most urgently need comprehensive planning and development: *Provided*, That each such segment does not exclude any portion of the coastline which is substantially interrelated economically, socially, or by peculiar geographic configuration or movement of ocean tides or currents with the area which is included within such planning segment: *And provided further*, That the coastal authority adequately allows for the ultimate coordination of the various segments of the master plan into a single unified plan and that such unified plan will be completed as soon as is reasonably practicable;

“(2) provides authority for the development of the coastal zone in accordance with such master plan, and such authority shall include power—

“(A) to draw up land use and zoning regulations which shall control public and private development of the coastal zone in order to assure compliance with the master plan and to resolve conflicts among competing uses;

“(B) to acquire lands within the coastal zone through condemnation or other means when necessary to achieve conformance with the master plan;

“(C) to develop land and facilities and to operate such public facilities as beaches, marinas, and other waterfront developments, as may be required to carry out such master plan;

“(D) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects; and

“(E) to exercise such other functions as the Council determines are necessary to enable the orderly development of the coastal zone in accordance with such master plan; and

“(3) provides authority for the coastal authority to review all development projects or regulations proposed by any State or local authority or private developer to determine whether such project or regulation is consistent with the principles and standards set forth in the master plan and to reject a development plan which fails to comply with such principles and standards: *Provided*, That such determination shall be made only after there has been a full opportunity for hearings: *And provided further*, That such determination shall be subject to judicial review.

## "ALLOTMENTS

"SEC. 306. (a) In making the grants pursuant to section 305, the Council may make available to a coastal authority up to 50 per centum of the costs of developing a long-range master plan and implementing a developing program, and, for a period of up to three years, up to 50 per centum of administering such a program, pursuant to such section. The actual amount of the allotment to each coastal authority shall be determined, in accordance with the Council's regulations, on the basis of (1) the population of the State, (2) the area of public water within the State's coastal zone, and (3) the need for comprehensive planning and development of such coastal zone.

"(b) In addition to grants-in-aid, the Council is authorized, under such terms and conditions as the Council may prescribe, to enter into agreements with coastal authorities to underwrite by guaranty thereof bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

## "PAYMENTS

"SEC. 307. The method of computing and paying amounts pursuant to this title shall be as follows:

"(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each coastal authority under the provisions of this title for such period, such estimate to be based on such records of the coastal authority and information furnished by it, and such other investigation, as the Council may find necessary.

"(2) The Council shall pay to the coastal authority from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such coastal authority for any prior period under this title was greater or less than the amount which should have been paid to such coastal authority for such prior period under this title. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

## "REVIEW

"SEC. 308. Whenever the Council after reasonable notice and opportunity for hearing to a coastal authority finds that—

"(a) the program submitted by such coastal authority and approved under section 305 has been so changed that it no longer complies with a requirement of such section; or

"(b) in the administration of the program there is a failure to comply substantially with such a requirement, the Council shall notify such coastal authority that no further payments will be made under this title until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such coastal authority under this title.

## "RECORDS

"SEC. 309. (a) Each recipient of a grant under this Act shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Chairman of the Council 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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

## "ADVISORY COMMITTEES

"SEC. 310. (a) The Chairman of the Council is authorized and directed to establish coastal zone management advisory committees to advise, consult with,

and make recommendations to the Council on matters of policy concerning the coastal zone resource. Any such committee shall be composed of persons designated by the Chairman and shall perform such functions and operate in such a manner as the Chairman may direct.

"(b) Members of such advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees, including traveltime, may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

#### "ESTUARINE SANCTUARIES

"SEC. 311. The Council, in accordance with its regulations, is authorized to make available to a coastal authority grants up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make long-term studies of the natural and human processes occurring within the estuaries of the coastal zone: *Provided*, That no State funds received pursuant to section 306 shall be used for this purpose.

#### "FEDERAL PROJECTS

"SEC. 312. (a) All Federal agencies conducting or supporting research or other activities in a coastal zone shall seek to make such activities support and be consistent with the program of the appropriate coastal authority and shall consult with such authority prior to such activity.

"(b) Federal agencies shall not undertake any development project in a coastal zone which, in the opinion of the appropriate coastal authority, are inconsistent with the master plan of such coastal authority unless the Council, after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, finds that such project is on balance, consistent with the general objectives of this title.

"(c) When the appropriate coastal authority approves a development project of any Federal agency in the coastal zone as consistent with its master plan, the Council may, upon petition of at least six of its members, review such development project, and after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, reject such development project if it finds that such project is, on balance, inconsistent with the general objectives of this title.

"(d) All Federal agencies shall include in any request for authorization or funding of Federal projects in a coastal zone a statement of their relevance to the plan of the appropriate coastal authority.

#### "REGULATIONS

"SEC. 313. In carrying out the provisions of this title, the Council may issue such regulations as may be appropriate.

#### "VOTING

"SEC. 314. All Council actions taken under this title shall be by majority vote of its members. In the event of a tie vote, the Chairman is authorized to cast an additional vote.

#### "ANNUAL REPORT

"SEC. 315. (a) The Council shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding calendar year and a description of these programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding calendar year; (3) an itemization of the allotment of funds to the various coastal authorities and a breakdown of the major projects and areas on which these funds



were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Council has reviewed under section 309 of this title and a summary of the final action taken by the Council with respect to each such project; (6) a summary of the regulations issued by the Council or in effect during the preceding calendar year; and (7) a summary of outstanding problems arising in the administration of this title in order of priority.

“(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Council deems necessary to achieve the objectives of this title and enhance its effective operation.

#### “TITLE IV—MISCELLANEOUS

##### “MARINE RESOURCES FUND

“SEC. 401. The sum of \$125,000,000 of all revenues received in each fiscal year beginning after June 30, 1970, to the extent such revenues otherwise would be deposited in miscellaneous receipts of the United States Treasury, under the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1337 et seq.), including the funds held in escrow under the interim agreement of October 12, 1956, between the United States and Louisiana, to the extent the United States is determined to be entitled to such escrow fund, shall be placed in a special fund in the Treasury to be known as the ‘Marine Resources Fund’. Money in such fund shall be used only for the purposes of (1) assistance to States qualifying under the provisions of title III of this Act, and (2) funding of programs authorized under title II of this Act, and are hereby authorized for such use to the extent made available in appropriation Acts.”

SEC. 2. Section 3(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102(z)) is amended by adding at the end thereof the following:

“(10) The Secretary of the Army.”

SEC. 3. Section 3(f) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102(f)) is amended by striking out “June 30, 1970” and inserting in lieu thereof “June 30, 1975”.

SEC. 4. Section 9 of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1108) is amended by striking out “\$1,200,000” and inserting in lieu thereof “\$3,000,000”.

[H.R. 14845, 91st Cong., 1st sess.]

A BILL To amend the Federal Water Pollution Control Act to provide for the establishment of a national policy for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That as a result of a comprehensive study carried out pursuant to section 5(g) of the Federal Water Pollution Control Act, as amended, and the information derived therefrom of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on navigation, flood control, recreation, water supply and water power, and other beneficial purposes, the Congress finds and declares that it is necessary to establish a national policy to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's estuarine and coastal zones through development and implementation of comprehensive management programs, to achieve effective use of the coastal zone through a balance between development and protection of the natural environment.

SEC. 2. This Act may be cited as the National Estuarine Zone Management Act of 1970.

SEC. 3. Section 19 of the Federal Water Pollution Control Act, as amended, is redesignated as section 20. After section 18 of the Federal Water Pollution Control Act, as amended, there is hereby inserted the following new section:

“SEC. 19. (a) For the purposes of this section—

“(1) ‘Estuary’ means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within

which the sea water is measurably diluted with fresh water derived from land drainage.

"(2) 'Coastal zone' means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other. For purposes of identifying the objects of planning, management, and regulatory programs the coastal zone extends seaward to the outer limit of the United States territorial sea. Within the coastal zone as defined herein are included areas influenced or affected by water from an estuary such as, but not limited to salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, and channels.

"(3) 'Coastal State' means any State of the United States bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico, and the Virgin Islands.

"(4) 'Secretary' means the Secretary of the Interior.

"(b) CONGRESSIONAL FINDINGS; DECLARATION OF POLICY.—

"(1) Congress hereby finds that there is a national interest in the effective management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone for the following reasons:

"(A) The pressures of population growth and economic development, including requirements for industrial, commercial, residential development, recreation, exploitation of mineral resources, and fossil fuels, transportation and other navigation, waste disposal, and exploitation of fish and other living marine resources, impose an increasing number of conflicting demands upon the finite resources of the coastal zone.

"(B) Estuaries, marshlands, and other parts of the coastal zone contain extremely valuable habitat for fish and wildlife which move beyond State boundaries; such areas are vital to the life support of a major part of the Nation's commercial and sport fisheries harvest; such areas, particularly the estuaries, constitute ecological systems which are susceptible to destruction and disruption by man.

"(C) Continued unplanned or uncoordinated development activities in the coastal zone pose an immediate threat of irreversible harm to the coastal zone and its resources and a loss of the benefits it offers.

"(D) The coastal zone is a valuable area for multiple economic, recreational, and resource uses.

"(E) The interest in the coastal zone extends to the citizens of all the States, and is not limited to the citizens in the coastal States.

"(c) PROGRAM DEVELOPMENT GRANTS.—

"(1) The Secretary is authorized to make grants to any coastal State for the purpose of assisting in the development of a comprehensive management program for the land and water resources of the coastal zone. Such grants shall not exceed 50 per centum of the costs of such program development. Other Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection, the coastal State must demonstrate to the satisfaction of the Secretary that such grants will be used to develop a comprehensive management program consistent with the requirements set forth in subsection (d) (3) hereof. Successive grants may be made annually, provided however that no subsequent grant shall annually: *Provided, however,* That no subsequent grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such a comprehensive management program. Upon completion of the development of the coastal State's comprehensive management program, the coastal State shall submit such program to the Secretary for review.

"(2) No annual grant to a single coastal State shall be made under this subsection in excess of \$200,000.

"(d) OPERATING GRANTS.—

"(1) The Secretary is authorized to make annual grants to such coastal State for not more than 50 per centum of the costs of administering such program if he approves a coastal State's management program, in accordance with subsection (3) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(2) Such grants shall be allotted to the States with approved programs based on regulations of the Secretary, which shall take into account the amount

and nature of the coastline and area covered by the plan, population, and other relevant factors.

"(3) Prior to granting approval of a comprehensive management program submitted by a coastal State, the Secretary shall find that—

"(A) the Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management plan set forth in subsection (D) hereof and the management plan and changes thereto have been reviewed and approved by the Governor;

"(B) the coastal State is organized to implement the management plan set forth in subsection (D) hereof;

"(C) the agency or agencies responsible for implementing such management plan have vested in them the regulatory authorities necessary to implement the plan, including but not limited to, permit authority, authority to acquire interests in real property through the power of eminent domain and zoning authority, or authority to require local zoning to conform with the State management plan;

"(D) the coastal State has developed and adopted a management plan for its coastal zone adequate to carry out the purposes of this section and containing the following provisions:

"(aa) an identification of the boundaries of the portions of the coastal State subject to the management plan;

"(bb) an identification and recognition of the national, State, and local interests in the preservation, use, and development of the coastal zone;

"(cc) a feasible land and water use plan, consistent with applicable water quality standards, within specific sections of the coastal zone reasonably reflecting the needs of industry, transportation, recreation, fisheries, wildlife, natural area protection, and residential development and other public and private needs, taking into account both short-term and long-term requirements;

"(dd) a description of the coastal State's current and planned programs for management of its coastal zone consistent with the management plan;

"(ee) an identification and description of the means by which the management plan and other resource use and management plans at the Federal, State, and local levels in which the coastal State is represented or is a participant concerning use, conservation, and management of the coastal zone will be coordinated, including the relationship of the management plan to State, interstate, and regional comprehensive planning as appropriate;

"(ff) procedures for adequate review of State and local and private projects for consistency with the management plan;

"(gg) procedures for furnishing advice as to whether Federal and federally assisted projects are consistent with the management plan;

"(hh) procedures for modification and change of the management plan, including public notice and hearing;

"(ii) the plan was developed in cooperation with relevant Federal agencies, State agencies, local governments, and all other interests;

"(jj) procedures for regular review and updating of the management plan;

"(kk) adequate provisions for disseminating information concerning the management plan and any subsequent modifications or changes therein; and

"(ll) provision for conducting, fostering, or utilizing relevant research.

"(E) the coastal State has provided for adequate public notice and public hearings in the development of the management plan.

"(4) Grants under this subsection shall be subject to the following limitations:

"(A) no annual grant to a single coastal State shall be made under this section in excess of \$200,000; and

"(B) no grant funds shall be used for the acquisition of real property.

"(5) With the approval of the Secretary, the Governor of a coastal State may allocate to an interstate agency a portion of the grant under subsections (c) and (d) of this section for the purpose of carrying out the provisions of said subsections provided such interstate agency has the authority to meet the appli-

cable provisions of subsection (d) (3) of this section otherwise required of the coastal State.

“(e) REVIEW OF PERFORMANCE.—

“(1) The Secretary shall conduct a continuing review of the comprehensive management programs of the coastal States and of the performance of each coastal State.

“(2) The Secretary shall have the authority to terminate any financial assistance extended under subsection (d) of this section and to withdraw any unexpended portion of such assistance if: (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the coastal State has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

“(f) (1) ADVISORY COMMITTEES FOR MANAGEMENT OF THE CANAL ZONE.—The Secretary is authorized to establish in the Department of the Interior advisory committees to consult with and make recommendations to the Secretary on matters of policy concerning the coastal zone. Any such committee shall be composed of persons designated by the Secretary and shall perform such functions and operate in such manner as the Secretary may direct.

“(2) Members of such advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including traveltime may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

“(g) INTERAGENCY COORDINATION AND COOPERATION.—

“(1) The Secretary shall not approve the plan submitted by the State pursuant to subsection (d) until he has solicited the views of Federal agencies principally affected by such plan or his evidence that such views were provided the State in the development of the plan. In case of serious disagreement between any Federal agency and the State in the development of the plan the Secretary shall seek to mediate the differences.

“(2) All Federal agencies conducting or supporting activities in the coastal area shall seek to make such activities consistent with the approved plan for the area. States and local governments submitting applications for Federal assistance in coastal areas shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved plan for the coastal area. Federal agencies shall not approve proposed projects that are inconsistent with the plan without making investigation and finding that the proposal is, on balance, sound. The Secretary shall be advised by the heads of other agencies of such problems and be provided an opportunity to participate in any investigation.

“(h) Nothing in this section shall be construed—

“(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

“(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this section;

“(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this section; nor to affect the jurisdiction, powers, or prerogative 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;

“(i) MISCELLANEOUS.—

“(1) The Secretary shall develop, after appropriate consultation with other interested parties, both Federal and non-Federal, such rules and regulations covering the submission and review of applications for grants authorized by

subsections (c) and (d) as may be necessary to carry out the provisions of this section.

"(2) A coastal State receiving a grant under the provisions of subsections (c) and (d) of this section, the agency designated by the Governor to administer such grant, and an interstate agency allocated a portion of a grant under the provisions of subsection (d) shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved management program as the Secretary may require, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

"(3) The Secretary, the head of another Federal agency concerned, 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 grant recipient that are pertinent to the grant received under the provisions of subsections (c) and (d) of this section.

"(j) APPROPRIATIONS.—

"(1) There are authorized to be appropriated:

"(A) the sum of \$2,000,000 for fiscal year 1971 and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1975, for grants under subsection (c) of this section; and

"(B) such sums as may be necessary for the fiscal year ending June 30, 1972, and for each succeeding fiscal year thereafter for grants under subsection (d) of this section.

"(2) There are also authorized to be appropriated such sums as may be necessary for the Secretary to carry out the provisions of this section."

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[H.R. 15099, 91st Cong., 1st sess.]

A BILL To assist the States in establishing coastal zone management programs

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering Resources, and for other purposes, approved October 15, 1966, amended (16 U.S.C. 1121 et seq.), is amended by adding at the end thereof the following new titles:

"TITLE III—MULTIPLE USE OF THE COASTAL ZONE

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Coastal Zone Management Act of 1969'.

"STATEMENT OF POLICY

"SEC. 302. The Congress finds and declares that the coastal zone of the United States is rich in a variety of natural, commercial, industrial, recreational, and esthetic resources of immediate and potential value to the present and future development of our Nation; that unplanned or poorly planned development of these resources has destroyed, or has the potential of destroying, the basic natural environmental of such areas and has restricted the most efficient and beneficial utilization of such areas; that it is the policy of Congress to preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal zone for this and succeeding generations through comprehensive and coordinated long-range planning and management designed to produce the maximum benefit for society from such coastal areas.

"DEFINITIONS

"SEC. 303. For the purposes of this title—

"(a) The term 'coastal zone' means lands, bays, estuaries, and waters within the territorial sea or the seaward boundary, which ever is the farther offshore, of the various coastal States and States bordering the Great Lakes and extending inland to the landward extent of maritime influences.

"(b) The term 'territorial sea' means a belt of sea adjacent to the coast of the United States and extending three geographic miles offshore from the baseline and within which the United States exercises sovereign rights, subject to the right of innocent passage.

"(c) The term 'baseline' means the reference line from which the outer limits of the territorial sea and other offshore zones are measured by the United States Government.

"(d) The term 'seaward boundary of the various coastal States' means a line drawn three geographic miles offshore the baseline or nine geographic miles offshore the baseline in the cases of Texas and Florida in the Gulf of Mexico, or such other seaward boundaries as may be recognized by the United States Government.

"(e) The term 'coastal State' means any State bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(f) The term 'landward extent of maritime influences' means such amount of land running back from the high water mark which in contemplation of human and natural ecology may be considered to come under the direct and immediate influence of the adjacent sea or lake.

"(g) The term 'Council' means the National Council on Marine Resources and Engineering Development.

"(h) The term 'coastal authority' means a commission, council, center, agency, or other governmental entity, broadly representative of coastal needs, problems, and uses, designated by the Governor of a coastal State through legislative or other processes. Coastal State may jointly designate an interstate agency of which they are a member, including a river basin commission, to serve as a coastal authority, in which case such an authority shall be subject to the same provisions as a State agency for the purposes of this title, and shall be entitled to funding equivalent to the sum of the allotments of its member States.

#### "APPROVAL OF STATE PROGRAMS

"SEC. 304. (a) In recognition of the need for increased participation by the States in the comprehensive planning and development of the coastal zone, the Council shall review any planning and development program submitted by a coastal authority and may, in accordance with the provisions of this title, make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

"(b) The Council shall approve any planning and development for the coastal zone which is submitted by a coastal authority, if such program—

"(1) provides for the formulation of a master plan for the coastal zone over which such authority has jurisdiction as follows:

"(A) such master plan shall include general planning principles and provide a statement of desired goals and standards to help shape and direct future development of the coastal zone, and such standards shall be based on a study of current population and development trends and existing or potential problems within the coastal zone, and be designed to promote the balanced development of natural, commercial, industrial, recreational, and esthetic resources and to accommodate a wide variety of beneficial uses;

"(B) in preparing such master plan, the coastal authority shall examine the land use regulations and plans of the various governmental bodies whose jurisdiction extends over territory located in the coastal zone; shall consult with interested parties, including local governmental bodies, regional development agencies, port authorities, and other intrastate agencies, the various Federal agencies affected by the development of the coastal zone, adjacent coastal States or authorities, and private groups concerned with the commercial, industrial, recreational, and esthetic development of the coastal zone; shall examine to the extent possible land use plans and regulations of any adjacent foreign countries; and shall conduct or support such research, studies, surveys, and interviews as are necessary to assist it in making informed decisions on the most beneficial allocation of uses of coastal waters and lands;

"(C) such master plan shall include studies, conclusions, and explana-

tory diagrams with respect to (i) the estimated future population growth within and adjacent to the coastal zone, including an indication of those areas which may anticipate the greatest future growth; (ii) a description of the location and characteristics of water currents and tidal movements in the coastal zone, and an analysis, including diagrams of the probable effect of such currents and tides on the interrelationship of various types of uses; (iii) an estimate of the future need for use of the coastal zone for commercial, industrial, residential, recreational, conservation, and esthetic purposes, including diagrams for the most efficient, beneficial, and livable interrelationship of these various uses, so that the plan may serve to direct the course of future development in a manner which promotes economic efficiency and the general welfare; and (iv) such additional information as the Council deems necessary to promote the orderly and beneficial development of the coastal zone;

“(D) in formulating such master plan, the coastal authority shall hold public hearings on the proposed master plan or on various alternative master plans in order to obtain all points of view in the final preparation of the master plan;

“(E) the coastal authority shall be authorized to amend such master plan at any time that it determines that conditions which existed or were foreseen at the time of the formulation of such master plan have changed to such a degree as to justify modification of such plan, and authority for such modification shall provide for adoption of amendments only after a full opportunity for comment, including hearings, have been afforded to interested parties; and

“(F) at the discretion of the coastal authority and with the approval of the Council, a master plan may be developed and adopted in segments so that concerted and early attention may be devoted to those areas of the coastal zone which most urgently need comprehensive planning and development: *Provided*, That each such segment does not exclude any portion of the coastal zone which is substantially interrelated economically, socially, or by peculiar geographic configuration or movement of ocean tides or currents with the area which is included within such planning segment: *And provided further*, That the coastal authority adequately allows for the ultimate coordination of the various segments of the master plan into a single unified plan and that the coastal authority satisfies the Council that such unified plan will be completed as soon as is reasonably practicable;

“(2) provides authority for the development of the coastal zone in accordance with such master plan, and such authority shall include power—

“(A) to draw up land use and zoning regulations which shall control public and private development of the coastal zone in order to assure compliance with the master plan and to resolve conflicts among competing uses;

“(B) to acquire lands within the coastal zone through condemnation or other means when necessary to achieve conformance with the master plan;

“(C) to develop land and facilities and to operate such public facilities as beaches, marinas, and other waterfront developments, as may be required to carry out such master plan;

“(D) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects; and

“(E) to exercise such other functions as the Council determines are necessary to enable the orderly development of the coastal zone in accordance with such master plan; and

“(3) provides authority for the coastal authority to review all development projects or regulations proposed by any State or local authority or private developer to determine whether such project or regulation is consistent with the principles and standards set forth in the master plan and to reject a development plan which fails to comply with such principles and standards: *Provided*, That such determination shall be made only after there has been a full opportunity for hearings: *And provided further*, That such determination shall be subject to judicial review.

## "ALLOTMENTS

"Sec. 305. (a) In making the grants pursuant to section 304, the Council may make available to a coastal authority up to 50 per centum of the costs of developing a long-range master plan and implementing a development program pursuant to such action. The actual amount of the allotment to each coastal authority shall be determined, in accordance with the Council's regulations, on the basis of (1) the population of the State, (2) the area of public water within the State's coastal zone, and (3) the need for comprehensive planning and development of such coastal zone.

"(b) In addition to grants-in-aid, the Council may prescribe, to enter into agreements with coastal authorities to underwrite by guaranty thereof bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

## "PAYMENTS

"Sec. 306. The method of computing and paying amounts pursuant to this title shall be as follows:

"(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each coastal authority under the provisions of this title for such period, such estimate to be based on such records of the coastal authority and information furnished by it, and such other investigation and information furnished by it, and such investigation, as the Council may find necessary.

"(2) The Council shall pay to the coastal authority from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such coastal authority for any prior period under this title was greater or less than the amount which should have been paid to such coastal authority for such prior period under this title. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

## "REVIEW

"Sec. 307. Whenever the Council after reasonable notice and opportunity for hearing to a coastal authority finds that—

"(a) the program submitted by such coastal authority and approved under section 304 has been so changed that it no longer complies with a requirement of such section; or

"(b) in the administration of the program there is a failure to comply substantially with such a requirement,  
the Council shall notify such coastal authority that no further payments will be made under this title until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such coastal authority under this title.

## "RECORDS

"Sec. 308. (a) Each recipient of a grant under this Act shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Chairman of the Council 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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.



## "FEDERAL PROJECTS

"SEC. 309. (a) All Federal agencies conducting or supporting research or other activities in a coastal zone shall seek to make such activities support and be consistent with the program of the appropriate coastal authority.

"(b) Federal agencies shall not undertake any development project in a coastal zone which, in the opinion of the appropriate coastal authority, are inconsistent with the master plan of such coastal authority unless the Council, after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, finds that such project is, on balance, consistent with the general objectives of this title.

"(c) When the appropriate coastal authority approves a development project of any Federal agency in the coastal zone as consistent with its master plan, the Council may, upon petition of at least six of its members, review such development project, and after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, reject such development project if it finds that such project is, on balance, inconsistent with the general objectives of this title.

"(d) All Federal agencies shall include in any request for authorization or funding of Federal projects in a coastal zone a statement of their relevance to the plan of the appropriate coastal authority.

## "REGULATIONS

"SEC. 310. In carrying out the provisions of this title, the Council may issue such regulations as may be appropriate.

## "VOTING

"SEC. 311. All Council actions taken under this title shall be by majority vote of its members. In the event of a tie vote, the Chairman is authorized to cast an additional vote.

## "ANNUAL REPORT

"SEC. 312. (a) The Council shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding calendar year and a description of these programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding calendar year; (3) an itemization of the allotment of funds to the various coastal authorities and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such actions; (5) a listing of the Federal development projects which the Council has reviewed under section 308 of this title and a summary of the final action taken by the Council with respect to each such project; (6) a summary of the regulations issued by the Council or in effect during the preceding calendar year; and (7) a summary of outstanding problems arising in the administration of this title in order of priority.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Council deems necessary to achieve the objectives of this title and enhance its effective operation.

## "TITLE IV—MISCELLANEOUS

## "MARINE RESOURCES FUND

"SEC. 401. The sum of \$75,000,000 of all revenues received in each fiscal year beginning after June 30, 1969, to the extent such revenues otherwise would be deposited in miscellaneous receipts of the United States Treasury, under the

Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1337 et seq.), including the funds held in escrow under the interim agreement of October 12, 1956, between the United States and Louisiana, to the extent the United States is determined to be entitled to such escrow fund, shall be placed in a special fund in the Treasury to be known as the 'Marine Resources Fund'. Money in such fund shall be used only for the purposes of (1) assistance to States qualifying under the provisions of title III of this Act, and (2) funding of programs authorized under title II of this Act, and are hereby authorized for such use to the extent made available in appropriation Acts."

SEC. 3. Section 3(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102(a)) is amended by adding at the end thereof the following:

"(10) The Secretary of the Army."

SEC. 4. Section 3(f) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102(f)) is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1975".

SEC. 5. Section 9 of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1108) is amended by striking out "\$1,200,000" and inserting in lieu thereof "\$3,000,000".

[H.R. 16155, 91st Cong., 2d sess.]

A BILL To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That as a result of the report of the Commission on Marine Science, Engineering, and Resources carried out pursuant to section 5(a) of the Marine Resources and Engineering Development Act of 1966, as amended, and the information derived therefrom, the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources, Engineering, and Development, and a Commission on Marine Science, Engineering, and Resources, and for other purposes", approved October 15, 1966, as amended (16 U.S.C. 1121 et seq.), is amended by adding at the end thereof the following new titles:

### "TITLE III—PLANNING FOR MULTIPLE USE OF THE COASTAL ZONE

#### "SHORT TITLE

"SEC. 301. This title may be cited as the 'Coastal Zone Management Act of 1970'.

#### "FINDINGS OF FACT

"SEC. 302. The Congress finds—

"(a) That the welfare of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment.

"(b) That there is a national interest in the effective management, beneficial use, proper protection, and balanced development of the air, land, and marine resources of the Nation's coastal zone.

"(c) That the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future development of our Nation.

"(d) That the increasing and conflicting demands, particularly those occasioned by the rise in population, on the finite resources of the coastal zone have resulted in the loss of fish, wildlife, and nutrient rich areas, permanent and adverse ecological changes, decreasing open space for public use, and shoreline erosion.

"(e) That the coastal zone, particularly the estuaries and the fish and wildlife therein, is ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

"(f) That present land-use patterns in the more populated coastal areas cannot accommodate the diverse requirements of the coastal zone resource.

"(g) That in light of conflicting demands and the need to protect our coastal zone, the institutional framework responsible is currently diffuse in focus, neglected in importance, and inadequate in regulatory authority.

"(h) That economic development has usually taken precedence over other equally desirable uses of the coastal zone.

"(i) That the key to more effective use of the coastal zone is the introduction of a management system permitting conscious and informed choices among development alternatives.

"(j) That the absence of a national policy and planning mechanism for the coastal zone resource has contributed to the impairment of the Nation's environmental quality.

#### "DECLARATION OF POLICY

"SEC. 303. The Congress declares that planning and development of the coastal zone should be carried out on the principle of multipurpose use of the resource and preservation of the natural environment; that priority should be given to preserving nonrenewable resources; that Federal, State, and local governments as trustees of the natural and human environment have the responsibility to protect the coastal zone and insure multipurpose use of the resource; that the States have the primary role in planning and developing the coastal zone resource; that the Federal Government has a major role in protecting the coastal zone and in cooperating with the States in developing an effective coastal zone management system; that all Federal agencies shall seek to coordinate their activities in the coastal zone with the coastal States; and that planning and developing a coastal zone management system requires public participation and the greater use of the hearing mechanism.

#### "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) The term 'coastal zone' means hands, bays, estuaries, and waters within the territorial sea or the seaward boundary, whichever is the farther offshore, of the various coastal States and States bordering the Great Lakes and extending inland, up to a distance not to exceed twenty miles, where maritime influences exercise a direct effect upon the land.

"(b) The term 'territorial sea' means a belt of sea adjacent to the coast of the United States and extending three geographic miles offshore from the baseline and within which the United States exercises sovereign rights, subject to the right of innocent passage.

"(c) The term 'baseline' means the reference line from which the outer limits of the territorial sea and other offshore zones are measured by the United States Government.

"(d) The term 'seaward boundary of the various coastal States' means a line drawn three geographic miles offshore the baseline or nine geographic miles offshore the baseline in the cases of Texas and Florida in the Gulf of Mexico, or such other seaward boundaries as may be recognized by the United States Government.

"(e) The term 'coastal State' means any State bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(f) The term 'Council' means the National Council on Marine Resources and Engineering Development.

"(g) The term 'coastal authority' means a commission, council, center, agency, or other governmental entity, broadly representative of coastal needs, problems, and uses, designated by the Governor of a coastal State through legislative or other processes. Coastal States may jointly designate an interstate agency of which they are a member, including a river basin commission, to serve as a coastal authority, in which case such an authority shall be subject to the provisions as a State agency for the purposes of this title, and shall be entitled to funding equivalent to the sum of the allotments of its member States.

"(h) The term 'estuarine sanctuary' is an area, not to exceed ten square miles, within the coastal zone and unhampered by the mounting pressures thereon, set aside to provide scientists the opportunity to examine over a period of time the ecological relationships within estuaries.

## "APPROVAL OF STATE PROGRAMS

"Sec. 305. (a) In recognition of the need for increased participation by the States in the comprehensive planning and development of the coastal zone, the Council shall review any planning, development, and operating program submitted by a coastal authority and may, in accordance with the provisions of this title, make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

"(b) The Council shall approve any planning and development program for the coastal zone which is submitted by a coastal authority, if such program—

"(1) provides for the formulation of a master plan for the coastal zone over which such authority has jurisdiction as follows :

"(A) such master plan shall include general planning principles and provide a statement of desired goals and standards to help shape and direct future development of the coastal zone, and such standards shall be based on a study of current population and development trends and existing or potential problems within the coastal zone, and be designed to promote the balanced development of natural, commercial, industrial, recreational, and esthetic resources and to accommodate a wide variety of beneficial uses ;

"(B) in preparing such master plan, the coastal authority shall examine the land use regulations and plans of the various governmental bodies whose jurisdiction extends over territory located in the coastal zone ; shall consult with interested parties, including local governmental bodies, regional development agencies, port authorities, and other intrastate agencies, the various Federal agencies affected by the development of the coastal zone, adjacent coastal States or authorities, and private groups concerned with the commercial, industrial, recreational, and esthetic development of the coastal zone ; shall examine to the extent possible land use plans and regulations of any adjacent foreign countries ; and shall conduct or support such research, studies, surveys, and interviews as are necessary to assist it in making informed decisions on the most beneficial allocation of uses of coastal waters and lands ;

"(C) such master plan shall include studies, conclusions, and explanatory diagrams with respect to (i) the estimated future population growth within and adjacent to the coastal zone, including an indication of those areas which may anticipate the greatest future growth ; (ii) a description of the location and characteristics of water currents and tidal movements in the coastal zone, and an analysis, including diagrams, of the probable effect of such currents and tides on the interrelationship of various types of uses ; (iii) an estimate of the future need for use of the coastal zone for commercial, industrial, residential, conservation, and esthetic purposes, including diagrams for the most efficient, beneficial, and livable interrelationship of these various uses, so that the plan may serve to direct the course of future development in a manner which promotes economic efficiency and the general welfare ; and (iv) such additional information as the Council deems necessary to promote the orderly and beneficial development of the coastal zone ;

"(D) in formulating such master plan, the coastal authority shall hold public hearings on the proposed master plan or on various alternative master plans in order to obtain all points of view in the final preparation of the master plan ;

"(E) the coastal authority shall be authorized to amend such master plan at any time that it determines the conditions which existed or were foreseen at the time of the formulation of such master plan have changed to such a degree as to justify modification of such plan, and authority for such modification shall provide for adoption of amendments only after a full opportunity for comment, including hearings at the affected areas, have been afforded to interested parties ; and

"(F) at the discretion of the coastal authority and with the approval of the Council, a master plan may be developed and adopted in segments so that concerted and early attention may be devoted to those areas of the coastal zone which most urgent need comprehensive planning and devel-

opment: *Provided*, That each such segment does not exclude any portion of the coastal zone which is substantially interrelated economically, socially, or by peculiar geographic configuration or movement of ocean tides or currents with the area which is included within such planning segment: *And provided further*, That the coastal authority adequately allows for the ultimate coordination of the various segments of the master plan into a single unified plan and that such unified plan will be completed as soon as is reasonably practicable;

"(2) provides authority for the development of the coastal zone in accordance with such master plan, and such authority shall include power—

"(A) to draw up land use and zoning regulations which shall control public and private development of the coastal zone in order to assure compliance with the master plan and to resolve conflicts among competing uses;

"(B) to acquire lands within the coastal zone through condemnation or other means when necessary to achieve conformance with the master plan;

"(C) to develop land and facilities and to operate such public facilities as beaches, marinas, and other waterfront developments, as may be required to carry out such master plan;

"(D) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects; and

"(E) to exercise such other functions as the Council determines are necessary to enable the orderly development of the coastal zone in accordance with such master plan; and

"(3) provides authority for the coastal authority to review all development projects or regulations proposed by any State or local authority or private developer to determine whether such project or regulation is consistent with the principles and standards set forth in the master plan and to reject a development plan which fails to comply with such principles and standards: *Provided*, That such determination shall be made only after there has been a full opportunity for hearings: *And provided further*, That such determination shall be subject to judicial review.

#### "ALLOTMENTS

"SEC. 306. (a) In making the grants pursuant to section 305, the Council may make available to a coastal authority up to 50 per centum of the costs of developing a long-range master plan and implementing a developing program, and, for a period of up to three years, up to 50 per centum of administering such a program, pursuant to such section. The actual amount of the allotment to each coastal authority shall be determined, in accordance with the Council's regulations, on the basis of (1) the population of the State, (2) the area of public water within the State's coastal zone, and (3) the need for comprehensive planning and development of such coastal zone.

"(b) In addition to grants-in-aid, the Council is authorized, under such terms and conditions as the Council may prescribe, to enter into agreements with coastal authorities to underwrite by guaranty thereof bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

#### "PAYMENTS

"SEC. 307. The method of computing and paying amounts pursuant to this title shall be as follows:

"(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each coastal authority under the provisions of this title for such period, such estimate to be based on such records of the coastal authority and information furnished by it, and such other investigation, as the Council may find necessary.

"(2) The Council shall pay to the coastal authority from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such coastal authority for any prior period under this title was greater or less than the amount which should have been paid to such coastal authority for such prior period

under this title. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

#### "REVIEW

"SEC. 308. Whenever the Council after reasonable notice and opportunity for hearing to a coastal authority finds that—

"(a) the program submitted by such coastal authority and approved under section 305 has been so changed that it no longer complies with a requirement of such section; or

"(b) in the administration of the program there is a failure to comply substantially with such a requirement, the Council shall notify such coastal authority that no further payments will be made under this title until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such coastal authority under this title.

#### "RECORDS

"SEC. 309. (a) Each recipient of a grant under this Act shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Chairman of the Council 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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

#### "ADVISORY COMMITTEES

"SEC. 310. (a) The Chairman of the Council is authorized and directed to establish coastal zone management advisory committees to advise, consult with, and make recommendations to the Council on matters of policy concerning the coastal zone resource. Any such committee shall be composed of persons designated by the Chairman and shall perform such functions and operate in such a manner as the Chairman may direct.

"(b) Members of such advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees, including travel-time, may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

#### "ESTUARINE SANCTUARIES

"SEC. 311. The Council, in accordance with its regulations, is authorized to make available to a coastal authority grants up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make long-term studies of the natural and human processes occurring within the estuaries of the coastal zone: *Provided*, That no State funds received pursuant to section 306 shall be used for this purpose.

#### "FEDERAL PROJECTS

"SEC. 312. (a) All Federal agencies conducting or supporting research or other activities in a coastal zone shall seek to make such activities support and be consistent with the program of the appropriate coastal authority and shall consult with such authority prior to such activity.

"(b) Federal agencies shall not undertake any development project in a coastal zone which, in the opinion of the appropriate coastal authority, are inconsistent with the master plan of such coastal authority unless the Council, after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, finds that such project is, on balance, consistent with the general objectives of this title.

"(c) When the appropriate coastal authority approves a development project of any Federal agency in the coastal zone as consistent with its master plan, the Council may, upon petition of at least six of its members, review such development project, and after receiving detailed comments from both the Federal agency and the coastal authority and investigating the proposed development project, reject such development project if it finds that such project is, on balance, inconsistent with the general objectives of this title.

"(d) All Federal agencies shall include in any request for authorization or funding of Federal projects in a coastal zone a statement of their relevance to the plan of the appropriate coastal authority.

#### "REGULATIONS

"SEC. 313. In carrying out the provisions of this title, the Council may issue such regulations as may be appropriate.

#### "VOTING

"SEC. 314. All Council actions taken under this title shall be by majority vote of its members. In the event of a tie vote, the Chairman, is authorized to cast an additional vote.

#### "ANNUAL REPORT

"SEC. 315. (a) The Council shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding calendar year and a description of these programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding calendar year; (3) an itemization of the allotment of funds to the various coastal authorities and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Council has reviewed under section 309 of this title and a summary of the final action taken by the Council with respect to each such project; (6) a summary of the regulations issued by the Council or in effect during the preceding calendar year; and (7) a summary of outstanding problems arising in the administration of this title in order of priority.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Council deems necessary to achieve the objectives of this title and enhance its effective operation.

### "TITLE IV—MISCELLANEOUS

#### "MARINE RESOURCES FUND

"SEC. 401. The sum of \$125,000,000 of all revenues received in each fiscal year beginning after June 30, 1970, to the extent such revenues otherwise would be deposited in miscellaneous receipts of the United States Treasury, under the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1337 et seq.), including the funds held in escrow under the interim agreement of October 12, 1956, between the United States and Louisiana, to the extent the United States is determined to be entitled to such escrow fund, shall be placed in a special fund in the Treasury to be known as the 'Marine Resources Fund'. Money in such fund shall be used only for the purposes of (1) assistance to States qualifying under the provisions of title III of this Act, and (2) funding of programs authorized under title II of this Act, and are hereby authorized for such use to the extent made available in appropriation Acts."

SEC. 2. Section 3(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102 (z)) is amended by adding at the end thereof the following:

“(10) The Secretary of the Army.”

SEC. 3. Section 3(f) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1102 (f)) is amended by striking out “June 30, 1970” and inserting in lieu thereof “June 30, 1975”.

SEC. 4. Section 9 of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1108) is amended by striking out “\$1,200,000” and inserting in lieu thereof “\$3,000,000”.

[S. 582, 92d Cong., 1st sess.]

A BILL To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled “An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes” approved October 15, 1966, as amended (16 U.S.C. 1121 et seq.), is amended by adding at the end thereof the following new titles:

“TITLE III—PLANNING AND MANAGEMENT OF THE COASTAL AND ESTUARINE ZONE

“SHORT TITLE

“SEC. 301. This title may be cited as the ‘National Coastal and Estuarine Zone Management Act of 1971’.

“CONGRESSIONAL FINDINGS

“SEC. 302. The Congress finds—

“(a) That the well-being of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment.

“(b) That there is a national interest in the effective management, beneficial use, protection, and development of the Nation's coastal and estuarine zone.

“(c) That the coastal and estuarine zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of our Nation.

“(d) That the increasing and competing demands upon the lands and waters of our coastal and estuarine zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

“(e) That the coastal and estuarine zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

“(f) That present land and water uses in the more populated coastal areas do not adequately accommodate the diverse requirements of the coastal and estuarine zone.

“(g) That in light of competing demands and the urgent need to protect our coastal and estuarine zone, the institutional framework responsible is currently diffuse in focus, neglected in importance, and inadequate in regulatory authority.

“(h) That the key to more effective use of the coastal and estuarine zone is the introduction of a management system permitting conscious and informed choices among alternative uses.

“(i) That the absence of a national policy and an integrated management and planning mechanism for the coastal and estuarine zone resource has contributed to the impairment of the Nation's environmental quality.



## "DECLARATION OF POLICY

"SEC. 303. Congress finds and declares that it is the policy of Congress to preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal and estuarine zone for this and succeeding generations. The Congress declares that it is necessary to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's coastal and estuarine zone through the preparation and implementation of management plans and programs to achieve wise use of the coastal and estuarine zone through a balance between development and protection of the natural environment. Congress declares that it is the duty and responsibility of all Federal agencies engaged in programs affecting the coastal and estuarine zone to cooperate and participate in the purposes of this Act. Further, it is the policy of Congress to encourage the participation of the public and Federal, State, and local governments in the development of coastal and estuarine zone management plans and programs.

## "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Estuary' means that part of a river or stream or other body of water having unimpaired natural connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, or with the Great Lakes.

"(b) 'Coastal and estuarine zone' means the land, waters, and lands beneath the waters near the coastline (including the Great Lakes) and estuaries. For purposes of identifying the objects of planning, management, and regulatory programs the coastal and estuarine zone extends seaward to the outer limit of the United States territorial sea, and to the international boundary between the United States and Canada in the Great Lakes. Within the coastal and estuarine zone as defined herein are included areas and lands influenced or affected by water such as, but not limited to, beaches, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, in-shore waters, rivers, and channels.

"(c) 'Coastal State' means any State of the United States in or bordering on the Atlantic, Pacific, and Arctic Oceans, gulf coast, Long Island Sound, or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) 'Secretary' means the Secretary of Commerce.

"(e) 'Estuarine sanctuary' is a research area, which may include waters, lands beneath such waters, and adjacent uplands, within the coastal and estuarine zone, and constituting to the extent feasible a natural unit, set aside to provide scientists the opportunity to examine over a period of time the ecological relationships within estuaries.

## "MANAGEMENT PLAN AND PROGRAM DEVELOPMENT GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management plan and program for the land and water resources of the coastal and estuarine zone. Such grants shall not exceed 66 $\frac{2}{3}$  per centum of the costs of such program development in any one year. Other Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection, the coastal State must demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management plan and program consistent with the requirements set forth in section 306(c) of this title. Successive grants may be made annually for a period not to exceed two years: *Provided*, That no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

"(b) Upon completion of the development of the coastal State's management plan and program, the coastal State shall submit such plan and program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such plan and program by the Secretary, the coastal State's eligibility for further grants

under this section shall terminate, and the coastal State shall be eligible for grants under section 306 of this title.

"(c) No annual grant to a single coastal State shall be made under this section in excess of \$600,000.

"(d) With the approval of the Secretary, the coastal State may allocate to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section.

#### "ADMINISTRATIVE GRANTS

"Sec. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the coastal State's management plan and program, if he approves such plan and program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(b) Such grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary.

"(c) Prior to granting approval of a comprehensive management plan and program submitted by a coastal State, the Secretary shall find that:

"(1) The coastal State has developed and adopted a management plan and program for its coastal and estuarine zone adequate to carry out the purposes of this title, in accordance with regulations published by the Secretary, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, public and private.

"(2) The coastal State has made provision for public notice and held public hearings in the development of the management plan and program. All required public hearings under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

"(3) The management plan and program and changes thereto have been reviewed and approved by the Governor.

"(4) The Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management plan and program set forth in paragraph (1) of this subsection.

"(5) The coastal State is organized to implement the management plan set forth in paragraph (1) of this subsection.

"(6) The coastal State has the regulatory authorities necessary to implement the plan and program, including the authority set forth in subsection (g) of this section.

"(d) With the approval of the Secretary, a coastal State may allocate to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section, provided such interstate agency has the authority otherwise required of the coastal State under subsection (c) of this section, if delegated by the coastal State for purposes of carrying out specific projects under this section.

"(e) The coastal State shall be authorized to amend the management plan and program at any time that it determines the conditions which existed or were foreseen at the time of the formulation of the management plan and program have changed so as to justify modification of the plan and program. Such modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the coastal State's management plan and program must be approved by the Secretary before additional administrative grants are made to the coastal State under the plan and program as amended.

"(f) At the discretion of the coastal State and with the approval of the Secretary, a management plan and program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need comprehensive management plans and programs: *Provided*, That the coastal State adequately allows for the ultimate coordination of the various segments of the management plan into a single unified plan and program and that such unified plan and program will be completed as

soon as is reasonably practicable, and in no event more than three years from inception.

“(g) Prior to granting approval of the management plan and program, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments), has authority for the management of the coastal and estuarine zone in accordance with the management plan and program and such authority shall include power—

“(1) to administer land and water use regulations, control public and private development of the coastal and estuarine zone in order to assure compliance with the management plan and program, and to resolve conflicts among competing uses;

“(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property within the coastal and estuarine zone through condemnation or other means when necessary to achieve conformance with the management plan and program;

“(3) to develop land and facilities and to operate such public facilities as beaches, marinas, and other waterfront developments, as may be required to carry out the management plan and program;

“(4) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects; and

“(5) to exercise such other functions as the Secretary determines are necessary to enable the orderly development of the coastal and estuarine zone in accordance with the management plan and program.

“(h) Prior to granting approval, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments), has authority to review all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer to determine whether such plans, projects, or regulations are consistent with the principles and standards set forth in the management plan and program and to reject a development plan, project, or regulation which fails to comply with such principles and standards: *Provided*, That such determination shall be made only after there has been a full opportunity for hearings.

“(i) No annual administrative grant to a coastal State shall be made under this section in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

#### “BOND AND LOAN GUARANTIES

“SEC. 307. In addition to grants-in-aid, the Secretary is authorized under such terms and conditions as he may prescribe, to enter into agreements with coastal States to underwrite by guaranty thereof bond issues or loans for the purposes of land acquisition, or land and water development and restoration projects: *Provided*, That the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140,000,000.

#### “REGULATIONS

“SEC. 308. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after appropriate consultation with other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### “REVIEW OF PERFORMANCE

“SEC. 309. (a) The Secretary shall conduct a continuing review of the comprehensive management plans and programs of the coastal States and of the performance of each coastal State.

“(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the coastal State has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

## "RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

## "ADVISORY COMMITTEE

"SEC. 311. (a) The Secretary is authorized and directed to establish a coastal and estuarine zone management advisory committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal and estuarine zones of the coastal States of the United States. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

"(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

## "ESTUARINE SANCTUARIES

"SEC. 312. The Secretary, in accordance with his regulations, is authorized to make available to a coastal State grants up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make long-term studies of the natural and human processes occurring within the estuaries of the coastal and estuarine zone. The number of estuarine sanctuaries provided for under this section shall not exceed fifteen, and the Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 306 shall be used for the purpose of this section.

## "INTERAGENCY COORDINATION AND COOPERATION

"SEC. 313. (a) The Secretary shall not approve the management plan and program submitted by the State pursuant to section 306 unless the views of Federal agencies principally affected by such plan and program have been adequately considered. In case of serious disagreement between any Federal agency and the State in the development of the plan the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(b) (1) All Federal agencies conducting or supporting activities in the coastal and estuarine zone shall seek to make such activities consistent with the approved State management plan and program for the area.

"(2) Federal agencies shall not undertake any development project in a coastal and estuarine zone which, in the opinion of the coastal State, is inconsistent with the management plan of such coastal state unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

"(3) Any applicant for a Federal license or permit to conduct any activity in the coastal and estuarine zone subject to such license or permit, shall provide in the application to the licensing or permitting agency a certification from the appropriate State agency that the proposed activity complies with the State coastal and estuarine zone management plan and program, and that there is reasonable assurance, as determined by the State, that such activity will be con-

ducted in a manner consistent with the State's coastal and estuarine zone management plan and program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails or refuses to act on a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the Secretary to be consistent with the objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification.

"(c) State and local governments submitting applications for Federal assistance in coastal and estuarine areas shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved management plan and program for the coastal and estuarine zone. Such applications shall be submitted in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968. Federal agencies shall not approve proposed projects that are inconsistent with the coastal State's management plan and program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(d) Nothing in this section shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this title; nor 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.

#### "ANNUAL REPORT

"SEC. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a report on the administration of this title for the preceding Federal fiscal year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Secretary has reviewed under section 313 of this title and a summary of the final action taken by the Secretary with respect to each such project; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal and estuarine zones

including identification and discussion of Federal, regional, State, and local responsibilities and functions thereof; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be required under the National Environmental Policy Act of 1969.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

#### "APPROPRIATIONS

"SEC. 314. (a) There are authorized to be appropriated—

"(1) the sum of \$12,000,000 for fiscal year 1972 and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1976, for grants under section 305;

"(2) such sums, not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for grants under section 306;

"(3) such sums, not to exceed \$6,000,000 for fiscal year 1972; \$6,000,000 for fiscal year 1973; \$6,000,000 for fiscal year 1974; \$6,000,000 for fiscal year 1975; and \$6,000,000 for fiscal year 1976 as may be necessary for grants under section 312; and

"(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$3,000,000 annually, as may be necessary for administrative expenses incident to the administration of this title."

[S. 638, 92d Cong., 1st sess.]

A BILL To assist the States in establishing coastal zone management plans and programs

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled "An Act to provide for a comprehensive, long-ranged, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved October 15, 1966, as amended (16 U.S.C. 1121 et seq.), is amended by adding at the end thereof the following new titles:

### "TITLE III—PLANNING AND MANAGEMENT OF THE COASTAL ZONE

#### "SHORT TITLE

"SEC. 301. This title may be cited as the 'National Coastal Zone Management Act of 1971'.

#### "CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds—

"(a) That the well-being of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment.

"(b) That there is a national interest in the effective management, beneficial use, protection, and development of the Nation's coastal zone.

"(c) That the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of our Nation.

"(d) That the increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

"(e) That the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

"(f) That present land and water uses in the more populated coastal areas do not adequately accommodate the diverse requirements of the coastal zone.

"(g) That in light of competing demands and the urgent need to protect our coastal zone, the institutional framework responsible is currently diffuse in focus, neglected in importance, and inadequate in regulatory authority.

"(h) That the key to more effective use of the coastal zone is the introduction of a management system permitting conscious and informed choices among alternative uses.

"(i) That the absence of a national policy and an integrated management and planning mechanism for the coastal zone resource has contributed to the impairment of the Nation's environmental quality.

#### "DECLARATION OF POLICY

"SEC. 303. Congress finds and declares that it is the policy of Congress to preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal zone for this and succeeding generations. The Congress declares that it is necessary to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's coastal zone through the preparation and implementation of management plans and programs to achieve wise use of the coastal zone through a balance between development and protection of the natural environment. Congress declares that it is the duty and responsibility of all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate in the purposes of this Act. Further it is the policy of Congress to encourage the participation of the public and Federal, State, and local governments in the development of coastal zone management plans and programs.

#### "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Estuary' means that part of a river or stream or other body of water having unimpaired natural connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, or with the Great Lakes.

"(b) 'Coastal zone' means the land, waters, and lands beneath the waters near the coastline (including the Great Lakes) and estuaries. For purposes of identifying the objects of planning, management, and regulatory programs the coastal zone extends seaward to the outer limit of the United States territorial sea for water rights and to the depth of two-hundred meters for sea-bed rights or, to a greater depth as the Secretary may from time to time declare, and to the international boundary between the United States and Canada in the Great Lakes. Within the coastal zone as defined herein are included areas and lands influenced or affected by water such as, but not limited to, beaches, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters rivers, and channels.

"(c) 'Coastal State' means any State of the United States in or bordering on the Atlantic, Pacific, and Arctic Oceans, Gulf of Mexico, Long Island Sound, or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) 'Secretary' means the Secretary of Commerce.

#### "MANAGEMENT PLAN AND PROGRAM DEVELOPMENT

##### GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management plan and program for the land and water resources of the coastal zone. Such grants shall not exceed 5 per centum of the costs of such program development in any one year. Other Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection, the coastal State must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management plan and program consistent with the requirements set forth in section 306(c) of this title. Successive grants may be made annually for a period not to exceed two years: *Provided*, That no such grant shall be made under this subsection until the Secretary finds

that the coastal State is adequately and expeditiously developing such management plan and program.

"(b) Upon completion of the development of the coastal State's management plan and program, the coastal State shall submit such plan and program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such plan and program by the Secretary, the coastal State's eligibility for further grants under this section shall terminate, and the coastal State shall be eligible for grants under section 306 of this title.

"(c) No annual grant to a single coastal State shall be made under this section in excess of \$200,000.

"(d) With the approval of the Secretary, the coastal State may allocate to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section.

#### "ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than 50 per centum of the costs of administering the coastal State's management plan and program, if he approves such plan and program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(b) Such grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary taking into account the amount and nature of the coastline and area covered by the plan, population, and other relevant factors.

"(c) Prior to granting approval of a comprehensive management plan and program submitted by a coastal State, the Secretary shall find that:

"(1) The coastal State has developed and adopted a management plan and program for its coastal zone adequate to carry out the purposes of this title, in accordance with regulations published by the Secretary, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, public and private.

\* \* \* \* \*

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property within the coastal zone through condemnation or other means when necessary to achieve conformance with the management plan and program;

"(3) to control and develop land and facilities as may be deemed necessary to carry out the management plan and program; and

"(4) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects.

"(h) No annual administrative grant to a coastal State shall be made under this section in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section, nor shall any coastal State having in effect a plan approved by the Secretary receive less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

#### "BOND AND LOAN GUARANTIES

"SEC. 307. In addition to grants-in-aid, the Secretary is authorized under such terms and conditions as may be prescribed by the Secretary of the Treasury, to enter into agreements with coastal States to underwrite by guaranty thereof bond issues or loans for the purposes of land acquisition, or land and water development and restoration projects: *Provided*, That the aggregate principle amount of guaranteed bonds and loans outstanding at any time may not exceed \$140,000,000.

#### "REGULATIONS

"SEC. 308. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after appropriate consultation with other interested parties, both public and private, such rules and regulations as may be reasonably necessary to carry out the provisions of this title.



## "REVIEW AND PERFORMANCE

SEC. 309. (a) The Secretary shall conduct a continuing review of the comprehensive management plans and programs of the coastal States and of the performance of each coastal State.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he reasonably determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the coastal State has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program: *Provided*, That such determination shall be made only after there has been a full opportunity for hearing.

## "RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall reasonably prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

## "ADVISORY COMMITTEE

"SEC. 311. (a) The Secretary is authorized and directed to establish a coastal zone management advisory committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zones of the coastal States of the United States on a regular basis. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

"(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

## "INTERAGENCY COORDINATION AND COOPERATION

"SEC. 312. (a) The Secretary shall not approve the management plan and program submitted by the State pursuant to section 306 unless the views of Federal agencies principally affected by such plan and program have been adequately considered. In case of serious disagreement between any Federal agency and the State in the development of the plan the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(b) (1) All Federal agencies conducting or supporting activities in the coastal zone shall seek to make such activities consistent with the approved State management plan and program for the area.

"(2) Federal agencies shall not undertake any development project in a coastal zone which, in the opinion of the coastal State, is inconsistent with the management plan of such coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

"(3) Any applicant for a Federal license or permit to conduct any activity in the coastal zone subject to such license or permit, shall provide in the application to the licensing or permitting agency a certification from the appropriate State

agency that the proposed activity complies with the State coastal zone management plan and program, and that there is reasonable assurance, as determined by the State, that such activity will be conducted in a manner consistent with the State's coastal zone management plan and program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails or refuses to act on a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the Secretary to be consistent with the objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification.

"(c) State and local governments submitting applications for Federal assistance in coastal areas shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved management plan and program for the coastal zone. Such applications shall be submitted in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968. Federal agencies shall not approve proposed projects that are inconsistent with the coastal State's management plan and program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(d) Nothing in this section shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this title; nor 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.

#### "ANNUAL REPORT

"Sec. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a report on the administration of this title for the preceding Federal fiscal year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Secretary has reviewed under section 313 of this title and a summary of the final action taken by the Secretary with respect to each such project; (6) a summary of the regulations issued by the Secretary or in

effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, State, and local responsibilities and functions thereof; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be required under the National Environmental Policy Act of 1969.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

#### "APPROPRIATIONS

"SEC. 314. (a) There are authorized to be appropriated—

"(1) the sum \$2,000,000 for fiscal year 1972 and such sums as may be necessary not to exceed \$7,000,000 annually, for each of the fiscal years thereafter prior to June 30, 1976, for grants under section 305;

"(2) such sums, not to exceed \$7,000,000 as may be necessary for the fiscal year ending June 30, 1973, and each succeeding fiscal year thereafter for grants under section 306.

"(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$1,000,000 annually, as may be necessary for administrative expenses incident to the administration of this title."

#### "LENGTH OF AUTHORIZATION

"SEC. 315. (a) This authorization for exercise of authority and expenditure of funds shall expire ten years from the date that this act shall finally become effective; and

"(b) The expiration of all authority under the Act shall not, of itself, affect adversely any State agency operating under the act.

#### "SPECIAL EXCEPTION

"SEC. 316. For the purpose of excluding Federal funds from matching requirements, under this Act, any funds appropriated pursuant to a Federal revenue sharing authorization or a consolidation of existing Federal grant programs into not more than ten general purpose grant programs shall not be considered as 'other Federal revenue from other sources' as mentioned in section 305(a) of this Act and other places in this Act."

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[H.R. 2492, 92d Cong., 1st sess.]

A BILL To provide for the effective management of the Nation's coastal and estuarine areas

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering, and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203, 33 U.S.C. 1101-1124), is amended by adding at the end thereof the following new title:

### "TITLE III—COASTAL AND ESTUARINE AREA MANAGEMENT

#### "SHORT TITLE

"SEC. 301. This title may be cited as the 'Coastal and Estuarine Area Management Act'.

#### "STATEMENT OF POLICY

"SEC. 302. The Congress finds that rapidly intensifying use of coastal and estuarine areas has outrun the capabilities of Federal, State, and local machinery to plan their orderly development and to resolve conflicts. The key to more effective use of our coastal and estuarine areas is the introduction of a management system permitting conscious and informed choices among development alternatives, providing for proper planning, and encouraging recognition of the long-term

importance of maintaining the quality of these productive regions in order to insure both its enjoyment and the sound utilization of its resources. It is thereby declared to be the policy of the Congress to foster the effective utilization of coastal and estuarine areas through assistance to coastal States in their management.

“STATE PROGRAMS

“SEC. 303. (a) Subject to the limitations in section 304(a)(1), the Administrator of the National Oceanic and Atmospheric Agency (hereafter referred to in this title as the ‘Administrator’) may make grants to any coastal authority for the purpose of defraying the operating expenses incurred by such coastal authority.

“(b) The Administrator shall review any proposal for long-range planning with respect to coastal and estuarine area management, or for the implementation of such a plan, submitted to him by a coastal authority. Upon approval by him of such a proposal, the Administrator may, subject to the limitations in section 304(a)(1), make grants to such coastal authority to enable it to carry out such long-range planning or implementation, but no proposal may be approved by the Administrator unless he finds that it fulfills the objectives of this title, taking into consideration the degree to which the proposal—

“(1) identifies the coastal areas requiring concerted attention, and develops a plan for their most effective utilization;

“(2) provides machinery for the resolution of conflicts arising from multiple use;

“(3) fosters the widest possible variety of beneficial uses to maximize social return, achieving a balance between the need for conservation and for economic development;

“(4) provides for necessary enforcement powers through zoning, permits, licenses, easements, acquisition or other means to assure compliance with plans and resolve conflicts in uses;

“(5) fosters coordination with local, State, and Federal agencies, research institutions, private organizations, and other groups as appropriate to provide a focus for effective management;

“(6) provides for a continuing inventory of shoreline and estuarine resources, encourages studies, and sponsors or otherwise conducts research as a contributing link in the decisionmaking process;

“(7) provides an opportunity for all interested parties to participate in the development of any plan or program through public hearings; and

“(8) takes into account the rights and interests of other States and respects Federal rights and international agreements.

“(c) Subject to the limitations contained in section 304(b), the Administrator is authorized—

“(1) to enter into agreement with any coastal State to underwrite, by guarantee, bonds issued, or loans obtained, by such State for land acquisition, water development, or restoration projects undertaken by such State in connection with the implementation of a coastal or estuarine area management plan, and

“(2) to make payments to any coastal State to enable such State to meet the amortization charges, or loan interest, incurred by it with respect to bonds or loans guaranteed by the United States under paragraph (1).

“ADMINISTRATION

“SEC. 304. (a) (1) The Administrator is authorized to make grants under subsection (a) or (b) of section 303 from sums appropriated to carry out such subsections, subject to the following limitations:

“(A) Sums so appropriated to carry out each of such subsections shall be allotted from time to time among participating coastal States in accordance with regulations prescribed by him and with the objectives of this title based on—

“(i) the populations of such States,

“(ii) the size of the coastal or estuarine areas, and

“(iii) the respective financial needs of such States.

“(B) Grants made under section 303(a) to a coastal authority may not be made to defray any operating expenses other than those incurred by such

coastal authority during the initial two-year period of its operation and may not cover more than 50 per centum of the cost of such expenses incurred during that period.

“(C) Grants made under section 303(b) to a coastal authority may not cover more than 50 per centum of the total cost incurred by such coastal authority with respect to long-range planning and the implementation of such planning.

“(2) For the purposes of subparagraph (1)(A), the populations of the States shall be determined on the basis of the latest estimates available from the Department of Commerce, and the size of the coastal or estuarine areas shall be determined on the basis of the official records of the United States Geological Survey.

“(b) (1) Any agreement entered into by the Administrator under section 303(c) (1) with respect to the Federal guarantee of the obligations of a coastal State shall be subject to such conditions and limitations as he deems necessary to protect the interest of the United States. The interest on any obligation which is secured in whole or in part by an agreement entered into by the Administrator under section 303(c) (1) is not exempt from Federal taxation.

“(2) Payments made by the Administrator to any coastal State under section 303(c) (2) for amortization charges or loan interest with respect to any obligation of such State may not be made for a period exceeding five years, and may not exceed 25 per centum of the total charges or interest incurred by such State with respect to such obligation.

“(c) The Administrator shall prescribe such regulations, establish such requirements and procedures, and make such arrangements as may be necessary to carry out the purposes of this title. In the administration of this title, the Administrator shall take such action as may be necessary in order to assure—

“(1) the coordination of this title with related Federal assistance programs, including the Water Resources Planning Act, Federal Aid in Wildlife Restoration Act, the Land and Water Conservation Fund Act of 1965, the Commercial Fisheries Research and Development Act of 1964, National Sea Grant College and Program Act of 1966, and the Housing Act of 1954, and

“(2) the appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this title.

#### “REVIEW

“SEC. 305. Whenever the Administrator, after reasonable notice and opportunity for hearing, finds that—

“(1) a proposal submitted by a coastal authority and approved under section 303(b) of this title has been so changed that it no longer complies with the requirements or the objectives of this title, or

“(2) in the administration of such a proposal there is a failure to comply substantially with such a requirement, the Administrator shall notify such coastal authority that no further payments will be made under this title until the deficiency is corrected.

#### “DEFINITIONS

“SEC. 306. For purposes of this title—

“(1) The term ‘estuarine area’ means an environmental system including the estuary and its transitional areas. Transitional areas include areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, and channels.

“(2) The term ‘estuary’ means all or part of the mouth of a navigable or interstate river or stream or other body of water including, but not limited to, a bay, sound, and channel, having unimpaired natural connection with the open sea and within which sea water is measurably diluted with fresh water derived from land areas.

“(3) The term ‘coastal area’ means the lands, waters, and lands beneath the waters in close proximity to the coastline (including Great Lakes) and strongly influenced by each other.

“(4) The term ‘coastal authority’ means any governmental entity, groups or portions of such entities, established or identified by a coastal State with a broad interest in the development of coastal areas within its jurisdiction. Coastal States

may jointly designate an interstate agency of which they are a member, including a river basin commission, to serve as a coastal authority, in which case such an authority shall be subject to the same provisions as an intrastate authority for the purposes of this title; except that allotments made under section 303 (a) (1) (A) may, with respect to such an authority, be of any amount not exceeding the sum of the allotments of its member States.

"(5) The term 'coastal State' means any of the several States which include coastal or estuarine areas within their boundaries, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

#### "EFFECT ON EXISTING LAWS

"SEC. 307. Nothing in this title shall be construed—

"(1) to expand or diminish either Federal or State jurisdiction responsibility, or rights in the field of water resources planning, development, or control; or 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 and the Federal Government; or to limit the authority of Congress to authorize and fund projects; or

"(2) to supersede, modify, or repeal existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this title.

#### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 308. (a) There is hereby authorized to be appropriated not to exceed \$5,000,000 annually to carry out the provisions of subsections (a) and (b) of section 303 of this title, of which not more than \$ \_\_\_\_\_ annually may be used for making grants under such subsection (a).

"(b) There is hereby authorized to be appropriated not to exceed \$2,000,000 annually to carry out the provisions of section 303(c) of this title."

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[H.R. 2493, 92d Cong., 1st sess.]

A BILL To assist the States in establishing coastal and estuarine zone management plans and programs

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved October 15, 1966, as amended (16 U.S.C. 1121 et seq.), is amended by adding at the end thereof the following new titles:

"TITLE III—PLANNING AND MANAGEMENT OF THE COASTAL AND ESTUARINE ZONE

#### "SHORT TITLE

"SEC. 301. This title may be cited as the 'National Coastal and Estuarine Zone Management Act of 1971'.

#### "CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds—

"(a) That the well-being of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment.

"(b) That there is a national interest in the effective management, beneficial use, protection, and development of the Nation's coastal and estuarine zone.

"(c) That the coastal and estuarine zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of our Nation.

"(d) That the increasing and competing demands upon the lands and waters of our coastal and estuarine zone occasioned by population growth and economic

development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

"(e) That the coastal and estuarine zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

"(f) That present land and water uses in the more populated coastal areas do not adequately accommodate the diverse requirements of the coastal and estuarine zone.

"(g) That in light of competing demands and the urgent need to protect our coastal and estuarine zone, the institutional framework responsible is currently diffuse in focus, neglected in importance, and inadequate in regulatory authority.

"(h) That the key to more effective use of the coastal and estuarine zone is the introduction of a management system permitting conscious and informed choices among alternative uses.

"(i) That the absence of a national policy and an integrated management and planning mechanism for the coastal and estuarine zone resource has contributed to the impairment of the Nation's environmental quality.

#### "DECLARATION OF POLICY

"SEC. 303. Congress finds and declares that it is the policy of Congress to preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal and estuarine zone for this and succeeding generations. The Congress declares that it is necessary to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's coastal and estuarine zone through the preparation and implementation of management plans and programs to achieve wise use of the coastal and estuarine zone through a balance between development and protection of the natural environment. Congress declares that it is the duty and responsibility of all Federal agencies engaged in programs affecting the coastal and estuarine zone to cooperate and participate in the purposes of this Act. Further, it is the policy of Congress to encourage the participation of the public and Federal, State, and local governments in the development of coastal and estuarine zone management plans and programs.

#### "DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Estuary' means that part of a river or stream or other body of water having unimpaired natural connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, or with the Great Lakes.

"(b) 'Coastal and estuarine zone' means the land, waters, and lands beneath the waters near the coastline (including the Great Lakes) and estuaries. For purposes of identifying the objects of planning, management, and regulatory programs the coastal and estuarine zone extends seaward to the outer limit of the United States territorial sea, and to the international boundary between the United States and Canada in the Great Lakes. Within the coastal and estuarine zone as defined herein are included areas and lands influenced or affected by water such as, but not limited to, beaches, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, in-shore waters, rivers, and channels.

"(c) 'Coastal State' means any State of the United States in or bordering on the Atlantic, Pacific, and Arctic Oceans, gulf coast, Long Island Sound, or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) 'Secretary' means the Secretary of Commerce.

"(e) 'Estuarine sanctuary' is a research area, which may include waters, lands beneath such waters, and adjacent uplands, within the coastal and estuarine zone, and constituting to the extent feasible a natural unit, set aside to provide scientists the opportunity to examine over a period of time the ecological relationships within estuaries.

## "MANAGEMENT PLAN AND PROGRAM DEVELOPMENT GRANTS

"Sec. 306. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management plan and program for the land and water resources of the coastal and estuarine zone. Such grants shall not exceed  $66\frac{2}{3}$  per centum of the costs of such program development in any one year. Other Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection, the coastal State must demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management plan and program consistent with the requirements set forth in section 306(c) of this title. Successive grants may be made annually for a period not to exceed two years: *Provided*, That no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

"(b) Upon completion of the development of the coastal State's management plan and program, the coastal State shall submit such plan and program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such plan and program by the Secretary, the coastal State's eligibility for further grants under this section shall terminate, and the coastal State shall be eligible for grants under section 306 of this title.

"(c) No annual grant to a single coastal State shall be made under this section in excess of \$600,000.

"(d) With the approval of the Secretary, the coastal State may allocate to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section.

## "ADMINISTRATIVE GRANTS

"Sec. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than  $66\frac{2}{3}$  per centum of the costs of administering the coastal State's management plan and program, if he approves such plan and program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(b) Such grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary.

"(c) Prior to granting approval of a comprehensive management plan and program submitted by a coastal State, the Secretary shall find that:

"(1) The coastal State has developed and adopted a management plan and program for its coastal and estuarine zone adequate to carry out the purposes of this title, in accordance with regulations published by the Secretary, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, public and private.

"(2) The coastal State has made provision for public notice and held public hearings in the development of the management plan and program. All required public hearings under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

"(3) The management plan and program and change thereto have been reviewed and approved by the Governor.

"(4) The Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management plan and program set forth in paragraph (1) of this subsection.

"(5) The coastal State is organized to implement the management plan set forth in paragraph (1) of this subsection.

"(6) The coastal State has the regulatory authorities necessary to implement the plan and program, including the authority set forth in subsection (g) of this section.

"(7) The management plan and program is consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended.

"(d) With the approval of the Secretary, a coastal State may allocate to an interstate agency a portion of the grant under this section for the purpose of



carrying out the provisions of this section, provided such interstate agency has the authority otherwise required of the coastal State under subsection (c) of this section, if delegated by the coastal State for purposes of carrying out specific projects under this section.

"(e) The coastal State shall be authorized to amend the management plan and program at any time that it determines the conditions which existed or were foreseen at the time of the formulation of the management plan and program have changed so as to justify modification of the plan and program. Such modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the coastal State's management plan and program must be approved by the Secretary before additional administrative grants are made to the coastal State under the plan and program as amended

"(f) At the discretion of the coastal State and with the approval of the Secretary, a management plan and program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need comprehensive management plans and programs: *Provided*, That the coastal State adequately allows for the ultimate coordination of the various segments of the management plan into a single unified plan and program and that such unified plan and program will be completed as soon as is reasonably practicable, and in no event more than three years from inception

"(g) Prior to granting approval of the management plan and program, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments), has authority for the management of the coastal and estuarine zone in accordance with the management plan and program and such authority shall include power—

"(1) to administer land and water use regulations, control public and private development of the coastal and estuarine zone in order to assure compliance with the management plan and program, and to resolve conflicts among competing uses;

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property within the coastal and estuarine zone through condemnation or other means when necessary to achieve conformance with the management plan and program;

"(3) to develop land and facilities and to operate such public facilities as beaches, marinas, and other waterfront developments, as may be required to carry out the management plan and program;

"(4) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects; and

"(5) to exercise such other functions as the Secretary determines are necessary to enable the orderly development of the coastal and estuarine zone in accordance with the management plan and program.

"(h) Prior to granting approval, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments), has authority to review all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer to determine whether such plans, projects, or regulations are consistent with the principles and standards set forth in the management plan and program and to reject a development plan, project, or regulation which fails to comply with such principles and standards: *Provided*, That such determination shall be made only after there has been a full opportunity for hearings.

"(i) No annual administrative grant to a coastal State shall be made under this section in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

#### "BOND AND LOAN GUARANTIES

"SEC. 307. In addition to grants-in-aid, the Secretary is authorized under such terms and conditions as he may prescribe, to enter into agreements with coastal States to underwrite by guaranty thereof bond issues or loans for the purposes of land acquisition, or land and water development and restoration projects:

*Provided*, That the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140,000,000.

“REGULATIONS

“SEC. 308. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after appropriate consultation with other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

“REVIEW OF PERFORMANCE

“SEC. 309. (a) The Secretary shall conduct a continuing review of the comprehensive management plans and programs of the coastal States and of the performance of each coastal State.

“(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the coastal State has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

“RECORDS

“SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

“(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

”ADVISORY COMMITTEE

“SEC. 311. (a) The Secretary is authorized and directed to establish a coastal and estuarine zone management advisory committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal and estuarine zones of the coastal States of the United States. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

“(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

“ESTUARINE SANCTUARIES

“SEC. 312. The Secretary, in accordance with his regulations, is authorized to make available to a coastal State grants up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make long-term studies of the natural and human processes occurring within the estuaries of the coastal and estuarine zone. The number of estuarine sanctuaries provided for under this section shall not exceed fifteen, and the Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 306 shall be used for the purpose of this section.

## "INTERAGENCY COORDINATION AND COOPERATION

"Sec. 313. (a) The Secretary shall not approve the management plan and program submitted by the State pursuant to section 306 unless the views of Federal

agencies principally affected by such plan and program have been adequately considered. In case of serious disagreement between any Federal agency and the State in the development of the plan the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(b) (1) All Federal agencies conducting or supporting activities in the coastal and estuarine zone shall seek to make such activities consistent with the approved State management plan and program for the area.

"(2) Federal agencies shall not undertake any development project in a coastal and estuarine zone which, in the opinion of the coastal State, is inconsistent with the management plan of such coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

"(3) Any applicant for a Federal license or permit to conduct any activity in the coastal and estuarine zone subject to such license or permit, shall provide in the application to the licensing or permitting agency a certification from the appropriate State agency that the proposed activity complies with the State coastal and estuarine zone management plan and program, and that there is reasonable assurance, as determined by the State, that such activity will be conducted in a manner consistent with the State's coastal and estuarine zone management plan and program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails or refuses to act on a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the Secretary to be consistent with the objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification.

"(c) State and local governments submitting applications for Federal assistance in coastal and estuarine areas shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved management plan and program for the coastal and estuarine zone. Such applications shall be submitted in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968. Federal agencies shall not approve proposed projects that are inconsistent with the coastal State's management plan and program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(d) Nothing in this section shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions

of this title; nor 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.

“ANNUAL REPORT

“Sec. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a report on the administration of this title for the preceding Federal fiscal year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Secretary has reviewed under section 313 of this title and a summary of the final action taken by the Secretary with respect to each such project; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal and estuarine zones including identification and discussion of Federal, regional, State, and local responsibilities and functions thereof; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be required under the National Environmental Policy Act of 1969.

“(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

“APPROPRIATIONS

“Sec. 314. (a) There are authorized to be appropriated—

“(1) the sum of \$12,000,000 for fiscal year 1972 and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1976, for grants under section 305;

“(2) such sums, not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for grants under section 306;

“(3) such sums, not to exceed \$6,000,000 for fiscal year 1972; \$6,000,000 for fiscal year 1973; \$6,000,000 for fiscal year 1974; \$6,000,000 for fiscal year 1975; and \$6,000,000 for fiscal year 1976 as may be necessary for grants under section 312; and

“(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$3,000,000 annually, as may be necessary for administrative expenses incident to the administration of this title.”

Amend the title so as to read: “A bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.”

[H.R. 3615, 92d Cong., 1st sess.]

A BILL To amend the Act of August 3, 1968, relating to the protection and restoration of estuarine areas, to provide for the establishment of a national policy and comprehensive national program for the conservation, management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled “An Act to authorize the Secretary of the Interior, in cooperation with the States, to conduct an inventory and study of the Nation's estuaries and heir natural*

resources, and for other purposes", approved August 3, 1968 (16 U.S.C. 1221), is amended by striking out "That Congress finds" immediately after the enacting clause and inserting in lieu thereof the following:

"TITLE I—PROTECTION AND RESTORATION OF ESTUARINE AREAS

"SECTION 1. The Congress finds".

SEC. 2. Such Act of August 3, 1968 (16 U.S.C. 1221-1226), is amended by adding at the end thereof the following new title:

"TITLE II—MANAGEMENT OF THE NATIONAL  
ESTUARINE AND COASTAL ZONE

"SEC. 201. This title may be cited as the 'National Estuarine and Coastal Zone Management Act of 1971'.

SEC. 202. (a) DEFINITIONS.—

"For the purposes of this title—

"(1) 'Estuary' means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

"(2) 'Coastal zone' means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other. For purposes of identifying the objects of planning, management, and regulatory programs, the coastal zone extends seaward to a depth of two hundred meters or beyond that limit to where the depth of the superjacent waters admits of the exploitation of the natural resources of the submarine areas and to similar submarine areas adjacent to islands. Within the coastal zone as defined in this paragraph are included areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, and channels.

"(3) 'Coastal State' means any State of the United States bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes the Commonwealth of Puerto Rico and the Virgin Islands.

"(4) 'Secretary' means the Secretary of the Interior.

(b) CONGRESSIONAL FINDINGS ; DECLARATION OF POLICY.—

"(1) As a result of a comprehensive study carried out pursuant to section 2(a) of title I of this Act and the information derived therefrom with respect to estuaries and the coastal zone as to (A) their wildlife and recreational potential, their ecology, their value to the marine, anadromous, and shell fisheries and their value, (B) their importance to navigation, their value for flood, hurricane, and erosion control, their mineral value, and the value of submerged land underlying the waters of the estuaries, (C) the value of such areas for more intensive development for economic use for commercial and industrial developments, and (D) the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on navigation, flood control, recreation, water supply and water power, and on other beneficial purposes, the Congress finds and declares that it is necessary to establish a national policy to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's estuarine and coastal zones through development and implementation of comprehensive management programs to achieve effective use of the coastal zone through a balance between development and protection of the natural environment.

"(2) Congress hereby finds that there is a national interest in the effective management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone for the following reasons:

"(A) The pressures of population growth and economic development, including requirements for industrial, commercial, residential development, recreation, exploitation of mineral resources, and fossil fuels, transportation and other navigation, waste disposal, and exploitation of fish and other living marine resources, impose an increasing number of conflicting demands upon the finite resources of the coastal zone.

"(B) Estuaries, marshlands, and other parts of the coastal zone contain extremely valuable habitat for fish and wildlife which move beyond State boundaries; such areas are vital to the life support of a major part of the Nation's

commercial and sport fisheries harvest; such areas, particularly the estuaries, constitute ecological systems which are susceptible to destruction and disruption by man.

"(C) Continued unplanned or uncoordinated development activities in the coastal zone pose an immediate threat of irreversible harm to the coastal zone and its resources and a loss of the benefits it offers.

"(D) The coastal zone is a valuable area for multiple economic, recreational, conservation, and resource uses.

"(E) The interest in the coastal zone extends to the citizens of all the States, and is not limited to the citizens in the coastal States.

(c) PROGRAM DEVELOPMENT GRANTS.—

"(1) The Secretary is authorized to make grants to any coastal State for the purpose of assisting in the development of a comprehensive management program for the land and water resources of the coastal zone. Such grants shall not exceed 50 per centum of the costs of such program development. Other Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection, the coastal State must demonstrate to the satisfaction of the Secretary that such grants will be used to develop a comprehensive management program consistent with the requirements set forth in subsection (d) (3) of this section. Successive grants may be made annually: *Provided, however*, That no subsequent annual grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such a comprehensive management program. Upon completion of the development of the coastal State's comprehensive management program, the coastal State shall submit such program to the Secretary for review.

"(2) No annual grant to a single coastal State shall be made under this subsection in excess of \$1,000,000.

"(d) OPERATING GRANTS.—

"(1) The Secretary is authorized to make annual grants to such coastal State for not more than 50 per centum of the costs of administering such program if he approves a coastal State's management program, in accordance with paragraph (3) of this subsection. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(2) Such grants shall be allotted to the States with approved programs based on regulations of the Secretary, which shall take into account the amount and nature of the coastline and area covered by the plan, population, and other relevant factors.

"(3) Prior to granting approval of a comprehensive management program submitted by a coastal State, the Secretary shall find that—

"(A) the Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management plan set forth in subparagraph (D) of this subsection and the management plan and changes thereto have been reviewed and approved by the Governor;

"(B) the coastal State is organized to implement the management plan set forth in subparagraph (D) of this subsection;

"(C) the agency or agencies responsible for implementing such management plan have vested in them the regulatory authorities necessary to implement the plan, including but not limited to, permit authority, authority to acquire interests in real property through the power of eminent domain and zoning authority, or authority to require local zoning to conform with the State management plan;

"(D) the coastal State has developed and adopted a management plan in cooperation with relevant Federal agencies, State agencies, local governments and all other interests for its coastal zone adequate to carry out the purposes of this section and containing the following provisions:

"(i) an identification of the boundaries of the portions of the coastal State subject to the management plan;

"(ii) an identification and recognition of the national, State, and local interests in the preservation conservation, use, and development of the coastal zone;

"(iii) a feasible land and water use plan, consistent with applicable water quality standards, within specific sections of the coastal zone reasonably reflecting the needs of industry, transportation, recreation,

fisheries, wildlife, natural area protection (including conservation), and residential development and other public and private needs (including protection of the environment), taking into account both short-term and long-term requirements;

"(iv) a description of the coastal State's current and planned programs for management of its coastal zone consistent with the management plan;

"(v) an identification and description of the means by which the management plan and other resource use and management plans at the Federal, State, and local levels in which the coastal State is represented or is a participant concerning use, conservation, and management of the coastal zone will be coordinated, including the relationship of the management plan to State, interstate, and regional comprehensive planning as appropriate;

"(vi) procedures for adequate review of State and local and private projects for consistency with the management plan;

"(vii) procedures for furnishing advice as to whether Federal and federally assisted projects are consistent with the management plan;

"(viii) procedures for modification and change of the management plan, including public notice and hearing;

"(ix) procedures for regular review and updating of the management plan;

"(x) adequate provisions for disseminating information concerning the management plan and any subsequent modifications or changes therein; and

"(xi) provision for conducting, fostering, or utilizing relevant research.

"(E) the coastal State has provided for adequate public notice and public hearings in the development of the management plan.

"(4) Grants under this subsection shall be subject to the following limitations:

"(A) no annual grant to a single coastal State shall be made under this section in excess of \$1,000,000; and

"(B) no grant funds shall be used for the acquisition of real property.

"(5) With the approval of the Secretary, the Governor of a coastal State may allocate to an interstate agency a portion of the grant under subsections (c) and (d) of this section for the purpose of carrying out the provisions of such subsections provided such interstate agency has the authority to meet the applicable provisions of subsection (d) (3) of this section otherwise required of the coastal State.

"(e) REVIEW OF PERFORMANCE.—

"(1) The Secretary shall conduct an annual review of the comprehensive management programs of the coastal States and of the performance of each coastal State.

"(2) The Secretary shall have the authority to terminate any financial assistance extended under subsection (d) of this section and to withdraw any unexpended portion of such assistance if: (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the coastal State has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

"(f) (1) ADVISORY COMMITTEES FOR MANAGEMENT OF THE CANAL ZONE.—The Secretary is authorized to establish in the Department of the Interior advisory committees to consult with and make recommendations to the Secretary on matters of policy concerning the coastal zone. Any such committee shall be composed of persons designated by the Secretary and shall perform such functions and operate in such manner as the Secretary may direct.

"(2) Members of such advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including travel-time may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

“(g) INTERAGENCY COORDINATION AND COOPERATION.—

“(1) The Secretary shall not approve the plan submitted by the State pursuant to subsection (d) until he has solicited the views of Federal agencies principally affected by such plan in accordance with the provisions of section 102 of the National Environmental Policy Act of 1969. In case of serious disagreement between any Federal agency and the State in the development of the plan the Secretary shall seek to mediate the differences.

“(2) All Federal agencies conducting or supporting activities in the coastal area shall seek to make such activities consistent with the approved plan for the area. States and local governments submitting applications for Federal assistance in coastal areas shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved plan for the coastal area. Federal agencies shall not approve proposed projects that are inconsistent with the plan without making investigation and finding that the proposal is, on balance, sound. The Secretary shall be advised by the heads of other agencies of such problems and be provided an opportunity to participate in any investigation.

“(h) Nothing in this section shall be construed—

“(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

“(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this section;

“(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this section; nor to affect the jurisdiction, powers, or prerogative of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity of 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;

“(i) MISCELLANEOUS.—

“(1) The Secretary shall develop, after appropriate consultation with other interested parties, both Federal and non-Federal, such rules and regulations covering the submission and review of applications for grants authorized by subsection (c) and (d) as may be necessary to carry out the provisions of this section.

“(2) A coastal State receiving a grant under the provisions of subsections (c) and (d) of this section, the agency designated by the Governor to administer such grant, and an interstate agency allocated a portion of a grant under the provisions of subsection (d) shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved management program as the Secretary may require, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

“(3) The Secretary, the head of another Federal agency concerned, 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 grant recipient that are pertinent to the grant received under the provisions of subsections (c) and (d) of this section.

“(j) COMPREHENSIVE FEDERAL PLAN FOR PORTION OF COASTAL ZONE BEYOND TERRITORIAL SEA.—

“The Secretary shall develop, after appropriate consultation with other interested parties, both Federal and non-Federal, a comprehensive management plan for development of all resources of this portion of a coastal zone beyond the territorial sea for the benefit of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the preservation of the environment. Such plan shall include provisions for the exploitation of fish and



other living marine resources, mineral resources, and fossil fuels.

“(k) APPROPRIATIONS.—

“(1) There are authorized to be appropriated—

“(A) such sums as may be necessary for the fiscal years 1972 through 1976 for grants under subsection (c) of this section; and

“(B) such sums as may be necessary for the fiscal year 1972 and for each succeeding fiscal year thereafter for grants under subsection (d) of this section.

“(2) There are also authorized to be appropriated to the Secretary such sums as may be necessary to carry out the remaining provisions of this title.

[H.R. 9229, 92d Cong., 1st sess.]

A BILL To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled “An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering Resources, and for other purposes”, approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new titles:

“TITLE III—PLANNING AND MANAGEMENT OF THE COASTAL AND ESTUARINE ZONE

“SHORT TITLE

“SEC. 301. This title may be cited as the ‘National Coastal and Estuarine Zone Management Act of 1971’.

“CONGRESSIONAL FINDINGS

“SEC. 302. The Congress finds—

“(a) That the well-being of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment.

“(b) That there is a national interest in the effective management, beneficial use, protection, and development of the Nation's coastal and estuarine zone.

“(c) That the coastal and estuarine zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of our Nation.

“(d) That the increasing and competing demands upon the lands and waters of our coastal and estuarine zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

“(e) That the coastal and estuarine zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

“(f) That present land and water uses in the more populated coastal areas do not adequately accommodate the diverse requirements of the coastal and estuarine zone.

“(g) That in light of competing demands and the urgent need to protect our coastal and estuarine zone, the institutional framework responsible is currently diffuse in focus, neglected in importance, and inadequate in regulatory authority.

“(h) That the key to more effective use of the coastal and estuarine zone is the introduction of a management system permitting conscious and informed choices among alternative uses.

“(i) That the absence of a national policy and an integrated management and planning mechanism for the coastal and estuarine zone resource has contributed to the impairment of the Nation's environmental quality.

## "DECLARATION OF POLICY

"Sec. 303. Congress finds and declares that it is the policy of Congress to preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal and estuarine zone for this and succeeding generations. The Congress declares that it is necessary to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's coastal and estuarine zone through the preparation and implementation of management plans and programs to achieve wise use of the coastal and estuarine zone through a balance between development and protection of the natural environment. Congress declares that it is the duty and responsibility of all Federal agencies engaged in programs affecting the coastal and estuarine zone to cooperate and participate in the purposes of this Act. Further, it is the policy of Congress to encourage the participation of the public and Federal, State, and local governments in the development of coastal and estuarine zone management plans and programs.

## "DEFINITIONS

"Sec. 304. For the purposes of this title—

"(a) 'Estuary' means that part of a river or stream or other body of water having unimpaired natural connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, or with the Great Lakes.

"(b) 'Coastal and estuarine zone' means the land, waters, and lands beneath the waters near the coastline (including the Great Lakes) and estuaries. For purposes of identifying the objects of planning, management, and regulatory programs the coastal and estuarine zone extends seaward to the outer limit of the United States territorial sea, and to the international boundary between the United States and Canada in the Great Lakes. Within the coastal estuarine zone as defined herein are included areas and lands influenced or affected by water such as, but not limited to, beaches, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, in-shore waters, rivers, and channels.

"(c) 'Coastal State' means any State of the United States in or bordering on the Atlantic Pacific, and Arctic Oceans, Gulf of Mexico, Long Island Sound, or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Secretary' means the Secretary of Commerce.

"(e) 'Estuarine sanctuary' is a research area, which may include waters, lands beneath such waters, and adjacent uplands, within the coastal and estuarine zone, and constituting to the extent feasible a natural unit, set aside to provide scientists the opportunity to examine over a period of time the ecological relationships within estuaries.

## "MANAGEMENT PLAN AND PROGRAM DEVELOPMENT GRANTS

"Sec. 305. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management plan and program for the land and water resources of the coastal and estuarine zone. Such grants shall not exceed 66⅔ per centum of the costs of such program development in any one year. Other Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection the coastal State must demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management plan and program consistent with the requirements set forth in section 306(c) of this title. Successive grants may be made annually for a period not to exceed two years: *Provided*, That no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

"(b) Upon completion of the development of the coastal State's management plan and program, the coastal State shall submit such plan and program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such plan and program by the Secretary, the coastal State's eligibility for further grants under this section shall terminate, and the coastal State shall be eligible for grants under section 306 of this title.

"(c) No annual grant to a single coastal State shall be made under this section in excess of \$600,000.

"(d) With the approval of the Secretary, the coastal State may allocate to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section.

#### "ADMINISTRATIVE GRANTS

"Sec. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the coastal State's management plan and program, if he approves such plan and program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(b) Such grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary, which shall take into account the amount and nature of the coastline and area covered by the plan, population, and other relevant factors.

"(c) Prior to granting approval of a comprehensive management plan and program submitted by a coastal State, the Secretary shall find that:

"(1) The coastal State has developed and adopted a management plan and program for its coastal and estuarine zone adequate to carry out the purposes of this title, in accordance with regulations published by the Secretary, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, public and private.

"(2) The coastal State has made provision for public notice and held public hearings in the development of the management plan and program. All required public hearings under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

"(3) The management plan and program and changes thereto have been reviewed and approved by the Governor.

"(4) The Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management plan and program set forth in paragraph (1) of this subsection.

"(5) The coastal State is organized to implement the management plan set forth in paragraph (1) of this subsection.

"(6) The coastal State has the regulatory authorities necessary to implement the plan and program, including the authority set forth in subsection (g) of this section.

"(7) The management plan and program is consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended.

"(8) The management plan and program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

"(d) With the approval of the Secretary, a coastal State may allocate to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section, provided such interstate agency has the authority otherwise required of the coastal State under subsection (c) of this section, if delegated by the coastal State for purposes of carrying out specific projects under this section.

"(e) The coastal State shall be authorized to amend the management plan and program at any time that it determines the conditions which existed or were foreseen at the time of the formulation of the management plan and program have changed so as to justify modification of the plan and program. Such modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the coastal State's management plan and program must be approved by the Secretary before additional administrative grants are made to the coastal State under the plan and program as amended.

"(f) At the discretion of the coastal State and with the approval of the Secretary, a management plan and program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal and estuarine zone which most urgently need comprehensive management plans and programs: *Provided*, That the coastal State adequately allows for the ultimate coordination of the various segments of the management plan into a single unified plan and program and that such unified plan and program will be completed as soon as is reasonably practicable, and in no event more than three years from inception.

"(g) Prior to granting approval of the management plan and program, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments), has authority for the management of the coastal and estuarine zone in accordance with the management plan and program and such authority shall include power—

"(1) to administer land and water use regulations, control public and private development of the coastal and estuarine zone in order to assure compliance with the management plan and program, and to resolve conflicts among competing uses;

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property within the coastal and estuarine zone through condemnation or other means when necessary to achieve conformance with the management plan and program;

"(3) to develop land and facilities and to operate such public facilities as beaches, marinas, and other waterfront developments, as may be required to carry out the management plan and program;

"(4) to borrow money and issue bonds for the purpose of land acquisition or land and water development and restoration projects; and

"(5) to exercise such other functions as the Secretary determines are necessary to enable the orderly development of the coastal and estuarine zone in accordance with the management plan and program.

"(h) Prior to granting approval, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments), has authority to review all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer to determine whether such plans, projects, or regulations are consistent with the principles and standards set forth in the management plan and program and to reject a development plan, project, or regulation which fails to comply with such principles and standards: *Provided*, That such determination shall be made only after there has been a full opportunity for hearings.

"(i) No annual administrative grant to a coastal State shall be made under this section in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

#### "INTERAGENCY COORDINATION AND COOPERATION

"SEC. 307. (a) The Secretary shall not approve the management plan and program submitted by the State pursuant to section 306 unless the views of Federal agencies principally affected by such plan and program have been adequately considered. In case of serious disagreement between any Federal agency and the State in the development of the plan the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(b) (1) All Federal agencies conducting or supporting activities in the coastal and estuarine zone shall seek to make such activities with the approved State management plan and program for the area.

"(2) Federal agencies shall not undertake any development project in a coastal and estuarine zone which, in the opinion of the coastal State, is inconsistent with the management plan of such coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

"(3) Any applicant for a Federal license or permit to conduct any activity in the coastal and estuarine zone subject to such license or permit, shall provide in the application to the licensing or permitting agency a certification from the ap-

appropriate State agency that the proposed activity complies with the State coastal and estuarine zone management plan and program, and that there is reasonable assurance, as determined by the State, that such activity will be conducted in a manner consistent with the State's coastal and estuarine zone management plan and program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails or refuses to act on a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the Secretary to be consistent with the objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification.

"(c) State and local governments submitting applications for Federal assistance in coastal and estuarine areas shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved management plan and program for the coastal and estuarine zone. Such applications shall be submitted in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968. Federal agencies shall not approve proposed projects that are inconsistent with the coastal State's management plan and program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(d) Nothing in this section shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this title; nor 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.

#### "REVIEW OF PERFORMANCE

"SEC. 308. (a) The Secretary shall conduct a continuing review of the comprehensive management plans and programs of the coastal States and of the performance of each coastal State.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the coastal State has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

#### "RECORDS

"SEC. 309. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost

of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

“(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

#### “BOND AND LOAN GUARANTEES

“Sec. 310. In addition to grants-in-aid, the Secretary is authorized under such terms and conditions as he may prescribe, to enter into agreements with coastal States to underwrite by guaranty thereof bond issues or loans for the purposes of land acquisition, or land and water development and restoration projects: *Provided*, That the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140,000,000.

#### “ADVISORY COMMITTEE

“Sec. 311. (a) The Secretary is authorized and directed to establish a coastal and estuarine zone management advisory committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal and estuarine zones of the coastal States of the United States. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

“(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

#### “ESTUARINE SANCTUARIES

“Sec. 312. (a) The Secretary, in accordance with his regulations, is authorized to make available to a coastal State grants up to 50 percentum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make long-term studies of the natural and human processes occurring within the estuaries of the coastal and estuarine zone. The number of estuarine sanctuaries provided for under this section shall not exceed fifteen, and the Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 306 shall be used for the purpose of this section.

“(b) When an estuarine sanctuary is established by a coastal State, for the purpose envisioned in subsection (a), whether or not Federal funds have been made available for a part of the costs of acquisition, development, and operation, the Secretary, at the request of the coastal State concerned, and after consultation with interested Federal departments and agencies and other interested parties, may extend the established estuarine sanctuary seaward beyond the coastal and estuarine zone, to the extent necessary to effectuate the purposes for which the estuarine sanctuary was established.

“(c) The Secretary shall issue necessary and reasonable regulations related to any such estuarine sanctuary extension to assure that the development and operation thereof is coordinated with the development and operation of the estuarine sanctuary of which it forms an extension.

#### “COMPREHENSIVE FEDERAL PLAN FOR THE CONTIGUOUS ZONE OF THE UNITED STATES

“Sec. 313. (a) The Secretary shall develop, in coordination with the Secretary of the Interior, and after appropriate consultation with the Secretary of Defense, the Secretary of Transportation, and other interested parties, Federal and non-Federal, governmental and nongovernmental, a comprehensive plan for the management of the resources of the high seas outside the coastal and estuarine zone and within twelve miles of the baseline from which the breadth

of the territorial sea is measured. The plan shall be developed for the benefits of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the protection of the environment and shall include, but not be limited to provisions for the development, conservation, and utilization of fish and other living marine resources, mineral resources, and fossil fuels, the development of aquaculture, the promotion of recreational opportunities, and the coordination of research.

"(b) To the extent that any part of the comprehensive plan, developed pursuant to this section, shall apply to any high seas area, the subjacent seabed and subsoil of which lies within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat 29), the plan shall be coordinated with the coastal State involved.

#### "ANNUAL REPORT

"SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a report on the administration of this title for the preceding Federal fiscal year. Such report shall include but not be restricted to (1) an identification of the State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the States participating in the provisions of this title and a description of the status of each State's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Secretary has reviewed under section 307 of this title and a summary of the final action taken by the Secretary with respect to each such project; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal and estuarine zones including identification and discussion of Federal, regional, State, and local responsibilities and functions thereof; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be required under the National Environmental Policy Act of 1969.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

#### "REGULATIONS

"SEC. 315. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after appropriate consultation with other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

"SEC. 316. (a) Whoever violates any regulation issued pursuant to this title shall be liable to a civil penalty of not more than \$50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(b) No penalty shall be assessed under this section until the person charged shall have been given notice and an opportunity to be heard. Upon failure of the offending party to pay the assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect such penalty and to seek other relief as may be appropriate.

"(c) A vessel used in the violation of any regulation issued pursuant to this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(d) The district courts of the United States shall have jurisdiction to restrain violations of the regulations issued pursuant to this title. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

## "APPROPRIATIONS

"SEC. 317. (a) There are authorized to be appropriated—

"(1) the sum of \$12,000,000 for fiscal year 1972 and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1976, for grants under section 305;

"(2) such sums, not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for grants under section 306; and

"(3) such sums, not to exceed \$6,000,000 for fiscal year 1972; \$6,000,000 for fiscal year 1973; \$6,000,000 for fiscal year 1974; \$6,000,000 for fiscal year 1975; and \$6,000,000 for fiscal year 1976 as may be necessary for grants under section 312.

"(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$3,000,000 annually, as may be necessary for administrative expenses incident to the administration of this title.

## "TITLE IV—MARINE SANCTUARIES

## "SHORT TITLE

"SEC. 401. This title may be cited as the 'Marine Sanctuary Act of 1971'.

"SEC. 402. (a) The Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, may designate as marine sanctuaries those areas of the high seas outside the coastal and estuarine zone and superjacent to the subsoil and seabed of the Continental Shelf, as defined in the Convention on the Continental Shelf (15 U.S.T. 471; TIAS 5578), which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

"(b) Unless the action is concurred in by the coastal State involved, no marine sanctuary designated under this title may include waters superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29).

"(c) When a marine sanctuary is designated pursuant to this title, which includes an area more than twelve miles from the baseline from which the breadth of the territorial sea is measured, the Secretary of State shall take action, as appropriate, to enter into agreements with other Governments, in order to protect such sanctuary and promote the purposes for which it was established.

"(d) The Secretary shall make his initial designation under this section within two years following the date of enactment of this title. Thereafter, he shall periodically designate such additional areas as he deems appropriate. The Secretary shall submit a report annually to the Congress, setting forth a comprehensive review of his actions under the authority under this section, together with appropriate recommendations for legislation considered necessary for the designation and protection of marine sanctuaries.

"(e) Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings in the coastal area which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

"(f) After a marine sanctuary has been designated under this section, the Secretary shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section.

"SEC. 403. (a) Whoever violates any regulations issued pursuant to this title shall be liable to a civil penalty of not more than \$50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(b) No penalty shall be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offend-



ing party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

“(c) A vessel used in the violation of a regulation issued pursuant to this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

“(d) The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued pursuant to this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

“SEC. 404. For the purposes of this title, the terms ‘coastal and estuarine zone’, ‘coastal State’, ‘Secretary’, ‘estuary’, and ‘estuarine sanctuary’ shall have the same meanings as specified in section 304 of title III of this Act.



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**PART 2**

LEGISLATIVE HISTORY OF THE COASTAL ZONE  
MANAGEMENT ACT AMENDMENTS OF 1974

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I. PUBLIC LAW 93-612, THE COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1974



Public Law 93-612  
93rd Congress, H. R. 16215  
January 2, 1975

An Act

88 STAT. 1974

To amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

Coastal States. Administrative grants. 16 USC 1451 note. 16 USC 1454.

(1) Subsection (e) of section 305 is amended by changing the period at the end of the subsection to a colon and by adding immediately thereafter the following: "And provided further, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver."

16 USC 1455.

(2) Subsection (b) of section 306 is amended by deleting all after "relevant factors:", and by inserting in lieu thereof "Provided, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977: Provided further, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: And provided further, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver."

Appropriation. 16 USC 1464.

(3) Subsection (a) of section 315 is amended—

(A) by amending item (1) to read as follows:

"(1) the sum of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the three succeeding fiscal years, for grants under section 305, to remain available until expended;" and

(B) by inserting, in item (3), after "fiscal year ending June 30, 1974," the following: "and for each of the three succeeding fiscal years."

Approved January 2, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1587 (Comm. on Merchant Marine and Fisheries).  
SENATE REPORT No. 93-1362 accompanying S. 3922 (Comm. on Commerce).  
CONGRESSIONAL RECORD, Vol. 120 (1974):  
Dec. 18, considered and passed House.  
Dec. 19, considered and passed Senate.



## II. HOUSE REPORT 93-1587 ON H.R. 16215, THE COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1974

93<sup>RD</sup> CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } { No. 93-1587

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### COASTAL ZONE MANAGEMENT ACT AMENDMENTS

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DECEMBER 13, 1974.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.R. 16215]

The committee on Merchant Marine and Fisheries, to which was referred the bill (H.R. 16215), to amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

(1) Subsection (e) of section 305 is amended by changing the period at the end of the subsection to a colon and by adding immediately thereafter the following: "*And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver."

(2) Subsection (b) of section 306 is amended by deleting all after "relevant factors:," and by inserting in lieu thereof "*Provided*, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977: *Provided further*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver."

(3) Subsection (a) of section 315 is amended—

(A) by amending item (1) to read as follows:

"(1) the sum of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the three succeeding fiscal years, for grants under section 305, to remain available until expended;" and

(B) by inserting, in item (3), after "fiscal year ending June 30, 1974," the following: "and for each of the three succeeding fiscal years,".

### PURPOSE OF THE LEGISLATION

The purpose of H.R. 16215 is to amend the Coastal Zone Management Act of 1972, in order to provide more flexibility in the allocation of administrative grants to coastal States, to increase the authorization for State management program development grants, and to extend the authorization for estuarine sanctuaries grants.

### BACKGROUND OF THE LEGISLATION

The Coastal Zone Management Act of 1972 established national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historical, and esthetic values, as well as needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with State and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, State and local governments, and of regional agencies in the development of coastal zone management programs.

In order to implement the declared policy, the Act provides for three types of grants. First, there are the management program development grants, authorized on an annual basis for the development of State management programs, the grants to be made on a matching basis, the Federal grant not to exceed two-thirds of the annual cost. The second type of grants authorized are administrative grants, to be made on the same matching basis, after the State program has been developed and approved by the Secretary of Commerce. The third type of grant authorized is for assistance to States of up to one-half of the costs of acquiring, developing, and operating estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of processes to assist the States in arriving at national management decisions.

As to the first two types of grants, the Act places a maximum limitation on any individual State grant of no more than 10 per centum, and a minimum limitation of no less than 1 per centum of the total amount appropriated for the respective grants. As to the third type of grant, a maximum Federal contribution of \$2 million for any single sanctuary is imposed. As to the funding authorization under the Act, the sum of \$9 million is authorized for each of the fiscal years 1973 through 1977 for management development grants, necessary sums not to exceed \$30 million are authorized for the fiscal years 1974 through 1977 for administrative grants, and necessary sums not to exceed \$6 million are authorized for fiscal year 1974 for estuarine sanctuaries grants.

Although the Coastal Zone Management Act of 1972 became effective in October 1972, funding under the Act was not appropriated until December 1973, and therefore, the implementation of the Act began



less than one year ago. Therefore, the Committee has not, as yet, undertaken a complete and thorough oversight review. However, during the course of general reviews of the various programs of the National Oceanic and Atmospheric Administration, including testimony relating to the activities of the Office of Coastal Zone Management, it developed that there were certain changes in the Act which should be considered in order that the intent of the basic Act could best be carried out. Without awaiting a thorough going detailed review of the Act, H.R. 16215 was introduced to make those minor changes which would meet needs already identifiable.

With implementation less than a year old, 31 of the 34 States and territories eligible for grants have already applied for and received such grants and are moving forward to develop management programs so urgently needed in their coastal zones. With an appropriation of \$7.2 million in fiscal year 1974, the entire appropriation was utilized, and grants for three States amounting to \$890,000 were postponed until fiscal year 1975, because sufficient funds were not available. In addition, State demonstrated needs of an additional \$2 million could not be met because of the limitation of funding. While the appropriation for fiscal year 1975 was increased to \$9 million, the authorization limit of the basic Act, it is clear that during the present fiscal year, there will be further unmet needs, particularly since almost \$1 million of the appropriation has been expended to provide for the three grants postponed from fiscal year 1974. Since the States have accepted the program so enthusiastically and have demonstrated their own intentions, in many cases, by providing funding in excess of their matching grant requirements, some additional authorization is badly needed. Because of the delay in final enactment of the Act, and the subsequent delay in funding for implementation, problems relating to coastal zone have become even more pressing and completion of management plans even more important. Coastal zone management needs have become even more critical recently by plans to construct offshore deep water ports, to develop additional energy resources on the Outer Continental Shelf, and to site power plants and other facilities along the shorelines, all of which will have major impacts on the coastal zones of the States involved.

As to the maximum and minimum allocation provisions under both development and administrative grants, it became apparent to the Committee that the Act, in its present form, is somewhat more restrictive than necessary and should be made more flexible. While no funding has been authorized under the Act for administrative agents, since the development process has not been completed in any State, it is anticipated that such funding will be needed early in fiscal year 1976, and immediate problems will be created if fewer than 10 States are ready to make application for such grants, since the present maximum allocation limits any State to 10 per centum of appropriated funds. That problem can be solved, however, by changing the limitation from an expression in percentage terms to an expression in monetary terms. Secondly, as to the minimum limitation, which requires at least 1 per centum of appropriated funds for each grant, it will serve, in some cases, to require smaller States and territories to apply for grants which they neither need nor can

justify, or not participate in the program at all. That problem can be resolved by requiring a waiver of the minimum limitation whenever any affected State requests such a waiver. This will leave each State with all the protection it needs but will remove any protection that it does not need nor desire. The third problem area identified was that related to estuarine sanctuaries grants, under Section 312 of the Act. The authorization under the Act was for a single fiscal year. During the past fiscal year, one grant of \$825,000 was made to the State of Oregon, out of an appropriation of \$4 million. While a few more applications may be made during the present fiscal year, it is not anticipated that many of the States will be prepared to make such applications until their program development has moved further. However, it is apparent that many estuarine areas have been identified and that as many as 20 States will be interested in participating in this aspect of the program during the next few fiscal years. Therefore, it is considered desirable to extend the authorization through the same period, fiscal year 1977, as for other authorizations under the Act, the exact amount of actual funding to depend upon the speed with which the States can move in developing their programs and making decisions related to the estuarine sanctuaries.

#### COMMITTEE CONSIDERATION

Hearings were held by the Subcommittee on Oceanography on H.R. 16215 on September 18, 1974, and testimony was heard from the Director, Office of Coastal Zone Management, NOAA, representing the Department of Commerce. Testimony was also received from an official of the State of Michigan Department of Natural Resources, representing the State of Michigan and the Coastal States Organization, of which the witness is a member of the Executive Committee. The Administration witness supported that part of the bill related to changes in allocation limitations, opposed the increase of authorization for program development grants as undesirable in view of the present fiscal constraints, and opposed the extension of authorization for estuarine sanctuaries grants as premature. Subsequently, the Administration changed its position on the development grant authorization increase and addressed a letter to the Committee supporting such a concept, particularly in view of the critical energy needs and impacts from the development of Continental Shelf oil resources. The witness for the Coastal States Organization, also representing the State of Michigan, testified in full support of the bill. Subsequently, the Committee received a letter from the Chairman of the Coastal States Organization, Senator A. R. Schwartz of the State of Texas, who reiterated that Organization's support of the bill. An additional endorsement was received from the States of Georgia and Louisiana and from the National Advisory Committee on Oceans and Atmosphere, by letter from its Vice Chairman. That Committee particularly endorsed the extension of the authorization for estuarine sanctuaries grants.

The Subcommittee on Oceanography met for mark-up on November 26, 1974, and approved the bill, with the additional provision permitting States to request waivers, as appropriate, of the minimum grant requirement.

The Committee on Merchant Marine and Fisheries met on December 10, 1974, and, by unanimous voice vote, ordered the bill reported, with an amendment reflecting the action taken in the Subcommittee.

#### SECTION-BY-SECTION ANALYSIS

The following amendments to the basic Act are accomplished by H.R. 16215, as reported:

(1) An amendment of subsection (e) of section 305, to require the Secretary of Commerce to waive the application of the 1 per centum minimum requirement as to management development grants, when the coastal State involved requests such a waiver.

(2) An amendment to subsection (b) of section 306, to change the allocation of administrative grants from a maximum limitation of 10 per centum of funds appropriated for such grants, to a maximum of \$2 million for any grant in fiscal year 1975, \$2.5 million for any grant in fiscal year 1976, and \$3 million for any grant in fiscal year 1977.

(3) A further amendment to subsection (b) of section 306, to require the Secretary to waive the application of the 1 per centum minimum requirement as to any administrative grant, when the coastal State involved requests such a waiver.

(4) An amendment to subsection (a) of section 315, to increase the authorization for program development grants from \$9 million to \$12 million per year for each of the fiscal years 1975, 1976, and 1977.

(5) A further amendment to subsection (a) of section 315, to extend the authorization for estuarine sanctuaries grants, at a maximum level of \$6 million for the fiscal years 1975, 1976, and 1977.

#### COST OF THE LEGISLATION

Pursuant to Clause 7, of Rule XIII of the Rules of the House of Representatives, the Committee estimates the cost of this legislation to the government would be not more than \$9 million for each of the fiscal years 1975, 1976, and 1977.

#### DEPARTMENTAL REPORTS

The departmental reports on H.R. 16215, on which the hearings were held, are as follows:

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., September 23, 1974.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in response to your request for the views of this Department with respect to H.R. 16215, a bill to amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants, to coastal states, and for other purposes.

This bill proposes revisions to three separate provisions of the Coastal Zone Management Act. The first proposed change would remove the 10 percent limitation on the amount of money that can be

granted to applicant states under the Administration Grant program (Section 306) of the Act. This limitation, built into the present Coastal Zone Management Act of 1972, prevents adequate funding under Section 306 which will occur in the first and last years of that program when less than 10 states will apply for management program administrative grants. Thus, in fiscal year 1975, it is conceivable that three or four times as much money as would be required would have to be appropriated in order that the size of individual grants to the several states be large enough to cover administration of the management programs envisaged under Section 306. Moreover, the 10 percent limitation prevents expenditure of the entire appropriation for that fiscal year when less than 10 states apply.

In place of the 10 percent limitation, it is recommended that monetary amounts be proposed: \$2 million for fiscal year 1975; \$2.5 million for fiscal year 1976; and \$3 million for fiscal year 1977. This obviously will eliminate the need to request a greater appropriation than is actually needed in order to meet the demands under Section 306 of the Act.

The second provision in the bill would raise the authorization level available to the states under the management program development grant portion of the Act (Section 305). The amount requested for this program in the 1975 budget is within the current authorization level. Given the overriding need to control Federal spending the Administration believes that an increase in the 1975 level is not desirable and therefore these high authorization levels are not necessary or appropriate at this time. In developing the fiscal 1976 budget request, consideration will be given to the possible need for an increase in the funding level. If it is determined that an increase is appropriate, the Administration will then propose an increase in the authorization level.

Finally, the third provision of this bill seeks to extend funding beyond fiscal year 1974 for the Estuarine Grant provision (Section 312) of the Act. The estuarine sanctuary program has evoked considerable positive response from at least 20 coastal states. The Office of Coastal Zone Management and the Department are now studying alternative overall national plans for the Nation's estuarine sanctuary needs to provide the basis for decisions on the scope of the Federal program. When those studies are completed and evaluated we will then be in a position to propose specific legislative changes. Meanwhile, the Administration believes that it would be premature to extend the current authorization level for three years.

In summary the Department recommends against enactment of the provisions of H.R. 16215, except for the proposed amendment to Section 306 with respect to the 10 percent limitation on the amount which can be granted to any one state.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,  
*General Counsel.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., October 16, 1974.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives*

DEAR MADAM CHAIRMAN: Concerning your letter of August 12, 1974, requesting a report on H.R. 16215, a bill to amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, this is to advise that we have no comment to make.

Sincerely yours,

R. F. KELLER,  
*Deputy Comptroller General of the United States.*

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., November 25, 1974.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Merchant Marine and Fisheries Committee, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is to inform you of a modification of the Department's position with respect to the authorization levels now contained in the Coastal Zone Management Act of 1972. Our earlier position was stated in testimony before your Committee on September 18, 1974, in connection with hearings on H.R. 16215.

In view of the fact that the President has recently announced his decision to request increased funding under the terms of the Coastal Zone Management Act for coastal states impacted by accelerated Federal oil and gas leasing activities, the Administration is preparing legislation increasing the Act's authorization level to \$12 million per year for Section 305. The legislation will also deal with several minor technical matters.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,  
*General Counsel.*

#### CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

AN ACT To provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes

“TITLE I—MARINE RESOURCES AND ENGINEERING  
DEVELOPMENT

\* \* \* \* \*

“TITLE II—SEA GRANT COLLEGES AND PROGRAMS

\* \* \* \* \*

TITLE III—MANAGEMENT OF THE COASTAL ZONE

SHORT TITLE

SEC. 301. This title may be cited as the “Coastal Zone Management Act of 1972”.

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

## DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

## DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limits of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationship within the area.

(f) "Secretary" means the Secretary of Commerce.  
over a period of time the ecological relationships within the area.  
prehensive statement in words, maps, illustrations, or other media of

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307(f).

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 307(g).

#### MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

(2) a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.



(c) The grants shall not exceed 66 $\frac{2}{3}$  per centum of the costs of the program in any one year and no state shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however,* That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this [section.] *section: And Provided further, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.*

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

(h) The authority to make grants under this section shall expire on June 30, 1977.

#### ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66 $\frac{2}{3}$  per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

(b) Such grants shall be allocated to the state with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *[Provided, however, That no annual administrative*

grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.】 *Provided, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977: Provided further, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: And provided further, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.*

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water users of regional benefit.

(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the state under the program as amended.

(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in

segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

#### INTERAGENCY COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c) (1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Nothing in this title shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor 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 and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor 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.

(f) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

#### PUBLIC HEARINGS

SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subse-

quently developed, they shall be made available to the public as they become available to the agency.

#### REVIEW OF PERFORMANCE

SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

#### RECORDS

SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(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 the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

#### ADVISORY COMMITTEE

SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

## ESTUARINE SANCTUARIES

SEC. 312. The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

## ANNUAL REPORT

SEC. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

## RULES AND REGULATIONS

SEC. 314. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

## AUTHORIZATION OF APPROPRIATIONS

SEC. 315. (a) There are authorized to be appropriated—

[(1) the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;]

*(1) the sum of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the three succeeding fiscal years, for grants under section 305, to remain available until expended;*

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years, as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.



### III. DEBATE AND PASSAGE OF H.R. 16215 IN THE HOUSE OF REPRESENTATIVES, DECEMBER 18, 1974

#### COASTAL ZONE MANAGEMENT ACT AMENDMENTS

Mr. DOWNING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16215) to amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 16215

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

(1) Subsection (e) of section 305 is amended by changing the period at the end of the subsection to a colon and by adding immediately thereafter the following: "And provided further, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver."

(2) Subsection (b) of section 306 is amended by deleting all after "relevant factors"; and by inserting in lieu thereof "Provided, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977: *Provided further*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver."

(3) Subsection (a) of section 315 is amended—

(A) by amending item (1) to read as follows:

"(1) the sum of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the three succeeding fiscal years, for grants under section 305, to remain available until expended;" and

(B) by inserting, in item (3), after "fiscal year ending June 30, 1974," the following: "and for each of the three succeeding fiscal years,".

The SPEAKER. Is a second demanded?

Mr. MOSHER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Virginia (Mr. Downing) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. Mosher) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. Downing).

Mr. DOWNING. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. DOWNING. Mr. Speaker, H.R. 16215 proposes to amend the Coastal Zone Management Act of 1972, title 3 of the so-called Marine Resources and Engineering Development Act of 1966. The purpose of

the Coastal Zone Management Act is to implement established national policy to preserve, protect, develop, and where possible, to restore and enhance the resources of the Nation's coastal zone, and to encourage and assist the coastal States in exercising their responsibilities through the development and implementation of management programs in their coastal areas. The basic act provides for three types of grants. First, there are program development grants, authorized on an annual basis, with the respective States required to provide matching funds of at least one-third of the program development costs. Second, there are the administrative grants. To be made on the same matching basis, as States complete the development of their programs and submit them to the Secretary of Commerce for approval. Finally, there are the grants to States for one-half of the cost of acquiring and operating estuarine sanctuaries which will serve as natural field laboratories to gather data and study natural processes in the coastal zone in order to acquire information important to management decisions.

As to the development grants and the administrative grants, the Coastal Zone Management Act provides that no State in any 1 year may receive more than 10 percent of the funds appropriated for the respective grants. It also guarantees that no State grant will be less than 1 percent of such appropriated funds. The obvious purpose of these two limitations was to put some constraints on the administrator of the Act to insure all coastal States were treated fairly and equitably.

Although the basic act became effective in October 1972, delays in the administration resulted in the first funding of the act in December 1973, more than a year later, when \$7.2 million was appropriated for development grants, \$1.8 million less than the authorization. The States have accepted the program enthusiastically and no better demonstration of that enthusiasm can be given than the fact that collectively they were prepared to support the program with their own appropriations. In fact, the eagerness of the States to get on with this badly needed program development resulted in grant applications which demonstrated needs which were 40 percent in excess of the available funding. The initial grants to three States had to be delayed into the present fiscal year because funding was not available in fiscal year 1974, and other grants had to be reduced to fit into the available funds. In recognition of this fact, the administration sought appropriations of \$9 million in fiscal year 1974, and an appropriation at that level was made, reaching the full authorization under the act.

H.R. 16215 proposes to increase the authorization for fiscal years 1975, 1976, and 1977 from \$9 million to \$12 million to recognize the unmet needs and to encourage the States to move forward in their program development. While the administration at first opposed this increased authorization because of current fiscal constraints, the President, last month, announced that the additional \$3 million funding was urgently needed and that he would seek a supplemental appropriation for that funding. This change of position came about primarily because of administration plans to speed up offshore oil development and recognizes the fact that such a speedup program will have a major impact on many of the coastal States, if they are to play their proper role in preparing for national shoreside development decisions.

They must expend added efforts in getting their coastal zone programs in place and the additional funds will assist them in doing so.

The second basic change proposed by H.R. 16215 relates to the maximum and minimum limitation provisions. While there has been no difficulty in applying the maximum percentage limitation to development grants, since 31 of the 34 eligible States and territories are already participating, difficulties will be created early next year, and possibly later this year, when a few States will complete their development programs and will be prepared to make application for administrative grants. It is obvious that in this early period, a percentage limitation of 10 percent of appropriated funds will serve no basic purpose if relatively few States are ready to apply and, as a matter of fact, if there are less than 10 States applying, a 10-percent maximum will be actually harmful and will prevent the full utilization of available funding. The bill, therefore, changes the maximum limitation to \$2 million per grant in fiscal year 1975, \$2.5 million for fiscal year 1976, and \$3 million for fiscal year 1977. The change for fiscal year 1975 is merely a precautionary one, since at this point, there is no appropriation for administrative grants for the present fiscal year and it is unlikely that any will be sought. If, however, the situation develops so that one or two grants might be applied for and supplemental appropriations sought for that purpose, the change is desirable.

The changes for subsequent years are considered necessary. As to the minimum 1-percent limitations, there are a few of the smaller States and territories where this percentage serves as an overprotection and particularly as appropriations may increase, those few States will neither need nor desire the mandatory funding provided for. Therefore, the bill will amend the basic act to provide that when the State affected requests a waiver of the minimum allocation requirement, the Secretary shall grant such a waiver.

Finally, the extension of authorization for the estuarine sanctuaries grants, while not absolutely necessary at this time, provides for standby authorization so that funding may be sought as the States reach the point in their program where they can participate in this meaningful provision. More than 20 States have already indicated their desire to seek grants under this program, but their applications will necessarily be delayed until their programs are further along toward actual operation. Since there are presently available approximately \$3 million in carryover funds from the first appropriation for this purpose, it is not anticipated that this authorization extension will immediately result in further funding. Nevertheless, the authorization should be in place so that it will be available at such time as the funding is needed and can be justified.

Mr. Speaker, the Coastal Zone Management Act, in its less than 1 year of operation, has demonstrated the wisdom of the 92d Congress in passing the Coastal Zone Management Act of 1972. This is not a program where States merely apply for and are granted Federal funds. It is a program mutually supported by both the Federal and State governments and Federal grants are dependent upon each State's willingness to supply its proportionate share of program costs. The fact that 31 of 34 States have joined the program in its first year demonstrates their enthusiastic belief in its value. Early in the next Congress, our committee intends to undertake a complete and thorough

review of its operations with the idea of introducing any needed changes to make it even more valuable in achieving wise use of the land and water resources of the coastal zone for this, as well as succeeding generations. In the meantime, I urge the support of all Members in the enactment of this current bill to provide for the changes, the need of which has already been demonstrated.

(Mr. MOSHER asked and was given permission to revise and extends his remarks.)

Mr. MOSHER. Mr. Speaker, I join my colleague, the chairman of the Oceanography Subcommittee (Mr. Downing), in urging support of H.R. 16215.

On November 26, 1974, the Committee on Merchant Marine and Fisheries approved H.R. 16215 with an amendment. This bill would make four changes in the Coastal Zone Management Act.

Item 1 of H.R. 16215 amends subsection (e) of section 305 of the act by adding:

And provided further, that the Secretary shall waive the application of the one per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

As it is presently written, the act guarantees that no State shall receive a section 305 planning grant that is smaller than 1 percent of the total amount appropriated for such grants during any fiscal year. As the applications for grants must justify the expenditure of the planning funds, a problem has arisen for some small States, territories, and possessions. Some applicants do not need an amount equal to this 1-percent minimum and cannot justify its expenditure or come up with matching funds.

So, rather than protecting the smaller States, as was intended, the minimum grant requirement might even prevent a State from having any program. Our proposed change will allow States to plan on a scale suited to their needs and ability to pay. The minimum funding protection will be retained, as the request for a waiver would have to originate with the coastal State.

Section 2 of H.R. 16215 amends subsection (b) of section 306 of the act. As it presently reads, the act sets maximum and minimum grant sizes for the moneys appropriated for the purposes set forth in section 306. During the first year when section 306 grants are awarded, the 10-percent limit to maximum grant size could result in considerable difficulties due to the small number of States that will qualify to receive grants.

Under the present law, if only one State has its 306 program approved, the Congress would have to approve an appropriation 10 times greater than the amount needed. H.R. 16215 would delete the 10-percent maximum and substitute a monetary figure. In fiscal 1975, the maximum would be set at \$2 million. For fiscal 1976, the maximum would be raised to \$2.5 million. During fiscal 1977, the last year of the present Coastal Zone Management Act, the maximum would go up to \$3 million.

Subsection (b) of section 306 of the Coastal Zone Management Act would be further amended to allow the Secretary of Commerce to waive the 1-percent minimum grant level upon receipt of a State's request.

Section 3 of H.R. 16215 as amended would amend subsection (a) of section 315 of the Act. It would raise the authorized level of spend-

ing for section 305 planning grants for the last 3 fiscal years of the present act from the present \$9 million to \$12 million. Testimony was received by the committee which substantiated the need for this increase. The State's programs for fiscal year 1975 were examined and found to be just under \$12 million. Thus, the figure recommended here is not a "pie in the sky" one, but is shown to represent legitimate and responsible program levels.

The prospect of new offshore leasing for oil exploration and possible development has caused a change in the Administration's position on this proposed increase in authorization. Recognizing that certain coastal States will be subject to onshore, socioeconomic impacts from onshore oil work, the administration now favors the increased authorization level.

Section 3(B) of H.R. 16215 would amend section 315(a)(3) of the Coastal Zone Management Act. It would extend the authorization of the estuarine sanctuaries provision of the act—section 312—for fiscal years 1975-77, inclusive. The level of authorized funding would remain at \$6,000,000. Sanctuaries are very important to scientists who need them to use as places to learn about the ecology of the approximately 20 types of estuary found in the United States.

This understanding is necessary if other, already-polluted estuaries are to be saved for our maximum usage. The basic information to be derived from this part of the overall coastal zone management program takes on added importance in areas where oil may be found offshore. Scientists investigating the possible effects of spilled oil on plants and animals have been hindered greatly by the lack of base line information such as the estuarine sanctuary program will provide. This amendment is still opposed by the administration as inflationary.

The passage of H.R. 16215 at the earliest date is of vital importance to the continued effectiveness of the Coastal Zone Management Act. At this time in our history, we cannot afford to lose an opportunity to sharpen the edge of this most comprehensive and successful planning aid. I urge all of my colleagues to join me in support of H.R. 16215.

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

Mr. MOSHER. I yield to the gentleman from Mississippi (Mr. Lott).

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

Mr. LOTT. Mr. Speaker, the Coastal Zone Management Act of 1972 established a national objective to restore, protect and enhance our country's coastal zone resources, to bring about implementation of management programs by the various States for the prudent use of the land and water resources of the coastal zone, and to encourage the participation of the public, Federal, State, and local governments in the development of such programs.

Although the act became effective in October of 1972, funding was not appropriated until December 1973. Because of this, implementation of the program began less than a year ago. Since that time 31 of the 34 States and territories eligible for grants have already applied for and received such funds and are making the much needed headway toward the development of their coastal zone management programs. My home State of Mississippi was eligible for and received slightly over \$100,000 in Federal money for a 3-year development period beginning in May 1974.

Unfortunately, sufficient funds were not available to meet the needs of all of the applying coastal States during the first year of the act's operation, and grants for some States were postponed. Even though the appropriation for fiscal year 1975 was increased to the authorization level of the original act, it is evident at this point that there will be additional unmet grant requests.

Since I am aware through my own State and from working with the Merchant Marine and Fisheries Committee that the States have expressed their enthusiastic support of the coastal zone management program and have tangibly demonstrated their good faith intentions, often by providing funding in excess of their matching grant requirements, the additional authorization called for by this bill, H.R. 16215, is obviously justified. So Mr. Speaker, I wholeheartedly endorse favorable consideration by my colleagues of H.R. 16215, the Coastal Zone Management Act Amendments, at a cost to the Federal Government of not more than \$9 million for each of the fiscal years 1975, 1976, and 1977.

(Mrs. Sullivan asked and was given permission to revise and extend her remarks.)

Mrs. SULLIVAN. Mr. Speaker, I rise in support of the passage of H.R. 16215, which will provide for routine changes which will furnish more flexibility in the implementation of the Coastal Zone Management Act of 1972, and which will authorize a minimal funding increase to assist the coastal States in expediting the development of their coastal zone management programs.

The basic act was passed 2 years ago after several years of careful work to devise legislation not only for the more effective protection of our coastal zone resources, but for the coordination and unification of badly needed policies and programs affecting the lands and waters of the coastal zone.

In its implementation of the act, the National Oceanic and Atmospheric Administration, through its Office of Coastal Zone Management, has done an outstanding job to translate policy into practice. With proper support from the Congress, I feel sure that the executive department, in cooperation with State and local governments, regional organizations, and the interested public can make this program an outstanding example of the cooperative efforts needed to solve the problems facing the Nation.

While the provisions of the bill do not make major changes in the act, they do provide for amendments which are needed to assist in its improvement. The increased authorization for development grants, the extension of the authorization for estuarine sanctuaries grants, and the flexibility provided for the maximum and minimum allocation requirements are all matters which I believe warrant our endorsement. The bill was unanimously reported from the Merchant Marine and Fisheries Committee, and has the bipartisan endorsement of its members. I solicit the support of all Members for the passage of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Virginia (Mr. Downing) that the House suspend the rules and pass the bill (H.R. 16215), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## IV. INTRODUCTION OF S. 3922. STATEMENT OF SENATOR ERNEST F. HOLLINGS, AUGUST 19, 1974

### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS: S. 3922. A bill to amend the Coastal Zone Management Act of 1972 to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes. Referred to the Committee on Commerce.

#### COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1974

Mr. HOLLINGS. Mr. President, today I am introducing a bill which will make several technical amendments to the provisions of the Coastal Zone Management Act of 1972. While funding for the Coastal Zone Management Act was held up by the Office of Management and Budget until almost a year after its enactment, the National Oceanic and Atmospheric Administration has moved quickly in recent months to parcel out coastal zone development grants to the States. At this point in time, the development of State coastal zone management programs pursuant to the act is now well on the way to reality in all but two of our coastal States.

In this first year of the act's implementation, several technical problems have arisen which I hope can be dealt with adequately by this bill. These amendments have been identified by the staffs of the House Merchant Marine and Fisheries Committee and the Senate Subcommittee on Oceans and Atmosphere, the National Advisory Committee on Oceans and Atmosphere and by NOAA's Office of Coastal Zone Management, which is responsible for administering the program.

The coastal zone management program provides for three State grant programs. The first makes grants available to States under section 305 to be used in developing their individual coastal zone management programs. Then, once a State has developed an approval coastal zone management program, it may apply for and receive management grants under section 306 of the act. Finally, the act provides grants under section 312 to be used toward the development of estuarine sanctuaries.

My bill would amend the act in four ways. First, it would increase the appropriation for section 305 grants from \$9 to \$12 million. The successful participation of 28 to 30 coastal States and one territory in the coastal zone management program has emphasized the inadequacy of the present maximum authorized limit for this section. Indeed \$9 million just does not stretch very far when it must be parceled out between all of the coastal States. In the first year of the act's existence, States applying to the Office of Coastal Zone

Management for grants under section 305 received, on the average, 37 percent less than the amount requested. This is even more significant when we realize that States were prepared to fully fund from their own revenues the one-third matching amount required by the act. In terms of dollars, this represents approximately \$3 million in unmet State needs. This fact, coupled with the anticipated 40-percent increase in State requests for fiscal year 1975, more than substantiates the need for an increase in this area.

Second, the bill would amend the act to remove the present 10-percent limitation on the amount any one State may receive out of the total appropriated amount for section 306 management grants and replaces it with specific dollar limitations for specified yearly intervals. This amendment is designed to deal with an unusual situation that is expected to occur only in the first and last years of the implementation of section 306. States will not all complete their coastal zone management programs at the same time; in fact only four are expected to be eligible for coastal zone program management grants in fiscal year 1975. The present 10-percent limitation places those States that complete their program early at a disadvantage by limiting the amount of section 306 funds that they can receive. With only four applicants and each funded at up to a minimum of 10 percent of the funds available, only 40 percent of the funds available could be expended, shutting off the possibility of additional assistance for those States.

The act clearly visualizes grants to vary according to the length of a State's coastline or the size of its population. The 10-percent limitation was added to the act in anticipation that the entire \$30 million authorized for section 306 grants would indeed be appropriated. If OMB's past record on funding the Coastal Zone Management Act is any guide to its future actions, considerably less than \$30 million can be expected for grants under section 306 in fiscal year 1976 and fiscal year 1977. So, in order for the Office of Coastal Zone Management to make a more equitable and complete allocation of its grant assistance for management of coastal zone programs, the 10-percent limitation should be dropped and dollar limitations substituted in its place.

The recent annual report<sup>t</sup> of the National Advisory Committee on Oceans and Atmosphere addressed the authorization limitation problem and recommended that the section 306 limitation be revised. The report states:

We recommend that the allocation restrictions in Section 306 Administrative Grants Program be revised so as to allow more realistic assignment of funds according to need and readiness of individual participating States, especially during the build-up and phase-down periods of program development. With these actions of the Coastal Zone Management Program envisioned by the Act will, in our opinion, be well underway.

Mr. President, this bill would correct this problem by setting a limit of \$2 million per State for fiscal year 1975, \$2.5 million for fiscal year 1976, and \$3 million for fiscal year 1977.

The third amendment to the act proposed by the bill would extend grant assistance for the creation of estuarine sanctuaries for 3 more years. As it now reads, the act authorizes appropriations for fiscal



year 1974 only at an amount not to exceed \$6 million, with no State being allowed to receive in excess of \$2 million.

It is clear from the legislative history of the Coastal Zone Management Act that the estuarine sanctuaries program was intended to serve as an integral part of the State coastal zone management efforts. Section 312 was designed to provide States with assistance in acquiring and operating natural field laboratories in which techniques and approaches for coastal zone management could be tested and perfected. The Commerce Committee intended that the system of estuarine sanctuaries be representative of the principal types of estuaries found in the United States, of which 11 broad types have been identified.

So far at least 20 coastal States have indicated a desire to establish an estuarine sanctuary. For fiscal year 1974, a total of \$4 million was made available for estuarine sanctuary grants to the States. Although the \$4 million is to remain available until expended, it will not be adequate to fund even half the estimated estuarine sanctuaries needed. To correct this situation, my bill would extend the authorization for section 312 grants to June 30, 1977. This should give NOAA the flexibility it needs to assure that State demands for estuarine sanctuary assistance are adequately met.

This amendment is also in line with recommendations included in the NACOA report, which recommends that—and I quote from the report:

The Estuarine Sanctuaries Program . . . should be extended in time, and the funding provided by Section 315 of the Act should be increased to a level sufficient to comply with the clear Congressional intent, namely, at least one estuarine sanctuary in each of the identifiable zoogeographic regions. We note especially that funds are now available on a one-time-only basis for purchase of a limited number of sanctuaries, but no support is available for planning and management of these areas on a continuing basis. It seems obvious that adequate monies to provide support for these Federal/State sanctuaries should also be added in this section. We do not know how much it will take and, hence, must leave it to the legislative amendment process to determine.

Finally, Mr. President, the bill would extend the availability of coastal zone management grants for an additional 2 years. Under present language both the program development and administrative grant programs would expire on June 30, 1977. This deadline would have probably been adequate for all States to develop coastal zone management programs had not the administration neglected to fund the program for almost a year after its passage, and had not the energy crisis been thrust upon us. Unfortunately, the former had caused an unnecessary delay of grant assistance not anticipated by the Congress when it enacted the Coastal Zone Management Act, while the latter has thrust new planning responsibilities upon many coastal States that neither they, nor the Congress, had anticipated back in the fall of 1972. A 2-year extension of both grant programs will provide coastal States with the extra time they need to develop coastal zone management programs that can cope with the land-side impacts of energy-related offshore development.

Mr. President, many of those who doubted the need for a Federal Coastal Zone Management Act when it passed in 1972 have become believers in 1974. The energy crisis has dramatically increased the

need for coastal States to develop planning mechanisms to deal with deepwater ports, offshore oil and gas development, refinery construction, and other ramifications of increased offshore and onshore development. Everyone—environmental groups, oil companies, and even the Department of the Interior—is now pointing to the Coastal Zone Management Act as the solution to controlling secondary impacts of offshore development so as to minimize environmental damage. It is a widely recognized fact that the land-side effects of offshore development are the greatest danger to the environment, not oil spills.

The amendments I propose today will insure that the Coastal Zone Management Act continues to serve the interest of the States and the Nation in the best possible way.

Mr. President, because of time constraints under which most coastal States are working to develop their coastal zone plans, I anticipate that the Senate and the House will act on this bill before the adjournment of the 93d Congress.

Mr. President, I ask unanimous consent that a breakdown of how the \$7.4 million in section 305 program development grants for fiscal year 1974 were allocated to the various States, along with the names and addresses of participating State agencies, be printed at this point in the Record. I also ask that the text of the bill be printed in the Record.

There being no objection, the bill and material was ordered to be printed in the Record, as follows:

#### S. 3922

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:*

(1) Subsection (h) of section 305 is amended by deleting "1977" and by inserting in lieu thereof "1979."

(2) Subsection (b) of section 306 is amended by deleting all after "relevant factors:" and by inserting in lieu thereof "Provided, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977 and succeeding fiscal years: Provided further, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section, unless at the discretion of a state a lesser amount will suffice."

Section 315 is amended to read as follows:

#### "AUTHORIZATION OF APPROPRIATIONS

"Sec. 315. (a) There are authorized to be appropriated—

(1) the sums of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the five succeeding fiscal years, for grants under section 305, to remain available until expended;

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1979, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed \$6 million for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years as may be necessary, for grants under section 312, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000 for fiscal year 1973, and for each of the six succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title."

## COASTAL ZONE MANAGEMENT—SEC. 305, GRANTS AWARDS TO DATE

Number and State	Federal share	Total program	Date
1—Rhode Island.....	\$154,415	\$231,623	Mar. 13
2—Maine.....	230,000	345,000	Do.
3—Oregon.....	250,132	419,699	Do.
4—Michigan.....	330,486	534,447	Apr. 23
5—California.....	720,000	1,648,653	Do.
6—Mississippi.....	101,564	152,346	Do.
7—South Carolina.....	198,485	298,500	May 10
8—Maryland.....	280,000	465,765	Do.
9—Washington.....	388,820	583,230	May 14
10—Texas.....	360,000	551,648	May 16
11—Ohio.....	200,000	366,300	May 21
12—Massachusetts.....	210,000	315,000	June 4
13—Connecticut.....	194,285	324,644	June 5
14—New Hampshire.....	78,000	117,000	June 7
15—Hawaii.....	250,000	375,000	June 10
16—Georgia.....	188,000	303,400	June 13
17—Delaware.....	166,666	250,000	June 14
18—Florida.....	450,000	686,000	Do.
19—Wisconsin.....	208,000	354,000	June 20
20—Alabama.....	100,000	150,000	Do.
21—Pennsylvania.....	150,000	225,000	Do.
22—North Carolina.....	300,000	500,000	June 21
23—Minnesota.....	99,500	149,250	Do.
24—Illinois.....	206,000	309,000	June 24
25—Louisiana.....	260,000	394,090	June 26
26—Puerto Rico.....	250,000	375,000	Do.
27—Alaska.....	600,000	960,000	Do.
28—New Jersey.....	275,000	412,500	June 27
29—Virginia.....	251,044	376,566	Aug. 12

## STATE AGENCIES ADMINISTERING COASTAL ZONE MANAGEMENT GRANTS

R. C. "Red" Bamberg, Director, Alabama Development Office, State Office Building, Montgomery, Alabama 36104.

Dr. Y. R. Nayudu, Director, Division of Marine and Coastal Zone Management, Department of Environmental Conservation, Fouch O, Juneau, Alaska 99801.

Donald F. Craf, Executive Secretary, Environmental Quality Commission, Office of the Governor, Pago Pago, American Samoa 96920.

Melvin B. Lane, Chairman, California Coastal Zone Conservation Commission, 1540 Market Street, San Francisco, California 94102.

Douglas T. Costle, Commissioner, Department of Environmental Protection, State Office Building, Rm. 118, Hartford, Connecticut 06115.

David R. Keifer, Director, State Planning Office, Thomas Collins Building, Dover, Delaware 19901.

Bruce Johnson, Coordinator, Coastal Coordinating Council, 309 Magnolia Office Plaza, Tallahassee, Florida 32301.

James McIntyre, Director, Office of Planning and Budget, 270 Washington Street, S. W., Rm. 611, Atlanta, Georgia 30334.

Gerald S. A. Perez, Director, Bureau of Budget & Management, Office of the Governor, Agana, Guam 96910.

Dr. Shelley M. Mark, Director, Department of Planning and Economic Development, Executive Chambers, P.O. Box 2359, Honolulu, Hawaii 96804.

Anthony Dean, Director, Department of Conservation, 400 South Spring Street, Springfield, Illinois 62706.

William J. Andrews, Deputy Director, Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204.<sup>1,2</sup>

Patrick W. Ryan, Executive Director, State Planning Office, P.O. Box 44425, Baton Rouge, Louisiana 70804.

Philip M. Savage, State Planning Director, State Planning Office, 189 State Street, Augusta, Maine 04330.

James B. Coulter, Secretary, Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland 21401.

Charles H. W. Foster, Secretary, Executive Office of Environmental Affairs, 18 Tremont Street, Boston, Massachusetts 02108.

<sup>1</sup> Did not apply for Coastal Zone Management Grant in fiscal year 1974.

<sup>2</sup> Has not received a Coastal Zone Management Grant as of August 15, 1974.

A. Gene Garley, Director, Department of Natural Resources, Stevens T. Mason Building, Lansing, Michigan 48926.

Gerald W. Christenson, Director, State Planning Agency, Capitol Square Building, St. Paul, Minnesota 55155.

Dr. James B. Rucker, Executive Director, Mississippi Marine Resources Council, P.O. Box 497, Long Beach, Mississippi 39560.

Robert B. Monier, Director, Office of Comprehensive Planning, State House Annex, Concord, New Hampshire 03301.

David J. Hardin, Commissioner, Department of Environmental Protection, P.O. Box 1889, Trenton, N.J. 08625.

Richard A. Wiebe, Director, Office of Planning Services, State Capitol, Albany, New York.<sup>2</sup>

James E. Harrington, Secretary, Department of Natural and Economic Resources, 116 West Jones Street, Raleigh, North Carolina 27611.

Dr. William B. Nye, Director, Department of Natural Resources, 1930 Belcher Drive, Columbus, Ohio 43224.

L. B. Day, Chairman, Department of Land Conservation and Development, 1600 SW Fourth Avenue, Rm. 660, Portland, Oregon 97201.

#### NAME AND ADDRESS

C. H. McConnell, Deputy Secretary, Resource Management, Department of Environmental Resources, P.O. Box 1467, Harrisburg, Pennsylvania 17120.

Gruz A. Matos, Secretary, Department of Natural Resources, P.O. Box 5887, Puerto de Tierra, Puerto Rico 00906.

Jerome Lessack, Acting Chief Statewide Planning Program, Department of Administration, 265 Melrose Street, Providence, Rhode Island 02907.

Edwin B. Joseph, Director, Marine Resources Division, South Carolina Coastal Zone Planning and Management Council, P.O. Box 12559, Charleston, South Carolina 29412.

Bob Armstrong, State Land Commissioner, General Lands Office, P.O. Box 12428, Capitol Station, Austin, Texas 78711.

Thomas R. Blake, Virgin Islands Planning Office, Office of the Governor, P.O. Box 2605, St. Thomas, Virgin Islands 00801.<sup>2</sup>

Charles A. Christopherson, Director, Department of State Planning and Community Affairs, 1010 James Madison Building, 109 Governor Street, Richmond, Virginia 23219.

John A. Biggs, Director, Department of Ecology, State of Washington, Olympia, Washington 98504.

Joe E. Nusbaum, Secretary, Department of Administration, 1 West Wilson, Madison, Wisconsin 53711.

<sup>2</sup> Has not received a Coastal Zone Management Grant as of August 15, 1974.

COASTAL ZONE MANAGEMENT ACT AMENDMENTS  
OF 1974

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DECEMBER 17, 1974.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce,  
submitted the following

REPORT

[To accompany S. 3922]

The Committee on Commerce, to which was referred the bill (S. 3922), to amend the Coastal Zone Management Act of 1972 to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE AND BRIEF DESCRIPTION

The Coastal Zone Management Act of 1972 (Public Law 92-583) was designed to provide assistance, both financial and technical, to State and local governments for developing and managing State coastal zone management programs. Grants available under the Act consist of three types: management program development grants (section 305), administrative grants (section 306), and estuarine sanctuary grants (section 312).

S. 3922 is designed to deal with some of the technical problems experienced by the National Oceanic and Atmospheric Administration in the initial stages of the implementation of the Act and to increase the effectiveness of the program in providing necessary assistance to coastal States for planning for coastal impacts of energy-related development on the Outer Continental Shelf. The bill makes four technical changes in the Act to allow for a more effective allocation of grant assistance under sections 305 and 306; to extend the operation of both sections to compensate for the loss of a year in grant assistance and

to prepare for the increased energy development pressures on the coastal zone; and to extend the estuarine sanctuary authority for an additional three years.

First, the bill would increase the authorization for section 305 program development grants to \$12 million, \$3 million more than the present \$9 million ceiling imposed by clause (1) of subsection (a) of section 315. Second, the bill would remove from subsection (b) of section 306 the 10 percent limitation on the amount an individual coastal State can receive for program management assistance, and would replace it with specific graduated dollar limitations for each year in which the section applies. Individual coastal States would be limited to not in excess of \$2 million in fiscal year 1975, \$2.5 million in fiscal year 1976 and \$3 million in the fiscal years 1977 through 1979. The 1 percent per State minimum that presently exists in subsection (b) of section 306 of the Act would be modified to make it discretionary on the part of the State. Third, S. 3922 would amend clause (3) of subsection (b) to reinstate, at the level of \$6 million per year, the authorization for section 312 estuarine sanctuary grants, which expired on June 30, 1974. In addition, the availability of section 312 grants would be extended for an additional three years, until the end of fiscal year 1977. Finally, the bill would extend the availability of grants under section 305 (program development) and section 306 (administrative) of the Act for an additional two years by changing the expiration date of the two sections from fiscal year 1977 to fiscal year 1979.

### BACKGROUND AND NEED

The Coastal Zone Management Act passed the Congress overwhelmingly on October 12, 1972, and was signed into law by President Nixon on October 28. The Act provides assistance, both financial and technical, to coastal States in their efforts to develop planning and management programs for the Nation's coastal zone. In addition, the Act provides grants for the acquisition, development, and operation of estuarine sanctuaries, which the State would utilize as natural field laboratories to study the ecological relationships that exist in the various types of estuarine areas along the coast. Congress envisioned that a system of representative types of estuarine sanctuaries would eventually be established.

Section 305 of the Act established a system of management program development grants, to be administered to the States on a 66 $\frac{2}{3}$  percent matching fund basis. Grants would remain available for five years, until June 30, 1977, with a total authorization of \$9 million per year. No State could receive more than three consecutive grants under this section, nor more than 10 percent or less than 1 percent of the total amount appropriated per fiscal year. When the State's coastal zone management program has been completed, it must be approved by the Secretary before the State can receive management grants under section 306.

The administrative grants, established pursuant to section 306 of the Act, are also administered on a 66 $\frac{2}{3}$  percent matching fund basis and will remain available for five years. There is no limit on the number of management grants a state can receive. As in section 305, grants would

remain available for five years, until June 30, 1977, and would be limited to no more than 10 percent or less than 1 percent of the total amount appropriated per fiscal year. The authorization for this section was set at \$30 million per year.

The estuarine sanctuary grants established pursuant to section 312 of the Act are administered on a 50 percent matching fund basis, and a maximum Federal contribution of \$2 million for any single sanctuary is imposed. The authorization for this section is limited to \$6 million for the first fiscal year after enactment only, and therefore recently expired on June 30, 1974.

The National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce, which is the agency authorized to administer the coastal zone program, did not receive funding for the Act until more than a year after it passed the Congress. The fiscal year 1974 budget, which was sent to Congress in January 1973, contained no recommendations for funding the Coastal Zone Management Act. In an effort to obtain a budget amendment to get the program started, members of the Committee on Commerce negotiated for several months with the Administration until a budget request was forwarded to Congress by the Office of Management and Budget in August of 1973. Congress moved quickly to meet the request with appropriations and by October, 1973, \$12 million was appropriated for the program. The bulk of the appropriation, \$7.2 million, was to be used for section 305 grants, \$800,000 for administration of the Act, and the remaining \$4 million for estuarine sanctuaries. The entire \$7.2 million available for section 305 grants was utilized during fiscal year 1974 for grants to 28 coastal States and 1 territory, and grants amounting to \$890,000 were postponed until fiscal year 1975 because sufficient funds were not available. The \$7.2 million for fiscal year 1974 was \$2 million less than the total of original grant applications of States receiving grants during that fiscal year.

An additional \$12 million has been appropriated for fiscal year 1975 of which \$9 million is being used for section 305 grants, \$2 million for estuarine sanctuaries and the remainder for administrative purposes.

In the short period since appropriations were first made available for the coastal zone program in December of 1973, the National Oceanic and Atmospheric Administration has moved expeditiously to fill pending section 305 grant applications. With grants for implementation of the Act having been available for less than a year, 31 of 34 States and territories have already applied and received grants and are moving to develop their coastal zone management programs.

As yet, no coastal State is far enough advanced in developing its coastal zone management program to qualify for section 306 administrative grants. At the most, four or five are expected to qualify for grants during fiscal year 1975. The \$2 million appropriated for section 306 appears adequate to fund the management of programs in these first few States that qualify.

During the course of general review of various programs of the National Oceanic and Atmospheric Administration, it developed that there were certain changes in the Act which should be made to improve implementation. S. 3922 was introduced on August 19, 1974, by Senator Hollings. The bill was made available for public comment for a short

period in November. It was considered in executive session of the full committee on December 12, 1974 and was ordered favorably reported to the Senate on the same day.

*Need for Increased Authorization for Section 305 Grants*

S. 3922 would raise the authorization ceiling for section 305 grants from \$9 million to \$12 million. Experience gained during the initial stages of the Act's existence indicates that the current maximum annual authorization of \$9 million for program development grants will be inadequate during fiscal year 1975. In fiscal year 1974, coastal States applying to NOAA for management program development grants received, on the average, approximately \$2 million less than the amount which States were prepared to match from their own resources. Furthermore, information provided by the States with regard to their anticipated second year requirements (fiscal year 1975) indicates that most States will need approximately \$2 million more in their second year as they move to complete their coastal zone management programs.

In addition the energy crisis has increased dramatically the need for coastal States to accelerate the development of their coastal zone management programs in order to cope with the anticipated impacts of accelerated offshore oil and gas development, deepwater port construction, and associated onshore support facilities, such as refineries, tank farms, and pipelines.

In recent hearings conducted by the National Ocean Policy Study pursuant to S. Res. 222, testimony was heard from various representatives of the public, industry and government emphasizing the Coastal Zone Management Act as a major decisionmaking tool to be employed by States and local governments in the control of direct, secondary, and tertiary onshore and nearshore impacts of offshore energy development. A recent Ocean Policy Study staff report based on the hearings concluded that—

States and communities adjacent to past and present offshore oil developments have incurred significant environmental, economic, and social costs. Direct costs include environmental degradation from the siting of pipeline terminals, tank storage farms, supply bases, petrochemical plants and other hydrocarbon-related facilities in the coastal zone. Substantial risks of large-scale accidental pollution from oil spills also face coastal States, as do the largely unknown effects of chronic low-level discharges of oil into the marine environment. Indirect effects include changes in land use (including loss of valuable wetlands), shifting populations and employment patterns, housing demand, and the required expansion of public facilities such as schools, roads, police and fire protection \* \* \*

In addition, a report on the environmental impacts of OCS oil and gas development released in the spring by the Council on Environmental Quality found that—



The Coastal Zone Management Act provides a framework for Federal-State cooperation in planning for onshore development induced by OCS operations, particularly siting of pipelines, refineries, and other facilities in the coastal zone \*\*\*

The National Advisory Committee on Oceans and Atmosphere (NACOA) has recognized the need for more financial assistance to coastal States for coastal zone management. In its Third Annual Report to the President and to Congress the Committee found a "welcome increase in coastal zone management activity, but [also] a heavy increase in offshore activities engendered by the energy crisis." On this basis, NACOA recommended,

The level of funding under the Coastal Zone Management Act supporting matching grants for management be increased to \$20 million for fiscal year 1975 and the full \$30 million for fiscal year 1976 authorized in the legislation.

Although the Administration was at first reluctant to fund the Coastal Zone Management Act, its representatives have now become convinced coastal zone management is an essential decisionmaking tool, especially with regard to energy development in the coastal zone. The Administration supports the \$3 million increase in the authorization level for program development grants and has verified that support in a letter to the Chairman. The letter stated in part that—

In view of the fact that the President has recently announced his decision to request increased funding under the terms of the Coastal Zone Management Act for Coastal States impacted by accelerated Federal oil and gas leasing activities, the Administration is preparing legislation increasing the Act's authorization level to \$12 million per year for section 305. The legislation will also deal with several minor technical matters.

The Committee on Commerce concurs with the Administration on the need for an increased authorization level for section 305 of the Act.

*Need for Replacing the 10 Percent Limitation on Section 306 Grants with Dollar Limitations*

S. 3922 would amend the Coastal Zone Management Act to remove the present 10 percent limitation on the amount any one State may receive from the total amount appropriated for Section 306 management grants and replaces it with specific dollar limitations to States allocated in yearly intervals. Each State could receive, at most, \$2 million for fiscal year 1975; \$2.5 million for fiscal year 1976; and \$3 million for fiscal year 1977.

This language is designed to deal with an unusual situation which is expected to occur only at the beginning and the end of the Section 306, or management, phase of the coastal zone program. Not all States will complete their coastal zone management programs at the same time, and only three or four are expected to be eligible for

coastal zone program management grants in fiscal year 1975. Hence, the present 10 percent limitation creates one of two possible alternatives—both undesirable. First, those States which complete their program early could be at a serious disadvantage by limiting the amount of Section 306 funds which they can receive. With, for example, only four applicants and each funded up to a minimum of 10 percent of the appropriation available, only 40 percent of the funds could be expended—thus shutting off the possibility of additional assistance for those States. Alternatively, it is conceivable that three or four times more money than would be required would have to be appropriated in order that the size of individual grants be large enough to cover administration of the management programs envisaged under Section 306.

To make a more equitable and complete allocation of grant assistance for management of coastal zone programs, the 10 percent limitation should be deleted and dollar limitations substituted therefor. These limitations should continue the fiscal safeguard which Congress intended by the original percentage restriction. The recent annual report of the National Advisory Committee on Oceans and Atmosphere addressed this problem and recommended that the allocation restriction on Section 306 grants be revised.

S. 3922 would, however, retain the 1 percent minimum per State for grants under Section 306 of the Coastal Zone Management Act while modifying the language to make the minimum floor discretionary on the part of the State. The present 1 percent minimum, in some cases, will require smaller States and territories to apply for grants which they neither need nor can justify, or not participate in the program at all. S. 3922 would resolve this problem by requiring a waiver of the minimum limitation whenever any affected State requests such a waiver. This will leave each State with all the protection it needs but will remove any protection that it does not need or desire.

#### *Need for Extending Estuarine Sanctuary Authority*

The legislative history of the estuarine sanctuaries provision (section 312) of the Coastal Zone Management Act supports the contention that this element of the program was intended to serve as an integral part of the overall coastal zone management programs of our coastal States. Therefore, the sanctuaries program was designed to, among other purposes, provide States with long-range assistance in acquiring and operating natural field laboratories in which techniques and approaches proposed to be incorporated within their coastal management programs could be tested and perfected. The Congress in framing this legislation felt it important that a system of estuarine sanctuaries be established and be representative of the principal types of estuarine systems found along our Nation's coastlines, of which 11 broad types have been identified.

NOAA's Office of Coastal Zone Management reports that 20 States have indicated a very positive interest in participating in the long-range development of estuarine sanctuary programs. It is expected that 15 to 20 sanctuaries throughout the Nation would provide a comprehensive spectrum of research areas and at the same time provide

the necessary regional and natural differentiation. An extension of the expired section 312 grant authorization for an additional three years (until February) at the present \$6 million level, as provided in S. 3922, should be sufficient to accomplish this goal.

This provision was supported in NACOA's Third Annual Report which recommended that "the Estuarine Sanctuaries program be extended in time, and funding raised to a level consistent with Congressional intent to provide an estuarine sanctuary in each of the identified zoogeographic regions."

#### *Need for Extending Sections 305 and 306 Authority*

While the Committee finds that NOAA's Office of Coastal Zone Management has done an excellent job in reviewing and approving section 305 grant applications in the short time funding has been available, the unforeseen delay in funding the Coastal Zone Management Act has caused significant delays in beginning the development of coastal zone management programs in many coastal States. This means that where a State had initially a maximum of five years to complete its program from the actual date of enactment, in reality that time has been reduced to less than four years. In the same vein, the State's ability to take full advantage of section 306 administrative grants upon completion and approval of its program is diminished considerably.

This loss of more than a year in potential grant assistance is further complicated by increased energy development pressures on the coastal zone which have thrust additional planning requirements on some coastal States, pressures which were also unforeseen at the time the Coastal Zone Management Act was passed in October, 1972.

The extension of the section 305 and section 306 grant authority for an additional two years from the present fiscal year 1977 deadline, to fiscal year 1979, would provide adequate flexibility to the coastal States necessary to compensate for the loss of planning time and funding resulting from delay in implementation of the Act and will provide assistance for additional long-range planning and management resulting from expected impacts of energy developments in the coastal zone.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the standing rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman) :

#### THE MARINE RESOURCES AND DEVELOPMENT ACT OF 1966, AS AMENDED BY THE ACT OF OCTOBER 27, 1972

(86 Stat. 1280, 33 U.S.C. 1101-1124)

#### TITLE III—MANAGEMENT OF THE COASTAL ZONE

\* \* \* \* \*

## MANAGEMENT PROGRAM DEVELOPMENT GRANTS

\* \* \* \* \*

SEC. 305. (h) The authority to make grants under this section shall expire on June 30, **[1977]** 1979.

\* \* \* \* \*

## ADMINISTRATIVE GRANTS

\* \* \* \* \*

SEC. 306. (b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors **[Provided, however, That no annual administrative grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.]** *Provided, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977 and succeeding fiscal years: Provided further, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section, unless at the discretion of a State a lesser amount will suffice.*

\* \* \* \* \*

## AUTHORIZATION OF APPROPRIATIONS

SEC. 315. (a) **[There are authorized to be appropriated—**

(1) the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.]

*There are authorized to be appropriated—*

(1) *the sums of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the five succeeding fiscal years, for grants under section 305, to remain available until expended;*

(2) *such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1979, as may be necessary, for grants under section 306, to remain available until expended; and*

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years, as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000 for fiscal year 1973, and for each of the six succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

#### ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the additional costs for implementation of the provisions of S. 3922, over and above the anticipated appropriations under existing authorizations contained in the Coastal Zone Management Act (Public Law 92-583), would be as follows: \$9 million for fiscal year 1975; \$9 million for fiscal year 1976; \$9 million for fiscal year 1977; \$39 million for fiscal year 1978; and \$39 million for fiscal year 1979. The total increase in authorization over the period from fiscal year 1975 to fiscal year 1979 would amount to approximately \$105 million.

#### TEXT OF S. 3922, AS REPORTED

To amend the Coastal Zone Management Act of 1972 to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

(1) Subsection (h) of section 305 is amended by deleting "1977" and by inserting in lieu thereof "1979".

(2) Subsection (b) of section 306 is amended by deleting all after "relevant factors:" and by inserting in lieu thereof "*Provided*, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977 and succeeding fiscal years: *Provided further*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section, unless at the discretion of a State a lesser amount will suffice."

Section 315 is amended to read as follows:

#### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 315. (a) There are authorized to be appropriated—

(1) the sums of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the five succeeding fiscal years, for grants under section 305, to remain available until expended;

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1979, as may be necessary, for grants under section 306, to remain available until expended; and

“(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years, as may be necessary, for grants under section 312, to remain available until expended.

“(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000 for fiscal year 1973, and for each of the six succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.”

#### AGENCY COMMENTS

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., December 10, 1974.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is to inform you of the Department's position with respect to the authorization levels now contained in the Coastal Zone Management Act of 1972. As you know, S. 3922, which is presently before your committee, would raise the level of the authorization for program development grants (Section 305) of the Act.

In view of the fact that the President has recently announced his decision to request increased funding under the terms of the Coastal Zone Management Act for coastal states impacted by accelerated Federal oil and gas leasing activities, the Administration is preparing legislation increasing the Act's authorization level to \$12 million per year for Section 305. The legislation will also deal with several minor technical matters.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

BERNARD V. PARRETTE,  
*Deputy General Counsel.*

NATIONAL ADVISORY COMMITTEE  
ON OCEANS AND ATMOSPHERE,  
*Washington, D.C., November 26, 1974.*

HON. ERNEST F. HOLLINGS,  
*Chairman, Subcommittee on Oceans and Atmosphere,  
Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR HOLLINGS: I have been informed that the Senate Committee on Commerce has under consideration S. 3922, a bill to amend the Coastal Zone Management Act of 1972 (Public Law 92-583) and would welcome the views of interested individuals and groups.

NACOA's continuing interest in the development of the national capability for the effective management, the beneficial use, the protection and development of our coastal zones has been expressed in

each of our three Annual Reports. In our Third Annual Report, dated 28 June 1974, NACOA recommended that:

"The National Coastal Zone Management Act of 1972 be amended to include the encouragement and support of the research, development, and advisory services by the States needed to provide a basis for careful, long-enduring decisions on coastal zone matters.

"The level of funding under the Coastal Zone Management Act supporting matching grants for management be increased to \$20 million for fiscal year 1975 and the full \$30 million for fiscal year 1976 authorized in the legislation.

"The Sea Grant program, with its current useful emphasis on coastal zone activities, be funded to its authorized level.

"The Estuarine Sanctuaries program be extended in time, and funding raised to a level consistent with Congressional intent to provide an estuarine sanctuary in each of the identified zoogeographic regions."

We believe that the recent Administration policy decision to accelerate the development of the oil and gas resources of the Outer Continental Shelf underscores the importance of these recommendations. Accordingly, we are happy to see that S. 3922 addresses many of them, though we remain concerned about the adequacy of the essential research and development and advisory service programs that are implicit in the Act.

The National Advisory Committee on Oceans and Atmosphere has already expressed support for a similar bill, H.R. 16215 in the House, in a letter to the Chairman of the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee, dated 24 September 1974, and I am happy to indicate our support for S. 3922 as progress in the right direction.

Sincerely yours,

WILLIAM A. NIERENBERG, *Chairman.*





**VI. PASSAGE OF H.R. 16215 IN THE SENATE,  
DECEMBER 19, 1974**

**H.R. 16215—AMENDMENT TO THE COASTAL ZONE MANAGEMENT ACT  
OF 1972**

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 16215.

The Presiding Officer laid before the Senate H.R. 16215, a bill to amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

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**PART 3**

LEGISLATIVE HISTORY OF THE COASTAL ZONE  
MANAGEMENT ACT AMENDMENTS OF 1976

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## I. INTRODUCTION

### BACKGROUND

The sixties saw increased pressure on the coastal areas of the United States due to competing uses, such as home building, energy facilities, industrial siting, and the establishment of recreation areas. By 1970 approximately 50 percent of the population lived in coastal areas, which account for only 8.5 percent of the total land area of the United States. In addition, offshore water areas, the most biologically productive in the country, were likewise being used for energy-related facilities, maritime commerce, recreation and sporting purposes.

The Commission on Marine Science, Engineering, and Resources,<sup>1</sup> the Stratton Commission, conducted a full-scale investigation of the problems of the coastal zone as part of its overall study of marine problems. The Commission's special Panel on Management and Development of the Coastal Zone held eight hearings throughout the United States investigating coastal zone problems. Its conclusions were included in the Stratton Commission's final investigative report, *Our Nation and the Sea*.<sup>2</sup> The Commission proposed that State coastal authorities be created to plan, regulate, acquire lands and develop public facilities.

Congressional action leading to the passage of the Coastal Zone Management Act of 1972 began immediately after the release of the Stratton Commission report in the 91st Congress, 1st session. It was not until late in the 92d Congress, 2d session, after numerous hearings that the Coastal Zone Management Act of 1972 was enacted and the voluntary grants-to-States program was initiated.

The initial period of implementation of the coastal zone management program was plagued with numerous funding problems, but with a supplemental appropriation in 1973 the program was considerably strengthened. By 1976, all recognized coastal states and three of the four eligible territories were either receiving development or administrative grants. Clearly, the States were responding to the problems of the coastal zone and the opportunities presented by the new coastal zone management program.

### NEED FOR LEGISLATION

Within a year after enactment of the Coastal Zone Management Act of 1972, the call for a greater degree of energy self-sufficiency was given emphasis by the now famed Arab oil embargo. From that point on, energy independence became an important priority and a national objective. The coastal zone would play a central role in this increased

<sup>1</sup> Established by Public Law 88-454, on June 17, 1966.

<sup>2</sup> U.S. Commission on Marine Science, Engineering and Resources. *Our Nation and the Sea*. Washington, U.S. Government Printing Office, 1969.

effort for energy self reliance, as the area of more offshore oil and gas activity and the site of new energy facilities and deepwater ports.

The Coastal Zone Management Act of 1972 was considered a sound piece of legislation, and implementation of the program had been successful. But, the act did not provide for the problems that States were to have in view of increased energy-related activities in the coastal zone. In 1975, the Supreme Court in *United States v. Maine* determined that the Federal Government had sole jurisdiction over resource development beyond the three mile limit. Thus, the States would have no part in any decision concerning development on the Outer Continental Shelf (OCS) nor would the States benefit from any lease bonuses or royalties. In this light efforts to amend the Coastal Zone Management Act of 1972 were initiated.

Soon after the 94th Congress began, Senator Ernest F. Hollings introduced S. 586 on February 5, 1975, which was to become the chief coastal zone legislation of the 94th Congress. It was referred to the Senate Committee on Commerce, reported (S. Rept. 94-277) on July 11, 1975, and passed (73-15) by the Senate on July 16, 1975. Senator Harrison A. Williams introduced another bill, S. 470, on January 28, 1975, to amend the Coastal Zone Management Act by suspending Federal oil and gas leasing until mid-1976. S. 826, introduced by Senator Clifford Case on February 25, 1975 also sought to amend the Coastal Zone Management Act of 1972 by expanding the definition of energy facilities, providing for prohibition of leasing activities if States were to disapprove and by establishing an affected coastal States fund.

In the House of Representatives, efforts to amend the Coastal Zone Management Act were also undertaken. Similar bills H.R. 1776 introduced by Representative Robert E. Bauman on January 23, 1975, H.R. 2928 introduced by Representative Burt L. Talcott on February 5, 1975, H.R. 3124 introduced by Rep. Bauman on February 1, 1975, and H.R. 3481 introduced by Representative Robert A. Roe on February 20, 1975, sought to amend the Coastal Zone Management Act by establishing coastal State funds and providing for interstate coordination. Representative Edwin B. Forsythe introduced three similar bills, H.R. 3637 on February 25, 1975, H.R. 4300 on March 5, 1975 and H.R. 5916 on April 10, 1975, which sought to broaden the definition of energy facilities, provide for State approval of Federal leases, and the establishment of an affected coastal States fund. These bills were similar to S. 826 in the Senate. Representative Gerry Studts introduced H.R. 3807 on February 26, 1975, and H.R. 6255 on April 22, 1975, both identical and providing for coastal impact funds, interstate coordination and research assistance. H.R. 3981, introduced by Representative John M. Murphy on February 27, 1975, and similar to H.R. 4858 introduced by Representative James J. Howard and S. 586 in the Senate, was to be the chief coastal zone bill of the House. It was reported (H. Rept. 94-878) on March 4, 1976, and passed (370-14) by the House on March 11, 1976. Another bill, H.R. 6090, introduced by Representative David C. Treen on April 16, 1976, sought to establish a marine resources conservation and development fund. All were referred to the House Committee on Merchant Marine and Fisheries.

## HEARINGS

The problem of onshore impacts was not the only issue relating to acceleration of Outer Continental Shelf oil and gas drilling. Major policy issues involved separating Outer Continental Shelf exploration from development activities, alternative leasing systems, operating practices for safety and environmental protection, and the handling of industry information by Federal authorities.

Joint hearings on amendments to the Outer Continental Shelf Lands Act of 1954 and the Coastal Zone Management Act of 1972 were held by the Senate Committees on Interior and Insular Affairs, and Commerce. These hearings on March 14, 17, 18, 1975<sup>3</sup> and April 8 and 9, 1975<sup>4</sup> were held pursuant to S. Res. 45, the "National Fuels and Energy Policy Study," and Senate Resolution 222, the "National Ocean Policy Study."

In these 5 days of hearings 54 statements and 114 communications were received by the committees from representatives of Federal, State, and local governments, as well as industry and private organizations. Dominating the hearings were the issues of possible impacts and the Federal-State relationship in Outer Continental Shelf matters. Clearly there was concern for future impacts from Outer Continental Shelf operations on the coastal zone and for the distribution of Outer Continental Shelf revenues to coastal States.

The House Committee on Merchant Marine and Fisheries, Subcommittee on Oceanography held hearings on bills to amend the Coastal Zone Management Act.<sup>5</sup> Outer Continental Shelf policy issues such as the separation of exploration from development were not dealt with in these hearings. Like the Senate hearings, representatives from government, industry, and the private sector voiced their concerns for future impacts from accelerated Outer Continental Shelf oil and gas activities.

## ACTIONS

The Senate reported its bill, S. 586 on July 11, 1975. Its report (S. Rept. 94-277) gave special emphasis to the provisions on Federal consistency, the coastal energy facility impact program, interstate coordination, research and training, and funds for public access to beaches and the preservation of islands. Five days after the bill was reported out, the Senate considered and passed (73-14) S. 586 on July 16, 1975. Accepted before passage were amendments to clarify and strengthen the automatic grants provision, to allow that any grant made would not be considered a major Federal action under the National Environmental Policy Act, to provide entitlement to grants and loans to States which have experienced net adverse impacts within 3 years prior to the enactment of the bill, to provide for equal representation of State and Federal interests on the Coastal Impact Review Board, to provide that a larger share of the funds derived from pro-

<sup>3</sup> U.S. Congress, Senate, Committee on Interior and Insular Affairs and Committee on Commerce, Outer Continental Shelf Lands Act Amendments and Coastal Zone Management Act Amendments, Hearings, 94th Cong., 1st sess. Pt. 1. Washington, U.S. Government Printing Office, 1975. 696 p.

<sup>4</sup> U.S. Congress, Senate, Committee on Interior and Insular Affairs and Committee on Commerce, Outer Continental Shelf Lands Act Amendments and Coastal Zone Management Act Amendments, Hearings, 94th Cong., 1st sess. Pt. 2. Washington, U.S. Government Printing Office, 1975. 696-1756 p.

<sup>5</sup> U.S. Congress, House, Committee on Merchant Marine and Fisheries, Coastal Zone Management, Hearings, 94th Congress, 1st session. Washington, U.S. Government Printing Office, 1975. 303p.

duction of federally owned minerals be allotted for public facilities and services, and providing for priority treatment of applicants with impacts resulting from exploration and production of energy facilities. Efforts were introduced but not adopted to include noncoastal States in the treatment of the bill and to eliminate facilities for equipment manufacture or assembly from classification as energy facilities.

House action on its major coastal bill came at the beginning of the second session of the 94th Congress. The Committee on Merchant Marine and Fisheries reported (H. Rept. 94-878) H.R. 3981 on March 4, 1976. The report gave emphasis to provisions adding new requirements for State coastal zone programs in the development phase, to the coastal energy activity impact program, interstate coordination, and research and training assistance. On March 11, 1976, the House of Representatives under H. Res. 1083, passed H.R. 3981 by a vote of 370 to 14. During the course of debate, Committee amendments omitting language in the Federal consistency requirements and requiring hearings in cases of disputes was agreed to. The passage of H.R. 3981 was vacated and S. 586, after being similarly amended to contain the language of the House bill, was passed in lieu.

The conference committee, composed of Representatives Leonor K. Sullivan, Thomas N. Downing, Paul G. Rogers, John M. Murphy, Pierre S. DuPont, and David C. Treen in the House, and Senators Warren G. Magnuson, Ernest F. Hollings, John V. Tunney, Ted Stevens, and Lowell Weicker in the Senate, submitted its report (in H. Rept. 94-1298 and S. Rept. 94-987) on June 24, 1976. The conference substitute followed the House amendment in its definition of "coastal energy activity," "local government" and Outer Continental Shelf energy activity. The provision for the inclusion of leasing in the "consistency" provision was added from the Senate bill, thus requiring approval of leasing by each State with an approved coastal zone management program. The conference substitute went further than earlier language had, applying the consistency requirement to the earlier stages of leasing such as exploratory stages, thus, assuring the States full information at the earliest possible opportunity. The House formula for determining a State's share of the coastal energy impact fund was accepted by the conferees. In addition, House language providing for public access to beaches, preservation of islands and for shellfish study was agreed to. The conference report was agreed to by the Senate on June 29, 1976 and by the House on June 30, 1976.

The President signed the Coastal Zone Management Act Amendments into law as Public Law 94-370 on July 26, 1976. In his statement at that time, the President urged the Secretary of Commerce to expeditiously implement the provisions of the act and noted that the issues of energy and the environment would be of high priority in the years to come.



## II. PUBLIC LAW 94-370, THE COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976



Public Law 94-370  
94th Congress, S. 586  
July 26, 1976

### An Act

To improve coastal zone management in the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Coastal Zone Management Act Amendments of 1976".

#### SEC. 2. FINDINGS.

Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—

(1) by inserting "ecological," immediately after "recreational," in subsection (b);

(2) by striking out—

(A) the semicolon at the end of subsections (a), (b), (c), (d), (e), and (f), respectively, and

(B) "; and" at the end of subsection (g),

and inserting in lieu of such matter at each such place a period; and

(3) by inserting immediately after subsection (h) the following:

"(i) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone."

#### SEC. 3. DEFINITIONS.

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

(1) by redesignating paragraph (a) as paragraph (1), and by amending the first sentence of such paragraph (1) (as so redesignated)—

(A) by striking out "Coastal" and inserting in lieu thereof "The term 'coastal'; and

(B) by inserting immediately after "and includes" the following: "islands,";

(2) by redesignating paragraph (b) as paragraph (2), and by amending such paragraph (2) (as so redesignated)—

(A) by striking out "Coastal" and inserting in lieu thereof "The term 'coastal'; and

(B) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(3) by striking out "(c) 'Coastal'" and inserting in lieu thereof "(3) The term 'coastal';

(4) by inserting immediately before paragraph (d) thereof the following:

"(4) The term 'coastal energy activity' means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or

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Management Act  
Amendments of  
1976.  
16 USC 1451  
note.

operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state;

“(i) Any outer Continental Shelf energy activity.

“(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

“(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be ‘in close proximity to’ the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

“(5) The term ‘energy facilities’ means any equipment or facility which is or will be used primarily—

“(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

“(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.”;

(5) by striking out “(d) ‘Estuary’” and inserting in lieu thereof

“(6) The term ‘estuary’”;

(6) by redesignating paragraph (e) as paragraph (7) and by amending such paragraph (7) (as so redesignated)—

(A) by striking out “‘Estuarine’” and inserting in lieu thereof “‘The term ‘estuarine’”, and

(B) by striking out “estuary, adjoining transitional areas, and adjacent uplands, constituting” and inserting in lieu thereof the following: “estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes”;

(7) by striking out paragraph (f) and inserting in lieu thereof the following:

“(8) The term ‘Fund’ means the Coastal Energy Impact Fund established by section 308 (h).

“(9) The term ‘land use’ means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 307 (g).

“(10) The term ‘local government’ means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state’s coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.”;

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(8) by striking out "(g) 'Management'" and inserting in lieu thereof "(11) The term 'management'";

(9) by inserting immediately after paragraph (11) (as redesignated by paragraph (8) of this section) the following:

"(12) The term 'outer Continental Shelf energy activity' means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

"(13) The term 'person' means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

"(14) The term 'public facilities and public services' means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

"(15) The term 'Secretary' means the Secretary of Commerce.";

(10) by striking out "(h) 'Water'" and inserting in lieu thereof

"(16) The term 'water'; and

(11) by striking out paragraph (i).

#### SEC. 4. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended to read as follows:

##### "MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"Sec. 305. (a) The Secretary may make grants to any coastal state—

"(1) under subsection (c) for the purpose of assisting such state in the development of a management program for the land and water resources of its coastal zone; and

"(2) under subsection (d) for the purpose of assisting such state in the completion of the development, and the initial implementation, of its management program before such state qualifies for administrative grants under section 306.

"(b) The management program for each coastal state shall include each of the following requirements:

"(1) An identification of the boundaries of the coastal zone subject to the management program.

"(2) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

"(3) An inventory and designation of areas of particular concern within the coastal zone.

"(4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in

Post, p. 1017.  
Requirements.

paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

"(5) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

"(6) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, area-wide, state, regional, and interstate agencies in the management process.

"(7) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

"(8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

"(9) A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

No management program is required to meet the requirements in paragraphs (7), (8), and (9) before October 1, 1978.

"(c) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a)(1) if such state reasonably demonstrates to the satisfaction of the Secretary that such grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed 80 per centum of such state's costs for such purposes in any one year. No coastal state is eligible to receive more than four grants pursuant to this subsection. After the initial grant is made to any coastal state pursuant to this subsection, no subsequent grant shall be made to such state pursuant to this subsection unless the Secretary finds that such state is satisfactorily developing its management program.

"(d)(1) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a)(2) if the Secretary finds that such state meets the eligibility requirements set forth in paragraph (2). The amount of any such grant shall not exceed 80 per centum of the costs for such purposes in any one year.

"(2) A coastal state is eligible to receive grants under this subsection if it has—

"(A) developed a management program which—

"(i) is in compliance with the rules and regulations promulgated to carry out subsection (b), but

"(ii) has not yet been approved by the Secretary under section 306;

"(B) specifically identified, after consultation with the Secretary, any deficiency in such program which makes it ineligible for approval by the Secretary pursuant to section 306, and has established a reasonable time schedule during which it can remedy any such deficiency;

"(C) specified the purposes for which any such grant will be used;

"(D) taken or is taking adequate steps to meet any requirement under section 306 or 307 which involves any Federal official or agency; and

Post, p. 1017.

Eligibility.

Post, p. 1018.

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“(E) complied with any other requirement which the Secretary, by rules and regulations, prescribes as being necessary and appropriate to carry out the purposes of this subsection.

“(3) No management program for which grants are made under this subsection shall be considered an approved program for purposes of section 307.

“(e) Grants under this section shall be made to, and allocated among, the coastal states pursuant to rules and regulations promulgated by the Secretary; except that—

“(1) no grant shall be made under this section in an amount which is more than 10 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary may waive this limitation in the case of any coastal state which is eligible for grants under subsection (d); and

“(2) no grant shall be made under this section in an amount which is less than 1 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary shall waive this limitation in the case of any coastal state which requests such a waiver.

“(f) The amount of any grant (or portion thereof) made under this section which is not obligated by the coastal state concerned during the fiscal year for which it was first authorized to be obligated by such state, or during the fiscal year immediately following, shall revert to the Secretary who shall add such amount to the funds available for grants under this section.

“(g) With the approval of the Secretary, any coastal state may allocate to any local government, to any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to any regional agency, or to any interstate agency, a portion of any grant received by it under this section for the purpose of carrying out the provisions of this section.

“(h) Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306. Whenever the Secretary approves the management program of any coastal state under section 306, such state thereafter—

“(1) shall not be eligible for grants under this section; except that such state may receive grants under subsection (c) in order to comply with the requirements of paragraphs (7), (8), and (9) of subsection (b); and

“(2) shall be eligible for grants under section 306.

“(i) The authority to make grants under this section shall expire on September 30, 1979.”

## SEC. 5. ADMINISTRATIVE GRANTS.

Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

“(a) The Secretary may make a grant annually to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary (1) finds that such program meets the requirements of section 305(b), and (2) approves such program in accordance with subsections (c), (d), and (e).”;

(2) by amending subsection (c)(2)(B) by striking out the period at the end thereof and inserting in lieu thereof the following: “; except that the Secretary shall not find any mechanism to be ‘effective’ for purposes of this subparagraph unless it includes each of the following requirements:

Post, p. 1018.  
Rules and  
regulations.

Infra.

Expiration  
date.

Ante, p. 1015.

Notice.

“(i) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

“(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision, unless such local government waives its right to comment.

“(iii) Such management agency, if any such comments are submitted to it, with such 30-day period, by any local government—

“(I) is required to consider any such comments,

“(II) is authorized, in its discretion, to hold a public hearing on such comments, and

“(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified on the basis of such comments.”;

(3) by amending subsection (c) (8) to read as follows—

“(8) The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or program.”;

(4) by amending subsection (g) to read as follows:

“(g) Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary under this section, pursuant to the required procedures described in subsection (c). Except with respect to any such amendment which is made before October 1, 1978, for the purpose of complying with the requirements of paragraphs (7), (8), and (9) of section 305(b), no grant shall be made under this section to any coastal state after the date of such an amendment or modification, until the Secretary approves such amendment or modification.”.

Ante, p. 1015.

## SEC. 6. CONSISTENCY AND MEDIATION.

Section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) is amended—

(1) by striking out “INTERAGENCY” in the title of such section;

(2) by striking out the last sentence of subsection (b);

(3) by amending subsection (c) (3) by inserting “(A)” immediately after “(3)”, and by adding at the end thereof the following:

“(B) After the management program of any coastal state has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such

Ante, p. 1017.

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plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

“(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

“(ii) concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A); or

“(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.”; and

(4) by adding at the end thereof the following new subsection:

“(h) In case of serious disagreement between any Federal agency and a coastal state—

“(1) in the development or the initial implementation of a management program under section 305; or

(2) in the administration of a management program approved under section 306;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.”

## SEC. 7. COASTAL ENERGY IMPACT PROGRAM.

The Coastal Zone Management Act of 1972 is further amended by redesignating sections 308 through 315 as sections 311 through 318, respectively; and by inserting immediately after section 307 the following:

### “COASTAL ENERGY IMPACT PROGRAM

“Sec. 308. (a) (1) The Secretary shall administer and coordinate, as part of the coastal zone management activities of the Federal Government provided for under this title, a coastal energy impact program. Such program shall consist of the provision of financial

Ante, p. 1015.

Ante, p. 1017.

16 USC 1457-1464.

16 USC 1456a.

assistance to meet the needs of coastal states and local governments in such states resulting from specified activities involving energy development. Such assistance, which includes—

“(A) grants, under subsection (b), to coastal states for the purposes set forth in subsection (b)(4) with respect to consequences resulting from the energy activities specified therein;

“(B) grants, under subsection (c), to coastal states for study of, and planning for, consequences relating to new or expanded energy facilities in, or which significantly affect, the coastal zone;

“(C) loans, under subsection (d)(1), to coastal states and units of general purpose local government to assist such states and units to provide new or improved public facilities or public services which are required as a result of coastal energy activity;

“(D) guarantees, under subsection (d)(2) and subject to the provisions of subsection (f), of bonds or other evidences of indebtedness issued by coastal states and units of general purpose local government for the purpose of providing new or improved public facilities or public services which are required as a result of coastal energy activity;

“(E) grants or other assistance, under subsection (d)(3), to coastal states and units of general purpose local government to enable such states and units to meet obligations under loans or guarantees under subsection (d)(1) or (2) which they are unable to meet as they mature, for reasons specified in subsection (d)(3); and

“(F) grants, under subsection (d)(4), to coastal states which have suffered, are suffering, or will suffer any unavoidable loss of a valuable environmental or recreational resource;

shall be provided, administered, and coordinated by the Secretary in accordance with the provisions of this section and under the rules and regulations required to be promulgated pursuant to paragraph (2). Any such financial assistance shall be subject to audit under section 313.

Post, p. 1030.

Rules and regulations,  
16 USC 1463.

“(2) The Secretary shall promulgate, in accordance with section 317, such rules and regulations (including, but not limited to, those required under subsection (e)) as may be necessary and appropriate to carry out the provisions of this section.

“(b)(1) The Secretary shall make grants annually to coastal states, in accordance with the provisions of this subsection.

Calculations.

“(2) The amounts granted to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

“(A) An amount which bears, to one-third of the amount appropriated for the purpose of funding grants under this subsection for such fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

“(B) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal



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Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

“(C) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal states in such year.

“(D) An amount which bears, to one-third of the amount appropriated for such purpose for such fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

“(3) (A) The Secretary shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary such assistance in collecting and evaluating relevant information as the Secretary may request. The Secretary shall request the assistance of any appropriate state agency in collecting and evaluating such information.

“(B) For purposes of making calculations under paragraph (2), outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

“(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

“(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

“(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

“(C) For purposes of making calculations under this subsection, the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included within the fiscal year ending June 30, 1976.

"(4) Each coastal state shall use the proceeds of grants received by it under this subsection for the following purposes (except that priority shall be given to the use of such proceeds for the purpose set forth in subparagraph (A)):

"(A) The retirement of state and local bonds, if any, which are guaranteed under subsection (d)(2); except that, if the amount of such grants is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

"(B) The study of, planning for, development of, and the carrying out of projects and programs in such state which are—

"(i) necessary, because of the unavailability of adequate financing under any other subsection, to provide new or improved public facilities and public services which are required as a direct result of new or expanded outer Continental Shelf energy activity; and

"(ii) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

"(C) The prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource if such loss results from coastal energy activity.

"(5) The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (4). The United States shall be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which—

"(A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or

"(B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (4).

Before disbursing the proceeds of any grant under this subsection to any coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.

"(c) The Secretary shall make grants to any coastal state if the Secretary finds that the coastal zone of such state is being, or is likely to be, significantly affected by the siting, construction, expansion, or operation of new or expanded energy facilities. Such grants shall be used for the study of, and planning for (including, but not limited to, the application of the planning process included in a management program pursuant to section 305(b)(8)) any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such state's coastal zone as a result of the siting, construction, expansion, or operation of such new or expanded energy facilities. The amount of any such grant shall not exceed 80 per centum of the cost of such study and planning.

"(d) (1) The Secretary shall make loans to any coastal state and to any unit of general purpose local government to assist such state or unit to provide new or improved public facilities or public services, or

Ante, p. 1015.

Loans.

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both, which are required as a result of coastal energy activity. Such loans shall be made solely pursuant to this title, and no such loan shall require as a condition thereof that any such state or unit pledge its full faith and credit to the repayment thereof. No loan shall be made under this paragraph after September 30, 1986.

“(2) The Secretary shall, subject to the provisions of subsection (f), guarantee, or enter into commitments to guarantee, the payment of interest on, and the principal amount of, any bond or other evidence of indebtedness if it is issued by a coastal state or a unit of general purpose local government for the purpose of providing new or improved public facilities or public services, or both, which are required as a result of a coastal energy activity.

“(3) If the Secretary finds that any coastal state or unit of general purpose local government is unable to meet its obligations pursuant to a loan or guarantee made under paragraph (1) or (2) because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such state or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such state or unit pursuant to subsection (e) (3), take any of the following actions:

“(A) Modify appropriately the terms and conditions of such loan or guarantee.

“(B) Refinance such loan.

“(C) Make a supplemental loan to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

“(D) Make a grant to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

Notwithstanding the preceding sentence, if the Secretary—

“(i) has taken action under subparagraph (A), (B), or (C) with respect to any loan or guarantee made under paragraph (1) or (2), and

“(ii) finds that additional action under subparagraph (A), (B), or (C) will not enable such state or unit to meet, within a reasonable time, its obligations under such loan or guarantee and any additional obligations related to such loan or guarantee; the Secretary shall make a grant or grants under subparagraph (D) to such state or unit in an amount sufficient to enable such state or unit to meet such outstanding obligations.

“(4) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from coastal energy activity, if the Secretary finds that such state has not received amounts under subsection (b) which are sufficient to prevent, reduce, or ameliorate such loss.

“(e) Rules and regulations with respect to the following matters shall be promulgated by the Secretary as soon as practicable, but not later than 270 days after the date of the enactment of this section:

“(1) A formula and procedures for apportioning equitably, among the coastal states, the amounts which are available for the provision of financial assistance under subsection (d). Such formula shall be based on, and limited to, the following factors:

“(A) The number of additional individuals who are expected to become employed in new or expanded coastal

Rules and regulations.

Financial assistance, formula and procedures.

energy activity, and the related new population, who reside in the respective coastal states.

“(B) The standardized unit costs (as determined by the Secretary by rule), in the relevant regions of such states, for new or improved public facilities and public services which are required as a result of such expected employment and the related new population.

“(2) Criteria under which the Secretary shall review each coastal state's compliance with the requirements of subsection (g) (2).

Criteria and procedures for repayment.

“(3) Criteria and procedures for evaluating the extent to which any loan or guarantee under subsection (d) (1) or (2) which is applied for by any coastal state or unit of general purpose local government can be repaid through its ordinary methods and rates for generating tax revenues. Such procedures shall require such state or unit to submit to the Secretary such information which is specified by the Secretary to be necessary for such evaluation, including, but not limited to—

“(A) a statement as to the number of additional individuals who are expected to become employed in the new or expanded coastal energy activity involved, and the related new population, who reside in such state or unit;

“(B) a description, and the estimated costs, of the new or improved public facilities or public services needed or likely to be needed as a result of such expected employment and related new population;

“(C) a projection of such state's or unit's estimated tax receipts during such reasonable time thereafter, not to exceed 30 years, which will be available for the repayment of such loan or guarantee; and

“(D) a proposed repayment schedule.

The procedures required by this paragraph shall also provide for the periodic verification, review, and modification (if necessary) by the Secretary of the information or other material required to be submitted pursuant to this paragraph.

“(4) Requirements, terms, and conditions (which may include the posting of security) which shall be imposed by the Secretary, in connection with loans and guarantees made under subsections (d) (1) and (2), in order to assure repayment within the time fixed, to assure that the proceeds thereof may not be used to provide public services for an unreasonable length of time, and otherwise to protect the financial interests of the United States.

Interest rate.

“(5) Criteria under which the Secretary shall establish rates of interest on loans made under subsections (d) (1) and (3). Such rates shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans.

In developing rules and regulations under this subsection, the Secretary shall, to the extent practicable, request the views of, or consult with, appropriate persons regarding impacts resulting from coastal energy activity.

“(f) (1) Bonds or other evidences of indebtedness guaranteed under subsection (d) (2) shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

“(A) no guarantee shall be made unless the indebtedness involved will be completely amortized within a reasonable period, not to exceed 30 years;

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“(B) no guarantee shall be made unless the Secretary determines that such bonds or other evidences of indebtedness will—

“(i) be issued only to investors who meet the requirements prescribed by the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

“(ii) bear interest at a rate found not to be excessive by the Secretary; and

“(iii) contain, or be subject to, repayment, maturity, and other provisions which are satisfactory to the Secretary;

“(C) the approval of the Secretary of the Treasury shall be required with respect to any such guarantee, unless the Secretary of the Treasury waives such approval; and

“(D) no guarantee shall be made after September 30, 1986.

“(2) The full faith and credit of the United States is pledged to the payment, under paragraph (5), of any default on any indebtedness guaranteed under subsection (d) (2). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation, except for fraud or material misrepresentation on the part of the holder, or known to the holder at the time acquired.

“(3) The Secretary shall prescribe and collect fees in connection with guarantees made under subsection (d) (2). These fees may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs pertaining to such guarantees.

Fees.

“(4) The interest paid on any obligation which is guaranteed under subsection (d) (2) and which is received by the purchaser thereof (or the purchaser's successor in interest), shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954. The Secretary may pay out of the Fund to the coastal state or the unit of general purpose local government issuing such obligations not more than such portion of the interest on such obligations as exceeds the amount of interest that would be due at a comparable rate determined for loans made under subsection (d) (1).

26 USC 1 et seq.

“(5) (A) Payments required to be made as a result of any guarantee made under subsection (d) (2) shall be made by the Secretary from sums appropriated to the Fund or from moneys obtained from the Secretary of the Treasury pursuant to paragraph (6).

“(B) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under subsection (d) (2), any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due such holder, unless the Secretary finds that there was no default by such state or unit or that such default has been remedied.

“(C) If the Secretary makes a payment to a holder under subparagraph (B), the Secretary shall—

“(i) have all of the rights granted to the Secretary or the United States by law or by agreement with the obligor; and

“(ii) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

Such rights shall include, but not be limited to, a right of reimbursement to the United States against the coastal state or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If such coastal state, or the coastal state in which such unit is located, is due to receive any amount under subsection (b), the Secretary shall, in lieu of paying such amount to such state, deposit such amount in the Fund until such right of reimbursement has been satisfied. The Secretary may accept, in complete or partial satisfaction of any such rights, a conveyance of property or interests therein. Any property so obtained by the Secretary may be completed, maintained, operated, held, rented, sold, or otherwise dealt with or disposed of on such terms or conditions as the Secretary prescribes or approves. If, in any case, the sum received through the sale of such property is greater than the amount paid to the holder under subparagraph (D) plus costs, the Secretary shall pay any such excess to the obligor.

“(D) The Attorney General shall, upon the request of the Secretary, take such action as may be appropriate to enforce any right accruing to the Secretary or the United States as a result of the making of any guarantee under subsection (d) (2). Any sums received through any sale under subparagraph (C) or recovered pursuant to this subparagraph shall be paid into the Fund.

“(6) If the moneys available to the Secretary are not sufficient to pay any amount which the Secretary is obligated to pay under paragraph (5), the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. Any sums received by the Secretary through such issuance shall be deposited in the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued under this paragraph, and for this purpose such Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this paragraph. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this paragraph. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

“(g) (1) No coastal state is eligible to receive any financial assistance under this section unless such state—

“(A) has a management program which has been approved under section 306;

“(B) is receiving a grant under section 305(c) or (d); or

“(C) is, in the judgment of the Secretary, making satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303.

31 USC 774.

Ante, p. 1017.

Ante, p. 1015.

16 USC 1433.

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“(2) Each coastal state shall, to the maximum extent practicable, provide that financial assistance provided under this section be apportioned, allocated, and granted to units of local government within such state on a basis which is proportional to the extent to which such units need such assistance.

“(h) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). The Fund shall consist of—

Coastal Energy  
Impact Fund.  
Establishment.

“(1) any sums appropriated to the Fund;

“(2) payments of principal and interest received under any loan made under subsection (d) (1);

“(3) any fees received in connection with any guarantee made under subsection (d) (2); and

“(4) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

“(i) The Secretary shall not intercede in any land use or water use decision of any coastal state with respect to the siting of any energy facility or public facility by making siting in a particular location a prerequisite to, or a condition of, financial assistance under this section.

“(j) The Secretary may evaluate, and report to the Congress, on the efforts of the coastal states and units of local government therein to reduce or ameliorate adverse consequences resulting from coastal energy activity and on the extent to which such efforts involve adequate consideration of alternative sites.

“(k) To the extent that Federal funds are available under, or pursuant to, any other law with respect to—

“(1) study and planning for which financial assistance may be provided under subsection (b) (4) (B) and (c), or

“(2) public facilities and public services for which financial assistance may be provided under subsection (b) (4) (B) and (d), the Secretary shall, to the extent practicable, administer such subsections—

“(A) on the basis that the financial assistance shall be in addition to, and not in lieu of, any Federal funds which any coastal state or unit of general purpose local government may obtain under any other law; and

“(B) to avoid duplication.

“(1) As used in this section—

Definitions.

“(1) The term ‘retirement’, when used with respect to bonds, means the redemption in full and the withdrawal from circulation of those which cannot be repaid by the issuing jurisdiction in accordance with the appropriate repayment schedule.

“(2) The term ‘unavoidable’, when used with respect to a loss of any valuable environmental or recreational resource, means a loss, in whole or in part—

“(A) the costs of prevention, reduction, or amelioration of which cannot be directly or indirectly attributed to, or assessed against, any identifiable person; and

“(B) cannot be paid for with funds which are available under, or pursuant to, any provision of Federal law other than this section.

“(3) The term ‘unit of general purpose local government’ means any political subdivision of any coastal state or any special entity created by such a state or subdivision which (in whole or part) is located in, or has authority over, such state’s coastal zone, and which (A) has authority to levy taxes or establish and collect user fees, and (B) provides any public facility or public service which is financed in whole or part by taxes or user fees.”.

## SEC. 8. INTERSTATE GRANTS.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 308 (as added by section 7 of this Act) the following:

### “INTERSTATE GRANTS

16 USC 1456b. “SEC. 309. (a) The coastal states are encouraged to give high priority—

“(1) to coordinating state coastal zone planning, policies, and programs with respect to contiguous areas of such states; and

“(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas.

Such coordination, study, planning, and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

Ante, p. 1015,  
1017.  
Agreements or  
compacts.

“(b) The consent of the Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

“(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

“(2) establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by the Congress.

“(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Administrator of the Federal Energy Administration, or their designated representatives, shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

“(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—



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“(1) coordinate state coastal zone planning, policies, and programs with respect to contiguous areas of the states involved;

“(2) study, plan, and implement unified coastal zone policies with respect to such areas; and

“(3) establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity.”

### SEC. 9. RESEARCH AND TECHNICAL ASSISTANCE.

The Coastal Management Act of 1972 is further amended by adding immediately after section 309 (as added by section 8 of this Act) the following:

#### “RESEARCH AND TECHNICAL ASSISTANCE FOR COASTAL ZONE MANAGEMENT”

“SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including, but not limited to, the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and training which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

16 USC 1456c.

“(b) The Secretary may make grants to coastal states to assist such states in carrying out research, studies, and training required with respect to coastal zone management. The amount of any grant made under this subsection shall not exceed 80 per centum of the cost of such research, studies, and training.

Contracts or other arrangements.

“(c) (1) The Secretary shall provide for the coordination of research, studies, and training activities under this section with any other such activities that are conducted by, or subject to the authority of, the Secretary.

“(2) The Secretary shall make the results of research conducted pursuant to this section available to any interested person.”

### SEC. 10. REVIEW OF PERFORMANCE.

Section 312(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1458(a)) is amended to read as follows:

“(a) The Secretary shall conduct a continuing review of—

“(1) the management programs of the coastal states and the performance of such states with respect to coastal zone management; and

“(2) the coastal energy impact program provided for under section 308.”

Ante, p. 1017.

**SEC. 11. AUDIT OF TRANSACTIONS.**

Section 313 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1459), is amended—

(1) by inserting “AND AUDIT” after “RECORDS” in the title of such section;

(2) by amending subsection (a)—

(A) by inserting immediately after “grant under this title” the following: “or of financial assistance under section 308”, and

(B) by inserting after “received under the grant” the following: “and of the proceeds of such assistance”; and

(3) by amending subsection (b) to read as follows:

“(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

“(1) after any grant is made under this title or any financial assistance is provided under section 308(d); and

“(2) until the expiration of 3 years after—

“(A) completion of the project, program, or other undertaking for which such grant was made or used, or

“(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this title.”.

**SEC. 12. ACQUISITION OF ACCESS TO PUBLIC BEACHES AND OTHER PUBLIC COASTAL AREAS.**

Section 315 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1461), is amended to read as follows:

**“ESTUARINE SANCTUARIES AND BEACH ACCESS**

“SEC. 315. The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of—

“(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and

“(2) acquiring lands to provide for access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands.

The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$2,000,000.”.

**SEC. 13. ANNUAL REPORT.**

The second sentence of section 316(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1462(a)), is amended by striking out “and (9)” and inserting in lieu thereof “(12)”; and by inserting immediately after clause (8) the following: “(9) a description of the economic, environmental, and

Ante, p. 1017.

social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences; (10) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (11) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and”.

#### SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Section 318 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1464), is amended to read as follows:

##### “AUTHORIZATION OF APPROPRIATIONS

“Sec. 318. (a) There are authorized to be appropriated to the Secretary—

“(1) such sums, not to exceed \$20,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, respectively, as may be necessary for grants under section 305, to remain available until expended;

“(2) such sums, not to exceed \$50,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 306, to remain available until expended;

“(3) such sums, not to exceed \$50,000,000 for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984, as may be necessary for grants under section 308(b);

Ante, p. 1017.

“(4) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 309, to remain available until expended;

Ante, p. 1028.

“(5) such sums, not to exceed \$10,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for financial assistance under section 310, of which 50 per centum shall be for financial assistance under section 310(a) and 50 per centum shall be for financial assistance under section 310(b), to remain available until expended;

“(6) such sums, not to exceed \$6,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(1), to remain available until expended;

“(7) such sums, not to exceed \$25,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(2), to remain available until expended; and

“(8) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for administrative expenses incident to the administration of this title.

“(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of

Ante, p. 1017.

carrying out the provisions of section 308, other than subsection (b), of which not to exceed \$50,000,000 shall be for purposes of subsections (c) and (d) (4) of such section.

Ante, p. 1015,  
1017, 1028,  
1029.

“(c) Federal funds received from other sources shall not be used to pay a coastal state’s share of costs under section 305, 306, 309, or 310.”.

15 USC 1511a.

#### SEC. 15. ADMINISTRATION.

(a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(140) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.”.

15 USC 1511a  
note.

(c) The Secretary may, to carry out the provisions of the amendments made by this Act, establish, and fix the compensation for, four new positions without regard to the provision of chapter 51 of title 5, United States Code, at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. Any such appointment may, at the discretion of the Secretary, be made without regard to the provisions of such title 5 governing appointments in the competitive service.

5 USC 5332 note.

#### SEC. 16. SHELLFISH SANITATION REGULATIONS.

16 USC 1462  
note.

(a) The Secretary of Commerce shall—

- (1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and
- (2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

Report to  
Congress.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

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(b) The Secretary of Health, Education, and Welfare shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.

Analysis,  
publication.

Approved July 26, 1976.

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**LEGISLATIVE HISTORY:**

HOUSE REPORTS: No. 94-878 accompanying H. R. 3981 (Comm. on Merchant Marine and Fisheries) and No. 94-1298 (Comm. of Conference).

SENATE REPORTS: No. 94-277 (Comm. on Commerce) and No. 94-987 (Comm. of Conference).

**CONGRESSIONAL RECORD:**

Vol. 121 (1975): July 16, considered and passed Senate.

Vol. 122 (1976): Mar. 11, considered and passed House, amended, in lieu of H. R. 3981.

June 29, Senate agreed to conference report.

June 30, House agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:**

Vol. 12, No. 31 (1976): July 26, Presidential statement.



III. INTRODUCTION OF S. 586, STATEMENT OF SENATOR  
ERNEST F. HOLLINGS, FEB. 5, 1975

94<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 586**

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 1975

Mr. HOLLINGS (for himself, Mr. KENNEDY, Mr. MATHIAS, Mr. TUNNEY, and Mr. WILLIAMS) introduced the following bill; which was read twice and referred to the Committee on Commerce

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**A BILL**

To amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "Coastal Zone Environ-  
4 ment Act of 1975".

5       SEC. 2. Section 302 of the Coastal Zone Management  
6 Act of 1972 (16 U.S.C. 1451) is amended by (1) deleting  
7 "and" immediately after the semicolon in subsection (g)  
8 thereof; (2) deleting the period at the end thereof and in-

1 serting in lieu thereof “; and ”; and (3) inserting at the end  
2 thereof the following new subsection:

3 “(i) The national interest in adequate energy supplies  
4 requires that adequate assistance be provided to the coastal  
5 States to enable them to (1) study, plan for, manage, and  
6 ameliorate any adverse consequences of energy facilities  
7 siting and of energy resource development or production  
8 which affects, directly or indirectly, the coastal zone and to  
9 provide for needed public facilities and services associated  
10 with such activity; (2) coordinate coastal zone planning,  
11 policies, and programs in interstate and regional areas; and  
12 (3) develop short-term research, study, and training capa-  
13 bilities for the management of the coastal resources of the  
14 States.”

15 SEC. 3. (a) Section 307 (c) (3) of the Coastal Zone  
16 Management Act of 1972 (16 U.S.C. 1455 (c) (3)) is  
17 amended by (1) deleting “license or permit” in the first  
18 sentence thereof and inserting in lieu thereof “license, lease, or  
19 permit”; (2) deleting “licensing or permitting” in the first  
20 sentence thereof and inserting in lieu thereof “licensing, leas-  
21 ing, or permitting”; and (3) deleting “license or permit” in  
22 the last sentence thereof and inserting in lieu thereof “license,  
23 lease, or permit”.

24 (b) Section 307 (c) of such Act is amended by adding  
25 at the end thereof the following new paragraph:



1       “(4) Any applicant for a required license, lease, or  
2 permit for development or production of energy resources or  
3 for the siting of energy facilities to be located in or which  
4 would directly or indirectly affect the coastal zone shall certify  
5 that the proposed activity complies with, and will be con-  
6 ducted in a manner consistent with any approved State  
7 management program and in accordance with the procedures  
8 for assuring the consistency of Federal activities with ap-  
9 proved State management programs pursuant to paragraph  
10 (3) of this section.”

11       SEC. 4. The Coastal Zone Management Act of 1972  
12 (16 U.S.C. 1451 et seq.) is amended by (1) redesignating  
13 sections 308 through 315 thereof as sections 311 through  
14 318 thereof, respectively; and (2) inserting therein the  
15 following three new sections:

16                               “COASTAL IMPACT FUND

17       “SEC. 308. (a) There is established in the Treasury of  
18 the United States the Coastal Impact Fund (hereinafter  
19 referred to as the ‘Fund’). The Fund shall be administered  
20 by the Secretary. The Secretary is authorized to make 100  
21 per centum annual grants from the Fund to those coastal  
22 States which the Secretary determines are likely to be sig-  
23 nificantly and adversely impacted by the development or  
24 production of energy resources or by the siting of energy  
25 facilities to be located in or which would affect, directly or

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1 indirectly, the coastal zone and which have complied with  
2 the eligibility requirements established in subsection (b) of  
3 this section. Such grants may be made for the purpose of  
4 (1) studying, planning for, managing, controlling, and  
5 ameliorating economic, environmental, and social conse-  
6 quences likely to result from such development, production,  
7 or siting; and (2) constructing public facilities and providing  
8 public services made necessary by such development, produc-  
9 tion, or siting and activities related thereto.

10 “(b) The Secretary shall, by regulations, in accordance  
11 with section 553 of title 5, United States Code, establish  
12 requirements for grant eligibility. Such regulations shall pro-  
13 vide that a State is eligible for such grant upon a finding  
14 by the Secretary that such State—

15 “(1) is receiving a program development grant  
16 under section 305 of this Act and is making satisfactory  
17 progress, as determined by the Secretary, toward the  
18 development of a coastal zone management program  
19 under section 306 of this Act, or is receiving an admin-  
20 istrative grant under section 306 of this Act; and

21 “(2) has demonstrated, to the satisfaction of the  
22 Secretary that such grants will be used for purposes  
23 directly related to those specified in subsection (a) of  
24 this section.

25 “(c) The Secretary shall coordinate grants made pur-

1 suant to this section with the coastal zone management pro-  
2 gram developed or being developed by the coastal State re-  
3 questing such grant, pursuant to section 305 or 306 of this  
4 Act.

5 “(d) Such grants shall be allocated to the coastal States  
6 in proportion to the anticipated or actual impacts upon such  
7 States resulting from development or production of energy  
8 resources or the siting of energy facilities to be located in or  
9 which would affect, directly or indirectly, the coastal zone.

10 “(e) A coastal State may, for the purpose of carrying  
11 out the provisions of this section and with the approval of the  
12 Secretary, allocate a portion of any grant received under this  
13 section to (1) any political subdivision of such State; (2)  
14 an areawide agency designated under section 204 of the  
15 Demonstration Cities and Metropolitan Development Act  
16 of 1966; (3) a regional agency; or (4) an interstate agency.

17 “INTERSTATE COORDINATION GRANTS TO STATES

18 “SEC. 309. (a) The States are encouraged to give high  
19 priority to coordinating State coastal zone planning, policies,  
20 and programs in contiguous interstate areas and to study,  
21 plan, or implement unified coastal zone policies in such areas.  
22 The States may conduct such coordination, study, planning,  
23 or implementation through interstate agreement or com-  
24 pacts. The authorization of Congress is hereby given to two  
25 or more States to negotiate and enter into interstate agree-

1 ments or compacts, not in conflict with any law or treaty  
2 of the United States, upon such terms and conditions, includ-  
3 ing the establishment of such public agencies, entities, or au-  
4 thorities as are reasonable or appropriate, for the purpose of  
5 said coordination, study, planning, or implementation: *Pro-*  
6 *vided*, That such agreements or compacts shall provide an  
7 opportunity for participation, for coordination purposes,  
8 by Federal and local governments and agencies as well as  
9 property owners, users of the land, and the public. Such  
10 agreement or compact shall be binding or obligatory upon  
11 any State or party thereto without further approval by  
12 Congress.

13 “(b) The Secretary is authorized to make annual grants  
14 to the coastal States, not to exceed 90 per centum of the  
15 cost of such coordination, study, planning, or implementa-  
16 tion, if the Secretary finds that each coastal State receiving  
17 a grant under this section will use such grants for purposes  
18 consistent with the provisions of sections 305 and 306 of this  
19 Act.

20 “COASTAL RESEARCH ASSISTANCE

21 “SEC. 310. The Secretary is authorized to provide as-  
22 sistance to enable the coastal States to develop a capability  
23 for carrying out short-term research, studies, and training  
24 required in support of coastal zone management. Such assist-  
25 ance may be provided through (1) the payment of funds to

1 appropriate departments and agencies of the Federal Gov-  
2 ernment as he shall determine; (2) the employment of pri-  
3 vate individuals, partnerships, firms, corporations, or other  
4 suitable institutions, under contracts entered into for such  
5 purposes; or (3) annual grants to the coastal States not to  
6 exceed  $66\frac{2}{3}$  per centum of the costs of such assistance. As-  
7 sistance under this section is for the purpose of conducting or  
8 encouraging research and studies into the problems of coastal  
9 zone management and to provide for the training of persons  
10 to carry on further research or to obtain employment in  
11 private or public organizations which are concerned with  
12 coastal zone management.”.

13       SEC. 5. Section 316 of the Coastal Zone Management  
14 Act of 1972 (16 U.S.C. 1462), as redesignated by this Act,  
15 is amended by (1) deleting “and” at the end of paragraph  
16 (8) thereof immediately after the semicolon; (2) renumber-  
17 ing paragraph “(9)” thereof as paragraph “(11)” thereof;  
18 and (3) inserting the following two new paragraphs:

19             “(9) a general description of the economic, environ-  
20 mental, and social impacts of the development or pro-  
21 duction of energy resources or the siting of energy facili-  
22 ties affecting the coastal zone;

23             “(10) a description and evaluation of interstate and  
24 regional planning mechanisms developed by the coastal  
25 States; and”.

1       SEC. 6. (a) Section 305 (h) of the Coastal Zone Man-  
2     agement Act of 1972 (16 U.S.C. 1454 (h)) is amended by  
3     deleting "1977" and by inserting in lieu thereof "1980".

4       (b) Section 318 (a) of such Act (16 U.S.C. 1464 (a)),  
5     as redesignated by this Act, is amended by (1) deleting  
6     "three" in paragraph (1) thereof and inserting in lieu there-  
7     of "four"; (2) deleting "1977" in paragraph (2) thereof  
8     and inserting in lieu thereof "1980"; (3) deleting "and"  
9     after the semicolon in paragraph (2) thereof; (4) redesignig-  
10    nating paragraph "(3)" thereof as paragraph (6) thereof;  
11    (5) deleting "312" therein and inserting in lieu thereof  
12    "315"; and (6) inserting therein the following three new  
13    paragraphs:

14           “(3) a sum not to exceed \$200,000,000 for the  
15           fiscal year ending June 30, 1976, and for each of the  
16           four succeeding fiscal years, to the Coastal Impact  
17           Fund for grants pursuant to the provisions of section  
18           308, to remain available until expended;

19           “(4) such sums, not to exceed \$5,000,000 for the  
20           fiscal year ending September 30, 1976, and for each of  
21           the three succeeding fiscal years, as may be necessary  
22           for grants under section 309, to remain available until  
23           expended;

24           “(5) such sums, not to exceed \$5,000,000 for the  
25           fiscal year ending September 30, 1976, and for each of

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1 the three succeeding fiscal years, as may be necessary,  
2 for assistance under section 310, to remain available until  
3 expended; and”.

4 (c) Section 318 (b) of such Act is amended by deleting  
5 “four” and inserting in lieu thereof “seven”.

6 SEC. 7. (a) Section 302 (e) of the Coastal Zone Man-  
7 agement Act of 1972 (16 U.S.C. 1451 (e) ) is amended by  
8 inserting “ecological,” immediately after “recreational.”.

9 (b) Section 304 of such Act (16 U.S.C. 1453) is  
10 amended by (1) inserting in subsection (a) thereof “islands”  
11 immediately after “and includes”; (2) deleting in subsection  
12 (e) thereof “and” after “transitional areas,” and inserting  
13 “and islands” after “uplands,”; and (3) adding at the end  
14 thereof the following new subsection:

15 “(j) ‘Beach’ means the area defined by the coastal State  
16 under paragraph (7) of subsection (b) of section 305.”

17 (e) Section 305 (b) of such Act (16 U.S.C. 1454 (b) )  
18 is amended (1) by deleting the period at the end thereof  
19 and inserting in lieu thereof a semicolon; and by adding at  
20 the end thereof the following new paragraph:

21 “(7) a general plan for the protection of access to  
22 public beaches and other coastal areas of environmental,  
23 recreational, historical, esthetic, ecological, and cultural  
24 value. Such plan shall include a definition of the term  
25 ‘beach’.”.

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1 (d) Section 306 (c) (9) of such Act (16 U.S.C. 1461),  
2 as redesignated by this Act, is amended by (1) inserting  
3 after “, Beaches and Islands” after “Estuarine Sanctuaries”  
4 in the title thereof; (2) deleting the period at the end of the  
5 first sentence thereof and inserting in lieu thereof “, and  
6 grants of up to 50 per centum of the costs of acquisition of  
7 lands to provide for protection of and access to public beaches  
8 and preservation of islands.”.

9 SEC. 8. Section 318 (a) (6) of such Act (16 U.S.C.  
10 1464 (a) (6) ), as redesignated by this Act, is amended by  
11 inserting “and \$50,000,000 for each of the fiscal years 1975  
12 through 1980,” after “June 30, 1974,” and before “as may  
13 be necessary,”.

## 14 DEFINITIONS

15 SEC. 9. Section 304 of the Coastal Zone Management  
16 Act of 1972 (16 U.S.C. 1451) is amended by inserting  
17 after existing subsection (1) the following four new  
18 subsections:

19 “(j) ‘energy resources’ means petroleum crude oil,  
20 petroleum products, coal, natural gas, or any other  
21 substance used primarily for its energy content;

22 “(k) ‘development and production’ means the leas-  
23 ing of, exploration for, drilling for, removal, extraction,  
24 exploitation, or treatment, transportation and storage  
25 of, energy resources;



## 11

1           “(1) ‘energy facilities’ means electric generating  
2 plants, including hydroelectric facilities licensed by the  
3 Federal Power Commission; petroleum refineries or  
4 petrochemical plants; synthetic gasification plants,  
5 liquefaction and gasification plants, and liquefied nat-  
6 ural gas conversion facilities providing fuel for interstate  
7 use; petroleum loading or transfer facilities; and all  
8 transmission, pipeline, and storage facilities associated  
9 with the above facilities;

10           “(m) ‘public services and facilities’ means those  
11 services or facilities financed in part or in whole by local  
12 or State governments which may be required either  
13 directly or indirectly by the development or production  
14 of energy resources or the siting of energy facilities.  
15 Such services and facilities include, but are not limited  
16 to, highways, secondary roads, sewer and water facili-  
17 ties, schools, hospitals, fire and police protection and  
18 related facilities, and such other social and governmental  
19 services as necessary to support increased population  
20 and industrial development.”

By Mr. HOLLINGS (for himself, Mr. KENNEDY, Mr. TUNNEY, Mr. MATHIAS, and Mr. WILLIAMS) :

S. 586. A bill to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes. Referred to the Committee on Commerce.

Mr. HOLLINGS. Mr. President, last week I introduced, along with 13 of my colleagues, a bill amending the Outer Continental Shelf Lands Act. The purpose of that bill (S. 426) is to revise and update our national policies with regard to the development of offshore oil and gas resources to control as much as possible the adverse impacts and to assure the public an adequate return for their resources.

S. 426 is the first in a two-bill legislative package developed by the staff of the National Ocean Policy Study on this subject. Since the study was first established by the Senate last February, it has been assessing the total spectrum of coastal economic, social, and environmental impacts expected from offshore development and the proper role of State coastal zone management programs in the overall OCS decisionmaking process. This legislation, and the bill I am introducing today, contains what we feel is the correct approach to solving the problems that confront the coastal States as a result of the accelerated leasing program.

The bill I am introducing today, entitled "The Coastal Zone Environment Act of 1975," is the second bill in the study's legislative package. It complements S. 426 by providing the means for assisting coastal States in the amelioration of the socioeconomic and environmental problems resulting from the location of support facilities onshore needed to service the expiration and development activities on the OCS and to assure consistency of these activities with State coastal zone management programs. In addition, the bill contains provisions to strengthen the Coastal Zone Management Act in areas that are presently being given little or no attention, such as the need for protection of and access to public beaches, and the preservation of coastal islands.

Mr. President, the citizens of our coastal States—including those in the Gulf of Mexico—realize that offshore oil development requires a variety of large-scale developments onshore, including such things as pipeline landfalls, harbor supply bases, refineries, tank farms, and petrochemical plants, to name a few. Furthermore, skilled and unskilled workers must be brought into coastal areas to build these facilities, and to man them; and these workers will, in turn, increase the demand for housing, schools, roads, and other public services: It is no secret that the burden of accommodating all of this activity—the planning, the raising of additional revenues, the location of proper sites for facilities—will fall squarely on the shoulders of local and State governments that are already having financial difficulties. I do not believe there is any question that Federal assistance is needed to help States deal with these extra burdens and responsibilities.

The Coastal Zone Management Act of 1972 will be the focal point for this new assistance effort, because it is the only program in existence at the Federal level which has as its purpose the development of State and local land and water management programs for coastal

areas. Mr. President, this act has been recognized by the coastal States, by Members of Congress, and by the administration as the one essential tool available to coastal States to assist them in the planning, managing, and accommodating secondary impacts of OCS development. Furthermore, all coastal States which expect to have drilling off their coasts are presently participating in the coastal zone management program, and many are working feverishly to complete their programs before leasing begins.

But, Mr. President, the Coastal Zone Management Act is primarily a planning and management tool. While it has stimulated the creation of new institutions and processes at the State level for planning for coastal impacts, the act is underfunded at best, and does not provide the broad assistance the States and local governments are going to need to accommodate the massive growth impacts of OCS development. And while it does contain strong language requiring consistency of Federal licenses and permits with any approved State coastal zone management program, the applicability of this provision to Federal OCS activities has yet to be formally established by the courts.

Mr. President, this bill would amend the Coastal Zone Management Act to include the following new features:

A coastal impact fund to provide up to \$200 million in annual grants to States for alleviating coastal impacts of offshore drilling and the siting of all types of energy facilities and for providing necessary public services and facilities;

Language which would make the "Federal consistency provision" in the Coastal Zone Management Act more specific with regard to Federal oil and gas leasing, development, production, and energy facilities siting activities which, directly or indirectly, affect a State coastal zone program;

Incentives to increase the capability of coastal States to accomplish the interstate and regional coastal zone management responsibilities of the Coastal Zone Management Act, especially as it pertains to energy-related activities;

Creation of a grant program to provide quick turnaround research and technical assistance to Coastal States;

Encouragement and incentives for coastal States to include in their coastal zone management programs the necessary policies and procedures to provide for adequate access to public beaches and preservation of coastal islands; and

An extension of the existing authority for administering grant programs for the development and management of State coastal zone programs for an additional 5 fiscal years beyond the present fiscal year 1977 deadline contained in the act.

One major rationale behind the creation of a Coastal Impact Fund is the recognition of the need for onshore support facilities for Outer Continental Shelf drilling and the likelihood that secondary growth will occur in the onshore areas near such facilities. Experience has certainly shown that OCS development creates onshore impacts. It has been shown conclusively, during hearings and investigations by the National Ocean Policy Study of the Senate, that in most cases, States have not been properly prepared in coping with these impacts. The fund would provide Federal assistance to be granted by the Secretary

of Commerce under rules and regulations he shall prescribe consistent with national policy as expressed in the Coastal Zone Management Act of 1972 and with State programs being established pursuant to that act.

One recently released study attests to the size of the problem facing State and local governments. And with a stepped-up offshore program, this problem will grow. The Texas Coastal and Marine Council, headed by State Senator A. R. Schwartz of Galveston, the current president of Coastal States Organization, requested a study be made of the costs and offsetting revenues for the State of Texas as a consequence of oil and gas operations in Federal waters off its shore. The results of this study are interesting indeed. It demonstrates that the Texas Office of Information Services reported receipt of \$48.9 million in tax revenues from the various activities onshore brought about by the offshore operations. The costs of providing extra services required for these operations to State and affected local governments is reported to be \$11 million. Simple mathematics leaves Texas with an annual deficit of approximately \$62 million.

Because of this traditional shortchanging of States in the revenues from Federal offshore activities, this bill proposes to make grants from the Coastal Impact Fund to cover 100 percent of the costs incurred by the States, and does not require matching funds. The special nature of the problem and the special needs of the affected coastal States justify this departure from the basic philosophy of the Coastal Zone Management Act. However, to be eligible to receive grants from the fund, States must be participating in the coastal zone program and the Secretary is required to coordinate grants from the fund with the States' coastal zone management programs.

The second major provision of this bill concerns the so-called "Federal consistency provision" of the Coastal Zone Management Act. While this provision clearly states that all Federal licenses and permits must be consistent with a State's approved coastal zone management program to the extent practicable, the applicability of this provision to Outer Continental Shelf oil and gas development activities has not yet been established by the courts. Our bill would make this provision specific with regard to Federal leasing activities and to OCS development and production activities directly or indirectly affecting the coastal zone of coastal States, thereby assuring a modicum of substantive State participation in decisionmaking concerning the timing and location of offshore development.

The next major component of the Coastal Zone Environment Act deals with the need to provide States with incentives to engage in interstate or regional coastal zone management efforts. While the present act encourages coastal States to do so, the reality is that "in-State" coastal zone management problems and needs are so immediate and so compelling that activities of more than State concern are tended to be accorded a lower priority or are simply deferred or ignored. Obviously, coastal zone management problems do not halt at a State boundary line. Many decisions, such as providing for regional water or sewer facilities, energy needs, or gaging the impact of a refinery, must be worked out at the regional level and in close coordination with the coastal zone management programs of other coastal States. It is

expected that existing interstate entities could do the job, but, wherever the need exists, prior congressional consent should be given to allow States to enter into interstate compacts in order to get the job done properly.

To encourage the individual States to deal with their coastal management problems which involve their neighboring States, we proposed a new section 308 be added to the basic Coastal Zone Management Act. This new section authorizes 100-percent grants to the States to insure that high priority is given to the need to coordinate coastal management efforts on an interstate basis. The amount of \$5 million is authorized for fiscal years 1976 to 1980 for this purpose.

Finally, Mr. President, this bill recognizes the importance of assuring the protection and access to public beaches and the protection of islands, areas which have been experiencing ever increasing developmental and recreational pressures in recent years.

The Coastal Zone Management Act presently provides the framework for assuring proper protection of these areas, since threatened beach and island areas fall within the definition of "coastal zone" established by the act and are subject to being included in a State's coast zone management program as an area of particular State concern. However, States are not required to assure protection of beaches and islands in order for the program to gain approval by the Secretary of Commerce. What is needed—and what this amendment provides—is a requirement that each State coastal zone management program include as a prerequisite to receiving management grants under section 306, measures to facilitate protection and access to public beaches for recreational, historic, or esthetic purposes, and to assure protection of threatened coastal islands.

A problem with beach-access proposals introduced in previous Congresses is that they have attempted to impose a public right to the Nation's beaches. The approach has generated charges of Federal heavyhandedness or of unconstitutionality. Our amendment would circumvent the issue of establishing a "right" of the public to use the Nation's beaches, leaving this to the determination of each individual State. The amendment is purposely broad so that coastal States can structure their beach access plans according to their individual needs.

Several States, such as Texas and Oregon, already have stringent beach access laws that should easily meet the requirements of this amendment. Other coastal States will be confronted with some difficulties, especially with regard to payment of condemnation costs necessary to assure access to beaches and island preservation. In order to offset these difficulties, the bill authorized an amount of up to \$50 million per year to help State and local governments to pay the necessary costs of acquisition of such land and water areas.



## IV. SENATE DEBATE AND PASSAGE OF S. 586, JULY 16, 1975

The PRESIDING OFFICER (Mr. BELLMON). Under the previous order, the Senate will now proceed to the consideration of S. 586, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the Coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert the following:

### TITLE I

#### SHORT TITLE

SEC. 101. This title may be cited as the Coastal Zone Management Act Amendments of 1975.

#### GENERAL PROVISIONS

SEC. 102. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), is amended as follows:

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting "ecological," immediately after "recreational,".

(2) Section 304(a) of such Act (16 U.S.C. 1453(a)) is amended by inserting therein "islands," immediately after the words "and includes".

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting "and" after islands, after "uplands."

(4) Section 304 of such Act (16 U.S.C. 1453) is amended by adding at the end thereof the following new subsections:

"(j) 'Energy facilities' means new facilities, or additions to existing facilities—

"(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

"(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to, (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) offshore oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary or appropriate for such exploration, development or production; (E) facilities for offshore loading and marine transfer of petroleum; and (F) transmission and pipeline facilities, including terminals which are associated with any of the foregoing.

"(k) "person" has the meaning prescribed in section 1 of title 1, United States Code, except that the term also includes any State, local, or regional govern-

ment; the Federal Government; and any department, agency, corporation, instrumentality, or other entity or official of any of the foregoing.

"(1) 'Public facilities and public services' means any services or facilities which are financed, in whole or in part, by State or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development".

(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(7) a definition of the term "beach" and a general plan for the protection of, and access to, public beaches and other coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value;

"(8) planning for energy facilities likely to be located in the coastal zone, planning for and management of the anticipated impacts from any energy facilities, and a process or mechanism capable of adequately conducting such planning activities."

(6) Section 305(c) of such Act (16 U.S.C. 1454(c)) is amended by deleting '66%' and inserting in lieu thereof "80", and by deleting in the first sentence thereof 'three' and inserting in lieu thereof 'our'.

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended by—

"(A) deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following: 'Provided, That notwithstanding any provision of this section or of section 306 no State management program submitted pursuant to this subsection shall be considered incomplete, nor shall final approval thereof be delayed, on account of such State's failure to comply with any regulations that are issued by the Secretary to implement subsection (b) (7) or (b) (8) of this section, until September 30, 1978.'; and

(B) deleting the period at the end thereof and inserting in lieu thereof the following: 'Provided, That the State shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a beach and coastal area access plan and an energy facility planning process for its State management program, pursuant to regulations adopted by the Secretary to implement subsections (b) (7) and (b) (8) of this section.'.

(8) Section 305(h) of such Act (16 U.S.C. 1454(h)) is amended by deleting "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

"(9) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting '66%' and inserting in lieu thereof '80'.

"(10) Section 306(c) (8) of such Act (16 U.S.C. 1455(c) (8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a State's coastal zone the Secretary shall further find, pursuant to regulations adopted by him, that the State has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title."

"(11) Section 306 of such Act (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a State's continued eligibility for grants pursuant to this section, the management program of such State shall, after the fiscal year ending in 1978, include, as an integral part, an energy facility planning process, which is developed pursuant to section 305(b) (8) of this title, and approved by the Secretary and a general plan for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b) (7) of this title, and approved by the Secretary.

(12) Section 307(c) (3) of such Act (16 U.S.C. 1456(c) (3)) is amended by (A) deleting "license or permit" in the first sentence thereof and inserting in lieu thereof 'license, lease, or permit'; (B) deleting 'licensing or permitting' in the first sentence thereof 'licensing, leasing, or permitting'; and (C) deleting 'license or permit' in the last sentence thereof and inserting in lieu thereof 'license, lease, or permit.'

(13) Sections 308 through 315 of such Act (16 U.S.C. 1457 through 1464) are redesignated as sections 311 through 318 thereof, respectively; and the following three new sections are inserted as follows:



## COASTAL ENERGY FACILITY IMPACT PROGRAM

"SEC. 308. (a) The Secretary is authorized to make a grant to a coastal State, if he determines that such State's coastal zone has been, or is likely to be, impacted by the exploration for, or the development or production of, energy resources or by the location, construction, expansion, or operation of an energy facility. Such a grant shall be for the purpose of enabling such coastal State to study and plan for the economic, environmental, and social consequences which are likely to result in such coastal zone from exploration for and development or production of such energy resources or from the location, construction, expansion, or operation of such an energy facility. The amount of such a grant may equal up to 100 percent of the cost of such study and plan, to the extent of available funds.

"(b) The Secretary is authorized to make a loan and/or a grant to a coastal State, if he determines, pursuant to subsections (d) and (e) of this section, that such State's coastal zone has been or is likely to be adversely impacted by exploration for or by development or production of energy resources or by the location, construction, expansion, or operation of an energy facility, if such adverse impact will result as a consequence of a license, lease, easement, or permit issued or granted by the Federal Government which permits—

"(1) the exploration for, or the drilling, mining, removal, or extraction of, energy resources;

"(2) the siting, location, construction, expansion, or operation of energy facilities by a lessee, licensee, or permittee; or

"(3) the siting, location, construction, expansion, or operation of energy facilities by or for the United States Government.

The proceeds of such a loan or grant shall be used for—

"(A) projects which are designed to reduce, ameliorate, or compensate for the net adverse impacts; and or

"(B) projects which are designed to provide new or additional public facilities and public services which are made necessary, directly or indirectly, by the location, construction, expansion, or operation of such an energy facility or energy resource exploration, development or production.

The amount of such a loan or grant may equal up to 100 percent of the cost of such a project, to the extent of available funds.

"(c) (1) The Secretary may make a grant to a coastal State for a purpose specified in subsection (b) of this section, if he determines that such State will suffer net adverse impacts in its coastal zone, as a result of exploration for, or development and production of, energy resources; as a result of the location, construction, expansion, or operation of an energy facility over the course of the projected or anticipated useful life of such energy facility; or as a result of exploration, development, or production activity.

"(2) The Secretary may make a loan to a coastal State for a purpose specified in subsection (b) of this section, if the Secretary determines that such State will experience temporary adverse impacts as a result of exploration for, or development or production of, energy resources or as a result of the location, construction, expansion, or operation of an energy facility if such facility or such energy resource exploration, development or production is expected to produce net benefits for such State over the course of its projected or anticipated useful life. No such loan, including any renewal or extension of a loan, shall be made for a period exceeding 40 years. The Secretary shall from time to time establish the interest rate or rates at which loans shall be made under this subsection, but such rate shall not exceed an annual percentage rate of 7 percent. The borrower shall pay such fees and other charges as the Secretary may require. The Secretary may waive repayment of all or any part of a loan made under this subsection, including interest, if the State involved demonstrates, to the satisfaction of the Secretary, that due to a change in circumstances there are anticipated or resultant net adverse impacts over the life of an energy facility or energy resource exploration, development or production which would qualify the State for a grant pursuant to paragraph (1) of this subsection.

"(d) The Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirement for grant and loan eligibility pursuant to this section. Such requirements shall include criteria, which may include a formula, for calculating the amount of a grant or loan based upon the difference, to the State involved between the benefits and the costs which

are attributable to the exploration for or development and production of energy resources or to the location, construction, expansion, or operation of an energy facility. Such regulations shall provide that a State is eligible for a grant or loan upon a finding by the Secretary that such State—

“(1) is receiving a program development grant under section 305 of this title or is engaged in such program development in a manner consistent with the goals and objectives of this Act, as determined by the Secretary, and is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or that it has an approved such program pursuant to section 306 of this title;

“(2) has demonstrated to the satisfaction of the Secretary that it has suffered, or is likely to suffer, net adverse impacts, according to the criteria or formula promulgated by the Secretary, and has provided all information required by the Secretary to calculate the amount of the grant or loan; and

“(3) has demonstrated to the satisfaction of the Secretary and has provided adequate assurances that the proceeds of such grant or loan will be used in a manner that will be consistent with the coastal zone management program being developed by it, or with its approved program, pursuant to section 305 or 306 of this title, respectively.

“(e) Within 180 days after approval of this Act, the Secretary shall issue regulations prescribing criteria in accordance with this Act for determining the eligibility of a coastal State for grants pursuant to subsections (a), (b), and (c) (1) of this section, and regulations for determining the amount of such grant or loan, in accordance with the following provisions:

“(1) The regulations shall specify the means and criteria by which the Secretary shall determine whether a State's coastal zone has been, or is likely to be, adversely impacted, as defined in this section, and the means and criteria by which ‘net adverse impacts’ and ‘temporary adverse impacts’ will be determined.

“(2) Regulations for grants pursuant to subsection (a) of this section for studying and planning, shall include appropriate criteria for the activities for which funds will be provided under such subsection, including a general range of activities for which a coastal State may request funds.

“(3) Regulations for grants and/or loans for projects pursuant to subsections (b) and (c) of this section shall specify criteria for determining—

“(A) the amounts which will be provided for such projects; and

“(B) guidelines and procedures for evaluating those projects which each coastal State considers to be most needed.

“(4) Regulations for loans shall provide for such security as the Secretary deems necessary, if any, to protect the interests of the United States and for such terms and conditions as give assurance that such loans will be repaid within the time fixed.

“(5) In all cases, each recipient of financial assistance under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and such other records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall until the expiration of 3 years after the completion of the project or undertaking involved (or repayment of a loan, in such cases) have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which, in the opinion of the Secretary or the Comptroller General may be related or pertinent to any financial assistance received pursuant to this section.

“(6) In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, with representatives of appropriate State and local governments, commercial and industrial organizations, public and private groups, and any other appropriate organizations with knowledge or concerns regarding net adverse impacts that may be associated with the energy facilities affecting the coastal zone.

“(f) A coastal State may, for the purpose of carrying out the provisions of this section and with the approval of the Secretary, allocate all or a portion of any grant or loan received under this section to (1) a local government; (2) an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; (3) a regional agency; or (4) an interstate agency.

"(g) A coastal State which has experienced net adverse impacts in its coastal zone as a result of the development or production of energy resources or as a result of the location construction, expansion, or operation of energy facilities prior to the date of enactment of this section is entitled to receive from the Secretary grants or loans pursuant to subsections (a) and (b) of this section to the same extent as if such net adverse impacts were experienced after the date of enactment, and to the extent necessary to reduce or ameliorate or compensate for such net adverse impacts, within the limit of available funds. This subsection shall expire 5 years from the date of enactment of this section.

"(h) All funds allocated to the Secretary for the purposes of this section shall be deposited in a fund which shall be known as the Coastal Energy Facility Impact Fund. This fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to this fund. Moneys in this fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest by the United States.

"(i) In calculating the amount of a grant or loan, the Secretary shall give adequate consideration to the recommendations of a Coastal Impacts Review Board. Such Board shall consist of two members designated by the Secretary, one member designated by the Secretary of the Interior, and two members appointed by the President from a list of not less than six candidates submitted to the President by the National Governors' Conference. Such Board shall recommend the award of grants or loans upon a determination of net adverse impacts and following the procedures and criteria set forth in this section.

"(j) Nothing in this section shall be construed to modify or abrogate the consistency requirements of section 307 of this Act.

"(k) In addition to other financial assistance to the States provided under this section, the Secretary shall make an automatic grant to each coastal State which is, as of the first day of the fiscal year—

"(1) adjacent to Outer Continental Shelf lands on which oil or natural gas is being produced; or

"(2) permitting crude oil or natural gas to be landed in its coastal zone: *Provided*. That such crude oil or natural gas has been produced on adjacent Outer Continental Shelf lands of such State or on Outer Continental Shelf lands which are adjacent to another State and transported directly to such State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil were produced adjacent to the landing State. In the event that a State is adjacent to Outer Continental Shelf lands where oil or natural gas is produced, but such oil or natural gas is landed in another State, the adjacent State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State."

Such States shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on Outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of 100,000 barrels per day of oil or an equivalent volume of natural gas. The Secretary shall establish regulations to assure that funds authorized by this subsection for grants to States shall be expended by the States for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion or operation of a related energy facility. Such funds not so expended shall be returned to the Treasury. There are authorized to be appropriated for this purpose sufficient funds to provide such States with grants in the amount of 20 cents per barrel during the first year, 15 cents per barrel during the second year, 10 cents per barrel during the third year, and 8 cents per barrel during the fourth and all succeeding years during which oil or gas is landed in such a State or produced on Outer Continental Shelf lands adjacent to such a State: *Provided* (A) such funds shall not exceed \$50,000,000 for the fiscal year ending June 30, 1976; \$12,500,000 for the fiscal quarter ending September 30, 1976; \$50,000,000 for the fiscal year ending September 30, 1977; and \$50,000,000 for the fiscal year ending September 30, 1978; and (B) such funds shall be limited to payments for the first million barrels of oil (or its gas equivalent) per day per State for the 10

succeeding fiscal years. The amount of such grant to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent to the State. Such grants shall initially be designated by each receiving State to retire State and local bonds which are guaranteed under section 316 of this Act: *Provided*, That, if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds.

"(1) There are hereby authorized to be appropriated to the Coastal Energy Facility Impact Fund such sums not to exceed \$250,000,000 for the fiscal year ending June 30, 1976, not to exceed \$75,000,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed \$250,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$250,000,000 for the fiscal year ending September 30, 1978, as may be necessary, for grants and/or loans under this section, to remain available until expended. No more than 20 percent of the total amount appropriated to such fund for a particular fiscal year, not to exceed \$50,000,000 per year, shall be used for the purposes set forth in subsection (a) of this section.

"INTERSTATE COORDINATION GRANTS TO STATES

"Sec. 309. (a) The States are encouraged to give high priority (1) to coordinating State coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The States may conduct such coordination, study, planning, and implementation through interstate agreement or compacts. The Secretary is authorized to make annual grants to the coastal States, not to exceed 90 percent of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal State receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) the establishment of such agencies, joint or otherwise, as the States may deem desirable for making effective such agreements and compacts. Such agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

"(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council of Environmental Quality, and the Administrator of the Environmental Protection Agency, or their designated representatives, are authorized and directed to participate *ex officio* on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

"(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of States for the purpose of creating temporary *ad hoc* planning and coordinating entities to—

"(1) coordinate State coastal zone planning, policies, and programs in contiguous interstate areas;

"(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

"(3) provide for a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, or their designated representatives, are authorized and directed to participate *ex officio* on behalf of the Federal Government, upon the request of the parties to such *ad hoc* planning and coordinating entities. This subsection shall become void and cease to have any force or effect 5 years after the date of enactment of this title.

## "COASTAL RESEARCH AND TECHNICAL ASSISTANCE

"Sec. 310. (a) In order to facilitate the realization of the purposes of this Act, the Secretary is authorized to encourage and to support private and public organizations concerned with coastal zone management in conducting research and studies relevant to coastal zone management.

"(b) The Secretary is authorized to conduct a program of research, study, and training to support the development and implementation of State coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this Act, a summary and evaluation of the research, study, and training conducted under this section.

"(c) The Secretary is authorized to assist the coastal States to develop their own capability for carrying out short-term research, studies, and training required in support of coastal zone management. Such assistance may be provided by the Secretary in the form of annual grants. The amount of such a grant to a coastal State shall not exceed 80 percent of the cost of developing such capability."

"(14) Section 316, as redesignated, of such Act (16 U.S.C. 1462) is amended by (A) deleting "and" at the end of paragraph (8) thereof immediately after the semicolon; (B) renumbering paragraph (9) thereof as paragraph (11) thereof; and (C) inserting the following two new paragraphs:

"(9) a general description of the economic, environmental, and social impacts of the development or production of energy resources or the siting of energy facilities affecting the coastal zone;

"(10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal States; and".

(15) Section 318, as redesignated, of such Act (16 U.S.C. 1464) is further redesignated and amended to read as follows:

## "AUTHORIZATION FOR APPROPRIATIONS

"Sec. 320. (a) There are authorized to be appropriated—

"(1) the sum of \$20,000,000 for the fiscal year ending June 30, 1976, \$5,000,000 for the transitional fiscal quarter ending September 30, 1976, \$20,000,000 for the fiscal year ending September 30, 1977, \$20,000,000 for the fiscal year ending September 30, 1978, and \$20,000,000 for the fiscal year ending September 30, 1979, for grants under section 305 of this Act, to remain available until expended;

"(2) such sums, not to exceed \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, \$50,000,000 for the fiscal year ending September 30, 1977, \$50,000,000 for the fiscal year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, and \$50,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for grants under section 306 of this Act, to remain available until expended;

"(3) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 309 of this Act, to remain available until expended;

"(4) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal

year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(b) of this Act, to remain available until expended;

"(5) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(c) of this Act, to remain available until expended;

"(6) the sum of \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, \$50,000,000 for the fiscal year ending September 30, 1977, \$50,000,000 for the fiscal year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, \$50,000,000 for the fiscal year ending September 30, 1980, and \$50,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, for the acquisition of lands to provide for the protection of, and access to, public beaches and for the preservation of islands under section 306(d)(2) of this Act, to remain available until expended; and

"(7) such sums, not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, \$2,500,000 for the transitional fiscal quarter ending September 30, 1976, \$10,000,000 for the fiscal year ending September 30, 1977, \$10,000,000 for the fiscal year ending September 30, 1978, \$10,000,000 for the fiscal year ending September 30, 1979, \$10,000,000 for the fiscal year ending September 30, 1980, and \$10,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 315 of this Act, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending June 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, and \$5,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for administration expenses incident to the administration of this Act."

"(16) The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) is amended by inserting therein the following two new sections:

#### "LIMITATIONS

SEC. 318. (a) Nothing in this Act shall be construed—

"(1) to authorize or direct the Secretary, or any other Federal official, to intercede in a State and- or water-use decision with respect to non-Federal lands except to the extent and in the manner specifically authorized by this Act;

"(2) to require the approval of the Secretary as to any particular State land- or water-use decision as a prerequisite to such State's eligibility for grants or loans under this Act; or

"(3) to expand or extend Federal review or approval authority with respect to the siting or location of any specific energy facility.

"(b) Any grant or loan made pursuant to this Act shall not be deemed a 'major Federal action' for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190).

#### "STATE AND LOCAL GOVERNMENT BOND GUARANTEES

"SEC. 319. (a) The Secretary is authorized, subject to such terms and conditions as the Secretary prescribes, to make commitments to guarantee and to guarantee against loss of principal or interest the holders of bonds or other evidences of indebtedness issued by a State or local government to reduce, ameliorate or

compensate the adverse impacts in the coastal zone resulting from or likely to result from the exploration for, or the development of production of, energy resources of the Outer Continental Shelf.

"(b) The Secretary shall prescribe and collect a guarantee fee in connection with guarantees made pursuant to this section. Such fees shall not exceed such amounts as the Secretary estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(c) (1) Payments required to be made as a result of any guarantee pursuant to this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for such purpose.

"(2) If there is a default by a State or local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary pursuant to this section, any holder of such a bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, upon investigation, shall pay such amounts to such holders, unless the Secretary finds that there was no default by the State or local government involved or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the State or local government involved for the amount of such payment plus interest at prevailing rates. Such right of reimbursement may be satisfied by the Secretary by treating such amount as an offset against any revenues due or to become due to such State or local government under section 308(k) of this Act and the Attorney General, upon the request of the Secretary, shall take such action as is, in the Secretary's discretion, necessary to protect the interests of the United States, including the recovery of previously paid funds that were not applied as provided in this Act. However, if the funds accrued by or due to the State in automatic grants under section 308(k) of this Act are insufficient to reimburse the Federal Government in full for funds paid under this section to retire either the principal or interest on the defaulted bonds, the Secretary's right of reimbursement shall be limited to the amount of such automatic grants accrued or due. Funds accrued in automatic grants under section 308(k) of this Act subsequent to default shall be applied by the Secretary toward the reimbursement of the obligation assumed by the Federal Government."

Sec. 103. (a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code is amended by adding at the end thereof the following new paragraph:

"(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration."

The PRESIDING OFFICER. The time for debate on this measure is limited to 2 hours, to be equally divided between and controlled by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Alaska (Mr. STEVENS), with 1 hour on any amendment and 20 minutes on any debatable motion, appeal, or point of order.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Commerce be granted privileges of the floor during consideration of S. 586: John F. Hussey, James P. Walsh, Pamela Baldwin, Alan Rosenblum, David Rosenblum, Jill Gideon, and S. Lynn Sutcliffe, and I ask unanimous consent that Mary Jo Manning of my staff also be accorded such privileges.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that the following members of the minority staff of the Committee on Commerce

be accorded the privileges of the floor during the consideration of this bill: David Keto, Gerald Kovachs, Michael Spaan, Arthur Pankopf, Steven Perles, and George Jetts.

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

Mr. HOLLINGS. Mr. President, I take great pride and pleasure, on behalf of the Committee on Commerce, in bringing to the floor of the Senate S. 586, amending the Coastal Zone Management Act of 1972. It is with particular emphasis that I state the need for these amendments in the face of both increasing pressures upon our Nation's coastal zone and increasing recognition and awareness of the importance of the mechanism of the Coastal Zone Act in dealing with such conflicts and their resolution.

Passage of the Coastal Zone Management Act in 1972, culminated years of increasing concern about the destruction of valuable coastal wetlands and beaches. The public first became aware that the coastal areas of the country, including the Great Lakes, represent some of our most valuable national assets. At that time scientists published reports describing the amazing productivity of estuarine areas. Researchers found these coastal waters to be 5 or 10 times more biologically productive than average agricultural lands. Estuaries, it was noted, provide the breeding ground for most of the important commercial fisheries in the country and are habitats for many species of wildlife.

Demographic trends putting special pressures on the coastal zone also continued during the 1960's. More than ever, the coastal regions proved to be a magnet drawing both people and industry.

Although only 8.5 percent of the Nation's total land area is usually considered to be within the coastal zone, the coastal share of the total U.S. population rose from 40 percent to 50 percent between 1940 and 1970. Current projections place the coastal population share as high as 80 percent by 2000, and current and future numbers must be adjusted upward seasonally to account for the millions of people who vacation on the seacoast and the Great Lakes shores each year. Furthermost, in 1970 the coastal zone supported almost half of the Nation's industrial work force.

S. 586 is a bill to amend the Coastal Zone Management Act of 1972—Public Law 92-583. Its major provisions are designed to assist those States facing OCS oil and gas development or other energy-related developments affecting the coastal zone. Other sections provide funds for research and technical assistance to coastal States: for interstate compacts or other entities to facilitate interstate coordination of coastal zone management policies and programs; for land acquisition to establish estuarine sanctuaries and to encourage preservation of and public access to beaches, islands, and other critical areas; and for expanded development and implementation grants under section 305 and 306 of the act. The Federal share of CZM funding under these sections would rise from the present 66 2/3 percent to 80 percent to bring it into line with other Federal grant projects. The Office of Coastal Zone Management would henceforth be directed by an Associate Administrator of the National Oceanic and Atmospheric Administration, appointed by the President with the advice and consent of the Senate.



The "Federal consistency" provisions of the act would be clarified by stating explicitly that its terms apply to all Federal "licenses, leases, or permits." Inclusion of the word "lease" is new.

The bill provides in section 308 for a Coastal Energy Facility Impact Fund of \$250 million annually, giving the States 100 percent funding to plan for and cope with existing or potential net adverse impacts or temporary adverse impacts of exploration for or development and production of energy resources, and/or the location, construction, expansion, or operation of an energy facility requiring a Federal permit.

The funds are to be used for two purposes:

First, grants for enabling such coastal State to study and plan for economic, environmental, and social impacts—up to 20 percent of the amount in the fund—and, second, loans or grants for "reducing, ameliorating, or compensating for the net adverse impact \* \* \*," and/or "providing public facilities and public services made necessary, directly or indirectly" by energy facility or resource development. Outright grants may be made when States can show to the satisfaction of the Secretary of Commerce that they will experience net adverse impacts over the entire life of a facility or resource development activity. Where negative impacts are likely to be temporary—essentially "front end" problems until new tax revenues cover them—loans could be made. If impacts expected to be temporary actually turn out to be permanent, the loans could be forgiven. States may pass on part or all of their funds to local, regional, or interstate governmental entities.

States must meet three requirements to be eligible for grants or loans from the Coastal Energy Facility Impact Fund. First, they must be participating in a coastal zone management program, by receiving a development grant and by making good progress under section 305, by having such a program under State auspices, or by having a program approved by the Secretary of Commerce. Second, they must make a satisfactory showing of need, based on actual or anticipated impacts. Third, they must indicate to the Secretary's satisfaction that they will use the funds in a manner that is consistent with their coastal zone management programs. These restrictions are designed to prevent the new funds from resulting in unplanned, adverse, incompatible impacts of their own.

The Secretary of Commerce is directed to promulgate regulations within 180 days of enactment, specifying criteria for determining a State's eligibility for grants or loans from the impact fund. In developing regulations, the Secretary is to consult with appropriate Federal officials, State and local governments, industry organizations, and public and private groups.

In making determinations about specific grant or loan applications, the Secretary is directed to consider the recommendations of a Federal-State Coastal Impacts Review Board, which is established by this legislation.

In addition to the coastal energy facility impact fund, the bill also provides for automatic grants to be given to any State which is actually landing OCS oil or natural gas in its coastal zone, or which is adjacent to OCS lands where oil or natural gas is being produced. Although the grants come from the General Treasury, and not from

OCS revenues in particular, the formula for calculating the amount of the grant is tied to the number of barrels of oil—or the natural gas equivalent—which are produced on adjacent OCS lands and/or landed in the State. Like the grants and loans made from the coastal energy facility impact fund, these automatic grants must be used to ameliorate adverse impacts of energy resource development or related energy facilities.

The bill (S. 586) which the Commerce Committee has reported to this body, unanimously, is a bill which has been developed to respond to a clear need in the best possible manner based on exhaustive hearings and studies of the subject. The knowledge of the Commerce Committee in this area is based upon years of working with all of the management problems in the coastal zone.

With much foresight, this body first passed, and the Congress enacted, the Coastal Zone Management Act of 1972 for the purpose of providing a land and water use management mechanism, through the States, for the Nation's coastal zone. In mandates appropriate attention to planning for and protection of the coastal zone.

The present bill, S. 586, builds on and utilizes this existing structure to, in effect, update it to assure that it responds to current problems.

The main focus of this bill is to meet specifically, and deal with, the multitude of problems being experienced, and expected to be experienced, in the coastal zone as a result of energy facilities and the search for, and production, of energy resources. By further providing for these activities in this existing law, I believe that the nation will be able to increase its domestic energy supply and capability for the reason that we cannot undertake efforts to do so without being such that these activities proceed in an orderly and rationale fashion which coincides with the coastal zone management programs which each State develops to manage development of its coastal zone. The President has also said this.

S. 586 contains provisions extending and increasing the authorizations for the entire program, recognizing its growing importance and its acceptance by all of the coastal States. The bill makes specific what is otherwise generally implicit the many energy related provisions of the Coastal Zone Management Act.

The bill also sets up a specific method, under the Coastal Zone Management Act, to give to the coastal States the funds they need to offset unreimbursed net adverse impacts which they may experience as a result of having these energy facilities and activities in and near their coastal zones. It takes into account the benefits which may accrue to the State and only deals with the cases where there is a net adverse impact. It is not simply a grant program. Where there is question concerning whether the net impacts will be adverse, the Secretary of Commerce will only make a loan to the State pending resolution of that question.

Up to 20 percent of the funds will be used for planning for the impacts from such facilities and activities.

Mr. President, everyone recognizes that the Nation is going to have to pay a price to keep, and hopefully increase, its domestic energy supplies and capabilities in lieu of much greater costs later on. I

believe the way we should do this in the coastal zone is by planning, through the States, to avoid undesirable impacts and to compensate the coastal States which experience them. The mechanism for doing so should not be a separate mechanism which fragments State coastal zone management but should be part and parcel of the entire coastal zone management effort. To do otherwise would be contrary to the congressional intent and declaration of 1972, when we decided that the States should have the basic coastal zone administrative responsibility in the form of a single comprehensive program supported by the Federal Government. The States support S. 586 and so do the environmental organizations which have seen the disastrous effects of attempting to protect the environment in fragmented fashion.

The only price the Nation can afford to pay is a monetary one and this bill and the entire Coastal Zone Management Act are designed to head off other irreversible costs. These include those caused by unplanned urban development which is ordinarily attendant to the increased energy development as well as costs of massive environmental damage as a result of a lack of proper planning and management.

Almost 80 percent of the Nation's population soon will live in the limited coastal zone. Most of the impacts of increased energy development will be experienced there. Unfortunately, the critical nature of the coastal zone, which inspired the Coastal Zone Management Act, magnifies many of the adverse impacts of energy facilities and activities. As I said, the new provisions complement the existing Coastal Zone Management Act and the existing administrative mechanisms already in existence. One of the more important features of the existing act is its consistency requirements which mandate that Federal agencies issuing licenses, permits et cetera which authorize activities affecting the coastal zone must be consistent with approved State coastal zone management programs except where a matter of national security is involved. I wholeheartedly support the provisions of S. 586 to be part of the Coastal Zone Management Act for this reason as well. We need to continue to support and encourage the States in decisionmaking and S. 586 does this.

S. 586 is a responsible bill. I urge my colleagues to support it so that the Congress may make another needed legislative contribution in response to our national energy needs.

Furthermore, Mr. President, former President Nixon's January 1974 energy message to the Congress, on behalf of the administration, called for congressional enactment of legislation recommended by the administration for planned orderly siting of energy facilities.

Subsequently, the Congress received other administration energy bills from it. But even though requests were made by Members of Congress for the energy facilities siting proposal so we could see just what the administration had in mind, the administration bill was never transmitted to us during all of the 2d session of the 93d Congress.

At the same time, the Congress was the recipient of criticism from the administration for an alleged failure to pass energy legislation.

In the careful deliberations of the Congress on various legislative alternatives in different energy related areas, I do not know that this paradox has ever been pointed out.

A major reason for the administration's failure to produce its energy facilities siting bill, I understand, was recognition of the fact that the Coastal Zone Management Act of 1972 had already created a State operated coastal zone management program for planning and management in the coastal zone which included State planning for, and management of facility siting.

This was a problem in the administration because some groups within the administration sought to ignore the Coastal Zone Management Act and to foist upon the States a federally mandated compulsory law, contrary to the existing coastal zone law.

Finally, in the 94th Congress the administration belatedly produced a proposed energy facility siting law which gives lipservice to the State Coastal Zone Management programs but is, in effect, contrary to the intent and spirit of the 1972 act.

I am told that there was no consensus in the administration on the bill which was sent to Congress but, instead, it was finally sent so the administration could say it had, in fact, at last transmitted a bill to us.

The bill before the Senate today, S. 586, rejects the motion that the coastal States must be bludgeoned into adhering to some federally directed facility siting process which can tell them to site certain energy facilities. Instead, S. 586 amends the Coastal Zone Management Act of 1972 in which all of the coastal States have voluntarily elected to participate. The amendment adds to the specific requirements of the Coastal Zone Management Act a proviso that the State program should include an energy facility siting planning process and a process for the planning for anticipated impacts from such facilities.

I have confidence in the coastal States and believe that this requirement for a State developed planning process and the provision of Federal money to help to develop and administer these processes is all that is required or is appropriate.

Each of the coastal States has different circumstances for which I believe that they alone can develop the planning process. The Coastal Zone Management Act is flexible in permitting each State to develop its own program and the coastal States have responded remarkably well in developing their individual programs in a responsible manner.

I will vote for S. 586 because it recognizes a pressing national need, provides for it under existing Federal and State mechanisms, eliminating duplication and needless bureaucracy, and because that existing mechanism is one which gives full recognition to the rightful authority and ability of State governments.

The approach which is provided by S. 586, I believe, will result in the expenditure of less Federal funds to accomplish its purpose.

The question could be asked by some as to why energy facility siting, planning and matters relating thereto, should be provided for in the Coastal Zone Management Act rather than in some law of nationwide applicability.

I think this is a logical question which might be asked by those who are not familiar with the Coastal Zone Management Act and its history.

I believe that the history of the act has been explained in the committee report on S. 586 but, for the benefit of my colleagues who

will be voting on this bill who may not have read the report, I want to briefly answer the question or, in actuality advise them, that this question was raised, fully explored and debated and finally decided by the 91st Congress.

The Stratton Commission report in 1969, "Our Nation and the Sea," work done in conjunction with it and work done by Congress prior to, and after it, fully and completely established, even to the satisfaction of doubters, that the coastal zone of the Nation comprised of land and water, including ocean waters, estuaries, coastal wetlands, and immediately adjacent dry lands constitute one single and complete ecological system which is separate and distinct from inland areas. It must be managed as a whole in accordance with separate and distinct principles in order to protect and preserve all and every part of that unique area.

Decisions for facility sitings are an example of the decisions which must be made for the coastal zone based upon completely different considerations as would exist for inland areas.

For the edification of some of our newer Members, and to refresh the memories of others, I would point out that one of the times the reason for providing different management systems for the coastal zone and for inland areas has come to the fore, is in connection with national land use legislation conceived by Senator Jackson and the Interior Committee and sometimes supported by the administration. The most serious of considerations which can be given a matter took place in connection with the reason for having a separate land-use bill for inland areas and a coastal zone management law for the coastal areas. The result of those considerations was an education and understanding of how scientifically different the coastal zone is and why it must be under a separate management regime. The current land use bills now recognize that there should be such a separate planning and management system for the coastal zone because of this education and understanding.

At this time, of course, there is another reason for providing for energy facility siting and the impacts therefrom separately in the Coastal Zone Management Act. This is the fact that the CZM Act has been on the books for 3 years and that all coastal States have voluntarily elected to participate in it. The act itself, and the plans and programs of many of the States pursuant to it, already provide mechanisms for energy facilities in the coastal zone.

It would be wasteful, duplicative and chaotic to not use these existing mechanisms. S. 586 strengthens them and adds complementing provisions.

Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to, and that the bill as thus amended be treated as original text for the purpose of further amendment.

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

Mr. HOLLINGS. I request that the Senator from Massachusetts (Mr. BROOKE) be added as a cosponsor of S. 586.

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

Mr. HOLLINGS. I would like at this time to publicly thank the Senator from Alaska (Mr. Stevens) for his complete awareness and under-

standing on one of the more intriguing problems that confront us all, and that is, coping with onshore energy developments which affects the coastal zone. He has been a real leader in the coastal zone management concept and more specifically as it affects where one half the oil and gas is remaining in this country, the shores of his native State of Alaska.

Mr. STEVENS. Mr. President, I am a cosponsor of S. 586, a bill amending the Coastal Zone Management Act of 1972 and assisting the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects their coastal zones. The bill provides tripartite aid in the form of a coastal energy facility impact fund. Federal guarantees of State and local bonds, and automatic grants to qualifying States. Each of the three forms of assistance is designed to help States cope with the present and future impact upon their coastal zone resulting from either the exploration, development, or production of oil or natural gas on adjacent Outer Continental Shelf lands, or the landing of such oil or natural gas directly from the Outer Continental Shelf lands of another State.

Let me emphasize that this is not a revenue-sharing bill. We have no provisions in here pertaining to revenue sharing.

The Coastal Energy Facility Impact Fund authorizes \$250 million for 3 fiscal years and the 1976 transitional quarter to be spent upon grants and/or loans to the States. Such grants and/or loans must be spent on efforts to reduce, ameliorate, or compensate for the net adverse impact resulting from Outer Continental Shelf energy resource development or other related activities. Up to 20 percent of this fund may be spent on planning and the balance, up to 100 percent of the fund, on direct impact aid. States which have experienced net adverse impact prior to the enactment of this legislation may receive compensating grants and/or loans from the Coastal Energy Facility Impact Fund up to 5 years after the approval of this bill. Any State wishing to receive funds from the Coastal Energy Facility Impact Fund must participate in a coastal zone management program under either section 305 or 306 of the Coastal Zone Management Act or under a State plan approved by the Secretary of Commerce as being consistent with this act.

The remaining two provisions, the automatic grant and the bond guarantee, which I proposed, integrally connect to provide nonrevenue sharing, front-end money to States and municipalities so that they may build the necessary schools, roads, sewers, and other related facilities needed to cope with the impact of Outer Continental Shelf oil and natural gas production.

These are the sections which the amendment of the Senator from Louisiana addresses and which I have joined him in presenting. It is an amendment to make certain that S. 586 and S. 521 meet the same objectives with regard to the financing of those activities necessary to meet the impacts of OCS development. It is the concept of front-end money which I wish to emphasize. Again, I emphasize that these are not revenue sharing proposals. They are designed only to ameliorate coastal zone impacts.

The need for front-end money should be obvious. Modern Outer Continental Shelf drilling projects are mammoth undertakings, po-

tentially involving tens of thousands of construction workers and support personnel. Much of the Outer Continental Shelf oil and/or natural gas bearing lands are located off of rural or, in the case of my own State, frontier coastline.

The small towns and villages along these coasts are incapable of assimilating the large influx of oil related personnel and their families. Many of these communities will suffer a three- or four-fold increase in population almost overnight. If we wait for the large influx of population to occur before awarding grants and/or loans to the municipalities for the building of roads, schools, sewers, and the like the resulting hardship and chaos during the lag time will be tragic. In order to deal effectively with impact as extensive as that created by an Outer Continental Shelf oil and/or natural gas drilling and production project States and municipalities must plan ahead and be given adequate front end money to build the impact compensating facilities prior to the time the impact occurs. Impact related facilities can only be built with great difficulty after the impact has occurred. These facilities must be completed and ready for the oil workers and their dependents when they arrive. Front end money is an absolute necessity for successfully dealing with the severe impacts created by the production of Outer Continental Shelf oil and natural gas.

The bond guarantee and automatic grant provisions of this bill are surprisingly simple, nonrevenue sharing means for dealing with the problem of front-end money for State and local governments. When a State or local government learns that an Outer Continental Shelf energy resource project is to be commenced either within its jurisdiction or on adjacent Outer Continental Shelf lands, the State or municipality will want to take measures that will reduce, ameliorate, or compensate for impact prior to its occurrence so that adequate facilities will exist when the large influx of people occurs. In order to obtain the front-end money for the financing of these projects, State and local governments will issue bonds which could be guaranteed by the Secretary of Commerce.

Let me emphasize that. This is really a discretionary concept; because, under the provisions of this bill, this money would revert to the Treasury, if it is not used to meet impacts that have been approved under the plan or used to repay bonds guaranteed by the Secretary of Commerce. I think the Secretary of Commerce will have a great deal of discretion in administering this concept.

The Secretary's guarantee would produce enough confidence among investors to enable a small municipality to issue large amounts of bonds which it would otherwise be unable to do. The Secretary's guarantee is discretionary and he is entrusted with the responsibility of insuring that the projects funded by the Federal guaranteed bonds are used to cope with the impact from Outer Continental Shelf energy resource exploration or production.

The automatic grants, awarded to States adjacent to Outer Continental Shelf lands producing oil or natural gas, or States landing oil or natural gas shipped directly from the Outer Continental Shelf lands adjacent to another State, are used by the State and local Governments to retire the federally guaranteed bonds. The bill mandates that the automatic grants be used to retire local bonds first, State bonds

second, and that the balance must be spent on impact related projects. Any funds not used for impact related activities must be returned to the Federal Government. It should be noted that since the automatic grants must be spent on impact related projects and the surplus returned to the Federal Treasury, the automatic grants are not revenue sharing. States become eligible to receive automatic grants when the volume of oil or its natural gas equivalent produced on or landed from Outer Continental Shelf lands exceeds 100,000 barrels per day. In the event that oil or natural gas is produced on the Outer Continental Shelf lands adjacent to one State and landed in another State, each State shall receive automatic grants at a rate half as great as if the same State landed and produced the oil or natural gas from adjacent Outer Continental Shelf lands.

The level of automatic grants shall be 20 cents per barrel for the first year, 15 cents per barrel for the second year, 10 cents per barrel for the third year, and 8 cents per barrel for the fourth and all succeeding years in which oil or natural gas is produced or landed. The decreasing amounts of the grant reflect the fact that the impacts of Outer Continental Shelf oil and natural gas production upon State and local governments are more severe in the early years of the project. Funding is limited to \$50 million annually for each of the fiscal years through September 30, 1978. Following that date payments are limited to the first million barrels of oil or its natural gas equivalent per day per State for each of the 10 succeeding years.

Realistically, some Outer Continental Shelf oil or natural gas projects are going to fail. When a State or municipality issues bonds guaranteed by the Secretary of Commerce with the intent of retiring the bonds from anticipated revenues in the form of automatic grants and such revenues are not forthcoming because of the failure of an Outer Continental Shelf project, it is only equitable that the Federal Government bear the risk of such a failure. State and local governments cannot and should not pay the high cost of constructing impact-related projects when they receive no revenues. The Secretary must, under the terms of the guarantee, pay the bondholder upon a default by the State or municipality. When the default results from the failure of an Outer Continental Shelf project and the accompanying lack of expected automatic grants, the Secretary's right of reimbursement shall not exceed the amount of automatic grants accrued or due the defaulting State. Funds accrued in automatic grants subsequent to the default shall be applied by the Secretary toward reimbursing the Federal Government for the defaulted bonds which it assumed.

The provisions of S. 586 are administratively workable and easy to manage. A Coastal Impact Revenue Board consisting of two members designated by the Secretary of Commerce, one member designated by the Secretary of the Interior, and two members appointed by the President, chosen from a list of not less than six candidates submitted to the President by the National Governor's Conference, shall advise the Secretary of Commerce regarding the awarding of grants and loans.

Mr. President, I urge my colleagues in the Senate to give favorable consideration to this bill, which is of such great importance to our coastal States. This bill not only provides for grants and loans to



States and municipalities impacted by Outer Continental Shelf oil and natural gas development but also provides, through a system of bond guarantees and nonrevenue sharing automatic grants, for the much needed front-end money designed to allow State and municipalities to prepare, in advance, for the severe impact of large Outer Continental Shelf energy resource projection projects.

I wish to point out to the Senate that many of us have discussed revenue sharing concepts. I have discussed it at length with my good friend from Delaware (Mr. Roth). We realize there is growing sentiment in the country to accept the concept of revenue sharing from the OCS. I am one who favors it and I have a bill pending before the Senate to authorize revenue sharing from OCS funds.

This is not that proposal. We know that when we get to the point where we have substantial production, we will, in fact, be in a position then to define what kind of revenue sharing we want and to seek the aid of people from the Atlantic coast States, the gulf coast States, the Pacific coast and the Alaska coast. I think when we are finally able to show the country what it means to produce oil and gas from the OCS, there will, in fact, be accepted a revenue-sharing concept, as there has been from Federal lands in the West.

I also point out that if this production which we contemplate now of my State were actually within the 3-mile limit, my State would receive, at the very minimum, an 8-percent severance tax. Based on a price of \$7 a barrel for oil, we would get 56 cents a barrel. This proposal provides that there would be available to the State, to meet agreed-upon impacts, 8 cents a barrel. So we are a great deal below the taxing level of oil and gas producing States; but we are, I think, acting responsibly to give the local communities and the States the opportunity to enter into bonds to finance the facilities and to take care of the impacts ahead of time and provide the financing means so that, when production occurs, the money that will come from the cents-per-barrel concept that is in the bill will retire those bonds and meet the impacts when the income is produced from the OCS.

MR. BENTSEN. Mr. President, I rise today to speak today in favor of S. 586. I feel it is a beginning, a step in the right direction.

The bill would strengthen the Coastal Zone Management Act, while keeping the program on an incentive, nonmandatory basis. My home State of Texas has made good use of the act, and has an exemplary coastal zone management program. It has served well to protect the 1,081 miles of Texas coastline.

One section of this bill is a concern to me, however, because I feel it falls short of meeting the need that generated it. It is a first step in the right direction.

I am speaking of the provisions that recognize and would compensate the coastal States for the adverse impact of energy production offshore. The bill would assign \$300 million for this purpose, but this figure falls short of the actual need.

The Coastal States Organization, which represents all the various Coastal States, has conducted a careful survey to determine the actual financial needs of the several States in regard to Outer Continental Shelf development. The organization's able president, Texas State Senator A. R. Swartz, has testified that the coastal State need between

\$800 million and \$1.2 billion annually to cope with energy resource development and related facility siting. The average of this range, or \$1 billion, is roughly 15 percent of the \$6.7 billion that the Federal Government earned from Outer Continental Shelf leasing in 1974.

This \$1 billion figure is far greater than the \$300 million figure of this bill.

Thus, there is further need for Senate consideration in this area. For that reason, I would encourage the Interior Committee to continue its consideration of my compensation plan embodied in my bill, S. 1383.

This type plan is imperative to encourage additional States to develop their offshore energy sources. It is imperative to compensate the presently producing States for the adverse effects of their production efforts.

Mr. President, I would also like to comment on the open beaches portion of the measure before us today. Texas has had an open beaches act since 1959, and it is landmark legislation toward protecting the public access to this country's beaches. I call my colleagues' attention to the Texas law and hope that it will serve as a pattern for other States.

Mr. HUMPHREY. Mr. President, S. 586, which would amend the Coastal Zone Management Act, offers a balanced and restrained approach to a critical national problem, the problem of providing for needed sources of energy without disrupting coastal communities or threatening permanent harm to valuable coastal regions. These amendments to the coastal zone program embodied in S. 586 and the Coastal Zone Management Act of 1972 itself, are promising steps in the right direction, in my opinion.

We have heard a good deal of talk about turning power over to State and local governments, and in fact serious and constructive measures have been taken to try to accomplish this, as in the revenue-sharing program.

The Coastal Zone Management Act, which was initiated by this body and adopted and implemented over the objections of the executive branch, is a pioneering program. Through this program, the Federal Government, in the national interest, helps the States and localities prepare their own coastal zone management plans to meet their own objectives.

With the onset of the energy crisis, major new and accelerated demands are being made on the coastal zone. These demands have led to a new set of problems in coastal zone management. S. 586 recognizes this, and provides a reasonable approach to addressing the problems.

The legislation provides for a coastal energy facility impact fund to enable States to plan for and address the adverse impacts of Federal energy activities. This is a new and necessary departure from our earlier practice of largely ignoring the interests and concerns of coastal zone States.

S. 586, however, is not a giveaway program. Coastal zone States must demonstrate adverse impacts to receive assistance. Furthermore, to be eligible to receive assistance, States must be engaged in coastal zone management programs consistent with the goals and policies of the act. This point seems to me to be a critical one—we have in the coastal zone management effort a balanced approach to dealing with

our coastal problems, an approach which recognizes the interests of the Nation and coastal zone State.

I am particularly pleased to see that of the \$250 million annual Coastal Energy Facility Impact Fund, 20 percent for \$50 million, is earmarked for planning for energy facilities and assessment of their impact.

Such preparation marks a significant step ahead in this country. In the past we have blithely assumed that introduction of a major plant such as a refinery was an unmixed blessing. There would be new jobs, new income and business would boom. In those days, we did not calculate the environmental costs. Now we not only count such impacts, we also are concerned about the impact on the community as a social structure. Through the planning assistance provided by S. 586, we will be able to take a hard look at the cost and benefit relationship for local communities and State governments providing the basic support for such facilities.

There is one final aspect of S. 586 which I would like to call to the attention of the Senate. This is the bill's recognition that not only our East and West coasts and gulf areas, but also the coastal zones of States which border the Great Lakes, will be faced with problems as a result of decisions on siting of energy facilities.

For this reason, I am especially pleased to see that we have in this bill a broad definition of energy facilities for which assistance may be granted when adverse impacts can be shown, thus making the Great Lakes coastal States eligible for grants under the Coastal Energy Facility Impact Fund.

The Great Lakes States have a major stake in the success of the coastal zone management effort and, in fact, have already recorded significant progress in perfecting their programs. It is essential that the impacts from major energy facilities such as powerplants and refineries which are located on the Great Lakes be included in the assistance provisions of this bill, as well as the serious effects likely to flow from the introduction of offshore operations into new frontier areas along the ocean coastal areas.

Mr. President, I urge that my colleagues give their most careful consideration and support to this bill.

Mr. JOHNSTON. Mr. President, will the Senator yield for the purpose of putting in what I believe is a mutually-agreed-upon amendment, at which point the Senator can then discuss the whole package?

Mr. STEVENS. Yes, I am happy to.

Mr. HOLLINGS. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I have an amendment, which I send to the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

**S. 586**

On page 25, commencing at line 21, strike out all through page 28, line 7, and insert in lieu thereof the following:

"(k) The Secretary shall, in addition to any financial assistance provided to, or available to, coastal States pursuant to any other subsection of this section, distribute grants annually in accordance with the provisions of this subsection. The moneys received under this subsection shall be expended by each State receiving such grants solely for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion, or operation of a related energy facility and/or for projects designed to provide new or additional public facilities and public services which are related to such exploration, development, production, location, construction, expansion, or operation, except that such grants shall initially be designated by each receiving State to retire State and local bonds, if any, which are guaranteed under section 316 of this Act: *Provided*, That, if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds.

Subject to the foregoing expenditure requirements, each coastal State shall be entitled to receive a grant under his subsection if such State is, on the first day of the fiscal year,

(1) adjacent to Outer Continental Shelf lands on which oil or natural gas is being produced; or

(2) permitting crude oil or natural gas to be landed in its coastal zone: *Provided*, That such crude oil or natural gas has been produced on adjacent Outer Continental Shelf lands of such State or on Outer Continental Shelf lands which are adjacent to another State and transported directly to such State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil were produced adjacent to the landing State. In the event that a State is adjacent to Outer Continental Shelf lands where oil or natural gas is produced, but such oil or natural gas is landed in another State, the adjacent State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State.

Such States shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on Outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of 100,000 barrels per day of oil or an equivalent volume of natural gas. There are authorized to be appropriated for this purpose sufficient funds to provide such States with grants in the amount of 20 cents per barrel or its equivalent during the first year, 15 cents per barrel or its equivalent during the second year, 10 cents per barrel or its equivalent during the third year, and 8 cents per barrel or its equivalent during the fourth and all succeeding years during which oil or gas is landed in such a State or produced on Outer Continental Shelf lands adjacent to such a State: *Provided*, That (A) such funds shall not exceed \$100,000,000 for the fiscal year ending June 30, 1976; \$25,000,000 for the fiscal quarter ending September 30, 1976; \$100,000,000 for the fiscal year ending September 30, 1977; and \$100,000,000 for the fiscal year ending September 3, 1978; and (B) such funds shall be limited to payments for the first one and one-half million barrels of oil (or its gas equivalent) per day per State for the 10 succeeding fiscal years. The amount of such grant to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent to the State. For the purposes of this section, one barrel of crude oil equals 6,000 cubic feet of natural gas.

On page 28, line 10, strike out "\$250,000,000" and insert in lieu thereof "\$200,000,000".

On page 28, line 11, strike out "\$75,000,000" and insert in lieu thereof "\$50,000,000".

On page 28, line 12 through 13, strike out "\$250,000,000" and insert in lieu thereof "\$200,000,000".

On page 28, line 14, strike out "\$250,000,000" and insert in lieu thereof "\$200,000,000".

On page 28, line 17, strike out "20" and insert in lieu thereof "25".

On page 28, lines 12 through 13, strike out "not to exceed \$50,000,000 per year,".

On page 28, between lines 7 and 8, insert the following new subsection and redesignate accordingly:

"(1) Any funds provided to any State under this section not expended in accordance with the purposes authorized herein shall be returned to the Treasury by such State."

Mr. JOHNSTON. Mr. President, this amendment represents the fruit of many hours of negotiation and discussion between the Committee on Interior and Insular Affairs and the Committee on Commerce to try to meld the results of our two bills, one dealing with coastal zone management and one dealing with the Outer Continental Shelf. Both bills recognize that there are impacts to the adjacent coastal States.

The jurisdiction and the concern of the Coastal Zone Management Act and, in turn, of the Commerce Committee, is somewhat broader than that of the Interior Committee since our jurisdiction is limited to the Outer Continental Shelf.

In any event, Mr. President, what this amendment does is it deals with part of the funds that are to be authorized under the instant legislation.

What it says is that we will have a fund of not to exceed \$100 million, that that fund will be distributed to States which have either production adjacent to that State or have oil first landed in that State, and provides that that State shall be compensated at the rate specified in the bill.

There is a sliding scale of specification of impact, which is in the first year of the bill 20 cents per barrel, 15 cents per barrel or its equivalent in natural gas during the second year, 10 cents per barrel or its equivalent during the third year, and 8 cents a barrel or its equivalent during the fourth or all succeeding years, again with two limitations: first, that the total amount distributed under this formula may not exceed \$100 million or \$25 million for the transition quarter and, further, provided that no State may receive more than the equivalent of 1½ million barrels of oil a day. Both oil and natural gas in its equivalency are recognized under this bill.

The bill also provides, Mr. President, that when a State is eligible for this money that the money shall be paid, first, to retire locally issued bonds previously approved by the Secretary of Commerce and authorized to be issued under section 316 of the act, second, to retire State issued bonds again which were previously authorized by the Secretary of Commerce and issued pursuant to section 316 of the act, and, third, to compensate the State for projects undertaken or for monies expended by the States and resulting from the location, construction, expansion, or operation of any related energy facility and/or for projects designed to provide new and additional public facilities and public services which are related to such exploration, development, production, location construction, expansion, or operation of offshore mineral activities.

What we have, Mr. President, is a carefully worked out formula by which adjacent coastal States shall receive money for projects when such projects are to be used to relieve the effects of drilling and production in the Outer Continental Shelf.

Other concerns are dealt with in this bill which are the fruit solely of the work of the Committee on Commerce and relate to other energy-related facilities as well as Outer Continental Shelf activities. But this

amendment is the joint work of the Committee on Commerce and the Committee on Interior and Insular Affairs. While, from my point of view, as a Senator from Louisiana, it misses the mark by far in terms of alleviating the impact on the adjacent coastal States, I and my colleagues on those committees present this as a carefully considered compromise of the various issues involved.

I think it is a fair compromise, Mr. President, and I therefore offer it and trust that it will be approved.

Mr. HOLLINGS. Mr. President, as floor manager for this bill, I welcome the amendment offered by Senators Johnston, Stevens, Jackson, Magnuson, and myself to further clarify and strengthen the automatic grants provision of S. 586. The inclusion of this amendment in S. 586 as a substitute for section 308(k) effects an agreement between chairman of the Committee Commerce (Mr. Magnuson) and the chairman of the Committee on Interior and Insular Affairs (Mr. Jackson) as to the respective jurisdictions of the two committees regarding offshore oil and gas development and administration of the Outer Continental Shelf Lands Act and coastal zone management and protection pursuant to programs under the Coastal Zone Management Act or consistent with its goals and objectives.

As I have stated, the purpose of this amendment is to resolve inconsistencies between S. 586 and S. 521. In S. 586, there are significant differences between the approach of section 308 and the approach in section 24 of S. 521. The public interest clearly would not be served by creation of two inconsistent impact funds, and the chairman of the Interior Committee, Mr. Jackson, agrees with me that the needs of the coastal States can best be met through a synthesis of the two approaches.

The amendment, which will be offered to both bills, would adopt the basic provisions of section 308 providing grants and loans to States for the purpose of planning for environmental, social, and economic impacts in the coastal zone resulting from or likely to result from energy resource development or energy facilities, and for actually handling such impacts by reducing or compensating for them by providing necessary public facilities and services.

The amount of the fund would be reduced, in the amendment, from \$250 million to \$200 million. Further, the amendment would substitute new language for section 308(k), the automatic grants provision, which would be increased from \$50 million annually to \$100 million annually, as is proposed in section 24(d) of S. 521. This subsection would also be changed by increasing the ceiling on the amount of oil and natural gas equivalent landed annually by which State's grant are determined by the Secretary of Commerce—though NOAA. The original intent of both S. 586 and S. 521 provisions as to the requirement that such grants be spent to offset and ameliorate adverse impacts remains a central feature of this new language, and both committees would wish to stress their concern that money not so spent shall be returned by the States to the Treasury.

It is the agreement of the two committees that, with the approval of this amendment by both parties, the Committee on Interior and Insular Affairs will move to strike from S. 521 section 24 which would establish a coastal State fund administered by the Secretary of the Interior.

This would remove the concern of the Committee on Commerce that such fund would duplicate and, perhaps, even conflict with the coastal energy facilities impact fund and the automatic grant provisions of S. 586. The agreement further provides that, when S. 521 is considered on the floor of the Senate, the committee floor manager for that bill will move to insert section 308 in S. 586 in its entirety in S. 521 so these bills will be consistent on this issue.

The result would be, Mr. President, a clean division between the responsibilities of the two committees with respect to the administration of Outer Continental Shelf lands on the one hand—which is the Interior Committee's jurisdiction—and coastal zone management issues on the other—which fall within the jurisdiction of the Committee on Commerce.

Once again, on behalf of the Committee on Commerce, we are pleased to work out this agreement with the Committee on Interior and Insular Affairs respecting one another's areas of jurisdictional responsibility, which Senator Jackson has agreed to.

I know that the principal negotiations today have been carried on by the Senator from Alaska and the Senator from Louisiana. As I understand it, under the amendment of the Senator from Louisiana, we have joined under the coastal impact fund rather than the revenue sharing fund originally proposed in S. 521. Is that correct?

Mr. JOHNSTON. It was not really a revenue sharing fund. It was an impact fund.

Mr. HOLLINGS. All right, an impact fund. This agreement would supplant the fund in S. 521.

Mr. JOHNSTON. Really, what we would intend to do, would be to come forward in the OCS bill, with the same language, realizing that one of these bills may not come through, but that the language which would be in the bill of the Senator from South Carolina also would be in the OCS bill and would supplant the language dealing with the same subject in the OCS bill.

Mr. STEVENS. Mr. President, I believe that the suggestion of the Senator from Louisiana, in this amendment, is a good one. I have joined with him, Senator Jackson, Senator Hollings and Senator Magnuson in this amendment and I hope that the Senate will adopt our amendment. It meets some of the problems that an existing oil-producing State, such as Louisiana or Texas or California, would face under our original proposal. It will have no great impact on States such as mine, which have, at the present time, no OCS production.

We have a vast potential off Alaska. I think that the Members of the Senate should be aware of that. Sixty-five percent of the Outer Continental Shelf is off Alaska. Ultimately, these frontier areas will be subject to oil and gas production. The distances are vast and the areas that will be affected by this kind of production are very small in population. They have no facilities, really, to handle the influx of population that would be associated with this kind of development. They have no ability to finance even the planning for this type of development. That is why this bill wisely has two separate funds. One is the grants and loan fund, which is a purely discretionary fund—it is subject, of course, to the appropriation process. It can be used to meet the planning needs and the actual expenses of those States that already have OCS development.

The other is the system of guaranteed bonds and the automatic financing of impact moneys, with a payment of specified amounts per barrel of production to the States or local governments, which will, in fact, retire those bonds that are guaranteed by the Secretary of Commerce and assist the States and the local governments in taking care of the problems within the coastal zone.

As I say, I hope that, at some later date, we will get to the question which is in the mind of the Senator from Delaware (Mr. Roth) and that we have discussed in terms of revenue sharing. This is not that bill. As a matter of fact, as I pointed out to the Senator from Louisiana, as I understand the jurisdiction of the House committees, we cannot even have OCS revenue sharing in a bill that will go to conference with the House Fisheries and Merchant Marine Committee, because if they are agreed to a position there——

Mr. BELLMON. Will the Senator yield?

Mr. STEVENS. Yes, I yield.

Mr. BELLMON. I wish to understand this. If there is an oil strike in a small town in the State of Oklahoma, for instance, it will take care of that? In terms of this bill, if there is an oil strike in the Outer Continental Shelf, the Federal Government will take care of the facilities it needs to accommodate that population.

Mr. STEVENS. If there are Federal lands in Oklahoma——

Mr. BELLMON. There are no Federal lands in Oklahoma.

Mr. STEVENS. If there are private lands, in the first place, the State will get a severance tax. In the second place, it will get a tax on the private development within its State. We cannot tax that development outside of the 3-mile limit. We have no way at all to finance it. Those platforms are outside the 3-mile limit. Yet the families and people live onshore. There is no revenue associated with that.

Mr. BELLMON. Does the State of Alaska not levy a State sales tax or an excise tax, the same as in Oklahoma?

Mr. STEVENS. No, there is no State sales tax in Alaska.

Mr. BELLMON. The State has the authority.

Mr. STEVENS. But, there is no such tax.

Mr. BELLMON. Alaska has the same taxing authority any other State has?

Mr. STEVENS. Yes, but we do not have that kind of tax.

Mr. BELLMON. That is up to Alaska.

Mr. STEVENS. We do not have the oil revenues Oklahoma has, because the resources that would be subject to tax that would produce revenue are within Oklahoma's jurisdiction. These OLCS facilities—the platforms, the oil wells, the oil—are outside of the jurisdiction of the State. We could not tax them.

If the Senator would like to give us the permission to extend our severance tax out to OCS production, he can be my guest. As I pointed out, we would get 56 cents a barrel if it were within our jurisdiction. We are only asking 8 cents a barrel here, and only to retire those bonds which have been guaranteed by the Secretary of Commerce or to meet those impacts agreed to by the Secretary of Commerce as being necessary to meet OCS development. That is a very, very limited proposition. It is not something that is an extension of the concepts that I think the Senator from Oklahoma would recognize.



If the Senator had an oil well being drilled in Oklahoma, he could tax it, could he not? Do they not tax oil in the ground?

Mr. BELLMON. The State of Oklahoma has a gross production tax on oil produced. What about the States of Texas and Louisiana? They have had offshore development on the OCS down there for many years.

Mr. STEVENS. Yes, and we have watched what has happened there and that is one thing that has bothered us.

Mr. JACKSON. Will the Senator yield for a unanimous-consent request?

Mr. STEVENS. Yes, I yield.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mr. William Van Ness, Mr. Michael Harvey, and Mr. Steven Quarles be granted the privileges of the floor in connection with the pending measure.

The PRESIDING OFFICER. (Mr. Bartlett). Without objection, it is so ordered.

Mr. STEVENS. I hope my friend from Oklahoma will study this amendment and realize that the bill originally had provision for loans and grants. The Coastal Zone Act in effect now has a provision for loans and grants. The problem is, as we address the areas, in the rural areas, where there is little population and where there is an inability to prepare for development of this type, we are trying to find a mechanism so their bonds will be salable. We are providing a minimum amount of Federal assistance to repay those bonds and to meet these impacts.

I do not think this kind of money will entirely repay the bonds. The maximum amount of money that would be payable to any State, under my proposal, in a year, at the time it reaches a million barrels per day production from the OCS, would be \$29,200,000. That would be the maximum amount payable to both States and localities.

The estimate for the production from the Gulf of Alaska—which we think is low—in the environmental impact statement is 550,000 barrels per day. In other words, my State can look for a payment of something like \$15 million out of this, payable to all the local communities and the State, for taking actions to try to ameliorate the development impacts that come about from the offshore development.

Mr. BELLMON. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. BELLMON. Ever since I have been in the Senate, I have heard testimony from communities like Santa Barbara that do not like oil wells cluttering up their landscape. I have heard that from other Atlantic coast States that do not like refineries in their areas. They want the oil coming from Oklahoma, Texas, and other States. Yet they do not want these smelly refineries or other things on their land. What this looks like to me is a bribe to get these States to do the things they ought to do, anyway.

Mr. STEVENS. I hope the Senator will join me in that bribe later on, because I think that is what it is going to take to get offshore development.

Mr. JOHNSTON. It is not a bribe at all, if the Senator from Oklahoma would yield. There is a real and measurable impact, and the record

made in our committee by testimony last year when we had similar legislation so indicates. There is a real impact on offshore drilling. The Gulf Council made such a report 3 years ago and showed a net impact, adverse, of \$33 million.

The theory here, the mechanism, is not a new one; it is not unique to Outer Continental Shelf drilling. Indeed, there is an impact fund from which Oklahoma benefits—I am responding to his comments—this is not a unique kind of mechanism.

For example, we have an impact fund for Army bases, from which the State of Oklahoma gets a great deal under its impact funds for Fort Sill, for example, recognizing that there is impact from these Government children who are educated by the State of Oklahoma and by the counties surrounding. It is that same kind of idea incorporated in this bill, recognizing a real impact and not a bribe.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, may I inquire of the Senator from Louisiana if he wishes to proceed at this time with that amendment he has offered or what the wishes of the manager of the bill are? As I understand it, we did receive consent—and correct me if I am wrong, I would make a parliamentary inquiry—has the bill as reported by the committee been deemed original text for the purpose of amendment?

The PRESIDING OFFICER (Mr. Bartlett). The committee amendment has been agreed to as original text for the purpose of further amendment.

Mr. JOHNSTON. I would think it would be the more orderly procedure to proceed with that amendment.

Mr. HOLLINGS. Then we could take up the amendment of the Senator from Washington.

Mr. JACKSON. Mr. President, I deeply appreciate the spirit of cooperation which has prevailed between the Commerce Committee and the Interior Committee as both committees have been working on legislation relating to Outer Continental Shelf oil and gas development and its impact on the coastal zone.

While I am opposed to any sharing of Federal revenues from Outer Continental Shelf activity with the States, I have consistently supported the concept of Federal impact aid to those States suffering adverse impacts from Federal decisions to develop OCS oil and gas. The Outer Continental Shelf Lands Management Act (S. 521) which the Interior Committee has ordered reported and should be before the Senate next week, contains provisions for a coastal State impact fund as did its predecessor (S. 3221) which was passed by the Senate last year. S. 586 contains a provision for automatic impact aid grants. The Interior Committee bill also contains an automatic impact aid provision based on a formula which was specifically designed to provide funds to coastal States in so-called frontier areas—those areas where there has been no Outer Continental Shelf oil and gas development in the past.

I supported this approach because I felt it imperative that the Federal Government provide assistance to such States so that they could do the necessary planning and provide the necessary public

services before, or as, they were impacted rather than incur the impacts and only be able to provide adequate facilities long after they were needed.

I have agreed to the compromise approach being offered today because the Senator from South Carolina and the Senator from Alaska assure me that it meets the legitimate needs of frontier area States for front-end money.

They assure me that the needs of frontier area States can be met by loans under section 308(b) of S. 586 or federally guaranteed State or local bonds pursuant to section 319. Once actual production takes place, the automatic aid will be available to repay the loans or retire the bonds. I am pleased that the compromise requires that the automatic grants must be expended for the purpose of reducing or ameliorating adverse impacts. This requirement should eliminate any possibility that any State will receive a windfall. I am sure that all the coastal States will make their views on this subject known prior to any Senate-House conference so that if inequities may occur we will have an opportunity to revise the distribution formula.

Mr. President, with that understanding, I urge that the Senate adopt the proposed amendment.

Mr. JOHNSTON. I move the adoption of my amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. STEVENS. I have no request for further time. I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. BUMPERS. Mr. President, I have an unprinted amendment.

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

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Jackson) proposes an amendment on page 37, line 11, strike "(a)".

On page 37, lines 24 and 25, and page 38, lines 1 and 2, strike subsection (b) in its entirety.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, this subsection would provide that any grant or loan made pursuant to S. 586 shall not be deemed a "major Federal action" for the purpose of section 102(2)(C) of the National Environmental Policy Act. Under this provision, therefore, any grant or loan made by the Federal Government from the \$250 million coastal energy facility impact fund for major construction projects would be exempt from NEPA's requirement for preparation of environmental impact statements.

Mr. President, I have just received from the Executive Office of the President, from the chairman of the Council on Environmental Quality, Mr. Russell Peterson, a letter in opposition to this provision of the bill. I wish to read the letter now from Governor Peterson, speaking for the administration on this matter:

COUNCIL ON ENVIRONMENTAL QUALITY,  
*Washington, D.C., January 16, 1975.*

Hon. HENRY M. JACKSON,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR JACKSON: The Senate Commerce Committee recently reported out the Coastal Zone Management Act Amendments of 1975 (S. 586). Since the Committee Hearings on these amendments, at which I presented testimony of the Council on Environmental Quality on June 11, 1975, a provision has been added to the bill, section 318(b), which would exempt any grants or loans made from the \$250 million impact fund from the requirements of the National Environmental Policy Act (NEPA) for environmental impact statements. This provision, which was not discussed in committee hearings, is not supported by the Council.

Under the proposed bill, the Secretary of Commerce would be permitted to make both planning and construction grants to the states to mitigate impacts resulting from federally permitted energy developments on the coasts. The proposed exemption to the impact statement requirement of NEPA would apply to federal actions on both types of grants, regardless of whether, in fact, significant impacts would occur. In many instances, particularly where planning grants are involved, such impacts should not result. Consequently, under present provisions of NEPA and the Guidelines of the Council and the Department of Commerce, no impact statement would be required. However, grants may also be sought from the federal impact fund to permit the purchase of land or the construction of a new public facility, not otherwise related to a Federal action. Even though such grants may be intended to mitigate the impacts of certain coastal energy production or facilities such activities may have important environmental effects, or alternatives with lesser effects, that should be thoroughly analyzed by the grantee and the Department of Commerce. Without the impact statement exemption, these effects would be so analyzed and a detailed impact statement of the Department would be required when, on the basis of the particular facts in each case, significant impacts were foreseen. This document would then be used to help federal decision-makers and the public determine the merits of a particular construction grant application. It is the Council's judgment that the Secretary of Commerce should be permit to make the judgments permitted by NEPA as to whether and when an impact statement should be required and used.

In addition to these reasons, it would be unfortunate for the provisions of NEPA to be limited at a time when Congress and the Executive Branch are exploring a number of new ways to pursue and control the development of outer continental shelf oil and gas. Since the provisions of NEPA are intended to proceed and complement federal agency decisionmaking processes it would be unwise to specify in this legislation precisely when the impact statement provision should or should not be applied. This is a subject that I believe requires considerably more discussion and analysis than has been devoted to the proposed NEPA provision of S. 586.

Sincerely,

RUSSELL W. PETERSON,  
*Chairman.*

Mr. President, subsection 319(b) is entirely unnecessary and clearly undesirable. It is a wide-ranging exemption to NEPA which was not addressed in committee hearings, did not receive detailed discussion or analysis in the markup of S. 586, and has not been considered by the Interior Committee which has the jurisdiction over NEPA. As such it is a dangerous precedent that should not be established by the Congress.

Section 102(2)(C) of NEPA requires the preparation fo an environmental impact statement on "major Federal actions significantly affecting the quality of the human environment." The effect of S. 586's NEPA exemption is to say that no action under S. 586 or the Coastal Zone Management Act is a "major Federal action". It transfers from the Secretary of Commerce to the Congress the decision on what is or

is not a major Federal action. Whereas without the NEPA exemption the Secretary would make that decision on a project-by-project basis taking all the relevant facts into consideration, the exemption would make a one-shot, prior congressional determination that no major Federal action is involved in any impact fund loan or grant without giving consideration to any of the potentially massive construction projects which those loans or grants may support. Clearly, in many instances, no significant impact on the environment would be likely to occur when a grant or loan is made under S. 586. In such cases the Secretary or his designated Federal official, under existing law, would decide that no impact statement was necessary. However, in some situations such as a proposed land purchase or new public facility which would be paid for with the grant or loan funds but would not necessarily be otherwise tied to Federal action, the environmental impacts might be significant and deserving of analysis. Moreover, alternatives might exist with lesser impacts which should also be explored. The judgment on whether or not an impact statement should be written to address these questions in detail is, therefore, best made in light of the circumstances of each case.

Without the NEPA exemption proposed by this bill any probable significant environmental impacts would be examined, if appropriate, by the grant applicant. Such analyses, and any subsequent impact statement deemed necessary by the Department of Commerce, would then serve to aid federal decisionmakers and the public in determining the merits of the grant application. Over the past 5 years the record of Federal agencies under NEPA has proved the value of the impact statement process in forcing the analysis of environmental effects and alternatives before decisions are made. In short, the impact statement mechanism has proved to be a useful management tool for Federal administrators and there is nothing in the public record to suggest that it would not also be a useful tool for the Secretary of Commerce in administering the impact fund.

Mr. President, this NEPA exemption is particularly unfortunate because it has far wider application than first appears. It would effectively destroy NEPA. The impact fund loans and grants could be used to finance almost any public construction projects and, under the exemption, no impact statement would be required. There is nothing in this provision to prevent the funding of highways, ports, airports, sewer interceptors, or other facilities now funded under other Federal-aid programs. As NEPA fully applies to those programs, by transferring the projects which would otherwise be funded under them to S. 586's grants or loans, the impact statement requirement could be avoided altogether. I cannot believe that public policy would be served by exempting such major Federal actions as highways, airports, and other facilities from the requirements of NEPA. If such facilities were exempted from NEPA, NEPA itself would be only a regional bill whose application would be limited largely to non-coastal states and inland areas.

Page 30 of the report on S. 586 contains the following statement:

This does not mean, however, that the construction of a public facility or any other action paid for with such grants or loans, which requires an environmental impact statement on its own merits, is exempt from that requirement.

But, Mr. President, this is entirely misleading. Many of these actions, if funded under other Federal programs would likely be major Federal actions and, thus, require impact statements. However, once these programs are funded under S. 586 rather than other Federal programs, they are no longer "major Federal actions" to which NEPA would be applicable. S. 586 says they are not major Federal actions despite Federal funding under S. 586, and there is no longer any other Federal funding or other Federal nexus to make them "Federal actions" for purposes of NEPA. Thus the words "which requires an environmental impact statement on its own merits" are totally illusory for, once S. 586 exempts all projects funded under its grants or loans from NEPA, there would be no residual impact statement requirement.

Mr. President, as the Congress and the executive branch consider various new approaches to the development of off-shore oil and gas resources, including ways to expedite offshore leasing and production, it is essential that the provisions of NEPA remain fully applicable. It would be premature and unwise to dictate by this legislation that NEPA shall not apply to decisions to make impact fund grants. It would be doubly unwise to insert such a provision after as little legislative analysis and public attention as this NEPA exemption has received.

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

Mr. JACKSON. Yes.

Mr. STEVENS. On my own time, if we have enough time on this amendment, and I assume we do.

As the Senator knows, one of the first things I did when I came to the Senate was to sit with the Senator through discussions leading to the formulation of NEPA, as one of the original sponsors of the NEPA Act, and I believe in it.

Mr. JACKSON. The Senator is correct, and he was most active in support and in the passage of that legislation.

Mr. STEVENS. I would like to point out that our problem is this: We are trying to assist in financing the actions taken by the municipalities or States which would otherwise not involve any Federal action, and that provision here—and it may not be stated as expertly as it could be to meet that objective, and I want to explore with my good friend from Washington whether he would be able to agree with us on some limited aspect of this provision—we are talking not about the areas where there has been no environmental impact statement. In the first place, there will be an environmental impact statement on the approval of the coastal zone plan. That is, in fact, an environmental impact statement.

Mr. JACKSON. I understand.

Mr. STEVENS. Second, we are dealing with the action to be taken by a small town, say, Yakutat, Alaska, which wants to build a facility, a dock. It would have to have, if it needed Corps of Engineers approval an environmental impact statement to begin with.

In any area where there would be required a substantial Federal action other than the making of a grant, there would be an environmental impact statement. We tried not to bring these problems into Washington and require the procedure of an environmental impact

statement, in a redundant way, only in those areas where the making of a grant or of a loan under this Act in and of itself would be considered a Federal action under NEPA. That is the only string we were trying to untie.

We were not trying to exempt an area from NEPA, we were not trying to take away from the power of the EPA, or the Council of Environmental Quality.

We were trying to say, in the instances which, but for a grant or loan provided for under this bill there would be no requirement of NEPA for environmental impact statements for particular projects, then there would be none required as a result of such a grant or loan.

That was a very, very little thing in trying to eliminate delay for most municipalities, for State actions, which if they involved any other Federal action would require an environmental impact statement.

I ask my good friend: Is it not possible we could recognize that we do not want to bring to Washington those actions of a municipality or State which but for the funding provisions would not be here, and again understanding that the whole concept of the coastal zone management plan would, in fact, be subject to the environmental impact statement procedure in the beginning?

Mr. JACKSON. May I say that my understanding, of course, of the law is that it has to be determined to be a major Federal action.

We are not talking about every small sewer project, and that sort of thing. But, for example, let me just point out to the Senator, an environmental impact statement is required for the overall—

Mr. STEVENS. Right.

Mr. JACKSON. I agree with that, that is in there. We all agree on that.

The question arises in that connection, what can be done under this \$250 million fund? For example, they could get money for a highway and an impact statement would be required under the existing Federal-aid highway law, but under S. 586 and its NEPA exemption, they would not have to submit an impact statement if it were funded under section 308.

Mr. STEVENS. I beg the Senator's pardon. That is what I am afraid it is interpreted to be, that is not what we meant.

We meant the making of the loan or grant in and of itself would not require an NEPA statement. A road under the Highway Act would require it, any other local action—

Mr. JACKSON. But if we apply for a grant or loan under S. 586, an impact statement for the highway would not be required because we are acting under the section 319(b) exemption and not under the Highway Act and they would have an exemption.

I am sympathetic with the Senator. I would just hope he would accept this amendment and let us see later if we cannot work something out. I worked with the Senator from Alaska continuously. I just do not want to bring about a situation, very candidly, in which we can find ourselves in deep trouble.

This is an important measure and I would be glad to sit down with the Senator and take a look later at a reasonable way of avoiding impact statement requirements which could be onerous and unnecessary.

Mr. President, I am not happy with all of the procedures—

Mr. JOHNSTON. Will the Senator yield?

Mr. JACKSON [continuing]. In connection with NEPA, but this does open up Pandora's box.

Mr. STEVENS. May we pursue this for 1 minute?

Mr. JACKSON. Surely.

Mr. STEVENS. At least in terms of the automatic grants provided under this bill, which are payable annually to repay bonds that would be guaranteed years in advance, we do not want to have to go back and have an environmental impact statement when production finally occurs and they get ready to repay the bonds. We do not want an environmental impact statement when an automatic grant is made, based upon production 2, 3, or 5 years later. The automatic grants at the very least ought to be exempt from the procedure; they are not major Federal actions.

Mr. JACKSON. I agree. NEPA does not necessarily apply in that situation.

Mr. STEVENS. If the Senator, who is the principal sponsor of NEPA, will agree with me that an automatic grant under this act is not a major Federal action, I am prepared to accept that concept and I think the Senator from Louisiana will, too.

Mr. JACKSON. No, it all depends on what it is. It could be a major Federal action. I do not want a blanket exemption. It may or may not be a major Federal action. That is the trouble with the exemption.

Mr. STEVENS. I am talking about the sums that would be paid under this amendment which are based upon production concepts and will not occur until production commences and, as I said, that will be years after the project is built, to repay bonds.

Mr. JOHNSTON. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. JOHNSTON. I want to ask the Senator from Washington if this is not correct, the stage at which the automatic grants are made from the Federal Government to the State does not require an impact statement, that part does not require the impact statement.

Mr. STEVENS. We have not had agreement on that yet.

Mr. JOHNSTON. I think what the Senator is saying is when the State undertakes to use that money and the impact statement would now be required, as an example, they might build a highway in its coastal zone for the purpose of serving the offshore industry and have it presented, in fact, they would use Federal funds and an impact statement would be required, then that same kind of impact statement would be required under the Senator from Washington's amendment as is now required, but unless this amendment were adopted, then if this money were used it would completely be freed from any impact statement even though it might be commingled with other Federal money which itself would require an impact statement, am I correct?

Mr. JACKSON. The Senator is correct.

Mr. STEVENS. The Senator from Louisiana has stated what I hope is going to be placed in the record by my good friend from Washington because we had no intention of waiving an environmental impact statement in any area where it would be required by any other Federal law.

We did intend to waive the requirement of an environmental impact statement where moneys were raised under the grant or loan pro-



vision under this bill where there would not be otherwise required an environmental impact statement.

The Senator from Washington just stated, as I understand it, that he would agree with me, that moneys would be paid under an automatic grant provision which, in fact, would be used to repay bonds issued for projects commenced years before or for impacts that had been financed years before, that there would be no necessity for an additional environmental impact statement by the making of the grant at that time.

If I understand the Senator from Washington that that is not a major Federal action, we do not need this provision. We were fearful there would not be this interpretation.

MR. JACKSON. I would agree with that.

I hope we can have a vote and the chairman of the committee would agree.

MR. HOLLINGS. Mr. President, I want to agree to this amendment, if I can get my distinguished friend from Alaska. Mr. Stevens, to agree as well.

What we passed as the Coastal Zone Management Act back in 1972, was after about 3 years of endeavor.

It passed through the support of the Council of State Governments, the National Governors' Conference, the Association of Counties, the Coastal States Organization, and everyone else, to work for environmental, social, economic impact and management as well as other impacts within the coastal areas and the Great Lakes of the United States of America.

Specifically, they said that by the year 2000 we are going to have 80 percent of the population, 80 percent of the industrial work force is there now, but by the year 2000 we will have over 225 million Americans living in this area. These impacts are what they wanted assessed and planned for.

Where was the recreation going; where was the urbanization going; where were the facilities for water-consuming industries, and where were the power facilities to be located?

We estimated at that particular time that there would be 80 nuclear powerplants that would have to be built within a 25-year period.

Incidentally, this has been updated upwards to an estimation of 176 facilities that will have to be built between now and 1985, in order to take care of the energy crisis.

But back to the fundamental concept of coastal zone management, the distinguished Senator from Alaska is dead on target; that before the Federal Government will approve a coastal zone management plan of a State, it must submit an environmental impact statement.

Thereafter, any variations from this plan by any particular facility siting would require an additional NEPA statement. What the Senator from Alaska was getting at is that every local water facility or sewage line that would be planned would have to come all the way to Washington for approval.

I happen to know because I live in an area where we are trying to build a bridge, and we have to get the Coast Guard to go along, the Corps of Engineers to go along, EPA to go along, and the Council of Environmental Quality, and everybody else to agree, just to build a bridge.

In that county it is next to impossible. For 7 years we have been trying to check off all the different impact statements.

So the trust of the amendment which was included in the committee at that time, at the behest of the Senator from California, was not in any way to avoid, evade or go around NEPA. On the contrary, the Senator from Alaska has been a warm supporter of the Environmental Protection Agency and the various impact statement requirements under the particular law of Senator Jackson.

I am sure the Senator would insist on including it, because if we have to err, I would rather err, on the side of the Senator from Washington—that there be a little more reporting rather than a little bit less. We are not trying to weaken in any way the National Environmental Policy Act.

Mr. JACKSON. Will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. JACKSON. I want to agree with the Senator's comments with regard to the Senator from Alaska. As I indicated earlier, we worked together on the original National Environmental Policy Act when it was up for final action taken in 1969. The President signed it, as I recall, on January 1, 1970. The Senator from Alaska has always been supportive. I just wanted to call this matter to the attention of the Senate, and I offered the amendment for that reason. I hope the Senator will accept the amendment.

Mr. STEVENS. I would prefer to see it retained at least as to section 308(k). If the Senator from Washington would agree with me with regard to the automatic grants that are payable under 308(k), that the environmental impact statements are not required, then I do not see any necessity for it.

Some of them will be sizeable payments. I call the attention of the Senator from Washington to the fact that it is possible that we will have a \$30 million payment made to a State.

It is dedicated, pursuant to this law, to the repayment of investments made years prior to the actual payment. But I think it could be argued by some people later on that there would have to be a new environmental impact statement every time the Secretary of Commerce prepared to pay that grant over to the States. It is automatic under the terms of this bill. I think at least as to the automatic grants there is absolutely no requirement for an EIS because it is not a major Federal action. We are taking that Federal action if we pass this bill, and I do not think we ought to have an environmental impact statement on that.

If the Senator from Washington will agree to that, fine. If he does not agree with it, I think we ought to retain the section at least for 308(k).

Mr. JACKSON. The real question is whether it is a major Federal action. That is what we are talking about. That is the test. If we just say it is automatic, that, in itself, an automatic grant, is not the test. The real test is whether it concerns a major Federal action significantly affecting the quality of the environment. That is what we are talking about.

Mr. STEVENS. If the Secretary of Commerce guarantees bonds in 1976, and they are for facilities in Yakutat, Alaska, and the money starts coming in from production in 1981, this bill mandates the pay-

ment of those funds, an automatic grant to repay those bonds which have been guaranteed by the Secretary of Commerce.

At the time those grants are made, to go back and have an environmental impact statement as to whether the facilities that the money is to be spent for should be built, to me is wrong. The decision to make them was at the time of the guarantee. That is a major Federal action and there would be the EIS there. But the making of the grant itself is not a major Federal action.

Mr. JACKSON. It would only be at the time of the guarantee. Let me try to state it in one or two sentences.

A small project which, if it were under any other program, would not be "a major Federal action significantly affecting the quality of the environment," it would not otherwise require an impact statement solely because it is funded under S. 586.

Mr. STEVENS. I think that is all we are seeking. That is what this bill provides.

Mr. JACKSON. I will stand on that statement. That ought to be a sufficient legislative record. I would hope the Senator would—

Mr. STEVENS. I am satisfied with the statement which as I understand it is exactly what the bill says where only the grant or loan is the Federal action, to repay previously approved projects which were subject to an EIS in the beginning, no NEPA statement will be required.

Mr. HOLLINGS. With that agreement, I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. I notice S. 586 adds "islands" to the definition of coastal zone, and the concept of breach access to the subject matter of a development grant, under the Coastal Zone Management Act. As you undoubtedly know, for the last two Congresses I have introduced the National Open Beaches Act and the National Islands Conservation and Recreation Act. These bills have, in each instance, been referred to the Interior Committee. They would make use of Land and Water Conservation Fund moneys for the express purpose of acquiring islands and beach access. In addition, they would set up a procedure for adding undeveloped islands to the national park or wildlife refuge system, to speed the "surplusing" of islands owned but no longer needed by the Department of Defense and other Federal agencies, and declare Federal support for the common law "open beach" concept.

I would certainly hope that you would regard such legislation as entirely supportive of S. 586 and that there is no attempt by the Commerce Committee, in making the changes in the Coastal Zone Management Act which I mentioned, to remove Interior Committee jurisdiction over these bills. I would appreciate your assurances on this matter, and I can assure you that such legislation will be consistent with the Coastal Zone Management Act.

Mr. HOLLINGS. I agree. I yield to the Senator from Utah such time as is necessary.

Mr. Moss. Mr. President, I support S. 586. It is a good bill. Certainly, the coastal States need Federal assistance, as the bill says, to study, plan for manage and control the impact of energy resource development which affects the coastal zone.

I want to call the attention of my colleagues to the fact that it is not just the coastal zone which is experiencing the impact of energy resource development. Throughout the West there are energy supply projects springing up like mushrooms after a heavy rain: four coal gasification plants slated for construction in New Mexico; 11,000 megawatts of new electric generating capacity heading for construction in southern Utah; new coal mines opening in Wyoming, Montana, the Dakotas, and so on. Some of these projects are still in planning stages; some are on the verge of construction, and some have already started up.

In the sparsely settled areas of the West, it is particularly difficult for communities to find planning money to study the coming impacts. It is impossible for them to find early financing to build the community infrastructure needed to serve new population influxes. Sewers, water, roads, schools and hospitals, police and fire protection all have to be in place long before they can be paid for with tax revenues from the new energy facility.

So the Senate must return to the principle embodied in S. 586 later this year. This is legislation more broadly based than coastal zone energy siting. Considerations both of equity and need dictate we produce for the whole country a program of financial assistance on energy impact problems comparable to that which we will provide in the coastal States with this legislation today.

I have drafted legislation which meets that goal, which I will have ready to introduce after the August recess. I will be speaking to a group of national experts on front-end financing who are gathering August 14 and 15 in Utah to consider the bill which I have drafted and to suggest ways of improving it. I solicit the support of all my colleagues, and particularly those from Western and coastal States, to find a solution to the problem of meeting the needs of the States which will be providing energy for the Nation.

Mr. BELLMON. Will the Senator yield?

Mr. MOSS. I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. I have been informed by the comments of the Senator from Utah but if I understand properly, he is talking about applying the provisions of this bill to all States?

Mr. MOSS. The same general principle. I support this bill and I think it is timely and needed. But I think we must not overlook the fact that there are a lot of other areas with similar problems.

Mr. BELLMON. Would the Senator agree that we have a better chance of getting legislation like this to apply to the rest of the country if we had it altogether in the same package?

Mr. MOSS. I would not be averse to that.

Mr. BELLMON. That is the reason I think we ought not take this bill until we take care of the needs of the rest of the country at the same time.

Mr. STEVENS. If the Senator from Utah will yield, I hope the Senate will not follow that concept. The fact that we thought of a good approach to provide front end money for those places that are about to

suffer this type of impact ought not mean that we should hold it up because there are other places that are going to have the same experience later. I happen to agree with the Senator from Utah. The Senator from Washington and I held some hearings in Hanford. They said this 3 years ago to us, that we have to find a way to deal with these impacts that the local communities cannot face. We have found a mechanism, to guarantee the bonds and to later provide some income when you produce something that is salable. That is all we are saying. We will be happy to work with the Senator from Utah and the Senator from Oklahoma in that regard.

But I would point out this, and I think in fairness it must be admitted, that a nuclear powerplant that may be located within a State is subject to taxation by some local community, some local entity, some county, city or State because it is located within their taxing jurisdiction. We are also talking about facilities that are outside the State, where the bulk of the impact takes place in the State from the points of view of schools, roads, docks, communications, all of the facilities that are not there. The entities that could be taxed, the platforms, the oil reserves, are outside the State.

Mr. MOSS. I agree.

Mr. STEVENS. I am perfectly willing to work with the Senator from Utah and the problem facing these cities and States to meet the problems that will come from the energy siting, the nuclear powerplants, and the hydroelectric plants. Today if we went through a Grand Coulee Dam project as compared to the time we went through it before, it would be seen as having a severe impact on the State of Washington.

Mr. MOSS. I appreciate the comments of the Senator from Alaska. I am not disposed to delay this matter at all. As a matter of fact, I am drafting a bill that I hope to introduce immediately following our August recess, that will have this effect on the States that have energy projects within their boundaries.

I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to say to the Senator from Utah that I could not agree with him more on a part of his statement, but I honestly think all of us landlocked States are rather foolish to give up whatever leverage we might have by supporting this bill in its present form, because to hope that States such as Utah, Montana, and Arkansas will get equal treatment, I think, may be overly optimistic.

I ask the supporters of this measure whether they would support an amendment to eliminate the word "coastal" and then give all 50 States the same treatment. If we are going to give coastal States this special treatment, why not broaden it to include every State in the Nation, and then we will know everyone will be treated fairly?

Mr. MOSS. Mr. President, it is a matter of time. I do not have anything drafted at this point. I have a seminar coming up with some experts, during the recess, in my home State, and we are going to finally put the whole thing together what we think we ought to have.

I am not willing to stand in the way of going ahead with the coastal States, because I accept the assurances of Senators who have spoken that they will support the same thing for the land-locked States with internal energy problems.

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

Mr. MOSS. I yield.

Mr. JOHNSTON. I might add that our distinguished colleague from Wyoming (Mr. Hansen) offered an amendment in the Committee on Interior and Insular Affairs to our OCS bill relative to all the strip mining that is going to occur in his State and out in the West.

That amendment had great sympathy in our committee, and was rejected on a close vote, not because we were against the amendment, but because the matter needs to go through the process of introducing a bill, having hearings, and proving a record, which I am sure can be done. We cannot cure all the problems of the world in one bill. Recognizing that this is a coastal zone bill, where hearings have been held in the Committee on Commerce for a long time, several years in fact, and in the Interior Committee for a period of months, is not to say that we will not be sympathetic to reforms in other parts of the country.

Mr. STEVENS. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. I believe I was yielded to by the Senator from Utah, and that he has the floor.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Who has the floor?

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. HOLLINGS. Mr. President, I yield for a minute to our distinguished chairman, the Senator from Washington (Mr. Magnuson).

Mr. MAGNUSON. Mr. President, having been associated with this matter for a number of years—

Mr. STEVENS. Mr. President, who has the floor at this time?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. MAGNUSON. Having been associated with this matter for some years now, I wish to make a statement for the record affirming my support for this bill, and to compliment all of those who have worked so hard over the years, in hearings, with witnesses, and in conferences, particularly the Senator from South Carolina, the Senator from Alaska, and the Senators on my colleague, Senator Jackson's committee.

I hope that we will adopt this bill. I have listened with a great deal of interest to what the others have to say about the possible extension of this measure to inland States, and I hope they will introduce that sort of bill at a proper time.

Mr. MOSS. I will.

Mr. MAGNUSON. But what we are dealing with here, basically, is that if all the States would be included now, with regard to the things we are going to put into this bill, there would not be too much of a problem for the States, but we are dealing with great uncertainty as to the use those States would make of the funds. It is a different type of thing with coastal States with the Coastal Zone Management Act.

I surely would support another bill similar to this that would apply to inland States which the Senators have been talking about now for the last half hour.

So, Mr. President, I wish to register my wholehearted support for S. 586, the Coastal Zone Management Act Amendments of 1975, which is now before the Senate for consideration. I urge my colleagues to ap-

prove this bill. This legislation is an essential part of our energy program and should be adopted as rapidly as possible by the Congress. Without this legislation, I am afraid, our coastal and Great Lakes States may be unprepared to shoulder their fair share of the Nation's burden in meeting energy needs.

In January of 1969, a blue ribbon panel of experts on ocean affairs made the following statement introducing the concept of management of the coastal zone:

The coast of the United States is, in many respects, the Nation's most valuable geographic feature. It is at the juncture of the land and sea that the greater part of this Nation's trade and industry takes place. The waters off the shore are among the most biologically productive regions of the Nation.

The uses of valuable coastal areas generate issues of intense State and local interests, but the effectiveness with which the resources of the coastal zone are used and protected often is a matter of national importance. Navigation and military uses of the coastal and waters offshore clearly are direct Federal responsibilities; economic development, recreation and conservation interests are shared by the Federal Government and the States.

Rapidly intensifying use of coastal areas already has outrun the capabilities of local government to plan their orderly development and to resolve conflicts. The division of responsibilities among the several levels of government is unclear, and the knowledge and procedures for formulating sound decisions are lacking.

The key to more effective use of our coastland is the introduction of a management system permitting conscious and informed choices among development alternatives, providing for proper planning, and encouraging recognition of the long-term importance of maintaining the quality of this productive region in order to ensure both its enjoyment and the sound utilization of its resources. The benefits and problems of achieving rational management are apparent. The present Federal, State, and local machinery is inadequate. Something must be done.

Based on the report issued by this panel, referred to as the Stratton Commission, Congress considered and passed the Coastal Zone Management Act of 1972, a law which must be considered a landmark in the area of State/Federal partnership in land and water use planning.

At that time, however, the tremendous pressures on the coastal zone for the building of energy facilities were just beginning to mount and had not reached crisis proportions. Refineries, deepwater ports, LNG terminal facilities, powerplants, and similar facilities are either water related or water dependent. Most such facilities are now located in the Nation's coastal zone, as are those proposed for construction in the future.

Furthermore, we have learned that oil and gas development on the Outer Continental Shelf will generate onshore support facilities, pipelines, and accompanying problems for State and local officials to cope with.

The funding of the Coastal Zone Management Act, nonexistent for nearly a year after its enactment, is still modest. Despite this slow beginning, nearly all States are participating in the program. But the advent of energy pressures of great magnitude have made the original coastal zone management program of greater importance and have demonstrated the inadequacy of the funding of its implementation. In fact, for most States, the biggest planning headaches are those associated with energy facilities or development. The siting of the Pittston refinery in Eastport, Maine, is but one example. More and more, State and local permission to site a facility is approaching the status of a social contract between the industry involved and government.

This is as it should be if a proper balancing of the interests of industry and the public can be achieved. But the parties to this contract must have equal bargaining power. S. 586 is intended to bolster local efforts to rationally plan for energy facilities in an independent and expert fashion.

Of primary importance to the States at the outset is planning assistance. It is most difficult to plumb the reaches of impact associated with energy facilities. Without adequate staff and resources, a State must rely on the information provided by industry. This bill will give the States a jump on the problem and allow them to deal with the complex problems of coastal energy development on an informed basis, ahead of time.

It is important to underscore the fact that S. 586 continues the basic philosophy of the Coastal Zone Management Act of 1972. Using the carrot approach, States are encouraged to establish a statewide planning process and statewide plan for the balanced development and protection of coastal areas. The planning decisions are left to the States themselves. With an approved process comes Federal financial assistance. This initial phase, program development, has attracted nearly every coastal State.

Recently, my own State of Washington was informed by the Office of Coastal Zone Management that it was the first to receive preliminary approval of the management program itself. As a State with one of the Nation's longest coastlines, Washington State knows well the need to protect our coastal areas. In this regard, there has been a long, and sometimes difficult, debate over the siting of deep draft oil tanker terminals in the State. Continually, the effort to establish a State energy plan was frustrated by a lack of knowledge about industry plans and an unwillingness on the part of oil companies to work closely with local government. In fact, announcements of company plans to build tanker terminals came as bombshells in the newspapers, rather than as part of some orderly process. The legislature, understandably miffed, simply outlawed large tankers from inner Puget Sound.

Mr. President, the Coastal Zone Management Act was designed to bring order to the planning process at the local level. But it can only be as successful as the capability of any State will allow. S. 586 enables the States to develop the adequate capability.

The impact assistance in the bill is a vital part of the proposal. Through the efforts of the national ocean policy study, the burdens associated with energy facilities became clear. A quick buildup of onshore staging areas for OCS development, pipelines, support facilities, tanker terminals, and the like can sorely strain a local government's ability to provide schools for the workers' children, fire, and police protection, water, sewage, and other public services. S. 586 provides impact assistance to the States without busting the budget by giving such assistance only where overall adverse impact is shown.

In summary, Mr. President, S. 586 is a balanced bill to meet a very real coastal State need. I urge my colleagues to pass the bill.

I hope we will not stall this measure. I do not mean to say that anyone wants to stall it; everyone wants to discuss it. But it is long overdue, and all these things are piling up on us in the coastal zone.

I guess all 50 States have environmental acts now, and they will require an impact statement, but they have had no comprehensive



legislation other than in this zone we are talking about, and that is why the bill is very necessary at this time.

Mr. BELLMON. Mr. President, will the Senator from Utah yield the floor at this time?

Mr. MOSS. Well, the Senator from South Carolina yielded to me. Perhaps he should yield it directly.

Mr. HOLLINGS. Mr. President let me yield the floor, so that the Senator from Alaska may speak.

Mr. STEVENS. Mr. President, first let me inquire, what is the time situation?

The PRESIDING OFFICER. The Senator from Alaska has 41 minutes remaining, and the Senator from South Carolina has 42 minutes.

Mr. STEVENS. I am happy to yield to either of my colleagues, the Senator from Oklahoma or the Senator from Delaware.

First let me state just briefly, that I hope the Senate will listen to the chairman of our committee. We have a jurisdiction problem, particularly when we get to the House of Representatives and are subject to the terms of their jurisdiction. We are going to be dealing with the House Fisheries and Merchant Marine Committee, not the committee that deals with power siting, or the people who generally deal with public works concepts.

If the bill which the Senator from Utah has been discussing needs to be introduced, I would be happy to support it, but we could not get it through the House committee in conference, and that is the simple fact of the matter. We could get this through; it is limited. It does not refer to OCS revenue funds; it deals only with financing that comes through the Appropriations Committee on the basis of the eligibility guaranteed under the provisions of the bill.

I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I wish to ask the Senator from Alaska a question.

I would like for the Senator from Alaska to explain to me if, under the terms of this bill, an oil company chose to build a refinery at Baton Rouge, in a coastal State, or if, on the contrary, it chose to build a refinery at Little Rock, in a landlocked State, or at Tulsa, in what is also a landlocked State, the State of Louisiana could receive a grant under this bill, but the landlocked States could not; is that correct?

Mr. STEVENS. That is true. It is also true under existing law. There is an existing grant authorization for the coastal zone area, which we justified here 3 years ago on the basis that in the area within 50 miles from our coastline. I believe—the Senator from South Carolina has the exact figures—over 50 percent of our population lives within that 50 miles of the coastline, and they have a more serious problem when additional facilities are introduced than do the interior States. I would also say there are provisions for grants and loans under HUD to deal with these same concepts as they affect the interior States.

Mr. BELLMON. Those grant provisions apply to coastal States as well as to landlocked States. Why do we need a bill that gives the coastal zone States a favored position?

Mr. STEVENS. We are continuing the favored position of the coastal States because of their peculiar problems with relation to population density, in some instances, and the entire lack of population in other instances. In ours it is the latter type of case. We always are plagued

with a lack of infrastructure to deal with any problems. Some of these areas are going to be impacted by this OCS development in my State. On the other hand, in Louisiana, California, Delaware, or New Jersey, where they are proposing to put in facilities to handle the oil that is coming onshore, the impact will cause severe dislocations, will particularly cause planning problems, and under the new Coastal Zone Management Act they are going to have to have a plan. We did not require Oklahoma to have a plan, or we did not require Arkansas to have a plan.

Mr. BELLMON. Under the Environmental Act we have to have the same kind of plans as the State of Alaska has.

Mr. STEVENS. No. They do not have to have a management plan like the Coastal Zone Management Act requires.

My friend from South Carolina will affirm this. We, in fact, enacted the planning concept that applies to coastal zone that does not apply to the rest of the country, and as such we are in a different situation.

Basically, the loans that the Senator is talking about are loans for planning to meet the requirement that Congress set down for the coastal zone States. It is to meet the fantastic impact coming about in some areas from excessive population in the case of my own State from lack of population.

We in the coastal States also have some problems that the Senator does not have, and that is to protect the fishery resources, to protect the sanctuaries for fish and wildlife, to protect the scenic areas, such as the beaches along the great eastern shore of the United States or the California shore. In order to protect those areas we have required a coastal zone plan, and the coastal zone States are trying to meet that obligation.

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

Mr. STEVENS. I am happy to yield.

Mr. BUMPERS. In the coastal zone plan, does the plan provide for industrial development other than energy resources?

Mr. STEVENS. Yes, but only as contemplated in the original act. Let me answer the question, yes, and not anticipate the Senator from Arkansas. It does.

It does, but this act would not finance projects to cope with that impact. This act would only finance those projects that are related to the adverse impacts from OCS development.

Mr. BUMPERS. Also in this bill, it is not necessary that a plant be built in the coastal zone. It is only necessary that it at least allegedly impact the coastal zone and the Secretary agrees with that allegation. Is that correct? In other words, if a coal-fired generating plant is built in western New Jersey—I do not know how far the coastal zone goes in New Jersey.

Mr. STEVENS. It is up to the State.

Mr. BUMPERS. I understand it includes the entire State. But if a coal-fired generating plant is built in western New Jersey, and it is a part of their coastal zone, they are entitled to receive aid from the Secretary upon application, for any social, economic, or environmental impact they may have sustained as a result of that coal-fired plant.

By the same token, if such a plant is built in the State of Arkansas, which is about to be done, we are not entitled to anything for any kind of impact. Would that be correct?

Mr. STEVENS. Not quite. I would agree that the Arkansas situation requires, as I have said to the Senator from Utah, a new concept.

Mr. BUMPERS. I understand.

Mr. STEVENS. With regard to the first part of the Senator's statement, to the extent that the State defines the incursion of salt water influence, there would be required a coastal zone management plan. Part of that plan would be to try and protect that area and it might well be that one of the requirements would be that the refinery be built out of that area in order to protect the coastal zone and that could lead to financing under this Act, as I understand it.

But again, I hope that, in trying to deal with special problems that are coming about because of development beyond the jurisdiction of any State—and there are such special problems—that my friend from Arkansas would not delay this bill because he also has problems within his own State. We will be most willing to address these problems in the future.

Mr. BUMPERS. Let me say to the Senator from South Carolina and the Senator from Alaska, that I supported the Coastal Zone Management Act. I support the concept of what is trying to be done in this bill, or at least as I originally understood the concept, and that was to protect the coastal zone from all of the impact that one might sustain as a result of offshore drilling. This bill goes much further than that. It covers everything.

I will support an amendment which changes the language of section 308 to say "any State," or I will support an amendment which confines the aid you can get from the Secretary for coastal zone impact to those impacts which are sustained as a result of offshore drilling and exploration and development on shore as a result. Then we can all address land-use management hopefully later in this session and all 50 States be put on the same basis. I support land-use management.

Mr. STEVENS. I say to the Senator from Arkansas that we did that. We passed the bill. It is over in the House of Representatives now. We passed it twice. We have done this in terms of the land use planning bill, and I supported it. It came out of the Committee on Interior and Insular Affairs. I supported it, and I think the Senator did also. It is over in the House of Representatives, and it has been, as I understand it, slightly delayed in the House.

But the concept that the Senator is seeking we agree to.

But let us not step backward with regard to the coastal zone. The coastal zone does have special problems that the noncoastal zone does not have.

Mr. BUMPERS. I recognize that.

Mr. Brock assumed the chair.

Mr. STEVENS. That is not only the protection of the onshore areas, that human beings enjoy, but also the protection for the living resources of the sea. We have required the States to plan for it. We have hopes that they will, in fact, reduce the runoff of oil, and other things, that go in our streams and are destroying the fishery and other resources of the sea. We hope we can restore these things.

That is what some of the money which we are talking about in terms of loans and grants here is intended to accomplish. If we can induce the State to move an industrial area that has potential risk of pollution back out of the coastal zone and give it a loan or grants to do that,

I hope the Senator from Arkansas will agree that that ought to be done. If we limit it to OCS development only, we are going to miss the great thing that we did 3 years ago in terms of giving an inducement to the States to plan and manage the coastal zones that will be preserved.

Mr. BUMPERS. I am willing to concede this much: that the coastal-zone States do indeed have peculiar problems that are not peculiar to States such as my own. By the same token, as a matter of fact, I am willing to concede, for example, a nuclear powerplant, off the coast of Massachusetts or South Carolina, does indeed have a terrible environmental impact on those States.

By the same token there is the Arkansas River, which is near and dear to my heart, as it is to my distinguished colleagues from Oklahoma. Arkansas has two nuclear generating plants within 2 miles of each other, and I can tell the Senator that those two plants have a very significant impact on the safety of the Arkansas.

So I am willing to concede that, if a nuclear generating plant is built on any of the coasts that are under the Coastal Management Act, they indeed ought to have aid, although I know we are not going to get aid under the same provision, but I am simply saying let us treat all 50 States fairly when we go beyond what is peculiar to that State, and that is offshore exploration.

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

Mr. HOLLINGS. I will in just a minute.

First let me clarify one thing.

Mr. President, No. 1, let us go the Coastal Zone Management Act. If I could have the attention of the distinguished Senator from Arkansas. Reading from Public Law 92-583; among those things funded by Congress under paragraph sub 302(c), one finds mention of "the increasing and competing demands upon the lands and waters of our coastal zone occasioned," but not by offshore drilling; "by population growth," but not offshore drilling; "economic development, including requirements for industry," but not offshore drilling; "commerce, residential development," but not offshore drilling; population growth, economic development, industry, commerce residential development, recreation—I could go right on down the list. This was not an offshore drilling. I am willing and trying hard to reconcile the different philosophies and thoughts, when we worked the original act out with our friends on the committees on Interior and Insular Affairs, particularly on the House side, we passed it with this view in mind, so do not go and use the language "original concept of offshore drilling."

On the contrary, this is a coastal zone area.

Let me go to the next definition that should be alluded to, because someone suggested that the entire State of New Jersey might come under this Act. It is only the coastal counties we are speaking of, as a reading again from Public Law 92-583, states:

The zone extends inland from the shorelines only to the extent necessary to control shore lands, the uses of which may have a direct and significant impact upon the coastal waters.

I will read one other particular section that alludes specifically to the facilities which is again in 92-583, subsection 306(8):

The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

We have previously debated the matter of powerplant siting. We are not injecting something new in the original concept of offshore drilling.

What does this mean to South Carolina? We have a nuclear powerplant, up at Trotter Shoals, just above Columbia, S.C. There is no provision for the Trotter Shoals plans under this bill, and there have not been and will not be if the Senate passes these particular amendments to the basic act. There is another such plant at Keowee-Toxaway with the Duke Power Company in the Piedmont section of South Carolina.

It is not entirely correct, as the Senator from Oklahoma suggests, that the "coastal States get something while inland States get nothing."

The contrary is true. Coastal regions get something, but that aspect of the coastal States, outside that region which is the majority of my State, are not going to get a dime. So, ordinarily, by way of self-interest, I should go along with the Senator from Arkansas. But he violates the fundamental principle that this Congress, after all the debate and in passing it twice, finally found. That is that there is a national concern and a national problem to be solved by the Coastal Zone Management Act.

The Senator asks why his inland State cannot share in these funding provisions. When a Trotter Shoals subjects itself to national zoning, or to a land use plan, or when Keowee-Toxaway, then perhaps his question could be answered. Incidentally, there was not a single coastal area zoned as a coastal area when we started this legislation. The distinguished Senator from Maine is in the Chamber. They have the best coastal zone program. They have been leading the country in planning their coastal area. California has already put \$10 million into their program. Florida has put \$10 million into theirs. They have all come along as a result of the impetus of the Coastal Zone Management Act of 1972.

But I would like to note to my colleagues that we would not give these funds right away. The money has to conform to the overall impact and in accordance with an approved plan of development. There is not funds for the State of Arkansas, and as is not for the majority of the State or South Carolina, which is outside of the coastal zone thus the majority of the State of South Carolina, and the State of Arkansas are not the focus of this measure. But perhaps the entire State of Arkansas and the State of Oklahoma would be included under a land use measure but not under one designed for the coastal zone.

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

Mr. HOLLINGS. I yield.

Mr. BELLMON. I thank the Senator for yielding.

The Senator from South Carolina says that the entire State of South Carolina will not be covered. So far as I can tell, there is no definition of "coastal zone" in this matter.

Mr. HOLLINGS. Yes, there is. These are amendments to the law. That is why I read the law earlier. I thought it was quite clear.

Mr. BELLMON. Will the Senator define "coastal zone" as it relates to this measure?

Mr. HOLLINGS. Section 304. Public Law 92-583, at the bottom of page 1489:

"Coastal zone" means the coastal waters \* \* \* and the adjacent shorelands \* \* \*

It continues right on down. It says the zone extends inland.

Mr. BELLMON. How far?

Mr. HOLLINGS. From the shorelines, only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.

Mr. BELLMON. How much of the State of South Carolina is involved in the coastal zone?

Mr. HOLLINGS. We have not had an approved plan as yet. I would say about a 10-mile strip inland, and in two or three areas, perhaps 30 miles inland.

Mr. BELLMON. The State of South Carolina being alert as it is, is anything in there to keep the whole State from being in the coastal zone?

Mr. HOLLINGS. Yes—what I have just read. This is no tricky legislation. This is responsible law. The Senator from Oklahoma looks at this and says it is one thing. The other Senator looks at the amendments and says that the thrust of this is offshore to compensate just for drilling. I have just read to him what this amendment concerns. I should perhaps keep reading it to the Senator from Oklahoma.

Mr. BELLMON. The language is unambiguous. It is going to be up to the Governor or the legislature.

Mr. HOLLINGS. It is going to be up to the Federal Government. It does not affect the coastal areas above Trotters Shoals.

Mr. BELLMON. The Senator from Alaska said earlier that it is up to the State to decide how large its coastal zone is.

Mr. HOLLINGS. It has to approved by the Federal Government. Under this law, never has an entire State been considered a coastal zone, with perhaps the exception of island States and territories.

Mr. BELLMON. I am sure there will be surprises when they get into this.

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

Mr. HOLLINGS. I yield.

Mr. GLENN. Mr. President, I associate myself with the remarks of the Senator from Arkansas. I have the same reservations about this, and I would like to see some of the changes he proposed.

The distinguished manager of the bill referred to some of the reasons why this bill was in existence, and he referred to population growth, economic development, industrial development, commerce, residential development, and recreation. Those certainly are things we would like to see benefit every State of the Union. They have nothing whatsoever to do with whether the location of a State happens to be on a shoreline or not on a shoreline.

The one big thing we have seen come along since this was passed has been on the Outer Continental Shelf activity. We will bring out of the Interior Committee shortly a \$100 million fund to provide for coastal help and impact.

One other item mentioned was that we wanted management programming in response to the national interest in powerplant facilities siting. That is another one that applies to every State. We can defer to a land use bill and that we should get it passed, but everyone knows what the history of that has been so far. But the Senator from Arkansas has put his finger on what I look at as very special legislation, benefiting special States, whereas all our States have a particular need.

We may not have funds available at the moment to expand this program to cover every State in the Union, but perhaps we will at some time.

Mr. BUMPERS. Mr. President, is an amendment pending now?

Mr. HOLLINGS. No. Does the Senator from Arkansas wish to submit it?

Mr. BUMPERS. Yes. I call up my amendment at this time.

Mr. STEVENS. Mr. President, I say to the Senator from Ohio that I wish he would discuss with the Senator from Louisiana what we have done. We have made this bill similar—

The PRESIDING OFFICER. Will the Senator suspend until the amendment is reported?

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

On page 17 strike lines 10 through 14 and the words "or operation of an energy facility." on line 15, and insert in lieu thereof the following:

"SEC. 308. (a) The Secretary is authorized to make a grant to a coastal State, if he determines that such State's coastal zone has been, or is likely to be, impacted by the exploration for, or the development or production of, energy resources offshore, or by the location, construction, expansion, or operation of an energy facility which is made necessary by such exploration, development, or production of energy resources offshore."

And by striking lines 24 and 25 on page 17 and lines 1 through 4 on page 18 and the words "energy facility" on page 18, line 5, and inserting in lieu thereof the following:

"(b) The Secretary is authorized to make a loan and/or a grant to a coastal State, if he determines, pursuant to subsection (d) and (e) of this section, that such State's coastal zone has been or is likely to be adversely impacted by exploration for or by development or production of energy resources offshore, or by the location, construction, expansion, or operation, of an energy facility which is made necessary by such exploration, development, or production of energy resources offshore."

Mr. STEVENS. Mr. President, I hope the Senator from Ohio will discuss with the Senator from Louisiana the fact that we have reached an agreement making S. 521 and S. 586 identical in terms of the funding for the coastal zone grants and loans. We are not being redundant with other legislation.

I hope he will also take into account the problem we have with regard to some of the areas that are in fact subject to OCS development.

I understand what the Senator is saying with regard to the entire country. We are prepared to work with the Senator. As a matter of fact, I have introduced a bill that would provide money from the income of OCS to take care of that. It would provide one-quarter of the revenues that would go into the general revenue sharing fund for all 50 States to meet some of these problems. That would provide an extra carrot to some of our friends along the coastline to bring about development of the OCS, where we have vast resources, because they also would get a quarter of the income.

Mr. GLENN. I am interested in seeing fewer carrots put out. We have States that have development commissions, and they are anxious to see business and industry come to their States. We are setting up a

huge Federal subsidy for this. I would like to see the saving of tax dollars and let States have a little more independence.

I am for legislation that is going to address the impact problem along the coasts.

What we have disagreed with in this matter is provision for impact aid with respect to powerplants or oil wells or anything that in any other States would be considered normal development. Just because a State has a shoreline next to it, it means they get special help under this legislation. I agree with the Senator from Arkansas that that is not fair.

Mr. STEVENS. This is for oil wells outside of State jurisdiction on the Outer Continental Shelf.

Mr. GLENN. That is not correct. That is the language we wanted this bill to apply to. We wanted to make it apply only to impact from offshore development, but it does not do that. Under the bill, you can have interior development in your coastal State, and so long as there is any impact, the Federal Government can take care of it.

Mr. STEVENS. The Senator is talking about 308, not the coastal zone.

Mr. BUMPERS. It would probably be time consuming and perhaps not very effective to explain my amendment, because I have really explained my feelings already.

Before I get into this, Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. Brock). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, this amendment changes section 308, which presently reads in pertinent part:

The Secretary is authorized to make a grant to a coastal State, if he determines that such State's coastal zone has been, or is likely to be, impacted by the exploration for, or the development or production of, energy resources or by the location construction, expansion, or operation of an energy facility.

In the bill, "energy facility" is described as electric generating plants, fuel plants, uranium enrichment plants, pipeline facilities, petroleum refineries, and so on.

In other words, an energy facility is anything that has to do with coal, oil, gas, utility plants, and so on.

My objection, of course, is not to what I thought the intent of this bill was, that is, to assist coastal-zone States with any impact they might sustain resulting from the exploration for and development of offshore energy resources. I have only been here about 6 months, but my ears become better attuned every day, and I can hear the train coming on this amendment. Nevertheless, I feel very strongly about the principal, as a matter of public policy, of what we are doing here.

The other night, at a meeting of the Committee on Interior and Insular Affairs, the distinguished Senator from Wyoming (Mr. Hansen) offered an amendment to the offshore drilling bill which would have given impact aid to all States who sustained any kind of impact as a result of the exploration for and development of energy resources within their State. That is extremely important to the Senators from Wyoming and Montana, who know that their States are about to be strip mined for coal. I am sympathetic. I was sympathetic the



other night. But I voted against that amendment. It was finally defeated on a tie vote. I voted against it because I did not think that was the proper place to bring it up.

The outer Continental Shelf drilling bill which we were considering, which has been ordered reported out and will soon be on the calendar here, was designed, one, to make certain that the Secretary leased that land with the utmost concern for the impact it would have onshore. Second, it provides for funds for that impact—be it social, economic, or environmental—just as the bill does. My point is simply that we are going too far with this bill.

I support this bill. The concept is good. I have no quarrel with it, except that I simply cannot see a coastal State, which has had an accepted and approved coastal-zone management plan, receiving impact aid—and, I might add here, it is not necessary that any facility in that State be in the coastal zone. It only need be in that State. If a plausible argument can be made to the Secretary that a coal-fired generating plant, anywhere in the State of South Carolina or any other coastal State, will have any kind of impact on the coastal zone, they are eligible to apply for and the Secretary is entitled to give them aid.

I am saying simply that as a matter of equity and fairness, I would like to see a land use management bill pass the Senate and the House. It is unfortunate that last year—and there was good bipartisan support for land use management. They Senate passed it; the House did not. This year, the President sent over word that he will veto a land use management bill. I think that is terribly unfortunate.

Mr. HATHAWAY. Will the Senator yield?

Mr. BUMPERS. Yes, I yield.

Mr. HATHAWAY. Does the Senator's amendment apply to both the impact money and the planning money?

Mr. BUMPERS. No; it does not. It only amends section 308.

Mr. HATHAWAY. 308(a) covers both. 308(a) is planning.

Mr. BUMPERS. All it does is eliminate aid for planning or impact aid for other than impact due to offshore development. In other words, I am trying to eliminate all of the other things that will come under that umbrella so that all States can be—

Mr. HATHAWAY. I think that the Senator has a good point with respect to the impact money, but I think that with respect to planning money, the coastal States, with their peculiar problems, should have it for all facilities and not have it restricted just to planning for facilities as a result of offshore drilling.

With the planning money, I think the coastal States need that for all energy facilities and activities.

Mr. BUMPERS. Let me say to the Senator from Maine that I appreciate very much his comments. Let me meditate on it a little bit.

I point out a classic case of what I am talking about here. Congress passed what I thought was a fine bill in the 1960's which provided aid to the Appalachian region of the United States—13 States. Later on, because of other States who were not in Appalachia, and because of any outcry from Senators on this floor who represented those states not in Appalachia, Congress began to set up the title V commissions. I think Senator Muskie was instrumental in that. Now we have, I do not know how many, but I think most States are covered in what we call the title V commissions. I happened, while I was Governor of my

State, to be a member of the Ozarks Regional Commission, which was the commission that served Arkansas, Missouri, Oklahoma, Kansas, and Louisiana.

The point is that then and now, the title V commissions are funded at a level of roughly 20 cents per person. Appalachia is still funded at approximately \$17 per person. I believe that is correct.

That is what I have an inordinate fear will happen to the land-locked States, one of which I represent, if we pass this now. I hope nobody will suggest, and certainly I want to make it clear that I am not casting any aspersions on my colleagues in the coastal States. On the contrary, I think they are sensitive to the problem. But I believe they would be more sensitive to it if we were all in the same boat when we get around to land use legislation, treating all States alike.

Mr. STEVENS. Will the Senator from South Carolina yield me 5 minutes on this matter?

Mr. HOLLINGS. I yield.

Mr. STEVENS. I understand the amendment of the Senator from Arkansas. Being from Alaska, I probably should support it on the basis that if we have any energy facilities offshore of the type we are talking about, they would be related to OCS development. But I took a trip to Scotland and went up to see Dunrea, which is the fast breeder reactor up in Scotland. I went down to Florida and looked at their powerplants down there. I went over to Canada and took a look at their nuclear powerplants there. The amazing thing is that every powerplant of the type I am talking about has been in a coastal zone. They have, in fact, been located in a coastal zone.

The impact of this section we are talking about, the coastal energy facility impact program, is to recognize that, in fact, these large power installations are going to be located adjacent to the sea. They are going to pose fantastic problems for the coastal zone. Those problems can be met only by adequate planning and by assistance from the Federal Government so that the States and communities can finance those action that will mitigate the harm that would otherwise come to the coastal zone and to coastal States from this kind of development.

Mr. BELLMON. Will the Senator yield?

Mr. STEVENS. I am happy to yield. I have just gotten to the point of asking the question.

Mr. BELLMON. Assuming that the Senator is right, that most of the plants will be located in the coastal areas and that they will have a big impact, does this change the fact that if a plant is located away from the coastal zone, it will have an impact and deserves the same treatment?

Mr. STEVENS. I agree 100 percent with the Senator from Oklahoma. But he has not seen the Senator's amendment which will limit this only to the exploration for or the development or production of energy resources offshore. This wipes out entirely nuclear plants, wipes out entirely any coal-fired plants that are located in the coastal zone, where, again, 50 percent of the population of this country lives and where the most difficult problems are in terms of siting.

I agree with the Senator, I will help him get a bill to deal with the inshore impacts, but right now we are going to take this bill over to the House and sit down with people who have limited jurisdiction, just as we are supposed to have. They do have very firm rules, and I

know that we cannot get through that committee a bill that would extend to the whole country.

Now, the Senator's amendment goes in the other direction and says "but do not cover coal-fired plants or any other plants; only those related to production energy resources offshore."

That is too limited. That is not what the coastal energy impact program is designed to do.

Mr. BUMPERS. Mr. President, will the Senator yield to me?

Mr. STEVENS. Yes.

Mr. BUMPERS. This covers nuclear powerplants, for example, in the coastal zone.

Mr. STEVENS. Right.

Mr. BUMPERS. But that is not what this bill says. It says any energy facility which will have an impact on a coastal zone. It does not have to be located in the zone.

Mr. STEVENS. That is what we are trying to protect.

Mr. BUMPERS. I understand that. Of course, what the Senator is doing here is giving people an incentive to build powerplants in the coastal zone because he is giving them money to do it.

Mr. STEVENS. No, we are giving them an incentive to build out of the coastal zone. That is what we hope we are doing.

Mr. BUMPERS. Let me ask another question and ask the Senator to respond.

Under section 102, general provisions, which is on page 12 of the bill, subsection (j) which says "energy facilities" means new facilities, or additions to existing facilities," and then on down in subparagraph (2) "which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection \* \* \*" that could mean if Westinghouse has a plain turbine manufacturing plant not in a coastal zone, not located in the coastal zone or any of the coastal zone States, and they are going to ship one of those turbines to Arkansas, you are still entitled to aid for that Westinghouse plant, be it located in that State, because it is directly involved in the manufacture of equipment which will be used to generate electricity.

Mr. STEVENS. Well, I think the Senator from Arkansas could probably stretch it that far, but I doubt that.

Mr. BUMPERS. Let me say to the Senator from Alaska, I have been a Governor, and your imagination is unlimited when it comes to looking at Federal money. [Laughter.]

Mr. STEVENS. I sometimes wish some of us had that experience because many of us do not have that kind of imagination, and I wish we did.

Let me say to the Senator from Arkansas he is really stretching the meaning of this bill. We are talking about extraction, exploitation, treatment, transportation and storage of any energy resources.

I do not know of anybody who is flying fuel, except in my State where we are building a pipeline and are flying gas by air, but that would not be related to this. We are talking about the resource that is extracted from the coastal zone. I am sure the Senator realizes that his example would be a strained interpretation of this.

It is certainly not the intent of this. The intent of this is to recognize that the coastal zone is going to continue to be impacted by con-

tinual migration to the California coast, the Florida coast, the South Carolina coast. A lot of people are even leaving Alaska and going down to live in Seattle, and I sort of think our climate in Alaska is better than theirs down there but, as a practical matter, more and more people are moving to the coastal zone. We are trying to find a way to prevent the incentives to move into that zone, and to assist the States in meeting the impact on that zone from the facilities that are necessary to meet our energy problem.

I do not think this is stretching it to say that we should recognize that unless we take care of the coastal zone we are going to destroy the resources of that coastal zone. This was the basic motivation that led the Committee on Commerce to recommend the act. It was the problem of the oceans that led the Committee on Commerce to demand planning for the protection of the coastal zone. Now we are saying that anything that would impact that coastal zone ought to be planned for and you ought to get assistance in financing the impact in that area.

Again, maybe we are going slowly, more slowly than the Senator from Arkansas would like, and we would—I do not know whether I speak for the chairman of the committee and the subcommittee, but I would—support legislation to assist onshore States with their problems of energy siting and energy impact, the impact from energy development, but that is not this bill. The amendment of the Senator from Arkansas limits this bill only to oil and gas production which, I think, is wrong.

**The PRESIDING OFFICER (Mr. FORD).** Who yields time?

**Mr. HOLLINGS.** Mr. President, I know the Senator from Arkansas is not persuaded, but he tries in this particular amendment to amend section 308. What he has not done and what is not being done is to amend the original act.

His concept of it is that this was an offshore drilling act when it was originally passed, and limited only to that.

Now, the Senator from Arkansas is marking up a little amendment over there, but I can tell the Senator—I think by now, I can tell my distinguished friend, that they moved that proposed New Jersey powerplant offshore right within the 3-mile zone. At the particular time we had hearings, some 4 years ago, when this was even beyond the 3-mile area. So now we were talking of those facilities sited out in the waters that would have an impact upon the coastal zone area.

But I can see that I could well be wasting the time of the Senate. If there are any questions I would be glad to try to explain them. This is not coastal State legislation, it is coastal zone legislation; 90 percent of the State of Virginia, 90 percent of the State of Georgia, 90 percent of the State of South Carolina and 90 percent of the State of Georgia, as the distinguished Senator from Georgia knows, are not included because they have not agreed to submit to an overall plan. But there is real concern about national zoning.

If we are going to have anything we are going to have to come to Washington and, as a result, propose land use, which nationally has not passed. But it is the idea now of the Senator from Arkansas, talking about the regional commissions and everything else, to say: "No, you do not have this particular problem until you spread it to Arkansas, and it is really just a dealing out of money."

On the contrary, this bill allocates planning and development grants in accordance, Senator, with an overall plan.

If we can get the State of Arkansas—and I do not believe I can get the entire State of South Carolina to agree to that overall plan—

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

Mr. HOLLINGS. I will be glad to yield.

Mr. TALMADGE. I certainly hope the State of Georgia does not agree to an overall plan where they have to come to Washington to get permission to build a chickenhouse on a farm.

Mr. HOLLINGS.. Exactly. We do not have to come all the way, and I could not make a more eloquent argument than the one that has already been made on my question from the comment by my distinguished friend from Georgia.

It is not coastal versus interior States. It is this coastal area versus other areas, which are 90 percent of my State, which I cannot get them to agree to.

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

Mr. HOLLINGS. Yes.

Mr. BUMPERS. How can the State of Arkansas or the State of Georgia get any money for the chickenhouse without applying for it to the Secretary?

Mr. HOLLINGS That is exactly right. They have to apply in accordance with an overall plan. Congress has never passed that national land use law. But Congress has passed overwhelmingly, with only 12 dissenting votes in the House, a plan for that coastal region I have just described.

Mr. BUMPERS. But under this bill we are weighing now there is not any way for any aid to be given a State for any impact or planning, either one, unless they apply for a grant from the Secretary, and unless he approves it; is that correct?

Mr. HOLLINGS. You have got to pass a land use plan first for the remainder of the States, 90 percent of the remaining portion of the State of South Carolina and 100 percent remaining of Arkansas, a particular State land use plan.

Mr. BUMPERS. I am not talking about the coastal zone management plan; I know that has to be approved also, does it not?

Mr. HOLLINGS. That is right. A coastal zone management plan has to be approved by the Federal Government.

Mr. BUMPERS. Once that plan is approved and any kind of energy facility is then built or manufactured in that State that could impact that coastal zone you do not get any aid automatically. You have got to apply for it, and you have got to send a letter to Washington to get it, do you not?

Mr. HOLLINGS. Well, there are two provisions. There is an automatic grant with respect to offshore oil and gas drilling, may I say to my distinguished friend, which says should either oil or gas be developed offshore and landed onshore, or developed adjacent to that State on the Outer Continental Shelf, then there is an automatic grant. But the \$200 million now in accordance with the amendment of the Senator from Louisiana, has to be for planning and adverse import compensation in accordance, as the Senator from Arkansas says, with an application to the Secretary. That is right.

Mr. STEVENS. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I will yield the floor right now and yield time to the Senator.

Mr. STEVENS. Let me ask the Senator from Arkansas why does he not want to limit this only to those facilities related to oil and gas production? As I understand the Senator from Arkansas' amendment, it limits the energy grants under this bill to only oil and gas production.

We have a problem that goes beyond oil and gas production onshore. Why does he want to limit this to oil and gas production? I understand why he wants to help in Arkansas, and I am willing to try to give it to him, but why does he want to limit aid given in the coastal zone to oil- and gas-related activities?

Mr. BUMPERS. Well, one thing, it is my honest belief that this bill could go further than even its authors and its most ardent proponents really intended.

As I pointed out a while ago, I do not think, for example, manufacturing energy-producing equipment in any of the coastal zone States, whether that equipment is going to be used there or further inland, that it was ever intended we would be entitled to impact aid for the siting of such a facility.

Second, the Senator from South Carolina pointed out earlier that this aid goes to coastal zone States because, one, they are growing at a fast rate.

My State has a little over 2 million people, but all of a sudden since 1970—and that is the year they elected a dynamic young Governor down there—that State has been growing at the fourth fastest rate populationwise and percentagewise of any State in the Nation.

We have growth pains, too, that is what I am trying to point out.

I am saying, I do not oppose anyone getting this additional aid. On the contrary, I support it and will support it when all States are treated equally.

I am saying here that I admire the Senator for supporting this act and for what he is trying to do to protect his coastal land. We have wetlands in Arkansas that I am trying to protect. But I say that this is unfair and it is unfair to the rest of the Nation not to include it in this provision.

I am saying the President has certainly strongly indicated that he will veto any land use legislation that comes out of this Congress, tomorrow and probably for all time to come, and there is very little use of our having a land use bill if we do this in bits and pieces as we are about to do here.

Mr. STEVENS. I thank the Senator from Arkansas. I still do not understand why he wants to limit these resources. We cannot produce nuclear power offshore, we cannot produce coal, under 308(a)—

Mr. BUMPERS. Let me say to the Senator from Alaska, we have been producing nuclear power in Arkansas for a long time, we have been producing electricity, natural gas. We cannot do it any more.

We are about to start a half billion dollar, 1,400-megawatt operation, and we will suffer terrible environmental impacts from that. We will continue to do that.

I am saying that it is not fair for all States to be doing this and some be compensated for the impact.

Mr. STEVENS. I say to the Senator from Arkansas, the only difference is this: If one makes a mistake down there, one does not affect the living resources of the sea, and I thought the Coastal Zone Management Act was primarily intended to protect the living resources of the sea. That was our motivation. We were trying to make the people who live in that zone adjacent to the sea follow a plan that would provide for the protection of that ocean and the coastal zone so that we would bring about some increased protection for the living resources of the sea.

We have put a burden again, a special burden, on those living in the coastal zone that we have not put on the rest of the country, and that is: they must plan. They will not get any money under this except for planning, before they do plan, and are not going to get any impact money or anything else unless they have a plan and that is going to be approved by the Department of Commerce. That is the basic goal under the original act.

It is to protect the living resources of the sea and the coastal zone upon which they rely, the sanctuaries and those areas off our shores.

I agreed that the Senator's State has rivers and I know of the fishery resources there, but the oceans of the world need protection. We were trying to set an example in the same way when we passed the act to provide a moratorium for this country on the taking of ocean mammals, to lead the nations of the world in providing those resources some protection.

The Senator from Washington has my great devotion because he sets an example to all of us in this period saying that we should remember those living resources of the sea. They do not vote.

If one makes a mistake out there in Arkansas, and really makes a mistake, one is going to be voted out of office.

If one makes a mistake in the coastal zone, things are affected that do not vote.

I really firmly believe we are dedicated in this act, again, to giving the incentives to protect the coastal zone with the end objective of protecting the oceans.

Mr. BROCK. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. BROCK. I do not argue with one thing the Senator said, but I think what the Senator from Arkansas is saying is something slightly different. Maybe we are like two ships passing in the night, if we are dealing with those things which do impact on the living resources of the sea, to wit, the offshore development, which the Senator would limit this to. That is fine.

I cannot argue that. I do not think the Senator from Arkansas argues that at all.

Mr. BUMPERS. The Senator is right.

Mr. BROCK. But this bill goes well beyond that.

If we want to deal with the offshore impact problem of drilling, and so forth, let us pass this bill with this amendment and hold it to that, and then let us consider a total bill on the impact problem of any energy development anywhere in the country so that all States are treated equally.

But the Senator from Arkansas is saying nothing different from the Senator from Alaska. Their objectives are the same. He is just saying, "Let us apply the same standards across the board."

I think that is a reasonable request.

Mr. STEVENS. With the exception, I would say to my friend from Tennessee, that in the coastal zone, if we are going to have nuclear plants, and I do not know of any nuclear plant or major power facility that is not within a shoreline, now there are some inland—

Mr. BROCK. There are some in Tennessee.

Mr. STEVENS. And involve substantial use of that. Take a look at Florida and the one I told about in Scotland, all of them are impacting the oceans, and we are putting the burden on those people in the coastal zone that we have not placed on the people in the interior.

We have tried in the Senate, but the House apparently will not agree in terms of land-use planning.

Mr. HOLLINGS. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. HOLLINGS. How could my distinguished friend from Tennessee deal with them equally if, No. 1, they have not submitted to an overall plan as have the coastal regions and around the Great Lakes region? How can they be treated equally when they will not submit to a national land use plan?

Mr. BROCK. I think the point was made earlier, and made very well by the Senator from Arkansas, and perhaps some others, that the way this bill is now drawn, we get something more than protection of the sea, which we all, I think, favor.

If we are dealing only with offshore, we get that protection, but when we include energy developments onshore, nothing to do with offshore, then we are into something else. We almost have an inducement or incentive to develop facilities in the coastal plain or zone.

Mr. HOLLINGS. The economics of that, of course, make that absolutely prohibitive. But mainly, all these power plans are not going to locate in a particular place for the reason stated. The fact is that the basic law does take care of more than offshore impact. It takes care of those impacts particularly by way of population, and urbanization.

I was just reading from the basic law of the Coastal Zone Management Act, and I have got the rules and regulations which apply to the particular area. Earlier I was reading all those things which Congress found.

I do not know whether the Senator was on the floor.

Mr. BROCK. I was in the Chair.

Mr. HOLLINGS. The population expansion, industry, commerce, economics, that is the basic law in that area.

They were all fighting, whether to put an industry, or a power plant, or a recreation facility, or put in fishing, or all of these water-consuming industries, or otherwise, port facilities. They say, "How can we get orderly planning in the area where everything is jammed in?" And they said that if the States or those areas will submit to an overall plan, namely a coastal zone management plan approved by the Federal Government, we will, first, assist in that planning financially, and, second, help defray the costs of their management programs.

Mr. BELLMON. Will the Senator yield?



Mr. HOLLINGS. Yes.

Mr. BELLMON. Will the Senator explain why this act would not serve as a magnet to draw additional development into the coastal zone? If I were a power utility executive looking for a new place to build, I would pick the coastal zone because of the economic advantages I would have under this act.

Mr. HOLLINGS. No. 1, we have the fact in the testimony, when we had the 3 years of hearing, that they were going to locate there. The answer is that without any import aid, they are going to locate in or near the coast. That was one of the main purposes for the act. Now that we have the basis for the enactment by both Houses of Congress, and signed into law by the President, that we are going to try to assist with these impacts, the Senator says we are attracting that which was the very basis for actually passing the law.

No. 2 in the answer is economics. The FEA has just put out a report that says by 1985, under the Blueprint for Project Independence, there are going to be somewhere around 176 new nuclear powerplants in that coastal area. On an average cost they are going to be between \$500 million and \$1 billion each.

Mr. BELLMON. Will the Senator say how many plants there will be in other parts of the country.

Mr. HOLLINGS. Relatively few.

Mr. BELLMON. There will be something like 1,500 plants nationwide.

Mr. HOLLINGS. No, sir; not nuclear powerplants.

Mr. BELLMON. Yes, nuclear powerplants.

Mr. HOLLINGS. There is a proposed powerplant siting bill. We have tried to look at it in the Commerce Committee and we have tried to get it past the administration. They tell us now they support one and I would gladly vote for it.

But the economics do not bring to a local area \$1 million or \$2 million for local planning. The impact of a powerplant in that particular area does not say that that particular community will get \$1 million to put the plant down.

Mr. BELLMON. What does the \$1 million do?

Mr. HOLLINGS. It can do various things.

Mr. BELLMON. It serves to grease the skids so they can come in there. It is a great magnet to draw the plants into the areas where they apparently do not want them.

Mr. STEVENS. If the Senator will yield, this is not a grant to the facility, it is a grant to the local government to meet the problems caused.

Mr. BELLMON. But it does things that the companies have been doing on their own for many years. We had 1 project that brought some 4,000 workers into our State of Oklahoma which we were glad to have, but every community impacted had to take care of their school needs, water needs, street needs, all the rest of it. They are much better for having done it. We did not come to the Federal Government to get a handout. I do not know why the coastal States cannot do what the rest of us have been doing for years.

Mr. HOLLINGS. How much time have we remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Arkansas has 10 minutes, and the Senator from South Carolina has 17 minutes remaining.

Mr. HOLLINGS. Does the Senator from Arkansas have any further questions or does he want to yield back the remainder of his time?

Mr. BUMPERS. I have one question to either manager of the bill. It is with regard to the first funds. As I understand, the bill says \$50 million and it is my understanding that that is an error. It should be \$100 million.

Mr. STEVENS. It was \$50 million in the first one and \$250 million in the second one. It was changed by the Senator and myself to \$100 million in the first and second. The total exposure of \$300 million is still there.

Mr. BUMPERS. The first \$100 million, the first part of the aid, while it does not tax offshore production, it does relate the amount of money that goes into the fund to the number of barrels of oil and cubic feet of gas actually produced offshore, is that correct?

Mr. STEVENS. As I say, it is not a fund but it is a measurement for a guaranteed grant. It is still subject to the appropriate process but primarily used to finance those developments that have taken place prior to production. That is an automatic grant concept that is based on cents per barrel of production, later production. The other grant concept, grant in loan, is in the area the Senator has been addressing in the more discretionary area of planning to meet total coastal zone problems related to energy siting, energy development, and energy production.

Mr. BUMPERS. The second question: The State of Alaska, of course, is a major producer and certainly will be a major supplier to the lower 48 when the pipeline is finished. Most of this oil will be landed in the State of California. Will the State of Alaska and the State of California share on the basis of the number of barrels produced and landed in California?

Mr. STEVENS. If the oil is produced offshore in Alaska and landed in California, yes.

Mr. BUMPERS. Alaska will be entitled to certain sums of money based on their production and based on the number of barrels landed, completely aside from any impact that may be measurable; is that correct?

Mr. STEVENS. No, that is not so. This money will be used to repay bonds guaranteed by the Secretary of Commerce or to finance impacts that have been outlined in the plan. To the extent that the moneys are not used for that, they would revert to the Treasury. That is carried out in the amendments that the Senator from Louisiana and I have offered. The funds would revert to the Treasury unless they were used to meet adverse impacts from OCS developments on shore.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. STEVENS. Yes.

Mr. JOHNSTON. With respect to the first part, the \$100 million fund, the measure of what a State gets is the oil produced and landed in that State, which gives them full credit; or the oil landed, which gives half credit, if not produced there; or the oil produced and not landed gets half credit as well. In other words, it is full credit for produced and landed and half credit for either produced or landed.

Mr. BUMPERS. And that is a fixed amount per barrel; is that correct?

Mr. JOHNSTON. A fixed amount per barrel or natural gas equivalency. That is entitlement to receive it. But the uses are also spelled out and must be related to these impacts subject to the Secretary of Commerce. The uses are in three categories in this priority: First, to pay

off bonds previously approved by the Secretary of Commerce under section 306 issued by municipalities or lower subdivisions of Government; second, to pay off similar bonds under section 306 previously approved by the Secretary of Commerce or by a State; and, third, the balance within the same framework of overall amount eligibility goes to the State, but to be used for those purposes to ameliorate the impacts. Those impacts are spelled out, I think, rather carefully under the bill to relate to ameliorating the effects of oil and gas production.

Mr. STEVENS. May I emphasize to the Senator from Arkansas if they are not used to meet adverse impacts from offshore development, the funds revert to the Treasury of the United States.

Mr. BUMPERS. Is the word "adverse" in the bill? Does it say impact or adverse impact?

Mr. STEVENS. "Adverse impact."

Mr. BUMPERS. Finally, for the Senator from Alaska my final question is this: We have just reported the Outer Continental Shelf drilling bill, S. 521, which will soon be on the calendar and which will be coming up before the August recess. That bill also has substantial authorizations of sums to be appropriated for this identical purpose.

Mr. STEVENS. We have consented and we will offer to that bill the amendment that the Senator from Louisiana and I have offered to this bill so that we would not have redundant provisions. The first act passed, of course, would be the one that would govern. Obviously, in the second act the matter would be dropped. But they are identical provisions with the exception, as I understand it, in S. 521 we will have a concept that would regard the Secretary of the Interior's jurisdiction over the revenues from OCS lands. This bill does not have any reference to the revenues from OCS lands. This bill does not have any reference to the revenues from OCS because of the fact that we do not have that jurisdiction.

Mr. BUMPERS. I thank the Senator.

Mr. HOLLINGS. The Senator from Washington and myself have signed a joint statement with regard to that.

Mr. President, we are ready to yield back the remainder of our time. I know the Members want to move forward.

We have problems. We have problems in the coastal regions, not just States but regions, I emphasize that.

We have utility siting problems everywhere in Arkansas, and in the remainder of South Carolina. But as to the contention of the Senator from Arkansas in this particular amendment, until we can solve the whole problem, let us not attempt to solve part of it.

Congress saw otherwise, and has already been solving a part of it with the Coastal Zone Management Act of 1972. This measure merely updates that act. The distinguished Senator tries to extract from that particular provision of the act that nothing, unless it is offshore, should be compensated for, even though it might have an impact within that particular area.

That was not the original intent of the concept. We read it from the original act.

I hope my colleagues will reject the amendment.

Are we going to get the yeas and nays?

Mr. BUMPERS. How much time do we have remaining, Mr. President?

The PRESIDING OFFICER. The yeas and nays have been ordered. The Senator from Arkansas has 3 minutes remaining.

Mr. HOLLINGS. The yeas and nays have been ordered?

Mr. BUMPERS. The yeas and nays have been ordered. I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Ford). The question is on agreeing to the amendment of the Senator from Arkansas (Mr. Bumpers). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. McClellan), and the Senator from Rhode Island (Mr. Pastore), are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore), would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. Javits), is necessarily absent.

I further announce that the Senator from Michigan (Mr. Griffin), is absent due to a death in the family.

The result was announced—yeas 30, nays 62, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—30

Abourezk  
Bartlett  
Bellmon  
Brock  
Buckley  
Burdick  
Byrd,  
    Harry F., Jr.  
Byrd, Robert C.  
Chiles  
Church

Clark  
Culver  
Ford  
Garn  
Glenn  
Hart, Gary W.  
Hart, Philip A.  
Hartke  
Haskell  
Mansfield  
McGee

Metcalf  
Montoya  
Morgan  
Nelson  
Proxmire  
Ribicoff  
Stafford  
Stevenson  
Young

NAYS—62

Allen  
Baker  
Bayh  
Beall  
Biden  
Brooke  
Bumpers  
Case  
Cranston  
Curtis  
Dole  
Domenici  
Eagleton  
Fannin  
Fong  
Goldwater  
Gravel  
Hansen  
Hatfield  
Hathaway  
Helms

Hollings  
Hruska  
Huddleston  
Humphrey  
Inouye  
Jackson  
Johnston  
Kennedy  
Laxalt  
Leahy  
Long  
Magnuson  
Mathias  
McClure  
McGovern  
McIntyre  
Mondale  
Moss  
Muskie  
Nunn  
Packwood

Pearson  
Pell  
Percy  
Randolph  
Roth  
Schweiker  
Scott, Hugh  
Scott, William L.  
Sparkman  
Stennis  
Stevens  
Stone  
Symington  
Taft  
Talmadge  
Thurmond  
Tower  
Tunney  
Weicker  
Williams

## NOT VOTING—7

Bentsen  
Cannon  
Eastland

Griffin  
Javits  
McClellan

Pastore

So Mr. Bumpers' amendment was rejected.

## CHANGE OF VOTE ON BUMPERS AMENDMENT

Mr. Church subsequently said, Mr. President, I rise for a unanimous consent request.

When the Senate was considering voting on the amendment offered by the distinguished Senator from Arkansas (Mr. Bumpers) I voted "no" by mistake. I intended to vote and wanted to vote "aye." Since it will not change the result, I ask unanimous consent of the Senate that my vote may be recorded as "aye" on that particular rollcall vote.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

[The rollcall vote on Mr. Bumpers' amendment reflects the foregoing unanimous-consent request.]

Mr. BUMPERS. Mr. President, this is an extremely important measure we just voted on. I move for reconsideration, but I might say, with the manager's permission, I feel that there are a great number of Senators here who do not really understand the impact of what the bill does with the amendment. It simply provides that any coastal State—

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I ask the Senator to yield me 120 seconds.

Mr. HOLLINGS. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, this bill provides that coastal States will receive planning and impact funds not just for offshore development and production but also for any energy facility which is built in the State, and if they can prove to the Secretary that an impact of some kind has occurred within the coastal zone. That means that if a coal-fired generating plant or a nuclear generating plant is built in western New Jersey or in western South Carolina, they are entitled to a grant. If the same facilities are built in an inland State, it is not even arguable that they are entitled to apply to the Secretary for aid.

I admire the coastal zone States for their efforts to protect the coastal zone. I championed the Coastal Management Zone Act of 1972 and still do, but I say this should be handled in an even-handed manner, either through a land use planning bill or through a powerplant siting bill. But we are fragmenting it in such a way that some States are being discriminated against though they may suffer as much as or more than coastal zone States. I am saying that this is patently unfair to the rest of the Nation.

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

Mr. BUMPERS. If I have any time remaining.

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

Mr. HOLLINGS. I yield to the Senator from New York.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

The PRESIDING OFFICER. The Senator now has 10 minutes at his disposal.

Mr. BUMPERS. I yield to the Senator from New York.

Mr. BUCKLEY. Mr. President, I support the amendment offered by the Senator from Arkansas.

I come from a coastal State, but what I am concerned about in this bill is that it will create an incentive to move new energy oriented facilities to the coastal zone; and I believe that this is precisely the kind of area we want to protect environmentally. Because I think this goes against the grain of environmental measures, I support the measure limiting the effect of this on offshore drilling.

Mr. BUMPERS. I thank the Senator.

Mr. HOLLINGS. Mr. President, when the Senator from Arkansas has completed his remarks, I am going to move to table. Before that, I have a comment.

Mr. President, we have thoroughly debated this matter. To respond to the concern expressed by the Senator from New York, I point out that the testimony, over the 3-year hearing period, demonstrated that there would be some 60 to 80 nuclear powerplants off the coast of the United States. We had special hearings about the proposed New Jersey offshore floating nuclear powerplants, which were to be outside the 3-mile limit at that time. The Senator from New Jersey can correct me if I am wrong. That would be in addition to the other impacts caused not just from offshore drilling but also from population growth, economic development, requirements for industry, residential development, recreation, and everything else.

So, when the Senator from Arkansas says, "I am for coastal zone management but I am just against coastal zone management," what is he saying, in essence? He is saying, "I have problems in Arkansas and you have problems in the coastal regions; but unless we can solve all the problems, let us not solve any."

Congress saw it differently. Congress said, "Let us have a coastal zone region marked out and approved by the Governors of the coastal States, the Association of Counties, the municipal associations, and so forth."

They said we should single out the areas that would submit to what? To an overall plan.

Does the entire State of New York want to agree to land use? Absolutely not. I do not believe the Senator from New York is going to vote for land use. Does the entire State of Arkansas or the entire State of South Carolina submit to land use? No. But until they do, we cannot have a Federal program to allocate impact funds in accordance with an overall plan. That is the fallacy of this particular argument.

If the Senator gets land use up and passes it through the Senate—which has been done on several occasions, but it has been bogged down in the House—his plan can be taken care of. But if I had made the argument when Arkansas was getting a \$1.2 billion hydroelectric Federal power project—and they have been digging around—and said, "Treat us all fairly," I do not know where my \$1 billion to \$2 billion hydroelectric navigation project would be, which was put through by the senior Senator from Arkansas. They already have \$164 million, while the State of Alaska will have to wait 10 years to get that kind of money.

As for treating everybody equally, let us look at the particular problem and not be influenced by the equal treatment plan. If one has a serious problem, he should offer an amendment to give everybody a \$1.2 billion hydroelectric navigation project, in the remaining 49 States, if he really believes in that equity.

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

Mr. HOLLINGS. I yield.

Mr. STEVENS. I emphasize that I oppose the amendment of the Senator from Arkansas because it narrowly constricts what we are trying to do with regard to coastal zone management. It would say that this bill, with regard to the energy-related facilities, would be limited solely to those facilities that are built because of production from the OCS.

The bill covers all energy facilities and relates to the declaration of policy in the Coastal Zone Management Act which has already passed Congress, in which Congress declared a national policy to preserve, protect, develop and, where possible, restore and enhance the resources of the Nation's coastal zone for this and succeeding generations.

We are trying to say that in a coastal zone where there is a special plan for protection not only for the land but also for the oceans off the land, we are recognizing the Federal responsibility to assist in meeting those obligations for impacts in that area not just because they are electrical facilities, nuclear facilities, coal-fired, or any other kind of facilities, but because such facilities are in the coastal zone where, unless they are properly planned, they could in fact continue to reduce the viability of the oceans.

This is related more to the oceans than it is to the people who are in that coastal zone, who are already polluting the oceans. We are saying that all facilities in that area that are related to energy production need proper planning. The governments need to take special action to protect the coastal zone. We are willing to put up the funds, and they come primarily from production from the OCS lands. But the actions that the Federal Government will take will be special because the coastal zone has a peculiar relation to the oceans, not because it is a peculiar portion of a coastal State as opposed to the rest of the State or an inland State.

I hope the Senator from Arkansas will recognize that his amendment would so narrow this that the original intent of the Coastal Zone Management Act would be frustrated if we were to say that it applies only to oil and gas protection facilities on shore. It should apply to any activity in the coastal zone that would protect the oceans. Those are, in particular, any energy-related facilities in the coastal zone.

Mr. BUMPERS. Mr. President, I should like the Senator to hear the language of the bill. It reads:

The Secretary is authorized to make a grant to a coastal State if he determines that such State's coastal zone has been, or is likely to be impacted by the exploration for, or the development or production of, energy resources or by the location, construction, expansion, or operation of an energy facility.

An energy facility can be anything. It can be a coal gasification plant, a coal liquefaction plant, a uranium enrichment plant, a coal-fired generating plant. It can be anything. But the bill does not even stop there.

Here is a further definition of what an energy facility is. It says it is "a facility or facilities which are or will be used primarily for the

manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection."

I submit to my colleagues that that means, very simply, that if somebody elects to build a coal-fired generating plant in western New Jersey, whether it be in the coastal zone or outside of the coastal zone, if the argument can be made that it will have an adverse impact on the coastal zone, they are entitled to come to Washington and ask the Secretary for impact aid. If that same plant is built in any other State in the Nation, it is not even arguable, it is not debatable. They are not entitled even to apply for aid.

I am saying that if Westinghouse builds a plant anywhere in the State of New Jersey to manufacture turbines, and Westinghouse does manufacture turbines—let us assume that they manufacture turbines—I am not picking on New Jersey, but assume they have a plant there, and somebody decides it has an impact on the coastal zone, even though the turbine is being shipped to Arkansas to fire a new 6-million-ton coal-fired plant we are building down there. New Jersey is entitled to come to Washington and ask the State for aid. The State of Arkansas, which is going to be using the turbine, which is going to be using 6 million tons of coal a year for the first time in our history, is entitled to nothing.

I saw the Appalachia bill go through the Senate. It was a fine bill to help the Appalachian region of the country. But there were people in Congress who said, this is not fair to the rest of the Nation. So the title V commissions were set up. Arkansas, Oklahoma, Kansas, Missouri, and Louisiana comprise the Ozarks Regional Commission. As of this day, the Appalachian Commission gets \$20 per person for everybody in the region. The title V commissions get 20 cents per person for everybody in their regions.

I am saying if we fragment this economic aid, this environmental aid, this social aid, we will never have a chance in the inland States. They are not going to be adversely affected by this. They are just not going to get any effect at all. I am saying if we stretch this thing that far, it is beyond what I believe the intention of the authors was.

I am for it. I want to support the bill. But I do not want to support it to the extent that it is written now.

Mr. President, I ask for the yeas and nays on my motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. I further ask unanimous consent that the rollcall vote be taken in 10 minutes.

Mr. HOLLINGS. I object. I am going to move to table and ask for the yeas and nays. Does that suit the Senator?

Mr. BUMPERS. I am going to ask unanimous consent.

Mr. LONG. Will the Senator yield at this point?

Mr. HOLLINGS. Yes.

Mr. LONG. I voted for the Appalachian bill and it had nothing in it for Louisiana. I am surprised to find out that we got the 20 cents. That was a depressed part of the country and the bill made some sense. I



was pleased to vote for it because I thought it would be good for Appalachia and Appalachia is part of the United States.

Mr. BUMPERS. Mr. President, whose time are we on?

The PRESIDING OFFICER. The Senator from South Carolina yielded to the Senator from Louisiana.

Mr. LONG. I do not even know if Louisiana is going to come up with a land use plan, but if the Senate thinks it is a good idea to do something, to try to do some land planning in the coastal areas of the coastal States, I do not know why we should not do that. If somebody can think of something that will be good for Arkansas, by all means, bring it in here.

I voted for the Arkansas project and supported it. There was not a thing in there for Louisiana, but I lived in the hope that if we did something for Arkansas, some day, Arkansas might do something for Louisiana. [Laughter.]

Mr. HOLLINGS. Mr. President, I move to table the motion. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion to table is not in order until the time of the Senator from Arkansas on his motion has expired or been yielded back.

Mr. HOLLINGS. I yielded back my time.

Mr. BUMPERS. How much time is left?

The PRESIDING OFFICER. The Senator from Arkansas has 4 minutes remaining. A motion is not in order until he yields.

Mr. HOLLINGS. I am sorry.

Mr. CHILES. Will the Senator from South Carolina yield to me?

The PRESIDING OFFICER. Has the Senator from South Carolina yielded back his time?

Mr. HOLLINGS. No, I will let him go ahead.

Mr. CHILES. Under the amendment the Senator is proposing, he is not cutting total funds, is he?

Mr. BUMPERS. No.

Mr. CHILES. What he is saying, though, to those coastal States is that they would still be able to share and there is no reduction in the total funds, but the grants would have to be for onshore facilities or something occasioned by virtue of the offshore oil drilling?

Mr. BUMPERS. That is correct.

Mr. CHILES. As opposed to being something else.

So for my State of Florida, if we have drilling, either in the Atlantic or in the gulf, and then we have some facilities for that, be it pipeline, be it refineries, be it any other occasioned from the offshore drilling, we would be entitled to aid under this provision.

Mr. BUMPERS. That is correct.

Mr. CHILES. But where we would not be entitled would be if we had some other facility that was not a part of the offshore provisions at all?

Mr. BUMPERS. That is correct.

Mr. CHILES. We would not be entitled to aid for that?

Mr. BUMPERS. I might say to the Senator from Florida that I have no opposition—as a matter of fact, I am a strong advocate of land use planning. I am a strong advocate of powerplant siting legislation. I think it ought to be addressed on that basis. But even if it is addressed on that basis, I think it ought to be on a basis that is fair to all States.

Mr. CHILES. The Senator from Florida had a bill on this 2 years ago, in which he was trying to say that, because they were talking about drilling in the gulf at that time, those States that were going to have to take the risk of having offshore oil drilling off their States ought to have some provision made for problems that they might have. But it certainly was occasioned by the offshore oil drilling. I do not see it was anything else.

I am concerned that we have a limited amount of money here. If we open this up for all the other things, the coal plant, the nuclear plant, and these other plants, it might well be Florida would not get anything for the problems that we might have. The pie would be cut so fine that the money would all be gone and there would not be anything. I think we could have some real problems from our shore drilling.

It seems to me that the amendment of the Senator from Arkansas really helps the coastal States that are really worried about the offshore drilling and the problems they might have, because there would be some money there available for them and it would not be divided out with all these other uses, where it would really not amount to anything anyway.

Mr. BUMPERS. I thank the Senator from Florida for his questions and comments.

Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. The Senator yields back his time.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I say to the Senator from Florida, I do not see how my good friends in the back corner got so confused. The plant at Fort Pierce is practically on the beach. It is a pilot plant. Under this particular bill, without the Bumpers amendment, we could receive impact assistance for the net adverse impact caused to that coastal region. What the Bumpers amendment says is, in essence, in order to receive it, take that powerplant and move it out into the ocean. If that is what the gentleman from Florida wants to vote for, that suits me. Ninety percent of my State does not even qualify for the fund. My nuclear powerplant at Parr Shoals would get zero, nothing. The nuclear powerplant at Keowee would get no money, because it does not adversely affect the coastal area. If those areas want to submit an overall plan approved by the Federal Government, fine and dandy. We could set up one for Arkansas, which would suit me fine, and I would vote for it.

We passed land use. But what he is saying is that we have a problem but until we can solve the entire problem, let us not solve part of it. Congress in its wisdom, 3 years ago, already solved part of it and we are just trying to update the amendments with these impact provisions in here. This bill passed unanimously out of the Committee on Commerce.

With those comments, I move to table the motion to reconsider and ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. McClellan), and the Senator from Rhode Island (Mr. Pastore), are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore), would vote "yea".

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. Beall) and the Senator from New York (Mr. Javits) are necessarily absent.

I further announce that the Senator from Michigan (Mr. Griffin) is absent due to a death in the family.

The result was announced—yeas 63, nays 28, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—63

Allen	Hruska	Percy
Baker	Huddleston	Randolph
Bayh	Humphrey	Ribicoff
Biden	Inouye	Roth
Brooke	Jackson	Schweiker
Byrd, Robert C.	Johnston	Scott, Hugh
Case	Kennedy	Scott, William L.
Cranston	Laxalt	Sparkman
Curtis	Leahy	Stennis
Dole	Long	Stevens
Domenici	Magnuson	Stevenson
Eagleton	Mathias	Stone
Fannin	McGee	Symington
Fong	McGovern	Taft
Goldwater	McIntyre	Talmadge
Gravel	Mondale	Thurmond
Hansen	Moss	Tower
Hatfield	Muskie	Tunney
Hathaway	Nunn	Weicker
Helms	Packwood	Williams
Hollings	Pell	Young

NAYS—28

Abourezk	Clark	McClure
Bartlett	Culver	Metcalf
Bellmon	Ford	Montoya
Brock	Garn	Morgan
Buckley	Glenn	Nelson
Bumpers	Hart, Gary W.	Pearson
Burdick	Hart, Philip A.	Proxmire
Byrd, Harry F., Jr.	Hartke	Stafford
Chiles	Haskell	
Church	Mansfield	

NOT VOTING—8

Beall	Eastland	McClellan
Bentsen	Griffin	Pastore
Cannon	Javits	

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. KENNEDY. I have an amendment at the desk on behalf of myself and the Senators from Maine (Mr. Hathaway and Mr. Muskie) and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.  
The legislative clerk read as follows:

On page 24, line 13, after "facilities" insert "within three years".

Mr. KENNEDY. Mr. President, I have had the opportunity to talk my amendment over with the manager of the bill, the ranking member, as well as other interested Senators, and I believe it has wide support.

I understand that the concept and the purpose of the legislation we are considering is to look forward, to assist in planning for the future.

There are three sections under which funding is provided. One is for planning, which is obviously prospective; another is to compensate for future impacts; and a third provides funds for the landing of offshore oil and gas based upon an entitlement formula worked out by the committee.

My amendment is targeted to title II, the \$200 million impact program. It limits retroactive consideration of impacts by the Secretary to those experienced in the last 3 years.

It seems to me that this will meet the most critical needs of States where offshore development has been underway for many years. At the same time, it will insure, that the States in which there will be active oil exploration along the coastal areas in the future, whether in the Northeast, the Middle Atlantic States, or down in the gulf areas and along the west coast, will not find the impact fund exhausted when they experience impacts and apply for compensation.

It seems to me that this carries through the purpose and the intent of the act.

I have talked it over with the floor managers and I hope it will be acceptable.

Mr. STEVENS. I say to the Senator from Massachusetts that on our part, as manager of the bill on this side, we are prepared to accept the amendment.

Mr. HOLLINGS. Mr. President, we are prepared to accept the amendment. But before yielding back our time, for the information of our colleagues, we have this amendment, another from Senator Tunney and one from Senator Hansen that we are prepared to accept.

I have also been informed that the Senator from Arkansas has another amendment which would require the yeas and nays.

Let me at this time ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. After those amendments, barring the one rollcall with the Senator from Arkansas, I would be prepared to go ahead and yield back the remainder of my time.

Mr. STEVENS. Before that, may I inquire of the Senator from Arkansas how long it will be before we have a rollcall vote? I wonder if the Senator from Arkansas might tell us how much of his time he is prepared to take on that amendment which he has?

Mr. BUMPERS. Mr. President, on the amendment I have at the desk, I would say 3 minutes for my part, and if the other side would agree to that, it would be 6 minutes, and 10 minutes on a rollcall vote.

Mr. TUNNEY. Mr. President, I have an amendment which has already been cleared with both sides of the aisle.

Mr. HOLLINGS. After the Senator from Massachusetts.

Mr. STEVENS. Mr. President, I yield myself 1 minute on the bill.

As I understand it, the impact of this is that we would be voting on the amendment of the Senator from Arkansas and then for passage, around 7 o'clock.

Mr. HOLLINGS. Mr. President, the present question is the Kennedy amendment. I yield back the remainder of my time and am ready to vote.

Mr. HATHAWAY. Mr. President, 1 minute on this measure.

I am glad to commend the manager and the Senator from Alaska for accepting this amendment which will help those States which have not had any offshore development whatsoever.

If it were not for this amendment most of the money would go to those States that already have development, and in view of the fact that there are not many funds or dollars in the fund, this will do justice to all of the States involved.

Mr. HOLLINGS. Vote! Vote!

The PRESIDING OFFICER. Is all time yielded back?

Mr. HOLLINGS. We yield back the remainder of our time.

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

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

On page 25, beginning with "and" in line 11, strike out all to the period in line 14, and insert in lieu thereof: "one member designated by the Council on Environmental Quality, and four members appointed by the President as designated by the National Governors Conference."

Mr. TUNNEY. Mr. President, today we are considering the passage of S. 586, amendments to the Coastal Zone Management Act of 1972 which will provide funds for the States adversely impacted by energy development and production in our national coastal waters.

The bill's major provisions designate assistance programs for those States facing potential environmental, social, and economic impacts resulting from energy-related developments on the shorelines.

Additional language in the bill provides much-needed funds for research and technical assistance for the coastal States to implement feasible coastal plans. Also, the bill provides the means to facilitate interstate coordination of management policies and programs and for the acquisition of lands to establish estuarine sanctuaries and encourage the preservation of environmentally sensitive areas.

The Federal responsibility for CZM funding is raised from the present 66 $\frac{2}{3}$  percent to bring it in line with other 80 percent grant projects.

The bill also expands the "Federal Consistency" provisions of the 1972 Act to include the term "lease" thus giving the States enhanced authority to give final approval to lease sites.

The bill makes it clear that Outer Continental Shelf leasing is a Federal activity subject to the Federal consistency provision of the Federal coastal zone management program. However, since California's coastal plan will not be completed until early next year and the Interior Department plans to lease in October, this provision may be academic. For this reason, I urge Secretary Hathaway to postpone the lease sales until after the completion of the California coastal plan. Given the industry's stated inability to develop OCS leases rapidly, such a delay would have little impact on the eventual production of needed OCS oil and gas.

It is a Federal responsibility to provide the States with adequate funding to implement environmental controls. The States producing, landing, and shipping oil will need to be sufficiently compensated for the industrial development of State lands, for bearing the burden of lost recreation sites, for threatened environmental air and land quality standards and for giving up prior discretionary land use policies to meet the requirements of the Federal energy policies.

We must insure that the States are adequately represented and have a strong voice in all matters affecting their coastline. Therefore, I am offering an amendment to provide for the equal representation of State and Federal interests on the coastal impact review board.

The Secretary of Interior has not waived on his decision to begin lease sales totaling 1.6 million acres off the coastline of southern California, soon to be followed by bids off the Alaska and Atlantic coastlines.

Thus far, the Department, in its decisionmaking process, has callously disregarded the interests and views of the people and elected officials from the coastal States.

However, as the Commerce Committee report on this bill indicates, our shorelines could suffer severe environmental and economic degradation if adjacent coastal development is not properly controlled.

For example: More than 50 percent of the population of the United States lives in counties bordering on the oceans and Great Lakes, presently 40 percent of the industrial complexes are in estuarine areas and Louisiana lost over 5,000 square miles of wetlands to support systems for the OCS drilling operations.

In recent testimony in a joint hearing on this matter in the House, representatives from the Scottish coastal zone management commission, stressed that they minimized environmental impacts and citizen protest because they had local management programs in operation before leasing began.

There is no denying the anticipated financial burden States will to sustain to provide adequate support systems for the anticipated industrial development without the funding provisions specified in this legislation.

In California alone, the State's Coastal Conservation Commission found that 90 percent of the total petroleum refining capacity of that State is located within 10 miles of the coast. New refineries will require as much as 1,000 to 1,700 acres for each industrial development and buffer zone. Furthermore, a new refinery with the minor capacity of

100,000 barrels per day would result in an inflow of 1,100 workers, a population increase of 3,900, and indirect increase of 850 support workers and an additional 850 schooled children.

I would like now to take time and commend my distinguished colleague Mr. Hollings and the staff of the Commerce Committee for the innovative and progressive language that is included in this legislation.

Mr. President, I have cleared this amendment with both the floor manager and the minority.

Mr. STEVENS. Will the Senator from South Carolina yield 1 minute on this amendment?

Mr. TUNNEY. I yield.

Mr. HOLLINGS. I yield.

Mr. STEVENS. Mr. President, I am the author of this amendment in the committee and I have discussed it with the Senator from California. He has a good suggestion. It provides balance between the States and the Federal Government. I have talked it over with the Senator from California.

We see no objection to this amendment. I believe the Senator from South Carolina—if I could have his attention—is prepared to accept the amendment on behalf of the majority. I am certainly prepared to accept it on behalf of the minority.

Mr. HOLLINGS. We discussed this with the distinguished Senator from California, Mr. President. We think it is a good amendment.

Mr. President, I yield to the Senator from Maine.

Mr. HATHAWAY. Mr. President, I take this time just to ask the Senator from South Carolina a few questions with respect to the funds provided to the States for planting purposes.

I am a little concerned. I understand about \$50 million will be authorized under section 308(a) for planning purposes. But in the bill itself there are no criteria for guidance for the regulations which the Secretary is to promulgate as to how these funds should be allocated to the coastal States and territories.

First of all, I wonder if it developed during the hearings whether the \$50 million is an adequate amount for planning for these purposes.

Mr. HOLLINGS. Yes. I would answer very definitely that it is. Obviously, we had the budgetary restrictions in our mind at the time we agreed upon this matter. There are several States—I named California and the State of Florida. If the other States follow their pattern in investments in planning for coastal zone matters, \$50 million would not be sufficient. But the point is that that amount of funds will be there. They are annually authorized and they are annually to be reviewed by the Appropriations Committee. We think that this is within the ball park and can be approved by the administration.

Mr. HATHAWAY. Will the Senator tell me why there are no criteria in the bill itself to provide guidance to the Secretary of Commerce as to the basis for handing out the planning funds? Presumably under this he could give the whole \$50 million to one State, if he wanted to.

Mr. HOLLINGS. The bill is within the budget estimate.

Mr. HATHAWAY. But there are no criteria listed in the bill itself to guide the Secretary of Commerce in his determination as to which coastal State should get how much. Could he give two-thirds of the money to one State if he so desired?

Mr. HOLLINGS. No, I do not think that would be at all equitable. We are hereby amending the original Coastal Zone Management Act. Therein they have the criteria for the Secretary on section 305 planning and they have the criteria also with respect to section 306 grants under the original act. I think such new criteria should, at a minimum include the extent of the activity in regard to leasing, the length of the coastline of each State, the potential other resource uses for the costal area, potential facility development, the relative economic development of a State which will be affected by the facility or activity and its potential for coping with those impacts.

So it is just depending on who is Secretary as to the rules and regulations. We already have these existing rules and regulations promulgated by the Secretary which should be augmented by this new criteria.

Mr. HATHAWAY. And these old criteria take into consideration the relative length of the coastline and probable impact, and so forth?

Mr. HOLLINGS. Very definitely; yes, sir.

Mr. HATHAWAY. I thank the Senator.

Mr. HOLLINGER. Mr. President, I yield back the remainder of my time.

Mr. TUNNEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HANSEN. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Mr. Hansen, on behalf of himself and Senators Burdick and Montoya, offers the following amendment: "On page 28, after line 20, add the following new subsection."

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

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

The amendment is as follows:

On page 28, after line 20, add the following new subsection:

(n). Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by deleting "52½ per centum thereof shall be paid into, reserved" and inserting in lieu thereof: "30 per centum thereof shall be paid into, reserved", and is further amended by striking the period at the end of the provision and inserting in lieu thereof the following language:

"And, provided further, that an additional 22½ per centum of all moneys received from sales, bonuses, royalties, and rentals of public lands under the provisions of this chapter shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 22½ per centum of all moneys paid to any State on or after January 1, 1976, shall be used by such State and its subdivisions as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services."

Mr. HANSEN. Mr. President, essentially what this does is to amend the 1920 Mineral leasing law to provide for a larger share of the funds that are derived from the production of those minerals which are fed-



erally owned to go to the States to be used for planning, construction, and maintenance of public facilities and the provision of public services for areas primarily that are socially or economically impacted.

We have some 19 or 20 cosponsors. Both the manager of the bill and the minority leader have agreed to accept the amendment.

Mr. MCGEE. Mr. President, I join in sponsoring and supporting this amendment with my distinguished colleague from Wyoming (Mr. Hansen). Basically, it would do for inland States that are suffering social and economic impacts from intensified energy production what S. 586 would do for the coastal States. The States of Wyoming, Montana, and the Dakotas, in particular, are experiencing severe impacts from energy production, including surface mining of coal and the construction of powerplants. In order to achieve some relief for these States, we offer this amendment.

Our proposal would increase the returns to the States in which mining takes place from 37.5 percent to 60 percent of the royalties which are paid to the Federal Government by mining companies extracting minerals in the public lands States. The additional 22.5 percent would be taken from the reclamation fund portion of the Federal royalties. This additional amount to be returned to the States would be earmarked specifically for planning, construction and maintenance of public facilities and for providing other necessary public services in those areas suffering impact problems as a result of energy development. The amendment would still leave 30 percent of the royalty payments in the reclamation fund.

Mr. President, the idea of providing assistance to States suffering development impact due to the energy crisis is not new. You will recall that the Surface Mining and Reclamation Act which was passed by Congress this year and subsequently vetoed by President Ford contained provisions which would finance aid to impacted areas within those States where surface mining operations are being drastically increased. The Senate overwhelmingly supported these provisions, and I hope that my colleagues will support the amendment which we offer today.

Mr. STEVENS. We are prepared to accept this and go to conference with it. I do not know what the House will do with it, but we certainly will take it to conference.

Mr. HOLLINGS. I yield back the remainder of our time, Mr. President. I have checked this with the Senators.

Mr. JACKSON. Vote. Vote.

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

Mr. HANSEN. Mr. President, because of the attention which has been focused on coal development in the West, a national awareness of the impact this development has had on the towns of Rock Springs and Gillette, Wyo., in particular, is well known. Basically these towns are typical of the same dilemma which faces other western towns. Demands for all types of community facilities such as hospitals, schools, sewers, recreation, police protection, to name but a few, have arisen. The known abilities of these same communities to have the funds adequately to provide the necessary services and facilities fall far short of the need.

Passage of this amendment assures that there will be so-called front end money so that city and county officials can anticipate the needs, which dramatic increases in population bring. The West, which has been called upon to provide additional energy in this time of energy shortages since it is the area where most of the strippable coal is found, will be able to make provision for these people so as to obviate the very real social and economic problems which all too often in the past have been characteristic of the region's response to the Nation's needs.

Mr. HOLLINGS. Mr. President, I send to the desk a package of technical amendments which have been checked out with the minority. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. May we have order in the Senate?

Mr. HOLLINGS. I will say to the Senator from Alaska, I have submitted the technical amendments, and I have asked unanimous consent that they be considered and adopted en bloc.

Mr. STEVENS. We have examined these amendments. They are technical in nature and necessary to carry out the intent of the bill. We are agreeable to their being considered en bloc. They are clerical, really.

Mr. HOLLINGS. Will they be considered en bloc?

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

The legislative clerk read as follows:

The Senator from South Carolina (Mr. Hollings) proposes certain technical amendments.

The technical amendments are as follows:

On page 24, line 9, delete the period and insert thereof the following:

"Provided: That such allocation shall not relieve such State of the responsibility for insuring that any funds so allocated shall be applied in furtherance of the purposes of this section."

On page 37, strike out lines 11 through 23 and insert in lieu thereof the following:

"SEC. 318. (a) Nothing in this Act shall be construed to require the approval of the Secretary as to any State land or water use decision pertaining to individual cases, including, but not limited to, the siting of energy facilities, as a prerequisite to such State's eligibility for grants or loans under this Act."

On page 30, line 5, after the word "Agency," insert the words "the Administrator of the Federal Energy Administration,"

On page 40, line 22, insert the following new section:

"SEC. 104. Nothing in this Act shall be construed to modify or abrogate the consistency requirements of section 307 of the Coastal Zone Management Act of 1972."

On page 32, line 18, after the words "amended by" insert the words "amending subsection (a) thereof as follows:"

On page 24, line 23, insert the following: after the word "section": ", except those funds made available pursuant to subsection (K),"

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point explanations of the technical amendments.

There being no objection, the explanations of the technical amendments were ordered to be printed in the RECORD, as follows:

#### EXPLANATION OF AMENDMENT ON PAGE 24, LINE 9

The purpose of this amendment is to conform section 308(f) of the bill to the present language in section 305(f) of the CZM Act. It merely provides that when a State allocates funds provided under the amended Act to a local government or other entity, the funds must be used as originally intended when distributed to the State.

## EXPLANATION OF AMENDMENT ON PAGE 27, LINE 4

The purpose of this amendment is to conform the automatic grant provision of section 308 with the language used elsewhere in section 308 in connection with the purposes for loans and grants under the section.

## EXPLANATION OF AMENDMENT ON PAGE 30, LINE 5

This is a technical amendment to the proposed new section 309 which is entitled "Interstate Coordination Grants to States" and which authorizes and directs that certain Federal agencies and departments become involved in the Federal-State consultation process. The amendment merely adds the Administrator of the Federal Energy Administration to the agencies mentioned.

## EXPLANATION OF AMENDMENT ON PAGE 32, LINE 18

Amendment No. 14 to the Coastal Zone Management Act states that it amends section 316, as redesignated. In actuality, this particular amendment changes subsection (a) of that section. This technical amendment clarifies the bill.

## EXPLANATION OF AMENDMENT ON PAGE 37, LINES 11 THROUGH 23

The purpose of this amendment is to more explicitly state the Committee's intent in adopting section 318(a). The Committee's intent is that funds made available under the Act for loans and grants are not to be used as a device to require the States to take specific action with respect to individual land or water use decisions it makes. For example, the Secretary of Commerce cannot require a State to site a certain energy facility on penalty of loss of funds under the Act. As stated in the Committee Report at page 43, the Secretary is restricted under the CZM Act to evaluating the adequacy of the State process.

## EXPLANATION OF AMENDMENT ON PAGE 40, LINE 22

The purpose of this amendment is to assure, consistent with the Committee intention as stated in page 43 of the Report, that nothing in the entire bill shall interfere with the ability of any State which has an approved management program to prevent (except in cases of national security) Federal actions affecting their coastal zones which are inconsistent with their approved programs. A like provision appears in section 308 but only pertains to the provisions of that section. Making that provision only there could be argued to raise an implication that the other provisions may be inconsistent with section 307. Adding this new section to the bill will clarify any uncertainty.

**THE PRESIDING OFFICER.** The question is on agreeing to the technical amendments.

The technical amendments were agreed to.

**MR. BUMPERS.** Mr. President, I have an unprinted amendment at the desk, and I ask for its immediate consideration.

**THE PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

On page 12, line 18, strike "(1)".

On page 12, line 20, strike ";or".

On page 12, strike lines 21 thru 24 inclusive.

On page 12, line 25, strike "(1) of this subsection".

**MR. BUMPERS.** Mr. President, I am willing to enter into a unanimous-consent agreement with the floor managers of the bill to debate this matter for 5 or 10 minutes. I can explain my amendment very quickly.

I have just suggested that we enter into a unanimous-consent agreement to limit debate of this amendment to 10 minutes or less, 5 minutes on either side.

**MR. LONG.** Mr. President, I will have to object to anything less than 10 minutes on each side. I would like to hear what this amendment is.

**MR. HOLLINGS.** It is a very important amendment. It does away with the platform construction provision for drilling offshore.

If the Senator will yield, I will put this time on the bill. If anyone is interested in this particular amendment, on pages 11 and 12 of our report we referred specifically to the Brown and Root Corp. of Houston, Texas, that, on a 2,000-acre plot in Virginia, plans to build oil production platforms to be used offshore; and we discussed in the report the onshore impact, the number of employees, the additional jobs, and everything else.

Now, what my distinguished friend requests in his amendment is that we strike exactly the language that would provide for that particular offshore platform construction, by knocking out, on page 12, the language—

which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1)—

which has to do with energy facilities. That is exactly what we had in mind.

We have been into this very thoroughly, Mr. President, but somehow my friend from Arkansas has got the idea that manufacturing facilities such as platform construction sites are not adverse impacts, and he resists and objects, in these amendments, to the fundamentals of the Coastal Zone Management Act, and then, in the next breath, says, "I am for the Coastal Zone Management Act."

That just cannot be, if he is asking that we knock it out.

The Senator and I have been working on an ad hoc committee for energy legislation in this Congress, and we have been agreeing right down the line. The provisions in here would take care of every major coastal planning decision involving the Baltimore Canyon, the Georgia Embayment, and all those offshore drilling locations. We have got to go off there and get that oil and get that gas, but now the Senator comes along and says, "Just because I am in Arkansas, and I do not have any offshore drilling, and do not have any building of platforms or anything else, let the States absorb the impact."

We are trying to facilitate getting energy. Even the administration is for this.

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

Mr. HOLLINGS. I yield.

Mr. LONG. The Senator from Louisiana was never enthusiastic about the bill. I am not sure Louisiana is going to participate in the plan. It may not be of any benefit at all to Louisiana.

But if we are going to consider anyone with regard to impact, I would think the little city of Morgan City, La., ought to be able to participate, because, on a per capita basis, there is no community in America, in the old 48 States, that is doing more to try to help with the energy problem than Morgan City, La.

That community is consecrated almost exclusively to trying to provide platforms, equipment, and services to people who go out on the Continental Shelf, sometimes staying out there for a month hand running, to try to produce some energy.

They have all kinds of problems, and if anyone should be entitled to some impact aid, because they are trying to develop some energy, I would think it would be the people of Morgan City, La. With the possible exception of those people up there in Prudhoe Bay, the people

at Morgan City, La., would be more entitled to participate than anyone else I know of.

Some of the platforms that are built and are fabricated, floated out, and put in place on the Continental Shelf are higher than the Washington Monument, and they are enormously expensive. When those people work to do all that, and they have all kinds of headaches—there was a syndicated article that appeared in the Washington newspaper just recently discussing all the problems people have down in Morgan City, La.—you would think, if we were going to let anyone participate in that program, we would let those people participate. I cannot understand, for the life of me, where, in a community where most of the workers are producing energy and materials for use on the Continental Shelf, why they would not be entitled to participate.

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

Mr. LONG. I yield.

Mr. BUMPERS. Subparagraph (1), just above the second subparagraph, which I seek to delete, involves new facilities, or additions to existing facilities: "Which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource."

I assume offshore drilling platforms are considered to be used in the extraction of an energy resource, and so I do not seek to eliminate the assembly, the manufacture, or anything else of offshore drilling platforms, because that is covered under subsection (1).

I am seeking to eliminate what I think would play all kinds of mischief with the interpretation of this law.

I have already lost the other battle; perhaps I will lose this one. But I would like to make the point again that subsection (2) says that an energy facility is a facility or an addition to a facility which is or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection.

Mr. President, that is not confined to offshore drilling. It is not confined to gasification. It is not confined to liquefaction. It does not even eliminate the concrete blocks that might be made in the coastal zone States, if those concrete blocks are shipped to Arkansas, as long as they go into a powerplant there.

I am saying that section can be interpreted just as liberally as anyone chooses to interpret it. I do not think offshore platforms are affected at all. I think they are well covered, in any impact they may have on Morgan City or any other community, under subsection (1).

But I make the argument again that I made a moment ago. If you have a Westinghouse or a General Electric plant in a coastal State that manufactures turbines, you are entitled to aid, even though those turbines may not be used there. They may be used to fire a coal generating plant in any State in the Nation.

I do not think that a plant that is outside the coastal zone—and I think this is a distinction that has not been well understood here this afternoon—we are not talking about just the impact on coastal zones, we are talking about something that may take place outside the coastal zone, but could adversely affect the coastal zone. And again, my pri-

mary objection to this language was that it can be as liberally interpreted as anyone's imagination could want to allow it to be.

Mr. President, Senators want to get on with other business, and I want them to. I do not want to belabor a point already made time and time again. But I do want Members of the Senate to understand that bad laws are easily made and very difficult to remove, and I think this subsection of this bill is a bad law which ultimately will prevail, which probably will go to the President and be signed by him, and I can assure every Member of this body that that will never be removed from this act once it is placed on there, and there will be all kinds of applications for grants going to the Secretary for the most specious, spurious reasons.

The amendment does not take anything away from what the authors of the bill intended to cover, but it does take away the right from some inventive, ingenious people to raid the Treasury for purposes totally unrelated to this bill.

Mr. HOLLINGS. Mr. President, now we have ingenious people raiding the Federal Treasury.

These bills were not only reviewed by all the members of the Commerce Committee on both sides of the aisle, particularly those assiduous persons on the other side of the aisle who would be the keepers of the Treasury, but also by some of those on the Budget Committee, and particularly our colleagues on the Committee on Interior and Insular Affairs who have a respected knowledge in this area. This is a reconciliation of the original amendment that we made between the position espoused by the Senator from Louisiana (Mr. Johnston) and that of the Senator from Washington (Mr. Jackson). It is no dubious raid on any treasury. The guidelines are here, the amounts have been computed, the Secretary of the Treasury has administered this in a most careful fashion, and because of that, the States have acted responsibly. As the Senator from Louisiana says, they are trying to develop a coastal zone plan, and they have not had it approved yet, and do not even know whether they want it approved.

We are back to fundamentals. Under one section, we have the adverse impacts resulting from energy facilities and resource development, and on the other hand, the automatic payments to deal with the impacts of offshore drilling on the adjacent coast.

We use that example of Cape Charles, Va., in Northampton County, where Brown and Root has a 2,000-acre option, and it is ready to go and start constructing in this rural area these offshore platforms for drilling, the rigs, the "manufacture"—that is exactly the language. The Senator says he is talking about deviousness and raiding the Treasury. So I am reading his amendment . . . that has to do with energy facilities in the coastal zone.

Now there you are. They could go ahead and drill offshore and have had this impact, expended all these funds, and still receive nothing for impacts, if they did not hit any oil, if they did not actually receive any grants from the automatic fund or there was not any brought ashore from an adjacent State.

His amendment just guts the entire energy part of it, and our language was put in by a unanimous vote from our Commerce Committee, and approved by the chairman of the Committee on Interior and In-

sular Affairs. If we had any rabbits in the bill to try to raid the Treasury, it would not be through coastal zone management.

It would interest the distinguished Senator from Arkansas to know there never has been passed a land use act, and the administration in fiscal year 1974 provided \$20 million to administer a law that had not even passed, and we have been lucky to get \$12 million to administer coastal zone management which has been on the books for the last 3 years since 1972.

This has been a very frugal program with no Treasury raiding and no devious ways. The Senator is closing out what we all saw and what he has seen.

Our energy endeavors here to promulgate a program to deal with energy facility impacts and facilitate and accelerate the offshore drilling by saying, yes as to energy-related manufacturing and assembling, and otherwise, as to these offshore platforms. It is a tremendous endeavor we need in that area, and if there is to be an impact, there should be compensation to those States that have no control on Federal decisions.

Mr. BIDEN. Mr. President, will the Senator yield for two questions?

Mr. HOLLINGS. Yes. I yield to the Senator from Delaware (Mr. Biden).

Mr. BIDEN. The first question is in line 18, subsection (1) it says "which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource."

Does the distinguished chairman read that to encompass platform production?

Mr. HOLLINGS. Yes, not solely. Not exclusively, but yes.

Mr. BIDEN. But it would encompass platform construction?

Mr. HOLLINGS. Yes.

Mr. BIDEN. The second question is under subsection (2), the part that my distinguished colleague from Arkansas wishes deleted, he cited an example. He said if in fact there is a Westinghouse plant in the coastal zone area, which manufactures turbines, and ships those to some other State in the interior, that they get the benefit of this bill. Is that correct?

Mr. HOLLINGS. That is correct. That is in the law today.

Mr. BIDEN. They would get that.

Mr. HOLLINGS. Yes, but should you get a land use bill, should you get a utility siting bill—and we have interposed no objection—when Kentucky comes around and agrees to an overall plan, then they will have a mechanism to seek similar aid.

Mr. FORD. Mr. President, will the Senator from South Carolina yield to the Senator from Kentucky?

Mr. HOLLINGS. I am delighted to.

Mr. FORD. As to the \$1.2 billion we are going to spread around to every State the Senator mentioned earlier, we are looking for that. We are not worried about voting on the siting bill.

Mr. BIDEN. If I may ask a followup question then, it is: If in fact, first, platforms are covered by a portion that is not being attempted to be eliminated and if in fact, second, the example that a plant which produced something relating to energy that is not being used in the coastal zone would get this benefit, then it seems to me that the Senator from Arkansas has a valid point.

Mr. HOLLINGS. You are mistaken as to the first point. The point is it impacts upon the coastal zone.

Mr. BIDEN. How does it impact upon the coastal zone?

Mr. HOLLINGS. I ask the Senator to get his report—we all have it on top of our desks—and start reading at the bottom of page 11 and top of page 12. For example, Brown & Root is planning on going in there at Cape Charles. Under the concept of the Senator from Arkansas, the construction of platforms to do offshore drilling, in itself would not qualify for an impact, but only if drilling gets any of that oil, and it comes ashore in that coastal zone. His argument is that the fabricating plant has not impacted there at all; therefore, they do not deserve any impact.

My answer is that, if they go in and start building that manufacturing plant, they have had the impact of the need for schools, water lines, sewer lines, maybe highway redesign, and everything else.

That is a fundamental concern of the Coastal Zone Management Act. The amendments of the committee do not require it be consumed or used within the coastal zone. He is very right. We could ship it all to Arkansas from Cape Charles, Va., and Virginia could never experience any of that oil and gas.

Mr. BIDEN. Being from a coastal State that is an appealing argument.

I give another example. Assume the Schaeffer Brewing Co. came in and wanted to build a plant in a coastal zone area. They are an obnoxious kind of industry, use a great deal of water, impact adversely, and hire a lot of people. Assume the Schaeffer Brewing plant comes in and builds a plant in the coastal zone, is the Senator telling me that we coastal zone States, which have submitted to the rationale of the Coastal Zone Management Act, should be in fact remunerated for the beer that is shipped to Arkansas?

Mr. HOLLINGS. No. I would answer my distinguished colleague from Delaware, obviously not. It is not an energy facility unless we go along with that idea that if we drink some we get a little energy, or, whatever that beverage ad is one hears on the radio. That is not an energy facility and it is not covered under the bill.

Mr. BIDEN. What about the fact in the example of the turbine construction.

Mr. HOLLINGS. That is an energy facility, that is right.

Mr. BIDEN. I have it. I understand what the Senator is saying.

Mr. HOLLINGS. All right.

Mr. BIDEN. I do not agree with him, but I understand what he is saying. I understand his argument. I do not think there is any merit to it, but I understand it.

Mr. HOLLINGS. We are willing to yield back our time. I wanted to be able to clarify the questions. We are not trying to hold its up.

Is the Senator from Arkansas prepared to vote?

Mr. BUMPERS. Mr. President, I have run out of arguments, and I do not want to repeat the old ones any longer, I feel, as I said a moment ago, this goes far beyond what most of us anticipated and what many of us at least think is good law no matter how sensitive we may be in the coastal zone States. But I foresee a great deal of mischief being played by leaving this in.



As I said earlier, I suppose I hear the train coming. I guess it is going to be left in. But I am prepared to vote on it, Mr. President.

I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. I am prepared to yield back my time.

Mr. HOLLINGS. We yield back the remainder of our time and are prepared to vote.

The VICE PRESIDENT. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. McClellan), the Senator from Rhode Island (Mr. Pastore), and the Senator from Indiana (Mr. Bayh) are necessarily absent.

I further announce that if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Javits) and the Senator from Nevada (Mr. Laxalt) are necessarily absent.

I further announce that the Senator from Michigan (Mr. Griffin) is absent due to a death in the family.

The result was announced—yeas 30, nays 59, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—30

Abourezk	Clark	Long
Bartlett	Culver	Mansfield
Bellmon	Ford	McClure
Biden	Garn	Metcalf
Buckley	Glenn	Montoya
Bumpers	Hart, Gary W.	Morgan
Burdick	Hart, Philip A.	Nelson
Byrd, Robert C.	Hartke	Proxmire
Chiles	Haskell	Stafford
Church	Leahy	Stevenson

NAYS—59

Allen	Hruska	Randolph
Baker	Huddleston	Ribicoff
Brock	Humphrey	Roth
Brooke	Inouye	Schweiker
Byrd, Harry F., Jr.	Jackson	Scott, Hugh
Case	Johnston	Scott, William L.
Cranston	Kennedy	Sparkman
Curtis	Magnuson	Stennis
Dole	Mathias	Stevens
Domenici	McGee	Stone
Eagleton	McGovern	Symington
Fannin	McIntyre	Taft
Fong	Mondale	Talmadge
Goldwater	Moss	Tower
Gravel	Muskie	Tunney
Hansen	Numm	Weicker
Hatfield	Packwood	Williams
Hathaway	Pearson	Young
Helms	Pell	
Hollings	Percy	

## NOT VOTING—10

Bayh  
Beall  
Bentsen  
Cannon

Eastland  
Griffin  
Javits  
Laxalt

McClellan  
Pastore

So Mr. Bumpers' amendment was rejected.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that, on final passage, the rollcall be limited to 10 minutes.

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

Mr. HOLLINGS. Mr. President, in behalf of our colleagues, we are going to have one amendment by the Senator from Ohio. The managers of the bill are willing to accept it. I understand our distinguished colleague from Oklahoma will have a statement against this bill. Then we are ready to go to the 10-minute rollcall for final passage. We should be voting for final passage in the next 10 minutes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GLENN. I ask unanimous consent that further reading of the amendment be dispensed with.

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

On page 20, line 21, after "facility," insert "such criteria shall insure that grants and loans under this section relating to impacts resulting from the exploration, development, and production of energy resources offshore and related energy facilities shall receive first priority among competing applications."

Mr. GLENN. Mr. President, I thank the distinguished floor leader on this bill. What this does is take up the colloquy of this afternoon on the intent of this bill and puts it in legislative language.

It has been agreed to by the minority and majority leaders. I will read the applicable part: At page 20, line 21, after "facility," and such criteria shall insure that grants and loans made under this section relating to impacts resulting from exploration, development, and production of energy resources offshore and related facilities shall receive first priority among competing applications.

All this does is make certain that we do give priority in those areas. It has been accepted. I am happy to accept a voice vote.

Mr. HOLLINGS. Mr. President, the Senator stated the priority very well in this amendment. We accept it.

Mr. STEVENS. We accept it.

Mr. HOLLINGS. I am will to yield back the remainder of my time.

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

The amendment was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be offered, the question is on the engrossment and third reading of the bill.

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

Mr. STEVENS. The Senator from Oklahoma has requested time. I yield him 5 minutes.

Mr. BELLMON. Mr. President, there are two points I wish to raise in connection with this bill. The first relates to the costs.

The distinguished chairman of the Committee on the Budget and I have been discussing the matter. We are not quite clear on just what

the costs are for the current year or what they will be over the long run. He may have a comment he wishes to make about the authorization or about the appropriations. There seems to be a possibility that the cost of this bill now will be less, due to the action of the Committee on Interior and Insular Affairs this morning. We are not quite sure yet on the Budget Committee just what has happened. Maybe the chairman can explain.

Mr. MUSKIE. I am glad to. I know that the distinguished Senator is opposed to the bill on its merits. I am for it on its merits. But budget implications, nevertheless, are a separate consideration in which the Senator and I are in agreement—that is, that we have to stay under the budget resolution.

With respect to the cost of S. 586, according to our figures, it will cost nearly \$2 billion over the next 10 years. The Committee on the Budget has made no judgment about 10-year costs. This first year, we have concerned ourselves with first-year costs, which is 1976. These are the numbers as we see them.

Now, with respect to budget authority, in drafting the budget ceiling we assumed a total of \$300 million as the budget authority for fiscal 1976 for the programs this bill would create.

Now, this calls for nearly \$400 million in budget authority. I understand from the manager of the bill that they borrowed budget authority, in effect, from the Interior Committee in connection with programs that it had included in its recommendation to the Budget Committee in March.

Mr. HOLLINGS. Mr. President, if the Senator will yield, that is accurate. What we have done is we have taken the \$200 million that would appear in the Interior bill on the Outer Continental Shelf and, by agreement, we have now included it in our bill, so we are under the budget figure, and we also notified the Budget Committee with the expectation this would be budgeted at about a one-third level in outlays. So we are well within the budget.

Mr. MUSKIE. On the outlay figure the Senator is correct as we read it. We have no difficulty with the figure on budget grounds in that sense.

With respect to the budget authority question I assure the Senator from Oklahoma I would take the figures of our own budget people on the staff if we reach for any reason a different conclusion, and we will check it with the distinguished Senators from South Carolina and Washington, and we will notify the Budget Committee and we will report the bill with our own finding, but at the moment there appear to be no budget problems, with the one qualification which we checked out.

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

Mr. HOLLINGS. I yield.

Mr. BELLMON. The \$150 million applies to fiscal year 1976; is that true?

Mr. HOLLINGS. That is right.

Mr. BELLMON. That is anticipated for 1976. What about future years?

Mr. HOLLINGS. The anticipated outlay is \$3 million annually for the next 3 years. Each time, of course, it is subject to the appropriation process.

Mr. BELLMON. The table on page 51, which shows appropriations for the fiscal years ending 1977 and beyond, shows a total cost of this bill of \$2.129 billion. That figure then would be reduced by roughly one-half?

Mr. HOLLINGS. No, sir. I think that the chairman of the Budget Committee cited it accurately. Those do not have to do with outlays but only authorizations, and it could go that high over a 10-year period.

Mr. MUSKIE. On that point, the Appropriations Committee, of course, makes the funding decisions, and the Budget Committee for each year is in a position to recommend outlay totals to the Appropriations Committee on this program.

Mr. HOLLINGS. That is correct.

Mr. BELLMON. Is there an anticipated cost of the program is my question.

Mr. HOLLINGS. The anticipated cost of the program is at a one-third level of the particular authorization for the first year.

Mr. BELLMON. So this figure of \$2.1 billion then would be more like \$700 million.

Mr. HOLLINGS. Well, that \$2.1 billion gets down, Senator Bellmon, to the 10th year that is projected out.

Mr. BELLMON. What I am trying to get at is what the costs will likely be over 10 years.

Mr. MUSKIE. The figure we have, may I say to the Senator, of the Budget staff is a budget estimated amount of \$2 billion.

Mr. BELLMON. Is this \$2 billion figure accurate?

Mr. HOLLINGS. Yes.

Mr. MUSKIE. Mr. President, the haste with which the Department of the Interior is approaching the search for oil and natural gas off the U.S. coastline makes it essential that we revise the Coastal Zone Management Act of 1972.

The new offshore leasing schedule which Interior officials are trying to follow will create new problems for coastal States. At a minimum, some of these States must cope with the arrival of drilling crews and their families, with the building of new staging and construction areas, and with the strains that these will put on transportation networks and public services. At a maximum, the new ventures could mean, oil spills, damage to beaches and estuaries, and increased air pollution.

The States are entitled to help to plan for and pay for the consequences that offshore development will bring and S. 586 will provide that help.

The help is made available in two ways. The bill increases funds that are available under existing law to help States plan and administer coastal protection programs. It adds to existing law a special fund to help States cope with offshore oil development so long as offshore oil impacts are treated as part of its coastal zone management plan. The bill authorizes nearly \$400 million for loans and grants during fiscal 1976. But it does so in a way that will prevent States which are making claims for help from turning the program into what the Commerce Committee calls in its report "a bureaucratic maze or windfall profits for consulting firms."

This is an important bill, not only for the job it sets out to do directly but for the larger problems it represents. As Senator from

Maine, I support this bill. As chairman of the Budget Committee, I am obliged to spend some time today on the larger problems it represents.

The very survival of the United States depends on reliable supplies of energy at costs over which we have far more control than we now have. The Outer Continental Shelf may provide some of those supplies. Nobody knows for certain. But even if oil is discovered off the Atlantic coast, for example, it is likely to meet our needs only for a matter of years, not for decades. So one message of S. 586 is that it would be criminally foolish to plunder our coastlines for the sake of a limited supply of energy. One message is that the job of offshore energy development must be done carefully and properly.

There is another message associated with S. 586. It represents months of hard work, of study, of hearings, and of negotiations. And yet, as I have said, it may well deal with only a limited contribution to our future energy needs. Thus, S. 586 is an indication of the complexity and magnitude of the job this country faces in solving its energy problems.

Finally, S. 586 is expensive. It is a good bill. It is an important bill. It is a necessary bill. But it will cost nearly \$2 billion over the next 10 years. And S. 586 is as good a warning as we are likely to get this early in the session of what we are up against in trying to establish priorities for rationing the money available to us in the fiscal 1976 budget.

This bill does, however, exceed the budget resolution regarding budget authority, but is well within budget authority regarding outlays this year. In drafting the budget ceiling, we assumed a total of \$300 million in budget authority for fiscal 1976 for the programs this bill would create. The bill calls for nearly \$400 million in budget authority. In terms of outlays, the bill probably is below the original estimates. We assumed outlays of \$300 million. Because so many of the programs in S. 586 are designed to take effect gradually, the Commerce Committee staff anticipates outlays of about \$200 million in fiscal 1976.

Were it not for the fact that outlays under this bill will be \$100 million less than the budget resolution contemplated, I would be required to support a reduction in budget authority. But inasmuch as a full appropriation of the budget authority figure contained in the bill would not increase outlays or the deficit projected in the budget resolution this year, I intend to support the bill. In future years, we will have to look closely at this program, however, and it may be that appropriations will need to be tailored to the larger fiscal picture as well as the needs that this bill addresses.

I may say to my colleagues that one statement in the prepared statement having to do with the budget authority, question is more definite than now appears to be justified by what I hope I said to the Senator from South Carolina, and I want the RECORD to reflect that fact.

Mr. HOLLINGS. Very good.

Mr. BELLMON. Mr. President, I thank the distinguished Senator from Maine for his contribution in relation to the course of this legislation. It now appears from this chart on page 51, and I would like to call the attention of the Senate to the fact, that this bill is expected to cost some \$2 billion over the next 10 years. I think we all ought to realize that when we cast our votes.

It is understandable that my colleagues from the coastal and Great Lakes States support this legislation, and those of us who come from the land-locked States have the obligation to call a spade a spade.

In my opinion, this bill is no more than a payoff to the coastal States for them to go on with the development of their energy resources.

There is no reason why funds beyond those already available for the coastal zone States legislated back in 1972 are necessary to plan for energy resource development in the Outer Continental Shelf for onshore impact. Moreover, the States and localities have their taxing, zoning, State, and police powers to deal with in the construction of energy-related facilities.

It is necessary for me to call attention to the rising tide of national dismay at the short-sighted attitude of some of the coastal States which, up to now, prohibited offshore drilling or the construction of refineries or other energy-related developments which are necessary to help the Nation out of its energy dilemma.

Oklahoma and other similarly situated States have allowed, in fact we have encouraged, the development of our energy resources for many years. Now, through controls on the price of crude oil and natural gas, we are having our property literally expropriated for the benefit of some of those same coastal States that seek this legislation, in the very heavy cost of this bill. We are even presently losing millions of dollars in tax revenues every year because of our State and local taxes being necessarily based upon the artificially low prices that Congress has mandated.

The question is, Where is the payoff for States like Oklahoma or other energy-producing areas? The passage of this act is an invitation to every State to lock up its natural resources against development until the Federal Government submits itself to this kind of blackmail.

Already the political powers of the populous States are taking natural gas and old oil from the producing States at from one-third to one-half the value of these products by what I consider to be short-sighted actions.

Now, the same forces are undertaking to legislate this kind of a bill that pays the States, that have not been willing to have their energy resources developed, to go ahead and do the things which we have been doing for many years.

Mr. President, this bill can only be described as a multibillion-dollar ripoff of the coastal States, and I urge its defeat.

#### ADDITIONAL STATEMENTS OF S. 586

**Mr. KENNEDY.** Mr. President, the Coastal Zone Management Act Amendments we have before us today are a recognition by the Congress of the significant impacts which will result from accelerated offshore leasing and of the needs of coastal States for assistance in planning to absorb those impacts. It is the result of nearly 2 years of study, hearings and investigations. It takes into account the views of local and State officials, concerned public interest groups, and representatives of business and industry—all of whom presented testimony during the development of the legislation.

My own Subcommittee on Administrative Practice and Procedure participated actively in this process. It was just a year ago that my

subcommittee, together with the National Ocean Policy Study, held field hearings in Boston to solicit the views of concerned New Englanders on what legislative and administrative actions were necessary to assure full protection of the public interest, both in the procedures leading up to a final decision on whether offshore leasing should go forward and in insuring adequate protection of the interests of New England if exploration and development is undertaken on the Georges Bank.

Those hearings made clear the deep concern which exists in all sectors of the New England economy over the adequacy of petroleum supplies and the price we are paying for oil. New England has led the Nation in conservation. Our State officials have been in the forefront of efforts to bring about lower prices and to remove the burden which results from our dependence on high-priced foreign oil imports.

Nevertheless, those hearings also made clear just how pervasive the concern is—among business and industry, among fishing interests, among tourist and recreation interests and among citizens groups—that they have not been brought into the formulation of Federal energy policy. A suspicious and distrustful attitude had developed between our regional, State and local groups and the Federal Government. It threatened to stand in the way of the necessary cooperative effort we must make to develop national energy policies which are fair and equitable to all regions.

One critical portion of the Federal energy policy is the decision-making process involving our offshore oil and gas reserves. If offshore oil and gas will help reduce energy costs, if it can be developed without jeopardizing our environment, if it can be brought in without destroying our tourist and fishing industries, if it can be carried out without distorting our future coastal development I believe we will be able to win the support of the people of New England for a well-planned offshore leasing program.

At present, however, there is little incentive for coastal States like New England to offer their support to such a program. The oil that becomes available will sell at premium prices, not subject to price controls. In Massachusetts, where many of our communities are operating on a marginal tax base, we cannot afford the schools, hospitals and other facilities which will be required during an intensive effort to bring offshore areas into production. And with an unemployment rate now over 10 percent in Massachusetts, we cannot afford a cycle of boom and bust economies, where communities may gain jobs for a short period, only to be plunged back into high unemployment once the rigs are in place and the demand for labor returns to predevelopment levels.

We know that large amounts of land will be needed if we are to construct refineries, petro-chemical plants and other related facilities—but lacking information on the extent of deposits on Georges Bank we cannot make even the roughest estimate of the extent of our potential need for such facilities. The possibility exists of having 17 percent of the prime industrial land in Rhode Island and eastern Massachusetts utilized in the full development of offshore oil and gas. A commitment of this amount of land, with its consequent environmental impacts, will have significant ramifications for the area and should not be undertaken without sufficient study and policy con-

sideration. We do not know whether any of the oil which may be found on Georges Bank will be transported into New England—a crucial factor in determining how on-shore development should proceed. We do not know the net impact of the needed increase in services which will be required of municipalities, which may outweigh the benefits of any increase in employment and tax revenues. We do not know what shifts in population may occur and the increased services which may be required to meet changing populations. We do not know how cities will be able to respond to development activity which may occur.

Our fishing industry, although it has been on the narrow edge of survival for many years, is still a \$50 million enterprise and too valuable to be pushed aside without more accurate information on what the long term effects of offshore development will be on commercial fishing stocks and the access of fishermen to those stocks. We have a recreation industry that supplies 75,000 primary jobs and over 100,000 for secondary employment. The keystone to this industry is the ocean—especially along Cape Cod, the closest landfall to the proposed area of petroleum development in New England.

All of these issues are particularly critical to Massachusetts and New England following the Interior Department's announcement last month that it is calling for nominations for accelerated oil and gas development on Georges Bank. This action sets in motion a 15-month process which may culminate in the sale of leases on Georges Bank to oil companies in August of next year. It was taken despite the fact that the Department has failed to respond to our requests for data on the value of these publicly owned energy resources and despite the absence of equally accelerated action to protect marine and coastal resources. My letter to Secretary Hathaway, a copy of which I will ask to be printed at the conclusion of my remarks, states those concerns more fully. I am still awaiting a reply.

In the absence of steps by the executive branch to win public confidence in the offshore oil and gas leasing process and to initiate a cooperative effort between local, State and Federal Governments, the Senate, in the bill we have before us today, is assigning high priority to the resolution of these problems. The following provisions of the pending Coastal Zone Management Act amendments will be of particular importance:

The establishment of a coastal energy facility impact fund, providing loans and grants of up to \$250 million per year for 3 years to offset impacts of major energy facilities;

The establishment of a Coastal Impacts Review Board to determine whether States will suffer adverse impacts from energy facilities;

The authorization of a Federal guarantee of State or local bonds used to provide public facilities and services required by offshore energy production operations;

The clarification of offshore leases as activities which must be consistent with federally-approved coastal zone management programs and assurance that onshore impacts from offshore operations will have to conform with State coastal zone plans;

The provision of \$10 million annually for coastal zone research and training needed to speed the completion of State coastal zone programs;



The authorization of \$5 million for interstate compacts or regional agreements among States to help solve major Federal-State problems and conflicts and for coordination of coastal zone programs;

The provision of \$50 million annually for acquisition of lands to provide protection of and access to public beaches and for island preservation;

An increase in the Federal share for coastal zone program development and management from two-thirds to 80 percent; and

An increase in the authorization for program development grants and for the management of approved programs.

State officials in Massachusetts, as in other coastal States, face a formidable task in establishing mechanisms for planning for the on-shore impacts of offshore development. In my own State efforts are underway to plan for future growth and development in the coastal zone taking into account the physical capability of the land, the economic potential of our own State and of the New England region, and the social goals of the people in our area. Planning will be required to identify sites or areas that meet environmental economic and social criteria for facilities related to offshore development. Regional needs for the siting of offshore related facilities will also be considered, and tradeoffs between and among the States will probably be required. Methods will have to be developed within each State for evaluating the siting of offshore related facilities, in relationship to all other uses.

In addition to siting problems, Massachusetts and New England must take into account relevant policies, resource capabilities and legal and institutional mechanisms. Critical environmental areas that must be protected from such activities will have to be identified. All the work will have to be integrated, not only within each coastal zone program, but also within the context of all State natural resource management programs.

In Massachusetts this planning process is already well underway. We have an Energy Facility Siting Council, established in 1973 and expanded last year, with powers to regulate location of electric powerplants and liquefied natural gas storage sites. The New England River Basins Commission has recommended that the Council be further expanded to include control over locations of any refinery operations, and that other States set up similar agencies. The New England Regional Commission is conducting a survey of potential sites which will at least offer a frame of reference for discussion toward a unified approach to siting. Lt. Gov. Thomas O'Neill, in coordination with the New England Commission has convened a conference of all relevant State officials to discuss the issue of offshore development on George's Bank. A Cabinet level task force has been established to oversee the issues pertaining to the potential development of Georges Bank.

The planning process, and the subsequent implementation of an approved plan, is an expensive and complex process. States like Massachusetts urgently need the additional resources which will be provided by the Coastal Zone Management Act amendments before us today.

The provisions of the pending amendments will help us in clarifying some of these impacts on land use and the coastal zone. The amendments to the Outer Continental Shelf Lands Act, which have been ordered reported by the Senate Interior Committee and which will be before the Senator shortly, will assist in remedying present inade-

quacies in the offshore leasing process itself, in the access of the public to data concerning the extent of offshore oil and gas resources, in the ability of citizens to bring suits against the oil companies and the Federal Government for alleged violations of the OCS Act and in the liability of oil companies for oil spills in connection with offshore development.

I urge my colleagues to support the Coastal Zone Management Act Amendments of 1975 before us today, and to make a similar commitment to active participation in the upcoming debate on the Outer Continental Shelf Lands Act amendments.

I ask unanimous consent that my letter to Secretary Hathaway be printed in the Record.

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

JUNE 18, 1975.

HON. STANLEY HATHAWAY,  
*Secretary, Department of the Interior,*  
*Washington, D.C.*

DEAR MR. SECRETARY: I am deeply disturbed over the Interior Department's decision to call for nominations for oil and gas development on Georges Bank in the absence of vital information requested by local, state and federal officials from Massachusetts and New England.

At the outset, I want to emphasize that I am convinced that the citizens and public officials in the Northeast are prepared to give their support to a well-planned offshore leasing program. No area of the country is more aware of the need to develop new energy sources, or of the benefits which might come from an offshore drilling program which ensures that full value will be received for the tracts to be leased and which includes strong provisions for the protection of coastal areas.

I am concerned, however, that the lack of response by the Department to the serious questions which have been raised will continue to be a major barrier to public acceptance of offshore drilling. As you are aware, it was over two years ago that members of Congress concerned over the impact of offshore development urged the Administration to support an environmental impact assessment by the Council on Environmental Quality and the National Academy of Sciences. That study and critique were complete last year, and raised significant concerns which must be addressed prior to any tentative tract selection. Since that time, in hearings conducted by my Subcommittee on Administrative Practice and Procedure and in extensive testimony before a number of Senate Committees, witnesses have emphasized the need for more information prior to a decision to accelerate leasing in frontier offshore areas.

A prime concern has been the lack of data on the extent and value of offshore oil and gas deposits, and the need for a government survey of those resources, the results of which would be available to the public. The need for such a survey, as well as the advantages of separating the offshore exploration process from that of development, is addressed in legislation now moving through the Congress. This step would measurably improve the ability of the public to participate effectively in the offshore leasing process and contribute to public understanding of the risks and benefits associated with offshore development. An accelerated offshore leasing program should not be initiated prior to resolution of this issue.

Other on-going concerns are: the need to initiate immediately environmental base lines studies of the Georges Bank area; the designation of certain portions of the outer continental shelf as a national strategic reserve; an assessment of the impact on fishery resources of offshore development; and an agreement on what share of bonus and royalty payments resulting from offshore development will be shared by the states which lie adjacent to drilling sites.

None of these concerns has been addressed satisfactorily by the Department—and on some there has been no action at all.

As a priority matter in carrying out your responsibilities as Secretary, I am requesting that you take action to have these studies completed and to resolve the concerns we have outlined, prior to any tentative tract selection on Georges Bank. Winning public confidence and initiating a cooperative effort between local, state,

and federal governments—factors which you emphasized in your testimony before the Senate Interior Committee—clearly must precede any further steps toward offshore drilling in frontier areas.

I look forward to hearing from you and believe that a full response from the Department can lead to the kind of public participation and public access to information necessary for effective involvement by concerned citizens in the offshore leasing decision making process.

Sincerely,

EDWARD M. KENNEDY.

Mr. PELL. Section 310(c) of the act authorizes a program of grants to State agencies for short-term research and training, with an authorization of \$5 million a year. Could the distinguished chairman provide information on how this research fund will be administered? How will this research fund be coordinated with the sea grant college programs, many of which include significant coastal zone research conducted in cooperation with State management agencies?

Mr. HOLLINGS. It is the intent that these grants be fully coordinated within NOAA with ongoing programs of the sea grant program since the program itself will be administered by NOAA.

Mr. PELL. I note that the act provides no maximum grant to an individual State agency under section 310(c). Is it anticipated that the research funds will be distributed equally among all of the coastal States? What will be the guidelines in the distribution of these research funds? The sea grant legislation provides that no one State shall receive more than 15 percent of the total funds appropriated in any year.

Mr. HOLLINGS. The Secretary should develop guidelines so that those States with greatest needs will be appropriately aided.

Mr. PELL. Under the sea grant college program, Federal grants are on a 2-to-1 basis. This legislation provides 80 percent—4-to-1—matching grants for research. Is there not the possibility that States doing research under sea grant funds will in effect be penalized by being required to provide greater matching money, in comparison with States seeking research funds under this new provision?

Mr. HOLLINGS. No. I do not think this should be a problem because it is the intent of the committee that this money be used for quick turnaround research, often through the existing sea grant program as appropriate, but in no event to set up duplicating efforts.

Mr. PELL. Mr. President, the Coastal Zone Management Act Amendments of 1975, now being considered by the Senate, are vitally important to the future of the coastal zone of our Nation, and essential to the economic and environmental well-being of our coastal States.

The coastal zone has come under increasingly intense pressure as the Nation looks to its coastal areas for new energy sources, for power-plant sites, for ocean transportation and port facilities, for fishery and mineral resources, and for recreational opportunities.

The Coastal Zone Management Act Amendments are intended to assist the States in meeting the challenge of managing the use of their coastal areas wisely, prudently and in the best interests of the public, in the face of these intense development pressures.

Our coastal States desperately need the assistance that would be provided by this act. As a Senator from a coastal State, and as a member of the Senate's National Ocean Policy Study, I fully support this expansion of the Coastal Zone Management Amendment Act to help our States meet the extraordinary challenges that confront them.

In my own State of Rhode Island, we are acutely aware of the value of our coastal areas, and of the growing development pressures which threaten those areas. I am proud to say that Rhode Island has been a leader among the coastal States in its efforts to manage the burgeoning development of coastal areas.

Rhode Island was among the first States to qualify for Coastal Zone planning funds under the Coastal Zone Management Act, and it is among a handful of States that have enacted comprehensive coastal zone management legislation.

But even those States, such as Rhode Island, which have moved energetically and with foresight in coastal zone management, will need added assistance. Foremost among the problems we confront is the prospect of development of potential petroleum resources off the New England coast. As the committee has noted in its report, the decision to lease and develop those petroleum resources rests entirely with the Federal Government. But it is the States and the State governments which must bear the burden of preparing for and relieving the very severe onshore impacts of offshore development.

I strongly support the establishment of a coastal energy impact fund, from which grants and loans will be made to coastal States, as provided in this legislation. Equally important are the provision of funds for acquisition of lands to provide protection of and access to public beaches and for island preservation, and the increase provided in funds for State program development and management.

Mr. President, the committee has noted in its report that effective coastal zone management requires research to provide the information needed to make informed decisions. The act provides \$10 million annually for such research and for training, including \$5 million annually for matching grants.

I agree fully that additional research is needed to support effective coastal zone management programs. At the present time, the most significant and effective source of funds for coastal zone research is the sea grant college program, which, like the coastal zone management program is a part of the National Oceanic and Atmospheric Administration.

In my own State of Rhode Island, the research programs funded at the University of Rhode Island by the sea grant college program function as the effective research arm of the State's coastal zone management program. The URI sea grant program has responded positively and effectively to the need for coastal zone information required by the State's coastal zone management program.

And this is not an isolated instance. It is no coincidence that these States in the forefront of coastal zone management efforts also have strong and effective sea grant college programs that are making significant and indeed vital contributions to management programs.

I would expect, therefore, that the additional coastal zone research funds provided by this legislation would be coordinated with existing sea grant college research programs, and would to the maximum extent possible be funneled through the existing sea grant college programs mechanisms.

Mr. President, as a Senator from a coastal State, as a member of the national ocean policy study, and as an original cosponsor of this legislation, I urge its approval.

Mr. CASE. As the distinguished Senator from South Carolina knows, both offshore oil drilling and deepwater oil ports have been proposed in the waters off the coast of New Jersey. As I read the provisions of section 308(b) and the definition of "energy facilities" in section 102, it is my understanding that the grants and loans mentioned in section 308(b) would be applicable to both offshore oil drilling and to deepwater ports. In order to establish a legislative record on this matter, would the Senator inform me whether my understanding in this matter is correct?

Mr. HOLLINGS. The understanding of the Senator from New Jersey is correct. It was the intent of the committee that the grants and loans mentioned in section 308(b) would be applicable to both offshore oil drilling and to deepwater ports which are handling petroleum. Deepwater ports are included in the meaning of "energy facilities," which are defined in section 102(j)(2)(E) as including "facilities for offshore loading and marine transfer of petroleum."

Mr. WILLIAMS. Mr. President, I am pleased to add my endorsement to S. 586 which is designed to strengthen the Coastal Zone Management Act of 1972.

In the State of New Jersey, we believe that Senator HOLLINGS and his colleagues showed remarkable foresight in initiating that legislation 3 years ago. Proposals are being made for a deepwater port, oil drilling and floating nuclear powerplants off our shore, and the only protection our precious coastal resource has is the Coastal Zone Management Act of 1972. This act was created to assist the States in developing adequate controls to prevent damage to the adjacent land and to preserve the fragile ecological balance in coastal areas.

New Jersey has a billion dollar tourist industry at stake as well as rich agricultural areas in its coastal zone. The development of offshore drilling will have a profound effect on recreation areas, commercial shipping, fishing, and waste disposal. Offshore drilling raises a myriad of questions concerning shifts in population density, adequate housing, educational facilities, and fire and police protection. Offshore drilling will have a critical influence on the quality of life in New Jersey's coastal areas.

Fortunately, my State is well along in preparing its comprehensive coastal zone plan. We are very eager to complete it so that Federal programs such as offshore drilling can be made to conform to New Jersey's needs.

Therefore, I am particularly pleased to see section (12) in the "General Provisions" of S. 586 which clarifies the intention of Congress in its original passage of the Coastal Zone plan so that Federal offshore leasing is included in the "consistency clause" of the act. That section proclaims unequivocally that once a State has a federally-approved coastal zone management program, Federal agencies must conduct their activities consistent with the program. In addition, Federal license and permit actions must also conform to the State plan. This "consistency" provision is the key to a successful State program for coastal zone management.

I welcome this clarification of what I believe to have been our original congressional intent. The clarification is needed in view of the administration's tendency to ignore the spirit of the act in developing its massive offshore leasing plan.

I am also concerned about the costs State and local governments will face if oil and gas are discovered in commercial quantities off our coast. The provision in S. 586 for a coastal energy facility impact fund with automatic grants based on OCS production or landing will help satisfy State and local officials that they will be compensated for on-shore impacts of drilling. It is my understanding that this provision would include Federal assistance for the impacts from landing imported oil as well as energy produced offshore.

There will be some difficulty in being able to evaluate some of the impacts accurately. For example, how do we assess the cost of altering the nature of an agricultural community for a 30-year period. This will occur if oil comes ashore in southern New Jersey. We must prepare to deal with the issue now.

There are other improvements in this bill. The additional funds to States for the coastal zone management program will be very helpful to New Jersey and the other participating States. The formula providing a larger Federal share in the funding is also most welcome.

This legislation is an important step in assuring the States that energy facilities on the coasts will be made to conform to State coastal zone programs, and the costs which the States must bear will be adequately compensated. It is an improved mechanism for the coastal States to prepare adequately for the environmental, economic, and social impacts of offshore drilling on neighboring lands. I am pleased to support this congressional commitment to preserve the environment and protect the quality of life in our coastal areas. Most importantly, this legislation will not unduly burden the search for new energy supplies, but it will help to conduct that effort in a rational manner.

The administration has exhibited an unproductive and irresponsible haste in its headlong rush to expand offshore leasing. Serious problems exist in the current leasing practices. There are widespread doubts about what the industrial capabilities for development are. Inconsistent practices of Federal agencies are weakening the decisionmaking process.

In view of the administration's failure to demonstrate a willingness to protect our coastal environment, I am pleased that Congress has assumed a leadership role in properly assessing the critical questions regarding the onshore effects of the development of possible oil supplies on the Outer Continental Shelves. This attitude is more responsible, and I am sure will prove to be more productive in the long run.

Mr. HOLLINGS. I yield to the Senator from Montana.

#### COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1975

The Senate continued with the consideration of the bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the distinguished Senator from Delaware be added as a cosponsor.

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

Mr. HOLLINGS. Mr. President, I thank my colleagues for their indulgence and support.

The PRESIDING OFFICER. Do the Senators yield back all their time?

Mr. HOLLINGS. I yield back all my time.

Mr. STEVENS. I yield back all my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. CcClellan), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that the Senator from Michigan (Mr. Griffin) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from New York (Mr. Javits) would vote "yea."

On this vote, the Senator from Maryland (Mr. Beall) is paired with the Senator from North Dakota (Mr. Young).

If present and voting, the Senator from Maryland would vote yea and the Senator from North Dakota would vote nay.

The result was announced—yeas 73, nays 15, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—73

Abourezk	Hathaway	Pearson
Baker	Hollings	Pell
Biden	Huddleston	Percy
Brooke	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Harry F., Jr.	Jackson	Ribicoff
Byrd, Robert C.	Johnston	Roth
Case	Kennedy	Schweiker
Chiles	Leahy	Scott, Hugh
Clark	Long	Scott, William L.
Cranston	Magnuson	Sparkman
Culver	Mansfield	Stafford
Domenici	Mathias	Stennis
Eagleton	McGee	Stevens
Fong	McGovern	Stevenson
Ford	McIntyre	Stone
Garn	Metcalfe	Symington
Glenn	Mondale	Taft
Gravel	Montoya	Talmadge
Hansen	Morgan	Thurmond
Hart, Gary W.	Moss	Tunney
Hart, Philip A.	Muskie	Weicker
Hartke	Nelson	Williams
Haskell	Nunn	
Hatfield	Packwood	

## NAYS—15

Allen	Bumpers	Goldwater
Bartlett	Church	Helms
Bellmon	Curtis	Hruska
Brock	Dole	McClure
Buckley	Fannin	Tower

## NOT VOTING—11

Bayh	Eastland	McClellan
Beall	Griffin	Pastore
Bentsen	Javits	Young
Cannon	Laxalt	

So the bill (S. 586) was passed, as follows :

## S. 586

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

## TITLE I

## SHORT TITLE

SEC. 101. This title may be cited as the "Coastal Zone Management Act Amendments of 1975".

## GENERAL PROVISIONS

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting "ecological," immediately after "recreational."

(2) Section 304(a) of such Act (16 U.S.C. 1463(a)) is amended by inserting therein "islands," immediately after the words "and includes".

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting "and" after "transitional areas," and inserting "and islands," after "uplands,".

(4) Section 304 of such Act (16 U.S.C. 1453) is amended by adding at the end thereof the following new subsections :

"(j) 'Energy facilities' means new facilities, or additions to existing facilities—

"(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource ; or

"(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to, (A) electric generating plants ; (B) petroleum refineries and associated facilities ; (C) gasification plants ; liquefied natural gas storage, transfer, or conversion facilities ; and uranium enrichment or nuclear fuel processing facilities ; (D) offshore oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary or appropriate for such exploration, development or production ; (E) facilities for offshore loading and marine transfer of petroleum ; and (F) transmission and pipeline facilities, including terminals which are associated with any of the foregoing.

"(k) 'Person' has the meaning prescribed in section 1 of title 1, United States Code, except that the term also includes any State, local, or regional government ; the Federal Government ; and any department agency, corporation, instrumentality, or other entity or official of any of the foregoing.

"(l) 'Public facilities and public services means any services or facilities which are financed, in whole or in part, by State or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services and facilities related thereto, and such governmental services as are necessary to support any increase in population and development."



(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(7) a definition of the term 'beach' and a general plan for the protection of, and access to, public beaches and other coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value:

"(8) planning for energy facilities to be located in the coastal zone, planning for and management of the anticipated impacts from any energy facility, and a process or mechanism capable of adequately conducting such planning activities."

(6) Section 305(c) of such Act (16 U.S.C. 1454(c)) is amended by deleting "66 $\frac{2}{3}$ " and inserting in lieu thereof "80", and by deleting in the first sentence thereof "three" and inserting in lieu thereof "four".

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended by—

(A) deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following ": *Provided*, That notwithstanding any provision of this section or of section 306 no State management program submitted pursuant to this subsection shall be considered incomplete, nor shall final approval thereof be delayed, on account of such State's failure to comply with any regulations that are issued by the Secretary to implement subsection (b) (7) or (b) (8) of this section, until September 30, 1978."; and

(B) deleting the period at the end thereof and inserting in lieu thereof the following ": *Provided*, That the State shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a beach and coastal area access plan and an energy facility planning process for its State management program, pursuant to regulations adopted by the Secretary to implement subsections (b) (7) and (b) (8) of this section."

(8) Section 305(h) of such Act (16 U.S.C. 1454(h)) is amended by deleting "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

(9) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting "66 $\frac{2}{3}$ " and inserting in lieu thereof "80".

(10) Section 306(c) (8) of such Act (16 U.S.C. 1455(c) (8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a State's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the State has given consideration to any applicable interstate energy plan or program which is promulgated by any interstate entity established pursuant to section 309 of this title."

(11) Section 306 of such Act (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a State's continued eligibility for grants pursuant to this section, the management program of such State shall, after the fiscal year ending in 1978, include, as an integral part, an energy facility planning process, which is developed pursuant to section 305(b) (8) of this title, and approved by the Secretary, and a general plan for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b) (7) of this title, and approved by the Secretary."

(12) Section 307(c) (3) of such Act (16 U.S.C. 1456(c) (3)) is amended by (A) deleting "license or permit" in the first sentence thereof and inserting in lieu thereof "license, lease, or permit"; (B) deleting "licensing or permitting" in the first sentence thereof and inserting in lieu thereof "licensing, leasing, or permitting"; and (C) deleting "license or permit" in the last sentence thereof and inserting in lieu thereof "license, lease, or permit".

(13) Sections 308 through 315 of such Act (16 U.S.C. 1457 through 1464) are redesignated as sections 311 through 318 thereof, respectively; and the following three new sections are inserted as follows:

#### "COASTAL ENERGY FACILITY IMPACT PROGRAM

"SEC. 308. (a) The Secretary is authorized to make a grant to a coastal State, if he determines that such State's coastal zone has been, or is likely to be, impacted by the exploration for, or the development or production of, energy resources or by the location, construction, expansion, or operation of an energy facility. Such grant shall be for the purpose of enabling such coastal State to study and plan for the economic, environmental, and social consequences which are likely to result in such coastal zone from exploration for and development or production of such energy resources or from the location, construction, expansion, or

operation of such an energy facility. The amount of such a grant may equal up to 100 percent of the cost of such study and plan, to the extent of available funds.

“(b) The Secretary is authorized to make a loan and/or a grant to a coastal State, if he determines, pursuant to subsections (d) and (e) of this section, that such State's coastal zone has been or is likely to be adversely impacted by exploration for or by development or production of energy resources or by the location, construction, expansion, or operation of an energy facility, if such adverse impact will result as a consequence of a license, lease, easement, or permit issued or granted by the Federal Government which permits—

“(1) the exploration for, or the drilling, mining, removal, or extraction of, energy resources;

“(2) the sitting, location, construction, expansion, or operation of energy facilities by a lessee, licensee, or permittee; or

“(3) the siting, location, construction, expansion, or operation of energy facilities by or for the United States Government.

The proceeds of such a loan or grant shall be used for—

“(A) projects which are designed to reduce, ameliorate, or compensate for the net adverse impacts; and/or

“(B) projects which are designed to provote new or additional public facilities and public services which are made necessary, directly or indirectly, by the location, construction, expansion, or operation of such an energy facility or energy resource exploration, development or production.

The amount of such a loan or grant may equal up to 100 percent of the cost of such a project, to the extent of available funds.

“(c) (1) The Secretary may make a grant to a coastal State for a purpose specified in subsection (b) of this section, if he determines that such State will suffer net adverse impacts in its coastal zone, as a result of exploration for, or development and production of, energy resources; as a result of the location, construction, expansion, or operation of an energy facility over the course of the projected or anticipated useful life of such energy facility; or as a result of exploration, development, or production activity.

“(2) The Secretary may make a loan to a coastal State for a purpose specified in subsection (b) of this section, if the Secretary determines that such State will experience temporary adverse impacts as a result of exploration for, development or production of, energy resources or as a result of the location, construction, expansion, or operation of an energy facility if such facility or such energy resource exploration, development or production is expected to produce net benefits for such State over the course of its projected or anticipated useful life. No such loan, including any renewal or extension of a loan, shall be made for a period exceeding 40 years. The Secretary shall from time to time establish the interest rate or rates at which loans shall be made under this subsection, but such rate shall not exceed an annual percentage rate of 7 percent. The borrower shall pay such fees and other charges as the Secretary may require. The Secretary may waive repayment of all or any part of a loan made under this subsection, including interest, if the State involved demonstrates, to the satisfaction of the Secretary, that due to a change in circumstances there are anticipated or resultant net adverse impacts over the life of an energy facility or energy resource exploration, development or production which would qualify the State for a grant pursuant to paragraph (1) of this subsection.

“(d) The Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant and loan eligibility pursuant to this section. Such requirements shall include criteria, which may include a formula, for calculating the amount of a grant or loan based upon the difference, to the State involved, between the benefits and the costs which are attributable to the exploration for or development and production of energy resources or to the location, construction, expansion or operation of an energy facility. Such criteria shall insure that grants and loans under this section relating to impacts resulting from the exploration, development and production, and related energy facilities shall receive first priority among competing applications. Such regulations shall provide that a State is eligible for a grant or loan upon a finding by the Secretary that such State—

“(1) is receiving a program development grant under section 305 of this title or is engaged in such program development in a manner consistent with the goals and objectives of this Act, as determined by the Secretary, and is making satisfactory progress, as determined by the Secretary, toward the development of a

coastal zone management program, or that it has an approved such program pursuant to section 306 of this title:

"(2) has demonstrated to the satisfaction of the Secretary that it has suffered, or is likely to suffer, not adverse impacts, according to the criteria or formula promulgated by the Secretary, and has provided all information required by the Secretary to calculate the amount of the grant or loan; and

"(3) has demonstrated to the satisfaction of the Secretary and has provided adequate assurances that the proceeds of such grant or loan will be used in a manner that will be consistent with the coastal zone management program being developed by it, or with its approved program, pursuant to section 305 or 306 of this title, respectively.

"(e) Within 180 days after approval of this Act, the Secretary shall issue regulations prescribing criteria in accordance with this Act for determining the eligibility of a coastal State for grants pursuant to subsections (a), (b), and (c) (1) of this section, and regulations for determining the amount of such grant or loan, in accordance with the following provisions:

"(1) The regulations shall specify the means and criteria by which the Secretary shall determine whether a State's coastal zone has been, or is likely to be, adversely impacted, as defined in this section, and the means and criteria by which 'net adverse impacts' and 'temporary adverse impacts' will be determined.

"(2) Regulations for grants pursuant to subsection (a) of this section for studying and planning, shall include appropriate criteria for the activities for which funds will be provided under such subsection, including a general range of activities for which a coastal State may request funds.

"(3) Regulations for grants and/or loans for projects pursuant to subsections (b) and (c) of this section shall specify criteria for determining—

"(A) the amounts which will be provided for such projects; and

"(B) guidelines and procedures for evaluating those projects which each coastal State considers to be most needed.

"(4) Regulations for loans shall provide for such security as the Secretary deems necessary, if any, to protect the interests of the United States and for such terms and conditions as give assurance that such loans will be repaid within the time fixed.

"(5) In all cases, each recipient of financial assistance under this section shall keep such records as the Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and such other records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall until the expiration of 3 years after the completion of the project or undertaking involved (or repayment of a loan, in such cases) have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which, in the opinion of the Secretary or the Comptroller General may be related or pertinent to any financial assistance received pursuant to this section.

"(6) In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, with representatives of appropriate State and local governments, commercial and industrial organizations, public and private groups, and any other appropriate organizations with knowledge or concerns regarding net adverse impacts that may be associated with the energy facilities affecting the coastal zone.

"(f) A coastal State may, for the purpose of carrying out the provisions of this section and with the approval of the Secretary, allocate all or a portion of any grant or loan received under this section to (1) a local government; (2) an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; (3) a regional agency; or (4) an interstate agency: *Provided*, That such allocation shall not relieve such State of the responsibility for ensuring that any funds so allocated shall be applied in furtherance of the purposes of this section.

"(g) A coastal State which has experienced net adverse impacts in its coastal zone as a result of the development or production of energy resources or a result of the location construction, expansion, or operation of energy facilities within 3 years prior to the date of enactment of this section is entitled to receive from the Secretary grants or loans pursuant to subsections (a) and (b) of this section to the same extent as if such net adverse impacts were experienced after the date of enactment, and to the extent necessary to reduce or ameliorate or com-

pense for such net adverse impacts, within the limits of available funds. This subsection shall expire 5 years from the date of enactment of this section.

"(h) All funds allocated, to the Secretary for the purposes of this section, except those funds made available pursuant to subsection (k) shall be deposited in a fund which shall be known as the Coastal Energy Facility Impact Fund. This fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to this fund. Moneys in this fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest by the United States.

"(i) In calculating the amount of a grant or loan, the Secretary shall give adequate consideration to the recommendations of a Coastal Impacts Review Board. Such Board shall consist of two members designated by the Secretary, one member designated by the Secretary of the Interior, one member designated by the Council on Environmental Quality, and four members appointed by the President as designated by the National Governors Conference. Such Board shall recommend the award of grants or loans upon a determination of net adverse impacts and following the procedures and criteria set forth in this section.

"(j) Nothing in this section shall be construed to modify or abrogate the consistency requirements of section 307 of this Act.

"(k) The Secretary shall, in addition to any financial assistance provided to, or available to, coastal States pursuant to any other subsection of this section, distribute grants annually in accordance with the provisions of this subsection. The moneys received under this subsection shall be expended by each State receiving such grants solely for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion, or operation of a related energy facility and/or for projects designed to provide new or additional public facilities and public services which are related to such exploration, development, production, location, construction, expansion, or operation, except that such grants shall initially be designated by each receiving State to retire State and local bonds, if any, which are guaranteed under section 316 of this Act; *Provided*, That, if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds. Subject to the foregoing expenditure requirements, each coastal State shall be entitled to receive a grant under this subsection if such State is, on the first day of the fiscal year—

"(1) adjacent to Outer Continental Shelf lands on which oil or natural gas is being produced; or

"(2) permitting crude oil or natural gas to be landed in its coastal zone: *Provided*, That such crude oil or natural gas has been produced on adjacent Outer Continental Shelf lands of such State or on Outer Continental Shelf lands which are adjacent to another State and transported directly to such State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil were produced adjacent to the landing State. In the event that a State is adjacent to Outer Continental Shelf lands where oil or natural gas is produced, but such oil or natural gas is landed in another State, the adjacent State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State.

Such states shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on Outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of 100,000 barrels per day of oil or an equivalent volume of natural gas. There are authorized to be appropriated for this purpose sufficient funds to provide such States with grants in the amount of 20 cents per barrel or its equivalent during the first year, 15 cents per barrel or its equivalent during the second year, 10 cents per barrel or its equivalent during the third year, and 8 cents per barrel or its equivalent during the fourth and all succeeding years during which oil or gas is landed in such a state or produced on Outer Continental Shelf lands adjacent to such a state: *Provided*, That (A) such funds shall not exceed \$100,000,000 for the fiscal year ending June 30, 1976; \$25,000,000 for the fiscal quarter ending September 30, 1976; \$100,000,000 for the fiscal year ending September 30, 1977; and \$100,000,000 for the fiscal year ending Septem-

ber 30, 1978; and (B) such funds shall be limited to payments for the first one and one-half million barrels of oil (or its gas equivalent) per day per State for the 10 succeeding fiscal years. The amount of such grant to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent to the State. For the purposes of this section, one barrel of crude oil equals 6,000 cubic feet of natural gas.

"(l) Any funds provided to any State under this section not expended in accordance with the purposes authorized herein shall be returned to the Treasury by such State.

"(m) There are hereby authorized to be appropriated to the Coastal Energy Facility Impact Fund such sums not to exceed \$200,000,000 for the fiscal year ending June 30, 1976, not to exceed \$50,000,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed \$200,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$200,000,000 for the fiscal year ending September 3, 1978, as may be necessary, for grants and/or loans under this section, to remain available until expended. No more than 25 percent of the total amount appropriated to such fund for a particular fiscal year shall be used for the purposes set forth in subsection (a) of this section.

"(n) Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by deleting '52½ per centum thereof shall be paid into, reserved' and inserting in lieu thereof: '30 per centum thereof shall be paid into, reserved,' and is further amended by striking the period at the end of the provision and inserting in lieu thereof the following language: 'And provided further, That an additional 23½ per centum of all moneys received from sales, bonuses, royalties, and rentals of public lands under the provisions of this chapter shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 22½ per centum of all moneys paid to any State on or after January 1, 1976, shall be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.'

#### "INTERSTATE COORDINATION GRANTS TO STATES

"SEC. 309. (a) The States are encouraged to give high priority (1) to coordinating State coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The States may conduct such coordination, study, planning, and implementation through interstate agreement or compacts. The Secretary is authorized to make annual grants to the coastal States, not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal State receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) the establishment of such agencies, joint or otherwise, as the States may deem desirable for making effective such agreements and compacts. Such agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

"(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, the Administrator of the Federal Energy Administration, or their designated representatives, are authorized and directed to participate *ex officio* on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

"(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of States for the purpose of creating temporary ad hoc planning and coordinating entities to—

"(1) coordinate State coastal zone planning, policies, and programs in contiguous interstate areas;

"(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

"(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall become void and cease to have any force or effect 5 years after the date of enactment of this title.

#### "COASTAL RESEARCH AND TECHNICAL ASSISTANCE

"Sec. 310. (a) In order to facilitate the realization of the purposes of this Act, the Secretary is authorized to encourage and to support private and public organizations concerned with coastal zone management in conducting research and studies relevant to coastal zone management.

"(b) The Secretary is authorized to conduct a program of research, study, and training to support the development and implementation of State coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this Act, a summary and evaluation of the research, study, and training conducted under this section.

"(c) The Secretary is authorized to assist the coastal States to develop their own capability for carrying out short-term research, studies, and training required in support of coastal zone management. Such assistance may be provided by the Secretary in the form of annual grants. The amount of such a grant to a coastal State shall not exceed 80 percent of the cost of developing such capability."

(14) Section 316, as redesignated, of such Act (16 U.S.C. 1462) is amended by amending subsection (a) thereof as follows: (A) deleting "and" at the end of paragraph (8) thereof immediately after the semicolon; (B) renumbering paragraph (9) thereof as paragraph (11) thereof; and (C) inserting the following two new paragraphs:

"(9) a general description of the economic, environmental, and social impacts of the development or production of energy resources or the siting of energy facilities affecting the coastal zone;

"(10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal States; and"

(15) Section 318, as redesignated, of such Act (16 U.S.C. 1464) is further redesignated and amended to read as follows:

#### "AUTHORIZATION FOR APPROPRIATIONS

"Sec. 320. (a) There are authorized to be appropriated—

"(1) the sum of \$20,000,000 for the fiscal year ending June 30, 1976, \$5,000,000 for the transitional fiscal quarter ending September 30, 1976, \$20,000,000 for the fiscal year ending September 30, 1977, \$20,000,000 for the fiscal year ending September 30, 1978, and \$20,000,000 for the fiscal year ending September 30, 1979, for grants under section 305 of this Act, to remain available until expended;

"(2) such sums, not to exceed \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1977, \$50,000,000 for the fiscal year ending September 30, 1979, and \$50,000,000 for the fiscal year ending September 30 1980, as, may be necessary, for grants under section 306 of this Act, to remain available until expended;

"(3) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 309 of this Act, to remain available until expended;

"(4) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(b) of this Act, to remain available until expended;

"(5) such sums not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(c) of this Act, to remain available until expended;

"(6) the sum of \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, \$50,000,000 for the fiscal year ending September 30, 1977, \$50,000,000 for the fiscal year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$50,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, for the acquisition of lands to provide for the protection of, and access to, public beaches and for the preservation of islands under section 306(d) (2) of this Act, to remain available until expended; and

"(7) such sums, not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, \$2,500,000 for the transitional fiscal quarter ending September 30, 1976, \$10,000,000 for the fiscal year ending September 30, 1977, \$10,000,000 for the fiscal year ending September 30, 1978, \$10,000,000 for the fiscal year ending September 30, 1979, \$10,000,000 for the fiscal year ending September 30, 1980, and \$10,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 315 of this Act, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, and \$5,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for administrative expenses incident to the administration of this Act."

(16) The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) is amended by inserting therein the following two new sections:

#### "LIMITATIONS

"Sec. 318. Nothing in this Act shall be construed to require the approval of the Secretary as to any State land or water use decision pertaining to individual cases, including, but not limited to the siting of energy facilities, as a prerequisite to such States' eligibility for grants of loans under this Act.

## "STATE AND LOCAL GOVERNMENT BOND GUARANTEES

"Sec. 319.(a) The Secretary is authorized, subject to such terms and conditions as the Secretary prescribes, to make commitments to guarantee and to guarantee against loss of principal or interest the holders of bonds or other evidences of indebtedness issued by a State or local government to reduce, ameliorate or compensate the adverse impacts in the coastal zone resulting from or likely to result from the exploration for, or the development of production of, energy resources of the Outer Continental Shelf.

"(b) The Secretary shall prescribe and collect a guarantee fee in connection with guarantees made pursuant to this section. Such fees shall not exceed such amounts as the Secretary estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(c) (1) Payments required to be made as a result of any guarantee pursuant to this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for such purpose.

"(2) If there is a default by a State or local government in any payment of principal or interest under a bond or other evidence of indebtedness guaranteed by the Secretary pursuant to this section, any holder of such a bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, upon investigation, shall pay such amounts to such holders, unless the Secretary finds that there was no default by the State or local government involved or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the State or local government involved for the amount of such payment plus interest at prevailing rates. Such right of reimbursement may be satisfied by the Secretary by treating such amount as an offset against any revenues due or to become due to such State or local government under section 308(k) of this Act, and the Attorney General, upon the request of the Secretary, shall take such action as is, in the Secretary's discretion, necessary to protect the interests of the United States, including the recovery of previously paid funds that were not applied as provided in this Act. However, if the funds accrued by or section 308(k) of this Act are insufficient to reimburse the Federal Government due to the State in automatic grants under section 308(k) of this Act are insufficient to reimburse the Federal Government in full for funds paid under this section to retire either the principal or interest on the defaulted bonds, the Secretary's right of reimbursement shall be limited to the amount of such automatic grants accrued or due. Funds accrued in automatic grants under section 308(k) of this Act subsequent to default shall be applied by the Secretary toward the reimbursement of the obligation assumed by the Federal Government."

Sec. 103.(a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration."

SEC. 104. Nothing in this Act shall be construed to modify or abrogate the consistency requirements of section 307 of the Coastal Zone Management Act of 1972.

The title was amended so as to read:

A bill to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.



94TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
No. 94-277

COASTAL ZONE MANAGEMENT  
ACT AMENDMENTS OF 1975

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REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 586

TO AMEND THE COASTAL ZONE MANAGEMENT ACT OF 1972  
TO AUTHORIZE AND ASSIST THE COASTAL STATES TO  
STUDY, PLAN FOR, MANAGE, AND CONTROL THE IMPACT  
OF ENERGY RESOURCE DEVELOPMENT AND PRODUCTION  
WHICH AFFECTS THE COASTAL ZONE, AND FOR OTHER  
PURPOSES



JULY 11 (legislative day, JULY 10), 1975.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1975

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## Calendar No. 271

94TH CONGRESS }  
*1st Session* }

SENATE }

REPORT  
No. 94-277COASTAL ZONE MANAGEMENT ACT AMENDMENTS  
OF 1975

—————  
 JULY 11 (legislative day, JULY 10), 1975.—Ordered to be printed  
 —————

Mr. HOLLINGS, from the Committee on Commerce,  
 submitted the following

## REPORT

[To accompany S. 586]

The Committee on Commerce, having considered the bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes, reports favorably thereon with amendments and recommends that the bill as amended do pass.

## PURPOSE AND BRIEF DESCRIPTION

The bill amends the Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) to assist those States facing Outer Continental Shelf (OCS) oil and gas development or other energy-related developments and facilities affecting the coastal zone. Assistance is provided in the form of grants or loans to coastal States from a new Coastal Energy Facility Impact Fund, authorized at \$250 million for 3 fiscal years and the 1976 transitional quarter. The fund is available to States receiving or anticipating impacts in their coastal zones from the exploration for or development and production of energy resources, or from the location, construction, expansion or operation of any energy facility requiring a Federal license or permit. Up to 20 percent of the fund may be used for planning grants, and the balance is to be used for funding of up to 100 percent (within the limits of the total funds available) of efforts to reduce, ameliorate or compensate for net adverse impacts or to provide public facilities and services made necessary by the energy facility or resource development activity.

Funds may be disbursed to States either as grants or as loans, depending on whether the impacts are temporary or permanent over the

(1)

life of the energy facility or resource development activity. During the first 5 years after approval of the bill, States which have experienced net adverse impacts prior to enactment may also receive grants and/or loans from the Coastal Energy Facility Impact Fund.

States must participate in a coastal zone management program, either under sections 305 or 306 of the Coastal Zone Management Act or under State auspices, to be eligible to receive grants or loans from the Coastal Energy Facility Impact Fund. In addition, to receive funds other than planning funds, States must demonstrate to the satisfaction of the Secretary of Commerce that they have experienced or will experience temporary adverse impacts or net adverse impacts. Finally, States must satisfy the Secretary that the funds will be used in a manner consistent with their coastal zone management programs. In making grants or loans, the Secretary is to consider the recommendations of a joint Federal-State Coastal Impacts Review Board.

In addition to the Coastal Energy Facility Impact Fund, two other provisions in the bill will also help the States in planning for and coping with the coastal impacts of energy development and energy facilities. The bill provides for automatic grants to be given to any State which is actually landing OCS oil or natural gas in its coastal zone, or which is adjacent to OCS lands where oil or natural gas is being produced, or which is adjacent to OCS lands where oil or natural gas is being produced. Although the grants come from the General Treasury, and not from OCS revenues, the formula for calculating the amount of the grant is tied to the number of barrels of oil (or the natural gas equivalent) which are produced on adjacent OCS lands and/or landed in the State. These automatic grants must be used to ameliorate adverse impacts of energy resource development or related energy facilities.

The bill also provides a Federal guarantee for State or local government bonds issued to pay for measures needed to reduce, ameliorate or compensate for the adverse coastal impacts of OCS resource development. Additionally, the bill adds the word "lease" to section 307 of the Act, clarifying the applicability of the "Federal consistency provision to OCS leasing; this means that Federal leases must be consistent with approved coastal zone management programs of the affected States.

Other sections of the bill provide funds for research and training assistance to coastal States; for interstate compacts or other entities to facilitate interstate coordination of coastal zone management policies and programs; for land acquisition to encourage access to public beaches and preservation of islands; and for increased development and implementation grants under sections 305 and 306 of the act. The Federal share of coastal zone management (CZM) funding under these sections would rise from the present 66 $\frac{2}{3}$  percent to 80 percent. The Office of Coastal Zone Management would be directed by a new Associate Administrator of the National Oceanic and Atmospheric Administration (NOAA) appointed by the President with the advice and consent of the Senate.

#### BACKGROUND AND NEED

Several recent events, such as the energy crisis, passage of pollution control legislation, and land use conflicts in the coastal zone, have

pointed out the need for effective public policies to guide the use of ocean resources. Senate Resolution 222 was enacted to provide legislative proposals to deal with these policy issues. The National Ocean Policy Study, which was created under the committee's aegis by the resolution, selected as one of its first areas of investigation the energy potential of the Outer Continental Shelf and the impact of energy development and energy facilities upon the coastal zone. Subsequently, the National Ocean Policy Study produced four reports bearing on this issue: (1) "Outer Continental Shelf Oil and Gas Development and the Coastal Zone"; (2) "Outer Continental Shelf Oil and Gas Leasing Off Southern California: Analysis of Issues"; (3) "North Sea Oil and Gas: Impacts of Development on the Coastal Zone"; (4) "An Analysis of the Department of the Interior's Proposed Acceleration of Development of Oil and Gas on the Outer Continental Shelf."

Among the key findings of these reports were:

1. There is a strong likelihood of adverse, often severe, impacts within coastal regions resulting from unplanned, uncoordinated energy resource development and from the siting of facilities related to energy production, development, and utilization.

2. There is very little coordination or communication between Federal agencies and the affected coastal States prior to major energy resource development decisions, such as the decision to lease large tracts of the OCS for oil and gas. Further, coastal States often have been criticized unfairly for delaying the siting of energy facilities when such action often is the result of lack of information and planning.

3. Full implementation of the Coastal Zone Management Act of 1972 and recognition of its capability to solve energy-related conflicts could go far to institute the broad objectives of Federal-State cooperative planning envisioned by the framers of the act. The National Environmental Policy Act and the Coastal Zone Management Act are the two primary planning devices to achieve balanced land use and environmental protection in coastal regions.

#### HISTORY OF THE COASTAL ZONE MANAGEMENT ACT

Passage of the Coastal Zone Management Act in 1972 followed several years of increasing concern about the destruction of valuable coastal wetlands and beaches. The public first became aware in the 1960's that the coastal areas of the country, including the Great Lakes, represent some of our most valuable national assets. At that time scientists published reports describing the amazing productivity of estuarine areas. Researchers found these coastal waters to be 5 or 10 times more biologically productive than average agricultural lands. Estuaries, it was noted, provide the breeding ground for most of the important commercial fisheries in the country and are habitats for many species of wildlife.<sup>1</sup>

The committee was further persuaded of the need for such assistance by a report of the Technology Assessment Advisory Council of the Congressional Office of Technology Assessment, which stated,

<sup>1</sup>Typical of the reports of this period were "Estuaries" by George Lauff, published by the American Association for the Advancement of Science, and "The Theory of the Estuarine Ecosystem in Relation to Use, Management, and Pollution," by E. P. Odum in a presentation to the National Estuarine Pollution Study.

\* \* \* the Nation's future growth seems almost certain to be altered drastically from past patterns in which dependency on relatively cheap and plentiful energy has been a principal characteristic. Such a drastic change would likely require explicit policies for a coordinated transition to a different—energy conserving—pattern of national growth.<sup>2</sup>

The Council report also stated:

Through the entrepreneurship of private industry and the stimulus of Government programs, the application of technology has resulted in a startling tenfold increase in the value of the Nation's economic output in just 40 years. No more rapid increase in aggregate economic output has occurred at any previous period in world history. As spectacular as this growth was in bringing prosperity to wide segments of American society, it was achieved at a price which became increasingly unacceptable. The clustering of technological complexes has brought air and water pollution as well as urban congestion that produced social conflicts and environmental degradation which were not only contrary to American values but also threats to continued technological advance. These unintended and unanticipated consequences became the focus of public concern and, eventually, the Coastal Zone Management Act was enacted to avoid the detrimental aspects while securing the benefits of future applications of technology in the Nation's economic growth.

The committee notes that much of the future growth of the United States will occur in or near the coastal zone. Such growth will bring with it many associated problems. For example:

- More than 50 percent of the population of the United States lives in the counties bordering the oceans and the Great Lakes, and it has been estimated that by the year 2000, some 200 million people will live in the coastal zone.
- The seven largest metropolitan areas of the United States are on the coast.
- Forty percent of the industrial complexes are in estuarine areas.
- Sixty percent of U.S. refining capacity is concentrated in four coastal states (Texas, Louisiana, California and New Jersey), mostly on or near the coast.
- The Interior Department estimates that housing developments will become the leading causes of loss of estuarine areas.
- Much of the anticipated growth in electric power generating capacity will be installed in the coastal zone. Forty percent of the generating capacity brought into service at new

<sup>2</sup> "Recommendation for an Assessment of National Growth Policy Focused on the Siting of Energy Facilities," Technology Assessment Advisory Council, Office of Technology Assessment, U.S. Congress, November 20, 1974.

sites in 1972 was located in the coastal zone, and this trend will be reinforced by the proliferation of nuclear power plants, on and off shore.

Three major reports in the late 1960's served as the catalyst for action to protect the coasts. The reports pointed out that coastal areas and the estuaries are tied together intimately in a unique ecosystem which can be endangered by inappropriate development levels. The Presidentially appointed Commission on Marine Science, Engineering, and Resources issued its report, "Our Nation and the Sea," in January 1969, after a 2-year study. Known as the Stratton Commission after its chairman, Dr. Julius Stratton, the Commission recommended in its report that Congress pass a "Coastal Management Act" to provide coastal policy objectives and to authorize Federal grants to help States establish coastal zone authorities which could manage coastal waters and adjacent land. The Stratton Commission found that the coast is "in many respects, the Nation's most valuable geographic feature."

Dr. John Knauss, provost for marine affairs at the University of Rhode Island and head of a coastal zone panel for the Commission, summed up the recommendations in testimony that year before the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee:

[The coastal zone] is the area in which industry, trade, recreation, and conservation interests, waste disposal and potentially aquaculture all press most sharply on the limited resources of our environment.

The thing we try to stress in the panel report is that there are rapidly increasing pressures in this area created by the problems of conflicting use, and that many of the problems are expanding seaward.

The Commission finds the key need in the coastal zone to be a management system which will permit conscious and informed choices among development alternatives and which will provide for proper planning. The Federal Government can help in establishing such a system, but the primary responsibility lies with the States.

The Santa Barbara oil spill, also in January 1969, gave special urgency to the Commission's recommendation.

On November 3, 1969, the Federal Water Pollution Control Administration (FWPCA) of the Department of the Interior released its national estuarine pollution study. The document, produced pursuant to the Estuary Protection Act (Public Law 90-454), reported by the Committee on Commerce on July 17, 1968, described the natural functioning of estuaries and detailed the effects of pollution on estuaries. Like the Stratton Report, the estuarine pollution study recommended a coastal zone management effort, noting that the direct relationship between estuaries and coastal zones made it "impractical" to consider them separately. A proper management system, according to the FWPCA report, should recognize "the primary responsibilities of the States \* \* \* for their estuarine and coastal areas, and on the Federal side \* \* \* for the coordination of Federal activities in these

areas and for assistance to the States in their management activities.”<sup>3</sup>

A second Interior Department study of estuaries, this one done by the Fish and Wildlife Service, added additional impetus for action in 1970. The survey of the Nation's estuaries found that—with the exception of a few locations in Alaska—all estuarine areas in the Nation had already been modified by man's activities, with 23 percent “severely modified.” The report focused on the “urgent need to preserve and restore in the estuaries fish and wildlife resources, associated commercial fishing and outdoor recreation activities, esthetics and natural area preservation \* \* \*.” The report concluded:

It is in the national interest that the Federal Government help to provide leadership and incentive for estuary preservation and restoration for the benefit of all the people. As a first step the coastal zone management system bill should be enacted promptly.<sup>4</sup>

While the foregoing reports found existing State and local coastal protection measures inadequate, some States acted during the late 1960's and early 1970's to ameliorate the problems described in the reports. Most of these States acted to protect natural areas of special value such as dunes, barrier beaches or wetlands. Other States sought to assure public access to beaches. In the Great Lakes region, attention focused on the problems of flooding and shoreline erosion due to high water levels, and several States enacted shoreline control measures. More recently, States, such as Washington, California, and Hawaii, have tried to deal with the controversial issue of siting large energy facilities or, in the case of Delaware, even to bar heavy industry from coastal areas. A few States, such as Rhode Island, Washington and California have enacted comprehensive coastal zone management legislation.

Congressional action leading to passage of the Coastal Zone Management Act of 1972 [Public Law 92-583] began with the 89th Congress which created the Commission on Marine Science, Engineering and Resources by the act of June 17, 1966 [80 Stat. 203, 33 U.S.C. 1101], and its subsequent recommendation for legislation (described above). Bills in response to the Commission's recommendation were introduced in the first session of the 91st Congress, and the Committee on Commerce conducted its first hearing in December 1969. Additional bills were introduced in the second session. Exhaustive hearings were conducted by the committee in 1970, published as serial No. 91-59. A redrafted version of S. 2802 was ordered reported by the Subcommittee on Oceanography to the full committee late in the 91st Congress, but too late for final consideration before the Congress adjourned *sine die*. Early in the 92d Congress, Senator Hollings introduced the subcommittee bill, S. 582, and 3 additional days of hearings were conducted during May 1971, published as serial No. 92-15. The bill was redrafted by the subcommittee—redesignated the Subcommittee on Oceans and Atmosphere—drawing significantly on recommendations from the President's Council on Environmental Quality, as well as additional

<sup>3</sup> U.S. Department of the Interior, *The National Estuarine Pollution Study*, Federal Water Pollution Control Administration, 1969.

<sup>4</sup> U.S. Department of the Interior, *National Estuary Study*, U.S. Fish and Wildlife Service, 1970.



ideas from S. 638 and S. 992, proposing a National Land Use Policy Act. The committee reported the bill favorably on September 30, 1971, with amendments. On March 14, 1972, the bill was recommitted to the Committee for changes, then ordered favorably reported as an original bill, S. 3507, on April 11, 1972. On April 25, 1972, the bill was debated and passed by the Senate on a rollcall vote, 68-0. On August 2, 1972, the bill was considered and passed by the House. Conferees approved a final version of the bill which was agreed to by the House and Senate on October 12, 1972, and signed by the President on October 28.<sup>5</sup>

Hopes for an early start in development of State coastal zone management programs after the act's signing were not to be realized. In fact, it was not until December 1973 that National Oceanic and Atmospheric Administration received funding; the previous year's activities were limited by the Office of Management and Budget to setting up a small administrative apparatus in Washington with "reprogrammed" funds from other functions within National Oceanic and Atmospheric Administration. The Nixon Administration did not ask for funding of the program for fiscal year 1974, ostensibly because its leaders preferred to wait for passage of a National Land Use Planning Act, which could include coastal areas. This position became awkward when the Administration decided not to continue its support for such legislation. Considerable pressure from the Congress (including this Committee) and the interested public, led to a request for supplemental funds for the coastal zone management program. The supplemental appropriation was approved in late 1973.

The coastal zone management program has had an auspicious beginning, and has been ably administered by the National Oceanic and Atmospheric Administration. By early 1975 all 30 eligible States and three of the four eligible territories were receiving Federal program development grants under section 305 of the act and were matching the Federal contributions on a one-third State, two-thirds Federal basis. The virtually total participation by coastal States is extremely gratifying to the Committee, since coastal zone management is a purely voluntary program and requires both money and effort from the States. It appears that the States have a keen awareness of coastal problems and the need for sound management of coastal resources, and are willing to take positive action in behalf of coastal protection and development along the lines intended by Congress. The Committee believes that the participating States are making good progress toward preparation of coastal resource inventories, comprehensive management plans, and the creation of legal and administrative means to implement their plans. Federal grants given to coastal States under the Coastal Zone Management Act during fiscal years 1974 and 1975 are shown in table 1.

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<sup>5</sup> One of the major areas of controversy within this period of legislative history was the debate on whether to assign responsibility to administer the act to the National Oceanic and Atmospheric Administration (NOAA), which had only recently been created within the Department of Commerce, or to place it in the Department of the Interior. The Congress affirmatively assigned this program to NOAA, determining that it possessed the requisite oceanic, coastal ecosystem and coastal land use expertise to administer the act. Subsequent votes in the Senate on S. 632, the Land Use Policy and Planning Assistance Act, further established Congressional intent that coastal zone management programs be separate from the noncoastal land use programs proposed by that legislation.

TABLE 1.—COASTAL ZONE MANAGEMENT GRANT AWARDS

State	Federal share	Matching share	Total program
SEC. 305 (FISCAL YEAR 1974)			
Rhode Island.....	\$154,415	\$77,208	\$231,623
Maine.....	230,000	115,000	345,000
Oregon.....	250,132	169,567	419,699
California.....	720,000	928,653	1,648,653
Mississippi.....	101,564	50,782	152,346
South Carolina.....	198,485	100,015	298,500
Washington.....	388,820	194,410	583,230
Massachusetts.....	210,000	105,000	315,000
Ohio.....	200,000	166,300	366,300
Alaska.....	600,000	360,000	960,000
Texas.....	360,000	191,648	551,648
Wisconsin.....	208,000	146,000	354,000
Pennsylvania.....	150,000	75,000	225,000
Minnesota.....	99,500	49,750	149,250
Michigan.....	330,486	203,961	534,447
Maryland.....	280,000	185,765	465,765
Connecticut.....	194,285	130,359	324,644
New Hampshire.....	78,000	39,000	117,000
Hawaii.....	250,000	125,000	375,000
Georgia.....	188,000	115,400	303,400
Delaware.....	166,666	83,334	250,000
Florida.....	450,000	236,000	686,000
Alabama.....	100,000	50,000	150,000
North Carolina.....	300,000	200,000	500,000
Illinois.....	206,000	103,000	309,000
Louisiana.....	260,000	134,090	394,090
Puerto Rico.....	250,000	125,000	375,000
New Jersey.....	275,000	137,500	412,500
Total.....	7,199,353	4,597,742	11,797,095
SEC. 312			
Oregon.....	823,964	823,964	1,647,930
SEC. 305 (FISCAL YEAR 1975)			
Alabama.....	120,000	60,000	180,000
California.....	900,000	450,000	1,350,000
Georgia.....	349,250	191,745	540,995
Guam.....	143,000	71,500	214,500
Hawaii.....	400,000	200,000	600,000
Illinois.....	384,000	192,000	576,000
Indiana.....	220,000	110,000	330,000
Louisiana.....	342,000	171,000	513,000
Maine.....	328,870	164,435	493,305
Maryland.....	400,000	208,500	608,500
Massachusetts.....	382,000	204,812	586,812
Michigan.....	400,000	200,000	600,000
Minnesota.....	150,000	75,000	225,000
Mississippi.....	127,038	63,519	190,557
New Hampshire.....	120,000	60,000	180,000
New Jersey.....	470,750	235,375	706,125
New York.....	550,000	275,000	825,000
North Carolina.....	503,000	251,500	754,500
Oregon.....	298,811	154,406	453,217
Pennsylvania.....	225,000	112,500	337,500
Puerto Rico.....	350,000	175,000	525,000
Rhode Island.....	304,440	152,227	456,667
South Carolina.....	230,000	117,794	347,794
Texas.....	620,000	448,401	1,068,401
Virgin Islands.....	90,000	45,000	135,000
Virginia.....	251,044	125,522	376,566
Wisconsin.....	340,600	171,700	512,300
Total.....	8,999,803	4,687,036	13,686,839
SEC. 312			
Georgia.....	1,500,000	1,500,000	3,000,000
Oregon.....	325,000	1,832,000	2,157,000

In early 1975, the State of Washington became the first State to apply for the Secretary of Commerce's approval of a coastal zone management program. After approval, States become eligible for implementation grants under section 306 of the Act. Just as important,

however, from the standpoint of effectiveness of State programs, is the fact that secretarial approval brings into force the "Federal consistency" provision of the act, contained in section 307(a)(3). That provision gives coastal State governors the right to determine, in advance, whether a proposed Federal license or permit for an action affecting the State's coastal zone, will be "consistent" with the State coastal zone management program. In most cases—except in matters of overriding national interest—the Federal license or permit cannot be granted unless the governor certifies its consistency. This new State authority may be the single greatest incentive for State participation in the coastal zone management program. The Committee anticipates it will have its major impact in guaranteeing effective State participation in decisions regarding energy facility siting, Corps of Engineers dredge-and-fill permits, Federal activity in the Great Lakes, and—as described in detail below—offshore oil leases.

In the spirit of equitable balance between State and national interests, the act also contains a "national interest" provision. That part of the law requires States, in developing coastal zone management programs, to give "adequate consideration to the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature."

As often happens with new laws and programs, the Coastal Zone Management Act and the related State programs remained unappreciated by the public at large until a crisis brought it forcefully to people's attention. The catalytic crisis in this case was the energy problem, with its pressures for development of new sources of supply. The coastal zone has always been a favored spot for the location of powerplants (both nuclear and fossil fueled), oil refineries, and staging areas for offshore oil development. But it was not until the Arab oil embargo occurred, exactly a year after passage of the Coastal Zone Management Act, that State governments realized the intensity of these developmental pressures on the coastal zone. There had been earlier indications of future energy-related developments,<sup>6</sup> but the energy crisis seemed suddenly to shorten the time available to States to plan for and cope with developmental pressures. Governors and other State-level leaders expressed the frustration they felt at the prospect that irrevocable Federal decisions affecting their coastal zones would be made before the States had had time to develop management programs.

It was in the context of prospective OCS oil and gas development that President Ford endorsed the Coastal Zone Management program during a November 1974 White House meeting with governors of coastal States. On that occasion the President also proposed—and Congress subsequently granted—a \$3 million supplemental appropriation for fiscal year 1975, added to the program's \$12 million regular appropriation, to enable States affected by planned OCS leasing to speed their preparation for possible shoreside impacts of these activities.

<sup>6</sup> For example, the 1969 Stratton Commission report noted that the offshore oil and gas industry was "growing rapidly" and was likely to expand its operations to the Outer Continental Shelves off the Atlantic and Alaskan coasts. Further, the report noted that electric power production in the United States was doubling every decade, and with the advent of nuclear power, many sites near water would be needed. "An increasing number of plants will be located along the shoreline, competing for valuable land, warming the local waters, and posing major threats to the regional ecological balance," the report stated.

In his November 13 remarks, the President noted that States "have only begun to establish the mechanisms for coastal zone planning, and that activity must proceed rapidly." He went on to state, however, that he did not believe offshore leasing plans should be held up for completion of these programs.

The prospect of accelerated OCS oil and gas lease activity, along with growing energy facility requirements and the imminent construction of deepwater ports, add to the challenge of bringing rational management to the coastal zone. These probable events have therefore led directly to the Committee's present action to amend the Coastal Zone Management Act.

Oil and gas operations are not entirely new to California, yet Joseph Bodovitz, executive director of the California Coastal Zone Conservation Commission, testified before the Committee that:

\* \* \* the thing that makes planning in regard to the OCS oil so difficult is it is impossible to understand what the full ramifications are on the basis of anything we have received from the Interior Department \* \* \*. It is just the uncertainty that makes this so exceedingly difficult to deal with.

Actual experience with offshore oil and gas development around the world takes such concerns well beyond the realm of abstraction. Along the coast of Louisiana, for example, 20 years of Federal OCS activities (and an additional 15 years of similar operations on State-owned offshore lands within three miles of shore) have resulted in the loss of an estimated 500 square miles of valuable wetlands.<sup>7</sup> For the most part, those lands have been dredged and filled to accommodate canals, pipelines, and other oil-related facilities.

Robert W. Knecht, assistant administrator of NOAA for coastal zone management, testified before the House Merchant Marine and Fisheries Committee about the Louisiana experience:

The wetlands were destroyed in the name of oil and gas development in a day when we did not understand the value of coastal wetlands in terms of providing valuable nursery grounds, and the scars of that destruction remain there plainly visible.

\* Robert Bybee, operations manager of the Exploration Department of Exxon Inc., confirmed this judgment in testimony on April 30, 1975, before the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee. He traced the development of the offshore industry this way:

I think what you see in the Gulf of Mexico or the south of Louisiana was this imperceptible, almost, moving out of the highlands into the marshes and the estuaries, and then offshore, and in those days many of us were not thinking of the environment. And we pretty well did rape the land.

Mr. Bybee assured the subcommittee, however, that the industry now follows sound environmental practices which prevent similar occurrences.

<sup>7</sup> Dr. Sherwood Gagliano, Center for Wetland Resources, Louisiana State University.

In addition to the visible ecological damage in Louisiana wetlands, other experiences in that State create concern in coastal areas facing oil development for the first time. For instance, 80 percent of all investment in Louisiana's new manufacturing facilities between 1938 and 1971 took place in coastal parishes (counties), reflecting support activities for offshore petroleum development. A total of \$5 billion was invested in petrochemical industrial facilities in Louisiana's coastal zone during those years, with over 100 major petroleum and petrochemical plants placed in coastal parishes.<sup>8</sup>

A 1973 study done by the Baton Rouge-based Gulf South Research Institute, paid for with Louisiana State funds, attempted to assess the net impact of all these activities on Louisiana's fiscal position during 1972. Comparing tax revenues from oil-related facilities with costs incurred in providing public services and facilities for persons directly or indirectly involved in operating them (as well as their families), the study estimated that Louisiana had sustained a net loss of \$38 million during 1972 stemming from federally licensed offshore oil and gas operations. Since completion of the study, both supporters and opponents of offshore oil development have cited it as evidence to bolster their viewpoints. The study has served to illustrate the point that States are likely to be significantly affected—economically and otherwise—by Federal leases for oil exploration and production on adjacent OCS lands. At the same time, it appears that methods for quantifying such effects are still at a relatively primitive stage. Critics have charged that the methodology used in the Louisiana study resulted in a serious understatement of Federal financial contributions toward the provision of public facilities and services, and that the employment multiplier used in the study also resulted in understatement of benefits. The study also fails to take into account some of the social and environmental costs which do not lend themselves easily to quantification.

In any case, it is clear that benefits to coastal States and localities from adjacent offshore development come primarily from whatever the State or municipality can capture in income, sales and property taxes covering corporations and individuals involved. A series of court cases, culminating in early 1975 with a Supreme Court decision in *United States v. Maine*, has determined that the Federal Government has sole control over resource development beyond the 3-mile offshore jurisdiction of the States. Consequently, under present law, the States have neither a major role in decisions to develop OCS resources nor a claim to the revenues they generate through lease bonuses and royalties.

It can be expected that sparsely populated areas which are subjected to rapid growth as a result of OCS oil and gas development will have a particularly difficult time coping with such drastic change and generating sufficient revenues to match the costs. Several regions near proposed offshore development—most notably Alaska, parts of New England and elsewhere along the Atlantic coast—are particularly fearful of this prospect.

One of the first such areas to experience coastal development related to offshore oil could well be Cape Charles, in coastal Northampton

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<sup>8</sup> Marc J. Hershman, "Louisiana Wetlands Perspective," Louisiana State University School of Law.

County, Virginia. Even without knowing with certainty that oil and gas underlie the Atlantic OCS, the giant fabricating company of Brown & Root, Inc., of Houston has purchased a 2,000-acre tract of land at Cape Charles to build oil production platforms for the offshore.

The plant would have a major impact on rural Northampton County. A private study, done by Urban Pathfinders, Inc., for the county planning commission, predicted that the county population, without the Brown & Root facility, would decline from the present 14,000 to 12,700 in 1985. With the plant in operation, employing 1,500 persons directly and leading to 200 additional jobs, the county would grow to 16,000 persons in the same period.

The study foresaw serious short-term negative impacts as a result of the Brown & Root facility. The suddenness of the development build-up would lead to "widespread community disruption" involving housing shortages, inadequate school facilities, crippling employee losses to indigenous agricultural and fishing activities, and inadequate tax revenues to cover growing county expenses for public services and facilities during the next 5 to 10 years. On the other hand, the Urban Pathfinders study predicted that the net long-term impacts on the county would be beneficial, if careful planning were done with the full participation of Brown & Root itself.

The Gulf of Alaska has been designated by the oil industry as the most attractive frontier of the OCS for future exploration. The U.S. Geological Survey estimated in March 1974 that up to 18 billion barrels of oil and 90 trillion cubic feet of natural gas may underlie the Federal lands in the Gulf of Alaska. A series of discoveries would have a major impact on the communities along the Alaskan coast. In addition, the special requirements of operating in adverse weather conditions and thousands of miles from the ultimate market for the oil will add to the burden Alaska must bear to support offshore oil operations.

There are signs, even before the first Federal lease sale is held off Alaska, that these impacts are beginning. Several oil companies have purchased tracts of land on the shore in the small community of Yakutat, which an Exxon spokesman described in 1973 testimony before the Council on Environmental Quality as "probably the most ideally located" place to serve as a staging area for Gulf of Alaska operations. Seismic vessels exploring the gulf have called at Yakutat for fuel, water and rest and recreation. Rumors of speculative land purchases abound, and local citizens report sudden increases in land values. But the major impacts can only be guessed at until post-lease exploration confirms or denies the USGS estimates of Gulf of Alaska reserves. The Exxon testimony elaborated on the likely extent of these impacts, in the event that substantial commercial quantities of oil and gas do, in fact, exist in the area:

One of the most important secondary impacts on a wilderness environment such as that along the Gulf of Alaska would be the offices, warehouses, and living facilities of the resident employees and their families. . . . As production grows it would become necessary to have more and more personnel "on location" until within a year or so a sizable community would

develop near the producing area. If we keep our assumption of 200,000 barrels per day production as an example area, we could expect approximately 20 modest size business buildings, and 2 small hotels for temporary personnel and approximately 400 homes for the 600 people directly employed. . . .

Of course, new supporting services would go into the communities to serve the families of the employees, providing new jobs for those not directly associated with the industry. This could produce a community of nearly 2,400 people and the churches, schools, recreation and service buildings accompanying a small population center. Land use would be approximately 6 square miles. . . .

While larger, densely populated communities in other parts of the United States might welcome such growth and development wholeheartedly, Yakutat appears to have grave concerns about the possibility of growing from 600 residents, mostly Tlingit Indians, to 2,400 residents, with the Indian population receding to a minority position. The State of Alaska has officially expressed concern about the impact of oil- and gas-induced growth in Yakutat on the existing economic base, which includes fishing, timbering, tourism and recreation. The community anticipates a dilemma in the near future as it must decide whether to expand its geographic boundaries to increase the tax base sufficiently to finance the burgeoning need for goods and services. To do so would be to alter the character of the village and reduce the native population to a minority position, thereby almost certainly diluting the native character of the typical Yakutat lifestyle. This problem is unique to Yakutat but is illustrative of the special problems which may be found in virtually every State and locality facing OCS development. Planning at the State and local level appears to be the best mechanism for dealing with such anomalies, but Federal funding within the philosophy and guidelines of the Coastal Zone Management Act can make the financial difference between feasibility and infeasibility of such planning.

A private consulting firm, Mathematical Sciences Northwest, Inc., (MSNW) of Bellevue, Wash., is completing a detailed "Social and Economic Impact Study of Oil-Related Activities in the Gulf of Alaska." The study was financed by the Gulf of Alaska Operators Committee, which is a group of oil companies who are anxious to begin exploring and developing the gulf. The MSNW study has examined a range of possibilities, from a total absence of oil discoveries in the gulf (which it considers unlikely) to the discovery of 10 major oil fields with an output of 1.5 million barrels a day by 1985 (which, in the study's view, is also improbable). The base case used in the draft MSNW study, therefore, is a middle ground:

Initial discovery during 1977;

Five major fields discovered eventually;

Peak production of 550,000 barrels per day in 1985;

Use of two shore bases to support offshore activities;

Construction of pipelines to two marine terminals;

Shipment of crude from these terminals to markets in Lower 48 States;

No liquid natural gas or petrochemical developments in Alaska.

Cumulative employment estimates in the draft MSNW base case are as follows:

1976:	
Direct .....	291
Indirect .....	425
<b>Total</b> .....	<b>716</b>
1980:	
Direct .....	1,486
Indirect .....	2,170
<b>Total</b> .....	<b>3,656</b>
1985:	
Direct .....	886
Indirect .....	1,294
<b>Total</b> .....	<b>2,180</b>

If all new employees were immigrants to the area, and if most of them (both permanent and temporary) brought families with them, the cumulative population increases in the principally affected communities along the coast would be:

1976 .....	1,396
1980 .....	7,232
1985 .....	4,426

In fact, however, MSNW considers it unlikely that all new employees will be immigrants, since many construction workers may seek OCS-related work after completion of the Alyeska pipeline. Temporary workers traditionally do not take dependents along on work assignments. Therefore, a more realistic estimate of the cumulative population increases might be about half of the above figures.

Although the numbers themselves do not appear enormous, they represent major impacts on small communities like Yakutat and Cordova, which MSNW sees as the likely sites for onshore support bases.

The draft MSNW report recognizes the dilemma that States and municipalities face in trying to cope with such impacts. The problem, in most cases, boils down to money and time. The draft report describes the financial problems involved in providing public services and facilities to meet growth impacts:

The ability to provide the necessary incremental social services, either at the local or the state levels, is clearly a function of the financial resources available and the institutional constraints governing the responding agencies. The major sources of revenue of the communities are the real and personal property taxes and local sale taxes. In addition, the communities can issue both general obligation and revenue bonds.

\* \* \* Obviously, a city like Yakutat with an annual budget of \$95,000 and a property tax base (assessed value) of \$554,968 does not have the necessary fiscal capability. Even though other cities have larger tax bases, all face the same dilemma. The social capital required to serve a large population must be in place at the point in time when the demand arises. Therefore, actual social investment must be made in advance of *potential* revenues. In addition, sufficient investment to meet the



peak load rather than average demand is required. Given likely fluctuations in the (temporary) population, the result is excess capacity after the peak has passed. If this excess capacity is financed from local sources, per capita capital costs incurred by the permanent population must rise.

The report concludes that Federal funds offer the only real hope for communities to have the necessary financial resources and the proper time:

Because of the uncertainties associated with the magnitude and timing of future tax receipts generated by the OCS-related economic activities, it is not clear how much and when public investment must be made by both the municipalities (and/or boroughs) and the State. Therefore, Federal fiscal support in the form of bonus and royalty revenue sharing or general or categorical impact funds is necessary. These funds should pay for both the additional capital requirements demanded, as well as the planning processes which determine their magnitude and allocation in time and space.

In the Committee's opinion, the latter approach—categorical impact aid, rather than bonus or royalty revenue sharing—is the only way to ensure that the funds will go where they are needed, when they are needed, and will be used for planning for and ameliorating impacts.

Studies of hypothetical future impacts of an unknown quantity of oil and gas development are, as MSNW acknowledges in its draft report, imperfect tools for forecasting actual events. The MSNW report itemizes the factors which affect the magnitude and duration of the social and economic impacts which Alaskan coastal communities will experience:

- The intensity of exploration activities.
- The proven oil and gas reserves discovered.
- The total quantities and rates at which oil and/or gas will be produced.
- Whether petroleum is exported in crude form or will be transformed prior to shipment.
- Whether natural gas, when produced, will be exported from Alaska in liquid form or will be further transformed into petrochemicals.
- How many coastal communities will become onshore support bases and whether major onshore facilities will be constructed there or in presently uninhabited areas.
- The rate at which the Alaskan economy can grow in real terms in order to provide the additional goods and services demanded as a result of the increased economic activities induced by the OCS development.
- The additional revenues which will accrue to local, regional, and State governments, and the increased induced demand for public services.
- Finally, and certainly of major importance for determining the types and duration of short- and long-term social and economic impacts on coastal communities and the rest of Alaska, are the leadtimes, and the human and capital resources available to local, State, and Federal planning bodies and the oil companies.

Until such "factors" become realities, and "assumptions" become events, State and local governments must continue to rely on theoretical possibilities and on extrapolation from experiences in other areas. Even studies of past experience—as the Louisiana study shows—may have serious shortcomings. But a close look at experience elsewhere does provide the best information available in advance of actual resource discoveries in new areas. For this reason, several staff members of the Committee's National Ocean Policy Study, the Congressional Office of Technology Assessment, and the Coastal Zone Management Office of the National Oceanic and Atmospheric Administration sought such information in 1974 along the Scottish coast of the North Sea. The first discovery of offshore oil in the British sector came in late 1970, and actual production of that oil is only now beginning. Nonetheless, the coastal impacts of developing offshore fields in the North Sea have already been substantial. Many of these effects were described in the committee's publication, "North Sea Oil and Gas: Impact of Development on the Coastal Zone," which was published in October 1974. The report indicated that direct employment in oil-support activities in northeast Scotland grew from 2,665 to 11,275 during the short period between December 1973 and March 1974. Local efforts to plan for this explosive growth have not always been successful. For instance, one platform fabrication plant estimated in advance to employ 600 persons actually employs 3,000 in peak periods.

"Shortages of housing, skilled labor, berths in harbors, and equipment have had an adverse impact on some of the older established industries," the report found.

The city of Aberdeen, now sometimes called the Houston of the North, has experienced rapid growth because of oil. One consequence of this growth has been skyrocketing prices for land. During the last 4 years, the NOPS study found, the price of industrial land with water and sewer service in the Aberdeen area rose from \$7,200 to as much as \$96,000 per acre.

In the remote and sparsely settled Shetland Islands 200 miles off the north coast of Scotland, the proposed site for a deepwater tanker port to handle North Sea oil, the NOPS investigation found a near doubling of population to be likely. The island county planners had predicted a very modest growth from 17,327 persons in 1971 to 17,900 by 1991 before knowing about the oil. Now, it is expected that the population will reach 30,000 by the early 1990's.

The Shetlands represent a unique study of how one remote area has dealt with the prospect of sudden population growth, new demands for municipal services, and intrusion of a new industry into a rural community. Shetland planners adopted a plan to contain onshore development at one site only. They succeeded in acquiring needed information about industry requirements, took action to inform the public about the needed facilities, and gained significant powers through parliamentary legislation, thus giving themselves the tools they needed to deal effectively with their new neighbors, the offshore petroleum industry.

A second study of the Scottish experience with offshore oil was carried out by Pamela and Malcolm Baldwin under the auspices of the Conservation Foundation and published in early 1975. Called "Onshore Planning for Offshore Oil: Lessons from Scotland," the Foundation report found the Scottish situation more likely to parallel

events in the so-called frontier areas of the American OCS than the developments in the Gulf of Mexico. This conclusion stemmed from the fact that Alaska and Atlantic oil operations, like those in the North Sea, will represent the entry of a wholly new kind of industry in some areas. Furthermore, a rapid buildup to a high level of production—assuming success in discovering oil or gas—will be required in the new areas, as it is in the North Sea, in order to meet today's energy needs and to reduce reliance on imported oil. Finally, the severe weather conditions of the North Sea closely resemble those in the Atlantic and the Gulf of Alaska; these require new technologies which, in turn, require new types of onshore facilities.

The Conservation Foundation report found that the most noticeable impacts in Scotland have been the result of support industries—such as oil production platform fabrication—rather than the oil industry's own operations. Employment and activity levels in these support activities peak even before oil production begins. Construction of any sort is a labor-intensive activity, and massive construction activities involving platform, pipelines, tanker terminals, and refineries—not to mention schools, houses, offices, roads and other public facilities—bring thousands of workers into areas experiencing oil development. When this boom is over, an early “bust” may follow. Shrinkage of population and job opportunities also requires planning and management.

Scotland, the Foundation report pointed out, enjoys the advantage of many years' experience with comprehensive land use planning mandated by the 1947 Town and Country Planning Act. The only comparable law in the United States, the authors noted, is the Coastal Zone Management Act. The report continued:

Whether onshore facilities—such as platform construction yards, refineries, supply bases, tanker terminals, and pipeline landfalls—occur in presently industrialized and heavily populated areas, or alternatively in unspoiled rural regions, depends largely on how States and communities plan and control their coastal zones. Ideally, such planning should begin before Federal offshore leasing. Coastal land use controls should be ready for application when oil or gas is discovered, and should include suitable opportunities for public participation.

To permit such control, advance surveys of existing coastal land use patterns—with particular attention to sites likely to attract oil facilities—will be necessary \* \* \* Virtually all the coastal States are surveying their coastal zones with Federal funds made available under the Coastal Zone Management Act of 1972.

The Foundation report recognized, however, that planning alone, without tangible assistance in coping with onshore impacts of offshore oil, cannot relieve the burden created by federally licensed OCS development:

State and local governments bear the greatest burdens of public expenditures associated with offshore oil development. They should receive enough of the economic benefits to offset at least the costs of accommodating support facilities and providing infrastructure needs.

It is to meet these two essential needs—for planning and for coping with impacts—that the Committee provides in S. 586 for the establishment of a Coastal Energy Facility Impact Fund. That fund, described later, actually goes beyond OCS development impacts to cover similar impacts from other energy-related activities in the coastal zone such as deepwater ports, electric generating plants, oil refineries, and the like, when these facilities are covered by Federal licensing or permitting processes.

On the issue of Federal-State relations regarding OCS exploration and development, the National Advisory Committee on Oceans and Atmosphere (NACOA) makes the following recommendations in its draft 1975 report<sup>9</sup> to the President and to Congress:

The Coastal Zone Management Act of 1972 should be amended “\* \* \* to assure reasonable State input to Outer Continental Shelf development plans and production; to expedite State management planning related to the consequences of offshore oil and gas development, to assure that proposed Outer Continental Shelf exploration and development programs are fully consistent with State plans, and to provide adequate information and technical data to assist in coastal zone planning and decisionmaking.”

The Act should be further amended to “\* \* \* authorize and provide financial assistance to States to enable them to study, assess, plan effectively with respect to the onshore impact of Outer Continental Shelf oil and gas development and to encourage interstate cooperation and regional planning.”

This Presidential advisory panel, composed of leaders in business, industry, science, academia and State and local government, also states in its draft report that—

Significant initial costs will accrue to the States as a result of the exploitation of oil and gas resources offshore. There are “front end” costs associated with the activity required of the State before lease sales take place and continuing through development. Then, depending on the extent of the offshore exploration and production activity, new population groups may be brought to relatively undeveloped areas with resultant costs for roads, schools, police and fire services, water, sewer, et cetera. These, too, are costs which are borne by State and local governments.

NACOA also notes that some, but not all, costs for such services are likely to be recovered by reasonable and usual taxes, and that States are justified in seeking Federal aid to offset the net adverse costs.

Virtually all coastal States—including those bordering on the Great Lakes—face the prospect of continuing pressure for energy facilities in or near their coastal zones in the future. Energy is needed where people are, and people, increasingly, are in the coastal zone. As men-

<sup>9</sup> “A Report to: The President and the Congress,” draft Fourth Annual Report, National Advisory Committee on Oceans and Atmosphere, June 6, 1975.

tioned earlier, coastal areas are also particularly conducive to the siting of large-scale industries which require access to cooling water, as do both nuclear and fossil-fueled powerplants.

A report of the Great Lakes Basin Commission in February 1975, pointed out:

All of the Great Lakes States are aware of the importance of the powerplant siting issue, and are in various stages of resolving it \* \* \* powerplant siting is an extremely important issue in coastal zone management in the Great Lakes. The States involved in coastal zone management in the Great Lakes are aware of the importance of this problem and fully intend to address it in their management program formulation.

In reporting on the role of energy facilities in California's coastal zone, that State's Coastal Zone Conservation Commission—established by voter referendum in 1972 and now the recipient of a Federal coastal zone management grant—found that 90 percent of the total petroleum refining capacity of that State is located within 10 miles of the coast. New refineries would require as much as 1,000 to 1,700 acres each for actual use and a like amount of land for a buffer area.

The California study also described the impacts of refineries on fresh water supplies and on air quality. Further, a new refinery with a modest capacity of 100,000 barrels per day would result—according to an Army Corps of Engineers study cited in the California coastal zone report—in an inflow of 1,100 workers, a population increase of 3,900, an indirect employment increase of 850 and an additional 850 students in public schools.

The foregoing examples of coastal impacts from offshore oil development and energy facilities, coupled with the excellent start achieved by the States and the NOAA office coordinating the coastal zone management program, have led the Committee to believe that an expansion of that program offers the best possible mechanism for dealing with such impacts. S. 586 provides the necessary amendments to assist the States with planning for and coping with OCS and energy impacts.

#### DESCRIPTION OF KEY PROVISIONS

##### 1. *"Federal Consistency"*

The first amendment contained in S. 586 which seeks to strengthen the States' ability to cope with OCS impacts is found in the "Federal consistency" clause (section 307(c)(3)). As presently written in the law, this provision gives coastal State governors the opportunity to determine whether the granting of specific Federal licenses or permits would be consistent with State coastal zone management programs. The Committee's intent when the 1972 Act was passed was for the consistency clause to apply to Federal leases for offshore oil and gas development, since such leases were viewed by the Committee to be within the phrase "licenses or permits". However, since the provision does not become effective until a State has an approved coastal zone management program pursuant to section 306 of the Act, there has been no court test of its applicability in explicit terms. The Commit-

tee has included in S. 586 the addition of the word "lease" wherever "licenses or permits" are mentioned. In practical terms, this means that the Secretary of the Interior would need to seek the certification of consistency from adjacent State governors before entering into a binding lease agreement with private oil companies. Most States will probably not be able to exercise this right before 1977, when the bulk of State programs are expected to reach the point of applying for the Secretary of Commerce's approval. The leverage they will gain over Federal activities affecting their coastal zones at that point is a powerful incentive for completion of the State program development process.

The National Governors' Conference endorsed the applicability of the Federal consistency clause to OCS oil and gas development in a resolution which passed on February 20, 1975. That resolution said, in part:

Development, production, transportation and onshore facility plans should be submitted for approval to the Department of the Interior, but only after the potentially affected coastal States have reviewed such plans in order to insure consistency with State coastal zone management plans and other applicable State statutes and regulations. Since the plans should be reviewed for consistency with State coastal zone management programs, the Governors believe that adequate time, as determined by Congress, should be afforded States to develop such coastal zone programs before any OCS production commences.

In that same resolution, the governors addressed the need for Federal funding for onshore planning and impact mitigation and of the net adverse financial impact that many States and localities may anticipate as a result of OCS development. The resolution supports development of offshore energy resources provided such development is conducted in the context of sound environmental and coastal zone management policies and practices.

## 2. *Coastal Energy Facility Impact Program*

The Coastal Zone Management Act established the goal of, and the initial framework for, wise management of the coastal zone. The Act states:

. . . there is a national interest . . . in the increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal . . . [resulting in] loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, [and] decreasing open space for public use. . . .

From the Committee's view, it is most desirable to assist the States in focusing on problems related to: (1) energy facility planning, including the specific coastal impacts associated with both fossil fuel production and electric power generation, (2) energy and other materials demands required to accommodate projected growth, (3) hous-

ing developments and their impact, (4) the impacts of increased recreational demands, (5) the impacts, such as environmental load, produced by industrial growth, and (6) alternative choices to minimize adverse impacts.

S. 586 contains several important options for States dealing with coastal zone impacts of OCS oil and gas and other energy facility development. The core of the Committee's approach to the coastal impacts problem is found in section 308—as redesignated—which establishes a Coastal Energy Facility Impact Fund. The fund, authorized at \$250 million annually, is to be used for planning grants and for amelioration and compensation grants or loans to States facing coastal impacts from OCS operations or other major energy facilities. The Committee believes that the key feature of the fund is its close relationship to the existing coastal zone management program created by the 1972 act. Without this tie to coastal planning as a whole, an impact fund could create counterproductive pressures on coastal States and municipalities by encouraging the provision of public facilities which might not otherwise fit in with comprehensive coastal zone management plans developed by the State. Furthermore, if the impact fund were to be separately administered and funded, highly undesirable duplication and wasteful inefficiency would almost certainly result.

The impact fund created in section 308 is designed to serve two distinct purposes. The first is planning—the preparation of studies and plans which determine what impacts are likely to occur and what measures need to be taken to minimize them. In addition a State is expected to reconcile such impact planning with the ongoing efforts of the State to develop and/or operate its own coastal zone management program. Section 308(a) sets aside 20 percent of the fund, up to \$50 million, for such studying and planning. It is expected that States will begin the process of dealing with OCS and energy facility impacts by applying for these planning funds, and that they will use them for information-gathering and quantitative studies which are a prerequisite to more tangible measures such as providing actual public facilities or services.

The primary purpose of such planning would be to develop the information which is pertinent to the policy determinations in formulating coastal zone management plans, and in determining eligibility for further grants or loans as described below.

The planning procedure may include but not be limited to, the following steps in achieving this purpose:

1. Project the size and distribution of population growth and economic expansion in the selected areas. This step should draw upon existing projections made by Federal and State agencies, academic institutions, and industrial planners.

2. Develop an appropriate checklist of the political, social, physical, biological, and economic impacts that may arise.

3. Use the checklist and growth projections to determine the magnitude of the impacts.

4. Identify areas in which critical problems are foreseen.

5. Determine the effects on the State's coastal zone which will result from projected activities in other portions of the State or other relevant adjacent areas.

6. Identify areas where new or improved methodologies are needed to assess the impact upon population and economic activity in a specified geographic area.

7. Identify areas where needed data is lacking and methods whereby these gaps can be filled.

The States of California and Alaska, and the entire group of eastern seaboard States, could undoubtedly make immediate use of such planning funds for assessing the likely impacts of planned OCS leasing on their individual State coastal zones, since the Interior Department plans to lease offshore lands in all three of these areas for the first time within the next year. The States are likely to have a continuing need for planning funds under this subsection as OCS oil and gas exploration gets underway and the results begin to be known. Studying and planning for coastal impacts of OCS development are continuous processes which cannot be completed before extensive information about the offshore resource base is available.

The Committee noted correspondence from Representative Leonor K. Sullivan, chairman of the Committee on Merchant Marine and Fisheries, U.S. House of Representatives, and Representative James R. Grover, ranking minority member, to the Technology Assessment Board, U.S. Congress, dated September 18, 1974, which stated:

We ignore these potential problems at our peril, just as we have in the past. If, on the other hand, we attempt to understand them and the factors which create them, it is possible that we may be able to develop methods of avoiding or minimizing their adverse impacts. It was with this objective in mind that the Congress enacted the Coastal Zone Management Act . . .

States may find, as a result of studies conducted with funds made available under the planning component of the Coastal Energy Facility Impact Fund, that offshore oil development and/or energy facilities will not, in fact, cause adverse impacts in their coastal zones. In that case, the fund will have served the useful but limited purpose of satisfying the State in question that such is the case. In other circumstances, however, States may be able to detect and quantify past, present or anticipated adverse impacts resulting from OCS activities, powerplants, or other energy-related developments. If so, these States will undoubtedly wish to take advantage of the additional funds authorized for the purposes set forth in section 308(b).

Section 308(b) of S. 586 anticipates two possible sets of circumstances: one involving temporary adverse impacts, the other involving net adverse impacts over the life of the energy facility or development causing the impacts. The former case would make a State eligible for a loan; the latter would meet requirements for a grant. In either case, the impacts in question must be the result of a Federal license, lease or permit for exploration, development or production of energy resources, or for the location, construction, expansion, or operation of an energy facility. The impacts must occur within the State's coastal zone, although the activities causing the impacts may be outside the coastal zone, on either land or water.

In fact, it may often be impossible to determine in advance whether adverse impacts will be temporary or permanent. Where temporary



impacts are certain and permanent impacts possible, impact funds may be awarded as a loan with the stipulation that changed circumstances and additional information obtained at a future time will entitle the Secretary of Commerce to forgive all or part of the loan if permanent net adverse impacts become apparent. The case of the proposed Brown and Root platform fabrication plant at Cape Charles, Virginia, described earlier, appears to be exemplary of the circumstances in which a loan might be given.

The bill specifies that impact grants will be made only when a State can demonstrate that an energy facility or energy resource development can be expected to produce a net balance of adverse impacts over the course of its operational lifetime. Demonstration of net adverse impacts is required in recognition of the fact that such a facility or development generally can be expected to produce positive benefits, such as increased tax revenues and assessed property values from land-use changes and population increases, as well as negative effects, such as environmental damage or increased demands on public facilities and services. The purpose of the grant provision in the impact fund is to offset any net amount by which the expected or actual costs exceed the expected or actual benefits.

A substantial but oft-criticized body of experience in determining the positive and negative impacts of major facilities has been developed in the application of cost/benefit analysis to planning public works projects. In developing criteria for eligibility for impact grants and loans, the Secretary should draw upon the applicable portions of this experience, making appropriate extensions and modifications where needed to deal with the full range of potential costs and benefits—including social and environmental costs often neglected in cost/benefit analyses—associated with energy facilities. In addition, the Secretary should give consideration to the tax effort of each applying State.

The Committee is particularly anxious to insure that the Coastal Energy Facility Impact Fund will be administered in harmony with the larger purposes and spirit of the Coastal Zone Management Act. Thus, States must satisfy the Secretary of Commerce that they have met two requirements in addition to documenting adverse impacts: first, that they are engaged in comprehensive coastal zone planning and management, and second, that they will use the impact fund grants and/or loans which they receive in a manner that is consistent with the goals and objectives of the Act and with any management programs which they themselves develop pursuant to the Act.

States may satisfy the first requirement in one of three ways: (1) by receiving a program development grant pursuant to section 305 of the Act and making good progress toward program development; (2) by making good progress in a similar development program under State auspices; or (3) by having an approved coastal zone management program pursuant to section 306 of the Act. The Committee hopes that the eligible coastal States will continue their present involvement in the Federally funded coastal zone management program and will receive Secretarial approval for their individual programs, particularly in light of the control they will gain over their coastal zones by application of the "Federal consistency" clause of the Act, described above.

The second requirement is designed to prevent the impact fund itself from becoming an instrument of adverse impacts in the coastal zone. The Committee believes it will also prevent the use of Federal funds for frivolous purposes, not related to Congress' intent to ameliorate adverse coastal impacts of energy resource development and/or energy facilities. An unfettered revenue-sharing program, derived from a certain percentage of Federal royalties and bonuses received from OCS leases, would lack this assurance of fiscal responsibility.

S. 586 leaves to the Secretary of Commerce the important task of developing criteria and regulations for determining eligibility for grants and loans under the impact fund. Included in the Secretary's task will be the development of methodologies for determining the presence or absence of "temporary adverse impacts" and "net adverse impacts," and for measuring the magnitude of these impacts. Also included will be an evaluation of the various purposes to which Federal loans or grants might be put. The Secretary is directed to consult with a range of public and private interest groups in the development of criteria.

In actually evaluating specific applications for grants or loans under the Coastal Energy Facility Impact Fund, the Secretary will be required to consider—and, it is hoped, in most cases follow—the recommendations of a Coastal Impacts Review Board. The board is to have representation from State governments as well as Federal agencies. Inclusion of the review board in S. 586 resulted from an amendment proposed by Senator Stevens during the Committee's deliberations.

Recognizing that Federal OCS oil and gas development and energy facilities—and their resulting adverse coastal impacts—predate the present action to provide impact funds, S. 586 contains a provision (section 308(g)) permitting retroactive compensation for such impacts. States wishing such retroactive grants or loans must meet the same eligibility requirements as those seeking amelioration of present or future impacts. Retroactive compensation is permitted only during the first 5 years after enactment of section 308(g). The Committee believes that the States must bear the burden of proving past impacts for retroactive compensation. Existing studies do not appear sufficient for this purpose.

The Committee does not wish to create a bureaucratic maze or windfall profits for consulting firms in the process of requiring documentation of adverse impacts as a prerequisite for eligibility for grants or loans under the impact fund. To permit the States to group together the cumulative impacts of smaller magnitudes and avoid documentation of each and every one, S. 586 assumes that a valid claim of adverse impacts could be made by every State which is adjacent to OCS lands where oil or gas is produced, or which is permitting oil or gas produced on OCS lands to be landed in the State's coastal zone, or both. Such States shall, under the provisions of section 308(k), be eligible to receive an automatic annual grant of an amount tied to (1) the volume of oil or gas landed in the State and/or produced on adjacent OCS lands; and (2) the number of years these activities have occurred and, by assumption, have affected the State's coastal zone. The formula for allocating automatic grants is related to the number of barrels of oil (or the natural gas equivalent) produced and/or landed each day, multiplied by the number of days in the

year. It is important to note, however, that the funds themselves are derived from the general Treasury, not from OCS royalty and bonus revenues specifically. This means that they are subject to the normal budgetary and Congressional appropriation processes, as revised under the Congressional Budget and Impoundment Control Act of 1974.

The declining allocation formula under section 308(k) applies to the number of years during which any oil or gas exceeding a rate of 100,000 barrels per day is landed in a State or produced adjacent to that State. All oil covered in each State is calculated at the same rate, in any given year, starting with the first year of production or landing above the minimum level. If a State exceeds a landing rate or adjacent production rate of 1 million barrels daily, the oil or gas in excess of that rate is not calculated in the automatic grant formula for that year.

Some States may serve as landing points for OCS oil or gas even though they themselves are not adjacent to OCS lands where energy resources are being produced. Similarly, States may be adjacent to OCS development activities, the crude product of which may be landed in another State. In either of these cases, the affected States will be eligible for automatic grants under section 308(k) in an amount half as great as that to which they would be entitled, according to the allocation formula, if the oil or gas had been produced on OCS lands adjacent to the State and also landed in that State. In the event that the State adjacent to production has exceeded its one-million-barrel-per-day limit, but the landing State has not (or vice versa), the State within the limit remains eligible for its half of the automatic grant.

Like the grants and loans made available under the Coastal Energy Facility Impact Fund, the automatic grants must be used to ameliorate adverse impacts resulting from energy resource development and/or—in this case—“related” energy facilities. \$50 million annually is authorized for automatic grants through fiscal year 1978, after which the authorization is to be sufficient to provide all eligible States with grants at the formula rate.

Senator Stevens proposed, and the Committee adopted, a third option for States seeking funds to cope with onshore impacts of offshore oil or other energy-related facilities. Section 319 authorizes the Federal Government to guarantee State or local bonds which are issued for the purpose of constructing public facilities or taking other measures to ameliorate adverse impacts in the coastal zone resulting from energy developments. This option is attractive because it encourages States and localities to use traditional bonding mechanisms, with the additional security of a Federal guarantee, and does not require Federal funds except in the (hopefully) rare instance of default. States which are receiving automatic grants under section 308(k) are directed to designate the proceeds of those grants, or a portion of them as needed, to the repayment or retirement of such bonds.

The three foregoing options for States coping with coastal zone impacts of energy development—impact funds, automatic grants and bond guarantees—are, the Committee believes, a comprehensive and responsible approach to meeting legitimate coastal State concerns. During joint hearings with the Committee on Interior and Insular Affairs on Outer Continental Shelf development and coastal zone management in spring 1975, numerous witnesses expressed the view that

such an approach was crucial to successful provision of needed energy supplies for the Nation in an environmentally sound manner. For example, Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, testified:

[The coastal States] feel that while the benefits of OCS production are enjoyed by all citizens in all parts of the country, the disadvantages are localized and therefore their elimination is the responsibility of all.

Broad support for the committee's approach was offered by Gov. Thomas Salmon of Vermont, who chairs the National Governors' Conference's Natural Resources and Environmental Management Committee:

I sense that what the States want, the States think they deserve, are payments or reimbursements, particularly on the coast, to the extent of those amounts required in public expenditures to provide for the onsite component of Outer Continental Shelf development. . . . We are not talking about general revenue sharing in that context. We are talking about reasonable indemnification for actual cost as measured against a formula that this Congress is perfectly capable of approving. . . .

The concept of financial aid to the States also received support from the oil and gas industry and related industries such as offshore drilling firms. Alden J. Laborde, chairman of the board of Ocean Drilling & Exploration Co., said the following about assisting the States:

I think basically it is only fair. There is no doubt the States have to make an accommodation for our activities. I think it is only fair they should enjoy some of the proceeds from this thing.

### 3. *Interstate Coordination*

A serious omission from the Coastal Zone Management Act of 1972 was the lack of any incentive or mechanism for States to take regional or interstate approaches to coastal management. Yet it becomes increasingly clear that one State's program may in itself affect other States. For example, New Jersey appears to be the recipient of several proposals for heavy industry on its coast as a result of its neighbor State of Delaware's outright prohibition against such industries in its own coastal zone. Furthermore, many coastal regions share common management challenges and could benefit from a coordinated approach. Such an approach to recreational development along the eastern shore of Delaware, Maryland, and Virginia could, for example, provide the best management program for the entire region.

S. 586 offers the needed financial incentives for States to "give high priority (1) to coordinating State coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas." (Section 309(a).) The bill gives the constitutionally required consent of the Congress for States to enter into interstate compacts or agreements for these purposes, and also provides for 90 percent annual

grants for interstate coordination. The grants must be used for purposes which the Secretary of Commerce finds to be "consistent with the provisions of sections 305 and 306" of the Coastal Zone Management Act.

Interstate compacts for coastal management could, the Committee believes, also serve as an important contact point among State and Federal officials on matters of mutual (or conflicting) interest. Thus the interstate compacts are "encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone." (Section 309(c).) The matters of concern for interstate compacts might well include activities (such as offshore oil development) which actually occur outside the coastal zone itself but clearly have an impact upon it. Consultation with Federal officials will occur when State participants in such compacts request it. Federal officials directed to participate include the Secretaries of Commerce and the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency.

Formal interstate compacts require the approval of individual States to become fully effective. Recognizing that such approval may in some cases take several years, and that critical coastal problems cannot wait, S. 586 also provides funds for groups of States wishing to establish informal interim planning and coordinating entities for their coastal zones. These, too, may receive 90 percent Federal funding. This provision expires in 5 years, since that should be ample time for States to enact formal compacts.

Funds authorized for appropriation for interstate coordination in S. 586 total \$5 million annually for 10 fiscal years.

#### *4. Research and Training*

The past 2 years' experience with the coastal zone management program has pointed up the need, both in the States and in NOAA's Office of Coastal Zone Management, for special funding devoted to augmenting the research and training capabilities related to the program. Experience in the 30 States and 3 territories participating indicates that it is difficult to obtain scientific and other research information in the short time frame needed by coastal program developers. One of the reasons for this difficulty is the limited number of staff people familiar with coastal ecology as well as with general planning concepts.

To alleviate these problems, the committee has adopted a coastal research and training assistance program in section 310 of S. 586. This provision would provide a \$5 million annual fund for the Secretary of Commerce to use either within the Department, or cooperatively with other Federal agencies or with outside organizations. The aim is to provide information which is useful to many States, as well as to answer general coastal research and/or training needs.

Additionally, S. 586 would provide \$5 million in research and training funds in the form of matching grants to State agencies charged with developing or implementing coastal zone management programs. These funds are to meet specific research or training needs of the States.

State program developers have found much of the current coastal research being conducted in universities and elsewhere involves long leadtimes and cannot, therefore, serve policymakers' demands for quick information.

The Committee's initiative in the research area responds in part to the recommendations of the Coastal States Organization of the National Governors Conference and of the National Advisory Committee on Oceans and Atmosphere in its third annual report issued June 28, 1974. The summary of NACOA's deliberations included this suggestion:

The National Coastal Zone Management Act of 1972 [should] be amended to include the encouragement and support of the research, development, and advisory services by the States needed to provide a basis for careful, long-enduring decisions on coastal zone matters.

NACOA surveyed existing research resources before recommending the amendment. The NACOA report made the following point about the connection between research and policy in coastal zone management:

It is important to note here that NACOA is not recommending scientific and technology development programs for the sake of science but as a vital input to and an integral part of an effective coastal zone management system. This is a critical point which should not be overlooked.

##### 5. *Increased Funding for Program Development and Implementation*

The Coastal Zone Management Act, as a joint State-Federal effort, requires the use of both State and Federal funds for program development and implementation under sections 305 and 306. At present, the Act's matching formula calls for one-third State funds and two-thirds Federal funds.

It is increasingly difficult for States to provide their share of coastal zone management funding at the current matching level. This problem was cited almost unanimously by coastal States and territories corresponding with the Committee.

Massachusetts expressed, directly and succinctly, the need for expansion of Federal funding under sections 305 and 306, in correspondence with the Committee:

We support the increased funding and an 80-percent Federal share for sections 305 and 306 of the Coastal Zone Management Act. The expanded Federal share is necessary in light of the critical financial conditions in Massachusetts and other States.

The only nonparticipating territory, American Samoa, cited this in correspondence with Senator Hollings as the reason for its failure to join the program:

The Territory of American Samoa has been in regular contact with the administrators of the Coastal Zone Management Act since its inception. We have not as yet participated in any of the program activity. Our reasons for not

doing so are somewhat related to the amendments which S. 586 proposes. That is, the match requirements would impose too great a burden on the Territory in view of our present financial difficulties. We, therefore, support a reduction in match requirements as proposed for sections 305 and 306.

S. 586 therefore increases the Federal share of funding under section 305 (program development) and section 306 (program implementation) to 80 percent. This action, combined with expanded requirements for States to incorporate beach access programs and energy facility planning processes in their comprehensive management programs, makes it necessary to increase the absolute level of funding as well. Section 305 funding is therefore increased from \$12 to \$20 million annually, and section 306 from \$30 to \$50 million annually, and States may receive development grants for 4 years rather than 3, as originally authorized in the Act.

#### 6. *Funds for Public Access to Beaches and Preservation of Islands*

In recent years—both before and after passage of the Coastal Zone Management Act—coastal States have realized the increasing difficulty of assuring public access to and protection of beaches and islands in the coastal zone. Time is of the essence, since property values are rising steeply and quickly on waterfront property.

The committee is persuaded that providing assistance to the States for the acquisitions of lands for these purposes is amply justified and in the national interest. With population and leisure trends pointing to increased demands on limited public waterfronts, it is imperative to protect these properties. To wait longer would mean the public will have to pay higher prices for the property needed for enjoyment of public beaches.

A number of States have cited beach access problems as critical in correspondence with the committee. Maryland reports that only 3 percent of the Chesapeake Bay shorelands are publicly owned. In its correspondence with Senator Hollings, the State notes:

The beach provisions of S. 586 would provide a planning element to Maryland's fledgling public beach access program, and would double the purchasing power of limited State funds that are already committed to purchasing beach lands. This increased funding could provide impetus for extending our beach access program to the Chesapeake Bay shoreline.

Similarly, the Florida Coastal Coordinating Council wrote to Senator Hollings:

This section will enable Florida to contend with development pressures that are threatening to close off public access to Florida's numerous beaches; this is a problem which, up to the present, Florida has had substantial difficulty in dealing with.

The California Coastal Zone Conservation Commission endorsed the beach and island provision of S. 586 and reported that:

Strong efforts to increase public access to the ocean coast are contained in the preliminary coastal plan that is now the subject of 20 public hearings in California.

The director of planning for Guam stated :

The Guam Legislature has recognized the serious access problems its citizens face, and has passed legislation relative to this problem. Having Federal funds available to help implement their efforts will improve our effectiveness.

7. *Associate Administrator of NOAA for Coastal Zone Management*

The events since passage of the Coastal Zone Management Act of 1972—most notably the energy crisis and its attendant problems and pressures on the coastal zone—have elevated the importance of sound coastal zone management as a public policy issue for the Nation as a whole. Initially, the program was administered within the National Oceanic and Atmospheric Administration (NOAA) by the Director of the Office of Coastal Zone Management. In February 1975, recognizing the elevated level of responsibility being handled by the Director, Robert W. Knecht, the Administrator designated him as Assistant Administrator of NOAA for Coastal Zone Management. The committee believes however, that this administrative elevation does not sufficiently reflect the importance of coastal zone management within NOAA and the Department of Commerce. Therefore, the Committee provides in S. 586 for the creation of the post of Associate Administrator for Coastal Zone Management. As an executive level 5 appointment, the office would require a Presidential appointment and Senate confirmation. The Committee believes that Mr. Knecht, as Director and subsequently Assistant Administrator for Coastal Zone Management, has performed his duties with unusual ability and competence, and the members wish to express their hope that the President will appoint him to fill the position of Associate Administrator.

8. *Protection of State Role in Land and Water Use Decisions*

The Committee does not intend, by adding a requirement that States develop a planning process for energy facilities as a component of their comprehensive coastal zone management programs prior to secretarial approval of such programs, to imply a greater Federal role in specific siting decisions made by the States. This is stated explicitly in section 318(a) of S. 586.

9. *Application of National Environmental Policy Act*

Section 318(b) states that grants or loans made pursuant to section 308 of the Act, as amended, are not to be deemed "major Federal actions significantly affecting the quality of the human environment," so that the preparation of environmental impact statements relating to decisions about grants or loans will not be required for compliance with the National Environmental Policy Act of 1969. This does not mean, however, that the construction of a public facility or any other action paid for with such grants or loans, which requires an environmental impact statement on its own merits, is exempt from that requirement.

#### SECTION-BY-SECTION ANALYSIS

*Short Title*

Section 101. The Act may be cited as the "Coastal Zone Management Act Amendments of 1975".



### *General Provisions*

Section 102. This section amends the Coastal Zone Management Act of 1972 as amended, as follows:

(1) This subsection amends the "Congressional Findings" section (302) to provide in subsection (b) thereof an additional finding that the coastal zone is rich in ecological resources.

(2) This subsection amends the definitions section (304) by: adding "islands" as a specifically enumerated component of the coastal zone together with already listed areas such as wetlands and salt marshes. This amendment is of a technical nature in that the existing definitions, as well as the intent of the act including its legislative history, make it clear that islands are already covered by the Act although not specifically listed. This amendment is added primarily because specific provisions are made in S. 586 with respect to islands (subsection 8 of section 102).

(3) This subsection amends the said "Definitions" section by adding "islands" as specific areas to which the estuarine sanctuary provision of the act pertains. Again, this amendment is technical only as islands were included in the original act although not specifically enumerated.

(4) This subsection amends the said "Definitions" section by adding a definition of "energy facilities" as section 304(j). The comprehensive coastal zone management planning envisioned by the Act included such facilities within its general coverage but other provisions of S. 586 which focus upon such facilities, directly, made it necessary to define exactly what facilities it is to which these additional provisions refer. The new subsection (j) defines such energy facilities to be new facilities or additions to existing facilities. Existing energy facilities are included in the uses of "energy facilities" in S. 586 only if existing facilities are added to, or their function is changed. The point in time to be used for determining "new" facilities, existing facilities, and so on shall be the effective date of these amendments.

Subsection (j) (1) defines one of two types of energy facility: one is a facility which is, or will be, directly used in the extraction, conversion, storage, transfer, processing or transporting of any energy resource. Subsection (j) (2) defines the second type of facility included: one which will be used primarily for manufacture, production, or assembly of equipment, machinery, products, or devices which are, or will be, directly involved in the type of activity included. This second type of facility is included only if it will serve, impact, or otherwise affect a substantial geographical area or a substantial number of people. The Committee does not intend to create ambiguities by its use of the term "substantial" in this definition. Each State should receive assistance under this Act for comprehensive coastal zone management, and in the event of reasonable doubt concerning whether the geographic area or number of people involved is substantial, the Committee expects that doubt to be resolved in favor of the States' inclusion of them in its program. In the case of grants and loans for adverse impacts from such facilities as provided hereafter in this bill, the Secretary of Commerce (through NOAA) will, of course, additionally determine the value or extent of those impacts and the amounts of loans and grants.

The regulations of the Secretary of Commerce (through NOAA) should also set criteria and guidelines for determining whether a facility is "directly used," as that term is used in subsection (j)(1), and "used primarily" and "directly involved," as those terms are used in subsection (j)(2). In this regard, it is the intent of the Committee that in (j)(1) the facilities included will be those actually engaged in the activities described. In the event any such facilities are only partially actually engaged in the described activity, only that portion of their use (or approximation thereof) which relates to that activity will be considered in making grants and loans under the new section 308 of the Coastal Zone Management Act as added by S. 586. In the case of planning and management for such facilities as in section 305(b) of the Coastal Zone Management Act, as amended by S. 586, the entire facility would be included for the primary reason, as previously mentioned, that the Coastal Zone Management Act already includes most of such facilities. If there is any doubt, however, the fact that part of the activity of the facility falls within the definition of energy facility in this bill should be regarded as sufficient, in itself, to bring that facility under the State program.

As to (j)(2), the term "used primarily" is intended to mean the main purpose of the facility or the majority use thereof. The term "directly involved in" is intended to mean "actually used in."

The definition of "energy facility" further enumerates certain specific activities intended to be covered. The majority of those listed are those which are of the type described in (j)(1). The list is not exclusive, and it is additionally provided that the Secretary may designate other facilities. The operative provisions of the Act using the term "energy facilities" provide additional guidance as to the facilities included.

Subsection (4) also adds:

A new subsection 304(k) which defines "person," and

A new subsection 304(l) which defines "public facilities and services," including examples. This definition is made necessary by section 308 of the CZM Act as amended by S. 586.

Additional activities financed by State and local governments will likely be found which are in addition to those listed. State and local environmental facilities and services directly attending to the environmental consequences of energy facilities constitute another activity which would be included within the term "public facilities and public services." The Secretary of Commerce (through NOAA) should promulgate regulations which recognize, or provide for recognition of, such additional activities.

(5) This subsection amends the "Management Program Development Grants" section (305) by adding to section 305(b) two new specifically enumerated requirements for the coastal zone management program which a State is to develop and maintain under the CZM Act: first, in a new paragraph (7), the program is to include a general plan for the protection of, and access to, public beaches and other coastal areas of environmental, recreational and historical, esthetic, ecological, and cultural value. The State plan is to define what it considers a beach for the purpose of this requirement. Although not stated, the Committee intends that the State also define what is a

“public beach” under its plan. In both instances, consistent with the overall purpose of the Act, the determination is made by the State. The Secretary of Commerce (through NOAA) will provide general guidelines which permit the States to make their own determinations within the range of those guidelines.

This committee's report on the Coastal Zone Management Act of 1972 provided suggestions on possible ingredients of a State coastal zone management program, without limitation. We specifically mentioned “ecology” \* \* \* “recreation including beaches \* \* \*” “open space, including educational and natural preserves, scenic beauty and public access to the coastline and coastal and estuarine areas, both visual and physical,” among others. Without detracting from the guidance provided in our report then, this new provision in 305(b) (7) represents a determination of the committee to give further emphasis to protection of and access to the areas mentioned. As such, it is essentially not a new requirement of the act. It is also not a mandate to each coastal State to provide any specific protection and access but only a mandate to include in the management plan of each for which grants are provided an adequate specific plan for that State with respect to these matters. Some coastal States already have such plans, although they are in different stages of development or implementation. This provision assures that there will be Federal assistance under the Coastal Zone Management Act for such plans.

Second, this subsection adds a paragraph (8) to section 305(b) which specifically requires that the State coastal zone management program include a process for the planning for energy facilities likely to be located in the coastal zone and for the planning for, and management of, the anticipated impacts from any energy facility (whether that facility, causing the coastal zone impact, is in or out of the coastal zone). As in the case of paragraph (7), above, the specificity which this provision adds to the Coastal Zone Management Act does not bring a previously nonexistent requirement into the Act. Energy facilities were recognized as a major component of the development in the coastal zone when the Coastal Zone Management Act was enacted to provide assistance to the States in protecting, preserving, and developing the coastal zone in a rational, comprehensive, and coordinated manner. The legislative history of the Coastal Zone Management Act of 1972 clearly discloses that energy facilities were to be appropriately dealt with in State coastal zone management plans. This includes the impacts resulting in the coastal zone from such facilities. This history is more fully discussed in an earlier portion of this report. The provision which S. 586 adds is, of course, brought on by the increased emphasis in recent years upon the siting of energy facilities in and beyond the coastal zone (together with other increasing demands), and the Committee's desire to be assured that each coastal State receives needed assistance for its necessary planning for such energy facilities and for such impacts. This is also discussed in an earlier portion of this report.

The additional provision for an energy facility planning process component of a State coastal zone management program also complements the present section 306(c) (8) of the Coastal Zone Management Act which provides that no State program may be approved for

“administrative grants” unless the State program provides for adequate consideration of the national interest in the siting of facilities necessary to meet requirements other than local in nature. The Secretary of Commerce (through NOAA) should provide guidance and assistance to States under this section 305(b)(8), and under section 306, to enable them to know what constitutes “adequate consideration of the national interest” in the siting of energy facilities necessary to meet requirements other than local in nature. The Committee wishes to emphasize, consistent with the overall intent of the Act, that this new paragraph (8) requires a State to develop, and maintain a planning process, but does not imply intercession in specific siting decisions. The Secretary of Commerce (through NOAA), in determining whether a coastal State has met the requirements, is restricted to evaluating the adequacy of that process.

Neither paragraph (7) nor (8) would be applicable as a requirement under the Act through fiscal year 1978, as stated in section 305(d). The Committee believed that most coastal States would not require this additional time but did not want to place any such State at a possible disadvantage in achieving and maintaining eligibility for the Coastal Zone Management Act funds as a result of these new paragraphs (see also the new subsection (i) of section 306 added by S. 586).

(6) This subsection amends section 305(c) so as to increase the maximum Federal share of the costs of the development phase of a coastal zone management program to 80 percent from the present 66 $\frac{2}{3}$  percent and further amends that subsection to extend, by 1 year, the time during which a coastal State may receive such grants for development of a program before it must have an approved program in order to continue to receive grants under the act. The increase of Federal participation is necessary to provide the requisite Federal financial support to the coastal States to accomplish the very essential development of coastal zone management programs. The need for this increase is the greater burden on the coastal States brought on by pressures on the coastal zone and the larger outlays required to develop a coastal management program which fulfills the basic intent of the Act. S. 586, in its other amendments to the Act, reflects some of these increased pressures and burdens.

The amendment which gives the coastal States 4, rather than 3 years to develop their program is also a reflection of the increases in the complexity of developing a program consistent with the Act. It is also brought on by the delay in funding which the Administration provided for the States in the initial year of the Act.

(7) This subsection amends section 305(d) to provide, as mentioned previously, that the new paragraphs (7) and (8) of section 305(b) shall not result in a delay of approval of, or finding of an incomplete, plan under section 305 and section 306 of the act until September 30, 1978, and to provide that the States shall remain eligible for grants under section 305 through fiscal year 1978 for the purpose of developing the plan and process required by 305(b) (7) and (8), pursuant to the implementing regulations.

This amendment provides additional time to the States to meet the requirements of regulations of the Secretary of Commerce (through NOAA) issued to implement 305(b) (7) and (8). The committee

directs that these regulations shall be promulgated as soon as possible after these amendments become law, subject, of course, to such subsequent revisions of those regulations, as may be required.

This amendment also enables States to receive section 305 development grants for the purposes of said paragraphs (7) and (8) even though its ability to receive grants for the balance of that section may have expired because it has received grants for the maximum 4-year period or because it is receiving "administrative grants" under section 306. Coastal States which apply for approval of their management program under section 306 after fiscal year 1978 will have to meet the requirements of these regulations as well as others. Coastal States which are already receiving grants under section 306 will be required by the beginning of fiscal year 1979 to have developed the parts of their program which include the process and plan required by section 305(b) (7) and (8) and to have received approval thereof in accordance with section 306, in order to receive section 306 grants without interruption. Because, as earlier noted, energy facilities and protection and access for public beaches were already inherent in the Act without the specificity provided by S. 586, it is not the Committee's intent to build in a delay factor for all beach access, protection and energy facility planning, but only for those new requirements necessary to conform the coastal zone management plans with those specific regulations necessary to implement 305(b) (7) and (8). The regulations for the coastal zone management program should clearly identify those to which the delay provided by the amendments to section 305(d) will apply.

(8) This subsection amends section 305(h) to extend from June 30, 1977 to September 30, 1979, the authority to make grants under section 305. Partly because of the lack of financial support in the first year of the Act and for other reasons, there are some coastal States which did not begin receiving section 305 grants as soon as the committee had originally anticipated.

This amendment provides an additional 2 years for States to be developing their programs and to receive grants therefor, subject of course to the 4-year participation period for each State in section 305(c) (extended by S. 586 in some cases with respect to 305(b) (7) and (8) as discussed previously).

The Committee, however, reaffirms its hope that the coastal States will get on with the task of developing coastal zone management programs to the point of having them approved so that they may receive section 306 grants. The Committee does not contemplate giving extensions beyond the present one.

(9) This subsection amends the "Administrative Grants" section (306) so as to increase the maximum Federal share of the costs of the ongoing State program operation to 80% from the present 66 $\frac{2}{3}$ %. The increase in Federal participation is necessary to provide the requisite Federal financial support to the coastal States in the actual carrying out of their approved management programs. For effective performance of the State's responsibilities, funding should be sufficient to enable them to devote their maximum efforts to this task which, of course, has been, and will be, made more difficult by the increased emphasis on developments pertaining to energy supply and production.

(10) This subsection amends the "Administrative Grants" section (306) by making an addition to that portion of the act (306(c)(8)) which specifically refers to the siting of facilities and requires State coastal zone management programs, in order to receive such grants, to provide for adequate consideration of the national interest in the planning for and siting of facilities necessary to meet requirements other than local in nature. The addition made by S. 586 is a requirement relating to such facilities which are energy facilities and provides that the Secretary of Commerce (through NOAA), pursuant to regulations, shall find that the State has given consideration to any applicable interstate energy plan or program that is promulgated by an interstate agency established pursuant to a new section 309 of the CZM Act which is set forth in S. 586. Energy facilities are only one type of facilities to which 306(c)(8) pertains, but in view of the provisions made in the new section 309, the committee believed it necessary to especially emphasize the importance of fully considering the plans and programs of interstate agencies as they pertain to energy facility. This does not mean, however, that the regulations of the Secretary may not require consideration of such interstate plans and programs with respect to the siting of other facilities, or their other plans and programs. The requirement of such consideration by the existing provisions of section 306(c)(8) is that it be "adequate consideration." Consistent with the intent of the Act, the Committee has not required automatic acceptance by the coastal States of these interstate energy plans and programs, but on the other hand, the requirement that the consideration be adequate is not superfluous.

As the new section 309 is written, it may be that the plans and programs thereunder would not be developed or promulgated by an interstate agency, as such. The Committee intends to include all official plans and programs produced pursuant to the authority provided by the new section 309. Also included is consideration of the plans and programs of the temporary *ad hoc* planning and coordinating entities authorized by said section 309.

(11) This subsection amends section 306 by adding a new subsection (i) which imposes an additional requirement of eligibility for section 306 grants. Namely, that after fiscal year 1978 each coastal zone management program shall include as an integral part, an energy facility planning process, and a general plan for the protection of, and access to, public beaches and other coastal areas which process and plan has been developed pursuant to section 305(b)(7) and (8) which are added by S. 586. Such provision is complementary to section 305(d) as amended by S. 586, and the discussion of that amendment is applicable here.

(12) This subsection amends the "Interstate Coordination and Cooperation" section (307) to add to subsection (e)(3) the word "lease" each place the words "license or permit" are used therein. This is an amendment of a technical nature in that the committee intended that the words "license or permit" would include "lease" and believes that, in fact, as used in section 307, they do, but this amendment is to clear up any possible ambiguity. Section 307 is the portion of the Act which has come to be known as the "Federal consistency" section. It assures that once State coastal zone management programs are approved and a rational management system for protecting, pre-

servicing, and developing the State's coastal zone is in place (approved), the Federal departments, agencies, and instrumentalities will not violate such system but will, instead, conduct themselves in a manner consistent with the States' approved management program. This includes conducting or supporting activities in or out of the coastal zone which affect that area. The provisions of section 307(c)(3) include instances where a Federal entity issues a license, lease, or permit for any activity in or out of the coastal zone which may affect the State's coastal zone. In such instances, the pertinent coastal State is provided an opportunity to determine whether that activity, or effects thereof, will be consistent with its approved coastal zone management program, and no such license, lease, or permit shall issue until the State's concurrence with respect to such consistency is provided, or where the State does not act within 6 months, it is presumed. The applicant for such a license, lease, or permit, or for its renewal, is provided an opportunity of appeal and an exception is provided in cases involving national security. As energy facilities have been focused upon more closely recently, the provisions of section 307 for the consistency of Federal actions with the State coastal zone management programs has provided assurance to those concerned with the coastal zone that the law already provides an effective mechanism for guaranteeing that Federal activities, including those supported by, and those carried on pursuant to, Federal authority (license, lease, or permit) will accord with a rational management plan for protection preservation and development of the coastal zone. One of the specific federally related energy problem areas for the coastal zone is, of course, the potential effects of Federal activities on the Outer Continental Shelf beyond the State's coastal zones, including Federal authorizations for non-Federal activity, but under the act as it presently exists, as well as the S. 586 amendments, if the activity may affect the State coastal zone and it has an approved management program, the consistency requirements do apply. This has been an encouragement to the respective coastal States and the concerned citizens thereof to move toward obtaining an approved management program.

In regard to the consistency provisions of section 307, the Committee intends that the delays which it has provided in S. 586 for a State in order to permit it to develop and obtain approval of those portions of its program newly required by S. 586, shall in no way prevent the operation of the consistency provisions of section 307 which shall apply to every State which has received approval for section 306 grants. The portions of the State's management program developed and approved in compliance with those new provisions, however, may well establish additional requirements in the State program which will have to be met to achieve the requisite consistency.

(13) This subsection amends the Act by adding three new sections numbered as 308 through 310 and by redesignating the present sections bearing those numbers and succeeding sections so that they follow these three new sections. The new sections are as follows:

*Section 308.*

This section is entitled "Coastal Energy Facility Impact Program."

Section 308(a) authorizes the Secretary of Commerce (through NOAA) to make grants to a coastal State, the coastal zone of which

has been, or is likely to be impacted by the exploration for, or the development of or production of, energy resources or impacted by the location, construction, expansion, or operation of an energy facility or both. The grants authorized by this subsection are to be provided for the purpose of enabling the coastal State to study and plan for the consequences of such facilities and activities. Impacts which should be beneficial can become adverse without proper planning and study. Because of the importance of such planning and study to the Nation's coastal zone and because of the necessity of such planning and study to assist the overall national energy effort which requires a knowledgeable and comprehensive mechanism for dealing with the impacts from such energy activities and facilities, the grants to be provided under this subsection are authorized to be up to 100 percent grants, depending on the available funds. The Committee believes that providing maximum Federal funding to permit each coastal State participating in the coastal zone management program to do its own planning and study, is not only necessary but preferable to having the Federal Government undertake this planning and study even if it is done for the States. It is believed that the coastal States are well aware of the need to undertake such planning and study as soon as possible and in a scientific comprehensive form and that they will do so.

We expect that the Secretary of Commerce, utilizing the resources of the National Oceanic and Atmospheric Administration, will cooperate fully in providing necessary Federal assistance and guidance to the coastal States in this most important undertaking. Of course, the coastal zone management mechanism, under the 1972 Act, was designed to encourage and facilitate this type of activity by the coastal States. The impacts which the States will address are those which will be, or may be, experienced in the coastal zone including those which are a result of energy activities and facilities which are located outside of the coastal zone and the coastal States will carry out this study and planning in conjunction with their other activities under the Coastal Zone Management Act. As this section pertains to all types of energy facilities and activities having an impact on the coastal zone, it is expected by the committee that each coastal State will need to receive the grants provided by subsection (a). Presently, all coastal States are already participating in the coastal zone management program. The regulations for these grants are to be adopted pursuant to subsection (d) and (e) of section 308.

Section 308(b) authorizes the Secretary of Commerce (through NOAA) to make grants and/or loans to coastal States, upon a determination, pursuant to the criteria in subsections (d) and (e), that the State's coastal zone has been, or is likely to be, adversely impacted by the types of activities and facilities described in subsection (a). The Secretary (through NOAA) is also required to find that such adverse impacts will result as a consequence of a license, lease, easement or permit granted by the Federal Government which permits (1) the exploration for, or the drilling, mining, removal or extraction of, energy resources, or (2) the location, construction, expansion, or operation of energy facilities including by a lessee, licensee or permittee. (The committee does not intend this designation of "lessee, licensee, or permittee" to be exclusive) or (3) activities in (1) and (2) when carried out by, or for, the Federal Government.



These grants and loans are to be used by the States for carrying out projects which (A) reduce, ameliorate, or compensate for, the net adverse impacts in the coastal zone of such activities and facilities and (B) provide public facilities and public services made necessary, either directly, or indirectly by such activity and facilities. These grants and loans may equal 100 percent of the costs of the projects, depending on the funds available. The costs of the projects include the actual expenses of accomplishing the said reduction, amelioration, compensation and provision of public facilities and services. In both cases, the loans or grants should not be for costs not attributable to the energy facility or resource development. For example, a public facility which responds in part to adverse impacts from an energy facility and responds in part to unrelated needs, would be funded only in proportional part under this subsection.

The grants and loans authorized by this subsection are not intended to be used in lieu of funds available from those who are liable for specific damages which result from the location, construction, or expansion of an energy facility or from the exploration for, development of or production of energy resources.

Section 308(c)(1) pertains only to the grants which are authorized by subsection (b). Such grants may be made only if the Secretary of Commerce (through NOAA) determines, pursuant to subsections (d) and (e), that the coastal State will suffer net adverse impacts in its coastal zone as a result of the energy facilities and activities designated in subsection (b). The period against which the said net adverse impact is to be judged is specified as the period of the useful life of such facility or the period of such exploration, development or production activity.

Section 308(c)(2) pertains only to the loans which are authorized by subsection (b). Such loans are to be made in lieu of grants when the Secretary of Commerce (through NOAA) determines, pursuant to subsections (d) and (e), that the coastal State will experience temporary net adverse impacts as a result of the energy facilities and activities designated in subsection (b) but that over the period of the useful life of the facility or activity, it is expected to bring net benefits to that coastal State. The maximum period for which any such loan may be granted is 40 years and the Secretary (through NOAA) is to establish the interest rates at which such loans will be granted, not to exceed an annual percentage rate of 7 percent, and other conditions of such loans. He is additionally authorized to forgive any loan, or part of a loan, if the borrowing State demonstrates to his satisfaction that there has been a change of circumstances (the Committee also intends to include better knowledge of the circumstances originally known) so that there are resultant or anticipated, net adverse impacts, rather than benefits, which would qualify that coastal State for a grant under section 308(c)(1). In such cases, the forgiven loans will be regarded as grants to the State under this section 308(c)(1).

Repayment of loans should be geared to the time when the State is expected to begin to experience the net benefits from the facility or activity and on a repayment schedule which is related to the expected value of the net benefits received or experienced. It is the Committee's intent that the Secretary's authority under the act includes the authority to readjust the time period for repayment of the loan (within the

40-year maximum), and the repayment schedule (including amounts of payments) in accordance with the actual experience of the State in realizing the net benefits, but the States are expected to do their part in seeing to it that the benefits are realized, including the time of realization. The loan instrument, or conditions accompanying the loan, and the regulations are expected to provide reasonable advance notice to the borrowing State together with an opportunity for a hearing and other equitable provisions in the event of any acceleration of repayment of the loan including increases in amounts of periodic payments.

The loan instrument, and/or regulations, shall also provide the procedures whereby a State may request the said conversion of a loan, or part of a loan, to a grant, the said extension of a loan or the said reduction in payments.

Section 308(d) provides that the Secretary (through NOAA) shall promulgate regulations which establish the eligibility requirements for grants and loans under this section. Such requirements may include a formula for calculating the amount of the loan or grant based upon the difference between the benefits and the costs which are attributable to the facility or activities involved in the event of grants or loans under 308(b).

The Committee does not intend that the coastal States necessarily be the recipients of a multiplicity of separate grants and loans under 308(b), each relating to separate energy facilities and activities. To the maximum extent, the Secretary of Commerce (through NOAA) and the States shall endeavor to combine and consolidate such section 308(b) loans and grants including the setoff of net benefits against net adverse impacts.

Paragraphs (1), (2), and (3) of subsection (d) set forth certain findings which must be made prior to making loans and grants to coastal States under section 308(b). The State must be receiving grants under section 305 or section 306 of the act or it must be otherwise engaged in the development of a coastal zone management program, as set forth in section 305, in a manner consistent with the goals and objectives of the Act. In the latter case, and in the case of States receiving section 305 grants, it is provided that the Secretary (through NOAA) must also find that the States are making satisfactory progress toward the development of an approvable coastal zone management program. It is therefore not necessary that a State actually be receiving either section 305 grants or section 306 grants for it to be eligible for loans and grants under this section. The committee does believe it is necessary that the State be developing a coastal zone program consistent with the act and making progress toward achieving it for the reason that the grants and loans under section 308 should be used as part of a comprehensive State coastal zone management effort. The benefits to the States, and the Nation, from operating this coastal energy facility impact program as part of the Coastal Zone Management Act, and the State program pursuant thereto, are much greater than if these funds were provided to the States independently and without such requirements. It assures that full value will be received from the money expended.

The State must also demonstrate to the satisfaction of the Secretary of Commerce (through NOAA) that it will suffer, or is likely to suffer, the net adverse impacts required for eligibility for grants and

loans. This provision places the burden of going forward on the State to establish eligibility including requiring it to provide all necessary information required by the Secretary for calculation of the amount of loan or grant. In addition, a finding is to be made that the State applying for a grant or loan has demonstrated, and provided adequate assurances, that the proceeds of the grant or loan will be used for the intended purpose which shall be consistent with the Coastal Zone Management Act.

Section 308(e) makes further provisions concerning the methods and procedures for grants and loans under this section. The Secretary is to issue, within 180 days after approval of the act, regulations for such grants and loans including for eligibility and for determination of amounts.

The regulations are to specify how the Secretary will determine whether a State's coastal zone has been, or is likely to be, adversely impacted including determinations of "net adverse impacts" and "temporary adverse impacts." The Committee foresees that these regulations will establish those matters which a State applying for a grant or loan will be expected to show and the manner in which those matters are to be established. The instances of impacts which have already occurred are obviously the easiest to establish and evaluate.

Where the impacts are believed likely to occur, the regulations will probably provide several "points of beginning." For example, knowledge of an energy facility being established in a given location for a given purpose, knowledge of the probable existence of an energy resource together with knowledge of the demand therefor, and its availability, are potential "starting points." When dealing with anticipated adverse impacts, the regulations should take into account the necessary leadtime for planning for, and dealing with, certain types of impacts as opposed to the time involved with respect to commitments to construct or operate an energy facility or carry out an energy activity. The goal will be to produce the funds for the States when they will be needed for the purposes intended but the Secretary will want to have as much assurance as possible, with that goal in mind, that the adverse impacts are actually going to be experienced. This includes assurance that the energy facility will be established or the energy activity will be conducted. Once it is known to the maximum extent possible, that an energy facility will be established, or an energy activity conducted, the regulations will provide for the determination of types and degrees of adverse impacts reasonably to be expected from the facility or activity and the types of benefits reasonably to be expected therefrom. After that, the regulations will provide a means for calculating the monetary value of adverse impacts and benefits to that State from said facility or activity and a schedule for determining when those costs and benefits will likely be experienced and the rate at which they will likely be experienced. When the process is completed, the result should be an approximation which will show whether the State is likely to experience temporary net adverse impacts, net adverse impacts or net benefits and the value thereof. An alternative initial action for which the regulations may provide is an initial temporary loan based upon the existence, or anticipated existence, of any energy facility or activity with anticipated temporary or net adverse impacts. Such a temporary loan could be granted pending a subsequent reassessment

and the appraisal of later developed facts which will produce a determination of whether the loan should be extended, or otherwise modified, or converted to an outright grant.

By way of guidance, the Committee intends to include in "net adverse impacts" or "costs" and in "net benefits" and "benefits," the monetary value of effects of energy facilities and activities even though each such effect may not require, or permit, an actual expenditure, or receipt of, money. However, where funds are paid to coastal States by way of grants or loans, the coastal State is required to use those funds for the purposes of this act. If the nature and extent of that particular damage cannot be fully ameliorated by the expenditure of the funds loaned or granted as a result of that impact, the coastal State nevertheless should expend the funds received as a result of that adverse impact for a project with a purpose consistent with the Act.

"Net benefits" or "benefits" to a coastal State include, for example, such matters as increasing the value of its tax base or increasing its potential revenues by way of special taxes, licenses or permits or, in the receipt of shares of the revenues produced.

Section 308(e) (2) pertains to planning grants under subsection (a) and provides that the regulations shall provide the States with a general range of the types of activities for which funds will be provided under that subsection.

Section 308(e) (3) (B) provides that the regulations shall establish guidelines and procedures for evaluating projects coastal States determine are most needed for which grants and loans are requested under subsection (b). The emphasis this provision provides is that the coastal States shall determine for themselves which projects are most needed by them when submitting their requests subject, of course, to review and approval.

The Committee intends that the entire Federal establishment will provide such assistance as may be requested by the Secretary of Commerce (through NOAA) in order to assist the development of the regulations for loans and grants under this section. The Comptroller General shall provide advice to the Secretary (NOAA) with respect to the requirement which he believes necessary to fulfill his obligations under section 308(e) (5) as well as such other assistance as may be requested by the Secretary (NOAA) in developing the regulations for these grants and loans.

Section 308(e) (6) stipulates that the Secretary (NOAA) shall consult with appropriate Federal agencies in developing the regulations and, as noted earlier, when requested that these agencies shall provide actual assistance. Also, to be consulted are appropriate State and local governments, appropriate commercial and industrial organizations, appropriate public and private groups or any other appropriate organization with knowledge or concerns regarding net adverse impacts which may be associated with the energy facilities and activities to which such regulations pertain. The Committee specifically notes that it has provided a 6-month period of time to develop the regulations required to implement this section due to the complexity of the regulations to be developed. The Secretary of Commerce (NOAA) and others with duties with respect thereto, however, are expected to begin immediately after signature of the bill into law, to begin to develop these regulations and to devote maximum effort thereto. The requests

to other agencies for the desired assistance within their areas of expertise should be one of the first orders of business.

Section 308(f) provides that a coastal State, with the approval of the Secretary (NOAA) may allocate all or a portion of any grant or loan received under this section to (1) local government, (2) an area-wide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (3) a regional agency or, (4) an interstate agency. This provision is similar to that already provided in section 305(f) of the CZM Act.

Section 308(g) provides that grants and loans under this section may be provided to States which have experienced net adverse impacts prior to the date of enactment of the bill. A 5-year limit is placed on the operation of this subsection. This 5 years is believed by the Committee to constitute the broadest possible latitude which can be permitted and it further believes that the coastal States will request these funds much sooner than that. The Committee expects the regulations for other loans and grants to establish reasonable periods for the submission of requests for such other grants and loans. The Committee further notes that this provision in no way relieves the coastal States from establishing the validity of their requests.

Section 308(h) establishes the "Coastal Energy Facility Impact Fund." Moneys for this fund shall be those moneys appropriated to the Secretary of Commerce (NOAA) for that purpose. The fund is to be administered and used by him as a revolving fund and administrative expenses of section 308 may be changed thereto. Moneys in the fund may be deposited to interest-bearing accounts or invested in U.S. guaranteed bonds or other obligations.

Money returned from States originally paid from the fund shall be redeposited to this fund.

Section 308(i) provides that in calculating the amount of a grant or loan under this section adequate consideration shall be given to recommendations of a "Coastal Impact Review Board" which is established by this subsection. Members are appointed as follows: two by the Secretary of Commerce (NOAA), one by the Secretary of Interior, two by the President of the United States from a list of at least six candidates submitted by the president of the National Governor's Conference. The board shall also make recommendations to the Secretary of Commerce (NOAA) with respect to the actual amount of grants and loans under this section. The regulations of the Secretary under this section shall incorporate, and make provisions for use of, this review board, including its internal procedures. This review board is intended to be an additional means of assisting the Secretary (NOAA) in making the determinations referred to and its recommendations shall not be binding on the Secretary (NOAA).

This review board will be deemed to be within the purview of the Advisory Committee Act, the provisions of which shall apply except as may be inconsistent with provisions of the CZM Act as amended or other applicable law.

Section 308(j) specifies that nothing in section 308 shall be deemed to modify, or abrogate the consistency requirements of section 307 of the CZM Act. The Committee particularly believed it necessary to emphasize that intent at this point and has thus inserted this specific provision although this intent applies to the entire bill.

Section 308(k) contains an additional provision for assistance to the coastal States. This subsection pertains to oil and gas produced on OCS lands and is a provision adopted in committee on the motion of Senator Stevens. Under this provision the coastal State which is adjacent to the Outer Continental Shelf lands from which such oil or natural gas is being produced will receive an automatic grant if said production is occurring on the first day of the relevant fiscal year and if it exceeds 100,000 barrels of oil per day or, in the case of natural gas, the energy equivalent of 100,000 barrels of oil, as determined by the Secretary (NOAA). ("Adjacency shall be determined by regulations of the Secretary" (NOAA)).

Also eligible for these automatic grants are coastal States which, as of the first day of the relevant fiscal year, are permitting oil or natural gas produced on the OCS adjacent to that State or adjacent to another coastal State, to be landed (brought ashore) in its coastal zone, providing that such landing occurs as the first landing of that product as a result of its direct transportation thereto. In the event that a State is adjacent to OCS lands where production occurs but is not landing the oil or natural gas produced there, or in the opposite event that a State is landing oil or natural gas produced adjacent to another State, the grants shall be calculated at a rate half as great as that to which it would be entitled if it were both adjacent to OCS production and landing that oil or gas. In most cases, this will mean an equal sharing between the adjacent State and the landing State. In some cases, however, one State may not receive its half because it will not have met the 100,000-barrel-per-day requirement or it will have surpassed the 1-million-barrel-per-day limit. That circumstance does not interfere with the right of the other State to receive its half of the grant as long as that State has met the minimum and has not surpassed its limit. In such cases, the grants shall only be in amounts of one-half that which would be made if the oil or gas had been produced on adjacent OCS lands.

The 100,000-barrels-per-day to 1-million-barrels-per-day eligibility criteria apply to the "landing State" as well.

The funds made available under subsection (1) are to be expended, pursuant to regulations adopted by the Secretary of Commerce (NOAA), for the purpose of reducing or ameliorating adverse impacts resulting from exploration, development or production of energy resources, including those on OCS lands, or from the location, construction or operation of related energy facilities consistent with the CZM Act. If the coastal State does not expend the funds pursuant to the purposes for which granted, the regulations and conditions accompanying such grants shall provide for their return to the U.S. Treasury.

Funds for this subsection do not come out of the "Coastal Energy Facility Impact Funds" and the authorization for such funds, in this subsection, are to be sufficient to provide the coastal States with grants as follows (the amounts stated are those for the States adjacent to the production and in which the oil or gas is landed): 20 cents per barrel in the first year of payments to that State, 15 cents in the second year of payments to that State, 10 cents in the third year of payments to that State and, 8 cents in the succeeding years of payments to that State. Such authorized funds shall not exceed \$50 million per year for

each of the fiscal years until September 30, 1978. Thereafter, for 10 years the authorization shall be sufficient to provide grants at the rates previously stated, which shall be limited to the first million barrels per each State.

Grants under this subsection shall be calculated on the basis of that State's previous volume but in all cases the regulations shall provide for adjustments based upon the actual production and actual landings.

It is further provided in this subsection that coastal States receiving these automatic grants shall use them initially to retire State and local bonds guaranteed pursuant to section 319 of the CZM Act as added by S. 586. If the grants are insufficient to retire both State and local bonds, the local bonds shall be retired first.

Section 308(7) constitutes the appropriation authorization provision for the "coastal energy facility impact fund" and the sum of \$250 million is authorized for the fiscal year which ends June 30, 1976, the sum of \$75 million, for the transitional quarter (required to adjust the Federal fiscal year) which ends September 30, 1976, and the sum of \$250 million for each of the 2 succeeding fiscal years.

In other words, the authorization is for \$250 million for each of the 3 fiscal years after this bill becomes law. It is further provided that no more than 20 percent of the total amount appropriated for such fund for each year, that is \$50 million, should be used for planning and study grants under subsection (a). While the language used inserts an upper limit only, the intent of the committee is that such grants be made and that the use of 20 percent of the appropriated funds for this purpose appears to be the proper allocation of such funds.

No division of funds between those for grants and those for loans pursuant to subsection (b) is provided but this Committee intends to maintain close oversight of the operation of the CZM Act, as amended and will give careful attention to this aspect as well.

The Committee is convinced that the present existing and potential impacts of energy facilities upon the coastal zone will require the full amount authorized but the Committee's oversight function will also include a review of the adequacy of the authorization provided. The Committee believes that this expenditure will promote the realization of a key national goal, the development of domestic energy sources. These funds could be pivotal to the success of that effort. It is essential that the coastal zone be protected, and the existing mechanism of the Coastal Zone Management Act is the best possible means of protection from adverse impacts of energy development. These funds are people related funds and will benefit the vast majority of the people in this country who live in the coastal zone. Of course, to the extent that these funds make it possible and practical to provide energy all of the people of the Nation will benefit.

#### *Section 309.*

This new section is entitled "Interstate Coordination Grants to States."

Section 309(a) encourages the coastal States to coordinate coastal zone planning in areas which are contiguous to areas within the coastal zone of other States and to study, plan, and/or implement unified coastal zone policies for such areas. This may be done through interstate agreements or compacts.

Ninety percent funding is authorized for such interstate activity, provided such funds will be used consistent with the respective purpose and activities of the coastal States under section 305 and 306 of the CZM Act. Section 309 was also discussed earlier in this section-by-section analysis with respect to the amendments to section 306(c) (8) of the CZM Act.

Section 309(b) provides the coastal States with the consent of Congress to negotiate, and enter into interstate agreements and compacts for the development and administration of coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306. Such agreements or compacts may also provide for the establishment of agencies to effectuate them. No further approval of Congress is required.

Section 309(c) encourages, and provides for, Federal-State consultation procedures by the parties to interstate agreements and compacts and the Federal Government. The Secretary of Commerce (NOAA), the Chairman of CEQ and the Administrator of EPA are authorized and directed to participate on behalf of the Federal Government. It is the committee's intent that the Secretary of Commerce (NOAA) will have the lead role for the Federal Government in this activity.

Section 309(d) provides, for 5 years, a mechanism intended to fill the gaps which may exist prior to the formal establishment of the interstate compact or agreements to which this section pertains. An ad hoc group of two or more States, directly, or through a multistate instrumentality, may undertake temporary ad hoc planning and coordination including through the establishment of specially oriented ad hoc committees or entities.

The activity authorized pursuant to this subsection is essentially that authorized in subsection (a) but the exact activities of these ad hoc groups will primarily be to lay the groundwork for the activities which will be carried on under subsection (a). The Secretary is authorized to make grants to these ad hoc groups of States up to 90 percent of the costs of creating and maintaining them and the Federal officials mentioned in subsection (a) are to represent the Federal Government when requested. The Secretary of Commerce (NOAA), according to the intent of the committee, will have the lead role in this Federal activity.

#### *Section 310.*

This new section is entitled "Coastal Research and Technical Assistance."

Section 310(a) authorizes the Secretary of Commerce (NOAA) to encourage and support private and public organizations concerned with coastal zone management, or aspects thereof, in conducting research and studies relevant to such management.

Section 310(b) authorizes the Secretary of Commerce (NOAA) to conduct a program of research study and training to support development and implementation of State coastal zone management programs for which the States are receiving grants under sections 305 or 306. It is directed that each Federal agency (including departments and other Federal executive branch instrumentalities) shall assist the Secretary (NOAA) upon his written request, on a reimbursable basis or otherwise in upgrading and maintaining the ability of the coastal States to properly maintain a comprehensive coastal zone management program as envisioned by the act, through research, training, and study includ-



ing the conduct of such activities by the Secretary (NOAA) and the provision of technical assistance to the coastal States for such purposes. In order to increase State abilities for carrying out short-term research, studies, and training, grants of up to 80 percent may be provided them.

(14) This subsection of S. 586 amends section 316 of the Coastal Zone Management Act as redesignated (section 313 of the present act). It is entitled "Annual Report." The amendment adds two new requirements for the annual report. The first has to do with impacts in the coastal zone of energy facilities and activities. The second has to do with interstate and regional planning.

(15) This subsection of S. 586 amends section 320 of the Coastal Zone Management Act, as redesignated (this is the present section 315 of the Coastal Zone Management Act which is entitled "Authorization of Appropriations") as follows: (a) (1) Increasing the annual authorization for section 305 ("Management Program Development Program Grants") provided in the present 315(a)(1) as amended, from \$12 million to \$20 million and by extending the years for which an authorization is provided by 2 years which includes the fiscal year 1979; \$5 million is provided for the transitional quarter ending September 30, 1976. These additional years accord the authorization with the amendments made to section 305 by S. 586. The additional authorization is necessary to provide the States with the funds to carry out the increased duties required of them by S. 586 and by the other increased demands of the coastal States as they continue to become more deeply involved in developing these programs for their coastal zones. The increased pressures brought on by energy facilities and activities are part, but not all, of the reason for this increased authorization. The committee is convinced these additional sums are needed and will be well used.

(a) (2) Increasing the annual authorization for section 306 ("Administrative Grants") provided in the present 315(a)(2) from \$30 million to \$50 million and by extending the years for which the authorization is provided by 3 years which includes the fiscal year 1980. \$12.5 million is provided for the transitional quarter ending September 30, 1976. Unlike section 305, section 306 does not terminate. It provides the grants to the coastal States for the operation and maintenance of their approved management programs. These programs are not static but involve an ongoing activity of preservation, protection and development. We have added to the requirements for State management programs by the amendments in this bill and for this reason and because of the growing complexity of the management situation with which the coastal States must otherwise cope, as well as inflation, it is necessary to increase this authorization. With respect to sections 306 and 305, the committee has also amended the Coastal Zone Management Act in this bill to increase the Federal rate of participation to the more standard 80-percent rate.

(a) (3) \$5 million is authorized for the fiscal year ending June 30, 1976, \$1.2 million for the succeeding transitional quarter and \$5 million for each of the 9 years thereafter for grants under the new section 309 ("Interstate Coordination Grants to States").

(a) (4) and (a) (5) \$5 million is authorized for the fiscal year ending June 30, 1976, \$1.2 million for the succeeding transitional quarter

ending September 30, 1976, and \$5 million for each of the 9 years thereafter for subsection (b) of the new section 310 ("Coastal Research and Technical Assistance") and a like sum for the same period for subsection (c) of that new section. Subsection (b) is for a program of research, study and training to assist the coastal States and subsection (c) is for grants to the States to develop their own short term research, study, and training capability.

(a) (6) \$50 million is authorized for the fiscal year ending June 30, 1976, \$12.5 million for the succeeding transitional quarter ending September 30, 1976, and \$50 million for each of the 9 fiscal years thereafter, to be used for the cost of acquisition of lands to provide for protection of, and access to, public beaches and for the preservation of islands in accordance with section 306(d)(2) of the CZM Act. Section 306(d)(2) is the provision of the CZM Act which requires, as a condition precedent to approval of a State management program, that the State has the authority, through its chosen agency or agencies, for the management of its coastal zone in accordance with its management program, including the power to acquire fee simple and less than fee simple interests in lands and waters and other property through condemnation or other means, when necessary to achieve conformance with that management program. This means that when the States own management program provides for the acquisition by it of lands, waters or other property, then it must have the authority, directly or indirectly to carry out that acquisition. The committee is aware of the fact that the mention of condemnation authority in the existing act has caused concern to some who have not studied its wording carefully. We therefore, here emphasize that, first, the State, itself, sets the program and "acquisition" is involved only if it is necessary to carry out that program. Second, condemnation is only one of the means by which the State can "acquire" property and it is probable that a State can carry out a plan which calls for "acquisition" without use of condemnation authority. In such case it need have no condemnation authority just as it need none when the plan does not necessitate acquisitions. With the additions which S. 586 makes to sections 305 and 306 relating to plans for the protection of, and access to, public beaches and other coastal areas, the committee deemed it especially important to clarify this matter. The funds authorized by this new subsection (a)(5) are specifically to augment State funds for protection of, and access to, public beaches and preservation of islands and such funds may be used for acquisitions consistent with that purpose.

(a) (7) Increasing the annual authorization for the estuarine sanctuaries section—section 312 of the present act—from \$6 million to \$10 million. The period for which the authorization is provided is extended through fiscal year 1985. \$2.5 million is provided for the transitional quarter ending September 30, 1976. The need for estuarine sanctuaries has greatly increased by the ever growing threats to the environment of the coastal zone, and the committee believes that the coastal States will be accelerating their planning for and creation of such areas.

(b) Increasing the annual authorization for the administrative expenses of the act in section 315(b) (redesignated 320) from \$3 mil-

lion to \$5 million and extending the authorization period by 3 years from fiscal year 1977 through fiscal year 1980, \$1.2 million is also provided for the transitional quarter ending September 30, 1976. The committee believes this increased authorization is a minimum for the additional administrative activities of the Secretary of Commerce—through NOAA—in carrying out the Coastal Zone Management Act including each of the amendments made by S. 586 for which separate funds are not provided. The committee is concerned that by restricting this amount the ability of the Secretary of Commerce (through NOAA) to respond to the needs of the coastal States and the coastal zone will resultingly be restricted including giving the States the assistance and support which they need to fully take advantage of the Coastal Zone Management Act. The committee therefore expects the Secretary (through NOAA) to keep it closely advised of the need for additional administrative fund authorizations to properly and fully perform the necessary administrative functions. These needs are particularly great when the various coastal States are engaged in developing, and obtaining approval of, their programs.

(16) This subsection of S. 586 adds two new sections to the act as follows:

*Section 318.*

This new section is entitled "Limitations". The sole intent and purpose of subsection (a) of this section is to confirm that except as necessary to judge an overall coastal State program, plan, or project for which funds are provided, or where otherwise expressly stated in the Coastal Zone Management Act, the Secretary of Commerce cannot become involved in individual energy facility siting matters within a coastal State, and that in no event shall he use his authority or funds under the act to force an individual State to site a specific energy facility when the coastal State does not wish to do so. The decisions of the Secretary are to be made based on rules of general applicability.

Subsection (b) of this section is a declaration that no grant or loan made pursuant to section 308 of the Coastal Zone Management Act, as amended, is to be deemed a "major Federal action" for the purposes of section 102(2) (C) of the National Environmental Policy Act of 1969. The effect of this amendment is that the Secretary of Commerce (NOAA) is not required to file a so-called "environmental impact statement" with respect to the decision to make any loan or grant under the Coastal Energy Facility Fund or the automatic grant provision of the Coastal Zone Management Act as amended by S. 586.

*Section 319.*

This section is entitled, "State and Local Bond Guarantees".

Section 319(a) authorizes the Secretary (through NOAA) to make commitments to guarantee bonds or other evidences of indebtedness issued by State or local governments to obtain funds to reduce, ameliorate or compensate the adverse impacts in the coastal zone from the exploration for, or the development or production of, energy resources of the Outer Continental Shelf. Where a local government issues such bonds, the Secretary is hereby directed to first obtain the certification of the Governor of that State or his designated representative that he approves such action as being consistent with the State management program under this act and the Secretary shall

be responsible for seeing that such funds are used in a manner consistent with this act, including audits. The Comptroller General shall assist the Secretary in this respect upon request. The Secretary of the Treasury is hereby directed to advise the Secretary of Commerce (NOAA) in all respects with respect to these guarantees. Section 319(b) requires the Secretary (through NOAA) to prescribe and collect a guarantee fee. Such fees shall be charged to the party ordinarily responsible for such fees by usual business practice. The fees are to cover administrative costs under this section. This subsection also provides that in the event payments are required to be made as a result of guarantees under this section, they shall be made by the Secretary of the Treasury from funds authorized to be appropriated under this section, such authorization being for the amounts as may be necessary.

It is additionally provided that the Attorney General is responsible for taking such legal action as is necessary to recover the amounts paid pursuant to the guarantees from the defaulting State or local government which issued the bonds. As previously noted, section 308(k) provides for the retirement of bonds issued under the section.

#### *Section 103.*

This section provides an additional Associate Administrator for NOAA who shall be the Associate Administrator for Coastal Zone Management, appointed by, and with, the consent of the President. He will be compensated at the rate provided for level V of the executive pay schedule. The Committee believes the person in charge of the CZM program in NOAA is, and will be, bearing responsibility which indicate that he should be an Associate Administrator. He must be a person with considerable administrative experience in the coastal zone management program area and who has a background which will enable him to perform the coastal zone management responsibilities of NOAA.

#### ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the committee estimates that the additional costs for implementation of the provisions of S. 586, over and above the anticipated appropriations under existing authorizations contained in the Coastal Zone Management Act (Public Law 92-583, as amended, Public Law 93-612), would be as follows: \$399 million for fiscal year 1976; \$112.05 million for the transitional fiscal quarter ending September 30, 1976; \$399 million for the fiscal year 1977; \$405 million for the fiscal year 1978; \$105 million for the fiscal year 1979; \$130 million for the fiscal year 1980; \$75 million for the fiscal years 1981, 1982, 1983, 1984, 1985.

The total increase in authorization over the period from fiscal year 1976 to fiscal year 1985 would amount to approximately \$1,925.05 million.<sup>1</sup>

See chart and notes following.

This chart represents the appropriations authorized by S. 586 by section for each fiscal year in effect. The numeral in each matrix indi-

<sup>1</sup> This figure does not include fundings authorized under section 308 (automatic grants) after fiscal year 1978 nor funds necessary to fulfill bond obligations upon default.

cates the total appropriation for that section/and fiscal year. The numeral in parentheses indicate the difference between existing appropriation authorizations for that section/and fiscal year and the new appropriations authorized by S. 586. Therefore, that numeral (in parentheses) shows what actual new dollar amount is necessary to fund fully the new section for that fiscal year authorized under S. 586. Note also that fiscal year 1985 is representative of fiscal years 1981, 1982, 1983, and 1984.

[In millions]

Section	Appropriation for fiscal year ending—							Section total
	June 30, 1976	Trans. 1st quarter, Sept. 30, 1976	Sept. 30, 1977	Sept. 30, 1978	Sept. 30, 1979	Sept. 30, 1980	Sept. 30, 1985	
305.....	(8) 20	(2) 5	(8) 20	(8) 20	(8) 20			(34) 85.0
306.....	(20) 50	(5) 12.5	(20) 50	(20) 50	(20) 50	50		(135) 262.5
Islands and beaches.....	50	12.5	50	50	50	50	50	512.5
308 <sup>1</sup> automatic grant.....	50	12.5	50	50	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	1 162.5
308 impact fund.....	250	75	250	250				825.10
309 interstate.....	5	1.2	5	5	5	5	5	51.2
310 (b) Federal research.....	5	1.2	5	5	5	5	5	51.2
310 (c) State-research.....	5	1.2	5	5	5	5	5	51.2
315 Sanctuary.....	(4) 10	(1) 2.5	(4) 10	10	10	10	10	(89) 102.5
319 <sup>2</sup> bond guarantee.....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
320 administrative costs.....	(2) 5	(.45) 1.2	(2) 5	(2) 5	(2) 5	5		(13.45) 26.2
Year total.....	450	12.48	450	450	150	130	75 <sup>3</sup>	2, 129.8
Actual new \$ amount year total.....	399	112.05	399	405	105	130	375	1, 925.05

<sup>1</sup> The committee is unable to project actual costs of sec. 308(k) (automatic grants) after the fiscal year ending Sept. 30, 1978. Total funding for such automatic grants will be based on the following formula: (1) minimum of 100,000/maximum of 1,000,000 barrels (equivalent) per State per day at 20 cents per barrel 1st yr; 15 cents 2d yr; 10 cents 3d yr; 8 cents 4th and succeeding years. Funds available under this formula will be subject to a total yearly cost limitation of \$50,000,000 up to the fiscal year ending Sept. 30, 1978. For the 10 succeeding fiscal years, sufficient funds are authorized to fulfill the formula provision stated above.

<sup>2</sup> Sec. 319 authorized the Secretary to guarantee State and local bonds issued for specific purposes as related in the act. Cost estimates for this provision are dependent upon the unforeseeable size and number of defaults by the State and local governments in the payments due under the bonds. It should be noted that if at such time the U.S. Government is required to fulfill its obligation as guarantor, it will have the right of reimbursement against the defaulting State or local government, up to the limit of such funds due or accrued by the defaulting party under sec. 308 (k).

<sup>3</sup> Times 5.

### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the standing rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### THE MARINE RESOURCES AND ENGINEERING DEVELOPMENT ACT OF 1966, AS AMENDED BY THE ACT OF OCTOBER 27, 1972

(86 Stat. 1280, 33 U.S.C. 1101-1124)

#### TITLE III—MANAGEMENT OF THE COASTAL ZONE

\* \* \* \* \*

#### Congressional Findings

\* \* \* \* \*

## Title III—Management of the Coastal Zone

\* \* \* \* \*

Sec. 302. (b) The coastal zone is rich in a variety of natural, commercial, recreational, *ecological*, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

\* \* \* \* \*

DEFINITIONS

\* \* \* \* \*

Sec. 304. (a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes *islands*, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, [and] adjacent uplands, and *islands* constituting to the extent feasible a natural unit set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

\* \* \* \* \*

DEVELOPMENT GRANTS

\* \* \* \* \*

Sec. 305. (b) (6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process[.];

(c) The grants shall not exceed 80 [66 $\frac{2}{3}$ ] per centum of the costs of the program in any one year and no State shall be eligible to receive more than *four* [three] annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal State, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the State's management program, the state shall submit such program to the Secretary for

review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary [.] : *Provided, That notwithstanding any provision of this section or of section 306 no State management program submitted pursuant to this subsection shall be considered incomplete, nor shall final approval thereof be delayed, on account of such State's failure to comply with any regulations that are issued by the Secretary to implement subsection (b) (7) or (b) (8) of this section, until September 30, 1978; and Provided, That the State shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a beach and coastal area access plan and an energy facility planning process for its State management program, pursuant to regulations adopted by the Secretary to implement subsections (b) (7) and (b) (8) of this section.* On final approval of such program by the Secretary, the State's eligibility for further grants under this section shall terminate, and the State shall be eligible for grants under section 306 of this title.

(h) The authority to make grants under this section shall expire on [June 30, 1979.] *September 30, 1979.*

\* \* \* \* \*

#### ADMINISTRATIVE GRANTS

\* \* \* \* \*

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than [66 $\frac{2}{3}$ ] 80 per centum of the costs of administering the State's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

SEC. 306(c). (8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature. *In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a State's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the State has given consideration to any applicable interstate energy plan or program that is promulgated by an interstate entity established pursuant to section 309 of this title.*

\* \* \* \* \*

#### INTERAGENCY COORDINATION AND COOPERATION

\* \* \* \* \*

SEC. 307. (3) After final approval by the Secretary of a state's management program, any applicant for a required Federal [license or permit] *license, lease, or permit* to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the [licensing or permitting] *licensing, leasing or permitting* agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data.

Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No [license or permit] *license, lease or permit* shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

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PUBLIC HEARINGS

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SEC. [308] 311.

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REVIEW OF PERFORMANCE

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SEC. [309] 312.

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RECORDS

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SEC. [310] 313.

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ADVISORY COMMITTEE

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SEC. [311] 314.

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ESTUARINE SANCTUARIES

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SEC. [312] 315.

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ANNUAL REPORT

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SEC. [313] 316. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of



each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority [and]; (9) *a general description of the economic, environmental, and social impacts of the development or production of energy resources or the siting of energy facilities affecting the coastal zone*; (10) *a description and evaluation of interstate and regional planning mechanisms developed by the coastal States*; and [9] (11) such other information as may be appropriate.

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RULES AND REGULATIONS

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SEC. [314] 317.

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"AUTHORIZATION FOR APPROPRIATIONS

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SEC. [315] 320. (a) There are authorized to be appropriated—

[ (1) the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the

four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.】

“(1) the sum of \$20,000,000 for the fiscal year ending June 30, 1976, \$5,000,000 for the transitional fiscal quarter ending September 30, 1976, \$20,000,000 for the fiscal year ending September 30, 1977, \$20,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, for grants under section 305 of this Act, to remain available until expended;

“(2) such sums, not to exceed \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, \$50,000,000 for the fiscal year ending September 30, 1977, \$50,000,000 for the fiscal year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, and \$50,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for grants under section 306 of this Act, to remain available until expended;

“(3) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 309 of this Act, to remain available until expended;

“(4) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(b) of this Act, to remain available until expended;

“(5) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(c) of this Act, to remain available until expended;

“(6) the sum of \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, \$50,000,000 for the fiscal year ending September 30,

1977, \$50,000,000 for the fiscal year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, \$50,000,000 for the fiscal year ending September 30, 1980, and \$50,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, for the acquisition of lands to provide for the protection of, and access to, public beaches and for the preservation of islands under section 306(d)(2) of this Act, to remain available until expended; and

“(7) such sums, not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, \$2,500,000 for the transitional fiscal quarter ending September 30, 1976, \$10,000,000 for the fiscal year ending September 30, 1977, \$10,000,000 for the fiscal year ending September 30, 1978, \$10,000,000 for the fiscal year ending September 30, 1979, \$10,000,000 for the fiscal year ending September 30, 1980, and \$10,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 315 of this Act, to remain available until expended.

“(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, and \$5,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for administrative expenses incident to the administration of this Act.”

#### TEXT OF S. 586, AS REPORTED

A BILL to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes

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

#### SHORT TITLE

SEC. 101. This title may be cited as the “Coastal Zone Management Act Amendments of 1975”.

#### GENERAL PROVISIONS

SEC. 102. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), is amended as follows:

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting “ecological,” immediately after “recreational,”

(2) Section 304(a) of such Act (16 U.S.C. 1453(a)) is amended by inserting therein “islands,” immediately after the words “and includes”.

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting “and” after “transitional areas,” and inserting “and islands,” after “uplands;”.

(4) Section 304 of such Act (16 U.S.C. 1453) is amended by adding at the end thereof the following new subsections:

“(j) ‘Energy facilities’ means new facilities, or additions to existing facilities—

“(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

“(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The terms includes, but is not limited to, (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) offshore oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary or appropriate for such exploration, development or production; (E) facilities for offshore loading and marine transfer of petroleum; and (F) transmission and pipeline facilities, including terminals which are associated with any of the foregoing.

“(k) ‘Person’ has the meaning prescribed in section 1 of title 1, United States Code, except that the term also includes any State, local, or regional government; the Federal Government; and any department, agency, corporation, instrumentality, or other entity or official of any of the foregoing.

“(l) ‘Public facilities and public services’ means any services or facilities which are financed, in whole or in part, by State or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.”.

(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

“(7) a definition of the term ‘beach’ and a general plan for the protection of, and access to, public beaches and other coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value;

“(8) planning for energy facilities likely to be located in the coastal zone, planning for and management of the anticipated impacts from any energy facility, and a process or mechanism capable of adequately conducting such planning activities.

(6) Section 305(c) of such Act (16 U.S.C. 1453(c)) is amended

by deleting "66 $\frac{2}{3}$ " and inserting in lieu thereof "80", and by deleting in the first sentence thereof "three" and inserting in lieu thereof "four".

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended by—

(A) deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following "*Provided*, That notwithstanding any provision of this section or of section 306 no State management program submitted pursuant to this subsection shall be considered incomplete, nor shall final approval thereof be delayed, on account of such State's failure to comply with any regulations that are issued by the Secretary to implement subsection (b)(7) or (b)(8) of this section, until September 30, 1978."; and

(B) deleting the period at the end thereof and inserting in lieu thereof the following "*Provided*, That the State shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a beach and coastal area access plan and an energy facility planning process for its State management program, pursuant to regulations adopted by the Secretary to implement subsections (b)(7) and (b)(8) of this section."

(8) Section 305(h) of such Act (16 U.S.C. 1454(h)) is amended by deleting "June 30, 1977" and inserting in lieu thereof "September 30, 1979."

(9) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting "66 $\frac{2}{3}$ " and inserting in lieu thereof "80".

(10) Section 306(c)(8) of such Act (16 U.S.C. 1455(c)(8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a State's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the State has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title."

(11) Section 306 of such Act (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a State's continued eligibility for grants pursuant to this section, the management program of such State shall, after the fiscal year ending in 1978, include, as an integral part, an energy facility planning process, which is developed pursuant to section 305 (b)(8) of this title, and approved by the Secretary, and a general plan for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b)(7) of this title, and approved by the Secretary."

(12) Section 307(c)(3) of such Act (16 U.S.C. 1456(c)(3)) is amended by (A) deleting "license or permit" in the first sentence thereof and inserting in lieu thereof "license, lease, or permit"; (B) deleting "licensing or permitting" in the first sentence thereof and inserting in lieu thereof "licensing, leasing, or permitting"; and (C) deleting "license or permit" in the last sentence thereof and inserting in lieu thereof "license, lease, or permit".

(13) Sections 308 through 315 of such Act (16 U.S.C. 1457 through 1464) are redesignated as sections 311 through 318 thereof, respectively; and the following three new sections are inserted as follows:

“COASTAL ENERGY FACILITY IMPACT PROGRAM

“SEC. 308. (a) The Secretary is authorized to make a grant to a coastal State, if he determines that such State’s coastal zone has been, or is likely to be, impacted by the exploration for, or the development or production of, energy resources or by the location, construction, expansion, or operation of an energy facility. Such a grant shall be for the purpose of enabling such coastal State to study and plan for the economic, environmental, and social consequences which are likely to result in such coastal zone from exploration for and development or production of such energy resources or from the location, construction, expansion, or operation of such an energy facility. The amount of such a grant may equal up to 100 percent of the cost of such study and plan, to the extent of available funds.

“(b) The Secretary is authorized to make a loan and/or a grant to a coastal State, if he determines, pursuant to subsection (d) and (e) of this section, that such State’s coastal zone has been or is likely to be adversely impacted by exploration for or by development or production of energy resources or by the location, construction, expansion, or operation of an energy facility, if such adverse impact will result as a consequence of a license, lease, easement, or permit issued or granted by the Federal Government which permits—

“(1) the exploration for, or the drilling, mining, removal, or extraction of, energy resources;

“(2) the siting, location, construction, expansion, or operation of energy facilities by a lessee, licensee, or permittee; or

“(3) the siting, location, construction, expansion, or operation of energy facilities by or for the United States Government.

The proceeds of such a loan or grant shall be used for—

“(A) projects which are designed to reduce, ameliorate, or compensate for the net adverse impacts; and/or

“(B) projects which are designed to provide new or additional public facilities and public services which are made necessary, directly or indirectly, by the location, construction, expansion, or operation of such an energy facility or energy resource exploration, development or production.

The amount of such a loan or grant may equal up to 100 percent of the cost of such a project, to the extent of available funds.

“(c) (1) The Secretary may make a grant to a coastal State for a purpose specified in subsection (b) of this section, if he determines that such State will suffer net adverse impacts in its coastal zone, as a result of exploration for, or development and production of, energy resources; as a result of the location, construction, expansion, or operation of an energy facility over the course of the projected or anticipated useful life of such energy facility; or as a result of exploration, development, or production activity.

“(2) The Secretary may make a loan to a coastal State for a purpose specified in subsection (b) of this section, if the Secretary determines that such State will experience temporary adverse impacts as

a result of exploration for, or development or production of, energy resources or as a result of the location, construction, expansion, or operation of an energy facility if such facility or such energy resource exploration, development or production is expected to produce net benefits for such State over the course of its projected or anticipated useful life. No such loan, including any renewal or extension of a loan, shall be made for a period exceeding 40 years. The Secretary shall from time to time establish the interest rate or rates at which loans shall be made under this subsection, but such rate shall not exceed an annual percentage rate of 7 percent. The borrower shall pay such fees and other charges as the Secretary may require. The Secretary may waive repayment of all or any part of a loan made under this subsection, including interest, if the State involved demonstrates, to the satisfaction of the Secretary, that due to a change in circumstances there are anticipated or resultant net adverse impacts over the life of an energy facility or energy resource exploration, development or production which would qualify the State for a grant pursuant to paragraph (1) of this subsection.

“(d) The Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant and loan eligibility pursuant to this section. Such requirements shall include criteria, which may include a formula, for calculating the amount of a grant or loan based upon the difference, to the State involved between the benefits and the costs which are attributable to the exploration for or development and production of energy resources or to the location, construction, expansion, or operation of an energy facility. Such regulations shall provide that a State is eligible for a grant or loan upon a finding by the Secretary that such State—

“(1) is receiving a program development grant under section 305 of this title or is engaged in such program development in a manner consistent with the goals and objectives of this Act, as determined by the Secretary, and is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or that it has an approved such program pursuant to section 306 of this title;

“(2) has demonstrated to the satisfaction of the Secretary that it has suffered, or is likely to suffer, net adverse impacts, according to the criteria or formula promulgated by the Secretary, and has provided all information required by the Secretary to calculate the amount of the grant or loan; and

“(3) has demonstrated to the satisfaction of the Secretary and has provided adequate assurances that the proceeds of such grant or loan will be used in a manner that will be consistent with the coastal zone management program being developed by it, or with its approved program, pursuant to section 305 or 306 of this title, respectively.

“(e) Within 180 days after approval of this Act, the Secretary shall issue regulations prescribing criteria in accordance with this Act for determining the eligibility of a coastal State for grants pursuant to subsections (a), (b), and (c)(1) of this section, and regulations for determining the amount of such grant or loan, in accordance with the following provisions:

“(1) The regulations shall specify the means and criteria by which the Secretary shall determine whether a State’s coastal zone has been, or is likely to be, adversely impacted, as defined in this section, and the means and criteria by which ‘net adverse impacts’ and ‘temporary adverse impacts’ will be determined.

“(2) Regulations for grants pursuant to subsection (a) of this section for studying and planning, shall include appropriate criteria for the activities for which funds will be provided under such subsection, including a general range of activities for which a coastal State may request funds.

“(3) Regulations for grants and/or loans for projects pursuant to subsections (b) and (c) of this section shall specify criteria for determining—

“(A) the amounts which will be provided for such projects; and

“(B) guidelines and procedures for evaluating those projects which each coastal State considers to be most needed.

“(4) Regulations for loans shall provide for such security as the Secretary deems necessary, if any, to protect the interests of the United States and for such terms and conditions as give assurance that such loans will be repaid within the time fixed.

“(5) In all cases, each recipient of financial assistance under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and such other records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall until the expiration of 3 years after the completion of the project or undertaking involved (or repayment of a loan, in such cases) have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which, in the opinion of the Secretary or the Comptroller General may be related or pertinent to any financial assistance received pursuant to this section.

“(6) In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, with representatives of appropriate State and local governments, commercial and industrial organizations, public and private groups, and any other appropriate organizations with knowledge or concerns regarding net adverse impacts that may be associated with the energy facilities affecting the coastal zone.

“(f) A coastal State may, for the purpose of carrying out the provisions of this section and with the approval of the Secretary, allocate all or a portion of any grant or loan received under this section to (1) a local government; (2) an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; (3) a regional agency; or (4) an interstate agency.

“(g) A coastal State which has experienced net adverse impacts in its coastal zone as a result of the development or production of energy resources or as a result of the location construction, expansion, or opera-



tion of energy facilities prior to the date of enactment of this section is entitled to receive from the Secretary grants or loans pursuant to subsections (a) and (b) of this section to the same extent as if such net adverse impacts were experienced after the date of enactment, and to the extent necessary to reduce or ameliorate or compensate for such net adverse impacts, within the limit of available funds. This subsection shall expire 5 years from the date of enactment of this section.

“(h) All funds allocated to the Secretary for the purposes of this section shall be deposited in a fund which shall be known as the Coastal Energy Facility Impact Fund. This fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to this fund. Moneys in this fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest by the United States.

“(i) In calculating the amount of a grant or loan, the Secretary shall give adequate consideration to the recommendations of a Coastal Impacts Review Board. Such Board shall consist of two members designated by the Secretary, one member designated by the Secretary of the Interior, and two members appointed by the President from a list of not less than six candidates submitted to the President by the National Governors’ Conference. Such Board shall recommend the award of grants or loans upon a determination of net adverse impacts and following the procedures and criteria set forth in this section.

“(j) Nothing in this section shall be construed to modify or abrogate the consistency requirements of section 307 of this Act.

“(k) In addition to other financial assistance to the States provided under this section, the Secretary shall make an automatic grant to each coastal State which is, as of the first day of the fiscal year—

“(1) adjacent to Outer Continental Shelf lands on which oil or natural gas is being produced; or

“(2) permitting crude oil or natural gas to be landed in its coastal zone: *Provided*, That such crude oil or natural gas has been produced on adjacent Outer Continental Shelf lands of such State or on Outer Continental Shelf lands which are adjacent to another State and transported directly to such State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil were produced adjacent to the landing State. In the event that a State is adjacent to Outer Continental Shelf lands where oil or natural gas is produced, but such oil or natural gas is landed in another State, the adjacent State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State.

Such States shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on Outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of 100,000 barrels per day of oil or an equivalent volume of natural gas. The Sec-

retary shall establish regulations to assure that funds authorized by this subsection for grants to States shall be expended by the States for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion or operation of a related energy facility. Such funds not so expended shall be returned to the Treasury. There are authorized to be appropriated for this purpose sufficient funds to provide such States with grants in the amount of 20 cents per barrel during the first year, 15 cents per barrel during the second year, 10 cents per barrel during the third year, and 8 cents per barrel during the fourth and all succeeding years during which oil or gas is landed in such a State or produced on Outer Continental Shelf lands adjacent to such a State: *Provided*, That (A) such funds shall not exceed \$50,000,000 for the fiscal year ending June 30, 1976; \$12,500,000 for the fiscal quarter ending September 30, 1976; \$50,000,000 for the fiscal year ending September 30, 1977; and \$50,000,000 for the fiscal year ending September 30, 1978; and (B) such funds shall be limited to payments for the first million barrels of oil (or its gas equivalent) per day per State for the 10 succeeding fiscal years. The amount of such grant to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent to the State. Such grants shall initially be designated by each receiving State to retire State and local bonds which are guaranteed under section 316 of this Act: *Provided*, That, if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds.

"(1) There are hereby authorized to be appropriated to the Coastal Energy Facility Impact Fund such sums not to exceed \$250,000,000 for the fiscal year ending June 30, 1976, not to exceed \$75,000,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed \$250,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$250,000,000 for the fiscal year ending September 30, 1978, as may be necessary, for grants and/or loans under this section, to remain available until expended. No more than 20 percent of the total amount appropriated to such fund for a particular fiscal year, not to exceed \$50,000,000 per year, shall be used for the purposes set forth in subsection (a) of this section.

#### "INTERSTATE COORDINATION GRANTS TO STATES

"SEC. 309. (a) The States are encouraged to give high priority (1) to coordinating State coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The States may conduct such coordination, study, planning, and implementation through interstate agreement or compacts. The Secretary is authorized to make annual grants to the coastal States, not to exceed 90 percent of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal State receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

“(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) the establishment of such agencies, joint or otherwise, as the States may deem desirable for making effective such agreements and compacts. Such agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

“(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, or their designated representatives, are authorized and directed to participate *ex officio* on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

“(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of States for the purpose of creating temporary ad hoc planning and coordinating entities to—

“(1) coordinate State coastal zone planning, policies, and programs in contiguous interstate areas;

“(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

“(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, or their designated representatives, are authorized and directed to participate *ex officio* on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall become void and cease to have any force or effect 5 years after the date of enactment of this title.

#### “COASTAL RESEARCH AND TECHNICAL ASSISTANCE

“SEC. 310. (a) In order to facilitate the realization of the purposes of this Act, the Secretary is authorized to encourage and to support private and public organizations concerned with coastal zone management in conducting research and studies relevant to coastal zone management.

“(b) The Secretary is authorized to conduct a program of research, study, and training to support the development and implementation of State coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Govern-

ment shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this Act, a summary and evaluation of the research, study, and training conducted under this section.

“(c) The Secretary is authorized to assist the coastal States to develop their own capability for carrying out short-term research, studies, and training required in support of coastal zone management. Such assistance may be provided by the Secretary in the form of annual grants. The amount of such a grant to a coastal State shall not exceed 80 percent of the cost of developing such capability.”

(14) Section 316, as redesignated, of such Act (16 U.S.C. 1462) is amended by (A) deleting “and” at the end of paragraph (8) thereof immediately after the semicolon; (B) renumbering paragraph (9) thereof as paragraph (11) thereof; and (C) inserting the following two new paragraphs:

“(9) a general description of the economic, environmental, and social impacts of the development or production of energy resources or the siting of energy facilities affecting the coastal zone;

“(10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal States; and”.

(15) Section 318, as redesignated, of such Act (16 U.S.C. 1464) is further redesignated and amended to read as follows:

#### “AUTHORIZATION FOR APPROPRIATIONS

“SEC. 320. (a) There are authorized to be appropriated—

“(1) the sum \$20,000,000 for the fiscal year ending June 30, 1976, \$5,000,000 for the transitional fiscal quarter ending September 30, 1976, \$20,000,000 for the fiscal year ending September 30, 1977, \$20,000,000 for the fiscal year ending September 30, 1978, and \$20,000,000 for the fiscal year ending September 30, 1979, for grants under section 305 of this Act, to remain available until expended;

“(2) such sums, not to exceed \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, \$50,000,000 for the fiscal year ending September 30, 1977, \$50,000,000 for the fiscal year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, and \$50,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for grants under section 306 of this Act, to remain available until expended;

“(3) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 309 of this Act, to remain available until expended;

“(4) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(b) of this Act, to remain available until expended;

“(5) such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, \$5,000,000 for the fiscal year ending September 30, 1980, and \$5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(c) of this Act, to remain available until expended;

“(6) the sum of \$50,000,000 for the fiscal year ending June 30, 1976, \$12,500,000 for the transitional fiscal quarter ending September 30, 1976, \$50,000,000 for the fiscal year ending September 30, 1977, \$50,000,000 for the fiscal year ending September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, \$50,000,000 for the fiscal year ending September 30, 1980, and \$50,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, for the acquisition of lands to provide for the protection of, and access to, public beaches and for the preservation of islands under section 306(d)(2) of this Act, to remain available until expended; and

“(7) such sums, not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, \$2,500,000 for the transitional fiscal quarter ending September 30, 1976, \$10,000,000 for the fiscal year ending September 30, 1977, \$10,000,000 for the fiscal year ending September 30, 1978, \$10,000,000 for the fiscal year ending September 30, 1979, \$10,000,000 for the fiscal year ending September 30, 1980, and \$10,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September

30, 1984, and September 30, 1985, as may be necessary, for grants under section 315 of this Act, to remain available until expended.

“(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending June 30, 1976, \$1,200,000 for the transitional fiscal quarter ending September 30, 1976, \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$5,000,000 for the fiscal year ending September 30, 1979, and \$5,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for administrative expenses incident to the administration of this Act.”

(16) The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) is amended by inserting therein the following two new sections:

#### “LIMITATIONS

“SEC. 318. (a) Nothing in this Act shall be construed—

“(1) to authorize or direct the Secretary, or any other Federal official, to intercede in a State land- or water-use decision with respect to non-Federal lands except to the extent and in the manner specifically authorized by this Act;

“(2) to require the approval of the Secretary as to any particular State land- or water-use decision as a prerequisite to such State’s eligibility for grants or loans under this Act; or

“(3) to expand or extend Federal review or approval authority with respect to the siting or location of any specific energy facility.

“(b) Any grant or loan made pursuant to section 308 of this Act shall not be deemed a ‘major Federal action’ for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190).

#### “STATE AND LOCAL GOVERNMENT BOND GUARANTEES

“SEC. 319. (a) The Secretary is authorized, subject to such terms and conditions as the Secretary prescribes, to make commitments to guarantee and to guarantee against loss of principal or interest the holders of bonds or other evidences of indebtedness issued by a State or local government to reduce, ameliorate or compensate the adverse impacts in the coastal zone resulting from or likely to result from the exploration for, or the development of production of, energy resources of the Outer Continental Shelf.

“(b) The Secretary shall prescribe and collect a guarantee fee in connection with guarantees made pursuant to this section. Such fees shall not exceed such amounts as the Secretary estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

“(c) (1) Payments required to be made as a result of any guarantee pursuant to this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for such purpose.

“(2) If there is a default by a State or local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary pursuant to this section, any holder of such a bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, upon investigation, shall pay such amounts to such holders, unless the Secretary finds that there was no default by the State or local government involved or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the State or local government involved for the amount of such payment plus interest at prevailing rates. Such right of reimbursement may be satisfied by the Secretary by treating such amount as an offset against any revenues due or to become due to such State or local government under section 308(k) of this Act, and the Attorney General, upon the request of the Secretary, shall take such action as is, in the Secretary’s discretion, necessary to protect the interests of the United States, including the recovery of previously paid funds that were not applied as provided in this Act. However, if the funds accrued by or due to the State in automatic grants under section 308(k) of this Act are insufficient to reimburse the Federal government in full for funds paid under this section to retire either the principal or interest on the defaulted bonds, the Secretary’s right of reimbursement shall be limited to the amount of such automatic grants accrued or due. Funds accrued in automatic grants under section 308(k) of this Act subsequent to default shall be applied by the Secretary towards the reimbursement of the obligations assumed by the Federal government.”

“SEC. 103. (a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

“(b) Section 5316 of title 5, United States Code is amended by adding at the end thereof the following new paragraph:

“(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.”

#### AGENCY COMMENTS

On February 21, 1975, the Committee wrote to the following agencies requesting comments on S. 586: Department of the Interior; Department of Commerce; Environmental Protection Agency (EPA); Council on Environmental Quality (CEQ); Federal Energy Administration (FEA); Federal Power Commission (FPC); and Department of Housing and Urban Development (HUD).

The Committee has received no comments from these agencies and departments. However, in joint hearings with the Committee on In-

terior and Insular Affairs on S. 586 and several bills to amend the Outer Continental Shelf Lands Act of 1953, the Committee heard testimony from the following departmental and agency spokesmen: Rogers C. B. Morton, Secretary of the Interior; Robert M. White, Administrator, National Oceanic and Atmospheric Administration, Department of Commerce; Russell V. Train, Administrator, Environmental Protection Agency; Russell W. Peterson, Chairman, Council on Environmental Quality; and Owen W. Siler, Commandant, U.S. Coast Guard, Department of Transportation.

On March 5, 1975, Senator Hollings wrote to the Office of Management and Budget in the Executive Office of the President, requesting comments on S. 586. The reply follows:

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
*Washington, D.C., March 24, 1975.*

HON. ERNEST F. HOLLINGS,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR HOLLINGS: This is a note of thanks for your thoughtful letter of March 5 expressing your views on meeting States' and communities' financial needs resulting from OCS development.

Your letter is timely in that the Administration is currently reviewing this subject. It is a complex subject and the Administration will not likely take a position on OCS revenue sharing until we gain more information on such matters as what the onshore impacts are likely to be and until there is a better understanding of the equity of such sharing. We will most certainly keep your thoughtful views in mind as we progress in our studies of this subject.

Sincerely,

JOHN A. HILL,  
*Acting Associate Director.*



## VI. INTRODUCTION OF H.R. 3981, STATEMENT OF REP. JOHN M. MURPHY, FEB. 27, 1975

MR. MURPHY of New York. Mr. Speaker, today I am introducing two companion bills which will help resolve some of the dilemma this country faces in meeting its energy needs:

First, the Coastal Zone Environment Act of 1975; and

Second, a bill to establish a policy for the management of oil and gas resources on the Outer Continental Shelf so as to protect the marine and coastal environment; to establish policies and procedures governing OCS operations that are environmentally, socially, and economically compatible with the coastal zone management programs of affected States funded under Public Law 92-583, and for other purposes.

Everyone can agree on the desirability of producing additional domestic oil and gas and thus cutting down expensive imports. The best prospect appears to lie off our coasts, as in the Gulf of Mexico where most offshore oil and gas now is extracted, and from new areas such as the Atlantic coast and the Alaskan coasts.

It is natural that citizens in these new, frontier areas, as far as offshore oil is concerned, are anxious. They see a Federal program about which they and their elected State and local officials have had little to say moving ahead at a rapid rate. They know that their coastal regions, which are valuable ecologically and economically, will be heavily impacted when offshore oil operations move in.

Yet as it stands now, these coastal taxpayers do not have information on the extent of the oil and gas fields off their coasts, do not have detailed information on what offshore production will require in the way of industrial and public facility support, they likewise know that environmental information gathering offshore is in its early stages and they know also that introduction of a major new heavy industry into rural or lightly developed areas will produce social and economic stress and probably cost the local taxpayers more than the new tax revenues. And finally, they know that offshore operations do not last forever, that the industrial support base that it provides with perhaps irretrievable damage to coastal lands and waters, eventually withers away. This is the classic "boombust" cycle.

For all of these reasons and more, we need to alter the way this country goes about using its precious offshore oil and gas reserves.

The two bills I introduce today, Mr. Speaker, provide the following improvements in the best interests of the Nation as well as the coastal areas: First, we want to provide that detailed baseline information is gathered on any marine area where offshore leasing is contemplated. Subsequent to such leasing, the National Oceanic and Atmospheric Administration is to take careful measurements to insure that no permanent damage is being done. This is a simple precaution to protect our marine resource.

The first of my two bills will establish a policy for the management of oil and gas resources on the Outer Continental Shelf so as to protect the marine and coastal environment and establish policies and procedures governing OCS operations that are environmentally, socially, and economically compatible with the coastal zone management programs of affected States funded under Public Law 92-583. The bill also provides that the Department of the Interior proceed with its own exploratory drilling program off the coasts. Until now, only industry has acquired detailed information of offshore resources. This has meant it is only industry which knows in detail the likely value of individual tracts. The information in the hands of the Government, some of it supplied by industry, is inadequate to protect the public interest. My bill directs the Secretary of the Interior to make available to the public the results of such exploratory work.

The bill also provides that the Interior Department file a detailed development plan with the Governors of the affected States and with the coastal zone management authorities of those States. This is a major improvement on the present situation where the development plan of industry is given the Interior Department in a somewhat informal fashion and without the specificity that the states and local governments need to gauge the impact the development will have on coastal communities.

In order for local communities to have sufficient time to prepare, my legislation provides that either the House or the Senate can veto an offshore leasing program and that the Governor of an affected State can call for a 3-year delay. These safeguards are necessary to prevent offshore activity to take place in precipitous fashion. At the same time, there is nothing in either of the bills I introduce today which will cause unnecessary delay or undue burdens on the petroleum industry.

My second measure is the Coastal Zone Environment Act of 1975 which has as its major provision the establishment of a coastal impact fund of \$200 million annually to help compensate States and local governments for major energy facilities of various types.

We know new powerplants and new or expanded refineries are needed to provide the Nation with the energy it needs. At the same time, these facilities mean permanent commitment of land, the danger of pollution, and perhaps upsetting the social and economic fabric of rural communities.

The coastal impact fund will provide funds to help alleviate the impact of such major new facilities and will enable local governments to build the necessary facilities for the families which will suddenly appear to operate the new plants, the taxes on which may well be insufficient to provide the needed services.

This legislation also has other significant improvements to the Coastal Zone Management Act, namely, the provision of matching aid for the acquisition of lands for beach access and island protection, provision of funds for needed short term coastal zone research and funds to encourage States to get together on a regional basis to prepare comprehensive plans in the coasts.

Mr. Speaker, the Oceanography Subcommittee of the House Merchant Marine and Fisheries Committee, plans to give early consideration to these measures improving the Coastal Zone Management Act and similar suggestions of my colleagues.

94TH CONGRESS  
1ST SESSION

# H. R. 3981

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1975

Mr. MURPHY of New York introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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## A BILL

To amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Coastal Zone Environ-  
4       ment Act of 1975".

5       SEC. 2. Section 302 of the Coastal Zone Management  
6       Act of 1972 (16 U.S.C. 1451) is amended by (1) deleting  
7       "and" immediately after the semicolon in subsection (g)  
8       thereof; (2) deleting the period at the end thereof and in-

1   serting in lieu thereof “; and ”; and (3) inserting at the end  
2   thereof the following new subsection:

3       “(i) The national interest in adequate energy supplies  
4   requires that adequate assistance be provided to the coastal  
5   States to enable them to (1) study, plan for, manage, and  
6   ameliorate any adverse consequences of energy facilities  
7   siting and of energy resource development or production  
8   which affects, directly or indirectly, the coastal zone and to  
9   provide for needed public facilities and services associated  
10  with such activity; (2) coordinate coastal zone planning,  
11  policies, and programs in interstate and regional areas; and  
12  (3) develop short-term research, study, and training capa-  
13  bilities for the management of the coastal resources of the  
14  States.”

15       SEC. 3. (a) Section 307 (c) (3) of the Coastal Zone  
16  Management Act of 1972 (16 U.S.C. 1455 (c) (3)) is  
17  amended by (1) deleting “license or permit” in the first sen-  
18  tence thereof and inserting in lieu thereof “license, lease, or  
19  permit”; (2) deleting “licensing or permitting” in the first  
20  sentence thereof and inserting in lieu thereof “licensing, leas-  
21  ing, or permitting”; and (3) deleting “license or permit” in  
22  the last sentence thereof and inserting in lieu thereof “license,  
23  lease, or permit”.

24       (b) Section 307 (c) of such Act is amended by adding  
25  at the end thereof the following new paragraph:

## 3

1       “(4) Any applicant for a required license, lease, or  
2 permit for development or production of energy resources or  
3 for the siting of energy facilities to be located in or which  
4 would directly or indirectly affect the coastal zone shall certify  
5 that the proposed activity complies with, and will be con-  
6 ducted in a manner consistent with any approved State  
7 management program and in accordance with the procedures  
8 for assuring the consistency of Federal activities with ap-  
9 proved State management programs pursuant to paragraph  
10 (3) of this section.”

11       SEC. 4. The Coastal Zone Management Act of 1972  
12 (16 U.S.C. 1451 et seq.) is amended by (1) redesignating  
13 sections 308 through 315 thereof as sections 311 through  
14 318 thereof, respectively; and (2) inserting therein the  
15 following three new sections:

16                               “COASTAL IMPACT FUND

17       “SEC. 308. (a) There is established in the Treasury of  
18 the United States the Coastal Impact Fund (hereinafter  
19 referred to as the ‘Fund’). The Fund shall be administered  
20 by the Secretary. The Secretary is authorized to make 100  
21 per centum annual grants from the Fund to those coastal  
22 States which the Secretary determines are likely to be sig-  
23 nificantly and adversely impacted by the development or  
24 production of energy resources or by the siting of energy  
25 facilities to be located in or which would affect, directly or

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1 indirectly, the coastal zone and which have complied with  
2 the eligibility requirements established in subsection (b) of  
3 this section. Such grants may be made for the purpose of  
4 (1) studying, planning for, managing, controlling, and  
5 ameliorating economic, environmental, and social conse-  
6 quences likely to result from such development, production,  
7 or siting; and (2) constructing public facilities and providing  
8 public services made necessary by such development, produc-  
9 tion, or siting and activities related thereto.

10 “(b) The Secretary shall, by regulations, in accordance  
11 with section 553 of title 5, United States Code, establish  
12 requirements for grant eligibility. Such regulations shall pro-  
13 vide that a State is eligible for such grant upon a finding  
14 by the Secretary that such State—

15 “(1) is receiving a program development grant  
16 under section 305 of this Act and is making satisfactory  
17 progress, as determined by the Secretary, toward the  
18 development of a coastal zone management program  
19 under section 306 of this Act, or is receiving an admin-  
20 istrative grant under section 306 of this Act; and

21 “(2) has demonstrated, to the satisfaction of the  
22 Secretary that such grants will be used for purposes  
23 directly related to those specified in subsection (a) of  
24 this section.

25 “(c) The Secretary shall coordinate grants made pur-

1 suant to this section with the coastal zone management pro-  
2 gram developed or being developed by the coastal State re-  
3 questing such grant, pursuant to section 305 or 306 of this  
4 Act.

5 “(d) Such grants shall be allocated to the coastal States  
6 in proportion to the anticipated or actual impacts upon such  
7 States resulting from development or production of energy  
8 resources or the siting of energy facilities to be located in or  
9 which would affect, directly or indirectly, the coastal zone.

10 “(e) A coastal State may, for the purpose of carrying  
11 out the provisions of this section and with the approval of the  
12 Secretary, allocate a portion of any grant received under this  
13 section to (1) any political subdivision of such State; (2)  
14 an areawide agency designated under section 204 of the  
15 Demonstration Cities and Metropolitan Development Act  
16 of 1966; (3) a regional agency; or (4) an interstate agency.

17 “INTERSTATE COORDINATION GRANTS TO STATES

18 “SEC. 309. (a) The States are encouraged to give high  
19 priority to coordinating State coastal zone planning, policies,  
20 and programs in contiguous interstate areas and to study,  
21 plan, or implement unified coastal zone policies in such areas.  
22 The States may conduct such coordination, study, planning,  
23 or implementation through interstate agreement or com-  
24 pacts. The authorization of Congress is hereby given to two  
25 or more States to negotiate and enter into interstate agree-

1 ments or compacts, not in conflict with any law or treaty  
2 of the United States, upon such terms and conditions, includ-  
3 ing the establishment of such public agencies, entities, or au-  
4 thorities as are reasonable or appropriate, for the purpose of  
5 said coordination, study, planning, or implementation: *Pro-*  
6 *vided*, That such agreements or compacts shall provide an  
7 opportunity for participation, for coordination purposes,  
8 by Federal and local governments and agencies as well as  
9 property owners, users of the land, and the public. Such  
10 agreement or compact shall be binding or obligatory upon  
11 any State or party thereto without further approval by  
12 Congress.

13       “(b) The Secretary is authorized to make annual grants  
14 to the coastal States, not to exceed 90 per centum of the  
15 cost of such coordination, study, planning, or implementa-  
16 tion, if the Secretary finds that each coastal State receiving  
17 a grant under this section will use such grants for purposes  
18 consistent with the provisions of sections 305 and 306 of this  
19 Act.

20                               “COASTAL RESEARCH ASSISTANCE

21       “SEC. 310. The Secretary is authorized to provide as-  
22 sistance to enable the coastal States to develop a capability  
23 for carrying out short-term research, studies, and training  
24 required in support of coastal zone management. Such assist-  
25 ance may be provided through (1) the payment of funds to



1 appropriate departments and agencies of the Federal Gov-  
2 ernment as he shall determine; (2) the employment of pri-  
3 vate individuals, partnerships, firms, corporations, or other  
4 suitable institutions, under contracts entered into for such  
5 purposes; or (3) annual grants to the coastal States not to  
6 exceed  $66\frac{2}{3}$  per centum of the costs of such assistance. As-  
7 sistance under this section is for the purpose of conducting or  
8 encouraging research and studies into the problems of coastal  
9 zone management and to provide for the training of persons  
10 to carry on further research or to obtain employment in  
11 private or public organizations which are concerned with  
12 coastal zone management.”.

13 SEC. 5. Section 316 of the Coastal Zone Management  
14 Act of 1972 (16 U.S.C. 1462), as redesignated by this Act,  
15 is amended by (1) deleting “and” at the end of paragraph  
16 (8) thereof immediately after the semicolon; (2) renumber-  
17 ing paragraph “(9)” thereof as paragraph “(11)” thereof;  
18 and (3) inserting the following two new paragraphs:

19 “(9) a general description of the economic, environ-  
20 mental, and social impacts of the development or pro-  
21 duction of energy resources or the siting of energy facili-  
22 ties affecting the coastal zone;

23 “(10) a description and evaluation of interstate and  
24 regional planning mechanisms developed by the coastal  
25 States; and”.

1        SEC. 6. (a) Section 305 (h) of the Coastal Zone Man-  
2        agement Act of 1972 (16 U.S.C. 1454 (h) ) is amended by  
3        deleting "1977" and by inserting in lieu thereof "1980".

4        (b) Section 318 (a) of such Act (16 U.S.C. 1464 (a) ),  
5        as redesignated by this Act, is amended by (1) deleting  
6        "three" in paragraph (1) thereof and inserting in lieu there-  
7        of "four"; (2) deleting "1977" in paragraph (2) thereof  
8        and inserting in lieu thereof "1980"; (3) deleting "and"  
9        after the semicolon in paragraph (2) thereof; (4) redesignig-  
10       nating paragraph "(3)" thereof as paragraph (6) thereof;  
11       (5) deleting "312" therein and inserting in lieu thereof  
12       "315"; and (6) inserting therein the following three new  
13       paragraphs:

14                "(3) a sum not to exceed \$200,000,000 for the  
15                fiscal year ending June 30, 1976, and for each of the  
16                four succeeding fiscal years, to the Coastal Impact  
17                Fund for grants pursuant to the provisions of section  
18                308, to remain available until expended;

19                "(4) such sums, not to exceed \$5,000,000 for the  
20                fiscal year ending September 30, 1976, and for each of  
21                the three succeeding fiscal years, as may be necessary  
22                for grants under section 309, to remain available until  
23                expended;

24                "(5) such sums, not to exceed \$5,000,000 for the  
25                fiscal year ending September 30, 1976, and for each of

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1 the three succeeding fiscal years, as may be necessary,  
2 for assistance under section 310, to remain available until  
3 expended; and”.

4 (c) Section 318 (b) of such Act is amended by deleting  
5 “four” and inserting in lieu thereof “seven”.

6 SEC. 7. (a) Section 302 (e) of the Coastal Zone Man-  
7 agement Act of 1972 (16 U.S.C. 1451 (e) ) is amended by  
8 inserting “ecological,” immediately after “recreational.”

9 (b) Section 304 of such Act (16 U.S.C. 1453) is  
10 amended by (1) inserting in subsection (a) thereof “islands”  
11 immediately after “and includes”; (2) deleting in subsection  
12 (e) thereof “and” after “transitional areas,” and inserting  
13 “and islands” after “uplands;” and (3) adding at the end  
14 thereof the following new subsection:

15 “(j) ‘Beach’ means the area defined by the coastal State  
16 under paragraph (7) of subsection (b) of section 305.”

17 (c) Section 305 (b) of such Act (16 U.S.C. 1454 (b) )  
18 is amended (1) by deleting the period at the end thereof  
19 and inserting in lieu thereof a semicolon; and by adding at  
20 the end thereof the following new paragraph:

21 “(7) a general plan for the protection of access to  
22 public beaches and other coastal areas of environmental,  
23 recreational, historical, esthetic, ecological, and cultural  
24 value. Such plan shall include a definition of the term  
25 ‘beach’.”.

## 10

1 (d) Section 306 (c) (9) of such Act (16 U.S.C. 1461),  
2 as redesignated by this Act, is amended by (1) inserting  
3 after “, Beaches and Islands” after “Estuarine Sanctuaries”  
4 in the title thereof; (2) deleting the period at the end of the  
5 first sentence thereof and inserting in lieu thereof “, and  
6 grants of up to 50 per centum of the costs of acquisition of  
7 lands to provide for protection of and access to public beaches  
8 and preservation of islands.”.

9 SEC. 8. Section 318 (a) (6) of such Act (16 U.S.C.  
10 1464 (a) (6) ), as redesignated by this Act, is amended by  
11 inserting “and \$50,000,000 for each of the fiscal years 1975  
12 through 1980,” after “June 30, 1974,” and before “as may  
13 be necessary,”.

14

## DEFINITIONS

15 SEC. 9. Section 304 of the Coastal Zone Management  
16 Act of 1972 (16 U.S.C. 1451) is amended by inserting  
17 after existing subsection (1) the following four new  
18 subsections:

19 “(j) ‘energy resources’ means petroleum crude oil,  
20 petroleum products, coal, natural gas, or any other  
21 substance used primarily for its energy content;

22 “(k) ‘development and production’ means the leas-  
23 ing of, exploration for, drilling for, removal, extraction,  
24 exploitation, or treatment, transportation and storage  
25 of, energy resources;

## 11

1           “(l) ‘energy facilities’ means electric generating  
2 plants, including hydroelectric facilities licensed by the  
3 Federal Power Commission; petroleum refineries or  
4 petrochemical plants; synthetic gasification plants,  
5 liquefaction and gasification plants, and liquefied nat-  
6 ural gas conversion facilities providing fuel for interstate  
7 use; petroleum loading or transfer facilities; and all  
8 transmission, pipeline, and storage facilities associated  
9 with the above facilities;

10           “(m) ‘public services and facilities’ means those  
11 services or facilities financed in part or in whole by local  
12 or State governments which may be required either  
13 directly or indirectly by the development or production  
14 of energy resources or the siting of energy facilities.  
15 Such services and facilities include, but are not limited  
16 to, highways, secondary roads, sewer and water facili-  
17 ties, schools, hospitals, fire and police protection and  
18 related facilities, and such other social and governmental  
19 services as necessary to support increased population  
20 and industrial development.”



## VII. HOUSE DEBATE AND PASSAGE OF H.R. 3981, AND PASSAGE OF S. 586 IN LIEU, MARCH 11, 1976

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1083 and ask for its immediate consideration.

The Clerk read the resolution as follows:

### H. RES. 1083

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3981) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose of amendment under the five minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 3981, the Committee on Merchant Marine and Fisheries shall be discharged from the further consideration of the bill S. 586, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 3981 as passed by the House.

The SPEAKER. The gentleman from Hawaii (Mr. Matsunaga) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Del Clawson), pending which I yield myself such time as I may consume.

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

Mr. MATSUNAGA. Mr. Speaker, House Resolution 1083 provides for the consideration of H.R. 3981, the Coastal Zone Management Act Amendments of 1975, a bill reported by the House Committee on Merchant Marine and Fisheries. The rules would permit one hour of general debate.

House Resolution 1083 further provides that the committee amendment in the nature of a substitute bill may be considered as an original bill for purposes of amendment under the 5-minute rule. In addition, the rule would waive points of order against the committee substitute

for failure to comply with rule XVI, clause 7, which prohibits the consideration of nongermane material, and rule XXI, clause 5, which prohibits appropriations in a legislative bill.

There are two provisions in the committee substitute which would make waiver of the germaneness rule necessary. One would authorize the Secretary of Commerce to make a comprehensive study of the shellfish industry in the United States to determine the impact of existing laws related to water quality, pesticides, and toxic metals. The purpose of the study, as I understand it, would be to determine what further action needs to be taken to insure the wholesomeness of shellfish.

The second provision subject to a point of order under the germaneness rule directs the President to appoint, subject to Senate approval, an Associate Administrator for Coastal Zone Management.

Two provisions of the committee substitute would be subject to points of order under rule XXI, clause 5, of the House Rules, which prohibits appropriations in a legislative bill: First, one would increase the Federal share of development grants to 80 percent, to offset additional planning requirements placed on the States. It is possible that some of the funds which would be used for the increased grants are already in the pipeline; second, the committee substitute also provides for the establishment of a revolving fund, to be administered by the Secretary of Commerce, to guarantee bonds issued by States relative to outer continental shelf energy activities. While the obligations issued by the Secretary would fall under the congressional appropriations process, the Secretary would be authorized to use money from the fund to pay administrative expenses not subject to the appropriations process. Points of order against both of these provisions would be waived under the proposed rule.

Mr. Speaker, the waivers requested by the Committee on Merchant Marine and Fisheries will expedite consideration of H.R. 3981, a very important bill. The request for waivers was supported by both majority and minority members of the Merchant Marine and Fisheries Committee.

The principal provisions of H.R. 3981, as amended, would enable States to cope with coastal zone problems brought about by the energy crisis, particularly the accelerated offshore oil and gas leasing program. When the Coastal Zone Management Act was enacted in 1972, we had not yet felt the full impact of the energy crisis. The need to balance competing demands for increased domestic energy production and preservation of valuable coastal resources has caused problems for many States. In some cases, offshore oil production has been too hastily banned. In others, potential coastal recreational areas have been abandoned because of the need for offshore oil production. In fact, with proper planning and management, the need for increased energy production and the need for more parks and recreational areas can be met simultaneously. Productivity and preservation can coexist. H.R. 3981, as amended would authorize planning grants for States affected by the Outer Continental Shelf oil and gas operations and for guarantees on bonds issued to provide public services and facilities related to the oil and gas operations.

The Committee on Merchant Marine and Fisheries is also proposing certain other changes in the existing law to help solve problems which



were unforeseen in 1972. Among other things, the bill would authorize matching grants to States for the purpose of acquiring access to beaches and recreational areas in the coastal zone. Coming from a State where there are many public beaches, I know that obtaining access to them can pose a real problem for coastal States. I believe that this provision will help us achieve the objectives of the original act.

I strongly urge that House Resolution 1083 be adopted so that the House may proceed to consider H.R. 3981, the Coastal Zone Management Act Amendments of 1975.

MR. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

(MR. DEL CLAWSON asked and was given permission to revise and extend his remarks.)

MR. DEL CLAWSON. Mr. Speaker, House Resolution 1083 provides for 1 hour of general debate on H.R. 3981, Coastal Zone Management Act Amendments of 1975. The committee substitute will be in order as an original bill for the purpose of amendment.

The rule waives points of order against the committee substitute for failure to comply with rule XVI, clause 7, germaneness rule. The two primary provisions in the substitute making this waiver necessary are: First, that portion of section 2 of the bill beginning on page 37, line 15 through page 38, line 19 which relates to the shellfish industry; second, section 3 of the bill, page 50, lines 14-23 relating to the appointment by the President of an Associate Administrator for Coastal Zone Management.

The rule further waives points of order against the committee substitute for failure to comply with rule XXI, clause 5, which prohibits appropriations on a legislative bill. The two primary provisions in the substitute making this waiver necessary are: First, that portion of section 2 of the bill on page 17, lines 3-7, increasing the grant authorization from 66 $\frac{2}{3}$  to 80 percent. There may be pipeline funds which would be used for the increased grants. Second, that portion of section 2 of the substitute beginning on page 48, line 3 through page 49, line 16. The fund established for the bond guarantee program is to consist of certain fees and receipts. While obligations issued by the Secretary are to come from the fund subject to the appropriation process, the Secretary is authorized to use money from the fund to pay administrative expenses. The payment of such expenses is not subject to the appropriation process and therefore the authorization to pay such expenses directly from the fund is an appropriation and in violation of rule XXI, clause 5.

The purpose of H.R. 3981 is to authorize \$1.25 billion for a 4-part coastal energy activity program to assist coastal States experiencing problems as a result of Outer Continental Shelf activity and other energy related activities such as energy facility siting. The bill also provides an additional \$250 million to improve the existing coastal zone program.

Three new requirements for the state coastal zone management program have been added to the original act which involve the evaluation of several options maintaining public access to beaches and other public areas, development of an energy-planning process and assessment of the effects of shoreline erosion.

States will be provided with automatic annual payments by the Secretary of Commerce based upon a six-part formula that will determine the degree of Outer Continental Shelf energy activity within each State.

For the purpose of furnishing 80-percent matching grants to coastal States that have during the last 3 to 5 years or may in the future incur net adverse impacts as a result of energy-related activities, \$625 million is authorized by this bill.

In addition, the issuance of State and local bonds to sustain public services and facilities made necessary by Outer Continental Shelf activities will be guaranteed under authorizations of H.R. 3981.

Mr. Speaker, the Committee on Merchant Marine and Fisheries reported this bill out by a vote of 36 to 0. I propose we adopt the rule and debate the bill during the allotted time.

Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. MATSUNAGA. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1975

Mrs. SULLIVAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3981) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN).

The motion was agreed to.

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3981) with Mr. Bergland in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentlewoman from Missouri (Mrs. Sullivan) will be recognized for 30 minutes, and the gentleman from Delaware (Mr. du Pont) will be recognized for 30 minutes.

The Chair now recognizes the gentlewoman from Missouri.

(Mrs. SULLIVAN asked and was given permission to revise and extend her remarks.)

Mrs. SULLIVAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure to bring before my colleagues today H.R. 3981, a bill which will make an important contribution to solving the Nation's energy problems.

This legislation answers the needs of the States and local communities that are faced with major energy developments, especially those which will come with expanded offshore oil and gas leasing.

The legislation is carefully written, so that assistance is given only where needed and is only for projects in compliance with the coastal States' own plans for their coastal areas. H.R. 3981 is no giveaway measure but a sound, fiscally responsible product representing months of hard work, negotiation, and cooperation among the majority and minority members of the Merchant Marine and Fisheries Committee. It provides equity to States and local governments and is within the limits of the congressional budget.

We must proceed with additional offshore oil and gas leasing. Off our coasts, the best prospects for new energy resources lie. We also need to get on with building needed liquefied natural gas facilities, oil and coal shipping areas, and deepwater ports to handle large supertankers.

H.R. 3981 will allow progress in these areas in two major ways. First, it requires that coastal areas carefully plan for energy facilities that have to be in the coasts so they will not damage these valuable areas. Second, it compensates those areas, in an automatic manner, for OCS impacts because the impacts are so clear, and provides additional aid if the States or communities can show that they require it.

I now want to trace some of the history and background of this legislation. The capable chairman of the Subcommittee on Oceanography, the gentleman from New York, will discuss with you the bill's particulars.

The coastal management program is a unique product of Congress. It has its origin in the 1966 establishment of a Presidential Commission to study ocean policy issues. Adopted with only lukewarm support from the administration at the time, the Commission on Marine Science, Engineering, and Resources represented Congress conviction that ocean issues would become increasingly important to the country. Time has proven Congress judgment to be correct.

The Presidential Commission produced in 1969 what has become a landmark document in the ocean and coastal public policy field, entitled "Our Nation and the Sea." Far-reaching and prophetic in scope, the report had as a main recommendation the establishment of a strong civilian ocean agency in the Federal Government.

Finally, after great pressure was exerted by Congress, the administration in 1970 agreed to form the present National Oceanic and Atmospheric Administration in the Department of Commerce. It was less powerful than Congress thought needed, but it represented progress.

The Commission's principal programmatic recommendation was for the Federal Government to provide financial aid and overall guidelines to the States for the development of comprehensive coastal area management programs that would guide future growth and development in these critically important areas.

It was over the opposition of the administration that Congress pushed through the Coastal Zone Management Act of 1972. President Nixon reluctantly signed the law and then declined to recommend funding for 1 year.

Again with pressure from Congress, funds were finally made available in late 1973 so the States could get on with the job of putting together their individual approaches on how their coastal lands and waters should be used in the future.

The value of this program was seen and endorsed by President Ford in November 1974. Facing coastal State Governors concerned about administration plans for a vast OCS development program, the President recommended—and Congress later agree—that additional, supplemental funds should be made available to the States to help them prepare for the onshore impacts which an expanded OCS program will bring.

While our committee was working throughout last year on how to enable the coastal management program to cope with new developments like expanded OCS leasing, the administration provided little assistance. In fact, it did not develop a position until 1 month ago, just after the Merchant Marine and Fisheries Committee adopted H.R. 3981 by a bipartisan 36 to 0 vote.

Although it has taken the administration a long time in coming to it, I am pleased to be able to report to you today that the Office of Management and Budget is not opposed to this measure before you now.

The administration does have some serious reservations about portions of the bill. We have told administration officials we will give their views every consideration in the conference with our Senate colleagues. The Senate passed its version of the legislation before you today by a 73 to 15 vote. I am confident that, working together in a cooperative spirit and with the aim of providing equitable treatment for the critical coastal areas, we can arrive at a final version of H.R. 3981 of which this body, the Senate, and the administration can be proud.

I want to praise my colleagues on the Oceanography Subcommittee. Under the leadership of the gentleman from New York (Mr. Murphy), they have labored long on this bill and have come up with what I think is a splendid product.

I might take a moment to say that the judgment of this body in refusing to go along with attempts to eliminate the Merchant Marine and Fisheries Committee is validated by the work of this subcommittee. Throughout the history of this legislation, it has been the Oceanography Subcommittee of the Merchant Marine and Fisheries Committee, together with its counterpart in the Senate, which have focused the attention of this Nation on critical ocean and coastal issues. Time and again, we have been ahead of a series of administrations in coming to grips, not only with coastal zone management, but ocean dumping, the need to protect our domestic fishing industry, law of the sea questions, and a host of other marine matters that the country now recognizes are of major importance.

I am proud of the record of my committee in this area and say to you, my colleagues, that, in the years ahead, I will miss very much having the privilege of working with people like the gentleman from New York (Mr. Murphy) and the gentleman from Ohio (Mr. Mosher). I am confident that the fine record of the Oceanography

Subcommittee and the full Merchant Marine and Fisheries Committee in the ocean and coastal policy area will be carried on in my absence.

Mr. DU PONT. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. DU PONT. Mr. Chairman, as my colleague and chairman of the committee, the gentlewoman from Missouri, has pointed out to us, this is a very important piece of legislation; and I would like to make some general remarks about it. But before I do that, I would like to take just a brief moment, if I might, and speak of our chairman, who, unfortunately, made an announcement the other day that she was leaving this vale of tears to move on to greener pastures. I want to say that I have been here only 6 years, but in my dealings with Members of Congress I have never come across an individual who has given fairer treatment to the newer Members of Congress or who has done a better job in organizing and running a committee than the gentlewoman from Missouri (Mrs. Sullivan).

I shall not be here next year to see how this organization operates without the gentlewoman from Missouri, but my guess is that it will not operate as well. We appreciate all of the fine work the gentlewoman has done on behalf of the coastal zone programs and other maritime programs.

Mr. Chairman, as my colleagues have pointed out, the Coastal Zone Management Act Amendments of 1975 would benefit our entire Nation by expediting development of needed offshore energy resources. All coastal States are progressing toward the development of coastal zone management plans. Once these plans are fully developed and approved, each State will have an adequate mechanism in place which will give them a "voice" in federally initiated energy projects.

A provision in the Coastal Zone Act of 1972 gave a very unique protective device to coastal States. Once a State has an approved coastal zone management plan in place, all subsequent Federal activities which affect the coastal zone must be found to be consistent with adopted State management programs. Many States recognize this "Federal consistency" provision to be of greater potential value than any other assistance program in the original act. In order to provide this mechanism to States in time to adequately deal with the accelerated energy programs of the Federal Government, I feel that it is essential that we provide the additional financial commitments and incentives incorporated in H.R. 3981.

Much publicity was given to the energy crisis occurring in this country a few years ago when our citizens had to wait at gasoline stations for hours, and many folks in the New England area had difficulty obtaining fuel oil to heat their homes.

Even though we do not have the same problems as we experienced during that crisis, it is clear that we have not been able to remedy the problems related to our energy needs. One of the best prospects for major new sources of energy in this country lies offshore, particularly in such previously unexplored areas as off the coasts of Alaska and the Atlantic coast. These proposed developments will result in unavoidable pressures on coastal areas. The States have been reluctant to allow offshore development without due consideration being given to their

problems. Ever since the U.S. Supreme Court ruled that the Federal Government had exclusive jurisdiction over the Outer Continental Shelf beyond 3 miles, the States have been permitted very little input into the accelerated OCS leasing plan. Consequently, in frustration, some States have gone to court in an attempt to block and delay further offshore leasing. Our Nation cannot afford these setbacks—we must vigorously pursue our goal of energy self-sufficiency—but we cannot disregard the States in this endeavor.

One of the most important provisions in H.R. 3981 is section 308—the coastal energy activity impact program.

This program would permit the Secretary of Commerce to allocate funds to coastal States, adequately dealing with adverse impacts suffered as a result of energy activities occurring offshore and within a State's coastal zone.

This problem, adopted by a unanimous vote of 36 to 0 in our committee, is a well thought out approach to a complex problem. Outer Continental Shelf impacts would be offset by a six-part formula designed to measure the level of OCS activity occurring adjacent to and within a coastal State. It has the distinct advantage of requiring minimal administrative costs. Furthermore, adequate provisions are included in the bill to prevent the expenditure of funds for other purposes than those which are adverse in nature, and which occur as a direct result of OCS energy activities. While the committee did consider various revenue sharing approaches similar to the 37½ percent revenue allocation scheme which the inland States enjoy, I must state that the OCS payment concept in our bill is not revenue sharing. It is subject to the annual appropriations process, and authorizations escalate from \$50 million to \$125 million in the fifth and final year. The first year authorizations represent less than 1 percent of the projected revenues accruing to the Federal Government from the OCS leasing program.

The second part of the impact program would be a discretionary fund allocated on a basis of demonstrated adverse impacts. This fund would be restricted to energy related activities which, by their nature, have to be located in the coastal zone.

In a sense, this secondary assistance would be a supplemental grant program to properly compensate for those energy related activities not covered under the first OCS formula. Grants would only be given to those coastal States which could demonstrate that an adverse impact had occurred. Also, funds would have to be expended for specific purposes related to such impacts.

Additionally, the bill provides a Federal bond guarantee program to State and local governments. This would permit the States to take advantage of "self-help" mechanisms to ameliorate impacts suffered as a result of Outer Continental Shelf energy activities.

These three programs have been carefully designed to respond to the needs of the coastal States which are or will be involved in the development of new sources of energy for our country. I believe that they are fiscally responsible, and that they take into proper account the President's conservative budgetary plan. The allocation of funds is based on need, and provisions are included in the program to prevent unnecessary and frivolous expenditure of these funds.

Perhaps the most important feature of this bill is that, for the first time, recognition is given to State and local governments in our Federal energy program. They will become partners with the Federal Government in the development of our offshore oil and gas fields, and they will be doing so in a manner which will protect the irreplaceable coastal zones of our Nation.

In my opinion, this bill represents one of the most important energy programs which this Congress has had before it. Let us delay no longer in meeting our responsibilities to the citizens of this country.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Chairman, I would like to join wholeheartedly with the gentleman from Delaware (Mr. du Pont) in his comments concerning our delightful chairman, the gentlewoman from Missouri (Mrs. Sullivan).

It certainly has been a joy for me to work with her these many years, and I hope that she will enjoy her retirement as much as Mrs. Mosher and I intend to enjoy ours.

Mr. Chairman, I am in full support of H.R. 3981, proposed amendments to the Coastal Zone Management Act.

Reaching the accommodations of various viewpoints in order to perfect this bill was not easy. I especially salute our colleagues, the gentlemen from New York (Mr. Murphy), the gentleman from Delaware (Mr. du Pont), and the gentleman from New Jersey (Mr. Forsythe), and the staff members who have worked with them, for accomplishing that which at times seemed impossible but so very important and necessary.

Mr. Chairman, the coastal areas of our Nation are extremely valuable resources. They are in real danger of becoming overly developed and eventually destroyed, if action is not taken to assure proper planning and management. The Congress recognized this in 1972, when we originally passed the CZM Act.

As a result of that act, during the past 3 years we have seen significant progress made in many States, progress toward wise and prudent use of their respective coastal zones.

The original act established a voluntary—and I stress the word voluntary—Federal grant program to assist coastal States in the development and eventual implementation of comprehensive and individual coastal zone management plans.

Even though the original act did not create a mandatory scheme, every coastal State of our Nation now has chosen to take part in the coastal zone program. This in itself is a very meaningful endorsement of the 1972 act, since States must provide one-third of the total development cost.

The original stimulus for the Coastal Zone Management Act case as a result of recommendations made by the Presidential Commission on Marine Science, Engineering and Resources in 1969. I had the honor of serving on that Commission during its 2-year study, and I recall some of the reasoning used when we made our recommendations. For example, it was found that less than 10 percent of our total land area was considered to be coastal in nature, and yet over 40 percent of our population resided in the coastal zones. We found that the coastal

regions were endangered from excessive uses, plus some uses which definitely were not compatible with the protection of the coastal regions, were instead damaging such areas.

We learned the amazing productivity of estuarine areas—many coastal waters were found to be 5 or 10 times more biologically productive than average agricultural lands. These estuarine areas, in numerous cases, provided essential breeding grounds for many of the important commercial fisheries in our country.

It was because of such findings that the Commission recommended the establishment of coastal authorities to design and operate comprehensive management programs.

Now, we have a new crucial awareness that the national energy crisis requires new initiatives if our Nation is ever to become less dependent on foreign oil producing countries; initiatives that inevitably may add new, serious threats to the well-being of these productive coastal areas.

One of the major initiatives endorsed by this administration, to produce new energy resources, is an accelerated Outer Continental Shelf leasing program. Coastal States have expressed serious concerns about the added burdens which will be placed upon them as a result of such federally initiated energy development.

The bill under consideration here today would provide the necessary additional mechanisms and programs for such States to deal with adverse consequences in a rational and responsible manner.

This bill would provide for increased planning grants to all coastal States, including the Great Lakes States, permitting them to develop energy facility planning processes, and to more accurately anticipate and assess the potential impacts such energy development will have upon their coastal areas.

Our Committee on Merchant Marine and Fisheries originally felt that energy impact assistance should be provided only to those coastal States which experienced Outer Continental Shelf energy development. After extensive testimony and considerable debate, we have concluded that other types of coastal energy activities also are contributing to national energy goals, and that these activities could also result in net adverse impacts to coastal States and local communities.

Therefore, the impact assistance fund established in this bill would permit the Secretary of Commerce to consider allocating grants to coastal States based on any clearly demonstrated net adverse impact which occurs as a result of energy activities, even though not OCS related.

In addition to the impact assistance program various other provisions are included in this bill, with a view toward encouraging and expediting development of individual States' coastal zone plans.

To accomplish this objective, we would increase the Federal share of development and implementation grants from the present 66½ percent to 80 percent, thus reemphasizing the importance with which Congress views this program.

The bill also would provide additional funding for coastal States to integrate energy facility, public beach access, and shoreline erosion planning processes into their respective coastal zone management plans.



I call special attention to a very important addition to the Coastal Zone Act, which we propose here. It would provide research and technical assistance to the National Coastal Zone Office, and the State and local coastal agencies. In the past, coastal zone managers have been able to rely in part on the various sea grant programs in individual States to assist them in obtaining specific support data for the development of their programs, but sea grant has not been able to meet all of the needs adequately, because of its inadequate budget.

Therefore, the bill before us today would authorize \$5 million for use by the National Coastal Zone Office, and \$5 million for allocation to State and local entities for research purposes. The National Advisory Committee on Oceans and Atmosphere recommended this addition in the research section in their 1974 annual report to the Congress, and, after investigation, our committee has concurred with NACOA.

Mr. Speaker, in summary, it is my belief that the Coastal Zone Management Act of 1972 has proven its worth over the past 3 years—it is working successfully in all our Nation's coastal States.

If we are to move forward our goal of energy self-sufficiency, we are going to have to do so with the full cooperation of the State and local governments. These Coastal Zone Management Act Amendments of 1975 would allow us to do just that—it would provide the necessary mechanisms for a Federal, State, and local cooperative effort to develop our energy resources in an expedient and responsible manner.

I urge strong support for H.R. 3981.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from New York.

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

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding.

I would like to join with the gentleman from Delaware (Mr. du Pont) in supporting this legislation and at the same time to commend the outstanding manner in which the chairman of our subcommittee, my colleague, the gentleman from New York (Mr. Murphy), has conducted the hearings and the development of this very important piece of legislation.

Mr. Chairman, the battle I and many of my coastal States colleagues have waged against the Federal Government's efforts to expand offshore oil and gas development has, realistically, been lost. In the orderly workings of our Government, the issue of ownership of the Outer Continental Shelf has been decided. Congress long ago authorized exploitation of offshore mineral and oil deposits.

We who live and work in our Nation's coastal areas may soon expect the pylons and derricks of offshore oil and gas rigs. We may expect the risks of pollution, boom-and-burst growth, and industrialization which will accompany this oil and gas development.

But in the orderly process of government which characterizes our political life, the Congress has accepted the situation which faces us, and has acted to provide our citizens with the wherewithal to meet the challenge posed to the Nation's coastal environment by these oil and gas operations.

I am pleased to have been able to work with Chairman Murphy and the Oceanographic Subcommittee, and with the full Committee on Merchant Marine and Fisheries to draft the legislation before us.

H.R. 3981 takes a realistic approach to a realistic problem. In 1972, the Congress enacted the original Coastal Zone Management Act, which sought to allow States to develop plans for the orderly development of coastal areas. The 1972 law promotes the preservation of areas of great beauty for the enjoyment and recreational use of the people who live there. It provides for the representation of local, State, and regional interests, as well as an overall national interest, in the development of coastal zone management plans, and in the making of decisions affecting the coastal zone areas. And perhaps most importantly, it provides for the preservation of estuarine sanctuaries and biologically active wetlands—the subtle and complicated functions of which are only now beginning to be understood.

The current legislation addresses a need not foreseen in the 1972 legislation—that of energy development on the Outer Continental Shelf and in the coastal zone. As distasteful as the prospect of pipelines, refineries, powerplants, navigational canals, and tankfarms in the coastal zone is, these are some of the prospects we face. This type of industrialization will mean population increases in the areas affected, expanded need on the local level for sewers, sidewalks, schools, roads, recreation facilities, fire protection, and social services. While much of these needs can be financed through increases in the tax base resulting from the energy activities, neither the Congress, nor the administration can say with certainty that such an expanded tax base will absorb all of the costs. Thus, the current legislation.

Enactment of H.R. 3981, in conjunction with legislation to protect our fisheries and marine resources, and with the current oil pollution liability and compensation measure awaiting further action by the Merchant Marine and Fisheries Committee, will provide the Congress with the opportunity to move decisively to deal with the problems of protecting the marine frontier from hasty, careless development.

We all know that our Nation's long-term energy needs have necessitated expanded Outer Continental Shelf oil and gas development. But we also know that failure to deal now with the contingencies which may arise from these operations, failure to address the grave problems of pollution, environmental balance, and the needs of the human ecosystem which will be affected by these energy operations, will mean that the Congress has not lived up to its responsibility to ensure the health, safety, and quality of life of the citizens who have elected us.

Mrs. SULLIVAN. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from New York (Mr. Murphy).

Mr. Chairman, may I just make one remark. I want to thank the gentleman from Ohio (Mr. Mosher) because I think he was instrumental in initiating our decisions that perhaps we should turn over some of these problems to the newer Members. He has been a diligent worker all the time that he has been on our Committee on Merchant Marine and Fisheries, and it has been a delight to work with him and I wish him and Mrs. Mosher all the best in his retirement.

Mr. Chairman, I also thank the gentleman from Delaware (Mr. du Pont) for his comments, and I do hope that all of the Members miss me after my retirement.

(Mr. MURPHY of New York asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Chairman, prior to discussing the details of the legislation before you today, I want to take a moment to pay tribute to a remarkable lady—our most distinguished colleague from Missouri, Mrs. Lenor Sullivan. As you know, she announced on Tuesday that she would not be a candidate for reelection.

Elected in 1952 as a minority Member of Congress, she began, as she has put it, at the bottom of the totem pole. A woman Democrat in a Republican Congress.

From this beginning, she has gone on to achieve a major legislative record, with such accomplishments as the food stamp program and truth-in-lending bill and leadership of the Merchant Marine and Fisheries Committee. And she has done so in a way in which she has earned the respect and affection of all Members from both sides of the aisle.

Lenor Sullivan is, in many ways, a pioneer in this body. I am sure I speak for everyone here when I say that your absence from this body next year will be felt by all of us.

Today the Merchant Marine and Fisheries Committee brings to the House one of the most important bills this Congress is likely to consider. At stake in H.R. 3981 is whether we as a nation are able to handle our energy requirements without incurring permanent damage to our coasts.

This bill will enable coastal States and communities to deal with problems which, in the national interest, they will be asked to bear in providing us needed energy. I am referring specifically to our need to greatly expand the amount of Outer Continental Shelf oil and gas drilling. I am also referring to the need for additional liquefied natural gas import facilities, expanded coal and oil loading docks and storage terminals, and the pending installation of deepwater ports off our shores, all of which will impact the coastal zone.

These activities I have just mentioned, by their nature, will be located along the coasts.

As Congress itself declared in a piece of far-sighted legislation, the Coastal Zone Management Act of 1972, the coasts are unique and of great significance to the country. Although only approximately 8 percent of our total area, the coasts already contain half of our people, and 40 percent of our manufacturing plants. The pressure is growing.

Yet these same coastal areas contain our wetlands where most of the Nation's fish and wildlife live for a part of their lifetime. It is perhaps the country's major recreational resource.

The solution this committee proposed to the House 4 years ago, and which Congress enacted over the opposition of the administration, is to achieve a balanced use of coastal resources. It is obvious that this small strip of land and adjoining water cannot perform all the jobs we ask it to do.

The coasts cannot be our dumping ground and continue to produce shellfish and recreational opportunities. They cannot be the preferred location for heavy industry, and at the same time provide sites for vacation homes and the breathing space that our increasingly crowded cities require.

Coastal uses have to be balanced. This is what the Coastal Zone Management Act provides, and this is what H.R. 3981 gives us.

Four years ago, we provided balance between development needs and environmental concerns. In the bill before you today, we build on that foundation and provide balance between our energy requirements and our need to protect the coasts. We further provide balance among the basic units of our Federal system of Government, where each level is brought into play in a coordinated manner.

Our bill will help our system work. The result, if my colleagues join with us today in adopting H.R. 3981, will be an expedited search for new sources of oil and gas off our shores, more ready acceptance in coastal areas of their responsibility to provide facilities the Nation needs to meet our energy requirements, and the provision of such needed facilities where it will not damage the ecology of the coasts.

Some will say, but what about inland States? Why are we not helping them?

I remind my colleagues that this Congress has already found that the coastal areas merit special treatment. In our 1972 action, we declared:

The coast of the United States, together with the immediately adjacent land and water areas, is in a general sense the Nation's most valuable geographic asset. At the same time, it is probably the area most threatened with deterioration and irreparable damage.

The coasts and the coastal waters have played a major role in the Nation's development, growth, and defense since its earliest days. In recent years it has become increasingly apparent, however, that the coastal area has been undergoing drastic changes which, irreversible damage to many of the area's features upon which its values largely depend.

Furthermore, we are, in H.R. 3981, restricting our assistance to only those energy-related activities which are, by their nature and technical requirements, necessarily located on the coasts.

And third, remember that to participate in this program and to be eligible for the impact assistance we provide in H.R. 3981, States and local governments must undergo the discipline of coming up with comprehensive coastal zone management programs which meet the strong Federal criteria. Inland States are not subject to this discipline and have not undertaken the development of comprehensive programs comparable to those now being prepared in the 30 coastal States—and 3 territories.

To our colleagues from the inland States, we say—join with us today in protecting the coasts the entire Nation depends on. Use the experience of the coastal program and its balanced approach as a model to provide planning and impact assistance for inland States. Upon preparation of a separate bill dealing with the inland States, you will have our support.

It is the Outer Continental Shelf oil and gas issue that led us to bring H.R. 3981 before you today. We are all familiar with the energy crisis, the inflationary spiral stemming from suddenly increasing fuel costs and our resulting need to speed up provision of domestic sources of petroleum.

Unfortunately, the administration proposed a crash 10-million acre lease program which, frankly, frightened the State and local governments which would be faced with the offshore industry for the first time. The States and communities felt totally left out of the process by which the administration arrived at its accelerated leasing program—and in fact, they were.

It is clear that coastal States and communities can bring about delay or even permanent bans on offshore drilling. By exercising State and local powers over the uses of State-controlled shores and waters, the national need to proceed with OCS operations can effectively be thwarted by a State willing to take this action.

We have seen in the suits filed by various States against Federal plans to lease OCS lands outside State jurisdiction, but adjacent to them, how strongly some areas feel about this question.

It is to bring the Federal, State, and local units of government together in energy facility planning that is the principal objective of H.R. 3981. Given the critical nature of energy requirements, we simply must see to it that our basic governmental processes involved are made to work. It is not in the national interest for States and local communities to feel so threatened by Federal action that they feel compelled to go to court or to pass special, restrictive legislation.

We are all familiar with fights in our respective States over proposals to locate major new developments, whether they be for new office buildings, shopping centers, or whatever. In these cases, citizens rally to protect what they see as a threat to their community, regardless of the economic benefits which may follow.

These controversies, where they occur, cause delay; sometimes they cause projects to be canceled.

If this type of resistance is taking place all over the country, it is easy to imagine the feelings in rural counties faced for the first time with the prospect of dealing with the huge offshore oil industry—

Especially when the tax proceeds from this activity go entirely to the Federal Government, but the expense of providing services made necessary by the new industry is borne by the local and State governments. When tax revenues generated by the new industrial activity are not enough to meet the public expenditures, communities are faced with a new loss. When the Federal Government causes it, we would not expect the local governments to pay.

What your committee has done in H.R. 3981 is not simply to open the Federal Treasury to coastal States. Instead, a carefully worked-out approach has been devised, combining elements of simplicity of administration with equity to the Federal taxpayers, as well as the persons in the local communities and States directly affected by Federal decisions to go ahead with OCS leasing—or with other, similar coastal energy activities.

First, it is a key to H.R. 3981 to remember that to be eligible for any aid from the Federal Government, a State has to be working with its local governments to come up with a comprehensive coastal management program. Right away, this differentiates this bill from alternative ways to deal with the problem. And, it is the strongly held belief of our committee that any attempts to deal with State and local impacts from such energy activities as those associated with OCS drilling—attempts not based on the coastal zone management program—are fundamentally incorrect, and not in the public interest.

The country needs the coastal management program to succeed. In order to do so we must see to it that planning and impact funding for energy facilities are tied directly to this currently successful effort on the part of the States and local communities.

The coastal zone program which this committee recommended to you in 1972 is still in the development stage. We have found in our examination of its administration to date that it is generally being well-managed at both the Federal level and in the States, but that the job we have assigned is more complex than we had anticipated, which is why H.R. 3981 contains some limited extensions.

The committee is persuaded that so far the coastal management program has proven its worth. It was passed and put into effort before the energy crisis had occurred. What we need to do now, the committee recommends, is, first, enable this program to meet the challenge of the energy crisis and, second, modify and update the nature of the program in keeping with the experience to date.

The total impact of the changes we recommend to you in the coastal management program is to facilitate the ability of coastal areas to handle the impacts our energy needs will bring. In so doing, we will most certainly not delay action. In fact, the committee sees this bill as a means of dealing with present and potential causes of delay and to do so in a way which will protect the natural resources of the coastal regions.

H.R. 3981 is the product of a full years deliberation. It is carefully coordinated with the legislation pending before the ad hoc select committee on the Outer Continental Shelf. We conducted 5 days of hearings, held extensive markup sessions and have been in contact with a large number of interest groups.

H.R. 3981 comes to you with bipartisan support. It passed the full Merchant Marine and Fisheries Committee by a vote of 36 to 0. And, as our chairman indicated to you in her remarks, the administration has indicated that it does not oppose the passage of the bill subject to our working together in the conference committee.

I would like to note that the administration remains concerned about certain aspects of the impact fund—particularly in regard to whether moneys should be provided prospectively or retroactively, whether funds should be allocated for ecological costs, and how such moneys should be distributed. I have checked with the Senate side on these and other issues, and we agree that the entire spectrum of Federal assistance options is open for consideration by the conference committee. I am confident that we can work out our differences with the Senate and come up with a constructive bill on which all sides, including the administration, can agree.

I must add that our committee feels strongly that the balanced three-part formula contained in H.R. 3981 will allow timely and adequate assistance to the States—those that are taking part in a coastal management effort, that is—as soon as OCS leases are sold, in amounts appropriate to the State and local requirements and for specific types of activities wholly in keeping with the demands the Nation is making on these most valuable and sensitive areas.

The second part of our impact program states that only those areas which can demonstrate an actual net adverse impact—where local new income is outweighed by required expenses—should additional aid be forthcoming.

This represents a solid, well-thought-out approach. On the one hand, we have an easily administered automatic grant formula, tied to the

coastal management program and for specific purposes only, triggered by OCS leasing. As a field is brought into production—and the resulting impacts onshore grow—the amount a State would receive would increase. This is because the automatic formula designed by our committee pegs the assistance granted to actual need.

Then, if States or localities such as the tiny communities of Alaska which the oil industry plans to use as staging areas can show that they still are net losers in the process, provision of additional assistance is made. This is in the so-called net adverse impact section of the coastal energy activity impact program.

The third type of direct assistance contained in H.R. 3981 is a program, again with specific limitations prescribed, of Federal guarantees of local and State bond issues to provide facilities and services made necessary by OCS developments.

In putting together a major piece of legislation of this complexity and importance, and over such a long period of deliberation, it is obvious that many people contributed.

I want at this time to pay particular tribute to the members of the minority on the oceanography subcommittee led by Mr. Mosher of Ohio. His knowledge of the broad field of ocean issues, and the particulars of the coastal zone program, particularly as it affects the Great Lakes States, has been invaluable. His presence in this body will be sorely missed next year.

I would also single out the hard work contributed during the long hearings and markup session by the gentleman from New Jersey (Mr. Forsythe).

Lastly, I must mention the diligence of the gentleman from Delaware. Together, he and I, with our respective staffs, worked out the compromise approach to energy impact funding under the coastal management program that forms the heart of H.R. 3981. I have the utmost respect for the gentleman and am pleased to join with him in recommending this important piece of legislation for your approval today.

Mr. Chairman, at this point I would insert in the Record, an excerpt from Coastal Zone Management, a publication of Nautilus edited by Mr. John R. Botzum, which is a statement that succinctly sums up the situation relative to H.R. 3981 as it exists today and contains information which is germane to the current debate:

#### COASTAL ZONE MANAGEMENT

Passage of H.R. 3981 Thursday (11 Mar.) by the U.S. House of Representatives will be a sort of fond farewell to retiring Rep. Leonor K. Sullivan (D-MO), chairman—she always prefers to be called “Madam Chairman” rather than “Chairwomen” or “Chairperson”—of the House Merchant Marine & Fisheries Committee. She will not seek reelection in November. The bill contains very significant, and needed, amendments to the Coastal Zone Management Act, plus a major departure in this country’s procedures for dealing with the environmental and social impacts of leasing its Outer Continental Shelf lands for oil and gas exploration and development. The so-called “impact fund” approach to ameliorating those impacts passed the Senate overwhelmingly (S. 586) last year, and while the House version differs, the concept seems certain to become a part of U.S. law. As chairman of the Merchant Marine Committee, Mrs. Sullivan has been deeply involved with the reworking of the bill to meet suggestions by the Republicans, while negotiating with the White House to achieve a compromise between the Congress and the President.

The Ford Administration, long a foe of coastal state impact legislation, finally made a move late in the game, and offered a \$1-billion loan program (CZM, 18 & 11 Feb, 28 Jan), but a negative reaction from Democrats plus less-than-enthusiastic support from the Republican side of the aisle, has caused President Ford to at least approve a negotiating posture.

Correspondence between Commerce Secretary Elliot L. Richardson and Rep. John Murphy (D-NY) and Rep. Pierre du Pont (R-DE) indicates the willingness of the administration to accept H.R. 3981, as a coastal state bill only (with the idea that a separate bill for energy facilities impacts for internal states will be sent to Capitol Hill soon); Dept. of Commerce administration of the act (as opposed to Interior Dept. administration), and an assistance package of up to \$850 million in loans and guarantees, plus \$95 million in direct grants to the states for use in planning for impacts (to be administered by the Office of Coastal Zone Management), and up to \$75 million to states which have already incurred environmental impacts as a result of OCS energy development.

CZM newsletter has learned that the oil industry does not oppose H.R. 3981, although it will not actively seek its passage. Organizations of coastal states generally support most of the language of the bill, and are solidly behind the intent of the legislation. Environmentalists generally agree with the intent—having achieved early in the legislative process the deletion of nuclear energy (within the coastal zone on the landside or in the form of floating nuclear plants) from the list of those energy forms whose impact would be recognized by the act. The House legislation does specifically recognize some other forms of energy than oil and gas from the Outer Continental Shelf, including deepwater ports, and liquid natural gas and coal offloading facilities. Barbara Heller of the Environmental Policy Center in Washington told CZM newsletter that her organization supports the bill reported out by the Merchant Marine Committee—"after months of actively working for it." The White House's major points of contention with the existing language may well fall by the wayside in the conference that will be set up to bring together the Senate and House versions of the legislation.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Chairman, I notice on page 22 the section dealing with serious disagreement says:

"(4) In case of serious disagreement between any Federal agency and the state in the implementation of an approved state management program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences."

Will the gentleman elaborate on that? When we are going to mediate the differences, does that mean people of the States are going to have to haul all their stuff to Washington or will we go where the disagreement is happening?

Mr. MURPHY of New York. It is generally provided in Federal law and it is envisioned here that we are going to hold the hearings in the counties or jurisdictions affected, and that is what we intended in this provision.

Mr. KETCHUM. Let me tell the gentleman why this particular situation scares me. The Bakersfield City School District is under challenge by HEW and they have been holding hearings in the city of Bakersfield for almost 6 months. Arbitrarily the trial judge just last month decided he would move the hearings away from Bakersfield on the ground that it would save the taxpayers money. Certainly it will not save the taxpayers of Bakersfield money.

I think our intent ought to be spelled out in this bill. When a serious disagreement occurs obviously the place to hold the hearings is where the disagreement is and where the people are who are involved in the



disagreement. This has not been the case with HEW and it will blow the lid off some of the civil rights hearings going on in California right now.

Is there any place in this bill or in the law which provides that when there are disagreements they will be resolved in the State where they occur?

Mr. MURPHY of New York. We appreciate the gentleman bringing this out so that the Record today will spell it out for the Secretary of Commerce, who will have jurisdiction in this area, that we intend the local county or municipality, whichever be the case, will be the place where the hearings will be held.

Mr. KETCHUM. I appreciate the gentleman bringing this out.

Mr. DU PONT. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey (Mrs. Fenwick).

(Mrs. FENWICK asked and was given permission to revise and extend her remarks.)

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

My State is a coastal State. I rise in support of this excellent piece of legislation, not only important in the energy field, but in many States with recreation areas. These constitute the biggest industry we have in our State. I am heartily in favor of this bill, but I cannot let this moment pass without a word, not only to the chairman of the subcommittee, the gentleman from New York (Mr. Murphy) and the gentleman from Ohio (Mr. Mosher), whom we are losing, but also the chairman of the committee, the distinguished gentlewoman from Missouri (Mrs. Sullivan).

Mr. Chairman, it is sad to come here as a freshman and lose someone who has been an example, a guide, a help to all of us freshmen in this Congress. The example of hard work, hard dedicated work, that the gentlewoman has given is impressive. I am sure her constituency knows it and I am sure everyone in this Congress does. We are very, very sorry to see the distinguished gentlewoman (Mrs. Sullivan) go.

Mrs. SULLIVAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. Breaux).

Mr. BREAU. Mr. Chairman, I would like to take this opportunity to also rise in support of the bill and commend the chairman of our full committee for the job the gentlewoman has done in guiding this bill and many, many other bills, through this Congress and to say "Thank you" on the part of my district that I represent for the excellent job the gentlewoman has done.

I might say also, the bill came from the committee with a 36 to 0 unanimous vote and that was only accomplished by presenting such a realistic bill that the Congress can pass and the President can sign.

Mrs. SULLIVAN. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia (Mr. Slack).

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

Mr. SLACK. Mr. Chairman, later today during proceedings under the 5-minute rule I will offer two amendments on behalf of the Appropriations Committee, which we have worked out with the managers of the bill and other members of the Merchant Marine and Fisheries Committee, and especially the Subcommittee on Oceanography.

The first of these amendments would bring the administrative expenses of the new bond guarantee section of the bill under better congressional control and subject such expenses to the regular appropriations process. The second amendment would place the bond guarantee program itself under better control and would require that the Congress enact appropriations before any bond guarantee could be made.

Mr. Chairman, it is my understanding that the objectives of these two amendments are shared by the managers and sponsors of the bill and that they are in support of them.

Mr. Chairman, I would also like to point out that we have worked with the managers of the bill in trying to make the bond guarantee section as well drafted a piece of legislation as possible. This was done with the cooperation of the gentlelady from Missouri (Mrs. Sullivan) the gentleman from New York (Mr. Murphy) and the gentleman from Michigan (Mr. Dingell) and the ranking minority member of the Committee the gentleman from Delaware (Mr. du Pont). In fact, Mr. Chairman, I believe that after these amendments are adopted, and with certain other language that is already included in the bill, this bill can serve as a model of well-drafted bond guarantee legislation. After these amendments are adopted, Congress can retain control over this program and will be able to provide appropriations for it in the future in accordance with the priorities and other considerations that exist at the time.

I believe, Mr. Chairman, that this is what the spirit of the budget Control Act is all about. Once again let me express my appreciation for the splendid cooperation and work of the managers and sponsors of this bill in regard to this matter.

MR. DU PONT. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. Forsythe).

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

Mr. FORSYTHE. Mr. Chairman, before I do begin to talk about the legislation before us today, I must join with all my colleagues who have mentioned the chairman of our committee and the sad news that she gave us this week that she will not be returning for the 95th Congress.

It has been a real pleasure to work on that committee and under her leadership. I think there have been very many great pieces of legislation that have moved to this floor, and by and large, they just kind of roll through the House without much problem, which is a kind of a point of pride with us. I think that this committee does bring legislation to the floor that gets wide support.

Mr. Chairman, I rise in support of these amendments to the Coastal Zone Management Act of 1972. We need to reemphasize the congressional intent embodied in the 1972 act of providing Federal assistance to the States in developing their own plans without also providing stifling Federal control. The financial incentives and technical assistance provided in the original act functioned as a stimulus for State involvement in dealing with coastal resource preservation and careful development of those resources. Unfortunately, real participation of the State governments in energy development planning has been lost in the recent attempt of the Federal Government to accelerate the oil

and gas leasing on the Outer Continental Shelf. Such lack of participation in planning for development which is likely to have a major impact on the States coastal areas has led to frustration on the part of the States and has resulted in court actions seeking to delay such development.

The legislation which we are considering today reaffirms the partnership between the Federal Government and State governments in dealing with coastal development. These amendments, however, recognize for the first time that the coastal States and the coastal zones are sharing disproportionately in the impact of national energy development, and provide a mechanism for dealing with that impact at essentially the local level with Federal assistance.

We as a nation must definitely do everything possible to develop our energy resources and consequently lessen our dependence on imports. In my opinion, however, such development can only be done effectively with the full participation and support of the State governments. This legislation goes a long way toward assuring that participation.

The bill we are considering today is the result of months of careful deliberation and meticulous revision. The proposal embodies the results of a completely bipartisan effort throughout the months of subcommittee and full committee work. It makes sense to the Merchant Marine and Fisheries Committee to fully utilize already existing programs, so the bill's planning and financial assistance provisions closely coordinate with the existing provisions of the Coastal Zone Management Act. The proposal as a whole represents a responsible, well-thought-out program by which the United States can protect its natural resources while not restricting development.

We definitely need at this point sufficient comprehensive planning for the development of our coastal areas, including energy development. This legislation proposes including energy facility planning within present general program development and proposes 80 percent Federal funding of planning for specific energy facilities. Such planning should reduce adverse social, economic, and environmental impacts associated with such energy facility development.

In the case of problems which have already developed, however, or problems for which there is not sufficient time to develop alternatives, we must also have funding available to soften present and future adverse impacts on the coastal areas. The proposed two-tiered financial assistance provisions of this legislation should go a long way toward handling such adverse impacts associated with energy development.

Above all, it is important that the States be involved in all aspects of dealing with the development. This legislation affirms the Federal-State partnership, and provides specific mechanisms to aid that partnership in achieving the crucial balance between protection and development of our coastal areas. These amendments measurably strengthen the Coastal Zone Management Act and represent a major step in determining whether the United States can indeed achieve the balance. I feel that this bill is one of the most important pieces of legislation to come before this Congress and I hope it will receive the support in the House that it so well deserves.

Mr. DU PONT. Mr. Chairman, I yield 2 minutes to the gentleman from Alaska (Mr. Young).

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, H.R. 3981, the Coastal Zone Management Act Amendments of 1975, is vital to the coastline of Alaska, as well as to all of this Nation's coastal area.

In 1972, the Congress had the foresight to pass the Coastal Zone Management Act dealing with the conservation of our coastal resources, as competition for the use of these coastal areas increased. So far, the program has proven highly successful.

Now our States, and Alaska in particular, are being confronted with new and accelerated pressures on their coasts. The effort to move this Nation toward energy independence, by developing Outer Continental Shelf oil and gas is creating a tremendous burden on local government and local officials. These governments must bear the costs of a sudden population influx, an immediate need for public facilities and tax money to pay for it.

The provisions of this legislation would do much to alleviate these burdens. This legislation would provide to State and local government assistance for planning for energy facilities located in the coastal zone. Furthermore, it would mitigate to some degree the adverse socio-economic and environmental effects of the location and operation of these same energy facilities.

In addition, this measure would provide assistance to State and local communities that are being adversely impacted because of Outer Continental Shelf oil and gas exploration and development.

In the case of Alaska, my State has a coastline of approximately 34,000 miles which is 35.6 percent of the entire coastline of the United States. Alaska is already contributing its share to the energy deficit by moving forward as quickly as possible with the construction of the Alaska pipeline. If and when the OCS lease sales are effected, there will be a tremendous need for planning and public facilities, such as water and sewer treatment plants. There will be a tremendous need to protect our fishing industry and its support services in the coastal areas, as the new oil and gas related industries take hold.

Similarly, Mr. Chairman, up and down the coast of the United States, particularly in the Atlantic, there will be new pressures, new demands and drastic changes. These activities will result from this Nation's attempt to produce energy on an accelerated and expanded scale. We in the Congress call it in the national interest. If we are acting in the national interest, we have an obligation to assist State and local governments, in shouldering the burdens in the interest and for the welfare of all of the people of this great Nation.

Therefore, I urge my colleagues to support today, H.R. 3981, a measure tremendously important to the State of Alaska as well as the Nation at large.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. Young) has expired.

Mr. DU PONT. Mr. Chairman, I yield 1 additional minute to the gentleman from Alaska (Mr. Young).

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Chairman, on page 42 of the bill, section 319, State and local government bond guarantees, I wonder what the position of the gentleman from Alaska is on that. It says:

The Secretary is authorized, in accordance with such rules as he shall prescribe, to make commitments to guarantee and to guarantee the payment of interest on and the principal balance of bonds or other evidences of indebtedness issued by a coastal state or unit . . .

Does the gentleman think that sounds a little bit like New York?

Mr. YOUNG of Alaska. Mr. Chairman, I would say to the gentleman that it is like comparing apples and oranges. These are areas impacted by offshore development. They are not defunct areas.

Mr. KETCHUM. If the gentleman will yield further, the gentleman feels it is all right for us to guarantee the bonded indebtedness?

Mr. YOUNG of Alaska. In this case I would say so; yes.

Mr. KETCHUM. I thank the gentleman.

Mr. DU PONT. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. Bauman).

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

Mr. BAUMAN. Mr. Chairman, I too want to add my voice in expressing regret on the retirement of our chairman, the gentlewoman from Missouri (Mrs. Sullivan). As active legislators, we soon come to learn who is pleasant to deal with and who is not in the course of our duties. The record of the gentlewoman from Missouri stands out and we will miss her. There is very little one can say which will add to her illustrious career, which will be her monument long after she has retired.

Mr. Chairman, I do rise in support of this legislation. I do not agree with all of its provisions. It amends a very comprehensive act. But on balance it does so in a way that I think strengthens the intent of Congress and protects our coastal areas.

Mr. Chairman, I express particular appreciation to the ranking minority member and to the chairman of the subcommittee, as well as to our staff on both sides, for the assistance they have rendered to me. I would also express my appreciation to the gentleman from Virginia (Mr. Downing) for cosponsoring an amendment dealing with the shellfish industry problem that has arisen as a result of actions by the Food and Drug Administration. There is a provision in the bill which solves this problem.

The bill orders a study of the shellfish industry by the Department of Commerce which will assess the impact on any proposed regulations and holds them in abeyance until this study is completed. I think this will go a long way toward answering the questions that have arisen concerning the possible destruction of this \$200 million industry, which is very important to the State of Maryland and to all coastal States.

Mr. Chairman, last May, I introduced a bill which would amend the Coastal Zone Management Act to assist the States in protecting the shellfish industry from unnecessary control by the Federal Government. The Committee on Merchant Marine and Fisheries has adopted my legislation as section 310 of H.R. 3981 now before us. This provision will do much to protect the beleaguered shellfish industry.

I describe the shellfish industry as beleaguered, because unless protection such as this bill becomes law, watermen and processors face the

virtual dissolution of their industry in the face of proposed and needless severe regulations by the Food and Drug Administration. These FDA regulations will give added power to the Federal Government, impinge on the rights of individual States, place a financial burden on the taxpayer, and yet provide very little, if any, extra safety factors in the shellfish industry.

Under the Administrative Procedure Act of 1946, the FDA has proposed a formalized rule structure which would replace the existing voluntary Federal-State industry program for the sanitary control of oysters, clams, and mussels. Thus, a 50-year voluntary program which has worked well may be replaced by the iron hand of Federal regulation.

This 50-year program, the national shellfish sanitation program—NSSP—has been a cooperative effort by Federal and State Governments to supervise and regulate the shellfish industry for the benefit of the consumer. The FDA has not provided the public with an adequate explanation as to why a successful program like the NSSP must be effectively liquidated by the Federal Government's arbitrary extension of FDA authority in this field. The elements of the NSSP since 1925 have been effective, and they include the review of a State's general administrative procedures for the processing activities of a State's shellfish program, sanitary survey to assure that shellfish are not harvested in polluted waters, the elements of controlled purification, and packing conditions. As I have stated, this has been a highly successful program, and in my State of Maryland, it has been effective in assuring shellfish quality without jeopardizing the industry with over-costly regulatory requirements. The Maryland program has never received a single, substantive complaint about its operations or procedures. The program has on its own and without Federal prompting, closed down a number of shellfish beds if endangered conditions are thought to exist.

Following a recent storm which caused a fresh water flow into the Chesapeake Bay, posing a possible hazard to shellfish stock, the State program closed down oystering in the affected portions of the Chesapeake Bay. The State has conducted a regular series of inspections of plants in line with the Maryland Health Department's continuing sanitation program. The State has the power to seize endangered shellfish stock, and it has used this power for protection of both the industry and the consuming public.

Yet, the FDA would discount this unqualified record of responsible and effective monitoring by the States and impose a series of regulations which the President's Council on Wage and Price Stability called excessive. In the Council's October 21, 1975 comments before the FDA concerning the proposed regulations, it offered in part:

The Council believes that FDA's study of additional costs (required by its new regulations if promulgated) is based on untested assumptions rather than an analysis of the industry. The study assumes that the proposed regulations would increase fixed costs within the industry by no more than 50 percent and variable costs by no more than 25 percent. The sum of these costs is \$24.4 million, according to FDA's analysis.

The Council went on to say that the costs as they would be absorbed by individual firms has not been examined by FDA, and that as it

presently stands, many if not most small shellfish firms would have to go out of business if the FDA regulations go into effect.

A word of response is in order to the few who have sided with the FDA in this dispute. The provisions of this bill do not repeal FDA's statutory authority to protect consumers from impure food. FDA can still seize lots of impure food, order a stop on their shipment and protect consumers. What the bill does do is to stop any new FDA regulations until responsible consideration of their impact on our environment and economy is completed; until representatives of both the shellfish industry, and of public and private interests have a chance to be consulted and add their opinions.

In the proposed regulations, we see an unprecedented increase in the authority of FDA to regulate a private industry. This includes the licensing and inspection of vessels, by Federal agents, monitoring of water quality and harvesting. Federal recording of processing, packaging, marketing shipping, and even recreational catches of shellfish.

The face of these regulations, as they are read, do not effectively demonstrate the actual, harmful impact they will have on individual watermen and processors. In effect, FDA administrators can walk into a plant and without a hearing or the allowance of other proper and effective recourse to the businessmen concerned, close that plant down. The FDA can ban shipments of shellfish on the basis of proposed regulations which knowledgeable spokesmen for the Maryland Waterman's Association and other groups call literally impossible to be complied with. A written record would have to be kept of the life history of the individual clam, the single oyster, from its point of origin on the bottom of the water to its journey to the consumer's dinner table. From cradle to grave, Federal regulations will tie up an oyster's existence in paperwork and inspection procedures in a way which will destroy an entire industry.

In light of these facts, I am pleased that the Committee agreed to my amendment which requires a study of the impact of the FDA regulations before those regulations are put into effect, rather than after. This study will be submitted to Congress by June 30, 1977, together with such additional comments and recommendations as the Secretary of Commerce deems appropriate.

The harvesting and processing of shellfish provide important economic benefits for individuals and communities along the coasts of this Nation. The continued existence of these benefits directly depends upon the harvesting of shellfish from inland and coastal waters which the FDA regulations would place in jeopardy. Intimidating the industry and challenging the continued production of a particular food product are not proper functions of any Federal regulatory agency.

I am pleased that the Committee has seen fit to adopt my amendment.

The CHAIRMAN. The Chair wishes to inform the gentleman from Delaware (Mr. DU PONT) that he has 9 minutes remaining, and the gentlewoman from Missouri (Mrs. SULLIVAN) has 1 minute remaining.

Mr. DU PONT. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Wiggins).

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

Mr. WIGGINS. Mr. Chairman, I intend to vote against this bill.

Since that is my intention, I think I owe a word of explanation to my colleagues who may find it incredible that a Representative of a coastal State would interrupt this love feast and indicate some dissent.

I do not wish to speak to the amendments to the coastal zone management legislation which have heretofore been agreed to by Congress, but I do want to talk about this new giveaway to the coastal States at the expense of everybody else.

I represent a coastal State. I represent a county which is adjacent to the coast, and I would suppose that my parochial interests should be to support this bill. But I find there is something wrong with it. The portion of the bill that I object to proceeds on the assumption that the development of the OCS is going to heap economic devastation on the adjacent States, and that the Federal Government ought to take Federal revenues and provide a sum of money to the adjacent States to accommodate that "burden."

Mr. Chairman, I challenge that assumption. In reality, the development of the OCS is going to be an economic bonanza to the coastal States, and everybody knows it. There may be some short-range problems which are confined almost exclusively to the State of Alaska, and perhaps special consideration to those economic problems is in order. But, Mr. Chairman, I will say to the Members that if they think my State is going to suffer because hundreds of billions of dollars worth of petroleum is to be produced on the adjacent OCS, they are going to provide new jobs; we are going to progress from that activity; we are going to provide new jobs, we are going to increase our tax revenues. The only ones to suffer will be the taxpayers of the interior States who will have to give up a portion of Federal revenues to add to those of the State of California.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I would like to point out to the gentleman that the interior States would have Federal lands receive 37½ percent of the revenues from these activities. I might say that the court has clearly laid out the guidelines for this.

The CHAIRMAN. The time of the gentleman from California (Mr. Wiggins) has expired.

Mr. DU PONT. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. Wiggins).

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, the problem is that these are Federal lands from which OCS oil and gas will come, and this petroleum comes from offshore California, and particularly Louisiana and Texas. We know that this money goes into the Federal revenues, and yet these States have had to pay for schools, for highways, and for the whole municipal mix. These demands are all in the local areas.

Mr. Chairman, we have had 13 Governors and their representatives come in and testify in the various hearings, and they have all indicated their support for this legislation on the basis of a tight money situation which compels them to temporarily seek aid from the Federal Government to cope with the massive onshore impacts of offshore oil and gas resource development. As I said in my opening statement on this legislation it is easy to imagine the feelings in rural counties faced for the first time with the prospect of dealing with the huge offshore



oil industry—especially when the tax proceeds from this activity go entirely to the Federal Government, but the expense of providing services made necessary by the new industry is borne by the local and State governments. When tax revenues generated by the new industrial activity are not enough to meet the public expenditures, communities are faced with a new loss. When the Federal Government causes it, we would not expect the local governments to pay.

Mr. WIGGINS. Mr. Chairman, I can only say very quickly that, of course, these Governors have testified in support of the legislation. They want the revenue.

The analogy of the payments as a result of mineral exploration within a State is wholly inapt. A fair analogy would be to provide California with a percent of mineral revenues generated from Federal lands in Nevada. The offshore oil does not belong to California; it belongs to the people of this country. There is no reason why my State ought to get a windfall as a result of this legislation.

Mr. DU PONT. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Lagomarsino).

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

Mr. LAGOMARSINO. Mr. Chairman, I would like to join my colleagues in expressing my regrets with regard to the announcement of the gentlewoman from Missouri (Mrs. Sullivan) not to seek reelection. We will all miss her. She is truly a gentle lady in every sense of the word, an outstanding Congressperson, and we wish her well in what will become her retirement.

I rise in support of H.R. 3981, coastal zone management.

Mr. Chairman, I represent a coastal State and a coastal district; I represent the county of Santa Barbara where we had a disastrous oil spill in 1969, an event that attracted worldwide attention.

Oil drilling, offshore oil drilling, and onshore facilities, are a matter of serious concern in that area. I might say also that my district is about evenly divided as to whether there should be offshore oil drilling or not, but most people in my district support this bill because this legislation does recognize the problem. While the bill may well admit or concede that there is going to be Federal offshore oil drilling—and I think that is probably a very logical assumption—it does also point out that the Federal Government does have an obligation to mitigate the problems that its very activity might create.

Mr. Chairman, this legislation is of particular importance to California because that is a State where there is probably going to be immediate Federal offshore oil drilling. The Department of the Interior, in spite of some protests, has gone ahead with offshore oil leasing. The legislation we have before us I think is necessary to offset the adverse economic, environmental, and social impacts that might be caused by that particular operation.

Mr. Chairman, our State legislature is even now considering coastal zone management legislation after having several years of study by a special committee that was set up by way of an initiative in California. They need our help, Mr. Chairman. I urge an "aye" vote.

Mr. du PONT. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. Treen).

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

Mr. TREEN. Mr. Chairman, before making my remarks, as a very junior member of the Committee on Merchant Marine and Fisheries, one who has been here just a little over 3 years, I want to pay special tribute to the retiring chairman of the committee.

Although a freshman member 3 years ago and a minority member, I was treated from the outset with the kindly attention that every other member of this committee has received from the chairman of our committee. I wish her the very best in the years ahead.

Mr. Chairman, I want to also pay tribute to the chairman of the subcommittee, the gentleman from New York (Mr. Murphy), as well as to the gentleman from Ohio (Mr. Mosher), and the gentleman from Delaware (Mr. du Pont), on the minority side, who have worked hard over many, many months to develop what I think is a truly fine piece of legislation.

Mr. Chairman, the gentleman from California (Mr. Wiggins) talked about all the money that is to be made. Of course, a lot of dollars are going to be generated by any offshore activity, but what he may not know and what other Members may not know is that the governments, both State and local, that ordinarily would be expected to pick up substantial revenue from economic activity, are barred, because this is OCS territory, from much of the tax collections that would ordinarily apply.

For example, the Submerged Lands Act, 43 U.S.C. 1333, provides that State taxation laws shall not apply to the Outer Continental Shelf. Thus, the States are unable to collect sales taxes on materials that go out to the offshore platforms. They are not able to include the value of the facilities on the OCS in ad valorem tax rolls. Most States collect a corporation franchise tax based upon capital investment, but that part of the capital investment that is beyond 3 miles could not be included; and on and on.

Mr. Chairman, although this is a bill to amend the Coastal Zone Management Act, it is truly a national piece of legislation because the thrust of the amendments that we adopt today will be to shift, to a large extent, the dependency of this Nation from foreign sources of oil to domestic sources; and that has all sorts of implications for us. Among those implications are the dollars that are flowing out of this country and the balance of payments problem. There are the obvious risks of having our energy supply from foreign sources interrupted again. There are the implications with respect to the sufficiency of our own energy supplies in order to run our industrial machines in this country. At a time when we are making progress in providing more jobs, we should accelerate our energy production in order to provide even more jobs, and this bill will do that.

Public pressure has been diminished, because we do not have long lines at the gas stations, to do something about our energy problem; but we know that on a moment's notice the same sort of problems we had a couple of years ago could be presented again. Those problems could flare up at any time.

As we approach the elections this fall our constituents are going, to ask us what we have done as a Congress, in a concrete way, to try to solve some of our short-term energy problems. And, when we pass this

legislation, we will be able to point with pride to a concrete piece of legislation which indeed will accelerate off-shore oil and gas production and thus go a long way toward meeting our energy needs.

The CHAIRMAN. The Chair will state that all time controlled by the gentleman from Delaware (Mr. du Pont) has expired.

Mrs. SULLIVAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. Hughes).

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

Mr. HUGHES. Mr. Chairman, I wish to express my strong support of H.R. 3981, the coastal zone management amendments and urge my colleagues to support this important legislation.

The proposed amendment would provide an important new program of assistance which will enable coastal areas, such as my home district in South Jersey, to better plan for and cope with the adverse impact of offshore oil and gas development.

H.R. 3981 is an outgrowth of some of the work done by the Select Committee on the Outer Continental Shelf, which has traveled many thousands of miles, and taken a considerable amount of testimony on what happens when oil and gas operations arrive to a frontier area. We found that, time and time again, the local economies of coastal regions—often with small populations—were unable to cope with the strains and pressures brought about by the influx of new people and industry, and the consequent demands for municipal services. Further, the lack of coherent land use plans, and other needed zoning and planning activity, often resulted in a hodge-podge of development seriously detracting from the area's environmental and recreational resources.

Unlike many areas of the Nation which grew up with oil and gas development, my home area in south Jersey has developed an economy based upon its environmental and recreational resources. Tourism, agriculture and fishing provide the economic mainstay of south Jersey. Tourism alone is the second biggest industry in New Jersey, producing many billions of dollars each year, much of which is generated in the shore points and resort areas of south Jersey. We do not oppose the orderly development of our offshore oil and gas resources for the benefit of the Nation, but we are deeply troubled and concerned about the massive impacts which will result when a new industry arrives in our State.

The program proposed by H.R. 3981 will help us cope with those impacts, by providing a two-part system of aid for coastal States in the form of automatic payments based upon OCS leasing and development, as well as a discretionary program of aid based upon the concept of net adverse impacts.

The first part of the program would provide a total of \$400 million to States effected by OCS development, commencing at \$50 million in fiscal 1977, and increasing to \$125 million in fiscal 1981. The automatic payments will be allocated to States on the basis of each State's share of the total OCS activity in the United States. The amount of OCS activity would be determined by averaging six indexes of offshore energy production which includes the amount of acreage leased, the number of wells drilled, the amount of oil and gas produced, the amount of oil and gas landed, the number of energy-related employees, and the amount of capital invested.

Under the terms of the automatic payments program, funds must be used by the States first for the retirement of bonds guaranteed under the Coastal Zone Management Act which were issued to finance OCS-induced public expenditures. The bill further requires that local bonds be retired before State bonds.

The second priority for automatic payments is devoted to the planning and carrying out of projects required as a result of OCS activity. The last priority is to reduce or ameliorate the loss of any ecological or recreational resource due to OCS developments.

In addition to the automatic payments program provided under H.R. 3981, there is also a \$625 million program for 80 percent matching grants to those States which have experienced or will experience a net adverse impact as a consequence of OCS energy activities. This form of assistance contains a provision to deny aid for the impact of those facilities which could be located in a noncoastal area. This will provide an important incentive to keep all but the most essential facilities away from the shorelines, which are, rapidly becoming more and more developed.

The proposed coastal zone management amendments contain many other important provisions as well, such as the approval of interstate agreements on coastal management, and the provision of aid to States to secure rights-of-way to public beaches.

I am disappointed, however, that the amendment offered by Mr. DU PONT to delete the provision requiring that Federal offshore leasing be consistent with State coastal zone management plans has been agreed to. I nevertheless rely upon the record established during today's debate to show that it is the intent of this legislation that offshore leasing not be in conflict with State management plans. Obviously, the development of offshore energy resources is among the most serious pressures that presently exist upon the maintenance of our coastal areas.

All things considered, however, I feel that this legislation represents an important step forward in providing needed protections for those regions of the Nation which have never before been forced to cope with the adverse impacts of offshore oil and gas development. This is a vitally important piece of legislation which I hope will receive the overwhelming support of the Members of the House.

Mr. ANDERSON of California. Mr. Chairman, the California coast is a thin strip of land, some 1,100 miles long, that cannot possibly accommodate all the demands we are putting on it unless we plan wisely.

H.R. 3981, Amendments to the Coastal Zone Management Act, expands on the far sighted planning Congress started in 1972 by initiating programs to protect valuable coastal resources as well as policies to guide future development. Representing a district where major energy facilities are located or proposed to be located: Namely super-tanker ports to receive Alaskan oil and liquefied natural gas, refineries, offshore oil rigs and related onshore developments; I am particularly pleased with the bill's coastal energy impact program. The leasing of Outer Continental Shelf tracts mandated congressional action to protect State and local communities which must bear the brunt of federally approved energy projects conducted in the national interest.

Mr. Chairman, I will not take any more of this body's time explaining the other significant provisions of this bill. I am sure the Members

are very aware of them. I will say that 85 percent of California's 20 million people live within 30 miles of the coast and, in their behalf, I urge an "aye" vote on H.R. 3981.

Mr. LAGOMARSINO. Mr. Chairman, it is a rare occasion when a politician cannot be found to say that some event or another represents a milestone. Yet that is precisely what the bill before us today, H.R. 3981, represents. These amendments to the Coastal Zone Management Act are formal recognition of the fact that there is a social cost associated with energy development.

This is a lesson which Santa Barbara had the misfortune to learn more than 7 years ago, when crude oil from offshore wells spilled on our shores. Many marked that event as the start of a new era in man's relation to his environment. This bill, in a sense, is an outgrowth of that era. Yet in another sense, it is much more. It is an acknowledgment of the complex interrelationship between the Government's decision to develop a resource, and the social, economic, and environmental effects which can result from that decision.

In a sense, this is not a new principle. We have recognized for years that Government has an obligation to local school districts to help with the education of children associated with a military base. In fact, that program is even known as impact aid. This bill deals with a similar type of impact—on Government institutions, on services, on the local economy and environment as it is affected by large-scale energy development projects. The principle that a portion of the funds generated by such operations should be used to prevent or repair any damages is both just and necessary, if we are to continue such large-scale development.

In effect, this bill is an honesty-in-accounting act, which says that you have to subtract the cost of mitigating adverse impacts from the benefits of a particular project. If that principle is not followed, then you are just shifting the cost of energy development from one level of government to another; from a larger class of taxpayers at the Federal level to a smaller class at the local level.

I hope each of the Members will consider what this principle means for your own district. Every area of the country has some resource which may become necessary at some point to the national interest. The realization that a fair accounting entails a weighing of both the benefits and the costs of such an undertaking, is one of the underlying principles of this bill. I hope you will give it your support. I strongly support this legislation.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in strong support of H.R. 3981, a bill which makes significant and important amendments to the Coastal Zone Management Act of 1972, and I commend the Merchant Marine and Fisheries Committee for their diligence and effort in perfecting this vital legislation.

As most of my colleagues may be aware, the Senate approved similar legislation in July of 1975. This action was designed to improve our energy resource supply but at the same time, protect our Nation's coastal environment.

This legislation establishes a framework in which our dual concerns for environmental protection and increased energy self-sufficiency can be addressed. The framework will be federally assisted, but State administered.

The intensive effort that will be launched to develop our petroleum and natural gas resources on the Outer Continental Shelf holds out great promise for our entire country. But it also holds out the prospect of great peril to the coastal regions of the Nation.

The need for onshore support facilities will grow rapidly as this development proceeds, as will the need for docking facilities, deep-water ports and liquefied natural gas.

We must allow rationality and a sense of priorities to influence the decisions that will be made in the not-too-distant future. By strengthening the Coastal Zone Management Act to provide additional tools for the States to meet this new energy challenge, Congress can achieve that delicate balance between energy resource development and coastal preservation and protection.

But, clearly time is of the essence.

The legislation before us today addresses itself to the coastal energy problem in two major ways:

First, in the area of planning, the legislation asks coastal States to establish an energy facility planning process as part of their present program development work. Also, planning for specific energy facilities which may be located in the coastal zone—planning to reduce the possible socioeconomic and environmental effects from the location or operation of those facilities—is funded with 80 percent Federal grants.

Second, Federal financial assistance for the negative impact of OCS and other coastal related energy activities is provided through a two-part coastal energy activity impact program.

Affected coastal States experiencing certain levels of OCS activity resulting in the requirement for additional public service or public facilities will be assisted through an annual payment program based on a simple formula which will reduce administrative staffing requirements to a minimum. The OCS payments will go to coastal States in proportion to the level of offshore activity they are experiencing.

The other part of the program provide for 80 percent grants to coastal States if they can demonstrate that they have suffered or are suffering net adverse impacts from energy activity which is coastal-dependent.

H.R. 3981 also contains other significant changes to the Coastal Zone Management Act, including the extension of existing authorizations; the raising of the Federal share of the program development and administrative grants from 66 $\frac{2}{3}$  to 80 percent; the establishment of Federal and State coastal research and training programs; the inclusion of beach access and beach protection planning processes; the increased encouragement of interstate coordination in coastal-related policies; the addition of a shoreline erosion control planning process; and the establishment of a new, interim phase between program development and administration grants to give States time to enact needed legislation or to assure local implementation.

Mr. Chairman, this legislative response to our compelling energy and environmental challenges of the Outer Continental Shelf deserves the full support of my colleagues.

While we work to insure a more secure energy future for America, we must also insure that our precious coastal resources are protected for future generations of Americans.

H.R. 3981 will help to achieve these objectives, and it deserves our full support.

Mr. DRINAN. Mr. Chairman, I rise in support of the Coastal Zone Management Act, H.R. 3981, a bill which will assist coastal States which experience adverse impacts as a result of Outer Continental Shelf activities. The energy crisis of the 1970's has served to bring into focus more sharply than in the past the tremendous pressures that fall upon the coastal zone. Without this type of legislation, it is quite possible that rash planning and insufficient State input will severely and adversely affect many of this country's coastal regions.

It is quite evident, Mr. Chairman, that coastal areas will be under great pressure to develop their underseas resources. As this Nation becomes increasingly dependent on foreign oil supplies, the desirability of having offshore development will become increasingly apparent. And we are not talking just about offshore drilling. Terminals will be needed to serve the increasingly large supertankers, new facilities will be needed to handle liquefied natural gas imports, and refineries will have to be located in nearby locations.

It is impossible for us to state at this point what the full ramifications will be of this Outer Continental Shelf activity. The economic and sociological eventualities cannot be predicted with certainty at this time. However, the Presidential Commission on Marine Science and Resources provided some instructive insights into what we can expect in the coming years.

In its major 2-year study of ocean issues, "Our Nation and the Sea," the Commission stated that the coasts were endangered from excessive uses, some of which were incompatible with the continued health of the coastal region. The report pointed out that the coastal area was less than 10 percent of the total land area of the country, but already had over 40 percent of the population and was growing at a faster rate than the rest of the country. Indeed, a 3-year study of the Nation's most populous State determined that 85 percent of California's 20 million people live within 30 miles of the coast.

Mr. Chairman, we must take pains now to insure that our coastlines are adequately protected against ill-advised or environmentally risky development. This is why it behooves the Congress to enact the Coastal Zone Management Act. The present legislation will amend the Coastal Zone Management Act of 1972, a bill which made a worthy beginning in this area. But the act of 1972 could not have accurately predicted the energy crisis which would soon follow and, as a result, new protection is needed.

H.R. 3981 would authorize a large-scale program for new and continuing assistance for coastal States which may soon be affected by offshore development. This assistance take the form of automatic grants, adverse impact grants, and State and local bond guarantees.

First, the bill would require the Secretary of Commerce to make automatic annual payments to States based upon a six-part formula that determines the extent of OCS energy activity in each of the States. The Secretary would determine this OCS activity by assessing the mount of acreage leased, wells drilled, oil and gas produced, oil and gas land, number of energy-related employees, and the amount of capital invested. From the formula derived, the grants would then be made available in prorata shares according to the money which is available.

Second, the bill authorizes adverse impact grants to be made available to coastal States that have or will suffer net adverse impacts as a result of energy activity. Net adverse impact is defined by the bill as occurring when the beneficial consequences of coastal energy activity are outweighed by its economic and environmental costs. Unlike the automatic grants, the adverse impacts grants can be extended to include the development of deep water ports, and liquified natural gas, coal and oil loading facilities.

Third, H.R. 3891 would authorize guarantees of State and local bonds issued to provide public services and facilities which are made necessary by OCS energy activities. Guarantees could only be approved if the State or local government would otherwise be unable to secure the funds without a Federal guarantee.

The bill does contain other provisions which extend its scope. For example, requirements are added to existing State coastal zone management programs which would mandate evaluation of options so as to provide public access to beaches and other public areas. Mechanisms are provided whereby local governments can contest State provisions which affect them. Federal funding is extended to support interstate planning arrangements. And finally, money is made available for a State and Federal research program to guard against unforeseen environmental and economic consequences.

Mr. Chairman, while I do endorse the provisions of this bill, I would like to add one note of caution. I feel that it is possible that under the automatic grant provisions the Federal funds will not go where they are most needed. For example, the formula which has been proposed will benefit the State of Louisiana to a much greater extent than other States due to the off-shore activity which has already begun in that region. By placing too much emphasis on production rather than need, there may very well be a misallocation of funds which will short-change areas such as the mid-Atlantic region and Alaska. I do feel that regulations can prevent this problem from taking place, but this possibility should be addressed early on by the Department of Commerce.

Mr. Chairman, as we turn increasingly to the sea to recover our limited oil and gas supplies, we must become increasingly aware of the possible dangers which could accrue to our beautiful coastlines and their surrounding environment. It is necessary for us to develop these new energy supplies, but we must always bear in mind that our environment must not be sacrificed in the name of energy exploration and development. Toward this end, the Coastal Zone Management Act represents a needed step forward.

Mr. RUPPE. Mr. Chairman, with congressional passage of the Coastal Zone Management Act of 1972, the first positive step was taken to guarantee the precious resource that is our national coastline. The bill we have before us today, H.R. 3981, is intended to carry the original act to fruition, preserving and protecting our coastal land area, while permitting that area to be fully and properly utilized. It cannot be denied that the 1972 act has been enthusiastically accepted by our coastal States—without exception, every one of those States has opted to participate in the voluntary programs made possible through this act.



In the years since enactment of that law, the need for well thought out and practical management of our coastal areas has become even more glaring. Now, we must augment and fortify the Coastal Zone Management Act, so that we may meet and handle the various needs and demands of the present, while also assuring that our coastline remains a viable resource for the future.

When Congress passed the original act, we had not yet experienced any energy crisis. In a sense, that crisis may have been a blessing, for it forced us to be cognizant of the fact that an alteration in our national energy policy was mandatory. In an effort to implement a more valid energy policy, we could not but realize there would be an increased demand for the oil and gas resources which are available beneath our offshore areas. Individual coastal States are presently ill equipped to cope with inherent impacts as we pursue offshore leasing programs, deepwater ports, and additional energy facilities. We cannot hope to secure a policy of energy self-sufficiency without these offshore deposits, and we surely cannot expect to retain them without smooth cooperation between the Federal Government, and State and local governments. By providing the means for States to deal with inevitable consequences of accelerated energy development, H.R. 3981 assures that such cooperation will be achieved in a responsible manner.

All coastal States, including the Great Lakes States, will be able to develop the needed energy facilities, siting, and planning processes, as the bill provides increased planning grants to such States. Perhaps more importantly, the potential impacts of energy development upon individual States' coastal areas may be properly assessed.

As a Representative from Michigan, I am proud to point out to my colleagues that my State is one of the foremost in facing and dealing with the problems of coastal zone management. The necessity of proper management was brought home hard, in part because of the critical shoreline erosion with which Michigan is faced. This erosion problem is not limited to the Great Lakes States, or even the remaining coastal States, but has become national in nature. Close to one quarter of our Nation's shoreline is eroding, some of it extremely seriously. A large portion of that critical erosion occurs along the Great Lakes coastline. As there is more development per mile of shore along the Great Lakes than exists in remaining coastal areas, the amount of potential and actual damage to life, public safety, property, and wild-life habitats is proportionately greater.

Estimates of annual shoreline erosion damage vary, but \$300 million would be an acceptable figure. In 1971, an estimate of \$1 billion to prevent and arrest this harm by erecting structural controls was given; yet, between 1970 and 1974, only \$104 million was spent by the Corps of Engineers to reduce this eradication of our coastline. Further, the corps is presently able only to implement programs where public access is guaranteed, and which will protect public interests. No action can be taken which benefits only private owners. While 13 demonstration programs have been authorized by the Congress, no funding has yet been appropriated. There has been no coordinated approach to this problem, since no one has seen fit to correlate the efforts of land owners, whether public or private. It should be quite obvious that such coordination and cooperation is essential if we are to halt the vanishing shoreline phenomenon.

H.R. 3981 provides for just such an organized effort, by requiring coastal States to institute a planning process to assess the effects of shoreline erosion, and to evaluate methods of control, and restoration of areas stricken by such erosion, whether the damage is natural, or induced by man. Knowing full well the grave implications if this erosion is permitted to continue unchecked, and having heard much additional testimony on the subject, I was pleased to introduce this provision into the bill, H.R. 3981, and greatly satisfied that the necessity for such a measure was recognized by my colleagues on the committee.

Further, the committee realized that the addition of this program would require additional funding, permitting the States to conceive and develop their respective programs to remedy the erosion threat. Consequently, the level of funding authorized for planning grants was increased from \$12 million to \$24 million annually, and States would be allowed to receive developmental grants for 4 years, as opposed to the 3-year period authorized in the original 1972 act. When weighing the potential destruction of our national coastline if action is not taken to preserve it, and when considering the Corps of Engineers estimates of funding levels to terminate such loss, I do not believe that there is any way we can afford not to sanction this funding.

However, though I do support a provision that calls for the development of a State planning process for the protection of and access to public beaches and other public areas of identified value, I must reiterate my opposition to the provisions of this bill that provide for grants to assist States in acquiring land accessways. I am of the opinion that until the planning process is completed, the Federal Government, by the addition of an attractive though unnecessary funding provision, should not as a matter of policy impose what would be tantamount to a Federal mandate to acquire public accessways across private lands. Since the principal thrust of the basic act is preservation and protection, we should be cautious that our calculated Federal action does not have such a detrimental effect on adjacent private property as to give rise to the need for another form of impact fund. Congress needs to know the impact of a provision for accessways that may well result in the degradation of the areas to be reached as well as adjacent areas without strict and costly State regulatory and supervision regimes that this bill does not provide for. In the final analysis, the States have the authority and perhaps even the funds to acquire necessary rights-of-way by exercising their own inherent right of eminent domain. A few have programs underway even now without additional Federal impetus—others, at their discretion and prompted by the planning process in this bill, may follow suit. In my opinion, an additional grant largesse is not an essential ingredient of a coastal zone management program at this time.

I have opposed Federal land use legislation in the House Interior Committee and have serious reservations about imposing a land use plan upon the States which is accomplished by the coupling of land grants with a planning process for access to specified public areas.

I lost in my efforts to amend this bill in both subcommittee and full committee markups and so bow to the will of my colleagues on the committee. Except for the reservation expressed above, I support this bill wholeheartedly, commend my colleagues for their work, and urge my colleagues on both sides of the aisle in the House to support the

bill, as my colleagues on both sides of the committee aisle have seen fit to do.

Mrs. SULLIVAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will read the committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Coastal Zone Management Act Amendments of 1975".

SEC. 2. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), is amended as follows:

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting "ecological," immediately after "recreational."

(2) Section 304(a) of such Act (16 U.S.C. 1453(a)) is amended by inserting "islands," immediately after "and includes".

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting "and" after "transitional areas," and by inserting "and islands," immediately after "uplands,".

(4) Section 304 of such Act (16 U.S.C. 1453) is further amended by adding at the end thereof the following new subsections:

"(j) 'Outer Continental Shelf energy activity' means exploration for, or the development or production of, oil and gas resources from the outer Continental Shelf, or the location, construction, expansion or operation of any energy facilities made necessary by such exploration or development.

"(k) 'Energy facilities' means new facilities, or additions to existing facilities—

"(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

"(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) outer Continental Shelf oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary for such exploration, development, or production; (E) facilities of offshore loading and marine transfer of petroleum; (F) pipelines and transmission facilities; and (G) terminals which are associated with any of the foregoing.

"(l) 'Public facilities and public services' means any services or facilities which are financed, in whole or in part, by state or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.

"(m) 'local government' means any political subdivision of any coastal State if such subdivision has taxing authority or provides any public service which is financed in whole or part by taxes, and such term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

"(n) 'Net adverse impacts' means the consequences of a coastal energy activity which are determined by the Secretary to be economically or ecologically costly to a state's coastal zone when weighed against the benefits of a coastal energy activity which directly offset such costly consequences according to the criteria as determined in accordance with section 308(c) of this title. Such impacts may include, but are not limited to—

"(1) rapid and significant population changes or economic development requiring expenditures for public facilities and public services which cannot be financed entirely through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title;

"(2) unavoidable loss of unique or unusually valuable ecological or recreational resources when such loss cannot be replaced or restored through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title.

"(o) 'Coastal energy activity' means any of the following activities if it is carried out in, or has a significant effect on, the coastal zone of any coastal state or coastal states—

"(1) the exploration, development, production, or transportation of oil and gas resources from the outer Continental Shelf and the location, construction, expansion, or operation of supporting equipment and facilities limited to exploratory rigs and vessels; production platforms; subsea completion systems; marine service and supply bases for rigs, drill ships, and supply vessels; pipelines, pipe-laying vessels and pipeline terminals, tanks receiving oil or gas from the outer Continental Shelf for temporary storage; vessel loading docks and terminals used for the transportation of oil or gas from the outer Continental Shelf; and other facilities or equipment required for the removal of the foregoing or made necessary by the foregoing when such other facilities or equipment are determined by the coastal state affected to have technical requirements which would make their location, construction, expansion, or operation in the coastal zone unavoidable.

"(2) the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of liquefied natural gas, coal, or oil or of conversion or treatment facilities necessarily associated with the processing of liquefied natural gas; or

"(3) the location, construction, expansion, or operation of deepwater ports and directly associated facilities, as defined in the Deepwater Port Act (33 U.S.C. 1501-1524; Public Law 93-627)."

(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(7) a definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value;

"(8) a planning process for energy facilities likely to be located in the coastal zone and a process for the planning and management of the anticipated impacts from any energy facility; and

"(9) a planning process that will assess the effects of shoreline erosion and evaluate methods of control, lessen the impact of, or otherwise restore areas adversely affected by such erosion, whether caused by natural or man-induced actions."

(6) Section 305(c) of such Act (16 U.S.C. 1454(c)) is amended by deleting "66 $\frac{2}{3}$ " and inserting in lieu thereof "80"; by deleting in the first sentence thereof "three" and inserting in lieu thereof "four"; and by deleting the second sentence thereof.

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended—

(A) by deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following " : Provided, That notwithstanding any provision of this section or of section 306 no state management program submitted pursuant to this subsection before October 1, 1978, shall be considered incomplete, nor shall final approval thereof be delayed, on account of such state's failure to comply with any regulations that are issued by the Secretary to implement subsection (b) (7), (b) (8), or (b) (9) of this section."; and

(B) by deleting the period at the end thereof and inserting in lieu thereof the following " : Provided, That the state shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a public beach and public coastal area access planning process, an energy facility planning process, and a shoreline erosion planning process for its state management program, pursuant to regulations adopted by the Secretary to implement subsections (b) (7), (b) (8), and (b) (9) of this section."

(8) Section 305 of such Act (16 U.S.C. 1454 et seq.) is amended—

(A) by striking out the period at the end of subsection (e) thereof and inserting in lieu thereof the following “: And provided further, That the Secretary may waive the application of the 10 per centum maximum requirement as to any grant under this section when the coastal state is implementing a management program pursuant to subsection (h) of this section.”.

(B) by redesignating subsection (h) thereof as subsection (i), and by inserting immediately after subsection (g) the following:

“(h) (1) The Secretary may make annual grants under this subsection to any coastal state for not more than 80 per centum of the cost of implementing the state's management program, if he preliminarily approves such program in accordance with paragraph (2) of this subsection. The limitation on the number of annual development grants pursuant to subsection (c) of this section is not applicable to this subsection. States shall remain eligible for implementation grants pursuant to this subsection until September 30, 1979.

“(2) Before granting preliminary approval of a management program submitted by a coastal state pursuant to this subsection, the Secretary shall find that the coastal state has—

“(A) developed a management program which is in compliance with the rules and regulations promulgated pursuant to this section but is not yet wholly in compliance with the requirements of section 306 of this title,

“(B) in consultation with the Secretary, specifically identified the deficiencies in the program which would render the state ineligible for the Secretary's approval pursuant to section 306 of this title, and deficiencies such as the lack of an adequate organizational network or the lack of sufficient state authority to administer effectively the state's program have been set forth with particularity,

“(C) has established a reasonable time schedule during which it can remedy the deficiencies identified under subparagraph (B) of this subsection; and

“(D) has specifically identified the types of program management activities that it seeks to fund pursuant to this subsection.

“(3) The Secretary shall determine allowable costs under this subsection and shall publish necessary and reasonable rules and regulations in this regard.

“(4) Any state program funded under the provisions of this subsection shall not be considered an approved program for the purposes of section 307 of this title.”.

(9) Section 305(i) of such Act, as redesignated by paragraph (8) (B) of this section) is amended by deleting “June 30, 1977” and inserting in lieu thereof “September 30, 1979.”.

(10) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting “66 $\frac{2}{3}$ ” and inserting in lieu thereof “80”; and by deleting the last sentence thereof.

(11) Section 306(c) (2) (B) of such Act (16 U.S.C. 1455(c) (2) (B)) is amended by adding at the end thereof the following flush sentences:

“No mechanism referred to in this paragraph for continuing consultation and coordination shall be found by the Secretary to be effective unless such mechanism includes, in addition to such other provisions as may be appropriate, provisions under which:

“(i) the management agency designated pursuant to paragraph (5) of this subsection is required, before implementing any decision made by it to carry out the management program, to send notice of such decision to any local government which has land use or water use control powers within the area to which such decision may apply;

“(ii) any such local government may, within thirty days after the date on which such notice is received, request the management agency to hold a public hearing regarding such decision;

“(iii) the management agency, upon receiving a request for a public hearing as provided for in clause (ii), is required to hold such public hearing not sooner than ninety days after the date on which notice of the decision is received by the local government; and

“(iv) if a public hearing on any such decision is timely requested by any local government, the management agency may not implement the decision until after the public hearing is concluded.

Funds which may be allocated to any local government pursuant to subsection (f) of this section may be used, in part, to defray expenses incurred by the local government in preparing for any public hearing referred to in the preceding sentence which is requested by it.”.

(12) Section 306(c) (8) of such Act (16 U.S.C. 1455(c) (8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a state's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the state has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title."

(13) Section 306 of such Act (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a State's continued eligibility for grants pursuant to this section, the management program of such state shall, after the fiscal year ending in 1978, include, as an integral part thereof (1) a planning process for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b) (7) of this title, and approved by the Secretary; (2) an energy facility planning process, which is developed pursuant to section 305(b) (8) of this title, and approved by the Secretary and (3) a shoreline erosion planning process, which is developed pursuant to section 305 (b) (9) of this title, and approved by the Secretary."

(14) Section 307(c) of such Act (16 U.S.C. 1456 (c)) is amended by adding at the end thereof the following new paragraph:

"(4) In case of serious disagreement between any Federal agency and the state in the implementation of an approved state management program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences."

(15) Section 307(c) (3) of such Act (16 U.S.C. 1456(c) (3)) is amended by (A) deleting "license or permit" in the first sentence thereof and inserting in lieu thereof "license, lease, or permit"; (B) deleting "licensing or permitting" in the first sentence thereof and inserting in lieu thereof "licensing, leasing, or permitting"; and (C) deleting "license or permit" in the last sentence thereof and inserting in lieu thereof "license, lease, or permit".

(16) Sections 308 through 314 of such Act (16 U.S.C. 1457 through 1463) are redesignated as sections 311 through 317, respectively.

(17) Such Act is amended by inserting immediately after section 307 the following new sections:

#### "COASTAL ENERGY ACTIVITY IMPACT PROGRAM

"SEC. 308. (a) (1) The Secretary shall make a payment for each fiscal year to each coastal state in an amount which bears to the amount appropriated for that fiscal year pursuant to paragraph (6) of this subsection the same ratio as the number representing the average of the following proportions (computed with regard to such state) bears to 100—

"(A) the proportion which the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government in that year bears to the total outer Continental Shelf acreage which is leased by the Federal Government in that year;

"(B) the proportion which the number of exploration and development wells adjacent to that state which are drilled in that year on outer Continental Shelf acreage leased by the Federal Government bears to the total number of exploration and development wells drilled in that year on outer Continental Shelf acreage leased by the Federal Government;

"(C) the proportion which the volume of oil and natural gas produced in that year from outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in that year from outer Continental Shelf lands under Federal lease in that year;

"(D) the proportion which the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government and first landed in such state in that year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government and first landed in the United States in that year;

"(E) the proportion which the number of individuals residing in such state in that year who are employed directly in outer Continental Shelf energy activities by outer Continental Shelf lessees and their contractors and subcontractors bears to the total number of individuals residing in all coastal states who are employed directly in outer Continental Shelf energy activities in that year by outer Continental Shelf lessees, and their contractors and subcontractors; and

“(F) the proportion which the onshore capital investment which is made during that year in such state and which is required to directly support outer Continental Shelf energy activities bears to the total of all such onshore capital investment made in all coastal states during that year.

“(2) For purposes of calculating the proportions set forth in paragraph (1) of this subsection, ‘the outer Continental Shelf lands which are adjacent to such state, shall be the portion of the outer Continental Shelf lying on that state’s side of extended seaward boundaries determined as follows: (A) In the absence of seaward lateral boundaries, or any portion thereof clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), the boundaries shall be that portion of the outer Continental Shelf which would lie on that state’s side of lateral marine boundaries as determined by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone. (B) If seaward lateral boundaries have been clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to establish them.

“(3) The Secretary shall have the responsibility for the compilation, evaluation, and calculation of all relevant data required to determine the amount of the payments authorized by this subsection and shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, set forth the method by which collection and evaluation of such data shall be made. In compiling and evaluating such data, the Secretary may require the assistance of any relevant Federal or State agency. In calculating the proportions set forth in paragraph (1) of this subsection, payments made for any fiscal year shall be based on data from the immediately preceding fiscal year, and data from the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included in the data from the fiscal year ending June 30, 1976.

“(4) Each coastal state receiving payments under this subsection shall use the moneys for the following purposes and in the following order of priority:

“(A) The retirement of state and local bonds, if any, which are guaranteed under section 319 of this title which were issued for projects or programs designed to provide revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf Energy activity; except that, if the amount of such payments is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

“(B) The study of, planning for, development of, and the carrying out of projects or programs which are designed to provide new or additional public facilities or public services required as a direct result of outer Continental Shelf energy activity.

“(C) the reduction or amelioration of any unavoidable loss of unique or unusually valuable ecological or recreational resources resulting from outer Continental Shelf activity.

“(5) It shall be the responsibility of the Secretary to determine annually if such coastal state has expended or committed funds in accordance with the purposes authorized herein by utilizing procedures pursuant to section 313 of this title. The United States shall be entitled to recover from any coastal state that portion of any payment received by such state under this subsection which—

“(A) is not expended by such state before the close of the fiscal year immediately following the fiscal year in which the payment was disbursed, or;

“(B) is expended or committed by such state for any purposes other than a purpose set forth in paragraph (4) of this subsection.

“(6) For purposes of this subsection, there are hereby authorized to be appropriated funds not to exceed \$50,000,000 for the fiscal year ending September 30, 1977; \$50,000,000 for the fiscal year ending September 30, 1978; \$75,000,000 for the fiscal year ending September 30, 1979; \$100,000,000 for the fiscal year ending September 30, 1980; and \$125,000,000 for the fiscal year ending September 30, 1981.

“(7) It is the intent of Congress that each state receiving payments under this subsection shall, to the maximum extent practicable, allocate all or a portion of such payments to local governments thereof and that such allocation shall be on a basis which is proportional to the extent to which local governments require assistance for purposes as provided in paragraph (4) of this subsection. In addition, any coastal state may, for the purposes of carrying out the provisions of this subsection and with the approval of the Secretary, allocate

all or a portion of any grant received under this subsection to (A) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (B) any regional agency, or (C) any interstate agency. No provision in this subsection shall relieve any state of the responsibility for insuring that any funds allocated to any local government or other agency shall be applied in furtherance of the purposes of this subsection.

“(b) (1) The Secretary may make grants to any coastal state if he determines that such state's coastal zone is being, or is likely to be, impacted by the location, construction, expansion, or operation of energy facilities in, or which significantly affects its coastal zone. Such grants shall be for the purpose of enabling such coastal state to study and plan for the economic, social, and environmental consequences which are resulting or are likely to result in its coastal zone from such energy facilities. The amount of any such grant may equal up to 80 per centum of the cost of such study or plan, to the extent of available funds.

“(2) The Secretary may make grants to any coastal state if he is satisfied, pursuant to regulations and criteria to be promulgated according to subsection (c) of this section, that such state's coastal zone has suffered, or will suffer, net adverse impacts from any coastal energy activity. Such grants shall be used for, and may equal up to 80 per centum of the cost of carrying out projects, programs, or other purposes which are designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity.

“(c) Within one hundred and eighty days after the effective date of this section, the Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant eligibility under subsection (b) of this section. Such regulations shall—

“(1) include appropriate criteria for determining the amount of a grant and the general range of studying and planning activities for which grants will be provided under subsection (b) (1) of this section;

“(2) specify the means and criteria by which the Secretary shall determine whether a state's coastal zone has, or will suffer, net adverse impacts;

“(3) include criteria for calculating the amount of a grant under subsection (b) (2) of this section, which criteria shall include consideration of—

(A) offsetting benefits to the state's coastal zone or a political subdivision thereof, including but not limited to increased revenues,

“(B) the state's overall efforts to reduce or ameliorate net adverse impacts, including but not limited to, the state's effort to insure that persons whose coastal energy activity is directly responsible for net adverse impact in the state's coastal zone are required, to the maximum extent practicable, to reduce or ameliorate such net adverse impacts.

“(C) the state's consideration of alternative sites for the coastal energy activity which would minimize net adverse impacts; and

“(D) the availability of Federal funds pursuant to other statutes, regulations, and programs, and under subsection (a) of this section, which may be used in whole or in part to reduce or ameliorate net adverse impacts of coastal energy activity;

In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, which upon request, shall assist the Secretary in the formulation of the regulations under this subsection on a nonreimbursable basis; with representatives of appropriate state and local governments; with commercial industrial, and environmental organizations; with public and private groups; and with any other appropriate organizations and persons with knowledge or concerns regarding adverse impacts and benefits that may affect the coastal zone.

“(d) All funds appropriated to carry out the purposes of subsection (b) of this section shall be deposited in a fund which shall be known as the Coastal Energy Activity Impact Fund. The fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to the fund. Moneys in the fund may be deposited in interest-bearing accounts or invested on bonds or other obligations which are guaranteed as to principal and interest to the United States.

“(e) There are hereby authorized to be appropriated to the Coastal Energy Activity Impact Fund such sums not to exceed \$125,000,000 for the fiscal year ending September 30, 1977, and for each of the next four succeeding fiscal years, as may be necessary, which shall remain available until expended.

“(f) It is the intent of Congress that each state receiving any grant under paragraph (1) or (2) of subsection (b) of this section shall, to the maximum extent



practicable, allocate all or a portion of such grant to any local government thereof which has suffered or may suffer net adverse impacts resulting from coastal energy activities and such allocation shall be on a basis which is proportional to the extent of such net adverse impact. In addition, any coastal state may, for the purpose of carrying out the provisions of subsection (b) of this section, with the approval of the Secretary, allocate all or a portion of any grant received to (1) an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (2) any regional agency, or (3) any interstate agency. No provision in subsection (b) of this section shall relieve a state of the responsibility for insuring that any funds so allocated to any local government or any other agency shall be applied in furtherance of the purposes of such subsection.

“(g) No coastal state is eligible to receive any payment under subsection (a) of this section, or any grant under subsection (b) of this section unless such state—

“(1) is receiving a program development grant under section 305 of this title or, is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or has such a program approved pursuant to section 306 of this title; and

“(2) has demonstrated to the satisfaction of, and has provided adequate assurances to, the Secretary that the proceeds of any such payment or grant will be used in a manner consistent with the coastal zone management program being developed by it, or with its approved program, consistent with the goals and objectives of this title.

#### “INTERSTATE COORDINATION GRANTS TO STATES

“SEC. 309. (a) The states are encouraged to give high priority (1) to coordinating state coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The states may conduct such coordination, study, planning, and implementation through interstate agreement or compact. The Secretary is authorized to make annual grants to the coastal states, not to exceed 90 per centum of the cost of such coordination, study, planning or implementation, if the Secretary finds that each coastal state receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

“(b) The consent of the Congress is hereby given to two or more states to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) establishing such agencies, joint or otherwise, as the states may deem desirable for making effective such agreements and compacts. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.

“(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, the Administrator of the Federal Energy Administration, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

“(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of states for the purpose of creating temporary ad hoc planning and coordinating entities to—

“(1) coordinate state coastal zone planning, policies, and programs in contiguous interstate areas:

“(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

“(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c) of this section, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall expire at the close of the five-year period beginning on the effective date of this section.

"COASTAL RESEARCH AND TECHNICAL ASSISTANCE

"SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of State coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this title, a summary and evaluation of the research, study, and training conducted under this section.

"(b) The Secretary is authorized to make up to an 80 per centum grant to any coastal State to assist such State in developing its own capability for carrying out short-term research, studies, and training required in support of coastal zone management.

"(c) (1) The Secretary is authorized to—

"(A) undertake a comprehensive review of all aspects of the shellfish industry including but not limited to the harvesting, processing, and transportation of shellfish;

"(B) evaluate the impact of Federal legislation affecting water quality on the shellfish industry;

"(C) examine and evaluate methods of preserving and upgrading areas which would be suitable for the harvesting of shellfish, including the improvement of water quality in areas not presently suitable for the production of wholesome shellfish and other seafood;

"(D) evaluate existing and pending bacteriological standards, pesticide standards, and toxic metal guidelines which may be utilized to determine the wholesomeness of shellfish, and

"(E) evaluate the effectiveness of the national shellfish sanitation program.

"(2) The Secretary shall submit a report to the Congress on the activities required to be undertaken by it under paragraph (1) together with such comments and recommendations as he may deem necessary, not later than June 30, 1977.

"(d) Notwithstanding any other provision of law, no Federal agency shall promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce, unless an emergency occurs as determined by the Secretary, before the submission to the Congress of the report required under subsection (c) (2)."

(18) Section 313 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting the words "or payments" after the word "grant" wherever the word "grant" appears; (B) inserting ", for up to three years after the termination of any grant or payment program under this title," after the word "access" in subsection (b) thereof; and (C) inserting the words "or paid" after "granted" in subsection (b) thereof.

(19) Section 315 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting "AND BEACH ACCESS" immediately after "ESTUARINE SANCTUARIES" in the section heading thereof; (B) deleting the last sentence thereof; (C) inserting "(a)" immediately before "The Secretary" in the first sentence thereof; and (D) inserting at the end thereof the following new subsection:

"(b) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per

centum of the costs of acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological and cultural value.”.

(20) Section 316(a) of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) deleting “and” at the end of subdivision (8) thereof immediately after the semicolon; (B) redesignating subdivision (9) as subdivision (11); and (C) inserting after subdivision (8) the following two new subdivisions: “(9) a general description of the economic, environmental, and social impacts of energy activity affecting the coastal zone; (10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal states; and”.

(21) Section 315 of such Act (16 U.S.C. 1464) is redesignated as section 320 and amended to read as follows :

“AUTHORIZATION FOR APPROPRIATIONS

“SEC. 320. (a) There are authorized to be appropriated—

“(1) the sum of \$24,000,000 for the fiscal year ending September 30, 1977, and \$24,000,000 for each of the two succeeding fiscal years, for grants under section 305 of this title to remain available until expended;

“(2) such sums, not to exceed \$50,000,000 for the fiscal year ending September 30, 1977, and \$50,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 306 of this title, to remain available until expended;

“(3) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years as may be necessary, for grants under section 309 of this title, to remain available until expended;

“(4) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(a) of this title, to remain available until expended;

“(5) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(b) of this title, to remain available until expended;

“(6) such sums, not to exceed \$6,000,000 for the fiscal year ending September 30, 1977, and \$6,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(a) of this title, to remain available until expended; and

“(7) such sums, not to exceed \$25,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(b) of this title, to remain available until expended.

“(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for administrative expenses incident to the administration of this title.

“(c) No Federal funds received by a state shall be used to pay the state's share of the costs of a program or project authorized under this title.”.

(22) Such Act is further amended by inserting immediately after section 317 (as redesignated by paragraph (16) of this Act) the following new sections :

“LIMITATIONS

“SEC. 318. Nothing in this title shall be construed to authorize or direct the Secretary or any other Federal official to intercede in any state land or water use decision including, but not limited to the siting of energy facilities, as a prerequisite to such states eligibility for grants or bond guarantees under this title.

“STATE AND LOCAL GOVERNMENT BOND GUARANTEES

“SEC. 319. (a) The Secretary is authorized, in accordance with such rules as he shall prescribe, to make commitments to guarantee and to guarantee the payment of interest on and the principal balance of bonds or other evidences of indebtedness issued by a coastal state or unit of general purpose local government for the purposes specified in subsection (b) of this section.

"(b) A bond or other evidence of indebtedness may be guaranteed under this section only if it is issued by a coastal state or unit of general purpose local government for the purpose of obtaining revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activities.

"(c) Bonds or other evidences of indebtedness guaranteed under this section shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

"(1) no guarantee shall be made unless the Secretary determines that the issuer of the evidence of indebtedness would not be able to borrow sufficient revenues on reasonable terms and conditions without the guarantee;

"(2) the guarantees shall provide for complete amortization of the indebtedness within a period not to exceed thirty years;

"(3) the aggregate principal amount of the obligations which may be guaranteed under this section on behalf of a coastal state or a unit of general purpose local government and outstanding at any one time may not exceed \$20,000,000;

"(4) the aggregate principal amount of all the obligations which may be guaranteed under this section and outstanding at any one time may not exceed \$200,000,000;

"(5) no guarantee shall be made unless the Secretary determines that the bonds or other evidences of indebtedness will—

"(A) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if any offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

"(B) bear interest at a rate satisfactory to the Secretary;

"(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

"(D) contain or be subject to provisions with respect to the protection of the security interest of the United States;

"(6) the approval of the Secretary of the Treasury shall be required with respect to any guarantee made under this section, except that the Secretary of the Treasury may waive this requirement with respect to the issuing of any such obligation when he determines that such issuing does not have a significant impact on the market for Federal Government and Federal Government-guaranteed securities;

"(7) The Secretary determines that there is reasonable assurance that the issuer of the evidence of indebtedness will be able to make the payments of the principal of and interest on such evidence of indebtedness; and

"(8) no guarantee shall be made after September 30, 1981.

"(d) (1) Prior to the time when the first bond or other evidence of indebtedness is guaranteed under this section, the Secretary shall publish in the Federal Register a list of the proposed terms and conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. For at least thirty days following such publication, the Secretary shall receive, and give consideration to, comments from the public concerning such terms and conditions. Following this period, the Secretary shall publish in the Federal Register a final list of the conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. The initial guarantee made under this section may not be conducted until thirty days after the final list of terms and conditions is published.

"(2) Prior to making any amendment to such final list of terms and conditions, the Secretary shall publish such amendment in the Federal Register and receive, and give consideration to, comments from the public for at least thirty days following such publication. Following this period, the Secretary shall publish in the Federal Register the final form of the amendment, and such amendment shall not become effective until thirty days after this publication.

"(e) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by this Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

"(f) The Secretary shall prescribe and collect a fee in connection with guarantees made under this section. This fee may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs of carrying out this section. Fees collected under this subsection shall be deposited in the revolving fund established under subsection (i).

"(g) With respect to any obligation guaranteed under this section, the interest payment paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

"(h) (1) Payments required to be made as a result of any guarantee made under this section shall be made by the Secretary from funds which may be appropriated to the revolving fund established by subsection (i) or from funds obtained from the Secretary of the Treasury and deposited in such revolving fund pursuant to subsection (i) (2).

"(2) If there is a default by a coastal State or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under this section, any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due him, unless the Secretary finds that there was no default by the coastal State or unit of general purpose local government or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the coastal State or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If any revenue becomes due to such coastal State or unit of general purpose local government under section 308(a) of this title, the Secretary shall, in lieu of paying such coastal State or unit of general purpose local government such revenue, deposit such revenue in the revolving fund established under subsection (i) until the right of reimbursement has been satisfied.

"(3) The Attorney General shall, upon request of the Secretary, take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section. Any sum recovered pursuant to this paragraph shall be paid into the revolving fund established by subsection (i).

"(i) (1) The Secretary shall establish a revolving fund to provide for the timely payment of any liability incurred as a result of guarantees made under this section, for the payment of costs of administering this section, and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. This revolving fund shall be comprised of—

"(A) receipts from fees collected under this section;

"(B) recoveries under security, subrogation, and other rights;

"(C) reimbursements, interest income, and any other receipts obtained in connection with guarantees made under this section;

"(D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and

"(E) such sums as may be appropriated to carry out the provisions of this section. Funds in the revolving fund not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States or guaranteed thereby or in obligations, participation, or other instruments which are lawful investments for fiduciary, trust, or public funds.

"(2) The Secretary may, for the purpose of carrying out the functions of this section, issue obligations to the Secretary of the Treasury only to such extent or in such amounts as may be provided in appropriation Acts. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligation so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any security issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder. Proceeds obtained by the Secretary from the issuance of obligations under this paragraph shall be deposited in the revolving fund established in paragraph (1).

"(3) There are authorized to be appropriated to the revolving fund such sums as may be necessary to carry out the provisions of this section.

"(j) No bond or other evidence of indebtedness shall be guaranteed under this section unless the issuer of the evidence of indebtedness and the person holding the note with respect to such evidence of indebtedness permit the General Accounting Office to audit, under rules prescribed by the Comptroller General of

the United States, all financial transactions of such issuer and holder which relate to such evidence of indebtedness. The representatives of the General Accounting Office shall have access to all books, accounts, reports, files, and other records of such issuer and such holder insofar as any such record pertains to financial transactions relating to the evidence of indebtedness guaranteed under this section.

"(k) For purposes of this section, the term 'unit of general purpose local government' shall mean any city, county, town, township, parish, village, or other general purpose political subdivision of a coastal state, if such general purpose political subdivision possesses taxing powers and has responsibility for providing public facilities or public services to the community, as determined by the Secretary."

SEC. 3. (a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration."

SEC. 4. Nothing in this Act shall be construed to modify or abrogate the consistency requirements of section 307 of the Coastal Zone Management Act of 1972.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

#### AMENDMENTS OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer two amendments, and I ask unanimous consent that the amendments may be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. Lent: On page 20, line 21, after the word "decision" insert "which would supersede local zoning ordinances."

And on page 20, lines 23 and 24, after the word "to" strike out the words "any local government which has land use or water use control powers" and insert "any local government which has zoning jurisdiction".

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

There was no objection.

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

Mr. LENT. Mr. Chairman, these amendments I offer today en bloc are of a perfecting nature, to a provision included in the Merchant Marine and Fisheries Committee's final version of H.R. 3981.

This provision granted the right to a public hearing to local governments with land and water use control powers when affected by a State coastal zone management agency's decisions.

The intent of this provision was to strengthen the provision in section 306(c) (2) (A) and (B), which requires ongoing consultation and

coordination by the State management agency with units of local government in administering the coastal zone plan and requires the management agency to delegate as much responsibility to local governments as possible.

I believe that within our federal system of government, the best decisionmaking is done at the level of government closest to the problem. Indeed, this is the rationale behind the 1972 Coastal Zone Management Act's posting of management authority with the State. But if our commitment to returning authority and decisionmaking to the levels of government most in tune with the needs of our citizens is sincere, we must provide a mechanism to allow meaningful participation for local government in coastal zone management decisions. Just as we wish to avoid erecting a huge Federal coastal zone bureaucracy, we must avoid spawning huge State coastal zone bureaucracies.

There are over 80,000 units of local government in this country. In the Northeast, many towns and villages have been in the land-use zoning business for over three centuries; their charters and rights antedate the Constitution. In the towns and villages of Nassau County, the desire of my constituents and their local elected leaders to have a say in their own affairs runs strong.

This provision in the committee bill allows the elected leaders in these towns and villages the right to request a public hearing on any decision which the State management agency made which would impact on that area.

In conversations regarding this provision with New York State's coastal zone manager-designate Hank Williams, it was pointed out that the allowing to local governments of the right to a public hearing for "any" decision might well open the gates to unconscionable delay by any group committed to blocking an action, as the characterization of "any" decision would include minor, perhaps even internal, decisions by the management agency. The amendments I offer today would tighten up this language by limiting the right to a public hearing to decisions by the State agency which would specifically violate or override a local government's zoning ordinances.

The zoning-related nature of this provision cannot be too greatly emphasized. This provision does not delegate new authority, or undermine the State management agency's prerogative to exercise power, as granted to it under the 1972 Coastal Zone Management Act. It does, I believe, provide the State agency with a strong incentive to ensure local participation in decisions affecting local citizens, and I urge its adoption.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Delaware.

Mr. DU PONT. I thank the gentleman for yielding.

I think the gentleman's amendments are a definite improvement over the language of the bill. They tighten up the language considerably and are certainly acceptable to the minority side.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

I think the gentleman's amendments certainly clarify the issue that he raised in the subcommittee. We will accept his amendments.

Mr. LENT. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. Lent).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. SLACK

Mr. SLACK. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. SLACK: Page 49, after line 19, "(4) Funds may be obligated for purposes stated in subsection (i) only to the extent provided in appropriation Acts."

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

Mr. SLACK. Mr. Chairman, I will be brief. Section 319(i) of the pending bill establishes a revolving fund to provide for necessary payments and administrative expenses required to be made pursuant to this section. As I stated earlier this afternoon, the amendment which I have just offered would bring the administrative expenses of the new bond guarantee section of this bill under better control, and would subject such expenses to the regular appropriations process.

Mr. Chairman, I have no quarrel with the bond guarantee program. However, I do not think it would be appropriate to exclude the administrative expenses involved in carrying out the program from the normal appropriation process. My amendment would simply bring such administrative costs within the purview of the regular appropriations procedures.

I ask for your support of my amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

The bond section of this bill when it came to the committee from the Senate, was rather loosely written. The committee, with the assistance of the gentleman from Michigan (Mr. Dingell) carefully reworked the entire bond program provisions. I am happy that the Committee on Appropriations has pointed out one area that we had not included, which was to keep this within the Appropriations Act. I think with the adoption of the amendment as recommended by the gentleman from West Virginia we will have a bond provision section that will be a model to be used in future legislation.

Mr. Chairman, we accept the amendment.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Delaware.

Mr. DU PONT. I thank the gentleman for yielding.

On the minority side we concur in the amendment.

Mr. SLACK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. Slack).

The amendment was agreed to.



## AMENDMENT OFFERED BY MR. DU PONT

Mr. DU PONT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. du Pont: On page 23 delete lines 3 through and including line 10.

Remember the following sections accordingly.

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

Mr. DU PONT. Mr. Chairman, this amendment is very straightforward. If we refer to page 23 of the bill, it simply strikes all of section 15. The existing law requires laws already in place and passed by coastal States to be fully complied with whenever a permit or a license is granted by the Federal Government to perform offshore drilling. That is the law the way it is today.

The committee added to that in our drafting sessions the word "lease," and that would bring the leasing of offshore oil sections within this same framework. Since we wrote that section and passed it in committee, we have had some comments both from industry and from the administration, and from other groups, that they are not quite clear as to what effect that would really have on offshore oil tract leasing procedures.

My amendment is offered to strike that section not because I disagree with having leases included. As a matter of fact I feel very strongly that leases should be included, but the language is also in the Senate bill, and because of the confusion that has arisen over the effect this would have, we frankly would like a little bit more time to come to an understanding of exactly what we are doing here. By striking it in the House bill and leaving it in the bill that has already passed the Senate we will be giving ourselves a little bit of flexibility in the conference to either adopt the language as the Senate put it in or adopt some other language we feel would be more beneficial and at the same time protect the rights of the States.

So the purpose of this amendment is not to get rid of the word "lease" but to allow us time to work on the problem a little bit longer.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, as we know, the provisions of the act require the license or permit, so within the Federal consistency requirement provisions, we have that. Therefore, even if an organization had a lease it could not do much with it because the licenses and permits are required to deal with the development of oil on the Continental Shelf. Many attorneys feel that "lease" is redundant and that the lease is included in license or permit.

I agree with the gentleman from Delaware that we should make this a subject for the conference and I accept the amendment offered by the gentleman.

[Mr. STUDDS addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. du Pont).

The amendment was agreed to.

## AMENDMENT OFFERED BY MR. SLACK

Mr. SLACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Slack: Page 50, after line 13, insert:

"(1) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under this section shall be effective only to the extent provided in appropriation Acts enacted after the date of enactment of this section."

Mr. SLACK. Mr. Chairman, section 319 of this bill would authorize the Secretary of Commerce to make commitments to guarantee and to guarantee bonds or other evidences of indebtedness which are issued by a coastal State or unit of general purpose local government thereof.

Let me say again, that I do not object to the bond guarantee program. My amendment would simply give the Congress the opportunity to better control the program and would require that Congress enact appropriations before any guarantee could be made. It is my understanding that the objective of this amendment is shared by the managers and sponsors of this bill.

Mr. Chairman, I believe that this amendment will permit Congress to retain control over this program by requiring the program to go through the normal appropriations process. I further believe, Mr. Chairman, that this would be in accord with the intent and the spirit of the Budget Control Act.

I ask for your support of this amendment.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I wish to commend my colleague, the gentleman from West Virginia, for offering this amendment. The gentleman and I have discussed it with the members of the committee. I have been very much pleased with the reception which we have received. I see the chairman on his feet and I am hopeful he will be able to help us work this out. I am sure the gentleman wants to do whatever is appropriate with respect to the subject.

Mr. SLACK. Mr. Chairman, I thank the distinguished gentleman from Texas.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, it is fully within the intent of the committee that the appropriation process of the House and, of course, of the Congress, be the controlling factor. I am happy that the gentleman from West Virginia has again pointed out to us an area which helps tighten the provisions of this section.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Delaware.

Mr. DU PONT. Mr. Chairman, the amendment is fully acceptable to the minority side, as was the initial amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. Slack).

The amendment was agreed to.

## AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ketchum: Page 23, line 2, after the period, insert "And such differences shall be resolved through public hearings conducted in the state or local area concerned."

Mr. KETCHUM. Mr. Chairman, I shall not take the 5 minutes.

This is an area of concern that I expressed in my dialog with the gentleman from New York (Mr. Murphy).

I simply want to point out in law, that it is a concern of this House that when there are disagreements they be resolved where the disagreement occurs, rather than asking our people to come to Washington.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the gentleman's amendment codifies the statement of agreement we had earlier. We are happy to accept the amendment.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Delaware.

Mr. DU PONT. Mr. Chairman, I feel sympathetic with the gentleman's amendment and hope that it will be adopted and that we will have the gentleman's support.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Ketchum).

The amendment was agreed to.

## AMENDMENT BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 51, after line 8 add new section: "SEC. 5. Nothing in this Act shall be construed to deny, reduce or abrogate any existing rights of freedom of access to the public beaches."

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

Mr. GONZALEZ. Mr. Chairman, this amendment is very clear.

There is no equivocation about it. It merely says that nothing in this act shall be construed as reducing any existing right of access to the public beaches, such as there are today. I believe that this is an important fact so that there could not be any misconstruction as to the intention of the House in approving this type of coastal management legislation.

From time immemorial, it has been clearly established in every jurisdiction and every land that the public beaches are in common ownership by the people. The people shall have undiminished, untrammelled access to those beaches. All my amendment says is that there is nothing in this act to be construed in any way diminishing or diluting or reducing the existing rights that any citizens or group of citizens might have to access to the beaches.

Mr. MURPHY. of New York. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am delighted to yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I want to assure the gentleman that the beach access language in this bill was carefully considered, both in the subcommittee and in the full committee; that the very purpose of the language that we have written is to do exactly what the gentleman brings up in his amendment.

I would say that his amendment is really not necessary because no substantive rights are affected. The beach access amendments here are to permit methods in order to provide access to the beaches because in many area we find facilities being sited in a manner that access to beaches may be miles and miles away. In order to guarantee that the public has the ability to get to those beaches, we have provided this mechanism.

I can assure the gentleman that no rights would be abrogated with the language presently in the bill. We would appreciate it if the gentleman would consider withdrawing his amendment.

Mr. GONZALEZ. I thank the distinguished gentleman from New York. I have just one question to ask: Is it the gentleman's considered opinion that there is nothing in this act that would provide for some future definition or a reduction in the definition of public beaches?

Mr. MURPHY of New York. No, there is nothing in this act that could be construed that way. I think quite the opposite is inherent in the language that is presently in the bill, that it is the intent of the Congress that the public have access and that the Congress is ready to fund access to the Nation's beaches.

Mr. GONZALEZ. With that assurance from this distinguished and trusted colleague, I certainly take this opportunity to withdraw my amendment.

I want to assure the gentleman and my colleagues that I am a friend of the beaches, not a son of the beaches.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

#### AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York: Page 11, lines 21 and 22, strike the words "Coastal Zone Management Act Amendments of 1975" and insert in lieu thereof the words "Coastal Zone Management Act Amendments of 1976".

Mr. MURPHY of New York. Mr. Chairman, this is merely a conforming amendment to change the dates from 1975 to 1976.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy).

The amendment was agreed to.

#### AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ketchum: Page 42, line 10, strike out section 319 in its entirety.

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

Mr. KETCHUM. Mr. Chairman, I shall not use the total 5 minutes.

We discussed this during the general debate on this bill. The fact that Federal funds would be used to guarantee the payment of interest on and the principal balance of bonds or other evidences of indebtedness issued by a coastal State or unit of general purpose local government for the purposes specified in subsection (b) of this section is repugnant to me, and I hope that it is repugnant to the Members. This is so reminiscent—despite the fact that some might say we are talking about apples and oranges—of something that has just occurred in this Congress: The bailout of New York City.

Mr. Chairman, there is absolutely no reason for this provision to be in this bill, despite the fact that it is my understanding that it is in the Senate version. I am astounded that anyone who was objecting to the New York bailout could possibly support this provision in this bill.

Mr. DU PONT. Mr. Chairman, I rise in opposition to the amendment.

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

[Mr. du Pont addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. MURPHY of New York asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Chairman, I was a little perplexed by the gentleman's analogy vis-a-vis this bond section and the recent problems of New York. He used the term "bailout." I must say that they are using a thimble here to help bail out New York.

But I would like to refer to pages 66 and 67 of the report. These pages clearly spell out the ground rules and conditions. They stipulate clearly that no bond could be guaranteed unless the Secretary determines that—

The State or local government could not borrow sufficient revenues on reasonable terms and conditions without the guarantee.

The bond issued must provide for a complete amortization period within thirty years.

The total principal amount of any individual bond to be guaranteed cannot exceed \$20 million.

We go down chapter and verse and carefully look in the entire bonding provisions. That is why we incorporated the two amendments proposed by the Committee on Appropriations.

We further codify what is a model bond guarantee program. We are limited to public services in the use of these bonds. It is only in OCS-related activities.

Mr. Chairman, this bonding section is necessary to the bill. It is necessary to help retrieve \$400 billion worth of oil, and it goes only to OCS areas. This bonding portion is one of the vital sections of the bill, and I certainly hope my colleagues will help defeat this amendment.

Mr. FORSYTHE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to make one small point in opposition to the amendment pending before this body.

We, on the committee, visited a village of 240 people, the village of Yakutat, Alaska, and the visit of the committee had an impact on that community that was difficult to handle. They already are facing the kind of impact that this section is designed to try to alleviate. This is not meant for any purpose but just to give them the front-end money so they will have the local facilities to handle it. We expect this to be successful so that over the term they are going to be able to pay off those bonds easily.

But if they do not have the bonding capacity at the outset, it would devastate a community such as this. There are other communities around the country that are in the same position.

[Mr. Forsythe addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Ketchum).

The amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Bergland, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3981) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes, pursuant to House Resolution 1083, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

The SPEAKER. The question is on the passage of the bill.

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 14, not voting 48, as follows:

[Roll Call Vote No. 100]

YEAS—370

Abdnor	Clawson, Del.	Giaimo
Abzug	Clay	Gibbons
Adams	Cleveland	Gilman
Addabbo	Cochran	Ginn
Alexander	Cohen	Goldwater
Allen	Conable	Gonzalez
Ambro	Conte	Goodling
Anderson, Calif.	Conyers	Gradison
Andrews, N.C.	Corman	Grassley
Andrews, N. Dak.	Cornell	Green
Annunzio	Cotter	Gude
Archer	Coughlin	Hagedorn
Armstrong	D'Amours	Haley
Ashley	Daniel, Dan	Hall
Aspin	Daniel, R. W.	Hamilton
AuCoin	Daniels, N.J.	Hammerschmidt
Badillo	Danielson	Hanley
Bafalis	Davis	Hannaford
Baldus	de la Garza	Harrington
Baucus	Delaney	Harris
Bauman	Dellums	Harsha
Beard, R.I.	Dent	Hawkins
Beard, Tenn.	Derrick	Hays, Ohio
Bedell	Derwinski	Hechler, W. Va.
Bennett	Devine	Heckler, Mass.
Bergland	Dickinson	Hefner
Bevill	Diggs	Henderson
Biaggi	Dingell	Hicks
Biester	Downey, N. Y.	Hightower
Bingham	Downing, Va.	Holland
Blanchard	Drinan	Holt
Blouin	Duncan, Oreg.	Holtzman
Boland	Duncan, Tenn.	Horton
Bolling	du Pont	Howard
Bonker	Early	Howe
Bowen	Eckhardt	Hubbard
Brademas	Edgar	Hughes
Breaux	Edwards, Calif.	Hungate
Breckinridge	Eilberg	Hutchinson
Brinkley	Emery	Hyde
Brodhead	Erlenborn	Ichord
Brooks	Esch	Jacobs
Broomfield	Eshleman	Jarman
Brown, Mich.	Evins, Tenn.	Jeffords
Brown, Ohio	Fary	Jenrette
Broyhill	Fenwick	Johnson, Calif.
Buchanan	Findley	Johnson, Colo.
Burgener	Fish	Johnson, Pa.
Burke, Calif.	Fisher	Jones, Ala.
Burke, Fla.	Flood	Jones, Tenn.
Burke, Mass.	Florio	Jordan
Burleson, Tex.	Flowers	Karth
Burton, John	Flynt	Kasten
Burton, Phillip	Foley	Kastenmeier
Butler	Ford, Mich.	Kazen
Byron	Ford, Tenn.	Kelly
Carney	Forsythe	Kemp
Carr	Fountain	Keys
Carter	Fraser	Kindness
Cederberg	Frenzel	Koch
Chappell	Frey	Krebs
Chisholm	Fuqua	Krueger
Clancy	Gaydos	LaFalce

Lagomarsino	Oberstar	Smith, Iowa
Landrum	Obey	Smith, Nebr.
Latta	O'Brien	Snyder
Leggett	O'Hara	Solarz
Lehman	O'Neill	Spellman
Lent	Ottinger	Spence
Levitas	Passman	Staggers
Litton	Patten, N. J.	Stanton, J. William
Lloyd, Calif.	Patterson, Calif.	Stanton, James V.
Lloyd, Tenn.	Pepper	Stark
Long, La.	Perkins	Steed
Long, Md.	Pettis	Stelman
Lott	Pickle	Steiger, Wis.
Lujan	Pike	Stephens
Lundine	Poage	Stokes
McClory	Pressler	Stratton
McCloskey	Preyer	Stuckey
McCormack	Price	Studds
McEwen	Pritchard	Sullivan
McFall	Quie	Symington
McHugh	Quillen	Talcott
McKay	Railsback	Taylor, N. C.
Maguire	Randall	Teague
Mahon	Rangel	Thompson
Martin	Rees	Thone
Mathis	Regula	Thornton
Matsunaga	Reuss	Treen
Mazzoli	Rhodes	Tsongas
Meeds	Richmond	Ullman
Melcher	Rinaldo	Van Deerlin
Meyner	Robinson	Vander Jagt
Mezvinsky	Rodino	Vander Veen
Michel	Roe	Vanik
Mikva	Rogers	Vigorito
Milford	Roncalio	Waggonner
Miller, Ohio	Rooney	Walsh
Mills	Rose	Wampler
Mineta	Rosenthal	Waxman
Minish	Rostenkowski	Weaver
Mink	Roush	Whalen
Mitchell, Md.	Roybal	Whitehurst
Mitchell, N.Y.	Runnels	Whitten
Moakley	Ryan	Wilson, Bob
Mollohan	St Germain	Wilson, C. H.
Montgomery	Santini	Wilson, Tex.
Moore	Sarasin	Winn
Moorhead, Pa.	Sarbanes	Wirth
Morgan	Satterfield	Wolff
Mosher	Scheuer	Wright
Moss	Schneebeli	Wyder
Mottl	Schroeder	Wylie
Murphy, Ill.	Schulze	Yates
Murphy, N. Y.	Sebelius	Yatron
Murtha	Seiberling	Young, Alaska
Myers, Ind.	Sharp	Young, Fla.
Natcher	Shipley	Young, Ga.
Neal	Shriver	Young, Tex.
Nedzi	Shuster	Zablocki
Nichols	Sikes	Zeferetti
Nolan	Sisk	
Nowak	Slack	



## NAYS—14

Ashbrook	Jones, Okla.	Rousselot
Burlison, Mo.	Ketchum	Symms
Collins, Tex.	McDonald	Taylor, Mo.
Evans, Ind.	Moorhead, Calif.	Wiggins
Hansen	Myers, Pa.	

## NOT VOTING—48

Anderson, Ill.	Harkin	Miller, Calif.
Barrett	Hayes, Ind.	Moffett
Bell	Hébert	Nix
Boggs	Heinz	Pattison, N.Y.
Brown, Calif.	Helstoski	Peyser
Clausen, Don H.	Hillis	Riegle
Collins, Ill.	Hinshaw	Risenhoover
Conlan	Jones, N.C.	Roberts
Crane	McCollister	Ruppe
Dodd	McDade	Russo
Edwards, Ala.	McKinney	Simon
English	Macdonald	Skubitz
Evans, Colo.	Madden	Steiger, Ariz.
Fascell	Madigan	Traxler
Fithian	Mann	Udall
Guyer	Metcalfe	White

The Clerk announced the following pairs :

On this vote :

Mr. Russo for, with Mr. English against.

Mr. Hébert for, with Mr. Jones of North Carolina against.

Until further notice :

Mrs. Boggs with Mr. Anderson of Illinois.

Mr. Macdonald of Massachusetts with Mr. Heinz.

Mr. Risenhoover with Mr. Peyser.

Mr. Dodd with Mr. Ruppe.

Mr. Riegle with Mr. McDade.

Mr. Fascell with Mr. Hillis.

Mr. Barrett with Mr. Don H. Clausen.

Mr. Hayes of Indiana with Mr. Guyer.

Mr. Simon with Mr. Fithian.

Mr. Udall with Mr. Madigan.

Mr. Nix with Mr. McCollister.

Mr. Moffett with Mr. Skubitz.

Mr. Helstoski with Mr. Conlan.

Mr. Mann with Mr. Edwards of Alabama.

Mr. Metcalfe with Mr. Steiger of Arizona.

Mr. Traxler with Mr. Bell.

Mr. White with Mr. Crane.

Mr. Madden with Mr. Evans of Colorado.

Mr. Roberts with Mr. McKinney.

Mr. Harkin with Mr. Pattison of New York.

Mr. Brown of California with Mrs. Collins of Illinois.

Mr. BUCHANAN and Mr. JACOBS changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1083, the Committee on Merchant Marine and Fisheries is discharged from further consideration of the bill (S. 586) to amend the Coastal Zone

Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Murphy of New York moves to strike out all after the enacting clause of the Senate bill, S. 586, and to insert in lieu thereof the provisions of H.R. 3981, as passed, as follows:

That this Act may be cited as the "Coastal Zone Management Act Amendments of 1976".

SEC. 2. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), is amended as follows:

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting "ecological," immediately after "recreational,".

(2) Section 304(a) of such Act (16 U.S.C. 1453(a)) is amended by inserting "islands," immediately after "and includes".

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting "and" after "transitional areas," and by inserting "and islands," immediately after "uplands,".

(4) Section 304 of such Act (16 U.S.C. 1453) is further amended by adding at the end thereof the following new subsections:

"(j) 'Outer Continental Shelf energy activity' means exploration for, or the development or production of, oil and gas resources from the outer Continental Shelf, or the location, construction, expansion or operation of any energy facilities made necessary by such exploration or development.

"(k) 'Energy facilities' means new facilities, or additions to existing facilities—

"(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

"(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) outer Continental Shelf oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary for such exploration, development, or production; (E) facilities for offshore loading and marine transfer of petroleum; (F) pipelines and transmission facilities; and (G) terminals which are associated with any of the foregoing.

"(l) 'Public facilities and public services' means any services or facilities which are financed, in whole or in part, by state or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.

"(m) 'local government' means any political subdivision of any coastal State if such subdivision has taxing authority or provides any public service which is financed in whole or part by taxes, and such term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

“(n) ‘Net adverse impacts’ means the consequences of a coastal energy activity which are determined by the Secretary to be economically or ecologically costly to a state’s coastal zone when weighed against the benefits of a coastal energy activity which directly offset such costly consequences according to the criteria as determined in accordance with section 308(c) of this title. Such impacts may include, but are not limited to—

“(1) rapid and significant population changes or economic development requiring expenditures for public facilities and public services which cannot be financed entirely through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title;

“(2) unavoidable loss of unique or unusually valuable ecological or recreational resources when such loss cannot be replaced or restored through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title.

“(o) ‘Coastal energy activity’ means any of the following activities if it is carried out in, or has a significant effect on, the coastal zone of any coastal state or coastal states—

“(1) the exploration, development, production, or transportation of oil and gas resources from the outer Continental Shelf and the location, construction, expansion, or operation of supporting equipment and facilities limited to exploratory rigs and vessels; production platforms; subsea completion systems; marine service and supply bases for rigs, drill ships, and supply vessel; pipeline, pipelaying vessels and pipeline terminals, tanks, receiving oil or gas from the outer Continental Shelf for temporary storage; vessel loading docks and terminals used for the transportation of oil or gas from the outer Continental Shelf; and other facilities or equipment required for the removal of the foregoing or made necessary by the foregoing when such other facilities or equipment are determined by the coastal state affected to have technical requirements which would make their location, construction, expansion, or operation in the coastal zone unavoidable;

“(2) the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of liquefied natural gas, coal, or oil or of conversion or treatment facilities necessarily associated with the processing of liquefied natural gas; or

“(3) the location, construction, expansion, or operation of deepwater ports and directly associated facilities, as defined in the Deepwater Port Act (33 U.S.C. 1501-1524; Public Law 93-627).”

(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

“(7) a definition of the term ‘beach’ and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value;

“(8) a planning process for energy facilities likely to be located in the coastal zone and a process for the planning and management of the anticipated impacts from any energy facility; and

“(9) a planning process that will assess the effects of shoreline erosion and evaluate methods of control, lessen the impact of, or otherwise restore areas adversely affected by such erosion, whether caused by natural or man-induced actions.”

(6) Section 305(c) of such Act (16 U.S.C. 1454(c)) is amended by deleting “66 $\frac{2}{3}$ ” and inserting in lieu thereof “80”; by deleting in the first sentence thereof “three” and inserting in lieu thereof “four”; and by deleting the second sentence thereof.

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended—

(A) by deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following “: *Provided*, That notwithstanding any provision of this section or of section 306 no state management program submitted pursuant to this subsection before October 1, 1978, shall be considered incomplete, nor shall final approval thereof be delayed, on account of such state’s failure to comply with any regulations that are issued by the Secretary to implement subsection (b) (7), (b) (8), or (b) (9) of this section.”; and

(B) by deleting the period at the end thereof and inserting in lieu thereof the following “: *Provided*, That the state shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing

a public beach and public coastal area access planning process, an energy facility planning process, and a shoreline erosion planning process for its state management program, pursuant to regulations adopted by the Secretary to implement subsections (b) (7), (b) (8), and (b) (9) of this section."

(8) Section 305 of such Act (16 U.S.C. 1454 et seq.) is amended—

(A) by striking out the period of the end of subsection (e) thereof and inserting in lieu thereof the following " : *And provided further*, That the Secretary may waive the application of the 10 per centum maximum requirement as to any grant under this section when the coastal state is implementing a management program pursuant to subsection (h) of this section."

(B) by redesignating subsection (h) thereof as subsection (i), and by inserting immediately after subsection (g) the following :

"(h) (1) The Secretary may make annual grants under this subsection to any coastal state for not more than 80 per centum of the cost of implementing the state's management program, if he preliminarily approves such program in accordance with paragraph (2) of this subsection. The limitation on the number of annual development grants pursuant to subsection (c) of this section is not applicable to this subsection. States shall remain eligible for implementation grants pursuant to this subsection until September 30, 1979.

"(2) Before granting preliminary approval of a management program submitted by a coastal state pursuant to this subsection, the Secretary shall find that the coastal state has—

"(A) developed a management program which is in compliance with the rules and regulations promulgated pursuant to this section but is not yet wholly in compliance with the requirements of section 306 of this title,

"(B) in consultation with the Secretary, specifically identified the deficiencies in the program which would render the state ineligible for the Secretary's approval pursuant to section 306 of this title, and deficiencies such as the lack of an adequate organizational network or the lack of sufficient state authority to administer effectively the state's program have been set forth with particularity.

"(C) has established a reasonable time schedule during which it can remedy the deficiencies identified under subparagraph (B) of this subsection; and

"(D) has specifically identified the types of program management activities that it seeks to fund pursuant to this subsection.

"(3) The Secretary shall determine allowable costs under this subsection and shall publish necessary and reasonable rules and regulations in this regard.

"(4) Any state program funded under the provisions of this subsection shall not be considered an approved program for the purposes of section 307 of this title."

(9) Section 305(i) of such Act (as redesignated by paragraph (8) (B) of this section) is amended by deleting "June 30, 1977" and inserting in lieu thereof "September 30, 1979."

(10) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting "66 $\frac{2}{3}$ " and inserting in lieu thereof "80"; and by deleting the last sentence thereof.

(11) Section 306(c) (2) (B) of such Act (16 U.S.C. 1455(c) (2) (B)) is amended by adding at the end thereof the following flush sentences :

"No mechanism referred to in this paragraph for continuing consultation and coordination shall be found by the Secretary to be effective unless such mechanism includes, in addition to such other provisions as may be appropriate, provisions under which :

"(i) the management agency designated pursuant to paragraph (5) of this subsection is required, before implementing any decision which would supersede local zoning ordinances, made by it to carry out the management program, to send notice of such decision to any local government which has zoning jurisdiction within the area to which such decision may apply ;

"(ii) any such local government may, within thirty days after the date on which such notice is received, request the management agency to hold a public hearing regarding such decisions ;

"(iii) the management agency, upon receiving a request for a public hearing as provided for in clause (ii), is required to hold such public hearing not sooner than ninety days after the date on which notice of the decision is received by the local government ; and

"(iv) if a public hearing on any such decision is timely requested by any local government, the management agency may not implement the decision until after the public hearing is concluded.

Funds which may be allocated to any local government pursuant to subsection (f) of this section may be used, in part, to defray expenses incurred by the local government in preparing for any public hearing referred to in the preceding sentence which is requested by it."

(12) Section 306(c) (8) of such Act (16 U.S.C. 1455(c) (8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a state's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the state has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title."

(13) Section 306 of such Act (18 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a state's continued eligibility for grants pursuant to this section, the management program of such state shall, after the fiscal year ending in 1978, include, as an integral part thereof (1) a planning process for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b) (7) of this title, and approved by the Secretary; (2) an energy facility planning process, which is developed pursuant to section 305(b) (8) of this title, and approved by the Secretary; and (3) a shoreline erosion planning process, which is developed pursuant to section 305(b) (9) of this title, and approved by the Secretary."

(14) Section 307(c) of such Act (16 U.S.C. 1456(c)) is amended by adding at the end thereof the following new paragraph:

"(4) In case of serious disagreement between any Federal agency and the state in the implementation of an approved state management program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences and such differences shall be resolved through public hearings conducted in the state or local area concerned"

(15) Sections 308 through 314 of such Act (16 U.S.C. 1457 through 1463) are redesignated as sections 311 through 317, respectively.

(16) Such Act is amended by inserting immediately after section 307 the following new sections:

#### "COASTAL ENERGY ACTIVITY IMPACT PROGRAM

"SEC. 308 (a) (1) The Secretary shall make a payment for each fiscal year to each coastal state in an amount which bears to the amount appropriated for that fiscal year pursuant to paragraph (6) of this subsection the same ratio as the number representing the average of the following proportions (computed with regard to such state) bears to 100—

"(A) the proportion which the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government in that year bears to the total outer Continental Shelf acreage which is leased by the Federal Government in that year;

"(B) the proportion which the number of exploration and development wells adjacent to that state which are drilled in that year on outer Continental Shelf acreage leased by the Federal Government bears to the total number of exploration and development wells drilled in that year on outer Continental Shelf acreage leased by the Federal Government;

"(C) the proportion which the volume of oil and natural gas produced in that year from outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in that year from outer Continental Shelf lands under Federal lease in that year;

"(D) the proportion which the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government and first landed in such state in that year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government and first landed in the United States in that year;

"(E) the proportion which the number of individuals residing in such state in that year who are employed directly in outer Continental Shelf lessees and their contractors and subcontractors bears to the total number of individuals residing in all coastal states who are employed directly in outer Continental Shelf energy activities in that year by outer Continental Shelf lessees, and their contractors and subcontractors; and

“(F) the proportion which the onshore capital investment which is made during that year in such state and which is required to directly support outer Continental Shelf energy activities bears to the total of all such onshore capital investment made in all coastal states during that year.

“(2) For purposes of calculating the proportions set forth in paragraph (1) of this subsection, ‘the outer Continental Shelf lands which are adjacent to such state shall be the portion of the outer Continental Shelf lying on that state’s side of extended seaward boundaries determined as follows: (A) In the absence of several lateral boundaries, or any portion thereto, clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), the boundaries shall be that portion of the outer Continental Shelf which would lie on that state’s side of lateral marine boundaries as determined by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone. (B) If seaward lateral boundaries have been clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to establish them.

“(3) The Secretary shall have the responsibility for the compilation, evaluation, and calculation of all relevant data required to determine the amount of the payments authorized by this subsection and shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, set forth the method by which collection and evaluation of such data shall be made. In compiling and evaluating such data, the Secretary may require the assistance of any relevant Federal or State agency. In calculating the proportions set forth in paragraph (1) of this subsection, payments made for any fiscal year shall be based on data from the immediately preceding fiscal year, and data from the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included in the data from the fiscal year ending June 30, 1976.

“(4) Each coastal state receiving payments under this subsection shall use the moneys for the following purposes and in the following order of priority:

“(A) The retirement of state and local bonds, if any, which are guaranteed under section 319 of this title which were issued for projects or programs designed to provide revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activity; except that, if the amount of such payments is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

“(B) The study of, planning for, development of, and the carrying out of projects or programs which are designed to provide new or additional public facilities or public services required as a direct result of outer Continental Shelf energy activity.

“(C) the reduction or amelioration of any unavoidable loss of unique or unusually valuable ecological or recreational resources resulting from outer Continental Shelf activity.

“(5) It shall be the responsibility of the Secretary to determine annually if such coastal state has expended or committed funds in accordance with the purposes authorized herein by utilizing procedures pursuant to section 313 of this title. The United States shall be entitled to recover from any coastal state that portion of any payment received by such state under this subsection which—

“(A) is not expended by such state before the close of the fiscal year immediately following the fiscal year in which the payment was disbursed, or;

“(B) is expended or committed by such state for any purposes other than a purpose set forth in paragraph (4) of this subsection.

“(6) For purposes of this subsection, there are hereby authorized to be appropriated funds not to exceed \$50,000,000 for the fiscal year ending September 30, 1977; \$50,000,000 for the fiscal year ending September 30, 1978; \$75,000,000 for the fiscal year ending September 30, 1979; \$100,000,000 for the fiscal year ending September 30, 1980; and \$125,000,000 for the fiscal year ending September 30, 1981.

“(7) It is the intent of Congress that each state receiving payments under this subsection shall, to the maximum extent practicable, allocate all or a portion of such payments to local governments thereof and that such allocation shall be on a basis which is proportional to the extent to which local governments require assistance for purposes as provided in paragraph (4) of this subsection. In addition, any coastal state may, for the purposes of carrying out the provisions of this subsection and with the approval of the Secretary, allocate all or a

portion of any grant received under this subsection to (A) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (B) any regional agency, or (C) any interstate agency. No provision in this subsection shall relieve any state of the responsibility for insuring that any funds allocated to any local government or other agency shall be applied in furtherance of the purposes of this subsection.

“(b) (1) The Secretary may make grants to any coastal state if he determines that such state’s coastal zone is being, or is likely to be, impacted by the location, construction, expansion, or operation of energy facilities in, or which significantly affect its coastal zone. Such grants shall be for the purpose of enabling such coastal state to study and plan for the economic, social, and environmental consequences which are resulting or are likely to result in its coastal zone from such energy facilities. The amount of any such grant may equal up to 80 per centum of the cost of such study or plan, to the extent of available funds.

“(2) The Secretary may make grants to any coastal state if he is satisfied, pursuant to regulations and criteria to be promulgated according to subsection (c) of this section, that such state’s coastal zone has suffered, or will suffer, net adverse impacts from any coastal energy activity. Such grants shall be used for, and may equal up to 80 per centum of the cost of carrying out projects, programs, or other purposes which are designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity.

“(c) Within one hundred and eighty days after the effective date of this section, the Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant eligibility under subsection (b) of this section. Such regulations shall—

“(1) include appropriate criteria for determining the amount of a grant and the general range of studying and planning activities for which grants will be provided under subsection (b) (1) of this section;

“(2) specify the means and criteria by which the Secretary shall determine whether a state’s coastal zone has, or will suffer, net adverse impacts;

“(3) include criteria for calculating the amount of a grant under subsection (b) (2) of this section, which criteria shall include consideration of—

“(A) offsetting benefits to the state’s coastal zone or a political subdivision thereof, including but not limited to increased revenues,

“(B) the state’s overall efforts to reduce or ameliorate net adverse impacts, including but not limited to, the state’s effort to insure that persons whose coastal energy activity is directly responsible for net adverse impacts in the state’s coastal zone are required, to the maximum extent practicable, to reduce or ameliorate such net adverse impacts,

“(C) the state’s consideration of alternative sites for the coastal energy activity which would minimize net adverse impacts; and

“(D) the availability of Federal funds pursuant to other statutes, regulations, and programs, and under subsection (a) of this section, which may be used in whole or in part to reduce or ameliorate net adverse impacts of coastal energy activity;

In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, which upon request, shall assist the Secretary in the formulation of the regulations under this subsection on a nonreimbursable basis; with representatives of appropriate state and local governments; with commercial, industrial, and environmental organizations; with public and private groups; and with any other appropriate organizations and persons with knowledge or concerns regarding adverse impacts and benefits that may affect the coastal zone.

“(d) All funds appropriated to carry out the purposes of subsection (b) of this section shall be deposited in a fund which shall be known as the Coastal Energy Activity Impact Fund. The fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to the fund. Moneys in the fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest to the United States.

“(e) There are hereby authorized to be appropriated to the Coastal Energy Activity Impact Fund such sums not to exceed \$125,000,000 for the fiscal year ending September 30, 1977, and for each of the next four succeeding fiscal years, as may be necessary, which shall remain available until expended.

“(f) It is the intent of Congress that each state receiving any grant under paragraph (1) or (2) of subsection (b) of this section shall, to the maximum extent practicable, allocate all or a portion of such grant to any local government thereof which has suffered or may suffer net adverse impacts resulting from coastal energy activities and such allocation shall be on a basis which is proportional to the extent of such net adverse impact. In addition, any coastal state may, for the purpose of carrying out the provisions of subsection (b) of this section, with the approval of the Secretary, allocate all or a portion of any grant received to (1) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (2) any regional agency, or (3) any interstate agency. No provision in subsection (b) of this section shall relieve a state of the responsibility for insuring that any funds so allocated to any local government or any other agency shall be applied in furtherance of the purposes of such subsection.

“(g) No coastal state is eligible to receive any payment under subsection (a) of this section, or any grant under subsection (b) of this section unless such state—

“(1) is receiving a program development grant under section 305 of this title or, is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or has such a program approved pursuant to section 306 of this title; and

“(2) has demonstrated to the satisfaction of, and has provided adequate assurance to the Secretary that the proceeds of any such payment or grant will be used in a manner consistent with the coastal zone management program being developed by it, or with its approved program, consistent with the goals and objectives of this title.

#### “INTERSTATE COORDINATION GRANTS TO STATES

“SEC. 309. (a) The states are encouraged to give high priority (1) to coordinating state coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The states may conduct such coordination, study, planning, and implementation through interstate agreement or compact. The Secretary is authorized to make annual grants to the coastal states, not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal state receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

“(b) The consent of the Congress is hereby given to two or more states to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) establishing such agencies, joint or otherwise, as the states may deem desirable for making effective such agreements and compacts. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.

“(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and co-operative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, the Administrator of the Federal Energy Administration, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

“(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of states for the purpose of creating temporary ad hoc planning and coordinating entities to—

“(1) coordinate state coastal zone planning, policies, and programs in contiguous interstate areas;

“(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and



"(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal official specified in subsection (c) of this section, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall expire at the close of the five-year period beginning on the effective date of this section.

"COASTAL RESEARCH AND TECHNICAL ASSISTANCE

"SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of state coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this title, a summary and evaluation of the research, study, and training conducted under this section.

"(b) The Secretary is authorized to make up to an 80 per centum grant to any coastal state to assist such state in developing its own capability for carrying out short-term research, studies, and training required in support of coastal zone management.

"(c) (1) The Secretary is authorized to—

"(A) undertake a comprehensive review of all aspects of the shellfish industry including but not limited to the harvesting, processing, and transportation of shellfish;

"(B) evaluate the impact of Federal legislation affecting water quality on the shellfish industry;

"(C) examine and evaluate methods of preserving and upgrading areas which would be suitable for the harvesting of shellfish, including the improvement of water quality in areas not presently suitable for the production of wholesome shellfish and other seafood;

"(D) evaluate existing and pending bacteriological standards, pesticide standards, and toxic metal guidelines which may be utilized to determine the wholesomeness of shellfish, and

"(E) evaluate the effectiveness of the national shellfish sanitation program.

"(2) The Secretary shall submit a report to the Congress on the activities required to be undertaken by it under paragraph (1) together with such comments and recommendations as he may deem necessary, not later than June 30, 1977.

"(d) Notwithstanding any other provisions of law, no Federal agency shall promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce, unless an emergency occurs as determined by the Secretary, before the submission to the Congress of the report required under subsection (c) (2)."

(18) Section 313 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting the words "or payments" after the word "grant" wherever the word "grant" appears; (B) inserting " , for up to three years after the termination of any grant or payment program under this title," after the word "access" in subsection (b) thereof; and (C) inserting the words "or paid" after "granted" in subsection (b) thereof.

(19) Section 315 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting "AND BEACH ACCESS" immediately after "ESTUARINE SANCTUARIES" in the section heading thereof; (B) deleting the last sentence thereof; (C) inserting "(a)" immediately before "The Secretary" in the first sentence thereof; and (D) inserting at the end thereof the following new subsection:

"(b) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological and cultural value."

(20) Section 316(a) of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) deleting "and" at the end of subdivision (8) thereof immediately after the semicolon; (B) redesignating subdivision (9) as subdivision (11); and (C) inserting after subdivision (8) the following two new subdivisions: "(9) a general description of the economic, environmental, and social impacts of energy activity affecting the coastal zone; (10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal states; and".

(21) Section 315 of such Act (16 U.S.C. 1464) is redesignated as section 320 and amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 320. (a) There are authorized to be appropriated—

"(1) the sum of \$24,000,000 for the fiscal year ending September 30, 1977, and \$24,000,000 for each of the two succeeding fiscal years, for grants under section 305 of this title to remain available until expended;

"(2) such sums, not to exceed \$50,000,000 for the fiscal year ending September 30, 1977, and \$50,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 306 of this title, to remain available until expended;

"(3) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years as may be necessary, for grants under section 309 of this title, to remain available until expended;

"(4) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(a) of this title, to remain available until expended;

"(5) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(b) of this title, to remain available until expended;

"(6) such sums, not to exceed \$6,000,000 for the fiscal year ending September 30, 1977, and \$6,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(a) of this title, to remain available until expended; and

"(7) such sums, not to exceed \$25,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(b) of this title, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for administrative expenses incident to the administration of this title.

"(c) No Federal funds received by a state shall be used to pay the state's share of the costs of a program or project authorized under this title."

(22) Such Act is further amended by inserting immediately after section 317 (as redesignated by paragraph (16) of this Act) the following new sections:

"LIMITATIONS

"SEC. 318. Nothing in this title shall be construed to authorize or direct the Secretary or any other Federal official to intercede in any state land or water use decision including, but not limited to the siting of energy facilities, as a prerequisite to such states eligibility for grants or bond guarantees under this title.

"STATE AND LOCAL GOVERNMENT BOND GUARANTEES

"SEC. 319. (a) The Secretary is authorized, in accordance with such rules as he shall prescribe, to make commitments to guarantee and to guarantee the payments of interest on and the principal balance of bonds or other evidence of

indebtedness issued by a coastal state or unit of general purpose local government for the purposes specified in subsection (b) of this section.

“(b) A bond or other evidence of indebtedness may be guaranteed under this section only if it is issued by a coastal state or unit of general purpose local government for the purpose of obtaining revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activities.

“(c) Bonds or other evidences of indebtedness guaranteed under this section shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

“(1) no guarantee shall be made unless the Secretary determines that the issuer of the evidence of indebtedness would not be able to borrow sufficient revenues on reasonable terms and conditions without the guarantee;

“(2) the guarantees shall provide for complete amortization of the indebtedness within a period not to exceed thirty years;

“(3) the aggregate principal amount of the obligations which may be guaranteed under this section on behalf of a coastal state or a unit of general purpose local government and outstanding at any one time may not exceed \$20,000,000;

“(4) the aggregate principal amount of all the obligations which may be guaranteed under this section and outstanding at any one time may not exceed \$200,000,000;

“(5) no guarantee shall be made unless the Secretary determines that the bonds or other evidences of indebtedness will—

“(A) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

“(B) bear interest at a rate satisfactory to the Secretary;

“(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

“(D) contain or be subject to provisions with respect to the protection of the security interest of the United States;

“(6) the approval of the Secretary of the Treasury shall be required with respect to any guarantee made under this section, except that the Secretary of the Treasury may waive this requirement with respect to the issuing of any such obligation when he determines that such issuing does not have a significant impact on the market for Federal Government and Federal Government-guaranteed securities;

“(7) the Secretary determines that there is reasonable assurance that the issuer of the evidence of indebtedness will be able to make the payments of the principal and interest on such evidence of indebtedness; and

“(8) no guarantee shall be made after September 30, 1981.

“(d) (1) Prior to the time when the first bond or other evidence of indebtedness is guaranteed under this section, the Secretary shall publish in the Federal Register a list of the proposed terms and conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. For at least thirty days following such publication, the Secretary shall receive, and give consideration to, comments from the public concerning such terms and conditions. Following this period, the Secretary shall publish in the Federal Register a final list of the conditions under which bonds and other evidence of indebtedness will be guaranteed under this section. The initial guarantee made under this section may not be conducted until thirty days after the final list of terms and conditions is published.

“(2) Prior to making any amendment to such final list of terms and conditions, the Secretary shall publish such amendment in the Federal Register and receive, and give consideration to, comments from the public for at least thirty days following such publication. Following this period, the Secretary shall publish in the Federal Register the final form of the amendment, and such amendment shall not become effective until thirty days after this publication.

“(e) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

“(f) The Secretary shall prescribe and collect a fee in connection with guarantees made under this section. This fee may not exceed the amount which the Secretary estimate to be necessary to cover the administrative costs of carrying out this section. Fees collected under this subsection shall be deposited in the revolving fund established under subsection (i).

“(g) With respect to any obligation guaranteed under this section, the interest payment paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

“(h) (1) Payments required to be made as a result of any guarantee made under this section shall be made by the Secretary from funds which may be appropriated to the revolving fund established by subsection (i) or from funds obtained from the Secretary of the Treasury and deposited in such revolving fund pursuant to subsection (i) (2).

“(2) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under this section, any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due him, unless the Secretary finds that there was no default by the coastal state or unit of general purpose local government or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the coastal state or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If any revenue becomes due to such coastal state or unit of general purpose local government under section 308(a) of this title, the Secretary shall, in lieu of paying such coastal state or unit of general purpose local government such revenue, deposit such revenue in the revolving fund established under subsection (i) until the right of reimbursement has been satisfied.

“(3) The Attorney General shall, upon request of the Secretary, take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section. Any sum recovered pursuant to this paragraph shall be paid into the revolving fund established by subsection (i).

“(i) (1) The Secretary shall establish a revolving fund to provide for the timely payment of any liability incurred as a result of guarantees made under this section, for the payment of costs of administering this section, and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. This revolving fund shall be comprised of—

“(A) receipts from fees collected under this section;

“(B) recoveries under security, subrogation, and other rights;

“(C) reimbursements, interest income, and any other receipts obtained in connection with guarantees made under this section;

“(D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and

“(E) such sums as may be appropriated to carry out the provisions of this section.

Funds in the revolving fund not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States or guaranteed thereby or in obligations, participation, or other instruments which are lawful investments for fiduciary, trust, or public funds.

“(2) The Secretary may, for the purpose of carrying out the functions of this section, issue obligations to the Secretary of the Treasury only to such extent or in such amounts as may be provided in appropriation Acts. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligation so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any security issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder. Proceeds obtained by the Secretary from the issuance of obligations under this paragraph shall be deposited in the revolving fund established in paragraph (1).

“(3) There are authorized to be appropriated to the revolving fund such sums as may be necessary to carry out the provisions of this section.

“(4) Funds may be obligated for purposes stated in subsection (i) only to the extent provided in appropriation Acts.

“(j) No bond or other evidence of indebtedness shall be guaranteed under this section unless the issuer of the evidence of indebtedness and the person holding the note with respect to such evidence of indebtedness permit the General Accounting Office to audit, under rules prescribed by the Comptroller General of the United States, all financial transactions of such issuer and holder which relate to such evidence of indebtedness. The representatives of the General Accounting Office shall have access to all books, accounts, reports, files, and other records of such issuer and such holder insofar as any such record pertains to financial transactions relating to the evidence of indebtedness guaranteed under this section.

“(k) For purposes of this section, the term ‘unit of general purpose local government’ shall mean any city, county, town, township, parish, village, or other general purpose political subdivision of a coastal state, if such general purpose political subdivision possesses taxing powers and has responsibility for providing public facilities or public services to the community, as determined by the Secretary.

“(l) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under this section shall be effective only to the extent provided in appropriation Acts enacted after the date of enactment of this section.”

SEC. 3. (a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.”

SEC. 4. Nothing in this Act shall be construed to modify or abrogate the consistency requirements of section 307 of the Coastal Zone Management Act of 1972.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: “To amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes.”

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3981) was laid on the table.



VIII. HOUSE REPORT 94-878 ON H.R. 3981, THE COASTAL  
ZONE MANAGEMENT ACT AMENDMENTS OF 1976.

94TH CONGRESS }  
2d Session }

HOUSE OF REPRESENTATIVES

{ REPORT  
No. 94-878

COASTAL ZONE MANAGEMENT ACT  
AMENDMENTS OF 1975

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REPORT

TOGETHER WITH  
ADDITIONAL VIEWS

ON

H.R. 3981

A BILL TO AMEND THE COASTAL ZONE MANAGEMENT ACT  
OF 1972 TO AUTHORIZE AND ASSIST THE COASTAL STATES  
TO STUDY, PLAN FOR, MANAGE, AND CONTROL THE IM-  
PACT OF ENERGY RESOURCE DEVELOPMENT AND PRODUC-  
TION WHICH AFFECTS THE COASTAL ZONE, AND FOR  
OTHER PURPOSES



MARCH 4, 1976.—Committed to the Committee of the Whole House on the  
the State of the Union and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

67-080

WASHINGTON : 1976

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COASTAL ZONE MANAGEMENT ACT AMENDMENTS  
OF 1975

MARCH 4, 1976.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and  
Fisheries, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 3981]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 3981) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Coastal Zone Management Act Amendments of 1975".

SEC. 2. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), is amended as follows:

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting "ecological," immediately after "recreational,".

(2) Section 304(a) of such Act (16 U.S.C. 1453(a)) is amended by inserting "islands," immediately after "and includes".

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting "and" after "transitional areas," and by inserting "and islands," immediately after "uplands,".

(4) Section 304 of such Act (16 U.S.C. 1453) is further amended by adding at the end thereof the following new subsections:

"(j) 'Outer Continental Shelf energy activity' means exploration for, or the development or production of, oil and gas resources from the outer Continental Shelf, or the location, construction, expansion or operation of any energy facilities made necessary by such exploration or development.

"(k) 'Energy facilities' means new facilities, or additions to existing facilities—

"(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

"(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) outer Continental Shelf oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary for such exploration, development, or production; (E) facilities for offshore loading and marine transfer of petroleum; (F) pipelines and transmission facilities; and (G) terminals which are associated with any of the foregoing.

"(1) 'Public facilities and public services' means any services or facilities which are financed, in whole or in part, by state or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.

"(m) 'local government' means any political subdivision of any coastal state if such subdivision has taxing authority or provides any public service which is financed in whole or part by taxes, and such term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

"(n) 'Net adverse impacts' means the consequences of a coastal energy activity which are determined by the Secretary to be economically or ecologically costly to a state's coastal zone when weighed against the benefits of a coastal energy activity which directly offset such costly consequences according to the criteria as determined in accordance with section 308(c) of this title. Such impacts may include, but are not limited to—

"(1) rapid and significant population changes or economic development requiring expenditures for public facilities and public services which cannot be financed entirely through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title;

"(2) unavoidable loss of unique or unusually valuable ecological or recreational resources when such loss cannot be replaced or restored through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title.

"(o) 'Coastal energy activity' means any of the following activities if it is carried out in, or has a significant effect on, the coastal zone of any coastal state or coastal states—

"(1) the exploration, development, production, or transportation of oil and gas resources from the outer Continental Shelf and the location, construction, expansion, or operation of supporting equipment and facilities limited to exploratory rigs and vessels; production platforms; subsea completion systems; marine service and supply bases for rigs, drill ships, and supply vessels; pipelines, pipelaying vessels and pipeline terminals, tanks receiving oil or gas from the outer Continental Shelf for temporary storage; vessel loading docks and terminals used for the transportation of oil or gas from the outer Continental Shelf; and other facilities or equipment required for the removal of the foregoing or made necessary by the foregoing when such other facilities or equipment are determined by the coastal state affected to have technical requirements which would make their location, construction, expansion, or operation in the coastal zone unavoidable;

"(2) the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of liquefied natural gas, coal, or oil or of conversion or treatment facilities necessarily associated with the processing of liquefied natural gas; or

"(3) the location, construction, expansion, or operation of deepwater ports and directly associated facilities, as defined in the Deepwater Port Act (33 U.S.C. 1501-1524; Public Law 93-627)."

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(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(7) a definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value;

"(8) a planning process for energy facilities likely to be located in the coastal zone and a process for the planning and management of the anticipated impacts from any energy facility; and

"(9) a planning process that will assess the effects of shoreline erosion and evaluate methods of control, lessen the impact of, or otherwise restore areas adversely affected by such erosion, whether caused by natural or man-induced actions."

(6) Section 305(c) of such Act (16 U.S.C. 1454(c)) is amended by deleting "66 $\frac{2}{3}$ " and inserting in lieu thereof "80"; by deleting in the first sentence thereof "three" and inserting in lieu thereof "four"; and by deleting the second sentence thereof.

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended—

(A) by deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following ": *Provided*, That notwithstanding any provision of this section or of section 306 no state management program submitted pursuant to this subsection before October 1, 1978, shall be considered incomplete, nor shall final approval thereof be delayed, on account of such state's failure to comply with any regulations that are issued by the Secretary to implement subsection (b) (7), (b) (8), or (b) (9) of this section."; and

(B) by deleting the period at the end thereof and inserting in lieu thereof the following ": *Provided*, That the state shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a public beach and public coastal area access planning process, an energy facility planning process, and a shoreline erosion planning process for its state management program, pursuant to regulations adopted by the Secretary to implement subsections (b) (7), (b) (8), and (b) (9) of this section."

(8) Section 305 of such Act (16 U.S.C. 1454 et seq.) is amended—

(A) by striking out the period at the end of subsection (e) thereof and inserting in lieu thereof the following ": *And provided further*, That the Secretary may waive the application of the 10 per centum maximum requirement as to any grant under this section when the coastal state is implementing a management program pursuant to subsection (h) of this section."

(B) by redesignating subsection (h) thereof as subsection (i), and by inserting immediately after subsection (g) the following:

"(h) (1) The Secretary may make annual grants under this subsection to any coastal state for not more than 80 per centum of the cost of implementing the state's management program, if he preliminarily approves such program in accordance with paragraph (2) of this subsection. The limitation on the number of annual development grants pursuant to subsection (c) of this section is not applicable to this subsection. States shall remain eligible for implementation grants pursuant to this subsection until September 30, 1979.

"(2) Before granting preliminary approval of a management program submitted by a coastal state pursuant to this subsection, the Secretary shall find that the coastal state has—

"(A) developed a management program which is in compliance with the rules and regulations promulgated pursuant to this section but is not yet wholly in compliance with the requirements of section 306 of this title.

"(B) in consultation with the Secretary, specifically identified the deficiencies in the program which would render the state ineligible for the Secretary's approval pursuant to section 306 of this title, and deficiencies such as the lack of an adequate organizational network or the lack of sufficient state authority to administer effectively the state's program have been set forth with particularity,

"(C) has established a reasonable time schedule during which it can remedy the deficiencies identified under subparagraph (B) of this subsection; and

"(D) has specifically identified the types of program management activities that it seeks to fund pursuant to this subsection.

"(3) The Secretary shall determine allowable costs under this subsection and shall publish necessary and reasonable rules and regulations in this regard.

"(4) Any state program funded under the provisions of this subsection shall not be considered an approved program for the purposes of section 307 of this title."

(9) Section 305(i) of such Act (as redesignated by paragraph (8) (B) of this section) is amended by deleting "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

(10) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting "66%" and inserting in lieu thereof "80"; and by deleting the last sentence thereof.

(11) Section 306(c)(2)(B) of such Act (16 U.S.C. 1455(c)(2)(B)) is amended by adding at the end thereof the following flush sentences:

"No mechanism referred to in this paragraph for continuing consultation and coordination shall be found by the Secretary to be effective unless such mechanism includes, in addition to such other provisions as may be appropriate, provisions under which:

"(i) the management agency designated pursuant to paragraph (5) of this subsection is required, before implementing any decision made by it to carry out the management program, to send notice of such decision to any local government which has land use or water use control powers within the area to which such decision may apply;

"(ii) any such local government may, within thirty days after the date on which such notice is received, request the management agency to hold a public hearing regarding such decision;

"(iii) the management agency, upon receiving a request for a public hearing as provided for in clause (ii), is required to hold such public hearing not sooner than ninety days after the date on which notice of the decision is received by the local government; and

"(iv) if a public hearing on any such decision is timely requested by any local government, the management agency may not implement the decision until after the public hearing is concluded.

Funds which may be allocated to any local government pursuant to subsection (f) of this section may be used, in part, to defray expenses incurred by the local government in preparing for any public hearing referred to in the preceding sentence which is requested by it."

(12) Section 306(c)(8) of such Act (16 U.S.C. 1455(c)(8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a state's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the state has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title."

(13) Section 306 of such Act (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a state's continued eligibility for grants pursuant to this section, the management program of such state shall, after the fiscal year ending in 1978, include, as an integral part thereof (1) a planning process for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b)(7) of this title, and approved by the Secretary; (2) an energy facility planning process, which is developed pursuant to section 305(b)(8) of this title, and approved by the Secretary; and (3) a shoreline erosion planning process, which is developed pursuant to section 305(b)(9) of this title, and approved by the Secretary."

(14) Section 307(c) of such Act (16 U.S.C. 1456(c)) is amended by adding at the end thereof the following new paragraph:

"(4) In case of serious disagreement between any Federal agency and the state in the implementation of an approved state management program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences."

(15) Section 307(c)(3) of such Act (16 U.S.C. 1456(c)(3)) is amended by (A) deleting "license or permit" in the first sentence thereof and inserting in lieu thereof "license, lease, or permit"; (B) deleting "licensing or permitting" in the first sentence thereof and inserting in lieu thereof "licensing, leasing, or permitting"; and (C) deleting "license or permit" in the last sentence thereof and inserting in lieu thereof "license, lease, or permit".

(16) Sections 308 through 314 of such Act (16 U.S.C. 1457 through 1463) are redesignated as sections 311 through 317, respectively.

(17) Such Act is amended by inserting immediately after section 307 the following new sections:

"COASTAL ENERGY ACTIVITY IMPACT PROGRAM

"SEC. 308. (a) (1) The Secretary shall make a payment for each fiscal year to each coastal state in an amount which bears to the amount appropriated for that fiscal year pursuant to paragraph (6) of this subsection the same ratio as the number representing the average of the following proportions (computed with regard to such state) bears to 100—

"(A) the proportion which the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government in that year bears to the total outer Continental Shelf acreage which is leased by the Federal Government in that year;

"(B) the proportion which the number of exploration and development wells adjacent to that state which are drilled in that year on outer Continental Shelf acreage leased by the Federal Government bears to the total number of exploration and development wells drilled in that year on outer Continental Shelf acreage leased by the Federal Government;

"(C) the proportion which the volume of oil and natural gas produced in that year from outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in that year from outer Continental Shelf lands under Federal lease in that year;

"(D) the proportion which the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government and first landed in such state in that year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government and first landed in the United States in that year;

"(E) the proportion which the number of individuals residing in such state in that year who are employed directly in outer Continental Shelf energy activities by outer Continental Shelf lessees and their contractors and subcontractors bears to the total number of individuals residing in all coastal states who are employed directly in outer Continental Shelf energy activities in that year by outer Continental Shelf lessees, and their contractors and subcontractors; and

"(F) the proportion which the onshore capital investment which is made during that year in such state and which is required to directly support outer Continental Shelf energy activities bears to the total of all such onshore capital investment made in all coastal states during that year.

"(2) For purposes of calculating the proportions set forth in paragraph (1) of this subsection, 'the outer Continental Shelf lands which are adjacent to such state' shall be the portion of the outer Continental Shelf lying on that state's side of extended seaward boundaries determined as follows: (A) In the absence of seaward lateral boundaries, or any portion thereof, clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), the boundaries shall be that portion of the outer Continental Shelf which would lie on that state's side of lateral marine boundaries as determined by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone. (B) If seaward lateral boundaries have been clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to establish them.

"(3) The Secretary shall have the responsibility for the compilation, evaluation, and calculation of all relevant data required to determine the amount of the payments authorized by this subsection and shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, set forth the method by which collection and evaluation of such data shall be made. In compiling and evaluating such data, the Secretary may require the assistance of any relevant Federal or State agency. In calculating the proportions set forth in paragraph (1) of this subsection, payments made for any fiscal year shall be based on data from the immediately preceding fiscal year, and data from the

transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included in the data from the fiscal year ending June 30, 1976.

"(4) Each coastal state receiving payments under this subsection shall use the moneys for the following purposes and in the following order of priority:

"(A) The retirement of state and local bonds, if any, which are guaranteed under section 319 of this title which were issued for projects or programs designed to provide revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activity; except that, if the amount of such payments is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

"(B) The study of, planning for, development of, and the carrying out of projects or programs which are designed to provide new or additional public facilities or public services required as a direct result of outer Continental Shelf energy activity.

"(C) the reduction or amelioration of any unavoidable loss of unique or unusually valuable ecological or recreational resources resulting from outer Continental Shelf activity.

"(5) It shall be the responsibility of the Secretary to determine annually if such coastal state has expended or committed funds in accordance with the purposes authorized herein by utilizing procedures pursuant to section 313 of this title. The United States shall be entitled to recover from any coastal state that portion of any payment received by such state under this subsection which—

"(A) is not expended by such state before the close of the first year immediately following the fiscal year in which the payment was disbursed, or;

"(B) is expended or committed by such state for any purposes other than a purpose set forth in paragraph (4) of this subsection.

"(6) For purposes of this subsection, there are hereby authorized to be appropriated funds not to exceed \$50,000,000 for the fiscal year ending September 30, 1977; \$50,000,000 for the fiscal year ending September 30, 1978; \$75,000,000 for the fiscal year ending September 30, 1979; \$100,000,000 for the fiscal year ending September 30, 1980; and \$125,000,000 for the fiscal year ending September 30, 1981.

"(7) It is the intent of Congress that each state receiving payments under this subsection shall, to the maximum extent practicable, allocate all or a portion of such payments to local governments thereof and that such allocation shall be on a basis which is proportional to the extent to which local governments require assistance for purposes as provided in paragraph (4) of this subsection. In addition, any coastal state may, for the purposes of carrying out the provisions of this subsection and with the approval of the Secretary, allocate all or a portion of any grant received under this subsection to (A) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (B) any regional agency, or (C) any interstate agency. No provision in this subsection shall relieve any state of the responsibility for insuring that any funds allocated to any local government or other agency shall be applied in furtherance of the purposes of this subsection.

"(b) (1) The Secretary may make grants to any coastal state if he determines that such state's coastal zone is being, or is likely to be, impacted by the location, construction, expansion, or operation of energy facilities in, or which significantly affect its coastal zone. Such grants shall be for the purpose of enabling such coastal state to study and plan for the economic, social, and environmental consequences which are resulting or are likely to result in its coastal zone from such energy facilities. The amount of any such grant may equal up to 80 per centum of the cost of such study or plan, to the extent of available funds.

"(2) The Secretary may make grants to any coastal state if he is satisfied, pursuant to regulations and criteria to be promulgated according to subsection (c) of this section, that such state's coastal zone has suffered, or will suffer, net adverse impacts from any coastal energy activity. Such grants shall be used for, and may equal up to 80 per centum of the cost of carrying out projects, programs, or other purposes which are designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity.

"(c) Within one hundred and eighty days after the effective date of this section, the Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant eligibility under subsection (b) of this section. Such regulations shall—



"(1) include appropriate criteria for determining the amount of a grant and the general range of studying and planning activities for which grants will be provided under subsection (b) (1) of this section :

"(2) specify the means and criteria by which the Secretary shall determine whether a state's coastal zone has, or will suffer, net adverse impacts ;

"(3) include criteria for calculating the amount of a grant under subsection (b) (2) of this section, which criteria shall include consideration of—

"(A) offsetting benefits to the state's coastal zone or a political subdivision thereof, including but not limited to increased revenues,

"(B) the state's overall efforts to reduce or ameliorate net adverse impacts, including but not limited to, the state's effort to insure that persons whose coastal energy activity is directly responsible for net adverse impacts in the state's coastal zone are required, to the maximum extent practicable, to reduce or ameliorate such net adverse impacts,

"(C) the state's consideration of alternative sites for the coastal energy activity which would minimize net adverse impacts ; and

"(D) the availability of Federal funds pursuant to other statutes, regulations, and programs, and under subsection (a) of this section, which may be used in whole or in part to reduce or ameliorate net adverse impacts of coastal energy activity ;

In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, which upon request, shall assist the Secretary in the formulation of the regulations under this subsection on a nonreimbursable basis ; with representatives of appropriate state and local governments ; with commercial, industrial, and environmental organizations ; with public and private groups ; and with any other appropriate organizations and persons with knowledge or concerns regarding adverse impacts and benefits that may affect the coastal zone.

"(d) All funds appropriated to carry out the purposes of subsection (b) of this section shall be deposited in a fund which shall be known as the Coastal Energy Activity Impact Fund. The fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to the fund. Moneys in the fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest to the United States.

"(e) There are hereby authorized to be appropriated to the Coastal Energy Activity Impact Fund such sums not to exceed \$125,000,000 for the fiscal year ending September 30, 1977, and for each of the next four succeeding fiscal years, as may be necessary, which shall remain available until expended.

"(f) It is the intent of Congress that each state receiving any grant under paragraph (1) or (2) of subsection (b) of this section shall, to the maximum extent practicable, allocate all or a portion of such grant to any local government thereof which has suffered or may suffer net adverse impacts resulting from coastal energy activities and such allocation shall be on a basis which is proportional to the extent of such net adverse impact. In addition, any coastal state may, for the purpose of carrying out the provisions of subsections (b) of this section, with the approval of the Secretary, allocate all or a portion of any grant received to (1) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (2) any regional agency, or (3) any interstate agency. No provision in subsection (b) of this section shall relieve a state of the responsibility for insuring that any funds so allocated to any local government or any other agency shall be applied in furtherance of the purposes of such subsection.

"(g) No coastal state is eligible to receive any payment under subsection (a) of this section, or any grant under subsection (b) of this section unless such state—

"(1) is receiving a program development grant under section 305 of this title or, is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or has such a program approved pursuant to section 306 of this title ; and

"(2) has demonstrated to the satisfaction of, and has provided adequate assurances to, the Secretary that the proceeds of any such payment or grant will be used in a manner consistent with the coastal zone management program being developed by it, or with its approved program, consistent with the goals and objectives of this title.

"INTERSTATE COORDINATION GRANTS TO STATES

"Sec. 309. (a) The states are encouraged to give high priority (1) to coordinating state coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The states may conduct such coordination, study, planning, and implementation through interstate agreement or compact. The Secretary is authorized to make annual grants to the coastal states, not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal state receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

"(b) The consent of the Congress is hereby given to two or more states to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) establishing such agencies, joint or otherwise, as the states may deem desirable for making effective such agreements and compacts. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.

"(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, the Administrator of the Federal Energy Administration, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

"(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of states for the purpose of creating temporary ad hoc planning and coordinating entities to—

"(1) coordinate state coastal zone planning, policies, and programs in contiguous interstate areas;

"(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

"(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c) of this section, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall expire at the close of the five-year period beginning on the effective date of this section.

"COASTAL RESEARCH AND TECHNICAL ASSISTANCE

"Sec. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of state coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this title, a summary and evaluation of the research, study, and training conducted under this section.

"(b) The Secretary is authorized to make up to an 80 per centum grant to any coastal state to assist such state in developing its own capability for carrying out short-term research, studies, and training required in support of coastal zone management.

(c) (1) The Secretary is authorized to—

"(A) undertake a comprehensive review of all aspects of the shellfish industry including but not limited to the harvesting, processing, and transportation of shellfish;

"(B) evaluate the impact of Federal legislation affecting water quality on the shellfish industry;

"(C) examine and evaluate methods of preserving and upgrading areas which would be suitable for the harvesting of shellfish, including the improvement of water quality in areas not presently suitable for the production of wholesome shellfish and other seafood;

"(D) evaluate existing and pending bacteriological standards, pesticide standards, and toxic metal guidelines which may be utilized to determine the wholesomeness of shellfish, and

"(E) evaluate the effectiveness of the national shellfish sanitation program.

"(2) The Secretary shall submit a report to the Congress on the activities required to be undertaken by it under paragraph (1) together with such comments and recommendations as he may deem necessary, not later than June 30, 1977.

"(d) Notwithstanding any other provisions of law, no Federal agency shall promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce, unless an emergency occurs as determined by the Secretary, before the submission to the Congress of the report required under subsection (c) (2)."

(18) Section 313 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting the words "or payments" after the word "grant" wherever the word "grant" appears; (B) inserting ", for up to three years after the termination of any grant or payment program under this title," after the word "access" in subsection (b) thereof; and (C) inserting the words "or paid" after "granted" in subsection (b) thereof.

(19) Section 315 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting "AND BEACH ACCESS" immediately after "ESTUARINE SANCTUARIES" in the section heading thereof; (B) deleting the last sentence thereof; (C) inserting "(a)" immediately before "The Secretary" in the first sentence thereof; and (D) inserting at the end thereof the following new subsection:

"(b) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological and cultural value."

(20) Section 316(a) of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) deleting "and" at the end of subdivision (8) thereof immediately after the semicolon; (B) redesignating subdivision (9) as subdivision (11); and (C) inserting after subdivision (8) the following two new subdivisions: "(9) a general description of the economic, environmental, and social impacts of energy activity affecting the coastal zone; (10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal states; and".

(21) Section 315 of such Act (16 U.S.C. 1464) is redesignated as section 320 and amended to read as follows:

#### "AUTHORIZATION FOR APPROPRIATIONS

"SEC. 320. (a) There are authorized to be appropriated—

"(1) the sum of \$24,000,000 for the fiscal year ending September 30, 1977, and \$24,000,000 for each of the two succeeding fiscal years, for grants under section 305 of this title to remain available until expended;

"(2) such sums, not to exceed \$50,000,000 for the fiscal year ending September 30, 1977, and \$50,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 306 of this title, to remain available until expended;

"(3) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years as

may be necessary, for grants under section 309 of this title, to remain available until expended;

"(4) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(a) of this title, to remain available until expended;

"(5) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(b) of this title, to remain available until expended;

"(6) such sums, not to exceed \$6,000,000 for the fiscal year ending September 30, 1977, and \$6,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(a) of this title, to remain available until expended; and

"(7) such sums, not to exceed \$25,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(b) of this title, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for administrative expenses incident to the administration of this title.

"(c) No Federal funds received by a state shall be used to pay the state's share of the costs of a program or project authorized under this title."

(22) Such Act is further amended by inserting immediately after section 317 (as redesignated by paragraph (16) of this Act) the following new sections:

#### "LIMITATIONS

"SEC. 318. Nothing in this title shall be construed to authorize or direct the Secretary or any other Federal official to intercede in any state land or water use decision including, but not limited to the siting of energy facilities, as a prerequisite to such states eligibility for grants or bond guarantees under this title.

#### "STATE AND LOCAL GOVERNMENT BOND GUARANTEES

"SEC. 319. (a) The Secretary is authorized, in accordance with such rules as he shall prescribe, to make commitments to guarantee and to guarantee the payment of interest on and the principal balance of bonds or other evidences of indebtedness issued by a coastal state or unit of general purpose local government for the purposes specified in subsection (b) of this section.

"(b) A bond or other evidence of indebtedness may be guaranteed under this section only if it is issued by a coastal state or unit of general purpose local government for the purpose of obtaining revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activities.

"(c) Bonds or other evidences of indebtedness guaranteed under this section shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

"(1) no guarantees shall be made unless the Secretary determines that the issuer of the evidence of indebtedness would not be able to borrow sufficient revenues on reasonable terms and conditions without the guarantee;

"(2) the guarantees shall provide for complete amortization of the indebtedness within a period not to exceed thirty years;

"(3) the aggregate principal amount of the obligations which may be guaranteed under this section on behalf of a coastal state or a unit of general purpose local government and outstanding at any one time may not exceed \$20,000,000;

"(4) the aggregate principal amount of all the obligations which may be guaranteed under this section and outstanding at any one time may not exceed \$200,000,000;

"(5) no guarantee shall be made unless the Secretary determines that the bonds or other evidences of indebtedness will—

"(A) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is con-

templated, be underwritten upon terms and conditions approved by the Secretary;

“(B) bear interest at a rate satisfactory to the Secretary;

“(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

“(D) contain or be subject to provisions with respect to the protection of the security interest of the United States;

“(6) the approval of the Secretary of the Treasury shall be required with respect to any guarantee made under this section, except that the Secretary of the Treasury may waive this requirement with respect to the issuing of any such obligation when he determines that such issuing does not have a significant impact on the market for Federal Government and Federal Government-guaranteed securities;

“(7) the Secretary determines that there is reasonable assurance that the issuer of the evidence of indebtedness will be able to make the payments of the principal and interest on such evidence of indebtedness; and

“(8) no guarantee shall be made after September 30, 1981.

“(d) (1) Prior to the time when the first bond or other evidence of indebtedness is guaranteed under this section, the Secretary shall publish in the Federal Register a list of the proposed terms and conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. For at least thirty days following such publication, the Secretary shall receive, and give consideration to, comments from the public concerning such terms and conditions. Following this period, the Secretary shall publish in the Federal Register a final list of the conditions under which bonds and other evidences will be guaranteed under this section. The initial guarantee made under this section may not be conducted until thirty days after the final list of terms and conditions is published.

“(2) Prior to making any amendment to such final list of terms and conditions, the Secretary shall publish such amendment in the Federal Register and receive, and give consideration to, comments from the public for at least thirty days following such publication. Following this period, the Secretary shall publish in the Federal Register the final form of the amendment, and such amendment shall not become effective until thirty days after this publication.

“(e) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

“(f) The Secretary shall prescribe and collect a fee in connection with guarantees made under this section. This fee may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs of carrying out this section. Fees collected under this subsection shall be deposited in the revolving fund established under subsection (i).

“(g) With respect to any obligation guaranteed under this section, the interest payment paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

“(h) (1) Payments required to be made as a result of any guarantee made under this section shall be made by the Secretary from funds which may be appropriated to the revolving fund established by subsection (i) or from funds obtained from the Secretary of the Treasury and deposited in such revolving fund pursuant to subsection (i) (2).

“(2) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under this section, any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due him, unless the Secretary finds that there was no default by the coastal state or unit of general purpose local government or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the coastal state or unit of general purpose local government for which the payment was made for the amount of such

payment plus interest at the prevailing current rate as determined by the Secretary. If any revenue becomes due to such coastal state or unit of general purpose local government under section 308(a) of this title, the Secretary shall, in lieu of paying such coastal state or unit of general purpose local government such revenue, deposit such revenue in the revolving fund established under subsection (i) until the right of reimbursement has been satisfied.

"(3) The Attorney General shall, upon request of the Secretary, take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section. Any sum recovered pursuant to this paragraph shall be paid into the revolving fund established by subsection (i).

"(i) (1) The Secretary shall establish a revolving fund to provide for the timely payment of any liability incurred as a result of guarantees made under this section, for the payment of costs of administering this section, and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. This revolving fund shall be comprised of—

"(A) receipts from fees collected under this section ;

"(B) recoveries under security, subrogation, and other rights ;

"(C) reimbursements, interest income, and any other receipts obtained in connection with guarantees made under this section ;

"(D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection ; and

"(E) such sums as may be appropriated to carry out the provisions of this section.

Funds in the revolving fund not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States or guaranteed thereby or in obligations, participation, or other instruments which are lawful investments for fiduciary, trust, or public funds.

"(2) The Secretary may, for the purpose of carrying out the functions of this section, issue obligations to the Secretary of the Treasury only to such extent or in such amounts as may be provided in appropriation Acts. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligation so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any security issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder. Proceeds obtained by the Secretary from the issuance of obligations under this paragraph shall be deposited in the revolving fund established in paragraph (1).

"(3) There are authorized to be appropriated to the revolving fund such sums as may be necessary to carry out the provisions of this section.

"(j) No bond or other evidence of indebtedness shall be guaranteed under this section unless the issuer of the evidence of indebtedness and the person holding the note with respect to such evidence of indebtedness permit the General Accounting Office to audit, under rules prescribed by the Comptroller General of the United States, all financial transactions of such issuer and holder which relate to such evidence of indebtedness. The representatives of the General Accounting Office shall have access to all books, accounts, reports, files, and other records of such issuer and such holder insofar as any such record pertains to financial transactions relating to the evidence of indebtedness guaranteed under this section.

"(k) For purposes of this section, the term 'unit of general purpose local government' shall mean any city, county, town, township, parish, village, or other general purpose political subdivision of the coastal state, if such general purpose political subdivision possesses taxing powers and has responsibility for providing public facilities or public services to the community, as determined by the Secretary."

SEC. 3. (a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. Such Associate Administrator

shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.”.

SEC. 4. Nothing in this Act shall be construed to modify or abrogate the consistency requirements of section 307 of the Coastal Zone Management Act of 1972.

#### PURPOSE OF THE LEGISLATION

The basic purpose of H.R. 3981 is to strengthen and augment the Coastal Zone Management Act of 1972 to better enable it to meet today's pressures and demands, particularly those related to energy.

The Committee believes the coastal zone management program to be of great importance to the country. Under it, states, together with local units of government, are preparing comprehensive programs to guide future uses of the nation's valuable coastal areas.

When Congress enacted the program in 1972, the energy crisis had not yet emerged. That crisis and the resulting need for both increased domestic petroleum production and increased imports of fuel has dramatically added to the great stresses which already exist in our coastal areas.

To enable the states to cope with an accelerated offshore oil and gas leasing program, deepwater ports and similar energy facilities, H.R. 3981 adds several significant forms of assistance. Two types of direct assistance to states are provided, including funds for planning, as well as guarantees for bonds issued to provide public services and facilities made necessary by Outer Continental Shelf oil and gas operations.

In addition to the direct energy-related provisions of H.R. 3981, there are several major additions to the provisions of the original coastal zone program. These have been added by the Committee based on its examination of the conduct of the program since 1973, the testimony of state officials charged with carrying out the provisions of the Act, and the experience of the Office of Coastal Zone Management in the National Oceanic and Atmospheric Administration which has responsibility for administering the Act.

Among these additions are three new requirements for state coastal zone management programs; provision of a new preliminary approval phase which would come between the program development work under section 305 now being conducted in the states and the program administration stage under section 306; new incentives for interstate coordination and research and training programs, and a new authorization to provide matching grants to enable states to acquire access to public beaches and other public amenities in the coasts to help meet the rapidly growing need for more coastal recreation outlets.

#### SUMMARY OF KEY PROVISIONS OF H.R. 3981

##### I. ADDITIONAL REQUIREMENTS FOR STATE COASTAL ZONE PROGRAMS IN SECTION 305/NEW PROGRAM IMPLEMENTATION PHASE

Section 305 authorizing coastal management program development was amended by the Committee to include three additional elements

in the programs being developed by the States. The three new requirements specifically included in the bill deal with planning processes relating to protection of and access to public beaches and other public areas, an evaluation of the adverse effects caused by shoreline erosion and remedial actions necessary to correct such actions, and the development of an energy facility planning process within the coastal zone.

Due to the fact that land prices have been escalating steadily over the past years, it has become increasingly difficult for State and local governments to provide access ways to public areas such as beaches, historical areas, and other similar sites which the public has come to enjoy. Some States can utilize their condemnation rights under eminent domain provisions in state laws, but the ability to provide such access ways using techniques of less than fee-simple acquisition or condemnation are generally not provided for by most States surveyed. The requirement in the bill would have states develop a planning process to evaluate various options particularly suitable for each State, including methods of preserving public coastal areas from excessive or unsuitable uses.

The second planning process included in the bill is one which would require each coastal State to develop a comprehensive process dealing with both the planning and the impacts of the siting of energy facilities. Because of the unique nature of the coastal zone, it is anticipated that a substantial portion of the new energy facilities the nation needs may be located in coastal areas. Any federal energy program will be dependent upon the cooperation and the individual actions of State and local governments. The Coastal Zone Management Act of 1972 encourages a cooperative working relationship between Federal, State, and local governments in the decision-making process involved with land and water uses. Since the framework is already established, the inclusion of an energy facility planning process seemed to the Committee to be a necessary and appropriate addition to the present Act.

The third addition to section 305 planning elements would require that the States develop a plan to assess the effects of shoreline erosion, whether caused by natural or man-induced reasons. This particular amendment was introduced by Mr. Ruppe in an attempt to encourage a comprehensive and coordinated planning effort to deal with the significant erosion problems incurred in the Great Lakes as well as in other areas.

In a report entitled, "National Shoreline Study," by the U.S. Army Corps of Engineers in 1971, it was stated that almost one-fourth of our nation's 84,240 miles of coastline is eroding, with approximately 2,700 miles, or 3.2 percent, critically eroding.

The Committee realizes that the addition of these three program elements will require additional funding as well as time for the States to properly evaluate and develop their prospective plans. Therefore, the authorized level of funding for section 305 planning grants was increased from \$12 million to \$24 million annually, and the States would be permitted to receive developmental grants for four years, rather than the three-year period which was originally authorized in the 1972 Act.

The Committee has introduced an important new phase in the coastal zone management program. Between the program development



work in the states, carried out under section 305 funding, and the administration phase for completed state programs, funded under section 306, the Committee has introduced an interim "preliminary approval" phase. During this period states could continue to receive matching grants under section 305 while they are taking steps to put into place the elements of their program not in effect. An example is where state legislation is needed. The program design could include an outline of the legislation a state needs in order to qualify for program approval; upon receiving the "preliminary approval" designation, the state would work to enact that bill into law. Upon so doing, the program would meet the requirements for final federal approval and entry into the administration or operational phase under section 306.

This new interim phase is felt to be an important modification in the two-step process envisioned in the original Act which will prove to be most helpful to a number of states.

Under this interim phase, the Committee notes that it is permissible for states to put into operation portions of the state program which are complete and ready to be administered. Matching funds under section 305 could be used for this purpose in states whose programs meet the requirements established in section 305(h) for "preliminary approval."

## II. COASTAL ENERGY ACTIVITY IMPACT PROGRAM

Soon after it became clear that this nation had to develop a long-range energy policy to attain self sufficiency as rapidly as possible, the Administration announced that one of the major programs designed to obtain needed energy resources would be the accelerated Outer Continental Shelf oil and gas leasing plan. It was recognized that the coastal states would bear the onshore burdens of such offshore exploration and development.

In addition to the expansion of the OCS leasing program, the nation's energy requirements will result in a variety of other pressures on the coasts. One estimate prepared for the Subcommittee on Oceanography by the National Ocean Policy Study of the U.S. Senate estimated that the total investment in all types of energy facilities over the next decade in the coastal zone will amount to 40 percent of a projected national total of \$600 billion.

This legislation provides for planning assistance to enable the states and local communities to prepare for this massive investment. At the same time, H.R. 3981 provides direct financial assistance only for those types of energy facilities which, by their nature, must be situated in the coasts. The Committee did not want to provide assistance which would amount to an inducement to locate in the coasts facilities which could as readily be placed inland.

H.R. 3981 deals with the potential impacts resulting from offshore oil and gas activities and other energy activities in section 308 of the bill which establishes a "Coastal Energy Activity Impact Program."

The impact program is essentially a four-step assistance scheme incorporating an automatic payment plan for Outer Continental Shelf energy impacts, energy facility planning grants, a discretionary grant

program based on a determination of "net adverse impacts", and a federal bond guarantee program.

The first federal assistance scheme included in the program is in the form of an automatic payment plan. The Secretary of Commerce shall make payments to each coastal state in each fiscal year based on the average of six proportions relating to the level of Outer Continental Shelf energy activity. The six proportions would each represent a ratio of the level of state activity to the level of national activity. The average of the six ratios would determine the proportion of the total fund allocated to each coastal state.

By setting forth the six criteria in the first assistance program, the Committee intended to reflect the level of Outer Continental Shelf activity occurring adjacent to or within a coastal state based on the premise that the level of activity would be closely proportional to the level of impact which would result as a consequence of such activity.

Each coastal state receiving payments under this scheme must expend the funds for specific purposes and in a specific order of priority. First, the state shall retire any bonds which were issued and guaranteed under section 319 of the bill. First priority for retiring these bonds is to be given to the retirement of local bonds. If there are no state or local bonds issued and guaranteed, the state can then use the funds for purposes of planning for and carrying out projects which are required as a result of Outer Continental Shelf energy activities. The third and final purpose for which the state could expend the funds is to reduce or ameliorate any loss of ecological or recreational resources which were caused by Outer Continental Shelf energy activities.

Any money provided to a state and not spent or not committed for purposes authorized is to be returned to the Treasury. The Secretary of Commerce shall be responsible for determining this each year by utilizing the auditing provisions of section 313 (as redesignated) of the Coastal Zone Management Act of 1972.

The authorized level of funding for the automatic grant section 308 (a) commences with \$50 million in fiscal year 1977 and escalates incrementally to \$125 million in fiscal year 1981. The Committee adopted the escalating authorizations approach since the fund is intended to be one which will benefit *all* of the affected coastal states. As new "frontier" areas such as Alaska and the Atlantic Coast States begin to enter into the exploration and development phases of OCS activity, the fund will increase to permit a more equitable distribution of funds to such states.

In the version of H.R. 3981 originally approved by the Subcommittee on Oceanography, direct assistance was restricted to OCS impacts only. The Senate version of this bill, S. 586, on the other hand, provides coverage for a broad range of energy facilities which might have impacts on the coasts.

The Committee after much deliberation came to the conclusion that a middle position between these two approaches was the most equitable. Direct assistance is provided for a limited number of energy facilities in addition to those associated with the offshore petroleum industry in the "net adverse impact" portion of section 308.

The second assistance program (section 308(b)) in the bill deals with "coastal energy activities." The primary criterion on which the

concept of "coastal energy activity" is based is whether the state may be serving the national interest by locating and permitting to operate those energy-related facilities which, by their very nature or technical requirements, must be in the coastal zone. In other words, those facilities which could conceivably be located inland from a state's coast would not be included. While the first assistance program (section 308 (a)) would allow compensation for OCS-related activities only, the second approach would include deepwater ports, liquefied natural gas storage and conversion facilities, and non-OCS oil or coal loading docks, terminals, and storage facilities.

The concept of "net adverse impacts" is defined in the bill, and several factors which the Secretary of Commerce is to consider in determining the amount of a grant are specified. Among the latter are benefits which directly offset adverse impacts; efforts made by state and local governments to minimize impacts and to internalize the costs associated with the activity; the availability of alternative sites for energy activity which would minimize impacts; and the receipt of other federal funds (including the annual automatic OCS payments) which could be used to reduce adverse impacts. The task of determining the appropriate level of funding is not unmanageable if these guidelines are used, and adherence to these guidelines will prevent any possible over-compensation to individual states. The impact fund as provided in 308(b) would, in a sense, be a supplementary grant program, not a substitute or duplicative grant scheme.

Any grant allocated to a state under section 308(b) shall be used for providing up to 80 percent of the cost of carrying out projects or programs designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity. A separate provision in 308 (b)(1) would permit the Secretary to allocate 80 percent matching grants to enable states to study and plan for the economic, social, and environmental consequences of energy facilities which are impacting or likely to impact the coastal zone.

Funds authorized for appropriation in the second assistance program would be \$125 million for five fiscal years commencing with fiscal year 1977.

A provision in the bill which is applicable to both grant programs in section 308 would have each coastal state receiving funds give serious consideration to the allocation of such funds to any local government in the proportion which such local government has suffered net adverse impacts resulting from OCS or coastal energy activities.

The bill would further require that impact grants could be made only to those coastal states which are either receiving development grants under section 305 or are making satisfactory progress towards the development of a coastal zone management program. Any funds received under section 308 would have to be expended in a manner which is consistent with the coastal zone management program of the respective state. By inclusion of this important provision, the Committee is convinced that the necessary coordinated approach will take place using the comprehensive coastal zone management programs being developed by the respective states.

*Coastal Zone Management Advisory Committee Resolution*

Pursuant to section 311 of the Coastal Zone Management Act of 1972 (Public Law 92-583), a Coastal Zone Management Advisory Committee was established to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone.

The Committee membership possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

The Merchant Marine and Fisheries Committee proposal to consolidate the OCS annual payments provision with the net adverse impact grant concept in the Coastal Energy Activity program, co-sponsored by Mr. Murphy of New York and Mr. du Pont of Delaware, was on the agenda of the Advisory Committee's most recent meeting in St. Thomas, the Virgin Islands from January 14 to 16, 1976. After 2 days of intense discussions and deliberations, the following resolution was unanimously adopted in support of Mr. Murphy and Mr. du Pont's provision and other technical changes in H.R. 3981.

**RESOLUTION**

Be it resolved by the Coastal Zone Management Advisory Committee, established pursuant to the Coastal Zone Management Act of 1972 (Public Law 92-583), that the Committee urges the Congress to adopt certain amendments to the Coastal Zone Management Act, namely :

A. A Coastal Energy Impact Fund be established, and that such be used to assist the coastal states in planning for and ameliorating adverse impacts (provision of public facilities and services) resulting from the development of energy resources and facilities in the coastal zone. Such a fund should cover coastal dependent energy facilities. Allocation of monies from the fund should be based on demonstrable net adverse impact, or a combination of such net adverse impact and a formula based on OCS petroleum development activities.

B. Extend the allowable time for program development (Section 305) and the related authorizations for appropriations for two additional years and allow for partial funding of management programs receiving preliminary approval on an interim basis through Fiscal Year 1979; include Federal leases under the consistency clause (Section 307(c)(3)); and specifically, add energy facilities and erosion to those items that must be considered in a state's plan.

Further, be it resolved that this resolution be transmitted to the Secretary of Commerce through the Administrator of NOAA with copies to the appropriate Committee of Congress.

Submitted by :

**MEMBERS, COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE**

Janet Adams, president, California Coastal Alliance, P.O. Box 4161, Woodside, Calif.

Don Allen, vice president, New England Electric System, 20 Turnpike Road, Westboro, Mass.

Emmanuel Bertrand, general manager, Lagoon Marine, St. Thomas, V.I.

Robert Cahn, writer-in-residence, Conservation Foundation, 1717 Massachusetts Avenue NW., Washington, D.C.

Dr. Charles Herdendorf, Center for Lake Erie Area Research, Ohio State University, Columbus, Ohio.

Ann Jennings, conservation chairman, South Carolina LeConte Chapter, Sierra Club, 25 Grandville Road, Columbia, S.C.

Hon. Thomas McCall, professor, Linfield College, 2300 Broadway Drive S.W., Portland, Oreg.

O. William Moody, administrator, Maritime Trades Department, AFL-CIO, Washington, D.C.

Dr. Joe Mosley, executive director, Texas Coastal & Marine Council, P.O. Box 13407, Austin, Tex.

Dr. Y. R. Nayudu, marine and coastal zone resources management consultant, Box 323, Mile 2½ Glacier Highway, Juneau, Alaska.

Carl Savit, senior vice president, technology, Western Geophysical Co., P.O. Box 2469, Austin, Tex.

John Spellman, county executive, King County Courthouse, Seattle, Wash.

Scott Whitney, professor of law, College of William & Mary, Williamsburg, Va.

January 15, 1976.

### III. INTERSTATE COORDINATION

Many of the problems facing the coastal zone are regional and multi-state in nature. Coastal zone activities in one State may have pervasive effects on the coastal region of an adjoining State. The northeastern coastal states, for example, are faced with the need for closely coordinating the development and implementation of their coastal zone management programs because of the compactness and interdependence of the region.

An improved system of regional coordination should also facilitate communication with Federal agencies and will provide a forum for resolving the collective issues dealing with Federal-State administration.

The Subcommittee hearings on H.R. 3981 revealed that interstate planning and coordination have been ineffective under the present coastal zone management act because the Act does not provide incentive funding to establish interstate entities, and requires that the States use their own funds to support such activities. The States have found it necessary to devote their resources to internal coastal zone problems.

Separate funding is provided in the bill for support of interstate planning arrangements and compacts. If States decide to enter into interstate planning arrangements, 90 percent funding assistance would be available from the Federal government. Advance consent by the Congress is given to States to negotiate interstate coastal zone planning and coordinating compacts. Provision is also made for States to establish ad-hoc coordinating agencies immediately while formal interstate arrangements are pending approval. In order to carry out the provisions of this section, \$5 million is authorized to be appropriated annually for a five-year period commencing with the year in which the bill is enacted.

## IV. RESEARCH AND TRAINING ASSISTANCE

In its 1974 annual report submitted to the Congress and to the President, the National Advisory Committee on Oceans and Atmosphere recommended that :

The National Coastal Zone Management Act of 1972 be amended to include the encouragement and support of the research, development, and advisory services by the States needed to provide a basis for careful, long-enduring decisions on coastal zone matters.

To make the rational decisions required in the formulation of comprehensive coastal zone management programs, a certain amount of research is essential. There is no specific provision for research grants in the present coastal zone Act, and the Committee believes this oversight should be remedied.

The need for these additional research funds is particularly critical now that coastal States are being called upon to accelerate development of their programs in preparation for increased Federal energy activities in the coastal zone.

H.R. 3981 contains the necessary provisions which would permit the Office of Coastal Zone Management to allocate research grants to States for purposes of assisting in the development and implementation of coastal zone management programs.

There are also funds authorized in the bill which would permit OCZM to conduct research at the Federal level and, thereby, complement State efforts. The Committee expects that NOAA will make every effort to avoid any duplicative research efforts and to coordinate this research program with other relevant Federal, State, and local programs.

Research grants to States would involve a Federal contribution not to exceed 80 percent of the costs of such study. The bill would authorize \$5 million for Federal research and \$5 million for State and local research programs for a period of five fiscal years.

Included in the research section 310 is a provision which would authorize the Secretary to undertake a comprehensive review of the shellfish industry with a report due June 30, 1977. Prior to the time which such report is submitted to the Congress, no Federal agency would be permitted to promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce.

## BACKGROUND OF THE COASTAL ZONE MANAGEMENT PROGRAM

Major impetus for the Coastal Zone Management Act of 1972 came from a two-year study of ocean issues conducted by a Presidential Commission and published in 1969.

The Commission on Marine Science, Engineering and Resources in its report, *Our Nation and the Sea*, gave prominence to the value of coastal resources. The report states that the coasts were endangered from excessive uses, some of which were incompatible with the con-

tinued health of the coastal region. It pointed out that the coastal area was less than 10 percent of the total land area of the country but already had over 40 percent of the population and was growing at a faster rate than the rest of the country. A three-year study in the Nation's most populous state—a study mandated by the voters by referendum in 1972—determined that 85 percent of California's 20 million people live within 30 miles of the coast.

Publication of the Presidential Commission report was the first time major national attention had been focused on the value of coastal resources and the danger represented by continuation of the unwise and unplanned developmental and population trends of the time. One of the Commission's major program recommendations in the ocean field was that coastal authorities be established in each state, funded by a matching program of federal and state dollars, to design and operate comprehensive management programs of future coastal activity to conserve the resources and promote sound development. The Commission recommended that the Federal role be restricted to providing financial assistance and general guidelines to the States.

In October 1969 both Congress and the Administration responded to the findings and recommendation of the Commission. The House Subcommittee on Oceanography conducted a two-day conference on Coastal Zone Management instead of the customary hearing format, to encourage greater participation by attendees. Representatives of federal, state and local levels of government, industry, marine laboratories and research centers, interested citizens and members of the Commission took part. The conference was organized into seven panel sessions to consider various aspects of coastal zone management.

There was general agreement among the participants that states should take the leadership role in preparing coastal programs and establishing the organizational structure to implement them. This consensus was in keeping with the recommendation of the Commission that the states be the focus of responsibility relying, of course, on affected local units of government.

Also in October, the Vice President, in his capacity as the Chairman of the National Council on Marine Resources and Engineering Development, announced a five-point program in marine science. The first-named initiative was the endorsement of the concept of state coastal zone management programs.

As a consequence of this attention, legislation was introduced in the House to establish a federal-state-local partnership to develop comprehensive coastal management programs. Bills proposed in November 1969, by Congressman Alton Lennon, Chairman of the Oceanography Subcommittee, became the forerunners of the eventual coastal zone act.

Action came next in the Senate where seven days of hearings were conducted during the spring of 1970 on four bills which provided for coastal management planning. The hearings, conducted by the Subcommittee on Oceanography of the Senate Commerce Committee, also produced consensus that the type of program recommended by the Commission, discussed by the House Oceanography Subcommittee and

advocated by the Administration was desirable. One key finding was that national legislation had to provide flexibility in order to take into account the wide range of coastal areas and the different approaches that states and local governments would take in the various sections of the country.

One major difference voiced dealt with the location of the federal responsibility. The administration favored the Department of the Interior while others expressed preference for the Marine Sciences Council or the proposed National Oceanic and Atmospheric Agency (NOAA) which would succeed it. Toward the end of 1970 the Administration also let it be known that it was considering a national land use bill which would, in its view, supplant the need for a separate coastal zone bill. The Subcommittee on Oceanography approved a revised version of the coastal zone bill introduced earlier in the year by the Administration, but Congress adjourned sine die before the full Senate Commerce Committee could take action.

The House Subcommittee on Oceanography took up the topic of coastal zone management during eight days of hearings in 1971, beginning in June and ending in November. The Senate Subcommittee on Oceans and Atmosphere (successor to the Oceanography Subcommittee) held additional hearings in May 1971, and approved a measure, S. 582, which had been proposed earlier in the year by the Subcommittee Chairman, Senator Ernest F. Hollings. Objections to the measure were voiced from a number of sources, which persuaded Senator Hollings to request recommitment to the Subcommittee and the preparation of a new bill, S. 3507, which was reported favorably April 11, 1972.

The bill was passed by a vote of 68 to 0 on April 25, indicating the broad base of support for better management of our coastal resources.

Parallel action took place in the House where a bill was reported favorably by the Oceanography Subcommittee on May 2, 1972. This measure, H.R. 14146, named the National Oceanic and Atmospheric Administration, formed in 1970 as a component of the Commerce Department, as the administering agency at the federal level.

During consideration on the floor in August, opposition was expressed on the grounds that the program should be administered by the Department of the Interior in view of the pending national land use legislation which would be assigned that Department. Oceanography Subcommittee Members argued that NOAA was better equipped to deal with coastal zone problems than Interior, that the coasts were unique and warranted special and separate attention and that passage of national land use legislation was speculative. A motion to transfer the proposed coastal zone management program to the Interior Department, supported by the Administration, succeeded.

In conference between the House and Senate in the fall of 1972, a compromise was worked out. The Senate insisted that the coastal zone program remain assigned to NOAA. In exchange, it was agreed that any land-use elements in a state coastal zone program would have to receive the concurrence of the Secretary of the Interior or whoever might administer a national land use program.



With this dispute settled, the Coastal Zone Management Act of 1972 went on to final passage in both House and Senate and acceptance by the Administration. The measure was signed on October 27, 1972, and became Public Law 92-583.

Because a disposition for a nationwide land use planning measure continued among Administration leaders, initial funding of the coastal zone program was held up. A task force was set up within NOAA after passage of the coastal zone law using existing funds to begin preparation for administering the program, but the first actual appropriation was not forthcoming until December 1973.

The first matching grants to states to begin development of coastal zone programs were made in March 1974. By the end of the fiscal year, 27 states and one territory had voluntarily submitted applications for funding. Also during the initial period of operation, the nation's first estuarine sanctuary grant was made under section 312 of the coastal zone act to the state of Oregon to set aside a portion of a bay and surrounding lands to serve as a natural laboratory for scientists.

The 93rd Congress considered and passed the only amendments to the coastal zone program to date, essentially technical changes to provide needed flexibility in administering the program and to extend the authorization for the estuarine sanctuary program to fiscal year 1977 to make it conform with the other funding authorizations in the program.

Because of the success in its initial operation, Congress also acted to increase the amount of money available for program development from \$9 million a year to \$12 million. President Ford signed the bill on January 2, 1975 (Public Law 93-612).

The coastal zone program in 1975 provided funding to 33 of the 34 eligible states and territories. For most states, work entered the second year of the three-year development phase authorized under section 305.

One state, Washington, submitted its management program during the year in an attempt to become the first to receive final approval from the Secretary of Commerce and thereby be made eligible for program management assistance under section 306 of this act. The program was found to have certain elements to be incomplete. Nonetheless, the overall design of the program, its treatment of areas of special concern, its administrative setup and legal authorities and all other major elements necessary for approval, were found to be acceptable. The Washington program received "preliminary approval" in May 1975, by which was meant that as soon as all of the elements in the program were actually implemented, the state would in fact receive final approval. This is anticipated to take place in mid-1976.

The Office of Coastal Zone Management has received several other completed programs and expects to be able to process one or more to final approval soon.

In November 1974, with the national energy crisis requiring new initiatives, President Ford endorsed the coastal zone program as the vehicle to plan for the onshore impacts that will come from the Administration's program to expand Outer Continental Shelf oil and gas operations. Speaking to the coastal state governors on November 13, the President said:

Concern has been expressed that we should not lease any new areas of the U.S. continental shelf until the coastal States have completed detailed plans to accommodate the onshore impact of offshore production.

Coastal states have only begun to establish the mechanisms for coastal zone planning, and that activity must proceed rapidly. But the steps needed now to prepare for a leasing program need not await completion of these detailed plans by the states.

In order to facilitate coastal State participation in this effort, I plan to request an additional \$3 million in the current fiscal year for the coastal zone management program to accelerate these planning efforts. I have also directed Secretary Morton and Secretary Dent to consult with coastal state Governors regarding any additional steps that might be required to plan adequately for onshore development associated with offshore leases that are actually issued.

In summary, the resources of the outer continental shelf represent a potential contribution of major proportions to the solution of our energy problem. I am confident that concerns about leasing exploration and development on the outer continental shelf can be addressed openly and fairly, that planning can proceed in an orderly, cooperative way and the problems confronting us in opening the new areas can be resolved.

I pledge the cooperation of my Administration in the task.

The \$3 million supplemental appropriation was subsequently adopted by Congress as part of the overall supplemental appropriation measure for fiscal year 1975 and made available to the coastal zone program at the end of June. As of the beginning of 1976, the Office of Coastal Zone Management had processed applications from nine states totalling \$1,309,374. In addition, nine additional states had applications for OCS supplemental funding pending.

The Committee has followed closely the first stages of the effort by NOAA to carry out the program initiated by Congress to arrest the destruction of valuable coastal resources. We have been impressed to date with the effective administration of the program by the Office of Coastal Zone Management and its cooperative attitude in working with state and local governments. It is our belief that the changes and additions contained in H.R. 3981 will provide major additional incentives to the states to carry out the aim of the original act.

The total disbursements as of early 1976 to the states under the program are shown in the attached table 1.

TABLE 1.—TOTAL COASTAL ZONE MANAGEMENT SEC. 305, FUNDS AWARDED TO DATE

Grantee	Federal share	Grantee matching share
Alabama.....	\$220,000.00	\$110,000.00
Alaska.....	1,800,000.00	900,000.00
California.....	1,620,000.00	821,946.00
Connecticut.....	586,285.00	326,359.00
Delaware.....	511,666.00	255,834.00
Florida.....	1,146,000.00	573,000.00
Georgia.....	537,250.00	307,145.00
Guam <sup>1</sup> .....	143,000.00	71,500.00
Hawaii.....	650,000.00	325,000.00
Illinois.....	590,000.00	310,000.00
Indiana <sup>1</sup> .....	220,000.00	110,000.00
Louisiana.....	602,000.00	305,090.00
Maine.....	558,870.00	279,435.00
Maryland.....	840,000.00	420,000.00
Massachusetts.....	592,000.00	309,812.00
Michigan.....	730,486.00	365,243.00
Minnesota.....	249,500.00	124,750.00
Mississippi.....	308,620.00	159,371.00
New Hampshire.....	198,000.00	99,000.00
New Jersey.....	745,750.00	372,875.00
New York <sup>1</sup> .....	550,000.00	275,000.00
North Carolina.....	927,544.00	543,961.00
Ohio <sup>1</sup> .....	200,000.00	166,300.00
Oregon.....	548,943.00	295,620.00
Pennsylvania.....	375,000.00	187,500.00
Puerto Rico.....	600,000.00	300,000.00
Rhode Island.....	458,855.00	234,082.00
South Carolina.....	480,149.82	242,924.77
Texas.....	1,280,000.00	649,003.00
Virgin Islands.....	210,000.00	105,000.00
Virginia.....	654,564.00	327,282.00
Washington.....	1,013,820.00	506,910.00
Wisconsin.....	548,600.00	316,915.00
Total.....	20,696,884.82	10,696,857.77

<sup>1</sup> Received 1 grant to date. All other grantees have been awarded 2 grants to date.

## NEED FOR H.R. 3981

### I. ENERGY-RELATED PRESSURES ON THE COASTAL ZONE

The energy crisis of the mid-1970's has served to bring into focus more sharply than in the past the tremendous pressures that fall upon the coastal zone.

Coming after broad recognition in the late 1960's of the unique values of coastal areas, the new pressures have served to heighten appreciation of the coastal zone management program as a means of coping with conflicting and sometimes incompatible interests.

An immediate result of the sharp rise since 1973 in petroleum prices from overseas sources has been an increase in the desirability of locating new domestic sources of fuel. The best prospects for major new discoveries in this country lie offshore, particularly in such previously unexplored areas as off the coast of Alaska.

Meanwhile, since development of a new offshore petroleum field can take up to 10 years, the nation's dependence on overseas supplies will continue. This has served to set up another source of pressure on coastal areas, namely from the desirability of having offshore terminals to serve the increasingly large supertankers which can cut the per-barrel cost of fuel transportation.

Still another new pressure brought on by the energy crisis has been the requirement to establish new facilities to handle liquefied natural gas imports, another cost-effective method of meeting the country's needs from overseas sources.

These three examples of new or expanded energy-related developments have one thing in common: they each require intensive use of the coasts. There are already numerous other energy installations in the coasts—California's Coastal Zone Conservation Commission found that 90 percent of the state's petroleum refining capacity is located within 10 miles of the coast, for instance.

The impacts which will stem from a greatly expanded offshore oil and gas program, from deepwater port installations or added LNG facilities, will take place in an area already bearing a disproportionate share of the nation's energy facilities.

A study released in December 1975, by the Congressional Research Service working with the National Ocean Policy Study of the U.S. Senate entitled "Energy Facility Siting in Coastal Areas"<sup>1</sup> declared that 85 percent of 243 nuclear power plants in operation, under construction or planned were in coastal states and that many, if not most, were on the coasts or Great Lakes shores. With the prospective development of floating nuclear power plants, this concentration will increase in the future, the study found.

The Committee's recommended solution is to provide amelioration assistance to states tailored specifically to the types of energy facilities which, by their nature, must be located in the coast. As is explained in the section-by-section analysis which follows, the bill also provides for planning assistance to deal with all of the various types of major energy facilities which might be found in the coasts.

It was felt desirable to restrict the coverage of the amelioration assistance to the impacts stemming from OCS operations, LNG facilities, deepwater port and coal and oil shipping facilities because they clearly must, by definition, be located along the ocean or Great Lakes shores.<sup>2</sup> To provide assistance to a broader range of energy-related plants runs the risk, the Committee felt, of providing inducement to locate such facilities in the coasts.

If it is a close decision between an inland location and a coastal site for a nuclear power plant, for example, the existence of an assistance program to the local governments involved could provide the difference in choosing where the plant should go. The Committee did not want to run the risk of possibly encouraging the siting of additional energy facilities in the coasts not absolutely necessary to be located in this already burdened region.

It is the Outer Continental Shelf oil and gas program that has caused the most widespread concern in coastal areas. Entire

<sup>1</sup> U.S. Senate Committee on Commerce and the National Ocean Policy Study, 94th Congress, 1st Session, December 1975, Page 17.

<sup>2</sup> For a detailed discussion of the projected impact of coal transportation on the Great Lakes, see Appendix I.

regions will feel impacts from the introduction of this activity when it occurs in relatively undeveloped areas. LNG or deepwater port impacts, on the other hand, are likely to be localized in nature.

Because most of this country's offshore experience has so far been concentrated off one state—Louisiana—and drilling has taken place only off two other states—Texas and California—one of the difficulties the states and the Committee face is in knowing what new resources actually lie offshore and where. While much evidence of promising new areas has been collected by private oil firms and the U.S. Geological Survey, the existence of commercially productive fields can only be determined by drilling. Oil firms feel fairly confident that major reserves lie off the coast of Alaska, and in fact have placed that area at the top of its list of preferred new lease areas despite the major environmental risks. Yet it is also true that the same firms felt confident that oil and gas would be found off the coast of Florida to the extent that they bid \$1.5 billion in 1973 and have yet to find any recoverable material.

While, therefore, it is not possible to detail specifically the exact extent and location of the offshore impacts which an expanded OCS leasing program will bring, there is enough evidence to convince the states and the Committee that major help is needed.

Major confirmation of this viewpoint came the day after the Committee approved H.R. 3981 by a vote of 35 to 0. On February 4, the Secretary of the Interior, the Honorable Thomas Kleppe, submitted legislation which he described in part as follows:

The purpose of the bill is to establish the Federal Energy Development Impact Assistance Fund from which planning grants, loans and loan guarantees can be made to assist affected states and local governments in providing public facilities.

This represents a recognition on the part of the Administration, after more than a year's delay, that federal support is warranted to state and local communities which must bear the costs of providing services and facilities made necessary by federally-approved energy projects conducted in the broad, national interest. This principle lies at the heart of the forms of assistance proposed in H.R. 3981. There are significant differences in the approaches contained in the legislation produced by the Committee after its five hearings and several days of mark-up sessions this year and the measure put forth at the last minute by the Department of the Interior.

The most glaring omission, in the opinion of the Chairman of the Merchant Marine and Fisheries Committee and the Oceanography Subcommittee and the ranking minority members of each body (and the preponderance of the membership of each) is that the Interior Department bill totally ignores the existence of the coastal zone management effort. For reasons which are detailed below, the Committee feels strongly that H.R. 3981 is a far superior approach to the problem of how to deal with onshore impacts from major energy activities in the coasts, is more equitable to the regions involved and will be more likely to encourage an early and orderly expansion of needed energy sources.

The evidence is clear that some sort of assistance to states and localities faced with the sudden introduction of a major new industrial activity such as offshore petroleum is warranted. While some urban areas with high unemployment and an existing base of municipal services can readily absorb the arrival of a major new industry such as offshore petroleum—indeed, may welcome it—other areas are not so situated. Isolated rural areas such as Yakutat and Cordova, Alaska, with populations of 500 and 4,000 respectively, will likely be altered fundamentally by the introduction of the offshore industry. Furthermore, they will be unable to provide the services and facilities which the sudden flux of workers will require. Additionally, areas such as these are near prime fishing grounds and the fear of offshore oil spills or other damage from the offshore exploration and development activity runs high.

It is not only small Alaskan villages which could be uprooted. A study done for the Council on Environmental Quality, for instance, taking the high case estimate of the reserves which might be found off the Charleston, South Carolina coast produced an estimate that the population of that area will double in a decade as a result of OCS operations.

There have been studies prepared for the states of Texas and Louisiana that likewise indicate those areas have suffered net losses (income generated vs. expenses required) as a result of their OCS experiences. The studies have been criticized for their methodology, but serve as indications that the introduction of the offshore industry is not an automatic boon.

Just as the coastal zone program itself contains a balanced approach to future use of resources, providing for development where appropriate and conservation where necessary, H.R. 3981 represents a balance between state and local rights and national needs.

It contains in part of the proposed Coastal Energy Activity Impact Program an automatic grant formula to compensate for OCS impacts. The money is to be apportioned according to the extent of the offshore activity adjacent to a particular state.

Beyond this, the Committee provides that if a state or locality can demonstrate that it has had to bear expenses or has suffered damages not covered by the automatic fund for OCS operations, a second part of the program will come into play. On a finding that a net adverse impact beyond the compensation already provided and other available federal programs has taken place, additional grants would be authorized. Also, this fund would be available for the limited types of coastal energy facilities beyond those associated with OCS operations mentioned above, namely deepwater port, LNG, and coal and oil loading facilities.

While \$125 million annually is provided for the second portion of the fund, it may well be that only a portion will be found necessary. The Committee feels this approach is fiscally responsible and is responsive to the stated requirements of the affected coastal states and localities.

The preponderance of the testimony from the states during the five hearings conducted this year by the Subcommittee on Oceanography was not flat opposition to expanded offshore drilling. Rather, the testimony was to the effect that states wanted to be involved in the

decision-making process from the beginning and did not want to see all of the revenues from OCS operations go to the federal treasury when they might reasonably expect to face expenses in excess of the revenues which might be generated. The states also said that they needed to be sure that they had time to prepare for onshore impacts through their coastal zone management efforts.

With these and other changes in the system by which federal offshore lands are leased, the state testimony was to the effect that they were willing to see an expanded offshore leasing program proceed.

For example, the director of the Massachusetts Energy Policy Office told the Oceanography Subcommittee:

We realize the decline in domestic oil production must be slowed, but I must also advocate that in the public interest, offshore oil and gas development must proceed in a more orderly and equitable manner than has been exhibited in the past.

The Coastal States Organization (CSO), an alliance formed under the auspices of the National Governors' Conference, submitted a statement which said in part:

CSO supports expedient development of oil and gas resources on the Outer Continental Shelf by private industry. The coastal states insist that they be involved in a substantive way early in development of leasing plans and in environmental and coastal management studies which would precede leasing. The states should also receive a portion of the revenues of OCS development to offset the costs of providing services needed to support offshore activity.

(The organization subsequently has come to support the Committee's approach of using general revenues rather than OCS proceeds as the source of financial assistance to the states.)

The National Governors' Conference in a policy statement adopted on February 20, 1975, by an almost unanimous vote, states the following:

The Governors believe it is in the public interest to promptly explore the OCS to determine the extent of energy resources that exist.

Development, production, transportation and onshore facility plans should be submitted for approval to the Department of the Interior, but only after the potentially impacted states have reviewed such plans in order to ensure consistency with state coastal zone management plans and other applicable state statutes and regulations.

The Governors believe that any OCS program will have substantial financial impact on affected states. Anticipated onshore development will require States to plan for and eventually finance public facilities to cope with the impact of that development. Since the OCS program is a national one, we believe there is a clear federal responsibility to assume the necessary related costs of that development. Adequate federal funds should be made available now to States to enable them to stay ahead of the program and plan for onshore impact.

Once the program commences, provisions should be made for federal assistance such as the application of federal royalty revenues to affected coastal and adjacent states in compensation for any net adverse budgetary impacts and for the costs of fulfilling state responsibilities in the regulation of off and onshore development.

Confirmation of the Governors' statement that they will face net revenue losses as a consequence of offshore energy activity has come from a variety of sources, including the Office of Management and Budget. While its estimates are markedly lower than other surveys, it conceded that state and local governments will have to invest \$100 to \$300 million in Alaska and along the Atlantic Coast due to OCS operations. A private consulting firm, Energy and Environmental Analysis, Inc., put the total public investment costs at \$5.2 billion by 1985 for all types of energy developments. The maintenance costs were estimated at an additional \$4.2 billion for the same period.

Testimony from both industry spokesmen and environmental organizations agreed with the basic aim of H.R. 3981 in providing assistance to affected state and local governments.

Robert Bybee, operations manager of the Exploration Department of Exxon, Inc., told the Oceanography Subcommittee:

Exxon believes that adjacent coastal states and areas will be impacted by OCS activities but that the impact is not necessarily adverse. Nevertheless, these areas should rightfully share in the revenues resulting from OCS activities. The concept of "OCS impact" is difficult to translate into practical terms. Exxon believes it is more appropriate that citizens in adjoining states participate in the benefits of OCS development through revenue-sharing on the basis of dividing with the coastal states a part of that income derived from the OCS opposite that state.

Although not revenue-sharing, essentially this is what the Committee has provided in the automatic grant portion of the Coastal Energy Impact Program (section 308(a)).

Testimony from the Environmental Policy Center of Washington, D.C., stated in part:

We support the approach taken in H.R. 3981 which provides for grants through the existing coastal zone management program. The money is needed for both planning for the impacts of OCS development and for direct compensation for the impacts which state and local communities must suffer, as a result of the development.

The Center gave basic support to a tailored impact program where the compensation would be related to the actual impacts felt. This is the approach contained in the second part of the impact program contained in H.R. 3981 in section 308(b).

H.R. 3981 contains a third type of assistance for states and coastal areas directly affected by OCS operations. Under section 319, local and state bonds issued to provide public services and public facilities made necessary by OCS activity will be backed by the federal government.

The provisions of this portion of the bill were strengthened meas-



urably through the efforts of Mr. Dingell of Michigan. By his amendment, which was adopted, the Committee added specific dollar limits to the bond guarantee program which makes it a more fiscally responsible vehicle for aiding affected local and state governments.

It is the judgment of the Committee that the program developed in this bill—annual OCS payments, planning grants for all types of energy facilities, impact grants for coastal-related energy activities and federally guaranteed state and local bonds—is clearly in the national interest because it goes a long way to meeting legitimate state and local government concerns.

With the assistance provided in H.R. 3981, the country's effort to develop the petroleum resources off our coasts should proceed more smoothly. The Committee notes that law suits and restrictive state permit controls on such necessary facilities as pipelines have been threatened. The Committee views these threats in part as expressions of frustration on the part of the state and local governments—frustration over not having their views accorded what they regard as proper attention.

By providing the assistance which H.R. 3981 contains, the federal government will be making the kind of response the states and local communities have requested. In so doing, this legislation will be a major aid in permitting an accelerated program of offshore oil and gas resource development to move ahead cooperatively and responsibly.

We view this as a significant contribution to the Administration's overall energy program and hope that the Administration will support this measure.

We cannot insist too strongly our view that an energy impact program dealing with coastal areas must be tied to the coastal zone management programs being prepared now by the states, together with affected local governments. OCS impact planning, for example, is already proceeding as a result of the initiative of the President to provide special OCS planning grants.

To undercut this most promising cooperative program among the three basic levels of government by administering an energy impact program in the coasts through another department or agency will be inimical to the public interest. If we, working together, can see to it that the coastal zone management program succeeds, we may well be setting the pattern for how this country manages its resources in the future.

In the Committee's view, that is what is at stake in the consideration of H.R. 3981.

## II. OTHER PROVISIONS OF H.R. 3981

The Committee has concluded, based on the extensive hearings and consultations conducted by the Oceanography Subcommittee, that the time is appropriate for major changes and additions to the basic Coastal Zone Management Act passed in 1972.

We have been aided in this work by the hearings held around the country by the Ad Hoc Select Committee on (the) Outer Continental Shelf. The focus of many of the presentations made to that group by public officials and various interest groups was on the importance of state coastal zone management efforts. Since many of the members of that select body serve on the Merchant Marine and Fisheries Com-

mittee, as do a number of the staff personnel, the work of the two bodies has been closely coordinated and mutually beneficial.

a. The Committee has made extensive alterations to the basic funding mechanism of the Coastal Zone Management Act, section 305. Under this provision, 33 of the 34 eligible states and territories are now developing their coastal programs. The federal government provides two-thirds matching money for up to three years under the present law.

Based on the testimony of a number of state representatives, the Office of Coastal Zone Management, and such outside groups as the Coastal Zone Management Advisory Committee, the Committee has made a number of changes to section 305.

Because the present authorization expires at the end of fiscal year 1977, the authorization was extended to September 30, 1979, and states are given a fourth year in which to do program development work.

This two-part extension of the section 305 authority is necessary for three reasons. First, the present program development work has been found by the states to be challenging and time-consuming. One of the problems coastal zone state program managers experienced was a lack of readily available qualified personnel. This served to delay a number of states in getting their programs underway immediately. (This problem is dealt with directly in the new section 310.)

For this reason alone, a fourth year seemed to the Committee to be warranted, particularly when the present Act requires a state to have completed its program development within that time period.

The Committee has added three new planning requirements to the six elements which states now must include (see section 305(b) of the Act). Because of the major impact which energy facilities will have on the coasts, as discussed in the previous section of this Report, the Committee has added an energy facility planning component. States are required to develop a planning process for energy facilities (broadly defined) and a process for planning and managing the impacts from such facilities.

Together with the impact fund, this requirement insures that energy siting in the coastal areas will be considered as part of an overall assessment of coastal resources and not in isolation. The Committee feels that this combination of a planning process with the impact program in H.R. 3981 is a key element in the bill.

The other two new 305 program requirements are to provide a planning process to provide access to and protection for public beaches and other public coastal areas, and to control the effects of shoreline erosion in states where this is a major problem.

Access to public beaches and other attractions in public ownership in the coasts has come to be identified as one of the critical problems facing local and state governments. As William Marks, Chief, Water Development Services Division, Bureau of Water Management, Department of Natural Resources, State of Michigan, stated to the Committee:

The inclusion of a greater emphasis on the importance of islands and beaches, and the concomitant availability of additional funding for such purposes, is commendable.

In Michigan, where nearly 80 percent of the shoreland is in private ownership, the establishment of adequate public access to beaches, and the preservation of island and beach areas of environmental, recreational, and esthetic value, is an ever-increasing problem.

The Committee position is that action is needed now to help provide the needed access, especially in urban areas, and that to wait will only mean additional expense to the taxpayers. The key again is that the purchase of such access, as is provided in the addition to section 315 (redesignated) be tied to a comprehensive plan. That is the intent of this new requirement under 305 program development—that all such purchases fit into an overall program for each state.

The erosion provision, introduced by Congressman Philip Ruppe of Michigan, is particularly important to the Great Lakes States where the issue has been demonstrated to be one of if not the most pressing questions facing the area.<sup>3</sup> Nationwide, the annual damage estimate from shoreline erosion is \$300 million. What H.R. 3981 does is to damage estimate from shoreline erosion is \$300 million. What H.R. 3981 does is to require states to come to grips with the problem and establish a strategy for dealing with it. And once again, H.R. 3981 would fit whatever course is chosen by a given state into the overall program it devises for its coastal resources in general.

A major addition to section 305 adopted by the Committee and introduced by the Chairman of the Oceanography Subcommittee, Mr. Murphy, contains the recommendation of the Office of Coastal Zone Management in NOAA that a "preliminary approval" phase be provided between the section 305 program development phase and the section 306 management phase which follows federal approval of a state program. The principal reason for introducing this interim phase is to allow states time to implement or fully perfect programs. For instance, a state may submit a program with proposed legislation which will be necessary to meet the requirements of the Act that sufficient authority to implement be demonstrated. The state's legislature might meet only in alternate years and the next session could be a year off. Therefore, this particularly state program cannot receive final approval and funding under the 306 portion of the Act. At the same time it may have exhausted its time under 305 (extended by H.R. 3981 to four years).

The solution is the "preliminary approval" provision in section 305 (h). This will allow the Secretary of Commerce to approve the state programs where the state has developed a fully approvable program and action is underway to bring the program into being. Funding could continue so there is no interruption in the state coastal zone management effort through September 30, 1979. This is accomplished by removing the four-year limitation on a state which has achieved the "preliminary approval" stage.

States, in effect, are given four years to come up with a program design that meets the requirements of the Coastal Zone Management Act. Most states, since they began their program development in fiscal year 1974, would then have another year or two to fully implement their programs and, hence, merit final approval and passage to the 306 management funding phase.

<sup>3</sup> For a more complete discussion of this problem, see Appendix II.

Because of the increased demands which this portion of H.R. 3981 presents to the states, the Committee has agreed with the suggestion that the federal percentage be increased to 80 percent. This brings the matching ratio in line with other federal planning assistance programs such as the 701 program of the Department of Housing and Urban Development. Many states testified to the increasing difficulty of coming up with the one-third matching share, given the extreme financial hardships facing many states. Since a program such as the coastal zone management effort may not appear to bring immediate results, it unfortunately is the type of activity susceptible of cuts in budget curtailments. The Committee feels that the ultimate importance of coastal zone management cannot be underestimated and wants to demonstrate its belief by providing this higher federal share.

As an aside, the increased percentage may well allow the one missing entity to participate. American Samoa has told officials at NOAA that it is not taking part now because it is unable to raise the one-third matching sum.

It is because of the new requirements under section 305 that the Committee has raised the authorization from \$12 million per year to \$24 million. In the original version of the bill, the sum recommended was \$20 million. The Oceanography Subcommittee accepted Congressman Ruppe's suggestion that erosion planning be added to section 305 requirements. The Committee therefore increased the sum available to \$24 million; while there is no "earmarking" intended of this last increase of \$4 million, it does give some measure of the seriousness with which the Committee regards the erosion problem, particularly in the Great Lakes.

b. As stated above, the experience in a number of states in the coastal zone program has been that the managers were unable to locate readily qualified personnel. They found a lack of persons with the training in both planning processes and the marine field.

The Committee has remedied this situation by the Coastal Research and Technical Assistance provision (new section 310). Under it, \$5 million per year is authorized for direct 80 percent grants to the states for short-term research needs and for the training needed to obtain the necessary personnel.

Another \$5 million is authorized for the same basic purposes to be spent by the Office of Coastal Zone Management directly. The idea here is that there may be national or regional research or training needs which NOAA can support, while the states would have assistance in meeting their own particular needs.

In the research area, state programs have found their needs to be immediate, in view of the short time schedule they are on. For example, states need answers right away to identify areas of particular concern or to determine uses that directly affect the coastal waters (as required by section 305). In order to obtain this information through a university research program might require considerable lead time for such a project to fit into the ongoing research activities.

Therefore, the Committee concluded state program managers need an independent authority to acquire the data they need on a short-term basis to help them meet the requirements of the Act. This need will remain even with the addition of a year and the new "preliminary approval" phase in section 305.

As is pointed out in the Key Provisions section, the National Advisory Committee on Oceans and Atmosphere identified research needs as critical to the formulation of sound coastal management programs. The existing Act has no specific provision for the funding of needed research which has forced state program managers to use their grants and matching state funds as best as they have been able in this area.

The Chairman of the Coastal States Organization, Texas State Senator A. R. Schwartz, testified as follows:

I support (section 310) and am familiar with Sea Grant, the RANN (Research Applied to National Needs) program of the National Science Foundation and the mission-oriented research programs and various federal agencies. However, none of this was developed for the purpose of providing very quick turnaround applied coastal research. Such a program is needed to complement and not compete with or attempt to replace other existing research programs.

Stated a representative of the Center for Law and Social Policy:

The provisions of the proposed section 310 appear to be altogether constructive. Federal research, study, and training to support the development and implementation of state coastal zone management programs should enhance their quality and maximize their effectiveness. Similarly, grants to states to assist them in carrying out research, study, and training would be valuable.

The Committee has added a special feature to the research and training authorization at the suggestion of Congressmen Robert Bauman and Thomas Downing. This section, 310(c), authorizes a review of the shellfish industry. Included would be an evaluation of water quality regulations, the effectiveness of the existing shellfish sanitation program, existing sanitation standards and ways of preserving and upgrading shellfish harvesting areas.

While this report is in preparation, with a deadline of June 30, 1977, no federal regulations dealing with shellfish are permitted. The impact of this provision is to forestall the Food and Drug Administration from promulgating proposed shellfish industry regulations which it has under consideration. The Committee was persuaded that, because of the potential impact of these proposed rules, a detailed study of the shellfish industry and the impact of the new rules was in order. The public is no way threatened in the meantime because the voluntary sanitation program which has a successful record for many years in protecting public health remains in effect.

c. Another new provision which the Committee has added to the Coastal Zone Management Act provides incentive funding for interstate cooperation and advance approval by Congress for states or regions to enter into compact arrangements to deal with coastal zone issues.

The basis for this provision, contained in new section 309, is found in the experience to date with the state programs. Because the problems facing each state in developing its own comprehensive approach to its coastal zone is such a formidable task, all the resources made available through the coastal zone program have been put to use within

state borders. As was noted above, states have also found they could use additional money with which to finance necessary research or with which to train personnel.

For this reason, there has not been as much interstate or regional cooperation as the Committee or the states themselves would like to see. Despite the authorization in section 305 (g) that interstate bodies, among others, be used to prepare programs, this basically has not occurred. Some instances of regional cooperation among independent state programs have occurred, it should be noted, as in the Great Lakes where workshops have been held, regional problems examined and visits by state program personnel conducted.

Because many of the most important coastal problems in areas such as New England, the mid-Atlantic and the Great Lakes are so obviously interrelated and do not respect state boundary lines, the Committee provides a specific authorization for interstate funding.

Under this provision, 90 percent grants may be made to support interstate coordination, study, planning or for actual implementation. The permission of Congress for the states to form compacts for these purposes is expressly given, with the requirement that the activities be pursuant to sections 305 and 306 of the Act.

Additionally, the Committee feels strongly that Federal agencies must be a party to effective interstate or regional cooperative efforts among state and local units of government. Therefore, in section 309 (c) the Committee encourages specified federal agencies to cooperate with any interstate bodies established under this new section when requested to do so. The Committee would add that it feels it essential that the interstate programs involve the relevant Federal agencies and trusts that this cooperation will be sought early in the development of programs crossing state lines.

Because it may take time to negotiate formal interstate compacts or agreements, the Secretary is authorized to make grants to temporary coordinating bodies. A five-year limit is placed on this provision so that the "temporary" bodies do not tend to become permanent.

d. The Committee has made three major changes in the 306 or the administrative grant portion of the Act. First, the federal matching share is raised to 80 percent to bring it into conformity with the increase authorized for section 305 funding. The authorized amount of funding in this all-important phase of the program is raised from the present \$30 million level to \$50 million.

The latter increase is a reflection of inflation in part, but also recognition by the Committee that implementation of coastal management programs is going to be a complicated matter requiring skilled personnel in the responsible state and local offices. In addition to the technical aspects of administering a complex program, these persons will be required to deal effectively with affected local units of governments, other state agencies, federal officials, the general public and the media, for instance, to explain the purposes and functioning of the program. Therefore, the Committee felt a larger authorization is required. By this increase, the Committee further underscores the importance with which it regards the operational phase of this program.

A new provision adopted by the Committee at the suggestion of Mr. Lent of New York, appearing at the end of the section, is intended to protect the interests of local units of government. The coastal zone

program places basic responsibility with the state level of government. To preclude a state coastal zone agency from arbitrarily overturning local government land or water use decisions, the Committee has provided for a public hearing process to be made available to local governments.

The specific provision is that a state coastal zone management agency must notify an affected local unit of government (defined for this purpose as a unit with land or water use control powers) of any decision it makes. The local unit may call for a public hearing to be held on the decision, which the state is then obliged to conduct. Also, no decision is to be implemented until the hearing is held.

The intent here is to provide a balance between state and local prerogatives in the sensitive area of land and water use decisions. On the one hand the Act gives the state level of government the lead, working closely with the local governments in the coastal zone. This new provision allows local units a chance to have a public airing of any particular state decisions which impact its development pattern or other operations.

It is not the intent of the Committee that this provision is to be used capriciously in order to stymie a state coastal zone program. On seeing evidence that such is the case, the Committee will clearly want to reconsider this subsection or to build in restraints on the use of the public hearing provision.

What the Committee feels is essential is for state and local units of government to work together and to deal jointly with federal agencies involved so that the public interest is served by a united, coordinated governmental approach to the pressing problems of the coastal areas of this country.

e. The Committee has made an addition to section 307, the "federal consistency" provision, with the intent of clarifying the original intent of the Act. In view of the great concern in the states lacking experience with the offshore petroleum industry and which are now faced with same in various parts of the country, the Committee felt it desirable to clarify the coverage of this section to specifically include Outer Continental Shelf leasing.

This clarification is accomplished by the addition of the word "lease" to section 307(c) (3) making it read as follows: "After final approval by the Secretary of a state's management program, any applicant for a required Federal license, lease or permit. \* \* \*" The section goes on to require that the applicant certify that the activity complies with the state's approved management program.

By so doing the Committee wants to assure coastal states in frontier areas that the OCS leasing process is indeed a federal action that undoubtedly has the potential for affecting a state's coastal zone and, hence, must conform with approved state coastal management programs.

f. The Committee has made two alterations to the newly designated section 315 (former 312).

First, the title and coverage of the section is enlarged to become "Estuarine Sanctuaries and Beach Access," the latter provisions being new. The new subsection (b) authorizes the Secretary to make grants up to 50 percent to acquire access to such public areas in the coastal

zone as beaches, plus areas of environmental, historic, esthetic, ecological or cultural value.

This authorization complements the new requirement the Committee has added to section 305 for a beach protection and access planning process. Because time is of the essence in acquiring access, particularly in urban coastal areas, it was felt advisable at this time to accompany the planning requirement with the funds to carry out the plans.

The Committee does not intend to authorize purchase of lands for beaches or other public uses. The concern is that there are areas already in public ownership on the short which, for one reason or another, are not readily accessible to the public.

The Committee's further concern is that in providing the means of opening up this access, we do not overburden the resource. That is why the authorization for funds is tied to the planning requirement of section 305—the intent is to see to it that this expanded means of access fits into an overall recreational plan and that due care is given to protect areas susceptible of damage from excess use. The Committee believes that incorporating the expanded access authorization with a comprehensive program that includes designation of areas of critical concern offers this assurance.

The second change involving this section is an extension of the authorization for funding for the estuarine sanctuary program at \$6 million per year, the present level, through fiscal year 1980. This program, administered by the Office of Coastal Zone Management, has begun slowly—with just two designations of sanctuaries in two years—but hopefully will expand more rapidly in the coming months. In fact, NOAA reports that as of early winter, 1976, five additional applications for sanctuaries were pending and five additional proposals were anticipated. To date, just \$4 million has been appropriated for this program; the first two sanctuary grants have involved in excess of \$2.7 million, with an additional sum requested for the sanctuary in Oregon in the amount of \$610,000.

g. The Committee has added two requirements to the annual report on the conduct of the coastal zone program now required of the Secretary of Commerce. The new coverage would include a discussion of the impacts, social, economic and environmental, as a consequence of energy activity in the coasts and a description of the Interstate and regional mechanisms developed under section 309.

The Committee takes this occasion to express its dismay at the inability of the Department of Commerce and the White House to comply with the November 1 deadline for issuing its annual report. The first two such reports were not cleared by the White House until the spring following the November deadline. The same pattern is holding true for the fiscal year 1975 report.

The Committee and Congress are not interested in ancient history. A timely discussion of the coastal zone management program, issued on November 1, 1975, on schedule, would have helped this Committee in its deliberations this fall and winter on the coastal zone program. It is our understanding that the report has been ready since September but has failed to gain the necessary clearance.

h. The final major provision of H.R. 3981 provides an authorization of \$5 million instead of the current \$3 million for the administration of the Act. With the added responsibility given the program



through this bill, the additional sum seems modest. It reflects the Committee's desire to keep Washington bureaucracy to the minimum necessary to assist the states and local governments to carry out this Act.

The bill also raises the stature of the administrator of the program within the structure of NOAA to become the fourth associate administrator of that agency. At present, the coastal zone program is run by an assistant administrator under the civil service schedule. The new position requires a Presidential appointment and Senate clearance, thus providing the visibility and attention which is felt this activity deserves within NOAA and the Executive Branch. The Committee has high regard for the competence of the current operation of the Office of Coastal Zone Management and would urge that this new executive level position be filled with the present manager of the program.

### SECTION-BY-SECTION ANALYSIS

#### SHORT TITLE

This Act may be cited as the "Coastal Zone Management Act Amendments of 1975."

#### *Section 2: Amendments to the Coastal Zone Management Act*

This section amends the Coastal Zone Management Act of 1972 as amended as follows:

#### *Amendment to "Congressional findings"*

(1) Subsection (b) of the "Congressional Findings" provision (section 302) is amended to provide that the coastal zone is rich in ecological as well as the other resources listed in the subsection. The addition is also consistent with one of the purposes of the energy facility impact grants or payments provided in section 308, specifically that such grants or payments are to be used, in part, to ameliorate the unavoidable loss of ecological resources.

#### *Amendment to definition of "coastal zone"*

(2) The definition of "coastal zone" in section 304(a) is amended to add the word "islands" as an explicit component of its enumerated parts. This technical change is consistent with the original intent of the Act and simply makes explicit what is now implicit in the administration of the program.

#### *Amendment to definition of "estuarine sanctuary"*

(3) The definition of "estuarine sanctuary" (section 304(e)) is amended by adding the word "islands" to those research areas which are included within its boundaries. This is also a technical change which is consistent with the intent of the Act, but which was not made explicit in the original definition.

#### *New definitions added to Coastal Zone Management Act*

(4) Six new terms are added to the "definitions" section of the Act (section 304), five of which are directly related to the new section 308 providing for a Coastal Energy Activity Impact Program.

New subsection (j) defines "Outer Continental Shelf Energy Activity" and is used in three subsections of H.R. 3981. Section 308(a) (1) stipulates the six criteria on which the OCS payment proportions will

be based for each coastal state; the last two involve the number of persons directly employed in and the amount of onshore capital investment made necessary by "outer continental shelf energy activities." Section 308(a)(4) specifies the purposes for which the OCS payments may be used by the recipient states and, in this regard, makes reference to the provision of public services and public facilities or the amelioration of the unavoidable loss of ecological or recreational resources resulting from "Outer Continental Shelf Energy Activity." Section 319(b) stipulates that the Federal government may guarantee bonds or other evidences of indebtedness issued by state or local governments when the revenues which accrue from such issuance are to be used for public services and public facilities made necessary by "outer continental shelf energy activity."

The first part of the definition makes reference to the exploration, development or production of oil and gas resources from the Outer Continental Shelf. "Outer Continental Shelf" refers to those lands lying beyond state territorial waters owned and managed by the Federal government as defined in the Outer Continental Shelf Lands Act of 1953<sup>4</sup> and reaffirmed by *United States vs. Maine, et al.*<sup>5</sup>

The term "exploration" refers to the process of searching for OCS oil and gas, including geophysical surveys and the drilling of exploratory and delineation wells. "Development" means those activities which take place following the discovery of oil and natural gas and are designed to produce such resources. "Production" refers to those activities which take place after the successful completion of a development well and are designed to transfer the resources to shore for commercial use.

Energy facilities made necessary by outer continental shelf exploration or development are also included within the definition. The types of facilities involved are specified in the next definition (k) with the qualification in (j) that they be "made necessary" by OCS activity. In other words, a refinery which may be located or operated in the coastal zone and which does not process oil or gas from the outer continental shelf would not be included within this definition. The criteria for determining whether a particular facility is "made necessary" by OCS exploration or development should be specified by the Secretary of Commerce when he promulgates regulations for the administration of the amendments to the Coastal Zone Management Act. It is the intent of the Committee that the main purpose of the location, construction, expansion, or operation of the facility should be to support or facilitate OCS exploration or development. If a facility specified in subsection (k) is only partially used for OCS activity, grant payments should be made on the basis of proportional calculations to the extent such facility engages in operations made necessary by OCS activity.

New subsection (k) defines "energy facilities." This definition is applicable to four subsections of H.R. 3981. Section 305(b)(8) adds an energy facility planning process of the program development work

<sup>4</sup> Section 2(a) of the Outer Continental Shelf Lands Act (Chapter 345, U.S. Code, Public Law 212) defines "outer continental shelf" as all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, 83rd Congress, first session, 43 U.S.C.A. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

<sup>5</sup> 420 U.S. 515 (1975).

of the states. Section 306(c) (8) of the Act is amended by adding the requirement that in considering the national interest in the planning for and siting of such facilities as energy facilities, a coastal state must give consideration to any energy plan or program developed by an interstate entity which is established by section 309. Section 308(b) (1) authorizes planning grants to the states to study and plan for the socio-economic and environmental effects of energy facilities which are located or operated in or which will significantly affect the coastal zone. Finally, Section 318 (Limitations) restricts any Federal official from interceding in state land or water use decisions including but not limited to the siting of energy facilities.

Two types of energy facilities are contained within this new definition. First are those which are or will be directly used in activities designed to extract and produce oil and gas resources. Second are facilities which are or will be used "primarily for" the manufacture or production of facilities which will be "directly involved" in oil and gas extraction and development activities. A number of such facilities are enumerated in the definition but the enumeration is not exclusive.

Through the rules and regulations promulgated to carry out these amendments, the Secretary of Commerce should establish more specific criteria on how such terms as "used primarily" and "directly used" will be implemented. It is the intent of the Committee that the energy facilities included within the definition should be those which are actually engaged in oil and gas extraction, conversion, storage, transfer, processing, or transporting. Additionally, the facilities used for the manufacture production or assembly of equipment directly involved in energy resource extraction or production must affect a "substantial" geographical area or large numbers of people. Again, the precise determination of this must be made in the Commerce Department's regulations. If a facility is only partially used for the purposes stated in the definition, proportional calculations about the impact of such a facility should be made in the determination of a grant under section 308(b).

New subsection (1) defines "public facilities and public services." Direct reference to public facilities and public services is found in the definition of "net adverse impacts" in section 304(n), the automatic OCS payments in section 308(a)(4) (A) and (B), and in the state and local bond guarantee provision in section 319(b). By reference, the provision of these facilities and services is included within the subparagraph authorizing the allocation of OCS payments to local governments in section 308(a)(7), the impact grants based on net adverse impacts authorized in section 308(b)(2), and the allocation of such impact grants to local governments in section 308(f).

The definition means any services or facilities financed either entirely or partially by state and local governments. A number of such facilities and services are enumerated but the list is not exclusive. Other facilities and services, for example those related to environmental consequences of energy activity, are to be included if they are necessitated by population increases resulting from energy resource extraction or production activity or required to facilitate energy resource development.

New subsection (m) defines "local government" as a political subdivision of a coastal state if the subdivision has the authority to levy its own taxes or if it provides any public service which is financed in whole or in part by taxes.

New subsection (n) defines "net adverse impacts" and was contained in a substitute amendment proposed by Representatives Murphy and du Pont and accepted by the full Committee during markup. This concept had not been defined in the Senate Bill (S. 586), nor in the original version or the September 29 or October 18 Committee Prints of H.R. 3981. Because of the importance to the administration of the impact grants under section 308(b) and some confusion which surrounded it, the Committee felt it appropriate to specify this concept.

Essentially, net adverse impacts occur when the beneficial consequences of a "coastal energy activity" (defined in subsection 304(o)) are outweighed by the economical or ecological costs of such an activity. This cost-benefit calculation is to be made only on activities which occur in or significantly affect a state's coastal zone, only on consequences which are directly related and in the same general location and according to the administrative criteria specified in section 308(c).

In terms of the comparability of the consequences, it is important to note that the phrase in the definition "when weighed against the benefits of a coastal energy activity which directly offset such costly consequences" is intended by the Committee to preclude the consideration of some distant benefit in the state as an offsetting variable against a localized cost.

Two examples of net adverse impact calculations are included in the definition. First, additional or expanded public services or public facilities which are required because of coastal energy activity-induced rapid and significant population changes or economic development would be the "costs" in the net adverse impact calculation. The generation of taxes through the state and local government's usual and reasonable revenue raising structure—taxes which will accrue from the population changes or economic development<sup>6</sup>—would be the "benefits." The availability of other Federal funds which could be used to offset the costs, including the OCS payments authorized in subsection 308(a), would also be considered benefits. The extent to which the "costs" exceeded the "benefits" would constitute a net adverse impact.

Second, another cost would be the unavoidable loss of unique or unusually valuable ecological or recreational resources as a result of coastal energy activity. This is intended to include not only existing resources of this nature but also those ecological or recreational areas of potentially unique value which could be endangered by the location and operation of energy facilities. In fact, it is hoped that existing ecological or recreational areas will, to the maximum extent possible,

<sup>6</sup> The Committee added the phrase "economic development" during markup to reflect its belief that no one economic indicator, such as population change, adequately measures the subtlety of impact. The Committee was concerned that the use of population as the sole criterion would overlook the considerable amount of governmental services rendered to industry itself: the fact that such services to industry and individuals might not take place in the state of the individual's residence; the relative governmental expense of serving capital intensive energy activities with roads and canals and port facilities; and the evidence from the Gulf of Mexico that the demand for governmental services is not diminished merely because population is not changing. Additionally, since the Committee did not intend that the Secretary engage in criticism of the tax structure adopted by any State, it has prefaced the terms "usual and reasonable means of generating state and local revenues" with the word "its".

be protected from the adverse effects of coastal energy activity and that comparable replacement areas will be provided for areas unavoidably damaged.

The "benefits" would be the same as those explicated above. It should be noted that additional state and local revenues which accrue from taxes because of coastal energy activity may not be sufficient to provide the funds necessary for restoration or replacement of ecological or recreational resources. In the absence of other federal funds, including the OCS payments, to cover these "costs" a net adverse impact would result. If only part of the restoration or replacement costs are covered by other federal programs or the OCS payments, the residual "costs" would also be considered net adverse impacts.

Finally, it should be noted that subsection (n) is the definition of a concept which has been included in H.R. 3981 to assist the Secretary of Commerce in drafting regulations pursuant to this bill. For purposes of administering the impact grants authorized in section 308 (b), however, the definition of net adverse impacts should be read only in conjunction with the administrative criteria specified in section 308(c).

The final new definition, subsection (o), defines "coastal energy activity". Coastal Energy Activity is distinct from "Outer Continental Shelf Energy Activity" (defined in subsection 304(j)) in that it is broader and contains most OCS-related activity within it. Subsection (o) is applicable to the impact grants authorized under subsection 308(b) and to other appropriate subsections providing the details for the administration of those grants.

"Coastal Energy Activity" means those activities and associated facilities that are necessarily located in or are likely to affect significantly the coastal zone of a state. They are limited to three particular types of energy activities and certain specified supporting equipment and facilities which are included. If a particular facility is not enumerated in the list, it is not to be included within the definition unless the coastal state affected determines that the facility has to be located and operated in its coastal zone because of technical requirements which would make such a siting unavoidable.

The second type of energy facility included relates to the transportation of liquefied natural gas (LNG), coal, or oil (whether from the OCS or not). Specifically, vessel loading docks, terminals, and storage facilities required to transport these energy sources are contained within the definition as well as conversion facilities necessarily associated with LNG processing. Finally, deepwater ports and those facilities directly associated with such ports are included. The ports are defined in the Deepwater Ports Act of 1974 (P.L. 93-627); consequently, they include only those located beyond state waters. Associated facilities including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances located seaward of the high water mark are also included within the definition and would be located in a state's coastal zone.

It has been noted above<sup>7</sup> that the concept of "coastal energy activity" is based on the premise that the activity involved is in the national interest and that the state is facilitating that interest by permitting

<sup>7</sup> See Summary of Key Provisions, page 17.

certain activities and facilities to occur in its coastal zone, such activities being "coastal-dependent". In other words, the activities and associated facilities enumerated in the definition were considered by the Committee to be those which, by their very nature or technical requirements, mandate their location and operation in the coastal zone.

The development of this concept in conjunction with the definition of "net adverse impacts" represents the Committee's desire to achieve four difficult but essential goals in the impact program (as distinct from the OCS payments section): First, the provision of assistance to coastal states for their role in furthering the national interest in energy-related policy development; second, the provision of a level of such federal assistance which is commensurate only with those situations in which "costs" exceed "benefits"; third, the preservation of the comprehensive nature of the Coastal Zone Management program and the maintenance of the important planning groundwork already accomplished by the states in their program development work; and fourth, the avoidance of federal financial inducements to locate and operate unnecessary energy facilities in the fragile coastal zone.

The bill which passed out of the Oceanography Subcommittee on October 8, 1975, contained an impact fund which was OCS-specific. Although the authorization level was considerably different, the impact fund in the 2nd Committee print was essentially the same as section 308(a) in the bill which was approved by the full Merchant Marine and Fisheries Committee.

After intensive study and deliberation, however, the Committee concluded that to limit the types of energy activities for which federal assistance would be provided to only those related to OCS exploration and development would hinder the achievement of its four goals. An OCS-specific program based on a formula method of distribution, while possessing certain administrative advantages, would not provide federal assistance for all possible coastal related energy activities sanctioned by the federal government in the national interest and thus would deny aid to coastal states for their full contribution to energy-related policy development.

Such a restricted program, standing alone, would not address itself to non-OCS coastal-dependent energy activities which would be in the national interest and which would inevitably place severe pressures and perhaps incalculable costs on coastal states.

Additionally, the allocation of federal funds based on six levels of OCS activity, is simply not as precise a mechanism for providing only "necessary" assistance.

Thirdly, it was felt that to focus on only one type of energy activity would help to fragment what was intended to be a comprehensive management program for the states.

The fourth goal presented a more serious dilemma for the Committee. To reduce the encouragement of unnecessary energy facility siting in the coastal zone was clearly an advantage of the OCS payments approach. Structuring a program to provide assistance for all types of energy activities and facilities located in the zone raised difficult questions about its potential for inducing inefficient siting decisions.<sup>5</sup> To resolve this issue, the Committee developed the concept of "coastal energy activity."

<sup>5</sup> For a fuller discussion of "optimal" energy facility siting decisions, see "Energy Facility Siting in Coastal Areas," pp. 125-126.

Based on the premise of coastal-dependency, this definition excludes oil refineries, petrochemical plants, and electric generating plants since they do not have to be in the coastal zone and might better be located elsewhere in most cases. It also provides a detailed list of the Outer Continental Shelf support activities which would be covered, to avoid possible absurd links in the supply chain that might result in impact aid being provided for a plant making items which are used for OCS development even though most of the company's business involves manufacturing these items for other purposes.

With this approach, then, the Committee feels that it has achieved the four goals for the impact fund section. Impact grants based on the concept of net adverse impacts and coastal energy activity in combination with the OCS formula method provides, in the judgment of the Committee, the most reasonable and efficient structure for a Coastal Energy Activity Impact program.

*Three new planning processes for section 305*

(5) This section adds three requirements to the program development authorization under section 305. To the six existing requirements in subsection (b) for state management programs, the following elements are added:

In subsection 305(b)(7), a definition of how each state defines "beach" is called for recognizing that different methods of measuring the beginning point of beaches varies in different sections of the country, and a planning process is required for the protection of such beaches and provision for public access thereto, as well as planning for access to and protection of other public attractions in the coasts such as areas of environmental, recreational, historic, esthetic, ecological or cultural value.

The Committee wants, by this requirement, for state coastal zone management programs to identify their publicly held coastal areas and to devise policies which will either provide for their protection, where that is appropriate as with ecologically significant wildlife areas, or for their ready access, as is appropriate with a public beach. Whereas the present management programs must include an inventory and designation of "areas of particular concern," this new requirement focuses particular attention on publicly held properties and directs that plans for their best management be included in the state program.

In subsection 305(b)(8), the Committee has added the requirement that an energy facility planning process be included in state management programs. This reflects the Committee's finding that increasing involvement of coastal areas in providing energy for the nation is likely, as can be seen in the need to expand Outer Continental Shelf petroleum development. State coastal zone programs should, therefore, specifically address how major energy facilities are to be located in the coastal zone if such siting is necessary. Second, the program shall include methods of handling the anticipated impacts of such facilities. The Committee in no way wishes to accelerate the location of energy facilities in the coasts; on the contrary, it feels a disproportionate share are there now. For those facilities which necessarily will be in the coasts, however, a specific planning process for siting such facilities and dealing with their socio-economic and environmental impacts is desired. There is no intent here whatever to involve

the Secretary of Commerce in specific siting decisions. This process differs from the more site-specific planning for which assistance is authorized in section 308(b)(1). In fact, the latter activity should be carried out under the general guidelines developed in the section 305(b)(8) program development activity.

The third new program element is a planning process dealing with shoreline erosion. As assessment of the effects of erosion, whether natural or caused by human intervention, methods of controlling erosion, lessening its impact and, where possible, restoring eroded areas shall be evaluated. The Committee has found that shoreline and coastal erosion is one of the major problems facing many states and wants to insure the proper emphasis is placed on this area in development of state management programs.

In all three instances, the Committee is not bringing brand new considerations into state and local coastal zone program development. All of the elements involved in the new subsections 305(b)(7), (8), and (9) were implicit in the coverage of presently ongoing coastal planning efforts.

Rather, the new requirements represent a decision by the Committee to give specific emphasis and support for these areas in question. It is clear from the history of the original Coastal Zone Management Act that energy facilities were very much on the minds of the framers of the Act, for instance. With the development of the energy crisis, this focus has increased and the Committee's action with respect to subsection 305(b)(8) reflects this. Much the same can be said for the other two new requirements under the Management Program Development Grants authorization.

While these additional planning requirements do not involve totally new considerations for the states, they do require additional work to qualify for matching funding under this section of the Act. Therefore, subsequently in the bill the Committee recommends an increased authorization level for section 305.

*Increase Federal share and number of annual grants under section 305*

(6) Section 305(c) would increase the maximum federal share of development grants from the present 66 $\frac{2}{3}$  percent to 80 percent. In addition, a coastal state would be eligible to receive four developmental grants rather than the three presently authorized in the Act. The increased federal support was considered necessary to provide the coastal states with adequate financial assistance to develop coastal zone management programs expediently. It was recognized that the accelerated outer continental shelf leasing program will place additional burdens upon the states which could be more adequately dealt with through the use of responsible and comprehensive coastal zone programs. It is in the national interest to avoid any further delays in the offshore leasing and development program and, at the same time, develop a plan which would effectively protect the affected coastal states. The Coastal Zone Management Act is designed to accomplish this objective in a rational manner, and increased financial participation by the federal government will serve to reiterate the basic intent as expressed in the Congressional Findings section.

The amendment would permit the states to receive four rather than three planning grants, recognizing that the development of compre-



hensive state program is a difficult process requiring a reasonable amount of time. Since the Administration delayed initial funding of the Coastal Zone Management Act of 1972 by one year, an additional year of development time is considered essential.

This amendment would also delete the second sentence of section 305(c) which pertains to the use of other Federal funds received by a state as part of a state's matching share. It should be noted that while this particular language is deleted from this section, an additional amendment (section 320(c)) would have the effect of applying this provision to the entire title. Therefore, section 305(c) was amended to avoid redundancy.

*Schedule for completion of new section 305 requirements*

(7) The Committee has recognized that the addition of three new requirements under section 305 funding comes when many states are well along in development of their coastal management programs and are already to submit them for approval and funding under section 306. In this section, it is provided that states in such situations, through September 30, 1978, may receive final approval of their programs even if development of the policies called for in subsection 305(b) (7), (8), and (9) are not complete.

Likewise, in subsection 305(d) (B), the Committee provides that funding for program development in these three specific new areas may continue, through September 30, 1978, even though a state may be receiving funds under section 306 to administer the other portions of a state program. The Committee feels that the time given between final enactment of this bill and September 30, 1978, should be sufficient to prepare the materials called for in the three new planning requirements and to submit them for final approval and inclusion in a management program administered under section 306.

To make clear its intent that the three new requirements mandated under the additions to section 305 are included in the administrative grants section of the Act, in section 13 the Committee added as new requirements for approval under section 306, subsection (i) that to be eligible for funding after fiscal year 1978 a state must include as an integral part of its program the plan for protecting and providing access to public attractions in the coasts, the plan for energy facility siting and for dealing with the impacts therefrom and the plan for shoreline erosion impacts.

In addition to requiring the three new elements in coastal management programs, the Committee has effectively set a deadline of September 30, 1978, for their completion and has provided the funding authorization to make this possible.

*"Preliminary approval" amendment to section 305*

(8) This section contains a major addition to the structure of the coastal zone management program. The language was adopted by the Committee after close consultation with the Office of Coastal Zone Management and directly reflects the experience of that office and the states in carrying out the intent of the Act passed in 1972.

That Act provided a two-step process. First, under section 305 funding, states were to develop their comprehensive coastal zone management programs for final approval by the Secretary of Com-

merce and upon receiving same, be eligible for funding under section 306, the "Administrative Grants" section.

Essentially, then, in the present Act there is a three-year development phase and then, immediately, an administrative phase.

Experience in the states indicates that it is unrealistic to think that many of the states can complete the required actions called for in their program within the three-year deadline. The Committee finds that the states can design a comprehensive program in three, or perhaps four, years—that is, they can describe in detail what their completed program will contain. It is not likely, however, that the states can accomplish, that is, fully implement the program that it has designed and developed, in just three years or even four.

Specific examples of what the Committee has found are as follows: states may be able to describe the legislative authority they need in order to meet the requirements under section 306 to have an appropriate program, and to draft a bill carrying this out, but not be able to enact same within the period specified. This could be because the legislature meets only every two years or that the process is simply too complicated to accomplish in a matter of months.

Another example is where a state program will call on local units of government to prepare their own coastal programs in accordance with the state guidelines. However, one or even two years may be required for these units to carry out their work. Still another example would be in a state where reorganization within the executive branch will be required before a program can gain approval and funding under section 306. Because of the controversial nature of such reorganizations, it is likely to require a considerable length of time to fully implement.

The solution proposed by the Committee is an interim phase between section 305 (program development) and section 306 (program administration) which is the implementation phase. New subsection 305(h) authorizes the Secretary to grant "preliminary approval" to state management programs which, in their design and description, are satisfactory; in other words, a state will be found to have complied with the existing requirement of section 305. By specific provision, this new subsection removes the new four-year limit on grants which states may receive under section 305 *if*, and only if, they meet the requirements stated in this subsection for "preliminary approval."

The Committee is persuaded that granting states "preliminary approval," which means that the program they have put together on paper is satisfactory once put into place, will provide far more encouragement to the states than a mere one-year extension of section 305 funding.

Furthermore, it will permit as many as two additional years of funding under section 305 after a program is developed. This is accomplished by allowing such funding through fiscal year 1979.

The Committee feels strongly about the 1979 deadline. In removing the four-year limitation for states which meet the "preliminary approval" criteria, the Committee has no intention of allowing states to come to the Office of Coastal Zone Management year after year for more funds with which to implement their program design. Therefore, it should be understood that the fiscal year 1979 deadline is final.

The reason for stating this emphatically is because the Committee

intends under this subsection to allow states to put into effect some completed portions of a program while the other portions are being brought into final form.

For example, if a state program requires additional work in one or another aspect of its program, the overall nature of which is found satisfactory, but some portions are ready for the administration stage, the "preliminary approval" phase will permit those completed portions to be acted on. This might include carrying out state's proposed method of issuing permits for any developments proposed in areas of particular concern during the "preliminary approval" phase where necessary legal authority and administrative apparatus exist to carry out this aspect of the overall program.

The Committee feels the value of this approach is, in the example given above, that controls over particularly valuable coastal areas are effective sooner than they would be otherwise if they could not be implemented until the entire package is brought into final, approvable form.

Because of this feature, the deadline for completing the entire program becomes critical. Without a firm deadline, states might be tempted to design a valid comprehensive coastal management program but implement only several portions thereof while continuing indefinitely to work on implementing other portions.

The Committee holds that the comprehensive nature of this program must not be diluted and that the new interim or "preliminary approval" phase will not be allowed to do so. That is why, in the Committee's view, the permission for states to begin administering portions of their programs during the interim phase does not constitute so-called "functional segmentation." Under this concept, parts of a program would be put into place before the remaining portions of the program were designed. Under the "preliminary approval" phase approved by the Committee, a state must have satisfactorily developed an entire state program. Section 305(h) requires, for instance, that the states have complied with all of the rules and regulations issued under the section and that the specific deficiencies making it ineligible for administrative funding under section 306 are specified.

The specific authorization for states receiving "preliminary approval" to put into effect portions of their program is contained in subsection 305(h) (2) (d). No new authorization of appropriation is required by this change.

Subsection 305(h) specifies the requirements necessary for receiving preliminary approval status. States failing to meet them will become ineligible for funding under the coastal zone management program after they have received four development grants or fiscal year 1978, whichever comes first. Also, the Committee notes that the three new requirements under section 305 must be completed by the end of fiscal year 1978 in order for a state to be completed by the end of fiscal year 1978 in order for a state to be eligible for continued funding under the "preliminary approval" phase.

This major addition to the program should advance the day when states have in operation completed, comprehensive state management programs which will protect and enhance as well as provide for the sound development of the nation's coastal resources.

*Extension of section 305 authorization*

(9) This section provides for an extension of the section 305 Management Program Development Grants authorization through September 30, 1979. Under the existing Act, the authorization expires on June 30, 1977.

This extension is recommended to make the companion addition to section 305, that contained in subsection (h) providing for the "preliminary approval" phase, meaningful. Otherwise the provision of a new, interim phase in the program would not occur for most states if section 305 funding expired in 1977.

Also, the Committee has provided in subsection 305(c) for an additional year for program development, allowing states to receive four annual grants if necessary.

Both the extension to fiscal year 1979 and the addition of a fourth year under 305 program development funding are recognition by the Committee that the task assigned to states by the Act is a complicated one and that the original three-year estimate of the time needed was probably optimistic for many states. Those states which, by the time of enactment in 1972, were already developing their own coastal zone programs are not hard-pressed to meet a 1977 deadline, but the majority of states are not so suited. Also, as is mentioned elsewhere, the difficulty of finding qualified personnel has served to slow the beginning of program development in some states and initial funding was delayed for a year.

*Increase Federal share of section 306 grants*

(10) Section 306(a) would be amended to increase the maximum Federal share of management implementation grants from the present 66 $\frac{2}{3}$  percent to 80 percent. Due to the additional requirements placed upon the coastal states by emerging national energy policies and by the amendments to section 305 contained in this bill, it was recognized that the states will have a need for increased funding to properly implement a more complicated coastal zone program. Since the original Act was established in 1972, inflationary trends in the economy have created fiscal burdens on state as well as federal government. Since the Committee recognizes that it is in the national interest to develop and implement effective coastal zone management plans within the respective coastal states, and since it is also recognized that many of the additional burdens placed upon the coastal states are due, in great part, to federally initiated energy policy, it seems appropriate for the federal government to contribute a larger share of funds to the coastal states.

This amendment would also delete the last sentence of section 306(a) which pertains to the use of other federal funds received by a state as part of a state's matching share. It should be noted that while this particular language is deleted from this section, an additional amendment (section 320(c)) would have the effect of applying this same provision to the entire title. Therefore, section 306(a) was amended to avoid redundancy.

*Local government review of State coastal zone decisions*

(11) This subsection amends section 306(c)(2)(B) to require a coastal state to establish an effective coordination and consultative mechanism between a designated state coastal zone agency and local

governments within such state. The Coastal Zone Management Act of 1972 directed the Secretary of Commerce to find that a state had developed its management program with an opportunity for full participation by local governments prior to granting final approval of such management program. The intent of the original Act is clearly expressed in section 306(c)(1); 306(c)(2); and in section 303.

This amendment to section 306(c)(2)(B) would make that intent more specific by providing a mechanism by which certain local governments are allowed the option of contesting state decisions which affect them. No state could receive federal approval of its proposed coastal zone management program unless such program contained specific provisions.

The designated state coastal zone management agency would be required to inform any local government of any decision to be made by the state agency prior to the implementation of such a decision. The types of decisions referred to in this subsection would be those decisions made by a state agency to carry out the state's management program. When such decision would have direct application to a particular area within the coastal zone, then the state agency must notify the local governments which have land use or water use control powers within the area to which such decision may apply. This provision is intended to assure that local government will be kept fully informed of plans and ongoing policies of their respective state coastal zone agencies when such policies would have a direct effect upon such local governments. For the purpose of this subsection, the definition of local government in section 304(1) is further restricted in section 306(c)(2)(B)(i).

Section 306(c)(2)(B)(i) would require that the local government be permitted to request that the state agency hold a public hearing regarding such decision. The local government receiving such notice of decision would have to request the public hearing within thirty days after the date on which notice is received. If the local government requests a public hearing, the state management agency could not conduct the hearing sooner than ninety days after the date on which the notice of decision was received by the local government. This provision was intended to give the local government sufficient time to prepare for such hearing.

Section 306(c)(2)(B)(iv) would not permit the state agency to implement the decision referred to in 306(c)(2)(B)(i) until after the public hearing on such decision had been concluded. If a local government is properly notified of a pending decision, and does not request a public hearing within thirty days after receipt of such notification, the state agency would be permitted to implement the decision without further delay. Any funds allocated by a state to a local government under the provisions of section 306(f) could be used by such local government to defray expenses incurred in preparing for the public hearing referred to in this subsection.

#### *Consideration of interstate energy plans*

(12) This section recognizes that the interstate cooperation program authorized among state programs in section 309 may well produce interstate approaches to energy planning.

Therefore, to subsection 306(c)(8) which now directs a state to give consideration to the national interest in dealing with the siting of

facilities of more than local interest, such as energy plans, the Committee has added the requirement that any interstate plan or program which may be developed under the interstate and regional cooperation provision be considered also.

*Provision of mediation process after program approval*

(14) This amendment would add a new subparagraph (4) to section 307(c). Section 307 is the Interagency Coordination and Cooperation provision of the original Act, and it basically sets forth a method by which Federal actions which occur within a coastal zone of a coastal state must be consistent with a state's adopted coastal zone management program. This consistency provision in the original Act would apply to any Federally conducted or supported activity affecting the coastal zone, any Federal development project in the coastal zone, and any Federal licensing or permitting activity affecting land or water uses within the coastal zone.

Section 307(b) of the Coastal Zone Management Act provides a mediation process for any serious disagreements arising between Federal agencies and states in the coastal zone management program approval process, but the original Act is silent with respect to disagreements arising after a state management program is approved and in operation.

The new paragraph (4) added to section 307(c) would provide for an additional mediation process to deal with Federal-state disagreements arising during the implementation of an approved state program. In case there is serious disagreement between any Federal agency and the state in the implementation of an approved program, the Secretary of Commerce, in cooperation with the Executive Office of the President, shall seek to resolve such differences.

*Adding "Leases" to Federal consistency requirement*

(15) This section amends the so-called federal consistency portion of the Act to make explicit the Committee's original intent to include leases as actions which come under the purview of this section.

Specifically what the section does is to add the word "lease" to "licenses and permits" in section 307(c)(3). This clarifies the scope of the coverage of those federal actions which must be certified as complying with a state's approved coastal zone management program. The Committee felt, because of the intense interest in this matter on the part of a number of states, it would make explicit its view that federal leasing is an activity already covered by section 307 of the Act.

To argue otherwise would be to maintain that a federal permit for a wastewater discharge, for example, must be certified by the applicant to be in compliance with a state program, the state being given an opportunity to approve or disapprove of the proposal, while a federal lease for an Outer Continental Shelf tract does not have to so certify. Given the obvious impacts on coastal lands and waters which will result from the federal action to permit exploration and development of offshore petroleum resources, it is difficult to imagine that the original intent of the Act was not to include such a major federal coastal action within the coverage of "federal consistency."

However, because of the absence of the specific mention of the word "lease" in the language of section 307, doubts have arisen in the minds

of some as to the Committee's intent. It is to put these doubts at rest that this section has been included in H.R. 3981.

This provision of the original Act is one of the principal incentives for the states and local governments to take part in the Coastal Zone Management Program. One major encouragement has been the belief that in the future, the impacts which flow from federal Outer Continental Shelf leasing will have to conform to state and local prescriptions about the best location for energy support and industrial facilities.

The Committee believes it would break faith with the states not to state plainly its clear intent to include major federal actions as Outer Continental Shelf leasing under the "federal consistency" section.

#### *Redesignation of existing sections*

(16) This provision redesignates existing sections of the Act in order to accommodate the addition of three new sections contained in H.R. 3981, new sections 308 through 310.

#### *Coastal energy activity impact program*

(17) Section 308 establishes the Coastal Energy Activity Impact Program. The broad guidelines of this program and some of the background of the Committee's deliberations on this subject have been discussed in the summary section and in the treatment of the applicable definitions in this section.

This section contains two of the three provisions designed to provide federal assistance to coastal states for their role in the Nation's development of its increasingly important energy policy. The third section is the provision for the federal guarantee of state and local bonds issued for OCS-related projects and programs. This part, section 319, will be discussed later.

Subsection (a) of section 308 is a seven paragraph provision which establishes the bill's OCS program. In a somewhat different form, this subsection represents what the Oceanography Subcommittee approved as the bill's entire "Coastal States Impact Fund." This particular approach emerged from those Members who were concerned about the advisability and also the ability of the Secretary of Commerce to quantify "net adverse impacts" and from those who felt that a broader program could lead to the "inducement" of unnecessary energy facilities in the coastal zone. Full Committee action resulted in a combination of this OCS allocation formula approach with the impact grants provided in subsection (b) of this section.

Paragraph (1) of subsection (a) mandates the Secretary of Commerce to make annual payments to each coastal state which experiences at least one of six specified levels of OCS activity. These levels of OCS activity are, in effect, the ingredients of a six-part proportional formula based on each state's level of OCS activity compared to such activity nationwide in any given fiscal year. The average of these six ratios would determine the proportion of the total amount appropriated by Congress allocated to an individual coastal state in any one year. The six criteria are as follows:

(A) The proportion of outer continental shelf acreage leased adjacent to each state versus the total OCS acreage leased in each year.

(B) The proportion of the number of exploration and development wells drilled adjacent to each state versus the total of such wells drilled on the outer continental shelf in each year.

(C) The proportion of the volume of oil and gas produced adjacent to each state versus the total volume of oil and gas produced on the outer continental shelf in each year.

(D) The proportion of the volume of oil and gas produced and first landed in each state versus the total OCS oil and gas produced and first landed in the United States in each year.

(E) The proportion of the number of persons residing in each state who are employed directly in outer continental shelf activities versus the total of such persons employed in each year.

(F) The proportion of onshore capital investment made in each state and which is required to directly support OCS energy activities versus the total of such capital investment made in all coastal states in each year.

Strictly speaking, these criteria are not intended to be descriptions of "impacts" but rather levels of OCS activity adjacent to or occurring within the coastal states. They are based on the assumption that these levels of activity will correspond to impacts which result from outer continental shelf exploration and development activity.

It should be noted that the specific activity in each criteria is that which occurs in a given fiscal year. For example, criterion (A) means the acreage leased in the fiscal year for which the calculations are made and does not include acreage already under lease, (B) refers to exploration and development wells being drilled in the year under consideration—as well as new wells which are begun in that year. A well which is being drilled and which is shut down during the year should be counted during that year provided that the Secretary determines that such wells were shut down for normal reasons of production or maintenance and not to enhance the adjacent state's future proportion of this particular category. Criterion (C) means the volume of oil and gas produced adjacent to each coastal state in the fiscal year under consideration—past production levels are not to enter into the calculations. The same general premise applies to the volume of OCS oil or gas landed in each state in a particular year provided in criterion (D). Criterion (E) is a proportion of those residing in each coastal state who are directly employed in OCS activities. The number of such employees should be calculated for each fiscal year and should reflect those who are directly employed by the lessee or those persons who are either contractors or subcontractors of lessees. The final criterion, (F), refers to the amount of capital investment made in each fiscal year. Again, past investment required to support OCS activity should not be counted. The Committee is aware that this criterion will be the most difficult to calculate. The Secretary of Commerce should develop regulations which are designed to standardize these data as much as possible. Precise methods of determining OCS capital investment as well as definitive ways of acquiring accurate data must be established by the Secretary.

In promulgating the regulations for the administration of this OCS payment program, the Secretary is advised that it is the intent of the Committee that the listed criteria are to be measurements of activity levels resulting from outer continental shelf energy activity.



Additionally, the Committee has structured these criteria to represent levels of activity which would not have occurred were it not for the OCS exploration and development work.

Section 308(a)(2) defines the term adjacency for use by the Secretary in calculating the proportions set forth in section 308(a)(1)(A), (B), and (C). The Committee wished to avoid creating disputes as to which state was adjacent to oil and gas production, for purposes of section 308(a). It is intended by the Committee that the method by which adjacency is determined in this particular section be used solely for the purpose of calculating the proportions in paragraph (1) and not be construed to have application to any other law or treaty of the United States, either retrospectively or prospectively.

The definition which was adopted by the Committee recognizes the seaward lateral boundaries which have been previously determined to apply between coastal states within the territorial limits of such states. If any such boundary has been clearly defined by interstate compact, agreement, or by judicial decree, the Secretary of Commerce shall accept such boundaries as the effective lines of delimitation between such states for purposes of this section. The Secretary would then extend those boundaries seaward from the limit of the territorial sea to the limit of the outer continental shelf using the same principles of delimitation originally used to establish them. Any such boundaries would have had to have been entered into, agreed to, or issued before the effective date of this paragraph in order to be used by the Secretary as an effective boundary. If no seaward lateral boundaries have been established previously between coastal states (to the limit of their respective territorial sea), the Secretary shall extend seaward lateral boundaries between states by applying the principles of the Convention on the Territorial Sea and Contiguous Zone (15 UST 1606) which was entered into force on September 10, 1964. In this case, the Secretary would extend boundaries between the coastal states from the baselines of such states seaward to the limit of the outer continental shelf.

The Secretary is designated as the responsible official for determining the boundary extensions to be used for purposes of this subsection, and it is expected that he will consult with the necessary state and Federal officials for assistance in this determination.

Paragraph (3) of section 308(a) designates the Secretary of Commerce as the responsible official for purposes of compiling, evaluating, and calculating all relevant data pertaining to the six criteria and the determination of the amount of annual payments for each coastal state. In promulgating regulations to administer this section, it is expected that the Secretary will consult with relevant federal, state, or local agencies or governmental units to determine the most responsible method by which data collection and evaluation shall be made. It is also anticipated that the Secretary will allow input from interested persons, and representatives from industry, environmental and other organizations in this determination. In the opinion of the Committee, it is necessary for the Secretary to have absolute authority in the final evaluation and final computation of the data.

Payments to be made in any particular fiscal year are to be based on data from the immediately preceding fiscal year. Data from the

transitional quarter (July 1, 1976–September 30, 1976) are to be considered fiscal year 1976 data.

Section 308(a) (4) specifies and prioritizes the uses of OCS payment funds. First, the recipient coastal state must retire any bonds which were issued and guaranteed under section 319 of the bill. If the payment in a particular year is insufficient to retire both state and local bonds, priority is to be given to local bonds.

Bonds which are issued through normal revenue raising structure of state or local governments and not guaranteed pursuant to section 319 do not fall within this requirement.

If no state or local bonds were issued pursuant to section 319, or if some OCS funds remained after retiring such bonds, the state may then use the monies to plan and carry out projects or programs designed to provide public services or facilities made necessary by OCS energy activity.<sup>9</sup>

The third and final purpose for which the state could use the funds is to reduce or ameliorate any loss of ecological or recreational resources which resulted from OCS activity.

Paragraph (5) provides that any monies allocated to a coastal state under this subsection not spent or committed for the purposes authorized under paragraph (4) are to be returned to the Treasury of the United States. The Secretary is responsible for determining this each year by utilizing the auditing provisions of section 313 (as redesignated) of the Coastal Zone Management Act.

Section 308(a) (6) establishes the authorization levels for the next five years. The OCS payments are authorized at \$50 million for fiscal years 1977 and 1978 and escalate to \$125 million in fiscal year 1981. This accelerating level of authorization was adopted by the Committee to indicate that the OCS payments are to benefit all affected coastal states. As new "frontier" areas such as Alaska and the Atlantic coast states begin to enter into the exploration and development phases of OCS activity, the monies should increase to permit a more equitable distribution of funds to those states which may have a previously limited or non-existent onshore infrastructure for dealing with OCS oil and gas.

Paragraph (7) states that, to the maximum extent practicable, recipient coastal states should allocate all or a portion of the OCS payment funds to their local governments. The state should calculate how much of each of its affected local governments will experience the various levels of OCS activity and make their allocation based on a reasonable estimate of each unit's proportional share of these activities. With the approval of the Secretary, the coastal state may transfer all or some of the payments to areawide, regional, or interstate agencies. The state maintains the responsibility to see that their local governments utilize the money in accordance with the purposes specified in paragraph (4).

#### *Energy facility planning and net adverse impact grants*

Subsections (b) through (f) of section 308 authorize energy facility planning grants and impact grants and subsection (g) specifies the conditions under which coastal states are eligible for either OCS payments or impact grants.

<sup>9</sup> See Appendix III, "Location of Onshore Impacts of Outer Continental Shelf Oil and Gas Development."

Subsection (b) (1) authorizes the Secretary to make grants to coastal states for up to 80 percent of the cost of studying and planning for the social, economic and environmental consequences of energy facilities located in or which significantly affect the coastal zone. It is the intent of the Committee that these planning grants should supplement the states' section 305 efforts including those devoted to the development of an energy facility process which is required under a new provision in H.R. 3981. The Committee is aware that there is an important distinction between the development of an energy facility "planning process", as required under new section 305(b)(8), the application of that process for evaluation of specific energy facility proposals, and the formulation of a long-term energy facility siting plan. It is the latter two for which section 308(b)(1) funds are intended although such evaluation and long-term plans will result from the "process" provided for earlier. Also, these planning efforts are to be addressed to all the facilities specified in the definition of "energy facilities" under section 304(k) and are not to be restricted to those facilities enumerated in the definition of Outer Continental Shelf energy activity (section 304(j)) or Coastal Energy Activity (section 304(o)).

Paragraph (2) of section 308(b) authorizes the Secretary to make 80 percent grants to a coastal state whose coastal zone has suffered, or will suffer, net adverse impacts resulting from coastal energy activity. Reference should be made to the discussions of these key definitions (304(n) and (o)) above. The grants are to be used to reduce or ameliorate such net adverse impacts.

The phrase "has suffered" implies that coastal states which have experienced net adverse impacts in their coastal zones as a result of coastal energy activity prior to the date of enactment of this section are entitled to receive section 308(b) grants for those past impacts. Although this was the intent of the Committee, it was also felt that the Secretary should, in the regulations governing this subsection, establish an equitable retroactive time limit for such grants. It is recommended, that a reasonable timeframe would be in the range of three-five years and would correspond to an applicable provision in the Senate bill, S. 586. The difficulty in obtaining accurate data beyond such a period would appear to make these net adverse impact calculations suspect.

Section 308(c) includes a specification of some of the factors which are to be included in the Department of Commerce's regulations.

Paragraphs (3) (A) and (D) of subsection (c) are factors essentially corresponding to two dimensions of the net adverse impact definition. Subparagraph (A) requires the Secretary to consider the offsetting benefits to a state's coastal zone from a coastal energy activity. "Offsetting benefits", it should be recalled, mean benefits directly offsetting costs.

Subparagraph (D) requires, in the calculation of net adverse impacts, the consideration of other federal funds which are available for the reduction or amelioration of net adverse impacts. Thus any funds available to coastal states or their local governments under other federal assistance statutes, as well as monies received under the OCS payments provision in section 308(a), are to be considered in determining the amount of an impact grant. Clearly, a state cannot

receive monies both under the impact fund and other federal statutes for the same projects unless the funds from the other federal program or programs are insufficient to accomplish the purposes set forth in section 308(b)(2). In this event, a net adverse impact could remain, in part, and thus the Secretary could provide a grant pursuant to this subsection. However, it should be noted that funds from other federal programs may not be used as the state's matching share for these 80 percent impact grants (see section 320(c)), as redesignated, of H.R. 3981). Consequently, the inadequacy of other federal programs to accomplish the purposes of this subsection does not include the portion attributable to the coastal state's 20 percent matching share.

The implementation of this particular subparagraph will require very precise rule-making on the part of the Secretary. A key word in (D) is "availability." This word was used by the Committee to indicate that the coastal state which may be making an application for a net adverse impact grant should have pursued, or at least be pursuing, other federal programs such as highway funds, Environmental Protection Agency sewage treatment grants, school construction funds, and the like. As part of the regulations, the Secretary should enumerate all "available" federal programs which may be used, in whole or in part, to ameliorate the adverse effects of coastal energy activity. It is recognized, of course, that these other federal programs will not utilize such specifically defined phrases as "net adverse impacts" and "coastal energy activity" as they are used in the Coastal Zone Management Act. Consequently, the Secretary will be required to inventory all programs which, if applicable, may provide funds for public facilities and public services or the reduction of ecological or recreational resources losses.

"Available", in this context, implies that other appropriate federal funds are obtainable. If, through no fault of the applicant coastal state, other federal monies are not forthcoming although the state made reasonable efforts to obtain them, they should not be considered "benefits" in the net adverse impact calculation. The burden of documenting these efforts, as well as the general obligation of demonstrating a net adverse impact, remains with the state.

Paragraphs (3)(B) and (3)(C) specify additional criteria which are to be taken into account in determining whether a net adverse impact from a coastal energy activity has occurred.

Subparagraph (B) requires the Secretary to consider the applicant state's overall efforts to reduce or ameliorate net adverse impacts. The Secretary should determine what form these efforts could take including the particular state and local tax structure and environmental laws and ordinances. Clearly, the types of protections inherent in the state's coastal zone management program are to be considered. Additionally, the Secretary is to consider the state's effort to insure that those who are responsible for the net adverse impacts are required, to the maximum extent practicable, to ameliorate these impacts themselves. Again, the state's efforts to encourage this "internalization of costs" by those responsible may be exerted in a number of ways, including tax incentives, strong environmental protection laws, and the withholding of siting permission until certain conditions are met.

Finally, the Committee considers subparagraph (C) an essential factor to be considered in the regulations governing this section. The

coastal state must demonstrate that the site selected for a coastal energy activity is one in which there will be minimum social and environmental as well as economic "costs". Alternative sites for the locus of this activity must be investigated. A key dimension to interpreting this criterion in relation to net adverse impact determinations is one of "unavoidability".

The coastal zone location of potentially dangerous LNG facilities, for example, should be subject to strict environmental and safety considerations prior to site selection. This requirement should be fully integrated into the state's present program development efforts particularly with regard to the section 305 provisions which require a definition of permissible land and water uses and a designation of areas of particular concern within the coastal zone.

Additionally, it should be noted that the Committee was concerned about the residual governmental demands placed on state and local governments if anticipated coastal energy activity does not materialize, or should it do so, after it has ceased. Therefore, such grants may be used for the purpose of reducing or ameliorating the impact of coastal energy activity, including, but not limited to, the governmental services required for the orderly phasing out of energy activity and the transition from an energy-related to a nonenergy-related economy.

It is the intent of the Committee that the impact grants be distributed only on the basis of actual demonstrated coastal energy activity impact without regard to comparative state populations, miles of coastline or any other criteria used to determine eligibility for federal assistance in any other section of this or any other Act. The funds are to be distributed according to demonstrated impact without regard to the proportion of grants going to any single state or group of states. The criteria promulgated by the Secretary shall provide for the distribution of net adverse impact grants in proportion to the relative demands on government made by the various types and stages of energy activity.

Subsection (d) of section 308 establishes the Coastal Energy Activity Impact Fund which is to be used by the Secretary as a revolving fund. Administrative expenses for carrying out the OCS payments subsection and/or the impact fund subsection may be charged to the fund. \$125 million for each fiscal year from 1977 through 1981 are authorized to be appropriated to the fund by subsection (e).

Section 308(f) authorizes coastal states which have received planning or impact grants to allocate all or a portion of those funds to their affected local governments and, with the approval of the Secretary, to areawide, regional, or interstate agencies.

Finally, subsection (g) establishes the conditions under which a coastal state is eligible for OCS payments or impact grants. The state must be receiving a program development grant under section 305, an administrative grant under section 306, or be making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program. It is not necessary, therefore, that a state be receiving a section 305 or 306 grant to be eligible for section 308 funds. It is necessary, however, that the state be making progress toward the development of a coastal zone management program and that the section 308 funds received be used in a manner consistent with such program. It is the intent of the Committee that the

Coastal Energy Activity Impact program be fully integrated into the states' management programs. The important work accomplished by the Nation's coastal states to date should form a sound structure on which the energy program can be built and the comprehensive nature of the coastal zone management structure maintained and strengthened.

#### *Interstate coordination*

A section 309 of the coastal zone program is designed to encourage the state coastal zone programs to actively participate in interstate and regional cooperative efforts. The Committee's intent is that this cooperation begin during the program development phase, under section 305, and extend into the administrative phase under section 306.

The states and the Office of Coastal Zone Management are in accord in acknowledging the necessity of dealing with coastal problems across state lines. The purpose of providing matching funds for this purpose at 90 percent federal funding, instead of the recommended rate of 80 percent in other portions of the basic program, is to provide incentive needed to bring about this cooperation.

States readily acknowledge the need to work together on such things as energy facility siting policies, provision of recreational resources or accommodation of second-home demands. If one state unilaterally acts in one of these areas with a restrictive policy, for instance, the immediate result may be to increase pressures on neighboring states.

The section also provides advance consent by Congress for states to enter into interstate compacts for studying coastal problems or administering agreed upon programs.

In both subsections 309(a) and (b) it is specified that the purposes to which the matching grant funds are used must be consistent with the provisions of the basic sections of the Act, section 305 and 306.

Another important aspect of interstate and regional cooperation on coastal matters is addressed in subsection 309(c). In order to facilitate active federal agency participation in any interstate or regional bodies set up under this section, the Committee directs the interstate bodies to establish a consultation procedure with involved federal agencies. Specifically cited are the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Environmental Quality Council, the Administrator of the Environmental Policy Agency, and the Administrator of the Federal Energy Administration, or their representatives, as officers who should participate in such deliberations whenever requested to do so by an interstate or regional body established under this section.

In subsection (d) authorization is given for making grants to ad hoc or temporary bodies set up in advance of the signing of an official compact or agreement. This authority is limited to five years to prevent temporary bodies from becoming permanent. The temporary bodies are given a charter similar to that established in subsection 309(a) in that they are to coordinate planning, study or implement unified policies in coastal regions and provide a means of communication with involved federal agencies.

#### *Coastal research and training grants*

New section 310 authorizes a two-part program of research and training assistance focused on coastal management problems.

The purpose of the new authority is to support both the development of comprehensive and soundly-based state management programs and their eventual administration. The Committee envisions that approved programs, funded under section 306 of the Act, will have continuing research and personnel needs which this new provision will help meet.

Under 310(a), funds would be authorized for use by the Secretary to conduct needed research, study, or personnel training. Specific direction is given to all departments and agencies of the federal government to participate in this effort, on a reimbursable basis, so that the expertise developed within the federal apparatus can be focused on coastal issues.

It is the intent of the Committee that the funds in this subsection are to be used to deal with national or regional studies or training programs. Close coordination will be required within the Office of Coastal Zone Management with the work conducted by the states under the authorization in subsection (b) as well as with other components within the federal government conducting coastal-related research programs.

In section 310(b), direct aid to the states is provided. Matching grants up to 80 percent are authorized to the coastal states for research, study and training. The particular need seen in the states is for short-term research, by which is meant reports and investigations carried out over short periods of time, using existing knowledge to a large extent, in order to meet requirements of either section 305 program development or to deal later with problems that arise during administration of state programs under section 306.

What is intended here is to provide states, specifically the office in the state government administering the coastal program, with their own capability to develop the answers to some of the critical questions they will face. These questions can range from how to develop criteria for determining what are critical areas in a given state's coastal zone to a study of a particular site proposed for a major installation to help determine if the location is suitable.

(It is the intent of the Committee that the research provided by this section in no way conflicts with the long range research efforts of the Sea Grant program which is also administered by NOAA. The Secretary is expected to coordinate these two programs.)

The training portion of the authorization is intended to meet a present and presumably continuing need on the part of state coastal zone managers for qualified personnel. Dealing with coastal issues requires personnel from many disciplines and some persons with broad, interdisciplinary backgrounds. It has been the experience of the states, as is reflected in the earlier discussion in this report, that locating the needed people to help prepare coastal management programs has been a major administrative problem.

Section 310(c) would authorize the Secretary to undertake a comprehensive review of all aspects of the shellfish industry with particular emphasis on the harvesting, processing, and transportation aspects thereof. Such review process shall include an evaluation of the impact of Federal legislation affecting water quality upon the shellfish industry; an evaluation of present and proposed bacteriological, pesticide, and toxic metal standards which may be applied to

determine the wholesomeness of shellfish; and an evaluation of the effectiveness of the National Shellfish Sanitation Program. The Secretary would be required to submit a report to the Congress on the various evaluations undertaken by him by June 30, 1977. The report should also include such recommendations and comments as the Secretary considers necessary and pertinent. The amendment further stipulates that no Federal agency could promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce during the period in which such report is being prepared. The term "promulgate" as used in this section refers to the act of publishing and making effective final regulations only. It should not be interpreted to preclude any Federal agency from proposing additional regulations during the moratorium period.

This particular amendment was proposed by Mr. Bauman and Mr. Downing, and it was adopted by the Subcommittee on Oceanography and the full Committee. It is the Committee's intent that this amendment would permit the Commerce Department (through NOAA) to conduct a thorough and independent review of the shellfish industry in an attempt to determine if additional regulations should be imposed upon such industry by the Food and Drug Administration.

The FDA proposed a number of new regulations in June of 1975 which, if promulgated, could have a serious impact upon the shellfish industry. Hearings which were conducted by the Subcommittee on Oceanography indicated that the implementation of the proposed regulations was not critical to the interests of public health since there is sufficient statutory authority within the Food and Drug Administration as well as within state agencies to adequately regulate the shellfish industry and to adequately protect consumers. In order to give absolute protection to the public, the amendment would allow the moratorium to be waived before the June 1977 submittal date if the Secretary determined that an emergency existed which could be dealt with most effectively by the promulgation of additional regulations. The Secretary of Commerce should consult with the Secretary of Health, Education, and Welfare to determine if such an emergency exists.

It should be noted that the language restricting the promulgation of new regulations shall not be construed to restrict the force and effect of any final regulations which are promulgated and published in the Federal Register prior to the date of enactment of this section, nor is the language intended to affect any statutory authority which a Federal agency was given (other than the promulgation of regulations specifically mentioned in the provision) by any previously enacted law.

*Amendment to "Records" section*

(18) The amendment in this subparagraph pertains to the Records section of the original Act. That section requires that any recipient of a grant under the Coastal Zone Management Act would be required to keep records relating to the amount and disposition of funds received, the total cost of the project or undertaking supplied by other sources, and other records which could be used to facilitate an effective audit by the Secretary of his designee. The new language included in this bill would add the term "or payments" after the term



“grant” so that the coastal state impact payments under section 308 (a) of the bill would be included in the auditing process. The amendatory language would also specifically permit the auditing process to be undertaken by the Secretary or the Comptroller General for up to three years after the termination of any grant or payment program authorized under the Act.

*Beach access provision*

(19) This section makes a major addition to the estuarine sanctuary provision of the original Act. This is accomplished first by renaming the section “Estuarine Sanctuaries and Beach Access” rather than referring only to the sanctuaries.

Subsection (b) authorizes the Secretary to make 50 percent matching grants, the same percentage as with grants to acquire estuarine sanctuaries, for the purchase of means of access to public beaches and other publicly-held attractions along the coast.

This provision is in response to the needs identified by a number of states for early action to protect the public’s access to areas already in public ownership but in danger of being blocked from ready use by property development nearby.

In addition to beach properties for which access would be provided, access to other public areas of interest could be purchased. These areas include those of environmental, recreational, historical, esthetic, ecological, and cultural value. These are the identical areas which state programs must include in the new planning requirement added to the development of state management programs under section 305.

In the case of public areas of ecological or esthetic interest, for example, the access which would be permitted by the use of matching funds under this subsection would naturally be limited. The Committee understands that access to such precious areas will be strictly limited according to the sound management principles which state management programs are to include.

Although not stipulated in H.R. 3981, it is understood that states must have substantially completed the public area protection and access planning process required under section 305(b)(7) before being eligible to receive grants under subsection 315(b). This is to insure that purchases made pursuant to this subsection are in harmony with the overall state management program and that they are in keeping with the balanced approach contemplated in subsection 305(b)(7). The planning process mandated there is to provide both protection of and access to public areas; the purchase of means of access to these same public areas should conform to this process.

*New sections for the annual report*

(20) This section adds two new requirements for inclusion in the coverage of the annual report which the Act requires the Secretary to prepare. The purpose of the report is to provide Congress with an account of the administration of the coastal management program. The Secretary submits the report each year to the President who in turn transmits the document to Congress. At present, eight specific areas of coverage are specified for inclusion in the report.

H.R. 3981 specifies two additional areas for inclusion. One is a description of the socio-economic and environmental impacts from

energy activities in the coastal zone. The Committee would look for a description of present impacts as well as a discussion of the projected effects of prospective activity. As an example, a discussion of the present effects on the coast of Alaska stemming from the prospect of offshore oil discoveries would be in order as well as a report on what that state anticipates will result if and when production begins.

The second report requirement is for an evaluation of the mechanisms for interstate and regional planning that have been undertaken. This will be particularly pertinent to the Committee in assessing the effectiveness of the interstate cooperation incentive funding authorized by section 309 of this legislation.

It should also be noted that new section 310 on coastal research and training provides that the Secretary include a summary and evaluation of the research, study, and training conducted pursuant to that section in the annual report.

#### *Authorization for appropriations*

(21) Section 320, as redesignated, provides authorizations for the coastal zone management program as follows:

(a)(1) The sum of \$24 million is provided for fiscal years 1977 through 1979. This represents a doubling of the present level of authorization for the program development phase, reflecting the increased responsibility given the states in H.R. 3981 and the growing expense of preparing a complicated program as that mandated by the Act.

(a)(2) Authorizes \$50 million annually from fiscal year 1977 to fiscal year 1980 for the administrative phase of the program under section 306. The increase from the present level of \$30 million a year represents the Committee's recognition that the task of operating and administering state coastal zone management programs is going to be more costly than originally envisioned. This factor, plus inflations and the added complexity of state programs which H.R. 3981 represents, justifies the increase.

In both subsections (a)(1) and (a)(2), H.R. 3981 has increased the percentage of federal matching shares from two-thirds to 80 percent which naturally involves a greater total amount of federal funding.

(a)(3) Authorizes \$5 million a year beginning in fiscal year 1977 for the interstate cooperation funding established in section 309. The federal share of this activity is 90 percent in order to encourage states to give this activity the high priority the Committee attaches to it.

(a)(4) This subsection makes available \$5 million per year for four years, beginning in fiscal year 1977, for the research and training programs to be administered directly by the Secretary of Commerce under new section 310(a).

(a)(5) For matching funding at 80 percent federal participation under subsection 310(b), the sum of \$5 million is authorized for four years beginning in fiscal year 1977. These funds are to enable states to establish their own coastal research capabilities and to operate personnel training programs to meet their program needs.

(a)(6) For the continuation of the estuarine sanctuary program authorized by subsection 315(a), the sum of \$6 million per year for

four years beginning in fiscal year 1977 is made available. This is the same level as is currently authorized under the Act as amended.

(a) (7) For the new subsection of the Estuarine Sanctuaries and Beach Access provision of H.R. 3981, \$25 million is authorized under subsection 315(b) for use in acquiring access to public beaches and other publicly-held areas of interest in the coastal zones. This money is to be available for four years beginning in fiscal year 1977.

(b) This subsection increased the amount available for the administration of the program from \$3 million annually to \$5 million. In view of the greatly increased responsibilities which H.R. 3981 adds to the coastal zone program, this increase seems entirely justified and perhaps modest. Rather than authorize a larger amount at this time, however, the Committee desires to see how the Office of Coastal Zone Management responds to the new challenges given it through H.R. 3981. Experience with operation of the expanded program may suggest that a larger sum be provided for administrative purposes. If officials at NOAA can make this case successfully to the Committee, there will be no hesitation on its part to amend the Act to provide additional operating funds.

(c) This subsection carries that standard prohibition on the uses of funds received under this Act to pay a state's matching share of an authorized program or project.

#### *Limitations section*

(22) Section 318 ("Limitations") is included in the bill to ensure that federal agencies will not utilize the approval systems for the awarding of grants or bond guarantees to force a state to permit the siting of a specific facility in the coastal zone. The Coastal Zone Management Act is a process-oriented rather than substantive program. Federal agencies are not to judge the quality of decisions made by states on the substantive aspects of specific projects if such decisions are made within the guidelines and procedures of the Coastal Zone Management program.

It is the intent of the Committee that this section does not in any way affect section 306(c) (8) nor does it affect other federal agencies with programmatic authorities for land and water use responsibilities in the coastal zone. This section means that nothing in the Coastal Zone Management Act of 1972 gives the Secretary of Commerce or other federal agencies any additional powers to intercede in state land or water use programs. Such authorities under other existing and future statutes, however, are in no way abrogated by this section.

#### *State and local bond guarantees*

Section 319(a) of this section would authorize the Secretary of Commerce to make commitments to guarantee and to guarantee bonds or other evidences of indebtedness which are issued by a coastal state or unit of general purpose local government thereof. A bond could be guaranteed only if it is issued for the purpose of providing public services and public facilities which are made necessary by outer Continental Shelf energy activities. It should be noted that "public services and public facilities" and "Outer Continental Shelf energy activities" are defined terms in section 2, subparagraph (4) of this Act, and such terms would have application to this section. Reference should be made to the explanation of these terms within this section-by-section analysis.

Section 319(c) stipulates that no bond could be guaranteed unless the Secretary determines that:

(1) The state or local government could not borrow sufficient revenues on reasonable terms and conditions without the guarantee.

(2) The bond issued must provide for a complete amortization period within thirty years.

(3) The total principal amount of any individual bond to be guaranteed cannot exceed \$20,000,000.

(4) The total principal amount of all bonds to be guaranteed under this program cannot exceed \$200,000,000.

(5) The Secretary must determine that each bond to be guaranteed is:

(a) issued only to investors approved by or meeting the requirements of the Secretary.

(b) bonds must bear interest at a rate satisfactory to the Secretary.

(c) each bond must be subject to repayment and maturity terms satisfactory to the Secretary.

(d) each bond issued must contain provisions which would adequately protect the financial security interests of the United States.

(6) The approval of the Secretary of the Treasury is required for each guarantee made by the Secretary of Commerce. It is presumed by inclusion of this provision that the Secretary of Commerce will work closely with the Secretary of the Treasury in the formulation of the various rules, regulations, and provisions necessary for the implementation of this bond guarantee program.

(7) The Secretary must determine that there is a reasonable assurance of repayment between the issuer and the lender of such bonds.

(8) No guarantee could be made after September 30, 1981.

Section 319(d) would require that the Secretary publish proposed terms and conditions of the guarantee program prior to guaranteeing any obligation. A thirty day public comment period is provided following publication of the proposed terms. After the comment period, the Secretary would publish final conditions, but these would not become effective until thirty days after publication.

Section 319(e) would provide that the full faith and credit of the United States is pledged to the payment of all guarantees. This language is standard in recent Federal guarantee statutes, and would generally serve to assure that any bond so guaranteed would enjoy a priority rating within the bond market.

Subsection (f) of section 319 would direct the Secretary to prescribe and collect a reasonable guarantee fee from the states and local governments. The amount of such fees should be sufficient to cover necessary administrative costs of the bond guarantee program. Subsection (g) would not permit the Secretary to guarantee any Federally tax-exempt bonds.

Section 319(h) sets forth the method by which payments shall be made in cases of defaults by the state and local governments. The United States shall have a full right of reimbursement for any such payments made, and the Secretary would be permitted to apply monies

received by the states or local governments pursuant to section 308(a) of the Act to repay the Federal Government in the event of a default. The Attorney General of the United States would be directed to take appropriate action to protect the rights of the United States if so requested by the Secretary of Commerce.

Section 319(i) establishes a revolving fund to provide for necessary payments and administrative costs required to be made pursuant to this section. Funds could either be appropriated directly to this fund or the Secretary of the Treasury could be authorized (in appropriation Acts) to purchase obligations issued by the Secretary of Commerce. Both options are subject to the usual appropriations process and are included for purposes of flexibility and consistency.

An auditing provision is included in section 319(j) which would permit the General Accounting Office to audit all financial transactions of issuers and holders of bonds or other evidences of indebtedness. Only those financial transactions which relate to such evidence of indebtedness would be subject to this provision.

The final subsection in section 319 defines "unit of general purpose local government" as used in this bond guarantee section.

This bond guarantee program was changed to its present form as a result of a substitute amendment offered by Mr. Dingell of Michigan. The original program as adopted by the Subcommittee was determined to give too much flexibility to the Secretary, and the Committee believes that the additional provisions which were adopted represent a more fiscally responsible approach.

#### *Section 3—Associate Administrator for Coastal Zone Management*

H.R. 3981 provides for an elevation of the status of the administrator of the coastal zone management program within the structure of the National Oceanic and Atmospheric Administration to better reflect the importance of this effort. This elevation will especially be necessary in view of the additional responsibilities given that office by this legislation and the greatly increased amount of funding authorized.

Within NOAA at present, there are three persons at the associate administrator level (executive level V). H.R. 3981 would add the fourth such person, with a specific assignment for coastal zone management. This action would raise the present status of the office from that of assistant administrator for coastal zone management, a position under the Civil Service System.

By becoming an executive level position, the associate administrator for coastal zone management would be a Presidential appointment and require Senate consent. This type of appointment will also serve to increase the visibility of the program in keeping with the Committee's view of its importance to the country.

#### *Section 4—Consistency Requirements of Section 307*

This section specifies that nothing in this Act (amending the Coastal Zone Act of 1972) shall be deemed to modify, or abrogate the consistency requirements contained in section 307 of the CZM Act of 1972. The Committee wanted to emphasize that it still regards the original consistency provisions as a very important element in the comprehensive coastal zone scheme. With the exception of the amendments to section 307(c) contained in this bill, no other amendments contained

in H.R. 3981 should be interpreted to change the original intent of the federal consistency section of the original Coastal Zone Management Act.

#### COST OF THE LEGISLATION

Pursuant to Clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee's estimate of the costs of the legislation is represented in the following table:

AUTHORIZATION FOR APPROPRIATION FOR FISCAL YEAR ENDING  
(In millions of dollars)

Section	Sept. 30, 1977	Sept. 30, 1978	Sept. 30, 1979	Sept. 30, 1980	Sept. 30, 1981	Section total
305 (development grants).....	24	24	24	-----	-----	72
306 (administrative grants).....	50	50	50	50	-----	200
308(a) (OCS payments).....	50	50	75	160	125	400
308(b) (energy facility impact grants)...	125	125	125	125	125	625
309 (interstate coordination).....	5	5	5	5	-----	20
301(a) (Federal research).....	5	5	5	5	-----	20
310(b) (State research).....	5	5	5	5	-----	20
315(a) (estuarine sanctuaries).....	6	6	6	6	-----	24
315(b) (beach access).....	25	25	25	25	-----	100
320 (administrative expenses).....	5	5	5	5	-----	20
Year total.....	300	300	325	326	250	1,501
New dollars over existing authorization.....	249	300	325	326	250	1,450

#### COMPLIANCE WITH CLAUSE 2(1) (3) OF RULE XI

With respect to the requirements of clause 2(1) (3) of House Rule XI of the Rules of the House of Representatives—

(A) No oversight hearings were held on the administration of this Act during this session of Congress. However, the Subcommittee on Oceanography held 5 days of hearings on H.R. 3981 and identical and similar bills during the first session of this Congress. The Subcommittee does plan to hold oversight hearings on the administration of this act early in the first session of the 95th Congress.

(B) In the opinion of the Congressional Budget Office, no new budget authority or increased tax expenditures, as required in Section 308(a) of the Congressional Budget Act of 1974 will result from the enactment of this Act.

(C) Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared a cost estimate for H.R. 3981. (The cost estimate follows the Inflationary Impact Statement.)

(D) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to clause 2(b) (92) of rule X.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3981 would have no significant inflationary impact on the prices and costs in the national economy.

CONGRESS OF THE UNITED STATES,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, D.C., February 19, 1976.

HON. LEONOR K. SULLIVAN,  
 Chairman, Committee on Merchant Marine and Fisheries, U.S. House  
 of Representatives, Washington, D.C.

DEAR MADAME CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3981, Coastal Zone Management Amendments Act of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,  
 Director.

CONGRESSIONAL BUDGET OFFICE  
 COST ESTIMATE

FEBRUARY 13, 1976.

1. Bill Number: H.R. 3981.
2. Bill Title: Coastal Zone Management Amendments Act of 1976.
3. Purpose of Bill: The bill makes several amendments to the Coastal Zone Management Act of 1972 (16 USC 1451-1464). The purpose of these amendments is to assist the coastal states in studying, planning for, managing, and controlling the effects of Outer Continental Shelf (OCS) resource development and production. The bill is for authorization, and therefore, subject to appropriation action.
4. Cost Estimate: The bill has no budget effects for fiscal year 1976 or the transition quarter. The overall budget impact for fiscal years 1977 to 1981 is as follows.

BUDGET EFFECTS

Authorization levels:

Fiscal year:	Millions
1977 -----	<sup>1</sup> \$477
1978 -----	300
1979 -----	325
1980 -----	326
1981 -----	250

Costs:

Fiscal year:	Millions
1977 -----	81
1978 -----	259
1979 -----	315
1980 -----	347
1981 -----	331

<sup>1</sup>This estimate includes an authorization for the guarantee of up to \$200,000,000 in State and local bond obligations. The question of how the imposition of such a "contingent liability" on the Federal Government should be treated in a budget sense is unresolved at this time. The guarantees could be either an on or off-budget item, with appropriations required for any outlays resulting from the guarantee.

5. Basis for Estimate: For each of the sections described below, the authorization levels are stated in the bill. Where the bill authorizes an increased level for an on-going program, the estimates are shown net of these amounts (assumed to be equal to the President's budget request).

*Section 305, Development Grants.*—The increase in funding for this activity is required to cover the increased federal share of the funding and the expanded scope mandated for state coastal zone management program development. The annual funding is authorized to be increased to \$24 million and to be extended through FY 1979. Obligations are assumed to equal authorization for each year, and a spend-out rate of 10 percent in the current year and 90 percent in the following year of the obligation is assumed. This yields the following budget impacts.

Authorization levels:

Fiscal year:	Millions
1977 -----	\$14.6
1978 -----	24.0
1979 -----	24.0
1980 -----	-----
1981 -----	-----

Costs:

Fiscal year:	Millions
1977 -----	1.5
1978 -----	15.5
1979 -----	24.0
1980 -----	21.6
1981 -----	-----

*Section 306, Program Administration Grants.*—The rationale for increased funding of this activity is the same as for the program development grants. The annual funding level is authorized to be increased to \$50 million and to be extended through FY 1980. Obligations are assumed to equal the authorization levels for each year, and a spend-out rate of 10 percent, 90 percent is assumed. This yields the following estimates.

Authorization levels:

Fiscal year:	Millions
1977 -----	\$40
1978 -----	50
1979 -----	50
1980 -----	50
1981 -----	---

Costs

Fiscal year:	Millions
1977 -----	4
1978 -----	41
1979 -----	50
1980 -----	50
1981 -----	45

*Section 305 and 306, Tradeoff.*—It is possible that the requirements for either Section 305 or Section 306 could reach the authorization levels. However, to a significant extent, these sections support complementary activities. The level at which either program is funded depends upon state level decisions about whether to expand and extend coastal zone management program development activity or to advance to the implementation of the programs developed. Therefore, it appears unlikely that both activities would require funding at the authorization levels in any one year.

*Section 308(a), OCS Payments.*—This section provides for a payment for each fiscal year to each coastal state as a share of the funding level. Each state's share is based on a formula aimed at approximating the relative level of OCS activity in each of the states. Since the



formula is based on the previous fiscal year, authorizations and costs are assumed equal.

Authorization levels:

Fiscal year:	Millions
1977 -----	\$50
1978 -----	50
1979 -----	75
1980 -----	100
1981 -----	125

Costs:

Fiscal year:	
1977 -----	50
1978 -----	50
1979 -----	75
1980 -----	100
1981 -----	125

*Section 308(b), Energy Facility Impact Grants.*—This section authorizes grants to coastal states when a state's coastal zone has been or is likely to be adversely affected by coastal energy facilities. Although grants will be a function of actual and anticipated adverse impacts, the entire authorization level is accepted. The unobligated balance of any year remains in the fund. A spend-out pattern of 10 percent, 90 percent is assumed for the cost estimate. For this new activity, budget impacts are projected to be:

Authorization levels:

Fiscal year:	Millions
1977 -----	\$125.0
1978 -----	125.0
1979 -----	125.0
1980 -----	125.0
1981 -----	125.0

Costs:

Fiscal year:	
1977 -----	12.5
1978 -----	125.0
1979 -----	125.0
1980 -----	125.0
1981 -----	125.0

*Section 309, Interstate Coordination.*—This section encourages coastal states to coordinate coastal zone planning by authorizing grants for 90 percent funding of interstate coordination activity. The authorization level is stated in the bill, and a spend-out distribution of 10 percent, 90 percent is used to generate the cost estimates.

Authorization levels:

Fiscal year:	Millions
1977 -----	\$5.0
1978 -----	5.0
1979 -----	5.0
1980 -----	5.0
1981 -----	—

Costs:

Fiscal year:	
1977 -----	0.5
1978 -----	5.0
1979 -----	5.0
1980 -----	5.0
1981 -----	4.5

*Section 310, Research.*—This section authorizes funding of a federal program of research, study, and training to support the development

and implementation of state coastal zone management programs, and federal sharing of the costs to a coastal state of developing its own capability for carrying out short-term studies, and training required in support of its coastal zone management program. The authorization levels are those given in the legislation, and a 75 percent, 25 percent spend-out pattern is assumed.

Authorization levels:

Fiscal year:	Millions
1977 -----	\$10.0
1978 -----	10.0
1979 -----	10.0
1980 -----	10.0
1981 -----	-----

Costs:

Fiscal year:	
1977 -----	7.6
1978 -----	10.0
1979 -----	10.0
1980 -----	10.0
1981 -----	2.4

*Section 315(a), Estuarine Sanctuary.*—This provision extends funding for the program of acquiring, developing, and operating estuarine sanctuaries through FY 1980. The authorization levels are those stated in the bill, and a spend-out pattern of 20 percent, 45 percent, 35 percent is assumed. This yields:

Authorization levels:

Fiscal year:	Millions
1977 -----	\$3.0
1978 -----	6.0
1979 -----	6.0
1980 -----	6.0
1981 -----	-----

Costs:

Fiscal year:	
1977 -----	0.6
1978 -----	2.5
1979 -----	5.0
1980 -----	6.0
1981 -----	3.9

*Section 315(b), Beach Access.*—This section requires that access to beaches and other coastal areas be included in state coastal zone management programs. Funds are authorized for the acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value. Authorization levels are those given in the legislation, and a spend-out pattern of 0 percent, 20 percent, 45 percent, 35 percent is used, yielding:

Authorization levels:

Fiscal year:	Millions
1977 -----	\$25.0
1978 -----	25.0
1979 -----	25.0
1980 -----	25.0
1981 -----	-----

Costs:

Fiscal year:	
1977 -----	-----
1978 -----	5.0
1979 -----	16.2
1980 -----	25.0
1981 -----	25.0

*Section 320, Program Administration.*—The authorization level is that given in the legislation. Section 308 administrative expenses may be charged to the Coastal Energy Facility Impact Fund. This yields the following estimates.

Authorization levels:

Fiscal year:	Millions
1977 -----	\$3.9
1978 -----	5.0
1979 -----	5.0
1980 -----	5.0
1981 -----	5.0

Costs:

Fiscal year:	Millions
1977 -----	\$3.9
1978 -----	5.0
1979 -----	5.0
1980 -----	5.0
1981 -----	5.0

*Section 319, Bond Guarantees.*—This provides the authority to guarantee the holders of bonds or other evidence of indebtedness issued by a state or local government for projects resulting from OCS energy activity against loss of principal or interest. The requirements to qualify for these guarantees and the provision that OCS payments be used first to pay back any default, indicate that negligible net outlays can be anticipated for defaults. Administrative costs are to be offset by guarantee fee receipts. The \$200 million limit on outstanding guarantees may require a one-time approval of \$200 million budget authority. This may be an on or off-budget item.

6. Estimate Comparison: None.

7. Previous CBO Estimate: None.

8. Estimate Prepared By: William F. Hederman, Jr. (225-5275).

9. Estimate Approved By:

C. G. NUCKOLS.

(For James L. Blum, Assistant Director for Budget Analysis.)

#### DEPARTMENTAL REPORTS

Eight departmental reports were received on H.R. 3981, as introduced, and follow herewith:

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
Washington, D.C., April 28, 1975.

HON. LEONOR K. SULLIVAN,  
Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives,  
Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your request for the comments of this Department regarding H.R. 3981, a bill "To amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage and control the impact of energy resource development and production which affects the coastal zone, and for other purposes."

This proposed legislation would amend the Coastal Zone Management Act of 1972: (a) by creating a coastal States impact fund of \$200 million annually to assist the States to study, plan for, manage and control the impact of energy facility siting as well as energy resource

development and production, (b) by making more specific the application of the Federal consistency provision of the Coastal Zone Management Act to Outer Continental Shelf (OCS) oil and gas development activities, (c) by providing financial incentives to encourage interstate cooperation and coordination in coastal zone management, (d) by providing financial assistance for short-term research and the training of coastal zone personnel, and (e) by providing financial aid for increasing beach access as well as the preservation of beaches and islands.

The Department of Commerce recommends against enactment of H.R. 3981. The Department is concerned about the onshore impacts of OCS development and is currently awaiting Administration studies of the advisability of some kind of Federal assistance to enable States to ameliorate such impact. The Department believes that the beach access and beach and island preservation provisions are unnecessary at the present time.

We support the consideration the Administration is giving to the question of providing assistance to the states in ameliorating the adverse impact of the siting of energy related facilities, such as those connected with the development of OCS oil and gas resources. We recognize State concerns which lead to some of the proposals for coastal impact funds and the apprehension of State governments about impacts generated from OCS activity is quite understandable.

The Administration is currently studying proposals to assist States to plan for and ameliorate onshore effects of offshore oil and gas exploration and development. These proposals range from revenue-sharing plans to direct impact payments. Given the complexity of these issues and the various interrelationships involved, the Department feels that the Administration studies should be completed before any legislative changes are forthcoming. Consequently, we do not support such changes at this time.

The Department does not agree with Sections 6(a) of the proposed legislation, which would amend Section 305 of the Coastal Zone Management Act, in effect, making program development grants available to the States to 1980. We feel strongly that States must have adequate incentives to move from the planning to the implementation stage on a timely basis. Given the critical nature of coastal zone management problems today, and especially those associated with OCS development, it is not desirable to stretch out State program development activities to 1980.

The Department of Commerce questions at this time the necessity for including the provision calling for a plan for protecting the access to public beaches and the protection of islands.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's position.

Sincerely,

BERNARD V. BARRETTE,  
*Deputy General Counsel.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
 COUNCIL ON ENVIRONMENTAL QUALITY,  
*Washington, D.C., May 1, 1975.*

HON. LEONOR K. SULLIVAN,  
*House of Representatives,*  
*Washington, D.C.*

DEAR MS. SULLIVAN: This is in response to inquiries from the Committee on Merchant Marine and Fisheries concerning the views of the Council on Environmental Quality with respect to several bills currently under consideration to assist coastal zone areas in handling the impacts of energy development. These include H.R. 3981, H.R. 1776, H.R. 3807, H.R. 3637, and H.R. 6090. As you are aware, the Administration is currently reviewing the laws applicable to this very complex subject area, and will be developing its position on new legislation in the near future. We therefore have no comment on these bills at this time.

Sincerely,

RUSSELL W. PETERSON,  
*Chairman.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., May 16, 1975.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: Reference is made to your request dated March 6, 1975, for our comments on H.R. 3981, 94th Congress, a bill which, if enacted, would be cited as the "Coastal Zone Environment Act of 1975" and which would amend the Coastal Zone Management Act of 1972, to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes.

Due to the general nature of the grant programs authorized under the proposed new sections 308 and 309, the Committee may want to consider establishing more specific criteria for grant eligibility and use of the grants.

The bill on page 5, lines 5 through 9, (section 308d) deals with the allocation of grants to coastal States in proportion to anticipated or actual impacts. This language is very broad and does not make clear how the amounts of grants to the States would be determined.

The provision on page 6, lines 13 through 18, (section 309b) authorizing annual interstate coordination grants to the coastal States is not clear as to how the cost of coordination, study, planning, or implementation is to be determined.

Also, we note that although sections 308, 309, and 310 authorize the Secretary of Commerce to make grants to the States in amounts up to 100 percent for certain types of grants, the bill does not specifically provide for evaluation of State programs by the Secretary of Commerce. It is our view that program evaluation is a fundamental part of effective program administration and that the responsibility for

evaluations should rest initially upon the responsible agencies. In line with this concept, we believe the Congress should attempt to specify the kinds of information and tests which will enable it to better assess how well programs are working and whether alternative approaches may offer better promise. We will be happy to work with the Committee in developing specific language if you wish.

Also, we note that this bill is a duplicate of S. 586, 94th Congress, concerning which general comments were made in a statement by Assistant Comptroller General Phillip S. Hughes, dated April 9, 1975, before joint Senate hearings conducted by the Committee on Internal and Insular Affairs and the Committee on Commerce. In this statement, a copy of which is enclosed for your information, we stressed timely consideration of S. 586 and other legislative proposals which would insure the protection of, or orderly development of the coastal zones.

Enclosed is a list of suggested technical and editorial changes to H.R. 3981 that the Committee may wish to consider.

Sincerely yours,

R. F. KELLER,

*Deputy Comptroller General of the United States.*

Enclosures.

#### TECHNICAL AND EDITORIAL SUGGESTIONS TO H.R. 3981, 94TH CONGRESS

1. On page 1, line 8, the second "thereof" should be deleted and "of subsection (h)" should be inserted in its place.

2. On page 2, line 10, "16 U.S.C. 1455(c) (3)" should read "16 U.S.C. 1456(c) (3)".

3. On page 8, line 5, section 6(b) (1), which would amend 16 U.S.C. 1464(a) by deleting "three" in paragraph (1) thereof and inserting in lieu thereof "four" should be stricken from this bill because the word "three" does not appear in 16 U.S.C. 1466(a).

4. On page 9, line 6, we believe that section 7(a), which would amend 16 U.S.C. 1451(e) by inserting "ecological" immediately after "recreational" was intended to amend that section by inserting the word "recreational" after the word "ecological".

5. On page 10, line 1, "Section 306(c) (9)" should read "section 315"; also, in line 3 "after" preceding ", Beaches and Islands" should be deleted.

6. On page 10, line 16, "16 U.S.C. 1451" should read "16 U.S.C. 1453".

7. On page 10, line 17, "(1)" should read "(i)".

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 6, 1975.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This responds to your request for the views of this Department concerning several bills which deal with the energy resources of the Outer Continental Shelf, H.R. 3981, H.R. 3807, H.R. 1776, H.R. 3637 and H.R. 6090.

We recommend that none of these bills be enacted, since appropriate action with respect to Outer Continental Shelf energy resources can be taken under existing law.

Our present energy needs require a strong program to develop the oil and gas resources of the Outer Continental Shelf, where this can be done with reasonable protection of environmental values and without other seriously undesirable impacts. More specifically, we must move ahead with exploration, leasing and production on those frontier areas of the OCS where the environmental risks are acceptable. In carrying out this program, we fully appreciate the need to meet the legitimate concerns of affected individuals and organizations. The program will be carried out in close cooperation with coastal States in their planning for possible increased local development.

#### I. THE BILLS

*H.R. 3981*, the Coastal Zone Environment Act of 1975, is a bill "To amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes."

Its goal is to provide coastal States adequate assistance to study, manage, and ameliorate any adverse consequences of energy facilities siting and energy resource development or production which affects directly or indirectly the coastal zone; to coordinate planning; and to develop short term research capabilities in the coastal States.

*H.R. 3981* would require a Commerce Department annual report to Congress which would include a description of economic, environmental, and social impacts of facility siting and energy development and production, and a description and evaluation of regional planning mechanisms developed by coastal States.

It also requires applicants for permits and leases to certify that their conduct is consistent with any approved State management program.

*H.R. 3981* authorizes the Department to make 100 percent annual grants for planning and control of economic, environmental, and social harm to coastal States likely to be significantly and adversely impacted by facility siting or energy development and production. The Department is to establish eligibility regulations for such grants, and to coordinate grants with State coastal zone management programs. Allocation of such grants to the States is required to be in proportion to anticipated or actual adverse impacts of OCS leasing. States may allocate a portion of such grants to political subdivisions or interstate agencies. *H.R. 3981* authorizes \$200 million for fiscal year 1976 and each four succeeding fiscal years.

*H.R. 3981* also provides for congressional authorization of binding interstate compacts, but provides for Federal and public participation in coordination. It authorizes grants up to 90 percent of such costs, in the amount of \$5 million for fiscal year 1976 and each of the succeeding three fiscal years for the program.

*H.R. 3981* also authorizes short-term research assistance to coastal States for research by: a. providing payment to Federal agencies; b. hiring of private contractors (consultants); c. direct grants of  $\frac{2}{3}$

the costs. Appropriations are authorized in the amount of \$5 million for fiscal year 1976 and each succeeding 3 fiscal years.

Finally, H.R. 3981 extends the scope of the Coastal Zone Management Act of 1972 to cover beaches and islands, and extends dates with increased appropriations.

H.R. 3807, the "Coastal Zone Environment Act of 1975," is identical to H.R. 3981 except that it would not extend the scope of the Coastal Zone Management Act of 1972 to cover beaches and islands, nor would it extend the Act's existing authorization dates or authorize increased appropriations.

H.R. 1776, the "Coastal Zone Management Act Amendments of 1975," would establish in the Department of the Treasury a Coastal States Fund, from which the Secretary would be authorized to make grants to assist coastal States impacted by anticipated or actual oil and gas production and to ameliorate adverse environmental effects and control secondary social and economic impacts associated with the development of Federal OCS energy resources. The bill would require such grants to be used for planning, construction of facilities, and provision of public services and other activities which the Secretary may in regulations prescribe.

Ten per centum of the Federal revenues collected under the Outer Continental Shelf Lands Act, but not to exceed 200 million dollars per year for fiscal year 1976 and 1977, are to be used by the Fund. Grants are to be made in proportion to the effects and impacts of offshore oil and gas exploration, development, and production on affected coastal States. Grants do not require matching funds by the States.

H.R. 1776 requires all Federal agencies to apprise affected coastal States of information in their possession concerning the location and magnitude of potential resources in or on the OCS within 30 days of availability. It also requires those Federal agencies which have authority over exploration and development of OCS to make available to affected coastal States information, including long-term plans on any licensing, leasing or permitting activity.

All appropriate Federal agencies would also coordinate and consult, as an integral part of the agencies' license, lease, or permit processes, with all affected coastal States. H.R. 1776 establishes guidelines for Fund eligibility and authorizes the Secretary of Commerce with those guidelines to establish by regulations grant eligibility.

H.R. 1776 also provides for Congressional authorization of binding interstate compacts for planning, policies, and programs to contiguous interstate areas but provides for Federal and public participation in coordination. It provides for grants for up to 100 percent of such costs, and authorizes \$1 million for fiscal year 1976 and each of the succeeding 3 fiscal years for the program.

H.R. 3637 would amend the Coastal Zone Management Act of 1972 to define "affected coastal State" to mean any State bordering on the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico or Long Island Sound.

H.R. 3637 also would define "offshore energy facility" and "related onshore facility."

H.R. 3637 would specify that, for 1 year following the effective enactment of the bill, no Federal agency may take any action which



authorizes the commencing or the carrying out of any preproduction exploration (except geophysical exploration) with respect to any offshore energy facility within any area of the Outer Continental Shelf before the affected coastal State either develops a Secretariially approved segment of its State coastal zone management program concerning the impact of offshore energy facilities activity on such State's coastal zones or certifies to the Secretary that the prohibition on Federal action shall not apply with respect to such areas of the Outer Continental Shelf. Any other affected State which considers that such Federal action may have an impact on its coastal zone may petition the Secretary to suspend or to prohibit any such Federal action. If the Secretary determines after agency hearing that such Federal action will or may have an adverse effect he may suspend or prohibit the action in such area for such time as he deems appropriate.

H.R. 3637 also prohibits Federal action, until June 30, 1977, regarding production from or development of, any offshore facility within any area of the Outer Continental Shelf before the affected coastal State can also follow the procedures stated above.

H.R. 3637 requires each appropriate Federal agency to inform, within 15 days of receipt and on a continuing basis, all affected coastal States of the nature, location and magnitude of potential resources in or on the OCS; and requires lessees of any area of the OCS to share such information with the appropriate Federal agency within 30 days. H.R. 3637 also requires Federal agencies which have authority to approve exploration and development activity in or on the OCS to make available to the appropriate affected coastal States all information, including long-term plans, relating to the timing, location, and magnitude of any activity. Each appropriate Federal agency shall coordinate and consult, as an integral part of that agency's authorization process, with all affected States likely to be impacted.

H.R. 3637 authorizes the Secretary to make grants to any affected coastal State for collection and assessment of economic, environmental and social data, development of a process for the selection and designation of such sites, and construction of public facilities and works and provision of public services as necessary or appropriate for the integration of related onshore facilities into the community. H.R. 3637 also establishes eligibility requirements for such grants.

Finally, H.R. 3637 establishes within the Department of the Treasury a 100 million dollar Affected Coastal State Fund, for fiscal years 1976 and 1977, with such additional sums thereafter as necessary. Affected coastal States are individually limited to no more than 15 percent of the total fund for each year.

*H.R. 6090* differs from *H.R. 1776* in that it establishes the Marine Resources Conservation and Development Fund which, although similar to the Coastal States Fund in *H.R. 1776*, does not authorize regulations which would prescribe fundable activities other than planning, construction of public facilities, and provision of public services. Rather it provides funds for "such other activities as may be deemed by the State to be in its best interest". The bill appropriates 17½ percent of the OCS revenues derived during the immediately preceding fiscal year to the Fund.

*H.R. 6090* also requires the Secretary to apportion the Fund amount available for disbursement in any fiscal year among eligible coastal

States on the basis of actual or anticipated effects, or both, and impacts of offshore oil and gas exploration, development, and production on each such State. It also requires that in no case may the grant in any fiscal year be less than an amount equal to 10 percentum of the revenues derived during the immediately preceding year by the United States from acreage leased and from oil and gas production of the OCS adjacent to such State.

H.R. 6090 also authorizes grants from the "Marine Resources Conservation and Development Fund" to noncoastal States to ameliorate environmental, social, and economic impacts associated with the development of Federal energy resources in or on the OCS.

The bill expressly avoids limiting or modifying the right, claim, or interest of any State to funds received before the bill is enacted or altering or modifying the claim of any State to title or jurisdiction over any submerged lands.

Unlike H.R. 1776, H.R. 6090 does not contain a provision authorizing an interstate coordination grant program to coastal States.

## II. DISCUSSION

Existing legislation provides a satisfactory framework for carrying out the essential objectives of most of these bills, and we are moving toward accomplishing them. The existing Outer Continental Shelf Lands Act and Coastal Zone Management Act of 1972 permits substantial latitude for adjustment to changing circumstances and our program for development of the OCS can be fully carried out under the present law. Significant changes in these laws could seriously delay achievement of the degree of national energy independence which we believe is vital.

Discussed more specifically below are some of the more important aspects in which we believe provisions of these bills are either unnecessary or undesirable.

### *Delay of OCS Oil and Gas Development*

A principal effect of these bills would be the delay of Outer Continental Shelf oil and gas development until State coastal zone management plans were approved, in full or in part, or until some specified date. Three of the proposed bills, H.R. 3981, H.R. 3807, and H.R. 3637 would provide grants to States for the purpose of studies which could expedite or improve their coastal zone management plan programs. The object of all three of these proposed bills appears to be the delaying of OCS activity until the coastal States have sufficiently advanced their coastal zone management programs to protect State and local interests which may be adversely affected by either offshore or onshore developments.

Although some States may need both financial and technical assistance in developing coastal zone management plans, such assistance can largely be provided under existing programs without imposing delays unrelated to management problems.

### *Federal/State Planning and Control*

The subject bills assume a present inadequacy in cooperative effort for OCS planning and control. States and localities which are most likely to be directly affected by the development of energy resources of

the OCS, should participate in decision making. Under current procedures, we believe that such States and localities are adequately apprised of the activities and hazards which might be involved in OCS development and are provided with ample opportunity for participation on OCS decisions. This participation in planning and control now includes:

(a) Environmental Study Program. Representatives from the coastal States serve on the OCS Research Management Advisory Board which oversees the Bureau of Land Management's environmental study program.

(b) Development of OCS Orders. The Geological Survey consults with the States in the development of OCS Orders. These Orders provide industry with the rules and regulations to be followed in exploration and production activities on the OCS. The regulations that are in effect have been strengthened considerably since the Santa Barbara spill. Proposed orders have been published for the Gulf of Alaska and are soon to be published for the mid-Atlantic.

(c) Call for Nominations. Approximately 12 months prior to a sale date, the Department publishes a request for nominations in the Federal Register. All interested members of the public including the adjacent States are urged to nominate specific tracts which they would want to see studied further for possible inclusion in a sale. They are also asked to designate specific tracts which should be excluded from the leasing process because of environmental conflicts.

(d) Tract Selection. Subsequent to receipt of the nominations, the Department makes a tentative selection of tracts. States are consulted on the issues involved in the selection process. States are again consulted before any final decision is made on tracts to be offered in a sale.

(e) Draft Environmental Impact Statement. The DEIS contains a detailed environmental assessment on a tract by tract basis in addition to an analysis of the general environmental conditions in the area. The States are asked to designate representatives to participate in the actual preparation of this document. This request has been made to Atlantic coast Governors and to the Governor of the State of Alaska.

(f) Public Hearing and Comments. After publication of the DEIS, a public hearing is held and States are invited to comment either orally or in writing. These comments are used in preparation of the Final Environmental Impact Statement.

(g) Decision by the Secretary. After completion of the Final EIS and a Program Decision Option Document, a decision is made by the Secretary whether to proceed with the sale and if so the composition of the sale. The Governors of affected coastal States are consulted before a final decision is made on what tracts are to be included in a sale.

(h) Supervision of Leases. Geological Survey monitors adherence to the OCS Orders through review of applications and proposed plans. Consideration is being given to having State personnel participate with the Geological Survey in this endeavor.

(i) Review of Development Plan. Under the Coastal Zone Management Act, any State with a coastal zone management plan will have to review actions which may affect land and water uses in the coastal zone.

Onshore planning is already controlled by the States. State and local jurisdiction over pipeline rights-of-way and refinery siting should provide substantial leverage for State control of onshore development associated with offshore activity.

The opportunity for cooperative efforts in OCS planning, and control of onshore development protect the States now. Considering the lead time involved in OCS exploration and development programs, no additional delays are necessary to protect the States' future interests.

### *Grant Focus*

Each of the various bills provides funds for and authority to make grants to the eligible coastal States (H.R. 6090 includes noncoastal States as well) to assist in studying, managing, and ameliorating the impacts associated with the development of Federal energy resources in or on the OCS. The specifics of the grants are, however, so broadly written that it is difficult to know with certainty what problems may have to be addressed or which activities may finally qualify for funding. For example, in H.R. 3981 and H.R. 3807 "direct and indirect" effects are included and awards made to States "likely" to be adversely affected in proportion to "anticipated" or actual adverse impacts, and in H.R. 6090 such grants are to be used for specific activities "and such other activities as may be deemed by the State to be in its best interest." In light of present economic and budget concerns and due to the considerable sums which these bills would make available, a more specific focus for grants is required than these bills provide.

### *Impacts on the Coastal States*

All the bills, except H.R. 6090, assume that the major impact of OCS leasing will be on a coastal area. While the coastal area will undoubtedly undergo some degree of growth and economic or social change, there is no guarantee that refining and processing and major facilities associated therewith will be located in the coastal State. For example, a significant amount of OCS production off the State of Louisiana immediately enters a pipeline and is transported to the Chicago area. The bills do not take into consideration those situations in which the major and final impact is elsewhere. To this extent, the bills are discriminatory.

### *Federal Consistency With Coastal Zone Management Act of 1972*

The sponsors of H.R. 3981 and H.R. 3807 indicate that one of the purposes of the bill is to make the "Federal consistency provision in the Coastal Zone Management Act more specific with regard to Federal oil and gas leasing, development, production, and energy facilities siting activities which directly or indirectly affect a State zone program." These bills broaden the applicability of existing Coastal Zone Management Act language to include activities authorized by lease, as well as permit or license, and would then add a new paragraph containing certification requirements applicable specifically to energy related activities which "directly or indirectly" affect the "coastal zone program". We do not believe this language modifies or improves the basic concept of the Federal consistency provision. Rather, it renders almost any activity potentially subject to the certification provisions because it is uncertain an indirect effect exists.

### *Distribution of OCS Revenues*

The Administration recognizes the concerns about OCS generated fiscal impact problems which have led some coastal States to propose that OCS revenues be shared with the States. This concern is reflected in provisions of H.R. 1776 and H.R. 6090 which mandate that certain portions of OCS oil and a gas revenue be spent to grant assistance to potentially impacted or impacted coastal States to study and/or control the adverse effects of such impacts. The Administration currently is actively studying several alternative proposals to deal with such problems ranging from impact aid grants to formula-grant revenue sharing. However, we have no recommendation to make at this time.

To summarize, the bills before the Committee deal with the major issues relating to use of the energy resources of the Outer Continental Shelf. To meet our present energy needs, however, we believe that the present OCS Lands Act and the Coastal Zone Management Act of 1972 provide a satisfactory framework and that further legislation such as that before the Committee is undesirable or unnecessary.

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

Sincerely yours,

ROYSTON C. HUGHES,  
*Assistant Secretary of the Interior.*

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DEPARTMENT OF THE NAVY,  
OFFICE OF LEGISLATIVE AFFAIRS,  
*Washington, D.C., June 1, 1975.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: Your request for comment on H.R. 3981, a bill "To amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

H.R. 3981 would assist coastal states in coping with problems related to energy production and resource development. In addition, sections 7(b) and 7(d) of the bill would amend the Coastal Zone Management Act so as to include islands within the coastal zone.

The Department of Defense has extensive operational responsibilities on various islands within the coastal zone. Of course, these responsibilities are subject to the policy that federal agencies will cooperate with state governments to effectuate the purposes of the act. 16 U.S.C. § 1456 (c). At the same time, the Secretary of Commerce has authority to exempt federal activities from strictures of the act where necessary for national security. 16 U.S.C. § 1456(c) (3). In addition, Congress has specifically excluded from the coastal zone federal lands "the use of which is by law subject solely to the discretion of or

which is held in trust by the federal government . . .". 16 U.S.C. § 1453(a).

It should be noted that islands included in the zone will be subject to the exemption authority and statutory exclusion currently applicable to other federal areas and activities. Department of Defense lands, to the extent they fall under the statutory exclusion of 16 U.S.C. § 1453(a), would be excluded from the coastal zone and, therefore, exempt from state management plans and programs.

Due to the lack of clarifying litigation and the absence of actual experience with approved state plans, the effect of the Coastal Zone Management Act upon federal activities remains somewhat unclear. Accordingly, it is recommended that appropriate amendatory language be added to specifically exempt areas of the Coastal Zones required for military operations.

Subject to the foregoing, the Department of the Navy on behalf of the Department of Defense, defers to the views of the Department of Commerce and the Department of the Interior.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is not objection to the presentation of this report on H.R. 3981 for the consideration of the Committee.

For the Secretary of the Navy.  
Sincerely yours,

N. R. GOODING, JR.,  
*Captain, U.S. Navy, Deputy Chief.*

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DEPARTMENT OF STATE,  
*Washington, D.C., May 1, 1975.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives,  
Washington, D.C.*

DEAR MADAM CHAIRMAN: The Secretary has asked me to reply to your letters of February 4 and 13 and March 6. In your correspondence you requested the Department's comments on H.R. 1776, H.R. 1676, H.R. 3637, and 3981.

The Department interposes no objection to the proposed legislation from the standpoint of foreign relations. We defer to the Department of Commerce in this matter. In addition, under the terms of the proposed legislation, the Department is not authorized to expend funds and would not incur any administrative expense.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

ROBERT J. McCLOSKEY,  
*Assistant Secretary for Congressional Relations.*

OFFICE OF THE SECRETARY OF TRANSPORTATION,  
*Washington, D.C., June 23, 1975.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives,  
Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in response to your request for the views of the Department of Transportation concerning a series of bills related to various aspects of oil and gas development on the Outer Continental Shelf.

H.R. 1363 would amend the Outer Continental Shelf Lands Act by establishing an Advisory Committee on the Marine Environment, an Inter-Agency Committee on Marine Environment, and a requirement that the Secretary of Interior develop a comprehensive management plan for the marine environment.

H.R. 1776 would amend the Coastal Zone Management Act by establishing in the Treasury of the United States the Coastal States Fund, to be administered by the Secretary of Interior in assisting States to ameliorate and control adverse effects of offshore oil and gas development.

H.R. 1777 would amend the Coastal Zone Management Act by deferring offshore leasing until the Secretary of Interior approves coastal zone management programs of adjacent coastal zone States, or until June 20, 1976, whichever date first occurs.

H.R. 2772 would amend the Coastal Zone Management Act to require that reliable information be obtained on the nature and extent of energy resources in the undeveloped areas of the Outer Continental Shelf and that the Secretary of Interior develop a 10-year leasing plan within the context of a national energy policy.

The bill would require, with few exceptions, strict liability for oil spills, and would establish an Impacted Coastal State Fund, from which grants to States could be made. Title III would direct the Secretaries of Transportation and Interior to report to the Congress on the adequacy of pipeline safety regulations and monitoring on the Outer Continental Shelf.

H.R. 3637 would amend the Coastal Zone Management Act to authorize financial assistance to coastal States to enable them to study, assess, and plan effectively with respect to the impact within their coastal zones of off-shore energy-related facilities and activities.

H.R. 3981 would amend the Coastal Zone Management Act to authorize financial assistance to coastal States for purposes similar to those of H.R. 3637.

H.R. 3982 would amend the Coastal Zone Management Act to direct that specific information be incorporated in environmental impact statements related to oil and gas exploration and that the Secretary of Interior develop and transmit a development plan to the Governor and State coastal zone management agencies in adjacent coastal States before invitations to bid on development tracts. The bill would also require a moratorium on leasing and termination of existing leases on tracts in certain locations designated as "Frontier areas."

The Department of Transportation concurs with the general objectives of those measures of the foregoing bills that are designed to minimize the risk of damage to the environment and to ensure the safety

of life and property at sea. However, so far as these objectives are concerned, we believe that they can be accomplished under existing authority.

The Administration is presently drafting its own proposal in the area of oil spill liability and is studying the need for, and possible alternative approaches to providing, impact assistance for coastal jurisdictions affected by Outer Continental Shelf oil and gas activities. Therefore, we will defer our comments on those aspects of the bills until the Administration's positions are finalized.

This Department is concerned that any new legislation providing for the development of energy resources on the Outer Continental Shelf recognize the expertise of the Coast Guard and retain the responsibilities and authorities currently vested in this Department. These areas include the promulgation and enforcement of regulations for fire prevention on vessels and other maritime-related safety interests; casualty investigation and inspection of facilities; the investigation, reporting, containment, and removal of oil spills; the development and maintenance of aids to navigation and safe vessel traffic systems; and the research and development necessary to carry out these functions. We feel that the knowledge and expertise gained in these and related areas by the Coast Guard should be recognized and retained in any new legislation designed to expand these regulatory functions on the Outer Continental Shelf.

However, since the authority already exists for the safe development and regulation of energy resources on the Outer Continental Shelf, we see no need for additional detailed legislation at this time (as distinguished from liability and impact assistance legislation).

With respect to Title III of H.R. 2772, we note that the substance of proposed sections 301(a) and 301(b) has already been enacted as sections 21(b) and 21(c) of the Deepwater Port Act of 1974.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

RODNEY E. EYSTER,  
*General Counsel.*

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THE GENERAL COUNSEL OF THE TREASURY,  
*Washington, D.C., July 18, 1975.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives,  
Washington, D.C.*

DEAR MADAM CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 1776, H.R. 3637, H.R. 3981, and H.R. 4413, bills to amend the Coastal Zone Management Act of 1972, in order to authorize financial assistance to coastal States.

The bills would authorize the Secretary of Commerce to make grants to coastal States out of a special Federal fund for planning, construction of public facilities, and provision of public services to ameliorate presumed adverse impacts from the development of offshore energy resources along the Outer Continental Shelf (OCS). The need for the



proposed Federal grants is not made clear in the bills. Although the exploitation of oil and gas along the OCS may indeed entail ecological and economic costs, it has not yet been shown that these would outweigh benefits, such as increased employment and increased availability of energy supplies, that would also accrue to coastal States. Until it is effectively demonstrated that OCS leasing will result in a net cost to coastal States, the creation of a new special Federal Fund to assist States in the development and implementation of programs to counteract the negative effects of OCS leasing would seem unjustified.

The broad new programs authorized by each of these bills would appear to largely overlap ongoing programs of a number of Federal agencies, including the Departments of Agriculture, Army, Commerce, Housing and Urban Development, Interior, the Environmental Protection Agency, and the Small Business Administration. These new programs could result in confusion of responsibilities and duplication of activities, and would make difficult the establishment of budget priorities for the ongoing programs of the above listed agencies.

The Department also has strong objections to the financing arrangements involved in H.R. 1776 and H.R. 4413. The special funds established by these bills are created by earmarking a certain percentage of Federal receipts from the leasing of OCS lands to the funds for conditional transfer to the coastal States affected by OCS activities. As a general principle of budgetary management, the Department believes that budget receipts should not be earmarked for particular expenditures, but should be available in the general fund of the Treasury for appropriation by the Congress for achievement of current programs and objectives. The Department believes that legislative enactments setting aside certain budgetary receipts for particular purposes tend to introduce undesirable rigidities into the budgetary process and thereby limit the flexibility of the President and the Congress in determining annual budgetary priorities. Earmarking also tends to promote unnecessary public spending.

The Department also questions the desirability of providing windfall revenues to States adjacent to the Outer Continental Shelf based solely on their geographical locations. The Department views these grants as windfalls in the absence of evidence that offshore exploration and production has a net unfavorable impact on the economies of adjacent coastal States.

The Administration is now reviewing the questions of whether there is a need for additional Federal assistance to coastal jurisdictions resulting from OCS activities and, if so, of what alternative means of delivering assistance would be most desirable. It is possible that the review will develop evidence that additional assistance is needed and that earmarking, although generally undesirable, may be appropriate in this instance for some unique reason. Until the review is completed, the Department believes that the above objections remain valid.

In light of the above, this Department opposes enactment of H.R. 1776, H.R. 3637, H.R. 3981, and H.R. 4413.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

DONALD L. E. RITGER,  
*Acting General Counsel.*

## CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

## COASTAL ZONE MANAGEMENT ACT OF 1972, AS AMENDED

(16 U.S.C. 1451 et seq.; Public Law 92-583)

AN ACT To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

## TITLE III—MANAGEMENT OF THE COASTAL ZONE

## SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

## CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, *ecological*, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resource, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

#### DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes *islands*, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, [and] adjacent uplands, and islands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307 (f).

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 307 (g).

(j) "*Outer Continental Shelf energy activity*" means exploration for, or the development or production of, oil and gas resources from the outer Continental Shelf, or the location, construction, expansion or operation of any energy facilities made necessary by such exploration or development.

(k) "*Energy facilities*" means new facilities, or additions to existing facilities—

(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) outer Continental Shelf oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary for such exploration, development, or production; (E) facilities for offshore loading and marine transfer of petroleum; (F) pipelines and transmission facilities; and (G) terminals which are associated with any of the foregoing.

(l) "Public facilities and public service" means any services or facilities which are financed, in whole or in part, by state or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.

(m) "local government" means any political subdivision of any coastal State if such subdivision has taxing authority or provides any public service which is financed in whole or part by taxes, and such term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(n) "Net adverse impacts" means the consequences of a coastal energy activity which are determined by the Secretary to be economically or ecologically costly to a state's coastal zone when weighed against the benefits of a coastal energy activity which directly offset such costly consequences according to the criteria as determined in accordance with section 308(c) of this title. Such impacts may include, but are not limited to—

(1) rapid and significant population changes or economic development requiring expenditures for public facilities and public services which cannot be financed entirely through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title;

(2) unavoidable loss of unique or unusually valuable ecological or recreational resources when such loss cannot be replaced or restored through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title.

(o) "Coastal energy activity" means any of the following activities if it is carried out in, or has a significant effect on, the coastal zone of any coastal state or coastal states—

(1) the exploration, development, production, or transportation of oil and gas resources from the outer Continental Shelf and the location, construction, expansion, or operation of supporting equipment and facilities limited to exploratory rigs and vessels; production platforms; subsea completion systems;

*marine service and supply bases for rigs, drill ships, and supply vessels; pipelines, pipelaying vessels and pipeline terminals, tanks receiving oil or gas from the outer Continental Shelf for temporary storage; vessel loading docks and terminals used for the transportation of oil or gas from the outer Continental Shelf; and other facilities or equipment required for the removal of the foregoing or made necessary by the foregoing when such other facilities or equipment are determined by the coastal state affected to have technical requirements which would make their location, construction, expansion, or operation in the coastal zone unavoidable;*

*(2) the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of liquefied natural gas, coal, or oil or of conversion or treatment facilities necessarily associated with the processing of liquefied natural gas; or*

*(3) the location, construction, expansion, or operation of deep-water ports and directly associated facilities, as defined in the Deepwater Port Act ( 33 U.S.C. 1501-1524; Public Law 93-627).*

#### MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

(2) a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process[.];

*(7) a definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value;*

*(8) a planning process for energy facilities likely to be located in the coastal zone and a process for the planning and management of the anticipated impacts from any energy facility; and*

*(9) a planning process that will assess the effects of shoreline erosion and evaluate methods of control, lessen the impact of, or*

*otherwise restore areas adversely affected by such erosion, whether caused by natural or man-induced actions.*

(c) The grants shall not exceed **【66⅔】** 80 per centum of the costs of the program in any one year and no state shall be eligible to receive more than **【three】** four annual grants pursuant to this section. **【Federal funds received from other sources shall not be used to match such grants.】** In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary**【.】**: *Provided, That notwithstanding any provision of this section or of section 306 no state management program submitted pursuant to this subsection before October 1, 1978, shall be considered incomplete, nor shall final approval thereof be delayed, on account of such state's failure to comply with any regulations that are issued by the Secretary to implement subsection (b) (7), (b) (8), or (b) (9) of this section. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title 【.】: Provided, That the state shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a public beach and public coastal area access planning process, an energy facility planning process, and a shoreline erosion planning process for its state management program, pursuant to regulations adopted by the Secretary to implement subsections (b) (7), (b) (8), and (b) (9) of this section.*

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however, That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section: And provided further, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver【.】: And provided further, That the Secretary may waive the application of the 10 per centum maximum requirement as to any grant under this section when the coastal state is implementing a management program pursuant to subsection (h) of this section.*

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of

1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

(h) (1) *The Secretary may make annual grants under this subsection to any coastal state for not more than 80 per centum of the cost of implementing the state's management program, if he preliminarily approves such program in accordance with paragraph (2) of this subsection. The limitation on the number of annual development grants pursuant to subsection (c) of this section is not applicable to this subsection. States shall remain eligible for implementation grants pursuant to this subsection until September 30, 1979.*

(2) *Before granting preliminary approval of a management program submitted by a coastal state pursuant to this subsection, the Secretary shall find that the coastal state has—*

(A) *developed a management program which is in compliance with the rules and regulations promulgated pursuant to this section but is not yet wholly in compliance with the requirements of section 306 of this title,*

(B) *in consultation with the Secretary, specifically identified the deficiencies in the program which would render the state ineligible for the Secretary's approval pursuant to section 306 of this title, and deficiencies such as the lack of an adequate organizational network or the lack of sufficient state authority to administer effectively the state's program have been set forth with particularity,*

(C) *has established a reasonable time schedule during which it can remedy the deficiencies identified under subparagraph (B) of this subsection; and*

(D) *has specifically identified the types of program management activities that it seeks to fund pursuant to this subsection.*

(3) *The Secretary shall determine allowable costs under this subsection and shall publish necessary and reasonable rules and regulations in this regard.*

(4) *Any state program funded under the provisions of this subsection shall not be considered an approved program for the purposes of section 307 of this title.*

[(h)] (i) *The authority to make grants under this section shall expire on [June 30, 1977.] September 30, 1979.*

#### ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than [(66%) 80] per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. [Federal funds received from other sources shall not be used to pay the state's share of costs.]

(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided*, That no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,-



500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977: *Provided further*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary; which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

*No mechanism referred to in this paragraph for continuing consultation and coordination shall be found by the Secretary to be effective unless such mechanism includes, in addition to such other provisions as may be appropriate, provisions under which:*

(i) *the management agency designed pursuant to paragraph (5) of this subsection is required, before implementing any decision made by it to carry out the management program, to send notice of such decision to any local government which has land use or water use control powers within the area to which such decision may apply;*

(ii) *any such local government may, within thirty days after the date on which such notice is received, request the management agency to hold a public hearing regarding such decision;*

(iii) *the management agency, upon receiving a request for a public hearing as provided for in clause (ii), is required to hold such public hearing not sooner than ninety days after the date on which notice of the decision is received by the local government; and*

(iv) if a public hearing on any such decision is timely requested by any local government, the management agency may not implement the decision until after the public hearing is concluded.

Funds which may be allocated to any local government pursuant to subsection (f) of this section may be used, in part, to defray expenses incurred by the local government in preparing for any public hearing referred to in the preceding sentence which is requested by it.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature. *In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a state's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the state has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title.*

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the state under the program as amended.

(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

(i) *As a condition of a state's continued eligibility for grants pursuant to this section, the management program of such state shall, after the fiscal year ending in 1978, include, as an integral part thereof (1) a planning process for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b)(7) of this title, and approved by the Secretary; (2) an energy facility planning process, which is developed pursuant to section 305(b)(8) of this title, and approved by the Secretary; and (3) a shoreline erosion planning process, which is developed pursuant to section 305(b)(9) of this title, and approved by the Secretary.*

#### INTERAGENCY COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately

considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c) (1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal [license or permit] *license, lease, or permit* to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the [licensing or permitting] *licensing, leasing, or permitting* agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No [license or permit] *license, lease, or permit* shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(4) *In case of serious disagreement between any Federal agency and the state in the implementation of an approved state management program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.*

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the

Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Nothing in this title shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; or 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 two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor 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.

(f) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

#### COASTAL ENERGY ACTIVITY IMPACT PROGRAM

*SEC. 308. (a) (1) The Secretary shall make a payment for each fiscal year to each coastal state in an amount which bears to the amount appropriated for that fiscal year pursuant to paragraph (6) of this subsection the same ratio as the number representing the average of the following proportions (computed with regard to such state) bears to 100—*

*(A) the proportion which the outer Continental Shelf acreage is adjacent to such state and which is leased by the Federal Government in that year bears to the total outer Continental Shelf acreage which is leased by the Federal Government in that year;*

*(B) the proportion which the number of exploration and development wells adjacent to that state which are drilled in that year on outer Continental Shelf acreage leased by the Federal Government bears to the total number of exploration and de-*

*velopment wells drilled in that year on outer Continental Shelf acreage leased by the Federal Government;*

*(C) the proportion which the volume of oil and natural gas produced in that year from outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in that year from outer Continental Shelf lands under Federal lease in that year;*

*(D) the proportion which the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government and first landed in such state in that year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government and first landed in the United States in that year;*

*(E) the proportion which the number of individuals residing in such state in that year who are employed directly in outer Continental Shelf energy activities by outer Continental Shelf lessees and their contractors and subcontractors bears to the total number of individuals residing in all coastal states who are employed directly in outer Continental Shelf energy activities in that year by outer Continental Shelf lessees, and their contractors and subcontractors; and*

*(F) the proportion which the onshore capital investment which is made during that year in such state and which is required to directly support outer Continental Shelf energy activities bears to the total of all such onshore capital investment made in all coastal states during that year.*

*(2) For purposes of calculating the proportions set forth in paragraph (1) of this subsection, "the outer Continental Shelf lands which are adjacent to such state" shall be the portion of the outer Continental Shelf lying on that state's side of extended seaward boundaries determined as follows: (A) In the absence of seaward lateral boundaries, or any portion thereof, clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), the boundaries shall be that portion of the outer Continental Shelf which would lie on that state's side of lateral marine boundaries as determined by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone. (B) If seaward lateral boundaries have been clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to establish them.*

*(3) The Secretary shall have the responsibility for the compilation, evaluation, and calculation of all relevant data required to determine the amount of the payments authorized by this subsection and shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, set forth the method by which collection and evaluation of such data shall be made. In compiling and evaluating such data, the Secretary may require the assistance of any relevant Federal or State agency. In calculating the proportions set forth in*

paragraph (1) of this subsection, payments made for any fiscal year shall be based on data from the immediately preceding fiscal year, and data from the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included in the data from the fiscal year ending June 30, 1976.

(4) Each coastal state receiving payments under this subsection shall use the moneys for the following purposes and in the following order of priority:

(A) The retirement of state and local bonds, if any, which are guaranteed under section 319 of this title which were issued for projects or programs designed to provide revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activity; except that, if the amount of such payments is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

(B) The study of, planning for, development of, and the carrying out of projects or programs which are designed to provide new or additional public facilities or public services required as a direct result of outer Continental Shelf energy activity.

(C) the reduction or amelioration of any unavoidable loss of unique or unusually valuable ecological or recreational resources resulting from outer Continental Shelf activity.

(5) It shall be the responsibility of the Secretary to determine annually if such coastal state has expended or committed funds in accordance with the purposes authorized herein by utilizing procedures pursuant to section 313 of this title. The United States shall be entitled to recover from any coastal state that portion of any payment received by such state under this subsection which—

(A) is not expended by such state before the close of the fiscal year immediately following the fiscal year in which the payment was disbursed, or;

(B) is expended or committed by such state for any purposes other than a purpose set forth in paragraph (4) of this subsection.

(6) For purposes of this subsection, there are hereby authorized to be appropriated funds not to exceed \$50,000,000 for the fiscal year ending September 30, 1977; \$50,000,000 for the fiscal year ending September 30, 1978; \$75,000,000 for the fiscal year ending September 30, 1979; \$100,000,000 for the fiscal year ending September 30, 1980; and \$125,000,000 for the fiscal year ending September 30, 1981.

(7) It is the intent of Congress that each state receiving payments under this subsection shall, to the maximum extent practicable, allocate all or a portion of such payments to local governments thereof and that such allocation shall be on a basis which is proportional to the extent to which local governments require assistance for purposes as provided in paragraph (4) of this subsection. In addition, any coastal state may, for the purposes of carrying out the provisions of this subsection and with the approval of the Secretary, allocate all or portion of any grant received under this subsection to (A) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (B) any regional agency, or (C) any interstate agency. No provision in this subsection shall relieve any state of the responsibility for insuring that any funds allocated to

any local government or other agency shall be applied in furtherance of the purposes of this subsection.

(b) (1) The Secretary may make grants to any coastal state if he determines that such state's coastal zone is being, or is likely to be, impacted by the location, construction, expansion, or operation of energy facilities in, or which significantly affect its coastal zone. Such grants shall be for the purpose of enabling such coastal state to study and plan for the economic, social, and environmental consequences which are resulting or are likely to result in its coastal zone from such energy facilities. The amount of any such grant may equal up to 80 per centum of the cost of such study or plan, to the extent of available funds.

(2) The Secretary may make grants to any coastal state if he is satisfied, pursuant to regulations and criteria to be promulgated according to subsection (c) of this section, that such state's coastal zone has suffered, or will suffer, net adverse impacts from any coastal energy activity. Such grants shall be used for, and may equal up to 80 per centum of the cost of carrying out projects, programs, or other purposes which are designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity.

(c) Within one hundred and eighty days after the effective date of this section, the Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant eligibility under subsection (b) of this section. Such regulations shall—

(1) include appropriate criteria for determining the amount of a grant and the general range of studying and planning activities for which grants will be provided under subsection (b) (1) of this section;

(2) specify the means and criteria by which the Secretary shall determine whether a state's coastal zone has, or will suffer, net adverse impacts;

(3) include criteria for calculating the amount of a grant under subsection (b) (2) of this section, which criteria shall include consideration of—

(A) offsetting benefits to the state's coastal zone or a political subdivision thereof, including but not limited to increased revenues,

(B) the state's overall efforts to reduce or ameliorate net adverse impacts, including but not limited to, the state's effort to insure that persons whose coastal energy activity is directly responsible for net adverse impacts in the state's coastal zone are required, to the maximum extent practicable, to reduce or ameliorate such net adverse impacts,

(C) the state's consideration of alternative sites for the coastal energy activity which would minimize net adverse impacts; and

(D) the availability of Federal funds pursuant to other statutes, regulations, and programs, and under subsection (a) of this section, which may be used in whole or in part to reduce or ameliorate net adverse impacts of coastal energy activity;



*In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, which upon request, shall assist the Secretary in the formulation of the regulations under this subsection on a nonreimbursable basis; with representatives of appropriate state and local governments; with commercial, industrial, and environmental organizations; with public and private groups; and with any other appropriate organizations and persons with knowledge or concerns regarding adverse impacts and benefits that may affect the coastal zone.*

*(d) All funds appropriated to carry out the purposes of subsection (b) of this section shall be deposited in a fund which shall be known as the Coastal Energy Activity Impact Fund. The fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to the fund. Moneys in the fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest to the United States.*

*(e) There are hereby authorized to be appropriated to the Coastal Energy Activity Impact Fund such sums not to exceed \$125,000,000 for the fiscal year ending September 30, 1977, and for each of the next four succeeding fiscal years, as may be necessary, which shall remain available until expended.*

*(f) It is the intent of Congress that each state receiving any grant under paragraph (1) or (2) of subsection (b) of this section shall, to the maximum extent practicable, allocate all or a portion of such grant to any local government thereof which has suffered or may suffer net adverse impacts resulting from coastal energy activities and such allocation shall be on a basis which is proportional to the extent of such net adverse impact. In addition, any coastal state may, for the purpose of carrying out the provisions of subsection (b) of this section, with the approval of the Secretary, allocate all or a portion of any grant received to (1) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (2) any regional agency, or (3) any interstate agency. No provision in subsection (b) of this section shall relieve a state of the responsibility for insuring that any funds so allocated to any local government or any other agency shall be applied in furtherance of the purposes of such subsection.*

*(g) No coastal state is eligible to receive any payment under subsection (a) of this section, or any grant under subsection (b) of this section unless such state—*

*(1) is receiving a program development grant under section 305 of this title or, is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or has such a program approved pursuant to section 306 of this title; and*

*(2) has demonstrated to the satisfaction of, and has provided adequate assurances to, the Secretary that the proceeds of any such payment or grant will be used in a manner consistent with the coastal zone management program being developed by it, or with its approved program, consistent with the goals and objectives of this title.*

## INTERSTATE COORDINATION GRANTS TO STATES

*SEC. 309. (a) The states are encouraged to give high priority (1) to coordinating state coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The states may conduct such coordination, study, planning, and implementation through interstate agreement or compact. The Secretary is authorized to make annual grants to the coastal states, not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal state receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.*

*(b) The consent of the Congress is hereby given to two or more states to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) establishing such agencies, joint or otherwise, as the states may deem desirable for making effective such agreements and compacts. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.*

*(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, the Administrator of the Federal Energy Administration, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.*

*(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of states for the purpose of creating temporary ad hoc planning and coordinating entities to—*

- (1) coordinate state coastal zone planning, policies, and programs in contiguous interstate areas;*
- (2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and*
- (3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.*

*The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c) of this section, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall expire at the close of the five-year period beginning on the effective date of this section.*

## COASTAL RESEARCH AND TECHNICAL ASSISTANCE

*SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of state coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this title, a summary and evaluation of the research, study, and training conducted under this section.*

*(b) The Secretary is authorized to make up to an 80 per centum grant to any coastal state to assist such state in developing its own capability for carrying out short-term research, studies, and training required in support of coastal zone management.*

*(c) (1) The Secretary is authorized to—*

*(A) undertake a comprehensive review of all aspects of the shellfish industry including but not limited to the harvesting, processing, and transportation of shellfish;*

*(B) evaluate the impact of Federal legislation affecting water quality on the shellfish industry;*

*(C) examine and evaluate methods of preserving and upgrading areas which would be suitable for the harvesting of shellfish, including the improvement of water quality in areas not presently suitable for the production of wholesome shellfish and other seafood;*

*(D) evaluate existing and pending bacteriological standards, pesticide standards, and toxic metal guidelines which may be utilized to determine the wholesomeness of shellfish, and*

*(E) evaluate the effectiveness of the national shellfish sanitation program.*

*(2) The Secretary shall submit a report to the Congress on the activities required to be undertaken by it under paragraph (1) together with such comments and recommendations as he may deem necessary, not later than June 30, 1977.*

*(d) Notwithstanding any other provisions of law, no Federal agency shall promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce, unless an emergency occurs as determined by the Secretary, before the submission to the Congress of the report required under subsection (c) (2).*

## PUBLIC HEARINGS

**SEC. [308.] 311.** All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time

of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

#### REVIEW OF PERFORMANCE

SEC. [309.] 312. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpected portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

#### RECORDS

SEC. [310.] 313. (a) Each recipient of a grant *or payments* under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant *or payments*, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, *for up to three years after the termination of any grant or payment program under this title*, for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant *or payments* that are pertinent to the determination that funds granted *or paid* are used in accordance with this title.

#### ADVISORY COMMITTEE

SEC. [311.] 314. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

## ESTUARINE SANCTUARIES AND BEACH ACCESS

SEC. [312.] 315. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purposes of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. [No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.]

(b) *The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological and cultural value.*

## ANNUAL REPORT

SEC. [313.] 316. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; [and] (9) *a general description of the economic, environmental, and social impacts of energy activity affecting the coastal planning mechanisms developed by the coastal states;* and [(9)] (11) such other information as may be appropriate.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

## RULES AND REGULATIONS

SEC. [314.] 317. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and

opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### LIMITATIONS

*Sec. 318. Nothing in this title shall be construed to authorize or direct the Secretary or any other Federal official to intercede in any state land or water use decision including, but not limited to the siting of energy facilities, as a prerequisite to such states eligibility for grants or bond guarantees under this title.*

#### STATE AND LOCAL GOVERNMENT BOND GUARANTEES

*Sec. 319. (a) The Secretary is authorized, in accordance with such rules as he shall prescribe, to make commitments to guarantee and to guarantee the payment of interest on and the principal balance of bonds or other evidences of indebtedness issued by a coastal state or unit of general purpose local government for the purposes specified in subsection (b) of this section.*

*(b) A bond or other evidence of indebtedness may be guaranteed under this section only if it is issued by a coastal state or unit of general purpose local government for the purpose of obtaining revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activities.*

*(c) Bonds or other evidences of indebtedness guaranteed under this section shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—*

*(1) no guarantee shall be made unless the Secretary determines that the issuer of the evidence of indebtedness would not be able to borrow sufficient revenues on reasonable terms and conditions without the guarantee;*

*(2) the guarantees shall provide for complete amortization of the indebtedness within a period not to exceed thirty years;*

*(3) the aggregate principal amount of the obligations which may be guaranteed under this section on behalf of a coastal state or a unit of general purpose local government and outstanding at any one time may not exceed \$20,000,000;*

*(4) the aggregate principal amount of all the obligations which may be guaranteed under this section and outstanding at any one time may not exceed \$200,000,000;*

*(5) no guarantee shall be made unless the Secretary determines that the bonds or other evidences of indebtedness will—*

*(A) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;*

*(B) bear interest at a rate satisfactory to the Secretary;*

*(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and*

*(D) contain or be subject to provisions with respect to the protection of the security interest of the United States;*

(6) the approval of the Secretary of the Treasury shall be required with respect to any guarantee made under this section, except that the Secretary of the Treasury may waive this requirement with respect to the issuing of any such obligation when he determines that such issuing does not have a significant impact on the market for Federal Government and Federal Government-guaranteed securities;

(7) the Secretary determines that there is reasonable assurance that the issuer of the evidence of indebtedness will be able to make the payments of the principal of and interest on such evidence of indebtedness; and

(8) no guarantee shall be made after September 30, 1981.

(d) (1) Prior to the time when the first bond or other evidence of indebtedness is guaranteed under this section, the Secretary shall publish in the Federal Register a list of the proposed terms and conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. For at least thirty days following such publication, the Secretary shall receive, and give consideration to, comments from the public concerning such terms and conditions. Following this period, the Secretary shall publish in the Federal Register a final list of the conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. The initial guarantee made under this section may not be conducted until thirty days after the final list of terms and conditions is published.

(2) Prior to making any amendment to such final list of terms and conditions, the Secretary shall publish such amendment in the Federal Register and receive, and give consideration to, comments from the public for at least thirty days following such publication. Following this period, the Secretary shall publish in the Federal Register the final form of the amendment, and such amendment shall not become effective until thirty days after this publication.

(e) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and day redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(f) The Secretary shall prescribe and collect a fee in connection with guarantees made under this section. This fee may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs of carrying out this section. Fees collected under this subsection shall be deposited in the revolving fund established under subsection (i).

(g) With respect to any obligation guaranteed under this section, the interest payment paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(h) (1) Payments required to be made as a result of any guarantee made under this section shall be made by the Secretary from funds which may be appropriated to the revolving fund established by subsection (i) or from funds obtained from the Secretary of the Treas-

ury and deposited in such revolving fund pursuant to subsection (i) (2).

(2) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under this section, any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due him, unless the Secretary finds that there was no default by the coastal state or unit of general purpose local government or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the coastal state or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If any revenue becomes due to such coastal state or unit of general purpose local government under section 308(a) of this title, the Secretary shall, in lieu of paying such coastal state or unit of general purpose local government such revenue, deposit such revenue in the revolving fund established under subsection (i) until the right of reimbursement has been satisfied.

(3) The Attorney General shall, upon request of the Secretary, take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section. Any sum recovered pursuant to this paragraph shall be paid into the revolving fund established by subsection (i).

(i) (1) The Secretary shall establish a revolving fund to provide for the timely payment of any liability incurred as a result of guarantees made under this section, for the payment of costs of administering this section, and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. This revolving fund shall be comprised of—

- (A) receipts from fees collected under this section;
- (B) recoveries under security, subrogation, and other rights;
- (C) reimbursements, interest income, and any other receipts obtained in connection with guarantees made under this section;
- (D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and
- (E) such sums as may be appropriated to carry out the provisions of this section.

Funds in the revolving fund not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States or guaranteed thereby or in obligations, participation, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may, for the purpose of carrying out the functions of this section, issue obligations to the Secretary of the Treasury only to such extent or in such amounts as may be provided in appropriation Acts. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the



*Treasury shall purchase any obligation so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any security issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder. Proceeds obtained by the Secretary from the issuance of obligations under this paragraph shall be deposited in the revolving fund established in paragraph (1).*

*(3) There are authorized to be appropriated to the revolving fund such sums as may be necessary to carry out the provisions of this section.*

*(j) No bond or other evidence of indebtedness shall be guaranteed under this section unless the issuer of the evidence of indebtedness and the person holding the note with respect to such evidence of indebtedness permit the General Accounting Office to audit, under rules prescribed by the Comptroller General of the United States, all financial transactions of such issuer and holder which relate to such evidence of indebtedness. The representatives of the General Accounting Office shall have access to all books, accounts, reports, files, and other records of such issuer and such holder insofar as any such record pertains to financial transactions relating to the evidence of indebtedness guaranteed under this section.*

*(k) For purposes of this section, the term "unit of general purpose local government" shall mean any city, county, town, township, parish, village, or other general purpose political subdivision of a coastal state, if such general purpose political subdivision possesses taxing powers and has responsibility for providing public facilities or public services to the community, as determined by the Secretary.*

#### [AUTHORIZATION OF APPROPRIATIONS

[SEC. 315. (a) There are authorized to be appropriated—

[ (1) the sum of \$9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of \$12,000,000 for each of the three succeeding fiscal years, for grants under section 305, to remain available until expended;

[ (2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

[ (3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years, as may be necessary, for grants under section 312, to remain available until expended.

[ (b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.]

#### AUTHORIZATION FOR APPROPRIATIONS

*Sec. 320. (a) There are authorized to be appropriated—*

*(1) the sum of \$24,000,000 for the fiscal year ending September 30, 1977, and \$24,000,000 for each of the two succeeding fiscal*

*years, for grants under section 305 of this title to remain available until expended;*

*(2) such sums, not to exceed \$50,000,000 for the fiscal year ending September 30, 1977, and \$50,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 306 of this title, to remain available until expended;*

*(3) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years as may be necessary, for grants under section 309 of this title, to remain available until expended;*

*(4) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(a) of this title, to remain available until expended;*

*(5) such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(b) of this title, to remain available until expended;*

*(6) such sums, not to exceed \$6,000,000 for the fiscal year ending September 30, 1977, and \$6,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(a) of this title, to remain available until expended; and*

*(7) such sums, not to exceed \$25,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(b) of this title, to remain available until expended.*

*(b) There are also authorized to be appropriated such sums, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for each of the three succeeding fiscal years, as may be necessary, for administrative expenses incident to the administration of this title.*

*(c) No Federal funds received by a state shall be used to pay the state's share of the costs of a program or project authorized under this title.*

## TITLE V, UNITED STATES CODE, AS AMENDED

\* \* \* \* \*

### § 5316. Positions at level V.

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$28,000 :

\* \* \* \* \*

(132) General Counsel of the Equal Employment Opportunity Commission.

(133) Director, National Cemetery System, Veterans' Administration.

(133) <sup>1</sup> Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

<sup>1</sup> Should have read "(134)".

## APPENDIX I

NET ADVERSE IMPACTS FROM COASTAL ENERGY ACTIVITY IN THE GREAT LAKES <sup>1</sup>

The Great Lakes region does not face the prospect of OCS activity (all waters are state controlled), deep water ports (the maximum depth of dredged navigation channels is currently 27'), or Liquefied Natural Gas Activity (LNG is received in large supertankers too big for the Great Lakes navigation system and is then processed near the receiving ocean port because of its volatile nature). Thus the only "coastal energy activity" occurring or projected to occur in the Great Lakes region is, "the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of coal or oil."<sup>2</sup> There is currently much of this activity occurring, and increases are expected in the future.

In 1970, the US Great Lakes ports received 32.8 million tons of coal and shipped out 49.1 million tons (the remaining 17 went to Canada).<sup>3</sup> Also in 1970, the US ports shipped 7.5 million tons of petroleum and received 6.8 million tons.<sup>4</sup> By 1974, this amount had nearly doubled: 12.7 million tons of oil (95 million barrels or 1½ of US oil consumption) were received by US ports in a fleet of 39 tankers.<sup>5</sup> Most oil is shipped from Chicago to other ports along Lake Michigan while most coal is shipped out of Toledo (21 million tons in 1974)<sup>6</sup> to power plants and manufacturers in the Detroit area via Lakes Erie and St. Clair.<sup>5</sup>

The prospects of future coal activity increases on the Great Lakes are good. By 1990, coal production in the Northern Great Plains is expected to increase 500% under Business as Usual conditions and 1100% under accelerated development conditions, 3 to 5 times the rates of increases nationally.<sup>7</sup> Much of the coal will go to the Great Lakes region, especially Lake Superior. The Port of Superior currently receives one million tons annually and the Upper Great Lakes Regional Commission has estimated that this will increase to 8 million tons by 1980.<sup>8</sup> This Northern Great Plains coal will supplement the midwestern and appalachian coal activity that currently makes up the preponderance of Great Lakes coal activity.

<sup>1</sup> Prepared by the Office of Coastal Zone Management, NOAA, at the request of the Subcommittee on Oceanography.

<sup>2</sup> Proposed DuPont-Murphy Amendment to H.R. 3981; definition of "coastal energy activity."

<sup>3</sup> Great Lakes Basin Commission framework study; appendix C9 Commercial navigation; pages 48-55.

<sup>4</sup> *Ibid.*

<sup>5</sup> Telecommunication with Nick McCullough and staff, Great Lakes Commission, Jan. 21, 1976.

<sup>6</sup> Telecommunication with Jerry Kotes, Great Lakes Basin Commission Standing Committee on Coastal Management staff, Jan. 21, 1976.

<sup>7</sup> Project Independence Report, tables II-18 and II-21, pages 101 and 108.

<sup>8</sup> Telecommunication with Marian Cox, Wisconsin, State Planning Office, Jan. 21, 1976.

Net adverse impacts could be either public services and facilities from population influxes or loss of ecological or recreational resources.<sup>9</sup> While many Great Lakes ports are in large metropolitan areas and will incur few of these types of impacts, others like Sandusky, Lorain, and Ashtabula, Ohio; Saginaw and Muskegon, Michigan; and Green Bay and Superior, Wisconsin are in smaller urban settings and yet receive over one million tons of coal or oil annually.<sup>10</sup> Rapid expansion of port facilities in these areas could conceivably cause net adverse impacts in both ways.

Superior, Wisconsin is an excellent case in point. Superior has a population of 32 thousand and is located in the Duluth-Superior Standard metropolitan statistical area with a population of 150 thousand. (8) Coal traffic in Superior is projected to increase 8 fold by 1980 while oil traffic is projected to increase 30 thousand tons annually to a level of 500 thousand tons in 1980. (8) Fifty-one million dollars of expansion is on-going by Oretran, Inc. for new coal facilities financed by industrial bonds. The city is financing pollution control and abatement through \$6 to \$10 million worth of bonds. (8) Bond guarantees could aid the city. Detroit Edison is currently spending \$40 million to construct a coal dock in nearby Duluth to handle coal incoming by unit train from Montana. (6) The utility is planning to transship the low sulfur coal by 700' Freighters to St. Clair, Michigan. (6) Lakehead Pipeline Company wants to spend \$11 million on Superior Port facilities to receive oil products from an Edmonton, Alberta pipeline to store near the docks and hence ship to Canadian ports. (8) Environmentalists are preventing this from occurring thus far because of the fear of oilspills on both Lake Superior (covered by Federal Oil Spill legislation) and onshore (not covered). (5) Net Adverse Impact money might be useful here too.

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<sup>9</sup> Proposed DuPont-Murphy Amendment to H.R. 3981; definition of "net adverse impact."  
<sup>10</sup> Great Lakes Basin Commission framework study, pages 29-31.

## APPENDIX II

A DISCUSSION OF THE EROSION PROBLEM IN THE UNITED STATES <sup>1</sup>

## BACKGROUND—STATEMENT OF THE PROBLEM

Erosion is a national coastal problem with implications for many U.S. citizens. Almost one-fourth of our nation's 84,240 miles of coastline is eroding, with approximately 2,700 miles, or 3.2% critically eroding.<sup>2</sup> Eighty-one percent of the 2,700 miles of critical erosion occurs along the Atlantic and Gulf Coasts; 10% along the Pacific, Hawaiian and Alaskan coasts; and 8% along the Great Lakes shores.<sup>3</sup> Estimates of damage erosion causes annually vary, but \$300 million would appear to be a reasonable figure.

This nation does not yet have an effective process which consolidates the capital and technical expertise necessary to solve this problem: current Federal, state, and local, and private efforts are often disjointed, underfunded, and poorly engineered. It was estimated, in 1971, that it would cost almost \$1 billion to prevent harm to life, public safety, property, wildlife habitats, and landmarks of historical or natural significance in the next five years from erosion by erecting structural controls.<sup>4</sup> Yet the magnitude of Federal effort has been relatively small: between 1970 and 1974, only \$104 million was spent by the U.S. Army Corps of Engineers on reducing erosion.<sup>5</sup>

Critically eroded coastline had been separated into four categories by the Corps.

Those areas (A, B, C) where continued critical erosion is likely to endanger:

- A. Life or public safety within five years.
- B. Property, scarce wildlife habitats, or landmarks of historical or natural significance within five years.
- C. Life, public safety, property, scarce wildlife habitats, or landmarks of historical natural significance within five to fifteen years.
- D. All other critically eroding areas.

Our nation's coastline falls into those categories as follows:

<sup>1</sup> This report was prepared by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, at the request of the Subcommittee on Oceanography.

<sup>2</sup> Report on the National Shoreline Study, Army Corps of Engineers, August 1971, p. 18, table 1.

<sup>3</sup> *Ibid.*, p. 27, table 2.

<sup>4</sup> *Op. cit.* National Shoreline Study, p. 24, table 2.

<sup>5</sup> GAO report on "National Efforts to Preserve the Nation's Beaches and Shorelines—A Continuing Problem," June 11, 1975, p. ii.

TABLE 1.—DATA ON CLASSIFICATION OF CRITICALLY ERODED COASTLINE <sup>1</sup>

Category:	Number of miles	Percent	Cost of preventive action (millions of 1971 dollars)	Percent
A.....	190	7	\$240	13
B.....	1,030	38	660	36
C.....	690	25	390	21
D.....	780	29	520	29
Total.....	2,690	99	1,810	99

<sup>1</sup> Op. cit. National Shoreline Study, p. 27, table 2.

Note: There is also an annual cost of \$73,000,000 associated with the cost of preventive action for beach nourishment

Some of the most serious problems occur along the 4% (3,600 miles) <sup>6</sup> of the nation's coastline comprising the Great Lakes. The Great Lakes have twice as great a share of the nation's critically eroded coastline <sup>7</sup> and three and one-half times as large a percentage of types A and B of this critically eroded shoreline as they do total shoreline.<sup>8</sup> Shoreline erosion causes an even greater proportion of damage in the Great Lakes, since there is more development per mile of shore there than along the ocean coasts. Furthermore, international and national interests regarding Lake level regulations and navigation cause actions which exacerbate the erosion problem.

Federal efforts by the Army Corps of Engineers are limited to protecting public interests: the Corps cannot take actions which benefit only private owners. The Corps also can only participate in projects where public access is guaranteed. A small demonstration program of 13 projects to be undertaken by the Corps has been authorized by Congress, although no funds have been appropriated yet. The new erosion insurance program under the Flood Insurance Act in HUD will probably operate in a manner analogous to the flood insurance program. Critical erosion prone areas will be designated and existing development thereupon will be insured while future development will have to meet certain requirements. Regulations have not been drawn up yet so that the program will not be effective for a few years.

#### ANALYSIS OF THE PROBLEM

The problem of erosion can be broken down in the following manner:

- (1) Temporal nature of development; existing versus future
- (2) Nature of ownership; public versus private

This yields four base cases:

TABLE 2.—BREAKDOWN OF EROSION PROBLEM

Case type	Temporal	Ownership	Solution approach
A.....	Future.....	Public.....	Management.
B.....	do.....	Private.....	Do.
C.....	Present.....	Public.....	Technical.
D.....	do.....	Private.....	Do.

<sup>6</sup> "A Strategy for Great Lakes Damage Reduction", the Joint FRC-GLBC Task Force for Great Lakes Shorelands Damage Reduction, March 1974, p. 2.

<sup>7</sup> From table 1.

<sup>8</sup> From table 1.

Types A and B require a preventive approach. Information concerning which areas are prone to future erosion must be readily available. Public monies to finance or insure development on such areas should be prohibited; this means that publicly owned projects should not be built on erosion prone areas. States and localities will have to develop their own position toward private projects through such mechanisms as zoning and setback ordinances. In any case, in order to implement policies regarding future public and private development on erosion prone areas, a process is needed which can identify those areas and which is capable of authorizing those actions the state determines are warranted. The coastal zone management process is the ideal mechanism to do this.

Existing development in erosion prone areas (cases C and D) poses different issues. There are three basic alternative actions:

1. Do nothing and let erosion take its toll.
2. Employ setbacks, i.e. move the development away from the erodible area.
3. Erect structural controls to prevent erosion from occurring.

It must be determined which alternative is optimal economically, and then a coordinated comprehensive approach must be taken. This will insure that structural erosion controls do not cause more problems than they solve. This type of planning effort also ties in well with the existing Federal coastal zone management process.

On public lands (case C) it is the responsibility of the proprietary government to take the appropriate actions. On a state or local level this can be done under the coastal zone management process and, when overriding national interests are not involved, Federal actions should be in line with state policy.

On private lands (case D) it is the owner's responsibility to bear the costs of the action he takes. There may be some national interests involved (steel mills, power plants, historical homes, etc.), but taking action is still a private responsibility. If a setback is chosen, then two options exist for the private owner:

1. Move the development and keep the land it was originally on.
2. Move the development and sell the land to the government (Federal, state or local) for public access.

In either case the owner should pay the cost of moving his development. The government might want to offer an incentive to make Option 2 more attractive if it deemed this is in its interest although government, especially state or local entities, may have problems raising the money.

If structural controls are opted for, then the owner must finance them. Great expenses are associated with this method: estimates run about \$800,000 per mile, or \$150 per foot, excluding operating, maintenance, and inspection costs.<sup>9</sup> Thus, many times, although the structural solution is cost-effective the owner may not be able to afford it. Since these are front-end cost problems essentially, loans or bond financing would be of great help. The Federal government, with its great resources, might offer help in order to insure that the best solution is implemented.

<sup>9</sup> Obtained by taking Corps figure of \$1.8 billion for structurally protecting critical shoreline and dividing that by the 2,700 miles of critically eroded shore.

The three major steps which must be taken to resolve the problems of erosion threatening existing development are:

Identifying those areas where erosion controls should be implemented.

Developing a comprehensive, coordinated system of erosion controls in those areas.

Enabling the various property owners to fund the controls.

These three steps have not been taken in most cases.

A cost/benefit ratio has not been determined for each stretch of shoreline in order to identify those areas where erosion controls are economically warranted. This is because the technical and management options for erosion control have not been evaluated to give the best alternative and its cost for each locale. The value of erosion damage to the land and structures has not been calculated either.

It is difficult to assess the annual dollar cost of erosion to compare with the cost of preventing erosion in order to determine whether any action should be taken. The only comprehensive damage assessment of erosion done nationally was by the Corps in the Great Lakes during the period of high lake levels in 1951/1952 (similar to the present situation). It was found that \$50 million worth of damage occurred.<sup>10</sup> Damage estimates today would be far greater due to the increased coastal development, the increased property values along the coast due to the high demand for coastal locations, and inflation. In 1980, potential Great Lakes damage is estimated to be \$97 million.<sup>11</sup> Nationally, the cost of erosion has been estimated to be \$300 million annually.<sup>12</sup>

A comprehensive coordinated approach has also not yet occurred since no one has taken charge of organizing the efforts of the different land owners, public and private. This coordination effort will be substantial since two-thirds of the critically eroding coast is privately controlled, while the ownership of the public sector is fairly evenly spread out among Federal, state and local governments.<sup>13</sup> This coordination is essential because individual attempts to protect eroding property frequently result in accelerated erosion for down-current riparian interests.

The final barrier to effective structural erosion control has been its high cost, estimated to be about \$800,000 per mile.<sup>14</sup> This initial cost, and the continuous operating and maintenance costs also associated with the erosion controls, are difficult for local and state government to absorb, even when assisted by the Federal government. These costs are even more cumbersome to individual property owners, who are generally not eligible for any government assistance. Some of the resulting low-cost short-term remedies attempted do not relieve the problem and may even worsen it.

<sup>10</sup> Appendix 12, Shore Use and Erosion, Great Lakes Basin Framework Study, 1975, page 59.

<sup>11</sup> *Ibid.*, p. 63, 68, 71, 76, and 78.

<sup>12</sup> Coastal Erosion Hazard in the U.S.: A Research Assessment, Sorensen Mitchell (part of Gilbert White's Univ. of Colorado program), 1975, p. 28.

<sup>13</sup> *Op. Cit.* National Shoreline Study, page 32, table 6.

<sup>14</sup> Obtained by taking Corps figure of \$1.8 billion for structurally protecting critical shoreline and dividing that by the 2,700 miles of critically eroded shore.



## APPENDIX III

LOCATION OF ONSHORE IMPACTS OF OUTER CONTINENTAL SHELF OIL  
AND GAS DEVELOPMENT <sup>1</sup>

## I. SUMMARY

The onshore impacts of Outer Continental Shelf oil and gas operations will be concentrated in the coastal zone. The location of these impacts can be approximated by a determination of the possible placement of various facilities necessitated by OCS development. These facilities can be broken down roughly into four categories, which include:

(i) Facilities which are highly coast dependent, and must have direct coastal access.

(ii) Facilities which are highly dependent, but do not require direct access (may be located up to five miles from shore).

(iii) Facilities which originate at the coast, but may stretch farther inland (up to 50 miles).

(iv) Facilities which are not inherently coast dependent, and thus may be located anywhere.

Defining the relationships between each of these categories and state coastal zones is difficult because of the diversity in possible coastal zone definition (most states' coastal zones are not yet finally delimited). All the states have begun defining planning areas which generally comprise the first tier or first two tiers of coastal counties. Management boundaries have more variety. One strategy is to delineate a narrow (100 feet to 1000 yards) strip of direct state permitting control, coupled with a larger area (from 5 to 100 miles) in which management is effected through local master plans.<sup>2 3 4</sup> This method appears to be the favored approach. Another alternative is to delete the direct state control area, and expand state powers somewhat over the larger zone.<sup>5</sup>

In any case, all facilities in the first two categories will be sited within states' coastal zones. These facilities are generally required for OCS development, and will be responsible for most of the construction and resulting environmental and infrastructure impacts. The third category of facilities is relatively minor; these will be included either within the states' management or planning zones.

The last category of facilities depends far less upon OCS production per se than upon oil production in general. Because of the wider range of available sites and the much diminished siting pressures, these

<sup>1</sup> This report was prepared by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration at the request of the Subcommittee on Oceanography.

<sup>2</sup> California Coastal Plan, p. 12.

<sup>3</sup> Washington State Coastal Zone Management Program, p. 29.

<sup>4</sup> San Francisco Bay Plan, p. 38.

<sup>5</sup> Oregon's Draft 306 Coastal Zone Management Submission, p. 57.

facilities may easily be located so as to result in a positive net impact. Indeed, possible economic benefits are quite substantial. An increase in associated manufacturing would primarily serve to promote economic activity in a given area. Similarly, refineries and gas processing plants bring significant economic benefits by lowering energy prices and attracting new industry. (A region can choose not to locate refineries—New England presently has no refining capacity).

To conclude, essentially all onshore impacts resulting from OCS development will occur within the coastal zone or planning area. Non-coastal areas of coastal states and interior states will suffer few impacts, and indeed may receive positive benefits.

## II. OCS FACILITIES NEEDED AND SITING REQUIREMENTS

### A. Onshore service and supply <sup>6</sup>

Offshore operations must be supplied and serviced from onshore locations. These bases provide the facilities—materials, transport, catering, etc.—necessary to keep rigs and supply vessels operational. During exploratory drilling, a single rig requires on the average 1,000 tons of supplies per month. Production drilling needs are even greater, averaging 25,000 tons per year.

The particular facilities involved include the following:

1. Berths, from 100 to 250 feet in length.
2. Quays, to accommodate both heavy and lengthy loads.
3. Storage for fuel oil, water, drilling cements and muds.
4. Open and warehouse storage.
5. Helicopter landing pad.

In addition to providing the preceding facilities, a supply base must have:

1. An all weather harbor, operable at all states of the tide.
2. Deep water wharves, at least 18 feet and preferably also rail access.
3. A nearby population center to provide labor, services, and supplies.

It is obvious that all these facilities will be located on or very near (within a mile) the shore. The physical extent of the impacts would include primarily the facility itself, the surrounding waters, and the adjacent population center.

### B. Platform fabrication

An often neglected facet of OCS operation is that of platform construction. The Council on Environmental Quality estimated that by 1985 some 38 new offshore platforms may be required on the Atlantic coast and 19 on the Alaskan coast.<sup>7</sup>

In spite of this, the CEQ concluded that "platform fabrication is not expected to have a major impact on the east and west coasts."<sup>8</sup>

The platforms themselves are of two types: conventional steel, and the experimental concrete design. Although concrete platforms are initially more expensive, their manufacturers claim that they are easier to install, can withstand severe weather conditions, and can provide needed offshore storage.

<sup>6</sup> This section draws from Royal Scottish Geographical Society, 1973, "Scotland and Oil", pp. 40-52

<sup>7</sup> Council on Environmental Quality, 1974, "OCS Oil and Gas and Environmental Assessment", pp. 7-1, 7-70.

<sup>8</sup> CEQ, pp. 7-12.

The site requirements for steel platform fabrications are as follows:<sup>9</sup>

1. Proximity to the oil fields.
2. Large flat land area, at least 200 acres, more commonly around 1,000 acres.<sup>10 11</sup>
3. Access to water 30 to 60 feet deep.
4. Communication by land, sea, and air.
5. Access to a large labor force (up to 1,200 men per platform), including many skilled welders.<sup>12</sup>

If the proposed Brown and Root facility in Cape Charles, Virginia is indicative, capital investment per facility will run about 40 million dollars.<sup>13</sup>

Several requirements for concrete platform fabrication yards are somewhat different:<sup>14</sup>

1. The flat land required is much less (as little as 20 acres).
2. Deeper water is needed, from 30–120 feet inshore, and 180 feet and up for later stages of construction.

The impacts generated by platform fabrication will again be concentrated at the water's edge. Concrete platforms may not be acceptable on the Atlantic and Pacific continental shelves; also obtaining harbors with sufficient depth to construct them may be impossible. Therefore at least in the contiguous states, steel platform fabrication facilities will probably predominate. Their large land requirements may necessitate rural siting, whereupon the large labor force needed could cause severe dislocation and infrastructure problems for coastal communities. Indeed, Urban Pathfinders stated in their impact assessment of the proposed Brown and Root staging facility that potential disbenefits seem to outweigh any economic benefits.<sup>15</sup>

### *C. Associated manufacturing*<sup>16</sup>

In addition to platform fabricating, countless other construction tasks of varying sizes must occur to bring oil fields into production. Necessary tasks include the building of exploration rigs (jack-ups, semi-submersibles), supply vessels, deck modules, pumping equipment, generators, and pipe coating capacity.

These facilities fall primarily into two classes:

(i) Those whose physical requirements, especially the need for easy water access, are the deciding factors and essentially dictate coastal sites.

(ii) Those in which appropriate skills and experience are of overriding importance. Such facilities have a much greater range of possible sites and a much lesser coastal dependence.

"Whereas much of the expenditure necessary to bring oil fields into production is consumed by construction work, services and by wages and salaries of employees both on and offshore, there remains a considerable expenditure on equipment and materials of types which would be produced anywhere in the country."<sup>17</sup>

<sup>9</sup> Scotland and Oil, p. 47.

<sup>10</sup> Woodward-Clyde Consultants, 1975, "Mid-Atlantic Regional Study", p. 26.

<sup>11</sup> Pamela and Malcolm Baldwin, 1975, "Onshore Planning for Offshore Oil", p. 75.

<sup>12</sup> Baldwin, p. 72.

<sup>13</sup> Woodward-Clyde, p. 26.

<sup>14</sup> Scotland and Oil, p. 47.

<sup>15</sup> Urban Pathfinders Inc., 1975, "Brown and Root Impact Study", p. 56.

<sup>16</sup> This section draws from Scotland and Oil, pp. 47–8.

<sup>17</sup> Scotland and Oil, p. 48.

These considerable expenditures could prompt sizeable investment in facilities of the second type, thus incurring widespread negative impacts. However, while facilities of the first type must be located in certain areas, those of the second type have a greater range, thus enabling siting to occur in those areas which experience mostly positive impacts.

In actuality, there are many long-established suppliers to the oil industry, which operate on a world-wide basis.<sup>18</sup> The U.S. needs will comprise but part of their total production. As an illustration of the siting mechanism, Scotland is now experiencing the demand for associated manufacturing facilities. "Because of the present structure of the economy, these are most likely to be located (as has already happened) in the traditional manufacturing areas."<sup>19</sup>

Associated manufacturing in many cases will provide economic benefits and employment, rather than negative impacts, in existing industrial areas. In some instances where water access is needed, facilities may be built in more rural areas, causing infrastructure problems. These impacts will be relatively minor, and again will be limited to the coastal communities.

#### *D. Transportation*

Transportation of oil and gas involves the following dual problems:

- (i) Getting oil from the platform to the refinery.
- (ii) Getting gas from the platform to the onshore distribution system in gaseous form.

#### *Oil*

Oil may be piped ashore either directly to a refinery or via a tanker terminal, or stored at the well head and tankered to shore. Pipelines are generally used for larger fields, and within 50-150 miles from shore (assuming pipelines can be laid on the seabed).

"Socioeconomic effects of pipelines are minimal. Very few persons would be employed in operating and maintaining the facilities. Land use impacts of onshore pipelines would be similar to those for any pipeline."<sup>20</sup>

While offshore pipelines must generally run a beeline course to be economical, onshore pipelines have far greater flexibility. Proper planning, thus, can influence pipeline location and hence minimize impacts. The greatest damages occur placing pipelines through wetlands and marshes. In the Gulf of Mexico off Louisiana, some damage is unavoidable; on the East and West coasts, such placement is less excusable.

These OCS pipelines must necessarily link up with refineries. Necessary components in the system are pumping transfer facilities which gather production pipelines and then pump treated oil to the refinery. Each facility has a 4-5 day storage capacity, and may be located at various points along the pipeline.<sup>21</sup>

The inland extent of the pipelines themselves can be assumed to be the location of the nearest major refining center, or pipeline link. In the South Atlantic area, pipelines generally parallel the fall line, passing through Atlanta, which also houses several refineries.<sup>22</sup>

<sup>18</sup> Scotland and Oil, p. 48.

<sup>19</sup> Scotland and Oil, p. 48.

<sup>20</sup> Bureau of Land Management, 1975, "Programmatic FEIS on OCS Leasing", Vol. II, p. 192.

<sup>21</sup> BLM, 1974, "FEIS on OCS Leasing off Louisiana Sale No. 36", Vol. II, p. 196.

<sup>22</sup> American Petroleum Institute, 1975, "Products Pipeline Maps".

Atlanta is about the farthest inland point, and hence the limit of the inland influence of pipelines.

Tanker terminals are less innocuous. "The potential for change which tanker terminals and oil-related developments have is potentially enormous, and focuses attention upon the impact on coastal areas."<sup>23</sup>

Terminals are primarily of three types:

1. Transfer, in which oil from platforms is loaded to larger vessels for shipment.
2. Discharge, in which oil is received for refining.
3. Product, in which refined liquids are loaded for transfer to market centers.

Transfer terminals are located near the gathering center for the production field where tankers may safely berth. Discharge terminals require safe deepwater areas, and either proximity to or pipeline transportation to, refining areas. Product terminals must have convenient modes of transportation to the market centers.

Of the three, discharge terminals primarily will be induced by OCS development. Facilities which may be found in the terminal are: storage tanks, docks, tanker loading and ballast water treatment facilities, power plant and vapor control facilities, an office building, fire pump building and station, warehouse and shop building, and oil spill contingency equipment.<sup>24</sup>

An export terminal being constructed at Flotta Island in the Orkneys indicates the relative magnitude of investment. The terminal will be able to handle 500,000 BPD, and will require 900 men in construction and about 80 in operation. The estimated construction cost is \$50 million with annual operating costs of about \$5 million.<sup>25</sup>

Not all the facilities in the terminal complex must necessarily lie directly on the coast. BP operates a terminal on the First of Fourth near Edinburgh. The associated tank farm lies three miles inland at Dalmeny.<sup>26</sup> Presumably other facilities such as the power plant, ballast water treatment, and vapor control plant, could be located some distance inland as well. However, it is unlikely that terminal facilities will stretch much beyond three miles from the coast.

### *Gas*

Gas transportation also involves several options: reinjection pipelines, and LNG tankering. Shipment of a small quantity of gas is not economical; such deposits will be reinjected. Larger fields will generally be piped ashore, unless the fields are a considerable distance from shore, or pipelines cannot be laid. In such cases LNG tankering may be economically viable.

Construction of gas pipelines will have essentially the same impacts as oil lines. The impact during operation will probably be less, as gas leaks are less environmentally damaging (although more hazardous).

LNG tankering involves liquification offshore and regasification onshore. The requirements for regasification facilities are as follows:

1. Proximity of fields.
2. Proximity of markets.

<sup>23</sup> Scotland and Oil, p. 22.

<sup>24</sup> Programmatic FEIS, Vol. II, p. 197.

<sup>25</sup> Programmatic FEIS, Vol. II, p. 191.

<sup>26</sup> Baldwin, p. 118.

## 3. Accessible harbor.

## 4. Moderate amount of flat land available.

Facilities cannot be expected to stray far from the coasts as piping liquid gas is prohibitively expensive.

A major regasification facility with a capacity of 4 billion cubic feet per day (compared to present world capacity of 2.8 billion)<sup>27</sup> is being planned for Los Angeles harbor. The terminal is estimated to cost \$350 million, occupying 59 acres. Labor requirements are 1500 persons maximum during construction and approximately 90 persons in operation.<sup>28</sup> All impacts of this terminal, and LNG terminals in general, will be restricted to the immediate coastal areas.

*E. Oil and gas treatment*

At some point between production and distribution, both oil and gas must be treated. Oil is separated from its associated gas, and waste water is separated, treated, and disposed. The sludge and sand suspended in the oil are removed. Similarly, gas is separated from the waste water and liquid hydrocarbons; the familiar gas odor is injected at this time for safety purposes. A further (and optional) step in gas processing involves the stripping of butanes and propanes from the natural gas.

*Oil*

Crude oil is often treated aboard the production platform. In these cases, the crude can be tankered or piped directly. Otherwise the crude is pumped ashore as a two-phase mixture (both oil and gas). Such mixtures can be pumped only a limited distance; therefore the platforms involved must be relatively close to shore, and treatment facilities as near the coast as possible.

Facilities commonly gather several production pipelines for treatment (hence their common name, "pipeline terminals"). The usual capacity ranges from 30,000–100,000 BPD, coupled with a storage capacity of 2–3 days production. Total land use varies between 20 and 40 acres.<sup>29</sup> Because of their limited size and siting necessities, the impacts of these facilities will be limited to a strip several miles wide along the coast.

*Gas*

Two separate procedures exist: separation and stripping. If stripping is desired only one facility is needed for both operations. A separation facility alone requires about 8 acres.<sup>30</sup> The size of a joint facility (gas processing plant) is highly variable, having capacities ranging from under 150,000 to one or two billion cubic feet per day.<sup>31</sup> Two studies project slightly different sizes for a representative plant.<sup>32</sup>

Capacity (million cubic feet)	Employees	Land (acres)
500	55	20
300	21	75

<sup>27</sup> Stanford University, 1975, "Impact on California's Coastal Zone From Proposed Off-shore Oil and Gas Development", p. 134.

<sup>28</sup> Stanford University, p. 241.

<sup>29</sup> Louisiana FEIS, Vol. II, p. 196.

<sup>30</sup> BLM 1974, "FEIS on OCE Leasing off Texas, Sale No. 34", Vol. I, p. 405.

<sup>31</sup> Programmatic FEIS, Vol. II, p. 207.

<sup>32</sup> Programmatic FEIS, Vol. II, p. 208.

Site requirements for both separation facilities and processing plants (GPP's) are somewhat similar. Separation facilities require proximity to the supply source, and must be located prior to the gas entering the distribution system. In addition, GPP's have the following requirements:

1. Proximity to market centers.
2. Available water and electricity.
3. Highway and rail access.

Of these requirements, proximity to market centers is of greatest importance. Because natural gas is in such short supply, the demand for butanes and propanes is high. Thus, on the East coast, OCS development will prompt the construction of GPP's near population centers. On the West coast and in the Gulf of Mexico, existing facilities with expansions and modernizations will probably suffice.<sup>33</sup>

Some GPP construction may result in interior states (including Great Lake States) through the piping of gas from Alaska. In all cases, induced GPP's will prompt relatively small infrastructure problems because of their location near market centers.

Overall air pollution may actually decrease because of substitution of gas for less clean fuels. Finally, the availability of gas will provide economic benefits to those areas with curtailed supplies.

#### *F. Refining*

The last stage in oil processing is refining. In contrast to many facilities needed for OCS development, the number of refineries required depends upon demand, and not on supply. OCS production will simply decrease the amount of oil imported. Location of refineries, however, may be influenced somewhat by the location of the supply.<sup>34</sup>

For example, New England has not active refining capacity presently. New England consumers pay a one to two cent per gallon premium on gasoline because refined products must be shipped to the demand centers.<sup>35</sup>

Refining OCS production off Georges Bank in New England would change the premium into a savings, because of the proximity of supply.

Another reason refineries may be located in New England stems from the lessening of opposition. No fewer than 3 major refinery proposals have been denied in New England in the past several years.<sup>36</sup> Accommodating necessary OCS onshore facilities, however, may soften public sentiment enough to enable a refinery to site.

Refineries are unquestionably major facilities. A new refinery requires at least 200,000 BPD capacity to be economically viable. Such a refinery has the following requirements:<sup>37 38</sup>

1. Accessible products transportation, either shipping lanes or pipeline ties.
2. Proximity to market centers (within about 100 miles).
3. Available water supply—about 4 million gallons per day.
4. Available electric power supply—about 1.26 million KWH per day.
5. Available labor—about 500 persons during operation.
6. Low surrounding hydrocarbon emission levels.

<sup>33</sup> Programmatic FEIS, Vol. II, p. 206.

<sup>34</sup> Programmatic FEIS, Vol. II, p. 196.

<sup>35</sup> Conversation with Allen Mulliken, Refining Group, API.

<sup>36</sup> Programmatic FEIS, Vol. II, p. 201.

<sup>37</sup> Mulliken.

<sup>38</sup> Programmatic FEIS, Vol. II, p. 200.

The areas of impact for refineries can vary drastically, as refinery siting is highly dependent upon local considerations and cost factors. Because of the large water needs, refineries will tend to locate on water bodies. This trend is accentuated for those refineries which produce more fuel oil as opposed to gasoline. Less than half of the former's products can be transported by pipeline, while over 80% of the latter's products can be.<sup>39</sup> This dependence upon other transportation forms, mainly shipping, insures that many refineries will congregate in the coastal zone. While refineries cannot be linked directly to OCS production, their impacts cannot be discounted. CEQ, in analyzing the effects of OCS development on Bristol County, stated "the major contributor to economic output is the refining sector."<sup>40</sup>

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<sup>39</sup> CEQ, pp. 6-7.

<sup>40</sup> CEQ, pp. 7-17.



## APPENDIX IV

## ORGANIZATIONS OFFERING COMMENTS ON H.R. 3981

## Great Lakes Caucus of Governors:

Great Lakes Commission  
Institute of Science and Technology Building  
2200 Bonisteel Boulevard  
Ann Arbor, Michigan 48105

California Coastal Zone Conservation Commission  
1540 Market Street, 2nd Floor  
San Francisco, California 94102

State of Michigan  
Department of Natural Resources  
Shorelands Management and Water Resources Planning Section

State of Rhode Island  
Department of Administration  
Statewide Planning Program  
265 Melrose Street  
Providence, Rhode Island 02907

State of Louisiana  
Coastal Resources Program  
State Planning Office  
P.O. Box 44425  
Baton Rouge, Louisiana 70804

State of Florida  
Department of Natural Resources  
Crown Building  
202 Blount Street  
Tallahassee, Florida 32304

Illinois Department of Transportation  
Division of Water Resources  
Illinois Coastal Zone Management Program  
300 North State Street, Room 1010  
Chicago, Illinois 60610

Texas Coastal and Marine Council  
P.O. Box 13407  
Austin, Texas 78711

National Conference of State Legislatures  
Office of State Federal Relations  
1150 17th Street, N.W.  
Suite 602  
Washington, D.C. 20036

National Association of Electric Companies  
Suite 1010  
1140 Connecticut Avenue, N.W.  
Washington, D.C. 20036

The League for Conservation Legislation  
Box 605  
Teaneck, New Jersey 07666

Wildlife Management Institute  
709 Wire Building  
1000 Vermont Avenue  
Washington, D.C. 20005

National Wildlife Federation  
1410 16th Street, N.W.  
Washington, D.C. 20515

National Governors Conference  
1150 17th Street, N.W.  
Suite 600  
Washington, D.C. 20036

The League of Women Voters of the United States  
1730 M Street, N.W.  
Washington, D.C. 20036

North Carolina Department of Natural and Economic Resources  
Box 27687  
Raleigh, North Carolina 27611

Alabama Power Company  
600 North 18th Street  
P.O. Box 2641  
Birmingham, Alabama 35291

League of Women Voters—Alabama  
515 Auburn Drive  
Auburn, Alabama 36830

League of Women Voters (Baldwin County, Alabama)  
607 Hancock Road  
Fairhope, Alabama 36532

Sierra Club  
Peninsula Group, Potomac Chapter  
239 Tyler Brooks Drive  
Williamsburg, Virginia 23185

Commonwealth of Puerto Rico  
Department of Natural Resources  
Box 5887  
Puerto de Tierra  
Puerto Rico 00906

National Association of Counties  
1735 New York Avenue, N.W.  
Washington, D.C. 20006

State of Connecticut  
Department of Environmental Protection  
Coastal Area Management Program  
71 Capitol Avenue  
Hartford, Connecticut 06115

State of Hawaii  
Department of Planning and Economic Development  
P.O. Box 2359  
Honolulu, Hawaii 96804

Mississippi Marine Resources Council  
Post Office Drawer 959  
Long Beach, Mississippi 39560

State of Maryland  
Department of Natural Resources  
Tawes State Office Building  
Annapolis, Maryland 21401

State of Oregon  
Department of Land Conservation and Development  
1175 Court Street, N.W.  
Salem, Oregon 97310

Commonwealth of Massachusetts  
Executive Office of Environmental Affairs  
100 Cambridge Street  
Boston, Massachusetts 02202

National Coalition for Marine Conservation, Inc.  
225 Franklin Street  
Boston, Massachusetts 02110

Edison Electric Institute  
90 Park Avenue  
New York City, New York 10010

League of Women Voters of Larchmont  
Larchmont, New York 10538

League of Women Voters of Michigan  
202 Mill Street  
Lansing, Michigan 48933

Symcon Marine Corporation  
P.O. Box 1800  
Berth 84  
San Pedro, California 90733

American Petroleum Institute  
2101 L Street, N.W.  
Washington, D.C. 20037

Center for Law and Social Policy  
1751 N Street, N.W.  
Washington, D.C. 20036

Environmental Policy Center  
324 C Street, S.E.  
Washington, D.C. 20003

National Fisheries Institute  
1730 Pennsylvania Avenue, N.W.  
Washington, D.C.

American Institute of Professional Geologists  
622 Gardenia  
Golden, Colorado

## ADDITIONAL VIEWS ON H.R. 3981

During consideration of H.R. 3981, I offered several amendments to correct what I feel to be an inequitable situation in the structure of the funding formula under this legislation.

Without my amendment we have two funding categories, the first which contains \$50 million is distributed according to a tightly drawn formula written by this committee. The second category has \$125 million in it to be given out for planning, not tied to any formula drawn by Congress, but to be distributed solely by a formula to be drawn by the Secretary of Commerce.

My amendment placed the largest part of the fund in the automatic grant category which is locked-in, to be distributed according to our formula written by our committee. To give the largest amount of money to the discretionary, or so-called supplementary fund with sole discretion with an appointed Secretary of Commerce is to create a slush fund which we cannot control.

If there is to be discretionary funding in the bill, the logical approach would be to switch the funding in the categories. The major funding now under discretionary should come under the direct grant section as we can clearly define, under the established set of proportions, the degree of impact. On the other hand, discretionary funding should take the appearance of that proposed for direct grant funding, which is during the five years on a sliding scale \$50,000,000 (fiscal year 1977), \$50,000,000 (fiscal year 1978), \$75,000,000 (fiscal year 1979), \$100,000,000 (fiscal year 1980), \$125,000,000 (fiscal year 1981). It only makes sense that discretionary funding should be on a sliding scale as the degree of activity will likely be on a sliding scale in the next five to ten years. This way, should the degree of activity occur at a faster rate than the proportional direct grant section can cover, the Secretary can supplement the direct grant with additional funding after finding of adverse impact.

I certainly feel that this is a reasonable stand based on the facts of the situation and history of energy development in our country. I offer these additional views as to make my colleagues aware of what I feel to be the proper approach taken in this legislation.

JOHN BREAUX,  
*Member of Congress.*

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ADDITIONAL VIEWS RELATING TO THE PROHIBITION  
OF THE FOOD AND DRUG ADMINISTRATION FROM  
EXERTING ITS MANDATED AUTHORITY WITH RE-  
SPECT TO THE SHELLFISH SAFETY PROGRAM

Section 310(d) of H.R. 3981 is a provision prohibiting all Federal agencies from promulgating any regulations affecting the harvesting, processing, or transporting of shellfish in interstate commerce before

the submission to the Congress of a report of a Shellfish Advisory Committee established by the bill, except where the Secretary of Commerce determines that an emergency has occurred.

Should such a provision be enacted, a serious public health danger could result. In the first place, delegating authority to the Secretary of Commerce in an area where the Secretary of Department of Health, Education, and Welfare is clearly the official capable of determining health risks, would seem to be inadvisable. By prohibiting the Food and Drug Administration from "promulgating" regulations, this provision would not only limit the effective date of Food and Drug Administration regulations, but might also be interpreted as limiting their ability to conduct field hearings and other administrative proceedings during the period regulations are proposed. In view of the length of time necessary to promulgate regulations this could delay the effective date of final regulations for one to two years after the June 1977 date in the bill.

Second, if a public health emergency exists, the Food and Drug Administration cannot issue regulations on its own initiative to protect the public health, and so is prohibited from carrying out its responsibilities mandated by the Federal Food, Drug and Cosmetic Act and the Public Health Service Act.

Third, limiting regulations to emergencies may come too late since action must be taken before an emergency to adequately protect the public.

Finally, I believe it is inappropriate for the Congress to react on a case-by-case basis on such regulations.

The Committee has received repeated assurances from the Food and Drug Administration which confirm that the procedure already in effect and governed by the application of the Federal Food, Drug and Cosmetic Act and the Public Health Service Act, will allow for considerable input from industry and State and local governmental authorities in this vital area of shellfish safety.

It is important to note that the Food and Drug Administration published a notice in the *Federal Register* stating that their revised *proposed* regulations will not be published until mid-1976 and in view of the length of regulation promulgation procedures for hearings and revisions, final regulations cannot be published until March and take effect in April, 1977 at the earliest date. Since the bill limits promulgation until June 30, 1977, I believe there is no need for § 310 (d) and that the issue is now moot in view of Food and Drug Administration assurances.

While I share and support the need for effective and thoughtful approaches to the management of our coastal zones and protection of our marine resources, it is my strong belief that § 310(d) as proposed does not have a place in this legislation and is against the public interest.

PAUL G. ROGERS,  
*Member of Congress.*

## IX. SENATE AGREES TO CONFERENCE REPORT, JUNE 29, 1976

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on S. 586, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Cannon). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two houses on the amendments of the House to the bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The conference report is printed in the Record of June 24, 1976 beginning at page H6688.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that my statement, a factsheet, and more particularly, a colloquy between myself and the distinguished Senator from Louisiana, be printed in the Record.

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

[The above material is printed later in the Record at the point where the conference report is reconsidered.]

Mr. JOHNSTON. Mr. President.—

Mr. MAGNUSON. Mr. President. I ask unanimous consent that my statement on the conference report be printed in the Record following the remarks of the Senator from South Carolina.

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

[The above statement is printed later in the Record at the point where the conference report is reconsidered.]

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

### OBJECTION WAS HEARD AND RECONSIDERATION AGREED TO

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on S. 586, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Cannon). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

[The conference report is printed in the Record of June 24, 1976, beginning at page H6636.]

Mr. HOLLINGS. Mr. President, the conference report on S. 586 represents the culmination of a total of 3 years of careful, painstaking work. The chief participants and architects are many: The Senate National Ocean Policy Study; the Commerce Committee, ably led by its chairman, Warren G. Magnuson; and the House Merchant Marine and Fisheries Committee, especially its retiring chairman, Leonor K. Sullivan, and Congressman John M. Murphy of New York. Congress was aided in its efforts by the very constructive participation of Secretary of Commerce, Elliot Richardson, and his staff and by some of the brightest, more positive staff of the Office of Management and Budget. Congress also received many perceptive comments on the bill from the general public. The final bill has both administration and bipartisan congressional support, and its development illustrates the Federal legislative process at its best.

S. 586 represents a major new plank in the evolving national energy policy being constructed by the 94th Congress. It will take its place alongside the Energy Policy and Conservation Act and energy research and development legislation, and will soon be followed, I expect, by pending legislation on energy conservation, natural gas, synthetic fuels, electric utility rate reform. Outer Continental Shelf oil and gas leasing, and automotive R. & D. One by one the various planks will all fall into place.

S. 526 differs from most of the other energy legislation in that it is not so obviously related to reducing the gap between domestic energy demand and domestic energy supply. However, in improving the Nation's coastal zone management and buttressing it to deal with the impacts of the current national objective of expanded domestic energy production, the bill will reduce social frictions and make much of such expanded energy production occur on a more orderly and rational basis. It will accomplish these goals, through the Federal-State coastal zone management framework, by minimizing the inequities, the public fiscal impacts, and the environmental impacts caused by all the energy activity now going on, and projected to go on, in the Nation's fragile, but already heavily developed, coastal areas.

It is in the coastal areas that most of the U.S. oil and gas resources remain; it is in coastal areas that much of the energy resource transportation and refining take place; it is in these areas that electric power production is the most concentrated; and finally, it is in coastal areas that individual and industrial energy consumption is the heaviest.

The coastal energy impact program, established by the bill, is undoubtedly a landmark provision which will influence other impact legislation, energy-related or otherwise, in the years to come. The program is designed to be administered by the Department of Commerce's Office of Coastal Zone Management, in connection with the federally assisted State coastal zone management capability now being developed. The coastal energy impact program has been constructed to strike careful balances in several important respects.



First, the program provides financial assistance balanced between loans and bond guarantees to coastal State and local governments on the one hand, and outright grants on the other. Limited grants are provided for studying the consequences of new or expanded coastal energy facilities in order to prepare courses of actions for dealing with the anticipated fiscal and environmental impacts. Grants are also provided when clear inequities arise to coastal State and local governments from energy activity in which the coastal zone plays a special national role—OCS oil and gas activity and the coastal transportation of fossil energy resources. Such an inequity occurs if coastal energy activity causes unavoidable loss of valuable coastal environmental or recreational resources, and the coastal State involved has no remedy against persons causing such a loss.

Such an inequity also arises if the energy activity leads to population increases requiring costly new public facilities and services; but because of jurisdictional or other reasons, the activity does not provide sufficient offsetting tax revenues to the fiscally impacted coastal State or local governments. The primary assistance offered by the program, however, for financing public facilities and services made necessary by any coastal energy activity, are Federal loans and bond guarantees, not grants. Initial assistance for such facilities and services is in the form of credit rather than grants, because in many cases the adverse fiscal impacts experienced by a coastal State or local government will only be temporary and will be offset later on by increased tax revenues from the coastal energy activity involved.

The fact that coastal energy activity can be, in some cases, a source of significant tax revenues, but that coastal States can still be confronted by severe front-end financing problems because of such activity, is supported both by experience and by studies—an important one being the Office of Technology Assessment's "Fiscal Effects on State and Local Government from Offshore Oil/Gas and Port Development." Repaying the assistance for public facilities and services from later offsetting tax revenues will make the assistance again available for meeting new coastal State and local needs. "Recycling" the assistance through the program in this way means, therefore, that much more can be accomplished with the same amount of funds.

The approach taken by the program is essentially the same as the original approach of S. 586—loans for temporary adverse impacts and grants for net adverse impacts. I believe this approach to be the best way of solving the basic front-end financing and equity problems brought on by coastal energy activity, at the least cost of the Federal taxpayer.

Administratively, the program strikes a careful balance between being "automatic" and being "discretionary." Formulas will be used to allocate among the coastal States both the OCS formula grants, section 308(b), and the coastal energy activity loans and guarantees, section 308(d). In both cases, though, the proceeds or guarantees to which a State is entitled will not be disbursed or made until the State demonstrates to the Secretary that they will be used for the purposes described in the bill. Until such demonstration, the proceeds of the formula grants will stay in the State's "account" with the Secretary, and similarly for the coastal energy activity credit. Thus, while coastal

States' entitlements to OCS grants and the credit will "automatically" be determined by formulas, the Secretary still will have the discretion he needs, before disbursement, to assure that the proceeds of such assistance will be expended for the proper purposes.

Third, the program strikes a balance between Federal financial assistance, on the one hand, and self-help on the other. The bulk of the assistance in the form of loans and guarantees is limited to public facilities and public services, and the environmental grants are limited to unavoidable impacts—as defined in the bill—precisely so that coastal State and local governments will look first to the private energy industry to ameliorate fiscal impacts and to protect the environment. The incentives to do so will not only be maintained by the program, but enhanced because of the planning grants and improved State coastal zone management planning capability. The program will provide assistance when needed, however, and will assume the risk concerning repayment of loans and guarantees from future tax revenues.

Last, for equity reasons, the program covers a limited range of coastal energy impacts caused in the past, as well as future impacts. Grant money can be used for restoring valuable environmental and recreational resources first damaged prior to the bill's enactment, but only if no remedy exists against the persons causing such damage. If the program looked only to the future, it would be unfair to such States as Louisiana, off whose shores OCS activity has been going on for years—much of it prior to the heightened environmental consciousness of today.

The bill contains several other amendments, besides the coastal energy impact program, which are designed to further the effectiveness of coastal zone management. These include—

First, the establishment of additional requirements for State coastal zone management programs concerning planning for energy facility impacts, public access to public coastal areas, and shoreline erosion;

Second, a new program of financial assistance for coastal States which have already developed management programs which are in compliance with the requirements of section 305(b) but which did not yet qualify for approval and administrative grants under section 306;

Third, a new incentive for expediting determination of whether particular offshore energy activity is consistent with a coastal State's approved management program, on an overall plan basis rather than on an individual license/permit by license/permit basis;

Fourth, a new provision under which the Congress grants its assent to the formation of interstate compacts and to interstate agreements for the development and administration of coordinated coastal zone planning, policies, and programs and for the establishment of implementing instrumentalities or agencies, pursuant to which Federal financial assistance will be provided;

Fifth, a new provision for research and training to support coastal zone management programs;

Sixth, an authorization for new matching grants to enable coastal states to acquire access to public beaches and other public coastal areas of value and to preserve islands, to help meet the growing need for more recreational outlets in coastal areas; and

Seventh, authorization of appropriations for the next 4 years of the Nation's coastal zone management effort.

The bill, in addition—

First, creates the new Office of Associate Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration who shall administer the provisions of the 1972 act, including amendments of this conference substitute;

Second, authorizes four special positions to the extent necessary for administration of the amendments made by this legislation; and

Third, directs the Secretary of Commerce to review all aspects of the molluscan shellfish industry and to evaluate the impact on that industry of Federal law concerning water quality, and to report thereon to the Congress by April 30, 1977.

On Thursday, the conferees met for the final time and accepted an amendment to section 308(b)(4)(B)(i) which would insert the following after the word "necessary":

“, because of the unavailability of adequate financing under any other subsection,”

This would mean that formula grants could indeed be used for so-called “bricks and mortar,” for environmental problems, and for planning and bond repayment. But in the case of “bricks and mortar” projects for public facilities and public services required by new or expanded OCS activity, the States and local governments would have to turn first to the loan and guarantee provisions, and if funds were unavailable, then they could tap their allocations in their accounts under the formula grant provision.

It would be my interpretation, moreover, that in those cases where there are insurmountable problems which would prevent States or local governments from utilizing the aid offered by the fund, then the Secretary should permit these governments to utilize the formula grant program for such purposes.

Concerning the provision of financial assistance for public services, section 308(e)(4) calls upon the Secretary to establish requirements, terms, and conditions on the loans and guarantees of subsection (d) “to assure that the proceeds thereof may not be used to provide public services for an unreasonable length of time.” The intent here is that loans and guarantees are not to be used to continue financing public services or the operating costs of public facilities used by coastal energy activity, employees and related population once tax revenues start accruing to the impacted coastal State or local government from such employees, related population, and activity which are sufficient to pay for the services and the operating costs of the facilities.

The same restriction is intended to apply to the use of section 308(b) formula grants under section 308(b)(4)(B) for financing public services and the operation of public facilities. Proposed “projects and programs” for public services and the operation of facilities are obviously not “necessary” once the OCS activity, employees, and related population are providing adequate tax revenues to the impacted coastal State or local government for the services and operation of facilities which the employees and population use. Hence such projects and programs, when ordinary tax revenues will suffice, are not intended to be a proper purpose for the expenditure of the formula grants.

Mr. President, I ask unanimous consent that a factsheet with reference to major provisions of S. 586 be printed in the Record.

There being no objection, the factsheet was ordered to be printed in the Record, as follows:

#### MAJOR PROVISIONS OF S. 586

##### A. Coastal Energy Impact Program—New Section 308.

1. Annual formula grants to coastal states (Section 308(b)) (appropriations authorization—\$50M annually FY77-84). (100% Federal).

Grants would be allotted among states based upon following proportions calculated for each previous fiscal year:

One-third based upon amount of OCS acreage leased adjacent to a coastal state to total OCS acreage leased;

One-sixth based upon volume of oil and natural gas produced adjacent to a coastal state to total volume produced on OCS;

One-sixth based upon volume of OCS oil and natural gas produced first landed in a state to all OCS oil and natural gas landed in coastal states;

One-third based upon number of individuals in a coastal state who obtain new OCS related employment to total number of individuals who obtain new OCS related employment.

Formula grants may be used for the following purposes in order of priority:

a. Retirement of state and local bonds when insufficient tax revenues from coastal energy activity.

b. Study of, planning for, and development of projects and programs approved by Secretary (Commerce) designed to provide OCS related public facilities and services (available after states have utilized the provisions of Section 308(d)).

c. Prevent, reduce or ameliorate unavoidable loss of unique or valuable ecological or recreational resources resulting from OCS activity.

2. Planning grants to study and plan for economic, social, and environmental consequences resulting from activities associated with energy facilities. (Section 308(c)) (80% Federal.)

3. Loans and Federal bond guarantees to coastal states or local governments to assist in providing new or improved public facilities and services related to coastal energy activity (appropriations authorization—\$800M in revolving Coastal Energy Impact Fund with \$50M maximum authorized for planning grants and environmental grants (d) (4)). (Section 308(d) (1) and (2)).

4. Grants from Fund to coastal states or local governments if they are unable to meet obligations under a loan or guarantee because net increases in employment and population are not adequate to generate necessary tax revenues (Section 308(d) (3)).

5. Grants from Fund to coastal states if states' coastal zone suffers loss of valuable environmental or recreational resources and if such loss cannot be attributed to identifiable persons, or cannot be paid for through other Federal laws. (Section 308(d) (4)).

6. Secretary must apportion funds for loans, loan guarantees, grants for loan repayment and grants for unattributable environmental losses (all Section 308(d) items) based upon—

a. new coastal energy activity employment and population in a state;

b. standardized unit costs for public facilities and services required by the new population and employment.

7. Secretary must develop guidelines and procedures for reviewing application information submitted by states on loans and guarantees and for evaluating repayment schedules to determine whether tax revenues are sufficient to repay such obligations or whether grants are required (Section 308(e) (3)).

8. In order to be eligible for assistance under Section 308, coastal states must be receiving Section 305 or 306 grants or in the Secretary's view be developing a management program consistent with policies of Section 303.

##### B. New Requirements for State Coastal Zone Management Programs.

1. Amends Section 305(b) to add three new work elements requiring planning processes related to beach and public coastal area access, energy facility siting, and shoreline erosion.

2. Adds one additional year to make states eligible for four programs development grants and extends Section 305 authority to September 30, 1979.

3. Increases from 66 $\frac{2}{3}$  percent to 80 percent Federal funding level for grants made pursuant to Sections 305 and 306.

4. Adds a new subsection to Section 305 allowing the Secretary to make 80% grants, to coastal states to allow completion of and initial implementation of state management programs. States must identify remaining deficiencies and establish a reasonable time schedule for their remedy.

5. Amends Section 306 to require coastal zone management agency to notify a local government of any decision in conflict with local zoning actions, allows a local government 30-day comment period, and requires that no action may be taken during this period to conflict or interfere with a management program decision.

6. Amends Section 307 to require that any OCS activity described in an exploration, development, or production plan be certified by the person submitting the plan to the Secretary of the Interior that it is consistent with the approved state management program. The state must concur with such certification prior to any approval action by the Department of the Interior.

7. Adds a new subsection to Section 307 requiring public hearings to be held in the affected state or locality when serious disagreement arises between a Federal agency and a state with respect to the administration of a state's program.

#### C. Interstate Coordination Grants.

New Section 309 allows Secretary to make grants to states to coordinate, study plan and implement unified CZM programs. Grants may also be made to states to create and maintain interstate entities of coordinate CZM programs, (appropriations authorization—\$5M annually fiscal year 77-80) (90% Federal)

#### D. Research and Technical Assistance.

New Section 310 allows Secretary to conduct a program of research, study, and training to support state management programs. Secretary may make grants to states to carry out research, studies, and training required to support their programs. (appropriations authorization—\$10M annually—fiscal year 77-80) (80% Federal).

#### E. Acquisition of Access to Public Beaches and other Public Coastal Areas.

Section 315(1) allows Secretary to make grants to coastal states to acquire, develop and operate estuarine sanctuaries (appropriations authorization \$6M annually fiscal year 77-80 (50% Federal).

New Section 315(2) allows Secretary to make grants to states to acquire lands for access to public coastal areas and for preservation of islands. (appropriations and authorization—\$25M annually fiscal year 77-80) (50 percent Federal).

#### F. Shellfish Industry Review.

Requires Secretary to undertake a comprehensive review of all aspects of the shellfish industry and related regulations and standards and submit a report to Congress by April 30, 1977. HEW may not promulgate final shellfish regulations before June 30, 1977. 60 days prior to this date HEW in consultation with the Secretary must issue an assessment of the economic impact of and a cost-benefit analysis of the regulations.

#### G. Other Appropriations Authorizations.

Section 305—\$20M annually FY 77-79.

Section 306—\$50M annually FY 77-80.

Administrative Expenses—\$5M annually fiscal year 77-80.

Mr. JOHNSTON. What is the meaning of the word "unavoidable" as used in section 308(b) (4) (C) ?

Mr. HOLLINGS. The term "unavoidable" in the context of the loss of any valuable environmental or recreational resource resulting from coastal energy activity, refers to the losses generally attributable to or caused by "coastal energy activity." These losses would include cases where the loss could not be legally attributable to one or more persons—as defined in the act. It also covers the situation where the person or persons who cause the loss can be identified, but there cannot be any legal recovery from such persons, including, but not limited to, situations where there has been an historical waiver of liability or the offending person or persons are unable to remedy the loss. It also includes situations where there has been such a commingling of activities

that the loss is not attributable legally to an identifiable person or persons.

Mr. JOHNSTON. Is "valuable environmental or recreational resource" to be given its broadest possible interpretation, with a view toward protecting or restoring such resources?

Mr. HOLLINGS. It would be the view of the conferees that the Secretary apply such a broad definition to the term "loss" of such resources.

Mr. JOHNSTON. For the purposes of the allotment to States under the formula grant provision of section 308, is the production of crude or natural gas and landed quantities of crude or natural gas, to be that crude and natural gas produced from all federally leased acreage on the Outer Continental Shelf adjacent to a particular coastal State, regardless of the year in which the acreage was leased?

Mr. HOLLINGS. It was the intention of the conferees that, in terms of production elements of the formula, we meant that the production would be from all acreage under Federal lease adjacent to such State.

Mr. JOHNSTON. What does the term "new or expanded Outer Continental Shelf energy activity" mean in section 308(b) (4) (B) (i) ?

Mr. HOLLINGS. That term refers not only to activity on newly leased acreage, but also to any new activity related to exploration, development, or production on an existing lease, including, but not limited to, new production facilities on an existing lease.

Mr. JOHNSTON. For purposes of the act, what is meant by the term "new employment" when applied to section 308(b) (2) (D) ?

Mr. HOLLINGS. As reflected in the statement of managers, on page 32, the concept of "new employment" refers to "new workers." Some examples, in addition to that in the statement of managers, would include the following: First, a new worker on a new facility on either an old lease or a new lease, even though the new facility is in the same geographical area as the old facility; second, a new job with the same company, so long as that new job is on a different facility, even though there is no net increase in employment by that company or in that geographical area. We do not intend that each promotion be automatically considered a "new worker."

Mr. JOHNSTON. For purposes of section 308(d) (1) loans, does "new or improved public facilities" refer to those facilities needed to support ongoing coastal energy activity?

Mr. HOLLINGS. It is the intention of this provision that loan funds be available to provide facilities required as a result of ongoing activities, including OCS activities. This would include, for example, schools, hospitals, and renovations of same as necessary due to ongoing coastal energy activity.

Mr. JOHNSTON. In section 308(b) (4) (B) (i), what is meant by the term "unavailability of adequate financing under any other subsection"?

Mr. HOLLINGS. I would refer my colleague to page 33 of the report of the managers on the part of the House and the Senate, paragraph 2. Moreover, if a State exhausts its line of credit under section 308(d), such that such State can then apply for its allotments under section 308(b) for construction of public facilities, can such State use the grant funds for the total cost of construction of a school, only 10 percent of the need for which is attributable to "new or expanded" OCS activities? It is the intent of the legislation that the State transfer to

general purpose units of local government allocations from the section 308(b) funds. Once the local government has received such funds, the local government may spend the money on the entire cost of a project, even though only a small percentage of the need for the new facility is specifically attributed to new or expanded OCS activity.

Mr. JOHNSTON. What is the meaning of the term "expended or committed" with regard to section 308(b)(5)?

Mr. HOLLINGS. The concept of "expended or committed" gives the State 2 years from the date of receipt to make a binding administrative earmarking of the funds for a specific project.

Mr. President, I ask unanimous consent that an additional, brief description of the conference report on S. 586 be printed in the record.

There being no objection the material was ordered to be printed in the record, as follows:

#### S. 586: CONFERENCE REPORT

This bill provides assistance to coastal states and local communities to plan for energy impacts affecting the coastal zone. It also provides aid to build public facilities and to ameliorate adverse environmental impacts caused by certain energy facilities.

##### I. Energy facilities covered by planning:

Planning grants (\$50 million) are available so that states and local governments can plan for all types of energy impacts affecting the coastal zone, including:

- (a) coal-fired, oil-fired, and nuclear power plants;
- (b) liquified natural gas facilities and equipment;
- (c) Outer Continental Shelf (OCS) oil and gas facilities such as platform construction yards, crew and supply bases, port facilities, drilling equipment, production platforms, pipelines, and tank farms;
- (d) refineries;
- (e) deepwater ports;
- (f) uranium enrichment and nuclear fuel processing plants; and
- (g) coal mining, transportation, and gasification facilities.

##### II. Energy facilities covered by loans, grants and bond guarantees (\$1.2 billion).

(a) Funds are available for financing public facilities and services (schools, hospitals, etc.) required because of coastal energy activity, including:

(1) OCS oil and gas activity, including platform construction yards, crew and supply bases, port facilities, drilling equipment, production platforms, pipelines, and tank farms, etc.;

(2) coastal transportation of oil, natural gas, and coal, including deepwater ports, liquified natural gas facilities, and docks for loading and unloading coal.

(b) Grants are available for financing the prevention and or repair of unavoidable damage caused by such energy activity to valuable coastal environmental and recreational resources such as beaches, wetlands and fresh water supplies.

(c) OCS formula grants are available to coastal states adjacent to onshore oil operations to:

(1) retire state and local bonds which finance public facilities and services for new population when tax revenues are inadequate;

(2) plan for and provide new OCS-related public facilities and services when there are unavailable Federal loans and guarantees; and

(3) for preventing and repairing unavoidable damage to valuable coastal environmental recreational resources.

Mr. MAGNUSON. Mr. President, after several months of intense negotiations, House and Senate conferees have agreed on a conference report on S. 586, the Coastal Zone Management Act Amendments of 1976. I participated in that conference and concur in the report. I urge my colleagues to vote favorably on the report. Congratulations are in order for Senator Ernest Hollings, chairman of the National Ocean Policy, and Senator Ted Stevens, for their steady effort in obtaining

agreement in conference with a veto threatened, flexibility was necessary. But the conference bill completely reflects the basics contained in both the Senate bill and the House amendments. We owe Senator Hollings and Senator Stevens our gratitude for bringing this legislation this far. I understand that the President's signature on S. 586 is very likely.

For those of us who have been deeply involved in the protection of our valuable ocean resources, the passage of S. 586 marks an important step. It demonstrates congressional awareness of, and rapid response to, the possible adverse effects of energy development on our most valuable resource—the coastal margin where land and water meet.

The history of Senate consideration of the problem of coastal impacts associated with offshore energy resource development goes back a number of years, to the early implementation of the Coastal Zone Management Act of 1972.

In the spring of 1974, the National Ocean Policy Study of the Senate Committee on Commerce conducted 6 days of public hearings on this issue, including OCS impacts. At the same time, NOPS, through the Office of Technology Assessment, was undertaking a major study of the question of national growth policy in the coastal zone as well as a study—which has only recently been turned over to Congress—of the onshore impacts of offshore energy production, including OCS, deep-water ports, and floating nuclear power facilities. In addition, the study has produced five major committee reports on the questions raised by this legislation, all of which point to the need to deal with onshore impacts in the method finally chosen by the conferees.

It will be recalled that in September 1974, the Committee on Interior and Insular Affairs reported to the floor for debate, S. 3221, amendments to the Outer Continental Shelf Lands Act. On behalf of the Committee on Commerce, Senator Hollings and I offered amendments to that bill because the so-called coastal State fund contained therein was inconsistent with the developing Coastal Zone Management Act program and could lead to establishment by the Secretary of the Interior of a competing and duplicate coastal zone program through the use of revenue-sharing grants authorized by that bill.

That bill was amended on September 13, 1974, to reflect in part the concern of the Committee on Commerce. We pointed out that much of the information being developed on coastal impacts was not yet available at the time of the debate, but that the basic amendments to the OCS act in that bill (S. 3221) were a step in the right direction.

I wish to point out at this time that Senator Jackson, the chairman of the Interior Committee, stated at that time, Page S16927, that:

The Committee believes that the Federal Government should assist the States in ameliorating adverse environmental impacts and controlling secondary economic and social impacts associated with OCS oil and gas development.

An agreement was made with the Interior Committee that the Secretary of Commerce would have discretion to draft regulations and make determinations as to whether a State is eligible for a grant pursuant to the fund created in that bill (S. 3221).

Even under that bill, Mr. President, Senator Jackson agreed that the grants were not "automatic," but that the Secretary of Commerce would have jurisdiction and responsibility to draw up regulations which will determine eligibility.



S. 3221 passed the Senate, but went no further in the 93d Congress. Subsequently, as further research and studies by the national ocean policy study, the Office of Technology Assessment, the Library of Congress, the States, and others showed the need to approach the issue of impact assistance with far greater sophistication. That is why on February 5, 1975, Senator Hollings and I introduced S. 586, providing a balanced approach to providing Federal financial aid to the States to deal with energy-related problems which need: First, studying, planning for, managing, controlling, and ameliorating economic, environmental, and social consequences likely to result from the development, production, or siting—of energy resources; and second, constructing public facilities and providing public services made necessary by such development, production, or siting and activities related thereto.

This was not a revenue sharing approach, but an attempt to provide a system of assisting States and local governments to deal with real impacts caused by major energy facilities and to assist those States which require assistance.

On February 3, 1975, Senator Jackson introduced S. 521 on behalf of himself, Mr. Johnston, and others, a bill which was essentially the same as S. 3221, but with some changes. The modification in the "coastal State fund" were consistent with the changes made in the floor debate September 18, 1975. However, the passage of time had produced new information and a different thrust to the impact aid proposal, and this change was included in S. 586.

On July 16, 1975, S. 586 was debated and passed on the floor of the Senate. And now, after a long and difficult conference, the differences between the House and the Senate versions of the bill have been worked out.

The most important aspect of this bill is that it will ease the perennial problem of "boom-towns" associated with natural resource development. As we tap ocean resources from greater energy supplies, rapid industrial build-ups along the shoreline are likely. When new populations descend on previously undeveloped areas, tremendous pressure for schools, sewer lines, fire protection, and the like result. Without adequate financial assistance, these basic public facilities and services cannot be built. The after the boom is over, much of the new population may pull out, long before bonds are paid off. This huge financial burden then may fall on the remaining population which simply cannot shoulder it. If we are to develop these resources and at the same time to protect our coastal areas from environmental damage, national assistance is needed. This is the purpose of S. 586.

Mr. STEVENS. Mr. President, I wish to concur with my colleague from Washington.

Last Thursday evening, the House/Senate conference committee for S. 586, the Coastal Zone Management Act Amendments of 1976, filed their report in the House and Senate respectively. This legislation provides a \$1,200,000,000 impact assistance program to coastal States who will suffer impacts from coastal energy activities, including Outer Continental Shelf oil and gas development.

The filing of this legislation and the statement of managers by the conference committee represents the end product of 2 years worth of work. I wish to commend the staffs of both the House and the Senate

for their fine performance in the drafting of this bill. They have been engaged in a 4-month marathon to finish the bill before the summer's conventions.

I particularly wish to thank John Hussey, Jerry Sauer, Bud Walsh, Lynn Sutcliffe, Bob Joost, and Gerry Kovach of the Commerce Committee staff, and Steve Perles of my own staff for the excellent job they have done in the drafting of this legislation.

The Coastal Zone Management Act amendments, as presently drafted, is an outstanding piece of legislation. The quality of this bill reflects the high degree of cooperation exercised by the House, the Senate, and the Executive Department. The fact that we have a \$1,200,000,000 impact aid program which is supported by the administration is testimony to the high degree of cooperation between the legislative and executive branches in the preparation of this bill.

The impact assistance provisions consist of \$800 million in loans and \$400 million in formula grants. The purpose of the loan program is to provide front-end assistance to municipalities who will be facing impacts from coastal energy facilities. It is expected that in most cases the tax revenues from the energy facilities and surrounding activities will be sufficient to repay the loans and guarantees.

Should tax revenues be insufficient for that purpose, the indebtedness will be automatically forgiven. The formula grants must be applied first to retire local, then State bonds. Remaining formula grant funds may be used either to meet environmental needs or for capital construction programs where it is anticipated that the tax revenues will not be sufficient to pay off the cost of the facilities. Included in the \$400 million formula grant package is \$50 million for planning purposes.

I wish to point out that the indebtedness which States and municipalities can incur under this program is Federal indebtedness. We have gone to great lengths to insure that States and municipalities will not have to pledge their full faith and credit or receive these loans and guarantees. Nothing need be pledged by a State or municipality to receive this assistance except future tax revenues to be derived as a result of the energy activity.

The term "solely" in the conference substitute means solely in the sense of exclusively. No other provision of Federal law and no provision of any State or local law shall, to the extent of Federal constitutional authority, govern the making of any loan under this paragraph. It is the intent of the conferees to remove any impediments which may prohibit, inhibit, or impede a State or unit of general purpose local government which satisfies the prerequisite, terms, conditions, and requirements of this act and regulations under this act—from borrowing under subsection (d).

This legislation is of critical importance to my home State, Alaska. The first Outer Continental Shelf oil and gas lease sale recently took place in the northern Gulf of Alaska. By the time the authorizations in this legislation have concluded in 1986 Alaska will have more acreage under lease than any other State in the Union. Without the financial assistance provided for by this bill, the State of Alaska will not be able to amass the front-end capital needed to construct facilities for coping with the onshore impact of Outer Continental Shelf oil and gas development.

The State of Alaska will receive substantial amounts of loan or bond guarantee assistance to be repaid by the State and its municipalities with tax revenues earned by taxing oil companies' on-shore support facilities. I am pleased that the automatic forgiveness provisions of this legislation will provide the citizens of the State of Alaska with peace of mind, knowing that should the anticipated tax revenues fail to accrue, the Federal Government will automatically forgive the loan indebtedness which my State will soon incur.

The State of Alaska will also be eligible for formula grants. These funds will be used to retire bond indebtedness, meet the State's critical environmental needs, and construct public facilities when the anticipated tax revenues will not meet the cost of construction.

Mr. President, this legislation is a great step forward for the State of Alaska and for the Nation. It is the only means by which States and municipalities will be able to bear the burden of impacts created by Outer Continental Shelf oil and gas development and other coastal energy facilities activities. After this legislation is signed into law, States and municipalities will need no longer fear the financial strain resulting from Outer Continental Shelf oil and gas development impacts. The combination of loans and grants established by this legislation is a fair and equitable means by which the taxpayers of the United States can assist State and local governments impacted by Outer Continental Shelf oil and gas activity and other coastal energy activities which are necessary to achieve energy independence. I would urge each of my colleagues to approve this conference report.

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

Mr. HOLLINGS. I yield.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, after discussing the matter with the distinguished Senator from Louisiana (Mr. Johnston) and the distinguished Senator from South Carolina (Mr. Hollings) and also with the chairman of the Committee on Interior and Insular Affairs, that the conference report be limited to 25 minutes, 20 minutes to be allocated to the Senator from Louisiana (Mr. Johnston) and 5 minutes to the Senator from South Carolina (Mr. Hollings.)

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

The Senator from Louisiana is entitled to be heard. Senators who are conversing will please go to the cloakroom.

Mr. JOHNSTON. Mr. President, I would hope that the Senator from California would remain for this colloquy, since he was on the conference committee.

Mr. President, to say that I am disappointed, that I am upset, that I am chagrined by this conference report would be a great understatement. I am upset and concerned. First of all, I am upset with the administration for specifically, designedly, with malice aforethought, and intentionally requiring that provisions be taken out of this coastal zone management bill which would have specifically helped my State of Louisiana and any other State that has ongoing offshore production. Second, I am upset and concerned and disappointed with the conference committee and, specifically, with the Senate Committee on Commerce, which in my view failed to live up to what I regarded as a very clear and explicit understanding.

Mr. President, this legislation has a fairly long history. It involves 3½ years of work by me. It involves the feeling of people in my State, rightly or wrongly, that they have been shortchanged, both by the Supreme Court and by Congress, in the treatment of Outer Continental Shelf revenues and production. We may be wrong about that. We may be parochial in that feeling, but we have felt it, and we have felt it intensely for a long time.

Accordingly, Mr. President, we began to work 3½ years ago to try to correct what we regard as a very unjust situation; to try to get some share of revenues from the Outer Continental Shelf to aid in the impact which the Outer Continental Shelf development has had on Louisiana.

The Federal Government has impact aid funds for virtually everything. If a military base is put in an area, the Government will give impact aid because of the lost taxes to that area. Areas get impact aid for timber cutting by the Federal Government on Federal lands. Areas get impact aid for extracting any kind of mineral from any federally owned lands. Louisiana thought she should get some modicum of that same treatment.

So the Interior Committee had hearings, Louisiana justified its cause, and we passed a bill affording favorable treatment three times on the floor of the Senate. The last time we passed it, we had what I thought was an agreement that the impact aid funds would be attached to the coastal zone management bill. We thought the agreement was that those funds would survive the conference. There is no need to go into all the provisions of that agreement between the Senate Commerce and Interior Committees. I could read the provisions or put them in the Record.

Suffice it to say that in my judgment, those provisions are explicit. They constitute more than a gentleman's agreement. They constitute a specific agreement, spread on the records of the Senate.

Relationships between Senators, I suppose, is a matter of concern not for the Senate as a whole or as an institution but, rather, for those Senators involved. But relationships between committees, when spread on the Congressional Record, are matters that the Senate should be concerned about. I am deeply concerned and I am deeply disappointed by the action of the conference committee, because I think the Interior Committee has been done in.

To be sure, Mr. President, the ultimate cause of this is the administration. The same administration which, after many conversations, led me to believe, through Secretary Morton, that they had lots of sympathy for the States which were upholding their part of the Nation's needs by allowing drilling for oil and gas off their shores and suffering the impacts that activity brings. The administration indicated that we, at least should get some kind of reasonable impact aid. I was led to believe that they suggested the automatic impact grant concept.

I do not charge that there was a specific breach of a specific promise, but at least this was my understanding of their intentions.

I can understand the spot that the conferees were in. They were told—and it was repeated to me today by the Deputy Under Secretary of Commerce—that if they allowed these provisions to survive in this bill, the President would veto it. I believe that veto would have

been overridden easily. This bill was passed in the Senate by a vote of 75 to 15 and in the House by a vote 370 to 13. I am confident that the automatic impact grant provisions would have survived a Presidential veto. In any event, the conferees felt the necessity of expunging from this bill those provisions which helped the State of Louisiana.

How does the conference report do that? It does it by adding two requirements: that the "new or improved public facilities and public services" to be funded by automatic grants are required as a direct result of "new or expanded" Outer Continental Shelf activities, which completely ignores anything that has gone on in the past or is presently ongoing. That is No. 1. Second, the conference report requires that there be no loan money available under other sections of the bill.

Mr. President, the State of Louisiana does not wish to borrow money from the Federal Government under the conditions herein imposed. In the first place Louisiana does not get any better interest rate under this bill. We get the same interest rate that we would if we borrow the money from the Federal Government as we do if we go out on the bond market and borrow the money. The only difference in the two source of loans is that we get the benefit of all these Federal regulations and the benefit of the restrictions on the use of the money if we borrow from the Federal Government.

What they are telling us, in a great feeling of magnanimity in this bill, is that we cannot be given the grant money which is set aside for us until we have borrowed money that we can get anyway under the same bill. In my view, Louisiana is not going to borrow the money.

Why were the loan provisions put in the conference report? To benefit other States which are just getting involved in OCS activity. Indeed, Alaska will do very well under this bill, because in areas where there is no city, where there is not an existing infrastructure, the right to borrow money from the Government in order to create a new town is a very valuable right.

This move is not true in areas that already have existing cities, existing infrastructures, and existing drilling.

Mr. President, I realize that once a conference report comes to the floor of the Senate, it cannot be beaten; that one cannot make a motion to amend it. There is not much one can do, other than to do as I am, to express my severe disappointment; to put the Senate on notice that there will be another day; that we will come back and try again at which time I am sure we will be met with the statement, "All that has been agreed to; all that has been settled," as indeed I thought it was back in 1975. We will try again. I do not know what kind of luck we will have.

I know better than to try to make a motion now to do anything. The rules do not provide for amendment of a conference report. To try to beat this conference report on the floor of the Senate would be a non-productive venture. But at least I have said what I think should be said.

I do not think the people of my State are going to forget this administration for what they have done to this bill, if indeed the administration gets the chance to put themselves up for consideration in my State. I say that with some degree of confidence. I say that as someone who is not going to let the administration's deeds be forgotten. I do not think they would be forgotten anyway, because the people of my State are well aware of the administration's activities.

Mr. President, I think I have said enough. I just want my disappointment in and my opposition to this measure to be recorded.

Mr. HANSEN. Mr. President, will the distinguished Senator from Louisiana yield to me for a couple of minutes?

Mr. JOHNSTON. I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I can empathize, as not everyone in this Chamber can, with the distinguished Senator from Louisiana. It was the language in the bills to which he has referred that encouraged me to adopt the same identical language which finally was passed by the action of the Senate in adopting the amendments to a bill that came back as S. 391.

I know what it means to have great developments taking place that are given encouragement by the Federal Government and to have people come in and suddenly descend upon a city or a town and bring with them immediate demands for all kinds of extra services.

We have gone through that experience in several instances in my State of Wyoming—in Rock Springs, in Green River, in Gillette. We are going through it now in the city of Douglas, Wyo., east of Casper. We know what it means in Hanna, Wyo.

It is not easy when you find the population of a town doubling or tripling in just a few years. It is always difficult, because invariably the people come before any of the increased valuation which eventually may appear on the tax rolls is able to make any contribution at all to minimize or mitigate the impact of these social and economic problems that invariably follow the presence of many new people in town.

I understand full well what the Senator from Louisiana is saying. I want to make just one point, though, that I did not know that the White House or an Under Secretary of Commerce carried as much clout with a Democratically controlled Congress as my good friend from South Carolina and others would have us believe was the case. I am surprised that they would not have gone ahead and said, let the President veto it if he wants to. He would have had the support, I think, of a number of Republicans in trying to do what we think is right for the country. So I am not going to come down on my analysis of who is to blame by saying that we are going to point the finger at the White House and say they are to blame. That is not where I put the blame.

I think that the conferees had a clear signal from the Senate of the United States. The need was there, a good case was made. There can be no controverting at all the substantiation of the facts that were presented under the skillful chairmanship of my good friend from Louisiana when hearings were held on this subject. As I say, I sympathize with him and I emphasize with him because things turned out as they did.

We heard the same statement made about the mineral royalty bill on S. 391. I do not know yet what the President may do. All I can say is that I have great concern for the problems that will be visited upon coastal States following the installation of offshore installations which will bring many new people in town, with no better way of coping with those problems than we presently have.

I do regret, in this case, that the conferees did not stand firm, did not give the White House a chance to look at all of the facts when they

were before them, and come down on that issue without being frightened, as apparently they were, by an Under Secretary of Commerce who spread the word that the President is going to veto the bill. That, to me, does not really quite all add up to putting the amount of blame on the administration that others may believe that it does.

Mr. JACKSON. Will the Senator yield 2 minutes?

Mr. JOHNSTON. Yes, I shall yield to my colleague.

Mr. JACKSON. Mr. President, I shall be brief and to the point. I support the conference report on S. 586, the Coastal Zone Management Act Amendments of 1976. It contains many good provisions which will greatly improve coastal zone management programs.

However, I am disappointed that the conference report weakens the provisions for automatic grants to coastal States that were contained in the Senate-passed version of S. 586.

Senators will recall that section 308(k) of the Senate bill provided for annual distribution of automatic grants based on a formula set out in the subsection. The language was the result of negotiations between the Committee on Interior and Insular Affairs and the Committee on Commerce in an attempt to meld the Outer Continental Shelf oil and gas leasing bill (S. 521) with the coastal zone management bill (S. 586). The Outer Continental Shelf development activity and disposition of the revenue therefrom falls under the Interior Committee's jurisdiction.

Our agreement, approved by the Senate in both S. 521 and S. 586, did not condition automatic grants on the availability of loans or loan guarantees. The Interior Committee felt strongly that all States impacted by OCS oil and gas production should be entitled to automatic grants. We did not want these grants to be subject to administrative discretion as long as the States spent the money to reduce or ameliorate the adverse impacts of OCS oil and gas production.

I understand that the Senate conferees believed it necessary to weaken this provision in order to reach an agreement with the administration. I appreciate their desire to have the bill enacted and strongly support it. However, I believe that the grant provisions should be improved in future legislation to assure that all States are treated fairly. I know that the Senator from Louisiana (Mr. JOHNSTON) is concerned about this provision. I will work with him and all other concerned Senators to improve the automatic grant provision.

I think this matter has been laid before the Senate very properly and very effectively. The facts are that the Senate bill was passed by an overwhelming majority and the House bill, which passed by an overwhelming majority, did cover the special problem outlined by the distinguished Senator from Louisiana. I may say that the distinguished junior Senator from Louisiana was most diligent in the committee. We started out with an impacted aid fund program which, obviously, did not cover all situations, and it was his amendments that broadened the base which the Senate later approved and which the House approved.

I have done some checking on this, and I think it is quite clear that the problem confronting the conferees was that the administration indicated that they were going to veto the bill. Both Houses had, in effect, adopted the Johnston proposal, both the House and the Senate. And the conferees, House and Senate, came to the conclusion that they

had to modify it. I think that is unfortunate, but that was a judgment decision that they made.

I say to the Senate and to my colleague from Louisiana that the Senate Committee on Interior and Insular Affairs will pursue this matter with diligence, that it is a matter that we are greatly concerned about, because it does affect the Outer Continental Shelf, and the revenues from that shelf, as such, come within the jurisdiction of the Committee on Interior and Insular Affairs. I want to assure the Senator that I will do all I can to assist him in this regard and there is legislation pending at the present time. I want to work with the distinguished Senator from the Committee on Commerce (Mr. Hollings) so that we can get back to where we were in the first place.

It is very clear what the undersanding was. I just do not want a recurrence of the kind of action here from the executive branch which led to both sides, having agreed on a formula that was substantially the same, revising that in light of the representations made by the executive branch of the Government that there is going to be a veto.

I assure the Senator that I shall do all that I can. The Senator knows that we have done that before, but we will really follow up on this to see that we do equity, so to speak, to the situation that is involved here.

Mr. JOHNSTON. I thank the Senator from Washington. I appreciate his support, his knowledge and work, and his willingness to do equity in this matter.

The PRESIDING OFFICER. The Senator from South Carolina is once again recognized.

Mr. HOLLINGS. May I have, by unanimous consent, my 5 minutes now?

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

Mr. HOLLINGS. Mr. President, the distinguished Senator from Louisiana and myself have been working over the years. The fact is that I commenced this some 6 years ago with the hearings, covering a 3-year period which led to enactment of the Coastal Zone Management Act of 1972, of course allowing for planning and development grants to set up the coastal zone area management program in the States. When we started on the offshore impact issue, I introduced S. 426 prior to the introduction of S. 521, which contained an impact fund, and also introduced the amendment to the Coastal Zone Act, S. 586, which is presently under consideration. There had been a give and take. We have been meeting with the Committee on Interior, and I do agree that the record of last July 16 upon the passage of this bill in the Senate is the best representation of our agreement. The distinguished Senator and I exchanged letters relative to that record. I have two letters, one dated June 26, 1976, from the Senator from Louisiana to me, and one dated June 28 from myself to the Senator from Louisiana. I ask unanimous consent to have those letters printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. SENATE,  
*Washington, D.C., June 26, 1976.*

HON. ERNEST F. HOLLINGS,  
*U.S. Senate,  
Washington, D.C.*

DEAR FRITZ: This memo is submitted in hopes of securing your reconsideration of the restrictions on the use of the formula impact fund grants of the Coastal Zone Management bill. I believe that fairness, together with our previous agreements, requires it.



## I. BACKGROUND

In January 1973, I sought membership on the Interior Committee because it has jurisdiction over OCS legislation. My state has long perceived the actions of the Supreme Court and Congress with respect to OCS revenues to be an injustice to Louisiana. I made it a prime campaign issue in my race for the Senate.

I and others introduced legislation in the 93rd Congress dealing with offshore revenue sharing. Extensive hearings were held. In 1974, the Committee reported and the full Senate passed S. 3221, amending the OCS Lands Act. On September 18, 1974, by a vote of 64 to 23, the Senate approved this legislation. You will recall that, at the time this legislation was coming up for floor action, extensive negotiations were had between you, your staff and me. In S. 3221, as reported, the granting agency was the Department of Interior. However, by way of compromise, we agreed to allow the Department of Commerce to be the granting agency. With this and certain other compromises, you and your Committee supported the bill. See Attachment A).

This legislation was generous to Louisiana, granting it approximately \$100 million per year in the early years of the program and much more in the later years of the program. The grants were automatic and virtually unlimited in the uses to which they could be applied. Clearly, under this legislation, the grants could be used for impacts attributable to on going OCS production. Furthermore, funding was automatic as a dedication from OCS revenues and did not require annual appropriations for funding. The House took no action on this legislation, which passed late in the 93rd Congress.

When the Coastal Zone Management Act Amendments were in your Committee, we similarly had long and extensive negotiations on the impact fund provisions of your Committee's bill (S. 586) and of my Committee's bill (S. 521). You will recall that Interior Committee members met with you and other Commerce Committee members complaining about the raid on the jurisdiction of the Interior Committee. These concerns were later incorporated in a memo signed by each Interior Committee member.

The final result was, of course, S. 586, the Coastal Zone Management Act Amendments of 1975.

Under this Compromise Act, as finally adopted by the Senate, Louisiana had yielded considerably;

(1) Impact funding to Louisiana was reduced from approximately \$100 million per year (more in later years) to approximately \$45 million per year; and

(2) Funding of the impact grant was no longer automatic, but rather required annual appropriation.

However, in the spirit of compromise and harmony, we accepted the amendment. The extensive negotiations over a period of months, the extensive concessions on the part of the Interior Committee with respect to jurisdiction, and the extensive concessions on the part of Louisiana (the main OCS producing state) provided the background of the explicit compromise agreement which is reflected in the *Congressional Record* of July 15, 1975 at S. 12815.

## II. AGREEMENT

The verbal agreements involved in all of these negotiations ripened into the amendment submitted jointly by Senator Jackson and me on behalf of the Interior Committee and Senator Magnuson and you on behalf of the Commerce Committee. (See attached exhibit B) The amendment, of course, provided for a \$100 million automatic grant fund with a state's allocation to be strictly in accordance with the amount of oil and gas produced adjacent to the state or landed in that state. The Secretary of Commerce was mandated to make these grants:

"(k) The Secretary *shall*, in addition to any financial assistance provided to . . . coastal states pursuant to any other subsection of this section . . . distribute grants annually in accordance with the provisions of this subsection."

The purpose for which the monies could be used was very broad. It included the ability to spend money to reduce "adverse impacts" from ongoing OCS production:

"(k) . . . The moneys received under this subsection shall be expended by each State receiving such grants solely for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or pro-

duction of, energy, resources or resulting from the location, construction, expansion, or operation of a related energy facility and/or for projects designed to provide new or additional public facilities and public services which are related to such exploration, development, production, location, construction, expansion, or operation, except that such grants shall initially be designated by each receiving State to retire State and local bonds, if any, which are guaranteed under section 316 of this Act. . . ."

Pursuant to Subsection (e), a state was required to refund to the Federal treasury any unexpended funds, but neither machinery for monitoring of state expenditures was provided nor was a time limit for state expenditures provided.

We believe the language as reflected in the *Congressional Record* involving our colloquy is clear and unmistakable. (See attached exhibit C)

### III. CONFERENCE REPORT

Even prior to Thursday's meeting, the Conference Committee had very substantially eroded both the concept of and funding of the impact grant fund—at least insofar as Louisiana was concerned. A comparison of the 1975 text with the "pre-Thursday text" shows the extent to which Louisiana has lost.

Specifically:

(1) Under the 1975 legislation, a state's share was determined by oil produced adjacent to or landed in a coastal state. Under the "pre-Thursday text," that share was to be only  $\frac{1}{3}$  determined by production and landing. The other  $\frac{2}{3}$  was to be measured in acreage "newly leased" and the number of individuals who obtained "new employment" as a result of "new or expanded outer continental shelf energy activity."

(2) The uses to which this money could be applied had been greatly circumscribed in the "pre-Thursday text." But, a state could still use the money to provide "new or improved public facilities and public services which are required as a *direct result* of outer continental shelf activity." The amendment further stipulated that the Secretary could not disapprove plans relating to highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

As you know, the latter "must approve" category was designed to salvage what use Louisiana had left of the formula impact grant funds.

The change in the formula, with its two-thirds emphasis on new and expanded production and new OCS jobs, would virtually write Louisiana out of much of the funds. There are already over 10,000 holes in the Gulf and billions of dollars of federal production in the OCS off the coast of Louisiana. This production has already peaked and is dropping. The impact of dropping economic activity and its accompanying decrease in employment is a much more severe impact than that from expansion—particularly in a state which is 41st in per capita income.

The final "Catch 22", of course, occurred in the Thursday meeting. The sole effect of this meeting was to write Louisiana the rest of the way out of the formula impact grants. It did so by requiring that the grants be: "necessary, because of the unavailability of our adequate financing under any other subsection, to provide new or improved public facilities and public services which are required as a direct result of new or expanded outer continental shelf activity."

The "automatic formula grants" are no longer "automatic," as provided in our earlier compromise, and the funds can no longer be used for broad OCS related impacts, as in our earlier compromise, but apparently must only be used for impacts attributable to "new or expanded OCS activity."

Financing is, in fact, provided under other subsections of this bill for each use described in the grant section, except the retirement legerdemain gives a state a grant only if it cannot borrow the money, while at the same time providing that a state can borrow the money from the Federal government. Apparently the formula grant funds can only be used, particularly for public facilities and public services, when a state has already exhausted the loans made available by the Federal government.

The loan provisions of this Act are virtually useless to Louisiana. These provisions are designed for a state whose energy production in the OCS is just beginning—such as Alaska or some of the East Coast states. The judgment of whether an adverse impact is wholly or partially attributable to "new and expanded" OCS activity as opposed to ongoing OCS activity off the coast of

Louisiana is so subjective that Louisiana is left to the whim and fancy of the Secretary of Commerce. No other state is faced with such a melding of ongoing and "new or expanded" OCS activity.

#### IV. CONCLUSION

The law is not, of course, without its ambiguity. Indeed, there are several provisions which a sympathetic Secretary could stretch to help Louisiana. (For example (Section 7) (Section 308) (b) (4) (c)).

In sum, however, we regard the Conference Report as an unmitigated disaster for Louisiana and a very sad end to almost four years of work crowned by victories and compromises on the Senate floor. Rather than provide a program which offers certain relief to Louisiana, this legislation, due to the fact that both extensive ongoing and "new and expanded" activity exist on the OCS off the coast of Louisiana, provides Louisiana relief based solely on the subjective decision of an appointed Secretary of Commerce. The state which has carried the burden of the only extensive OCS development deserves better than that.

I hope and trust you will reconsider and return the report to the Conference Committee where the offending language can be expunged.

Sincerely,

J. BENNETT JOHNSTON,  
*U.S. Senator.*

U.S. SENATE,  
*Washington, D.C., June 28, 1976.*

Hon. J. BENNETT JOHNSTON,  
*Russell Office Building,*  
*Washington, D.C.*

DEAR BENNETT: I am relieved to receive your letter of the record and "our previous agreements" on S. 586. S. 586 passed the Senate on July 16, 1975 by a vote of 13-15. It was passed after thorough debate on the floor which reflected the negotiations between the Interior and Commerce Committees and more specifically between yourself and other members relative to whether or not the impact fund and automatic grants provided under the bill could be used as revenue-sharing for past impacts or facilities not related to an adverse impact caused by OCS activity. Since the bill's passage, you have from time to time referred to "revenue-sharing" inferring as you now do in your letter that the formula grant fund was totally automatic and could be used as revenue-sharing. I knew we had faced this squarely in debate and so resting your case on the Senate record relieves us both of any misunderstanding. I agree—the record reflects "our previous agreements." Most importantly, the conference report is in lock-step with the Senate record, in lock-step with what you agreed to.

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#### I. FOR ADVERSE IMPACT, NOT REVENUE-SHARING

At S. 12816:

Mr. HOLLINGS. I know that the principal negotiations today have been carried on by the Senator from Alaska and the Senator from Louisiana. As I understand it, under the amendment of the Senator from Louisiana, we have joined under the costal impact fund rather than the revenue sharing fund originally proposed in S. 621. Is that correct?

Mr. JOHNSTON. It was not really a revenue sharing fund. It was an impact fund.

Mr. HOLLINGS. All right, an impact fund. This agreement would supplant the fund in S. 521 \* \* \*."

Emphasizing that the automatic grants did not constitute revenue sharing, Senator Stevens on S12812 stated:

"Let me emphasize that this is not a revenue sharing bill. We have no provisions in here pertaining to revenue sharing. \* \* \* Again, I emphasize these are not revenue sharing proposals."

And on S12813, Senator Stevens stated:

"It should be noted that since the automatic grants must be spent on impact-related projects and the surplus returned to the Federal Treasury, the automatic grants are not revenue sharing."

## II. AUTOMATIC GRANT FUND FOR FUTURE ADVERSE IMPACTS, NOT PAST

On S12817, Senator Jackson stated :

"While I am opposed to any sharing of federal revenues from Outer Continental Shelf activity with the states, I have consistently supported the concept of federal impact aid to those states suffering adverse impacts from Federal decisions to develop OCS oil and gas. \* \* \* The Interior Committee bill also contains an automatic impact aid provision based on a formula which is specifically designed to provide funds to coastal states in so-called frontier areas—those areas where there has been no Outer Continental Shelf oil and gas development in the past. I supported this approach."

"And Senator Johnston on S12815 refers to :

"\* \* \* for projects designed to provide new and additional public facilities and public services."

Senator Johnston continuing further stated :

"It misses the mark by far in terms of alleviating the impact on the adjacent coastal States. \* \* \*"

Perhaps the Louisiana situation of 10,000 holes and production dropping was what you had in mind but nowhere in the entire record can you find any intent or reference to aid "dropping economic activity." On the contrary, the intent is manifest throughout the record that there was no idea of compensating for an already-established offshore development with the same drill, the same pipeline, the same storage tank, no additional people and no additional adverse impact. A bill to reward this would have had no chance of passage in the United States Senate.

## III. FORMULA GRANT FUND FOR REAL AND REASONABLE IMPACT—NOT ABSOLUTE

At S12816 Senator Johnston stated :

"It is not a bribe at all \* \* \* there is a real and reasonable impact."

Senator Humphrey at S12814 :

"S. 586, however, is not a give-away program. Coastal states must demonstrate adverse impacts to receive assistance."

Senator Hollings at S12811 :

"\* \* \* these automatic grants must be used to ameliorate adverse impacts of energy resources development or related energy facilities . . . it is not simply a grant program."

Quoting from the bill itself presented by Senator Johnston on S12815 :

"1. Any funds provided to any state under this section not expended in accordance with the purposes authorized therein should be returned to the Treasury by such state."

## IV. CLEAR UNDERSTANDING THAT AUTOMATIC GRANTS MUST FIRST BE APPLIED TO PAYING OFF LOANS

Senator Stevens at S12813 :

"The automatic grants \* \* \* are used by the state and local governments to retire the Federally guaranteed bonds."

Senator Johnston at S12815 :

"The bill also provides, Mr. President, that when a state is eligible for this money that the money should be paid first to retire the locally issued bonds previously approved by the Secretary of Commerce."

## V. APPROVAL OF THE SECRETARY OF COMMERCE CLEARLY SOUGHT AND CLEARLY UNDERSTOOD

Senator Stevens on S12813 states :

"Let me emphasize that this is really a discretionary concept ; because, under the provisions of this bill this money would revert to the Treasury if it is not used to meet impacts that have been approved under the plan or used to repay bonds guaranteed by the Secretary of Commerce. I think the Secretary of Commerce will have a great deal of discretion in administering this concept."

Senator Johnston provided for a fund approved by the Secretary of Commerce in S. 521 and many times in debate and prior to the vote on S12289 stated :

"But the uses are also spelled out and must be related to these impacts subject to the Secretary of Commerce. The uses are in three categories in this priority :

"First, to pay off bonds previously approved by the Secretary of Commerce. \* \* \*

"Second, to pay off similar bonds under Section 306 previously approved by the Secretary of Commerce."

You state in your letter, " \* \* \* the retirement legerdemain gives a state a grant only if it cannot borrow money" and referring to the language inserted by the conferees, " \* \* \* because of the unavailability of our adequate financing under any other subsection," "the automatic formula grants are no longer automatic." It is obvious from the record that rather than legerdemain, the language of the bill is clear and the added language by the conferees only emphasizes what we stated last July time and again that the grants were not automatic to begin with, that they had to retire loans for adverse impacts and any left over had to go back to the Federal Treasury. There is one exception. One that you proposed in your original bill, S. 521, and one which was adhered to by the conferees and that is grants for environmental impact.

Now let me refer to your language, "The change in the formula, with its two-thirds emphasis on new and expanded production and new OCS jobs, would virtually write Louisiana out of much of the funds." Totally false. First, as is stated above, the almost total emphasis in the Senate last year other than environmental, was on new and expanded production. The criteria of new OCS jobs was added by the House in Committee prior to reporting the bill to the House on October 8, 1975. It was not added by the conferees but rather supported by the House when it passed the bill including the Louisiana delegation and supported by all of us on the conference. It was never in issue because it only emphasized the original Senate intent. Moreover, rather than writing Louisiana out of funds, it is interesting to note the survey made by the Department of Commerce and OMB for Louisiana's share under the conference report. They project that of the total \$400 million over the eight year period, Louisiana will receive \$188 million. One state receiving almost half of a Federal fund cannot be referred to as an "unmitigated disaster." I only wish such a "disaster" would be visited on South Carolina.

Finally, let me say that I am sorry for any misunderstanding. I try to avoid differences with colleagues and it is particularly regrettable when it involves good friends. I have made a sincere endeavor to reconcile what you now pay for in accordance with the record. When you refer in the background section of your letter to your race for the Senate, I am only constrained to remind that your race came on the tail end of a three year endeavor by me and others for a coastal zone management act. We were supported by the State Ports Authority, by the Council of State Governments, the Association of Counties, the Municipal Association and many officials and citizens of Louisiana. We finally succeeded in the summer of 1972 and prior to your election this bill was signed into law in October of 1972, giving Commerce original jurisdiction of coastal zone development. We have maintained this with our friends from Interior and, of course, I reject your idea of "raiding" for what the law already provides, for the jurisdiction already determined by the Congress. To ask me to go back now to conference would be totally unfair and would totally violate "our previous agreements," those made between you and me and those made by me with the Senate. The truth is that after a year's work with four months in conference, we have finally got an excellent bill which the Administration will accept. We have provided an orderly way for the state to receive front-end money to prepare for the net adverse impact of OCS activity. We can't at this late date and shouldn't turn this into a revenue-sharing measure. I quote Senator Jackson, Chairman of the Interior Committee, at S12817:

"Once actual production takes place, automatic aid will become available to repay loans or retire the bonds. I am pleased that the compromise requires that the automatic grants must be extended for the purpose of reducing or ameliorating adverse impacts. This requirement should eliminate any possibility that any state will receive a windfall."

Sincerely,

ERNEST F. HOLLINGS.

MR. HOLLINGS. Mr. President, while I understand the concerns stated here, I hope the colloquy between myself and the Senator from Louisiana about certain interpretations of the conference report has cleared some of that up. I cannot yield to the idea that the conferees did not live up to the intent of the Senate in the agreements made between

Interior and the Committee on Commerce. The fact of the matter is that when it comes to the Secretary of Commerce approving grants, I quote Senator JOHNSTON at page S12815, July 16, 1975, as saying:

The bill also provides that when a State is eligible for this money that the money should be paid, first, to retire locally issued bonds previously approved by the Secretary of Commerce \* \* \*

I have no better, firmer language about funds being used first for the payment of bonds.

Our distinguished friend, the Senator from Washington, as chairman of the Subcommittee on Interior, at that time in the colloquy, stated:

Once actual production takes place, automatic aid will become available to repay loans or retire the bonds. I am pleased that the compromise requires the automatic grants must be expended for the purpose of reducing or ameliorating adverse impacts. This requirement should eliminate any possibility that any state will receive a windfall.

There is a section in the 1975 RECORD about the wide discretion of the Secretary of Commerce and the authority to promulgate rules and regulations. Necessarily, the Secretary of Commerce had discretion—under the bill of the Senator from Louisiana and the Interior bill, S. 521. The Secretary of Commerce has the same discretion under S. 586 with respect to grants for public facilities development.

But the discretion that had to be used was broad and it was referred to by my distinguished friend, the Senator from Alaska, at S12813 of July of last year where he said:

Let me emphasize that. This is really a discretionary concept; because, under the provisions of this bill, this money would revert to the Treasury, if it is not used to meet impacts that have been approved under the plan or used to repay bonds guaranteed by the Secretary of Commerce. I think the Secretary of Commerce will have a great deal of discretion in administering this concept.

With that concern in mind, yes, the Secretary, Secretary Richardson, and his staff worked closely with the conferees.

I ask unanimous consent, due to the lack of time, to print in the RECORD a staff estimate of the allocation of funds under the formula grant subsection.

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

FORMULA OCS GRANTS BY REGION

[Dollars in millions <sup>1</sup>]

	Atlantic	Pacific	Alaska	Gulf	Total
1977.....	\$5.3	\$3.9	\$3.4	\$37.4	\$50
1978.....	8.4	9.6	10.4	21.6	50
1979.....	8.4	3.7	14.5	23.4	50
1980.....	6.8	7.4	14.3	21.5	50
1981.....	9.7	3.9	19.0	17.4	50
1982.....	7.2	5.7	16.3	20.8	50
1983.....	6.6	2.9	8.8	31.7	50
1984.....	3.8	5.9	25.6	14.7	50
Total.....	56.2	43.0	112.3	188.5	400

<sup>1</sup> Above figures are estimates only, based upon the best available data pertaining to lease schedules, projected production and employment.

Sources: Department of the Interior, Federal Energy Administration, and Office of Management and Budget. Analysis by House and Senate conferees' staff.

Mr. HOLLINGS. Under our joint staff's estimate, and the OMB figures of the \$400 million grant fund, \$188 million, almost half of the grant fund that we now have in dispute and discussion, could be eligible to be granted under certain conditions to the State of Louisiana.

So I think that while we did not write the bill to look out for a particular State, if we look at the result, someone could accuse us of that. I hate to be in a position of being accused of not being aware or attentive or rather in disregard of the concerns of the people of Louisiana and their particular needs.

I understand that the Senator from Louisiana differs somewhat with that view. But I only point that out and submit it for the Record.

I yield now to the Senator from Alaska.

Mr. STEVENS. Mr. President, I join with the Senator from South Carolina, and believe that we have not deviated from the Senate instructions to the conferees. I differ with my friend from Louisiana in terms of our interpretation of the bill.

I share the feelings of the Senator from South Carolina that Louisiana will receive almost half of the formula grant funds. Furthermore, these grant funds could be used immediately for items such as environmental control, correction of salt water intrusion and other things which, I think, would be of great benefit to the State of Louisiana. Senator HOLLINGS points out that my State will also have some assistance, and that is intended because we are a new Outer Continental Shelf oil and natural gas development area.

Seventy percent of the Outer Continental Shelf of the United States is located off Alaska. Within the time frame of this legislation Alaska will have almost the same proportion of Outer Continental Shelf oil and natural gas activity as Louisiana, yet we cannot look forward to the kind of funds from this bill that the State of Louisiana can because of the fact that Louisiana already has the production and landings. Furthermore almost 20 percent of the area that is to be leased between now and 1983 will be in the Gulf of Mexico, primarily in the Louisiana area.

In terms of employment, sizable employment is expected off of Louisiana the next 2 or 3 years because of the 5.2 million acres leased since 1972 which are only in the exploration stage, and which are just now reaching the development stage.

I think the financial assistance program we have in this bill is well-balanced geographically. Having been the one who started the concept of this kind of non-revenue-sharing loan and grant tie-in for Outer Continental Shelf funds, I believe the conference report should be agreed to.

Mr. KENNEDY. Mr. President, the conference report on the Coastal Zone Management Act Amendments which is before the Senate today establishes a \$1.6 billion assistance program for coastal States to assist in the amelioration of the impacts which will result from the proposed acceleration of offshore leasing. It also recognizes the need of coastal States for assistance in planning to absorb those impacts. It is the result of 3 years of study, hearings, and investigations. It takes into account the views of local and State officials, concerned public interest groups, and representatives of business and industry—all of whom presented testimony during the development of the legislation.

My own Subcommittee on Administrative Practice and Procedure participated actively in this process. It was just 2 years ago that my subcommittee, together with the National Ocean Policy Study, held field hearings in Boston to solicit the views of concerned New Englanders on what legislative and administrative actions were necessary to assure full protection of the public interest, both in the procedures leading up to a final decision on whether offshore leasing should go forward and in insuring adequate protection of the interests of New England if exploration and development is undertaken on Georges Bank.

Those hearings made clear the deep concern which exists in all sectors of the New England economy over the adequacy of petroleum supplies and the price we are paying for oil. New England has led the Nation in conservation. Our State officials have been in the forefront of efforts to bring about lower prices and to remove the burden which results from our dependence on high-priced foreign oil imports.

Nevertheless, those hearings also made clear just how pervasive the concern is—among business and industry, among fishing interests, among tourist and recreation interests and among citizens groups—that they have not been brought into the formulation of Federal energy policy. A suspicious and distrustful attitude had developed between our regional, State, and local groups and the Federal Government. It threatened to stand in the way of the necessary cooperative effort we must make to develop national energy policies which are fair and equitable to all regions.

One critical portion of the Federal energy policy is the decisionmaking process involving our offshore oil and gas reserves. If offshore oil and gas will help reduce energy costs, it can be developed without jeopardizing our environment, if it can be brought in without destroying our tourist and fishing industries, if it can be carried out without distorting our future coastal development, I believe we will be able to win the support of the people of New England for a well-planned offshore leasing program.

At present, however, there is little incentive for coastal States like New England to offer their support to such a program. The oil that becomes available will sell at premium prices, not subject to price controls. In Massachusetts, where many of our communities are operating on a marginal tax base, we cannot afford the schools, hospitals, and other facilities which will be required during an intensive effort to bring off-shore areas into production. And with an unemployment rate now close to 8 percent in Massachusetts, we cannot afford a cycle of boom and bust economies, where communities may gain jobs for a short period, only to be plunged back into high unemployment once the rigs are in place and the demand for labor returns to predevelopment levels.

We know that large amounts of land will be needed if we are to construct refineries, petrochemical plants and other related facilities—but lacking information on the extent of deposits on Georges Bank we cannot make even the roughest estimate of the extent of four potential need for such facilities. The possibility exists of having 17 percent of the prime industrial land in Rhode Island and eastern Massachusetts utilized in the full development of offshore oil and gas. A commitment of



this amount of land, with its consequent environmental impacts, will have significant ramifications for the area and should not be undertaken without sufficient study and policy consideration. We do not know whether any of the oil which may be found on Georges Bank will be transported into New England—a crucial factor in determining how onshore development should proceed. We do not know the net impact of the needed increase in services which will be required of municipalities, which may outweigh the benefits of any increase in employment and tax revenues. We do not know what shifts in population may occur and the increased services which may be required to meet changing populations. We do not know how cities will be able to respond to development activity which may occur.

Our fishing industry, although it has been on the narrow edge of survival for many years, is still a \$50 million enterprise, and too valuable to be pushed aside without more accurate information on what the long-term effects of offshore development will be on commercial fishing stocks and the access of fishermen to those stocks. We have a recreation industry that supplies 75,000 primary jobs and over 100,000 for secondary employment. The keystone to this industry is the ocean—especially along Cape Cod, the closest landfall to the proposed area of petroleum development in New England.

All of these issues are particularly critical to Massachusetts and New England, following the issuance by the Interior Department last January of preliminary list of 206 tracts to be leased on Georges Bank—tracts covering 1 million acres. Included in this preliminary list preliminary list are tracts within 50 miles of the Massachusetts coast, as well as tracts covering high intensity fishing areas. I have expressed my opposition to the inclusion of these particular tracts on the list of those proposed to be leased between State, local, and Federal officials to resolve these and other issues which are of paramount importance to our State.

The conference report the Coastal Zone Management Act amendments we have before us today will be a major step in assigning high priority to the resolution of problems surrounding the offshore leasing process and its impact on the coastal zone. It creates a Coastal Energy Impact Fund to provide \$800 million and \$400 million in formula grants to coastal States to help them plan for and provide public facilities such as roads, schools, and hospitals and a variety of other public services which will result if energy facilities are located with coastal regions. It is aimed directly at solving the environmental problems brought about by rapid increases in population which can result from development of such facilities.

The legislation provides aid to States in two forms. The larger portion, the Coastal Impact Fund, sets an \$800 million authorization for Federal loans, which would be repaid by grants when necessary. The funds will be allocated to State and units of local government for assistance to cover a wide variety of needs related to coastal energy activity. A second form of assistance, totaling \$400 million, would be grants authorized on a formula related to the exploration, development, and production of oil and gas in frontier areas of the Outer Continental Shelf, such as Georges Bank. Aid would be granted on the basis of acreage leased, the volume of oil and gas produced and landed, and the number of new jobholders in OCS employment.

Mr. President, I want to take this opportunity to extend my special thanks to Senator HOLLING, chairman of the Senate National Ocean Policy Study, for his dedicated efforts in developing this legislation and in leading the effort to obtain congressional approval of a final version of the bill. I have had the opportunity to work closely with Senator HOLLINGS over the last 3 years on issues relating to the management of our coastal and ocean resources. His leadership has been a key factor in enabling the Congress to complete action on this bill, and to present to the President a measure which represents a sound balance between our need to identify existing petroleum resources, to protect the environment and to plan for the onshore impact of offshore oil and gas exploration and development.

I urge my colleagues to give their full support to the conference report.

Mr. TUNNEY. Mr. President, I strongly urge my colleagues to approve the conference report on the Coastal Zone Management Act Amendments of 1976. This legislation embodies a comprehensive program of Federal aid to assist State and local governments to anticipate and minimize the onshore impact of offshore energy resource development. It is essential that these amendments be incorporated into the law so that the Nation can aggressively pursue energy self-sufficiency in a manner that will preserve the quality of the natural environment and promote efficient allocation of scarce resources.

As you know, the Senate passed the Coastal Zone Amendments (S. 586) on July 16, 1976, by a vote of 73 to 15. This tally represented the Senate's firm commitment to the provisions incorporated in S. 586. As a conferee, I am satisfied that this conference report is an acceptable compromise that preserves the important elements of S. 586. Furthermore, the conference report represents legislation that the administration should be willing to sign into law.

My own State of California advocates prompt positive action on the conference report. California will play a prominent role in the Nation's plans to recover, refine, and distribute offshore energy resources. Consequently, heavy demands will be placed upon the fragile environment of California's coastal region. These pressures for expeditious industrial development are likely to conflict with alternative uses of the State's coastal resources. The bill which has been reported from conference will help all coastal States, including California, to anticipate and adequately plan for the various onshore impacts of offshore oil and gas production.

I am pleased that my fellow conferees agreed to language that will assist States to enhance public access to beaches. This issue is particularly important in California where an innovative effort is being made to increase the accessibility of coastal-related recreational activities to the public.

At the same time, I had hoped that Federal consistency requirements would be more explicitly extended to include lease sales on the Outer Continental Shelf. The conference report has compromised on this issue due to the threat of a Presidential veto of the entire bill.

All things considered, the conference report on the Coastal Zone Management Act Amendments of 1976 is timely and vital legislation. I urge my colleagues to vote to approve the conference report.

MR. HOLLINGS. Mr. President, I move that we agree to the conference report.

THE PRESIDING OFFICER (Mr. Laxalt). The question is on agreeing to the conference report.

The conference report was agreed to.

MR. HOLLINGS. Mr. President, I understand a motion to reconsider is out of order in that we had one such reconsideration.

THE PRESIDING OFFICER. The motion has already been made. That is correct.



94TH CONGRESS } HOUSE OF REPRESENTATIVES } REPORT  
2d Session } No. 94-1298

COASTAL ZONE MANAGEMENT  
ACT AMENDMENTS OF 1976

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REPORT

OF THE

COMMITTEE OF CONFERENCE

ON

S. 586

TO IMPROVE COASTAL ZONE MANAGEMENT IN THE  
UNITED STATES, AND FOR OTHER PURPOSES



JUNE 24, 1976.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

★57-008 O

WASHINGTON : 1976



COASTAL ZONE MANAGEMENT ACT AMENDMENTS  
OF 1976

JUNE 24, 1976.—Ordered to be printed

MRS. SULLIVAN, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany S. 586]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 586), to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

*That this Act may be cited as the "Coastal Zone Management Act Amendments of 1976".*

**SEC. 2. FINDINGS.**

*Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—*

*(1) by inserting "ecological," immediately after "recreational," in subsection (b);*

*(2) by striking out—*

*(A) the semicolon at the end of subsections (a), (b), (c), (d), (e), and (f), respectively, and*

*(B) "; and " at the end of subsection (g),*

*and inserting in lieu of such matter at each such place a period; and*

*(3) by inserting immediately after subsection (h) the following:*

*"(i) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone."*

**SEC. 3. DEFINITIONS.**

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

(1) by redesignating paragraph (a) as paragraph (1), and by amending the first sentence of such paragraph (1) (as so redesignated)—

(A) by striking out “Coastal” and inserting in lieu thereof “The term ‘coastal’”; and

(B) by inserting immediately after “and includes” the following: “islands.”;

(2) by redesignating paragraph (b) as paragraph (2), and by amending such paragraph (2) (as so redesignated)—

(A) by striking out “Coastal” and inserting in lieu thereof “The term ‘coastal’”; and

(B) by striking out “(1)” and “(2)” and inserting in lieu thereof “(A)” and “(B)”, respectively;

(3) by striking out “(c) ‘Coastal’ and inserting in lieu thereof “(3) The term ‘coastal’”;

(4) by inserting immediately before paragraph (d) thereof the following:

“(4) The term ‘coastal energy activity’ means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state:

“(i) Any outer Continental Shelf energy activity.

“(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

“(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deep-water port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be ‘in close proximity to’ the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

“(5) The term ‘energy facilities’ means any equipment or facility which is or will be used primarily—

“(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

“(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facili-



ties, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities, including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.”;

(5) by striking out “(d) ‘estuary’” and inserting in lieu thereof “(6) The term ‘estuary’”;

(6) by redesignating paragraph (e) as paragraph (7) and by amending such paragraph (7) (as so redesignated)—

(A) by striking out “‘Estuarine’” and inserting in lieu thereof “The term ‘estuarine’”, and

(B) by striking out ‘estuary, adjoining transitional areas, and adjacent uplands, constituting’ and inserting in lieu thereof the following: “estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes”;

(7) by striking out paragraph (f) and inserting in lieu thereof the following:

“(8) The term ‘Fund’ means the Coastal Energy Impact Fund established by section 308 (h).

“(9) The term ‘land use’ means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 307 (g).

“(10) The term ‘local government’ means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state’s coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.”;

(8) by striking out “(g) ‘Management’” and inserting in lieu thereof “(11) The term ‘management’”;

(9) by inserting immediately after paragraph (11) (as redesignated by paragraph (8) of this section) the following:

“(12) The term ‘outer Continental Shelf energy activity’ means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 2 (a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)), or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

“(13) The term ‘person’ means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

“(14) The term ‘public facilities and public services’ means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and

health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

- “(15) The term ‘Secretary’ means the Secretary of Commerce.”;  
 (10) by striking out “(h) ‘Water’” and inserting in lieu thereof  
 “(16) The term ‘water’”; and  
 (11) by striking out paragraph (i).

#### **SEC. 4. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.**

Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended to read as follows:

##### **“MANAGEMENT PROGRAM DEVELOPMENT GRANTS**

“SEC. 305. (a) The Secretary may make grants to any coastal state—

“(1) under subsection (c) for the purpose of assisting such state in the development of a management program for the land and water resources of its coastal zone; and

“(2) under subsection (d) for the purpose of assisting such state in the completion of the development, and the initial implementation, of its management program before such state qualifies for administrative grants under section 306.

“(b) The management program for each coastal state shall include each of the following requirements:

“(1) An identification of the boundaries of the coastal zone subject to the management program.

“(2) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

“(3) An inventory and designation of areas of particular concern within the coastal zone.

“(4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

“(5) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

“(6) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

“(7) A definition of the term ‘beach’ and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

“(8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

“(9) A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

No management program is required to meet the requirements in paragraphs (7), (8), and (9) before October 1, 1978.

“(c) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a) (1) if such state reasonably demonstrates to the satisfaction of the Secretary that such grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed 80 per centum of such state’s costs for such purposes in any one year. No coastal state is eligible to receive more than four grants pursuant to this subsection. After the initial grant is made to any coastal state pursuant to this subsection, no subsequent grant shall be made to such state pursuant to this subsection unless the Secretary finds that such state is satisfactorily developing its management program.

“(d) (1) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a) (2) if the Secretary finds that such state meets the eligibility requirements set forth in paragraph (2). The amount of any such grant shall not exceed 80 per centum of the costs for such purposes in any one year.

“(2) A coastal state is eligible to receive grants under this subsection if it has—

“(A) developed a management program which—

“(i) is in compliance with the rules and regulations promulgated to carry out subsection (b), but

“(ii) has not yet been approved by the Secretary under section 306;

“(B) specifically identified, after consultation with the Secretary, any deficiency in such program which makes it ineligible for approval by the Secretary pursuant to section 306, and has established a reasonable time schedule during which it can remedy any such deficiency;

“(C) specified the purposes for which any such grant will be used;

“(D) taken or is taking adequate steps to meet any requirement under section 306 or 307 which involves any Federal official or agency; and

“(E) complied with any other requirement which the Secretary, by rules and regulations, prescribes as being necessary and appropriate to carry out the purposes of this subsection.

“(3) No management program for which grants are made under this subsection shall be considered an approved program for purposes of section 307.

“(e) Grants under this section shall be made to, and allocated among, the coastal states pursuant to rules and regulations promulgated by the Secretary; except that—

“(1) no grant shall be made under this section in an amount which is more than 10 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary may waive this limitation in the case of any coastal state which is eligible for grants under subsection (d); and

“(2) no grant shall be made under this section in an amount which is less than 1 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary shall waive this limitation in the case of any coastal state which requests such a waiver.

“(f) *The amount of any grant (or portion thereof) made under this section which is not obligated by the coastal state concerned during the fiscal year for which it was first authorized to be obligated by such state, or during the fiscal year immediately following, shall revert to the Secretary who shall add such amount to the funds available for grants under this section.*

“(g) *With the approval of the Secretary, any coastal state may allocate to any local government, to any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to any regional agency, or to any interstate agency, a portion of any grant received by it under this section for the purpose of carrying out the provisions of this section.*

“(h) *Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306. Whenever the Secretary approves the management program of any coastal state under section 306, such state thereafter—*

“(1) *shall not be eligible for grants under this section; except that such state may receive grants under subsection (c) in order to comply with the requirements of paragraphs (7), (8), and (9) of subsection (b); and*

“(2) *shall be eligible for grants under section 306.*

“(i) *The authority to make grants under this section shall expire on September 30, 1979.*”

#### **SEC. 5. ADMINISTRATIVE GRANTS.**

*Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—*

*(1) by amending subsection (a) to read as follows:*

“(a) *The Secretary may make a grant annually to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary (1) finds that such program meets the requirements of section 305(b), and (2) approves such program in accordance with subsections (c), (d), and (e).”;*

*(2) by amending subsection (c)(2)(B) by striking out the period at the end thereof and inserting in lieu thereof the following:*

“; *except that the Secretary shall not find any mechanism to be 'effective' for purposes of this subparagraph unless it includes each of the following requirements:*

“(i) *Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.*

“(ii) *Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision, unless such local government waives its right to comment.*

“(iii) Such management agency, if any such comments are submitted to it, within such 30-day period, by any local government—

“(I) is required to consider any such comments,

“(II) is authorized, in its discretion, to hold a public hearing on such comments, and

“(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified on the basis of such comments.”;

(3) by amending subsection (c) (8) to read as follows—

“(8) The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state’s coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or program.”;

(4) by amending subsection (g) to read as follows:

“(g) Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary under this section, pursuant to the required procedures described in subsection (c). Except with respect to any such amendment which is made before October 1, 1978, for the purpose of complying with the requirements of paragraphs (7), (8), and (9) of section 305(b), no grant shall be made under this section to any coastal state after the date of such an amendment or modification, until the Secretary approves such amendment or modification.”.

## SEC. 6. CONSISTENCY AND MEDIATION.

Section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) is amended—

(1) by striking out “INTERAGENCY” in the title of such section;

(2) by striking out the last sentence of subsection (b);

(3) by amending subsection (c) (3) by inserting “(A)” immediately after “(3)”, and by adding at the end thereof the following:

“(B) After the management program of any coastal state has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state’s approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

“(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person’s certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

“(ii) concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A); or

“(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.”; and

(4) by adding at the end thereof the following new subsection:

“(h) In case of serious disagreement between any Federal agency and a coastal state—

“(1) in the development or the initial implementation of a management program under section 305; or

“(2) in the administration of a management program approved under section 306;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.”.

## **SEC. 7. COASTAL ENERGY IMPACT PROGRAM.**

The Coastal Zone Management Act of 1972 is further amended by redesignating sections 308 through 315 as sections 311 through 318, respectively; and by inserting immediately after section 307 the following:

### **“COASTAL ENERGY IMPACT PROGRAM**

“SEC. 308. (a) (1) The Secretary shall administer and coordinate, as part of the coastal zone management activities of the Federal Government provided for under this title, a coastal energy impact program. Such program shall consist of the provision of financial assistance to meet the needs of coastal states and local governments in such states resulting from specified activities involving energy development. Such assistance, which includes—

“(A) grants, under subsection (b), to coastal states for the purposes set forth in subsection (b)(4) with respect to consequences resulting from the energy activities specified therein;

“(B) grants, under subsection (c), to coastal states for study of, and planning for, consequences relating to new or expanded energy facilities in, or which significantly affect, the coastal zone;

“(C) loans, under subsection (d)(1), to coastal states and units of general purpose local government to assist such states and units to provide new or improved public facilities or public services which are required as a result of coastal energy activity;

“(D) guarantees, under subsection (d)(2) and subject to the provisions of subsection (f), of bonds or other evidences of indebtedness issued by coastal states and units of general purpose local government for the purpose of providing new or improved public facilities or public services which are required as a result of coastal energy activity;

“(E) grants or other assistance, under subsection (d)(3), to coastal states and units of general purpose local government to enable such states and units to meet obligations under loans or guarantees under subsection (d)(1) or (2) which they are unable to meet as they mature, for reasons specified in subsection (d)(3); and

“(F) grants, under subsection (d)(4), to coastal states which have suffered, are suffering, or will suffer any unavoidable loss of a valuable environmental or recreational resource;

shall be provided, administered, and coordinated by the Secretary in accordance with the provisions of this section and under the rules and regulations required to be promulgated pursuant to paragraph (2). Any such financial assistance shall be subject to audit under section 313.

“(2) The Secretary shall promulgate, in accordance with section 317, such rules and regulations (including, but not limited to, those required under subsection (e)) as may be necessary and appropriate to carry out the provisions of this section.

“(b)(1) The Secretary shall make grants annually to coastal states, in accordance with the provisions of this subsection.

“(2) The amounts granted to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

“(A) An amount which bears, to one-third of the amount appropriated for the purpose of funding grants under this subsection for such fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

“(B) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal

*Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.*

*“(C) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal states in such year.*

*“(D) An amount which bears, to one-third of the amount appropriated for such purpose for such fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.*

*“(3) (A) The Secretary shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary such assistance in collecting and evaluating relevant information as the Secretary may request. The Secretary shall request the assistance of any appropriate state agency in collecting and evaluating such information.*

*“(B) For purposes of making calculations under paragraph (2), outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:*

*“(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.*

*“(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.*

*“(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.*



“(C) For purposes of making calculations under this subsection, the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included within the fiscal year ending June 30, 1976.

“(4) Each coastal state shall use the proceeds of grants received by it under this subsection for the following purposes (except that priority shall be given to the use of such proceeds for the purpose set forth in subparagraph (A)):

“(A) The retirement of state and local bonds, if any, which are guaranteed under subsection (d)(2); except that, if the amount of such grants is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

“(B) The study of, planning for, development of, and the carrying out of projects and programs in such state which are—

“(i) necessary, because of the unavailability of adequate financing under any other subsection, to provide new or improved public facilities and public services which are required as a direct result of new or expanded outer Continental Shelf energy activity; and

“(ii) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

“(C) The prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource if such loss results from coastal energy activity.

“(5) The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (4). The United States shall be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which—

“(A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or

“(B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (4).

Before disbursing the proceeds of any grant under this subsection to any coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.

“(e) The Secretary shall make grants to any coastal state if the Secretary finds that the coastal zone of such state is being, or is likely to be, significantly affected by the siting, construction, expansion, or operation of new or expended energy facilities. Such grants shall be used for the study of, and planning for (including, but not limited to, the application of the planning process included in a management program pursuant to section 305(b)(8), any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such state's coastal zone as a result of the siting, construction,

expansion, or operation of such new or expanded energy facilities. The amount of any such grant shall not exceed 80 per centum of the cost of such study and planning.

“(d) (1) The Secretary shall make loans to any coastal state and to any unit of general purpose local government to assist such state or unit to provide new or improved public facilities or public services, or both, which are required as a result of coastal energy activity. Such loans shall be made solely pursuant to this title, and no such loan shall require as a condition thereof that any such state or unit pledge its full faith and credit to the repayment thereof. No loan shall be made under this paragraph after September 30, 1986.

“(2) The Secretary shall, subject to the provisions of subsection (f), guarantee, or enter into commitments to guarantee, the payment of interest on, and the principal amount of, any bond or other evidence of indebtedness if it is issued by a coastal state or a unit of general purpose local government for the purpose of providing new or improved public facilities or public services, or both, which are required as a result of a coastal energy activity.

“(3) If the Secretary finds that any coastal state or unit of general purpose local government is unable to meet its obligations pursuant to a loan or guarantee made under paragraph (1) or (2) because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such state or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such state or unit pursuant to subsection (c) (3), take any of the following actions:

“(A) Modify appropriately the terms and conditions of such loan or guarantee.

“(B) Refinance such loan.

“(C) Make a supplemental loan to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

“(D) Make a grant to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

Notwithstanding the preceding sentence, if the Secretary—

“(i) has taken action under subparagraph (A), (B), or (C) with respect to any loan or guarantee made under paragraph (1) or (2), and

“(ii) finds that additional action under subparagraph (A), (B), or (C) will not enable such state or unit to meet, within a reasonable time, its obligations under such loan or guarantee and any additional obligations related to such loan or guarantee; the Secretary shall make a grant or grants under subparagraph (D) to such state or unit in an amount sufficient to enable such state or unit to meet such outstanding obligations.

“(4) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from coastal energy activity, if the Secretary finds that such state has not received amounts under subsection (b) which are sufficient to prevent, reduce, or ameliorate such loss.

“(e) *Rules and regulations with respect to the following matters shall be promulgated by the Secretary as soon as practicable, but not later than 270 days after the date of the enactment of this section:*

“(1) *A formula and procedures for apportioning equitably, among the coastal states, the amounts which are available for the provision of financial assistance under subsection (d). Such formula shall be based on, and limited to, the following factors:*

“(A) *The number of additional individuals who are expected to become employed in new or expanded coastal energy activity, and the related new population, who reside in the respective coastal states.*

“(B) *The standardized unit costs (as determined by the Secretary by rule), in the relevant regions of such states, for new or improved public facilities and public services which are required as a result of such expected employment and the related new population.*

“(2) *Criteria under which the Secretary shall review each coastal state's compliance with the requirements of subsection (g) (2).*

“(3) *Criteria and procedures for evaluating the extent to which any loan or guarantee under subsection (d) (1) or (2) which is applied for by any coastal state or unit of general purpose local government can be repaid through its ordinary methods and rates for generating tax revenues. Such procedures shall require such state or unit to submit to the Secretary such information which is specified by the Secretary to be necessary for such evaluation, including, but not limited to—*

“(A) *a statement as to the number of additional individuals who are expected to become employed in the new or expanded coastal energy activity involved, and the related new population, who reside in such state or unit;*

“(B) *a description, and the estimated costs, of the new or improved public facilities or public services needed or likely to be needed as a result of such expected employment and related new population;*

“(C) *a projection of such state's or unit's estimated tax receipts during such reasonable time thereafter, not to exceed 30 years, which will be available for the repayment of such loan or guarantee; and*

“(D) *a proposed repayment schedule.*

*The procedures required by this paragraph shall also provide for the periodic verification, review, and modification (if necessary) by the Secretary of the information or other material required to be submitted pursuant to this paragraph.*

“(4) *Requirements, terms, and conditions (which may include the posting of security) which shall be imposed by the Secretary, in connection with loans and guarantees made under subsection (d) (1) and (2), in order to assure repayment within the time fixed, to assure that the proceeds thereof may not be used to provide public services for an unreasonable length of time, and otherwise to protect the financial interests of the United States.*

“(5) *Criteria under which the Secretary shall establish rates of interest on loans made under subsection (d) (1) and (3). Such rates shall not exceed the current average market yield on out-*

*standing marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans. In developing rules and regulations under this subsection, the Secretary shall, to the extent practicable, request the views of, or consult with, appropriate persons regarding impacts resulting from coastal energy activity.*

*“(f) (1) Bonds or other evidences of indebtedness guaranteed under subsection (d) (2) shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—*

*“(A) no guarantee shall be made unless the indebtedness involved will be completely amortized within a reasonable period, not to exceed 30 years;*

*“(B) no guarantee shall be made unless the Secretary determines that such bonds or other evidences of indebtedness will—*

*“(i) be issued only to investors who meet the requirements prescribed by the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;*

*“(ii) bear interest at a rate found not to be excessive by the Secretary; and*

*“(iii) contain, or be subject to, repayment, maturity, and other provisions which are satisfactory to the Secretary;*

*“(C) the approval of the Secretary of the Treasury shall be required with respect to any such guarantee, unless the Secretary of the Treasury waives such approval; and*

*(d) (2), unless the Secretary of the Treasury waives such approval; and*

*“(D) no guarantee shall be made after September 30, 1986.*

*“(2) The full faith and credit of the United States is pledged to the payment, under paragraph (5), of any default on any indebtedness guaranteed under subsection (d) (2). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation, except for fraud or material misrepresentation on the part of the holder, or known to the holder at the time acquired.*

*“(3) The Secretary shall prescribe and collect fees in connection with guarantees made under subsection (d) (2). These fees may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs pertaining to such guarantees.*

*“(4) The interest paid on any obligation which is guaranteed under subsection (d) (2) and which is received by the purchaser thereof (or the purchaser's successor in interest), shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954. The Secretary may pay out of the Fund to the coastal state or the unit of general purpose local government issuing such obligations not more than such portion of the interest on such obligations as exceeds the amount of interest that would be due at a comparable rate determined for loans made under subsection (d) (1).*

*“(5) (A) Payments required to be made as a result of any guarantee made under subsection (d) (2) shall be made by the Secretary from*

sums appropriated to the Fund or from moneys obtained from the Secretary of the Treasury pursuant to paragraph (6).

“(B) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under subsection (d) (2), any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due such holder, unless the Secretary finds that there was no default by such state or unit or that such default has been remedied.

“(C) If the Secretary makes a payment to a holder under subparagraph (B), the Secretary shall—

“(i) have all of the rights granted to the Secretary or the United States by law or by agreement with the obligor; and

“(ii) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

Such rights shall include, but not be limited to, a right of reimbursement to the United States against the coastal state or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If such coastal state, or the coastal state in which such unit is located, is due to receive any amount under subsection (b), the Secretary shall, in lieu of paying such amount to such state, deposit such amount in the Fund until such right of reimbursement has been satisfied. The Secretary may accept, in complete or partial satisfaction of any such rights, a conveyance of property or interests therein. Any property so obtained by the Secretary may be completed, maintained, operated, held, rented, sold, or otherwise dealt with or disposed of on such terms or conditions as the Secretary prescribes or approves. If, in any case, the sum received through the sale of such property is greater than the amount paid to the holder under subparagraph (B) plus costs, the Secretary shall pay any such excess to the obligor.

“(D) The Attorney General shall, upon the request of the Secretary, take such action as may be appropriate to enforce any right accruing to the Secretary or the United States as a result of the making of any guarantee under subsection (d) (2). Any sums received through any sale under subparagraph (C) or recovered pursuant to this subparagraph shall be paid into the Fund.

“(6) If the moneys available to the Secretary are not sufficient to pay any amount which the Secretary is obligated to pay under paragraph (5), the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. Any sums received by the Secretary through such issuance shall be deposited in the Fund. The Secretary of the Treasury

shall purchase any notes or other obligations issued under this paragraph, and for this purpose such Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this paragraph. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this paragraph. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

“(g) (1) No coastal state is eligible to receive any financial assistance under this section unless such state—

“(A) has a management program which has been approved under section 306;

“(B) is receiving a grant under section 305(c) or (d); or

“(C) is, in the judgment of the Secretary, making satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303.

“(2) Each coastal state shall, to the maximum extent practicable, provide that financial assistance provided under this section be apportioned, allocated, and granted to units of local government within such state on a basis which is proportional to the extent to which such units need such assistance.

“(h) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). The Fund shall consist of—

“(1) any sums appropriated to the Fund;

“(2) payments of principal and interest received under any loan made under subsection (d) (1);

“(3) any fees received in connection with any guarantee made under subsection (d) (2); and

“(4) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

“(i) The Secretary shall not intercede in any land use or water use decision of any coastal state with respect to the siting of any energy facility or public facility by making siting in a particular location a prerequisite to, or a condition of, financial assistance under this section.

“(j) The Secretary may evaluate, and report to the Congress, on the efforts of the coastal states and units of local government therein to reduce or ameliorate adverse consequences resulting from coastal energy activity and on the extent to which such efforts involve adequate consideration of alternative sites.

“(k) To the extent that Federal funds are available under, or pursuant to, any other law with respect to—

“(1) study and planning for which financial assistance may be provided under subsection (b) (4) (B) and (c), or

“(2) public facilities and public services for which financial assistance may be provided under subsection (b) (4) (B) and (d), the Secretary shall, to the extent practicable, administer such subsections—

“(A) on the basis that the financial assistance shall be in addition to, and not in lieu of, any Federal funds which any coastal state or unit of general purpose local government may obtain under any other law; and

“(B) to avoid duplication.

“(1) As used in this section—

“(1) The term ‘retirement’, when used with respect to bonds, means the redemption in full and the withdrawal from circulation of those which cannot be repaid by the issuing jurisdiction in accordance with the appropriate repayment schedule.

“(2) The term ‘unavoidable’, when used with respect to a loss of any valuable environmental or recreational resource, means a loss, in whole or in part—

“(A) the costs of prevention, reduction, or amelioration of which cannot be directly or indirectly attributed to, or assessed against, any identifiable person; or

“(B) cannot be paid for with funds which are available under, or pursuant to, any provision of Federal law other than this section.

“(3) The term ‘unit of general purpose local government’ means any political subdivision of any coastal state or any special entity created by such a state or subdivision which (in whole or part) is located in, or has authority over, such state’s coastal zone, and which (A) has authority to levy taxes or establish and collect user fees, and (B) provides any public facility or public service which is financed in whole or part by taxes or user fees.”

## SEC. 8. INTERSTATE GRANTS.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 308 (as added by section 7 of this Act) the following:

### “INTERSTATE GRANTS

“SEC. 309. (a) The coastal states are encouraged to give high priority—

“(1) to coordinating state coastal zone planning, policies, and programs with respect to contiguous areas of such states; and

“(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas.

Such coordination, study, planning, and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

“(b) The consent of the Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

“(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

“(2) establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by the Congress.

“(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Administrator of the Federal Energy Administration, or their designated representatives, shall participate *ex officio* on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

“(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—

“(1) coordinate state coastal zone planning, policies, and programs with respect to contiguous areas of the states involved;

“(2) study, plan, and implement unified coastal zone policies with respect to such areas; and

“(3) establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity.”

#### **SEC. 9. RESEARCH AND TECHNICAL ASSISTANCE.**

The Coastal Management Act of 1972 is further amended by adding immediately after section 309 (as added by section 8 of this Act) the following:

#### **“RESEARCH AND TECHNICAL ASSISTANCE FOR COASTAL ZONE MANAGEMENT**

“**SEC. 310.** (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including, but not limited to, the furnishing



of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and training which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

“(b) The Secretary may make grants to coastal states to assist such states in carrying out research, studies, and training required with respect to coastal zone management. The amount of any grant made under this subsection shall not exceed 80 per centum of the cost of such research, studies, and training.

“(c) (1) The Secretary shall provide for the coordination of research, studies, and training activities under this section with any other such activities that are conducted by, or subject to the authority of, the Secretary.

“(2) The Secretary shall make the results of research conducted pursuant to this section available to any interested person.”.

#### **SEC. 10. REVIEW OF PERFORMANCE.**

Section 312(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1458(a)) is amended to read as follows:

“(a) The Secretary shall conduct a continuing review of—

“(1) the management programs of the coastal states and the performance of such states with respect to coastal zone management; and

“(2) the coastal energy impact program provided for under section 308.”.

#### **SEC. 11. AUDIT OF TRANSACTIONS.**

Section 313 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1459), is amended—

(1) by inserting “AND AUDIT” after “RECORDS” in the title of such section;

(2) by amending subsection (a)—

(A) by inserting immediately after “grant under this title” the following: “or of financial assistance under section 308”, and

(B) by inserting after “received under the grant” the following: “and of the proceeds of such assistance”; and

(3) by amending subsection (b) to read as follows:

“(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

“(1) after any grant is made under this title or any financial assistance is provided under section 308(d); and

“(2) until the expiration of 3 years after—

“(A) completion of the project, program, or other undertaking for which such grant was made or used, or

“(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to, or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this title.”.

**SEC. 12. ACQUISITION OF ACCESS TO PUBLIC BEACHES AND OTHER PUBLIC COASTAL AREAS.**

*Section 315 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1461), is amended to read as follows:*

*“ESTUARINE SANCTUARIES AND BEACH ACCESS*

*“SEC. 315. The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of—*

*“(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and*

*“(2) acquiring lands to provide for access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands.*

*The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$2,000,000.”.*

**SEC. 13. ANNUAL REPORT.**

*The second sentence of section 316(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1462(a)), is amended by striking out “and (9)” and inserting in lieu thereof “(12)”; and by inserting immediately after clause (8) the following: “(9) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences; (10) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (11) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and”.*

**SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

*Section 318 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1464), is amended to read as follows:*

*“AUTHORIZATION OF APPROPRIATIONS*

*“SEC. 318. (a) There are authorized to be appropriated to the Secretary—*

*“(1) such sums, not to exceed \$20,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, respectively, as may be necessary for grants under section 305, to remain available until expended;*

*“(2) such sums, not to exceed \$50,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 306, to remain available until expended;*

“(3) such sums, not to exceed \$50,000,000 for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984, as may be necessary for grants under section 308(b);

“(4) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 309, to remain available until expended;

“(5) such sums, not to exceed \$10,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for financial assistance under section 310, of which 50 per centum shall be for financial assistance under section 310(a) and 50 per centum shall be for financial assistance under section 310(b), to remain available until expended;

“(6) such sums, not to exceed \$6,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(1), to remain available until expended;

“(7) such sums, not to exceed \$25,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(2), to remain available until expended; and

“(8) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for administrative expenses incident to the administration of this title.

“(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of carrying out the provisions of section 308, other than subsection (b), of which not to exceed \$50,000,000 shall be for purposes of subsections (c) and (d) (4) of such section.

“(c) Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 305, 306, 309, or 310.”

#### **SEC. 15. ADMINISTRATION.**

(a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(140) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.”.

(c) The Secretary may, to carry out the provisions of the amendments made by this Act, establish, and fix the compensation for, four new positions without regard to the provision of chapter 51 of title 5, United States Code, at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. Any such appointment may, at the discretion of the Secretary, be made without regard to the provisions of such title 5 governing appointments in the competitive service.

#### SEC. 16. SHELLFISH SANITATION REGULATIONS.

(a) The Secretary of Commerce shall—

- (1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and
- (2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

(b) The Secretary of Health, Education, and Welfare shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.

And the House agree to the same.

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

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: “An Act to improve coastal zone management in the United States, and for other purposes.”.

And the House agree to the same.

LEONOR K. SULLIVAN,  
THOMAS N. DOWNING,  
PAUL G. ROGERS,  
JOHN M. MURPHY,  
PIERRE S. DU PONT,  
DAVID C. TREEN,

*Managers on the Part of the House.*

WARREN G. MAGNUSON,  
ERNEST F. HOLLINGS,  
JOHN V. TUNNEY,  
TED STEVENS,  
LOWELL P. WEICKER, JR.

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 586), to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal states to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report :

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill, and the Senate disagreed to the House amendments.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, with an amendment which is a substitute for both the text of the Senate bill and the House amendment to the text of the Senate bill. The committee of conference also recommends that the House recede from its amendment to the title of the Senate bill, with an amendment which is a substitute for both the title of the Senate bill and the House amendment to the title of the Senate bill.

The provisions of the amendment recommended by the committee of conference are set forth below in a manner sufficiently detailed and explicit to inform the House and the Senate as to the effect which the amendment contained in the accompanying conference report will have upon the measure to which it relates.

### SUMMARY AND DESCRIPTION

The purpose of the conference substitute is to improve and strengthen coastal zone management in the United States and to coordinate and further the objectives of national energy policy by directing the Secretary of Commerce to administer and coordinate, as part of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) (hereinafter referred to as "the 1972 Act"), a coastal energy impact program.

The 1972 Act was enacted before the advent of the current and continuing energy crisis; i.e., before attainment of a greater degree of energy self-sufficiency became a recognized national objective of the highest importance and priority. The conference substitute follows both the Senate bill and the House amendment in amending the 1972 Act to encourage new or expanded oil and natural gas production in an orderly manner from the Nation's outer Continental Shelf (OCS) by providing for financial assistance to meet state and local needs resulting from specified new or expanded energy activity in or affecting the coastal zone.

The conferees believe (1) that there is a real possibility of delay or disruption in Federal plans for needed new and expanded OCS oil and gas production unless coastal states and coastal communities are assured of the means of coping with and ameliorating the impacts from such activities; (2) that the coastal states are concerned about furthering national energy objectives; (3) that a strengthened coastal zone management program, with full participation by the states, is vital to the protection and proper management of irreplaceable coastal resources and is the best means of dealing with impacts from new or expanded coastal energy activity; (4) that the Federal Government, because of the national need to increase domestic energy production to reduce reliance on imports, should provide assurance of timely and practicable financial assistance related and tailored to these needs; (5) that the coastal states and localities, which are closer to and more cognizant of the situation, should make the basic decisions as to the particular needs which result from such new or expanded energy activity; and (6) that the discretion of the Secretary of Commerce and other Federal officials should be correspondingly limited.

The conference substitute, like the House amendment, does not provide for formula grants to coastal states based solely on OCS oil and gas production and first landings of such production, because production-related payments per se might not be distributed in time to meet the total needs of recipients. Instead, the conference substitute would provide formula grants based on a formula which follows criteria set forth in the Senate bill and the House amendment. The conference substitute, like the Senate bill, does not provide for all Federal financial assistance to be in the form of grants or guarantees, because ordinary taxation by the states and localities affected may be adequate to pay for, over a reasonable period of time, the cost of new or improved (expanded or renovated to meet the new requirements) public facilities and public services. For example, new energy employment and related populations will create a need for such facilities and services, but they will also increase the total amount of tax revenues collected in or from the impacted area, on the basis of which the cost of these facilities and services can be amortized.

The primary impact assistance would be provided through a revolving account in the Treasury of the United States which shall be known as the Coastal Energy Impact Fund. The Fund will be based on annual appropriations (together with miscellaneous receipts in the form of fees, etc.).

Under the conference substitute, the bulk of the Federal energy impact assistance is authorized to be appropriated to the Fund for (1) Federal loans to coastal states, and units of general purpose local government in coastal states; (2) Federal guarantees of bonds and other indebtedness issued or entered into by such states and units; (3) backup or adjustment grants to be awarded when the states and localities cannot meet their obligations under these loans and guarantees with ordinary tax revenues; and (4) special grants for (i) the prevention, reduction or amelioration of unavoidable losses of environmental and recreational resources, and for (ii) the study and planning for the consequences of energy-related activity in the coastal zone. A total of \$800 million is authorized to be appropriated to the Fund, for

these purposes. These loans and guarantees would be made, pursuant to an allotment for each coastal state, for the purpose of financing new or improved public facilities and public services which are required as a result of new or expanded coastal energy activity.

Formula grants will be made to coastal states on the basis of a statutory formula that relates to state and local needs resulting directly from new or expanded outer Continental Shelf energy activity. The conference substitute follows the House amendment in authorizing a total of \$400 million over eight years for such formula grants. The formula in the conference substitute also contains built-in incentives for coastal states to assist in achieving the underlying national objective of increased domestic oil and gas production. The formula follows the House amendment. Under it, one-third of each coastal state's formula grant will be based on the amount of new OCS acreage leased adjacent to all of the coastal states in that year; one-sixth will be based on the volume of oil and natural gas produced in such year from such acreage adjacent to such state by comparison with the total such production from such acreage adjacent to all of the coastal states; one-sixth will be based on the volume of such production which is first landed in such state in such year by comparison with the total first landings of such production in such year in all of the coastal states; and one-third will be based on the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities by comparison with the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities. Formula grant payments which are not used for the purposes specified in the conference substitute must be returned to the Secretary.

The formula, as so constructed, provides incentives to coastal states (if they are interested in increasing their share of the funds appropriated for this purpose) to encourage and facilitate the achievement of the basic national objective of increasing domestic energy production. This provision would be in harmony with sound coastal zone management principles because Federal aid would be available only for states acting in accord with such principles. For example, since the grant is based on new leaseings, production, first landings, and new employment, it is to the state's interest to apply the "consistency" provisions and related processes to the issuance of oil exploration, development and production plans, licenses, and permits as quickly as possible rather than to postpone decision-making for the statutory 6-month period.

Coastal energy impact assistance would be available under the conference substitute (as under the Senate bill and the House amendment) to any coastal state which (1) has a coastal zone management program which has been approved under section 306; (2) is receiving a grant under section 305 (c) or (d) or (3) is, in the judgment of the Secretary, making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303.

Thus, under the conference substitute, all Federal financial assistance for energy impacts is specifically related to needs resulting from specified energy activities. The conferees believe that such a nexus is

required in order to maximize, at the lowest reasonable cost to the Federal taxpayer, the attainment of the national objective of energy self-sufficiency, with respect to offshore oil and gas development, and to assure that such development takes place in accordance with sound environmental principles. New section 308 of the Coastal Zone Management Act of 1972, which includes these provisions and which is entitled "Coastal Energy Impact Program", sets forth and provides for a flexible and coordinated approach to the respective responsibilities of the Federal Government in providing, and the state and local governments in using, Federal financial assistance required to meet state and local needs resulting from new or expanded coastal energy activity, and tailors the form of the assistance to the necessity therefor. The conference substitute would provide for grants to state or local governments to pay off loans or guaranteed indebtedness in those cases where it can be clearly demonstrated to the Secretary that (1) ordinary tax revenues will not meet the cost of providing required new or improved public facilities and public services; (2) the projected revenues based on projected new employment and related populations and facilities fail to materialize in fact; or (3) the very nature of the state or local need is so diffuse (i.e., planning) or indirectly relatable (i.e., prevention, reduction, or amelioration of unavoidable losses of valuable ecological and recreational resources) to the usual revenue-collection mechanisms as to make repayment difficult or impossible to achieve or assure. Such grant shall be made without any obligation other than that the proceeds in fact be expended for proper purposes. If costs can be recouped, however, through such ordinary methods, the moneys involved could be used again and again to meet the similar needs of other communities and states.

The provisions of new section 308 are set forth in detail below in the section-by-section discussion of section 7 of the conference substitute.

The conference substitute also follows the Senate bill, the House amendment, or both, in making a number of other changes in or modifications to the 1972 Act. These changes and modifications, which are also discussed in detail below, include—

(1) the establishment of three additional requirements for state coastal zone management programs;

(2) a new program of financial assistance for coastal states which have already developed management programs which are in compliance with the requirements of section 305(b) but which do not yet qualify for approval and administrative grants under section 306;

(3) a new incentive for an expeditious determination of whether particular offshore energy activity is consistent with a coastal state's approved management program, on an overall plan basis rather than on an individual license/permit by license/permit basis;

(4) a new provision under which the Congress grants its assent to the formation of interstate compacts and to interstate agreements for the development and administration of coordinated coastal zone planning, policies, and programs and for the establishment of implementing instrumentalities or agencies, pursuant to which Federal financial assistance will be provided;



(5) a new provision for research and training to support coastal zone management programs;

(6) an authorization for new matching grants to enable coastal states to acquire access to public beaches and other public coastal areas of value and to preserve islands, to help meet the growing need for more recreational outlets in coastal areas; and

(7) authorization of appropriations for the next 4 years of the Nation's coastal zone management effort.

The bill, in addition—

(1) creates the new Office of Associate Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration who shall administer the provisions of the 1972 Act, including amendments of this conference substitute;

(2) authorizes four special positions to the extent necessary for administration of the amendments made by this legislation; and

(3) directs the Secretary of Commerce to review all aspects of the molluscan shellfish industry and to evaluate the impact on that industry of Federal law concerning water quality, and to report thereon to the Congress by April 30, 1977.

#### SECTION-BY-SECTION DISCUSSION

The first section of the conference substitute follows the Senate bill and the House amendment in providing that the short title of this legislation is the "Coastal Zone Management Act Amendments of 1976."

##### *Section 2. Findings*

Section 2 follows the Senate bill and the House amendment in expanding the finding in section 302(b) of the Coastal Zone Management Act of 1972 which declares that the coastal zone is rich in "a variety of natural, commercial, recreational, industrial, and esthetic resources"; the amendment finds that the coastal zone is also rich in ecological resources. The section also makes changes in punctuation between the subsections and adds an additional subsection which conforms section 302's findings to the major new provision added to the existing law by the conference substitute (new section 308 with respect to financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone).

##### *Section 3. Definitions*

Section 3 follows the Senate bill or the House amendment, or both, in modifying certain definitions in section 304 of the Coastal Zone Management Act of 1972 and in adding certain additional definitions thereto. The changes are as follows:

The definition of "coastal zone" is expanded to include "islands."

The definition of "estuarine sanctuary" is amended to include any islands within the area in, adjoining, or adjacent to an estuary.

The section adds a definition of the term "coastal energy activity". The term means (1) any OCS energy activity; (2) any transportation, conversion, treatment, transfer, or storage of liquefied natural gas; and (3) any transportation, transfer, or storage of oil, natural gas, or

coal (including, but not limited to, by means of any deepwater port, as defined in the Deepwater Port Act of 1974); the above activities are included in such term if, and to the extent that, such activity requires and involves the siting, construction, expansion or operation of any equipment or facility and if technical requirements necessitate that such siting, construction, expansion or operation be carried out in, or in close proximity to, the coastal zone of any coastal state. This definition follows the House amendment.

The definition of the term "energy facilities" follows that in the Senate bill and the House amendment. The term means equipment and facilities which are or will be used primarily in exploration for or in development, production, conversion, storage, transfer, processing, or transportation of any energy resource; or primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any such activity. The definition includes a list, which is not exclusive, of equipment and facilities which come within this description.

The section follows the House amendment in adding a definition of "local government". A local government means any political subdivision of, or any special entity created by, any coastal state which (in whole or in part) is located in or has authority over such state's coastal zone and which either has authority to levy taxes or to establish and collect user fees or which provides any public facility or public service which is financed by taxes or user fees.

The section also follows the House amendment in adding a definition of "outer Continental Shelf energy activity". The terms means any exploration for, or development or production of, oil or natural gas from the outer Continental Shelf, or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production. [The term "outer Continental Shelf" has the same meaning as set forth in section 2(a) of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331(a))].

The section follows the Senate bill in adding a definition of the term "person" for purposes of the Coastal Zone Management Act of 1972. The definition is different from the definition of the term "person" in section 1 of title 1 of the United States Code (which applies to all U.S.C. provisions unless otherwise provided) in that it includes the Federal Government, any state, local, or regional government, or any entity of any such government.

The section follows the Senate bill and the House amendment in adding a definition of the term "public facilities and public services". The term means specified facilities and services which are financed, in whole or in part, by any state or political subdivision thereof. This list of facilities and services are not intended to be exclusive and the Secretary may add to the enumerated list if he determines that other facilities or services so financed will support increased population.

#### *Section 4. Management Program Development Grants*

The conference substitute makes a significant number of additions to and changes in section 305 of the Coastal Zone Management Act of 1972. These amendments are combined with the existing and unchanged provisions in the interest of clarity.

The conference substitute follows the Senate bill and the House amendment in adding additional requirements to the listing within section 305(b) of the mandatory provisions to be included in a coastal zone management program: (1) a definition of the term beach and a planning process for the protection of, and access to, public beaches and other public coastal areas of specified value; and (2) a planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including impact management. The conference substitute also follows the House amendment in adding another requirement to the section 305(b) list: a planning process for assessing the effects of shoreline erosion and for evaluating ways to control or lessen the consequences of such erosion or to restore areas adversely affected thereby.

The conference substitute also amends section 305 by inserting as a new subsection (d) (existing subsection (d) is redesignated as subsection (h)) an authorization for the Secretary of Commerce to make grants annually to coastal states (in amounts up to 80 per centum of the costs) for the purpose of assisting such a state to complete and initially implement its coastal zone management program, before it qualifies for administrative grants under section 306.

Paragraph (2) of this new subsection (d) sets forth the eligibility prerequisites for these initial implementation grants. A coastal state is eligible to receive grants under this subsection if (1) it has developed a management program which meets the requirement of section 305(b), but which has not yet been approved under section 306; (2) it has specifically identified, after consultation with the Secretary, any deficiencies in its management program which make it ineligible for such approval and has established a reasonable time schedule for remedying any such deficiencies; (3) it has specified the purposes for which these grants will be used; (4) it is taking or has taken adequate steps to meet requirements involving Federal officials or agencies as set forth in section 306 or 307; and (5) it has complied with any other requirement prescribed by regulation to carry out this subsection.

Subsection (h) (formerly subsection (d)) is modified to permit a coastal state whose management program is approved under section 306 (qualifying it for section 306 administrative grants) to receive grants under section 305(c) for the sole purpose of assisting it in developing planning processes that will satisfy the new subsection (b) requirements indicated above.

Subsection (i) (formerly subsection (h)) is amended to extend the date of expiration of authority to make grants under this section from June 30, 1977 to September 30, 1979.

#### *Section 5. Administrative Grants*

The conference substitute follows both the Senate bill and the House amendment in amending subsection (a) to raise from 66 $\frac{2}{3}$  per centum to 80 per centum, the Federal share of grants under section 306.

The conference substitute follows the House amendment in specifying what is meant by "effective" in the provision in subsection (c) (2) (B) which requires that the Secretary find, before a state's management program can be approved, that the state has "established an effective mechanism for continuing consultation and coordination"

before such state's management program can be approved under section 306.

The state's coastal zone management agency is required, before implementing a management program decision which would conflict with any local zoning ordinance, decision or other related zoning action, to send a notice of such management program decision to any local government whose zoning authority would be affected. The local government would have the right to submit comments to the management agency within a thirty-day period following such government's receipt of the notice of management program decision, and no action can be taken during such period which would interfere or conflict with such program decision. The management agency is required to consider any comments submitted and is authorized to conduct a public hearing thereon. During the thirty-day comment period, the management agency may not take any action to implement the decision, unless any local government affected waives its right to comment.

The conference substitute follows the Senate bill and the House amendment in amending subsection (c)(8) of section 306 to require the Secretary to find, as part of a state's mandatory consideration of the national interest involved in the planning and siting of energy facilities, that such state has given consideration to any applicable interstate energy plan or program promulgated by an interstate entity which is established under the new section 309 added by the conference substitute.

As a conforming change, subsection (g) (on amendments to approved management plan) is amended to permit section 306 administrative grants to be made to states whose plans are approved prior to October 1, 1978, but whose 305(b)(7), (8), and (9) processes are not approved as of this date.

#### *Section 6. Consistency and Mediation*

The conference substitute follows the Senate bill in amending the Federal consistency requirement to section 307(c)(3) of the Coastal Zone Management Act of 1972. The Senate bill required that each Federal lease (for example, offshore oil and gas leases) had to be submitted to each state with an approved coastal zone management program for a determination by that state as to whether or not the lease was consistent with its program. The conference substitute further elaborates on this provision and specifically applies the consistency requirement to the basic steps in the OCS leasing process—namely, the exploration, development and production plans submitted to the Secretary of the Interior. This provision will satisfy state needs for complete information, on a timely basis, about the details of the oil industry's offshore plans.

Also, under the substitute, any subsequent OCS Federal license or permit required for activities specified in any exploration, development, and production plan are presumed to be consistent once the plan is certified as being so consistent. This important change will significantly expedite OCS oil and gas development. Under present Department of Interior regulations, Federal permits are required for a large number of individual activities, including geophysical exploration, bottom sampling, well drilling for exploration or production, pipeline right-of-way, structure placement, waste discharge, and

dredging and filling operations. Thus, separate consistency determinations on each activity, described in detail in an exploration, development or production plan, will not be necessary.

The conference substitute additionally provides that any amendment to an OCS exploration, development or production plan requires a consistency determination within three months (rather than the present requirement of six months) by the coastal states.

The conference substitute also amends section 307 to direct the Secretary to seek, in cooperation with the Executive Order of the President, to mediate any serious disagreement between any Federal agency and a coastal state with respect to the initial implementation of a management program or to the administration of an approved management program.

During their deliberations, the conferees raised a number of questions regarding the advisability and workability of the present Federal consistency provision in the 1972 Act. Particular attention was focused on certain ambiguities in critical procedural determinations and the necessity of the six-month period for conclusive presumption. It was determined that these matters will be the subject of subsequent in-depth oversight hearings on the coastal zone management program in the next Congress.

#### *Section 7. Coastal Energy Impact Program*

Section 7 of the conference substitute follows the Senate bill and the House amendment by adding a new section 308 to the Coastal Zone Management Act of 1972. This new section 308, which is entitled "Coastal Energy Impact Program", follows the content of the new section 308 added by the Senate bill and the new section 308 added by the House amendment and also the content of the new section 319 added by the Senate bill and the House amendment.

Subsection (a) of the new section 308 directs the Secretary of Commerce to administer and coordinate, as part of the coastal zone management activities of the Federal Government, the various forms of financial assistance which are authorized to be provided under this section to coastal states or to units of general purpose local government therein, or to both as a coastal energy impact program.

Subsection (b) of the conference substitute follows new section 308 (k) and (l) of the Senate bill and new section 308(a) of the House amendment in providing for formula grants to coastal states. Paragraph (1) of this subsection requires the Secretary to make grants annually under this subsection.

Paragraph (2) sets forth the rules to be applied in calculating each coastal state's share of the amount appropriated for purposes of grants under this subsection. (The conference substitute follows the House amendment in authorizing the appropriation of a total of \$400 million for the purpose of these formula grants.)

The formula follows both the Senate bill and the House amendment in making the state's share dependent upon (1) the volume of oil and natural gas produced from the outer Continental Shelf acreage adjacent to the coastal state involved by comparison with the amount produced from all such acreage, during the immediately preceding fiscal year; and (2) the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government

which is first landed in the coastal state involved in the immediately preceding fiscal year by comparison with the volume landed in all of the coastal states in such year. (In the computation of such volumes, the conferees, following the Senate bill, intend that 6,000 cubic feet of natural gas be considered the equivalent of one barrel of oil.)

In the Senate bill, the amount of these grants was to be determined exclusively on the basis of these two factors; in the House amendment, the amount was to be determined on the basis of these factors plus four additional measures. The conference substitute follows the House amendment and includes in the formula two additional factors which follow the House measures which most closely approximate the extent to which a coastal state is likely to sustain adverse consequences as a result of new or expanded OCS energy activity. The first of these is the amount of outer Continental Shelf acreage which is adjacent to the coastal state involved and which is newly leased by the Federal Government in the immediately preceding fiscal year by comparison with the total amount of OCS acreage newly leased by the Federal Government in such year. The second of these is the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities by comparison with the total number of such individuals residing in all of the coastal states in such year. This last factor necessarily requires that the year preceding the immediately preceding fiscal year be considered, for purposes of calculating formula grants, the "base year" against which the number of individuals who obtain new employment in the immediately preceding fiscal year as a result of new or expanded OCS energy activities is to be measured. The concept of "new employment" is intended to refer to new workers. For example, a construction worker who changes from a job on the Alaska pipeline to a job on an OCS drilling platform, or a drilling-platform worker who is relocated to a geographically different area to do the same work, in the immediately preceding fiscal year, is an individual who obtains new employment in such year as a result of new or expanded outer Continental Shelf energy activities. By contrast, an individual who is promoted from being a worker on a drilling rig to being the foreman of a rig or from being a rig construction worker to a rig production worker in the same geographical area is not such an individual.

Paragraph (3) of new section 308(b) follows paragraphs (2) and (3) of new section 308(a) in the House amendment in directing the Secretary of Commerce to collect and evaluate the information that is necessary to apply the foregoing formula and in providing statutory guidelines for determining which coastal state is the state which is "adjacent" to a particular outer Continental Shelf acreage for purposes of this subsection.

The conferees expect the Secretary to make the necessary determinations for extending lateral seaward boundaries in a timely manner, and to publish such determinations within 270 days after the date of enactment of this subsection. It is further intended by the conferees that the statutory guidelines set forth in this paragraph be applied solely for the purpose of determining which coastal state is the state which is "adjacent" to particular outer Continental Shelf acreage under this Act, and that such guidelines not be construed to have

application to any other law or treaty of the United States, either retrospectively or prospectively.

Paragraph (4) of this subsection follows paragraph (4) of the corresponding House subsection and the opening provisions of the corresponding Senate subsection in setting forth the purposes for which the proceeds of formula grants are to be used (with priority to be given to the use of such proceeds for the retirement of state and local bonds). the purposes are—

(1) the retirement of state and local bonds, if any, which are guaranteed under subsection (d) (2) (and if the amount is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds);

(2) the study of, planning for, development of, and the carrying out of projects and programs in such state which are (A) necessary, because of the unavailability of adequate financing under any other subsection, to provide new or improved public facilities and public services that are required as a direct result of new or expanded outer Continental Shelf energy activity; and (B) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care; and

(3) the prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource where such loss results from coastal energy activity.

Formula grants could indeed be used for "bricks and mortar", for environmental problems, for planning, etc., but in the case of public facilities and public services referred to in paragraph (2), the coastal states would have to turn first to the loan and guarantee provisions under subsection (d); and if such loans and guarantees are not available because apportionments to such states from, or sums in, the Fund are insufficient, if the amount of such loans or guarantees, if available, is not adequate, or if such states could not qualify for assistance under subsection (d), then they could tap their allocations for formula grants.

Paragraph (5) follows new section 308(a)(5) of the House amendment and new section 308(e) of the Senate bill by providing that the Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (4). The United States would be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which (A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or (B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (4).

The conference substitute further provides that before disbursing the proceeds of any grant under this subsection to any coastal state,

the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.

Subsection (c) of the conference substitute follows new section 308 (a) of the Senate bill and new section 308(b)(1) of the House amendment in providing for the making of planning grants to the coastal states for use by them (or by localities through required suballocation under subsection (g)(2)) in studying and planning for any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in the coastal zone from the siting, construction, expansion, or operation of new or expanded energy facilities. The maximum Federal share of such a grant may not, as under the House amendment, exceed 80 per centum of the cost of such study and planning.

Subsection (d) follows (1) new section 308 (b) and (c)(1) of the Senate bill and new section 308(b)(2) in providing for grants; (2) new section 308 (b) and (c)(2) of the Senate bill in providing for loans; and (3) new section 319 of the Senate bill and new section 319 of the House amendment in providing for guarantees of state and local bonds and other evidences of indebtedness, as part of the coastal energy impact program. Paragraph (1) provides for the making of loans to coastal states and units of general purpose local government to assist such states or units to provide new or improved public facilities or public services, or both, which are required as a result of coastal energy activity. Such loans will be subject to various prerequisites, terms, conditions, and requirements under regulations which are required to be issued under subsection (e) (as to security, repayment schedule and other submissions, maximum interest rate, etc.) and may be subject to regulations issued under section 317 (as redesignated) of the 1972 Act as amended by the conference substitute, except that such loan shall be made solely pursuant to this title, and no such loan shall require, as a condition thereof, that a state or local unit pledge its full faith and credit to repayment.

Paragraph (2) provides for the guaranteeing of bonds or other evidences of indebtedness issued by coastal states or units of general purpose local government for the purpose of providing new or improved public facilities or public services, or both, which are required as a result of coastal energy activity. The prerequisites, terms and conditions, requirements, and procedures with respect to such guaranteed bonds and other evidences of indebtedness and the obligation of the United States in the event of default are set forth in subsection (f) of new section 308.

If the Secretary finds that any coastal state or unit of general purpose local government is unable to meet its obligations pursuant to a loan under a paragraph (1) or a guarantee under paragraph (2), because the actual new increases in employment and related population resulting from coastal energy activity and facilities associated therewith do not provide adequate revenues to enable such state or unit to meet those obligations in accordance with the repayment schedule submitted, reviewed, and approved pursuant subsection (e)(3), the Secretary is required to provide relief as specified in paragraph (3). The Secretary shall (1) modify appropriately the terms and condi-



tions of the loan or guarantee involved so that such state or unit may meet its obligations as so modified; (2) refinance the loan involved so that the payment obligations can be met; (3) make a supplemental loan whose proceeds are to be applied to the payment of the outstanding obligation; or (4) make a grant whose proceeds are to be applied to the payment of the outstanding obligations. If the Secretary has taken one of the first three courses of action but finds pursuant to the criteria and procedures of subsection (e)(3) that additional action under these three courses will not enable the state or unit involved to meet all its outstanding obligations resulting from the loan or guarantee, within a reasonable period of time, then the Secretary shall make a grant to such state or unit in an amount sufficient to enable it to meet such obligations. Assistance under this paragraph is intended to be granted automatically when these conditions exist, as soon as the inability of the coastal state or local unit to meet its repayment obligations under paragraph (1) loan or under the indebtedness guaranteed under paragraph (2) is apparent.

Paragraph (4) provides for grants to coastal states to enable them to prevent, reduce, or ameliorate any unavoidable loss of a valuable environmental or recreational resource described in subsection (b)(4)(C) if and to the extent that the state involved has not received amounts under subsection (b) which are sufficient to prevent, reduce, or ameliorate such loss. This provision, which follows new section 308(b)(2) and the definition of net adverse impacts in new section 304(n)(2) of the House amendment, is the one situation in which assistance under subsection (b) is primary. The term "valuable", for purposes of this paragraph and of subsection (b)(4)(C), does not refer solely to economic value, but includes value to the ecosystem and for recreational purposes, and any other present and future value. If such a loss "results" from coastal energy activity, such funds may be used for the reduction or amelioration of any present consequence of such activity, regardless of the date of such activity or the date on which such consequence was first suffered, as well as for the prevention of similar such losses which may otherwise occur in the future.

Subsection (e) sets a time limitation on the issuance of certain rules and regulations by the Secretary. The rules and regulations described in this subsection must be promulgated within 270 days after the date of enactment of new section 308. This subsection follows new section 308(e) as added by the Senate bill. The rules and regulations required within this time period include (1) a formula and procedures for allocating each coastal state's share of amounts appropriated and available in the fund for such purpose; (2) criteria under which the Secretary shall review each coastal state's compliance with the requirements of subsection (g)(2); (3) criteria and procedures for evaluating the extent to which any subsection (d)(1) or (2) loan or guarantee can be repaid the applicable state's or unit's ordinary methods and rates for generating tax revenues (which shall include the submission of specified information and materials, including a populations statement, description, tax projection, and a proposed repayment schedule); (4) requirements, terms, and conditions which may be imposed

to assure repayment, to limit the duration of public service financing, and to protect the interests of the United States; and (5) criteria under which the Secretary shall establish the rate of interest on loans (not to exceed current average market yield on comparable U.S. obligations). The Secretary is directed to request the views of or consult with appropriate persons in developing these rules and regulations.

Subsection (f) follows subsections (c) through (k) of new section 319 as added by the House amendment and new section 319 as added by the Senate bill in providing the detailed provisions and requirements applicable to the guarantee of bonds and other evidences of indebtedness.

Paragraph (1) of subsection (g) follows the Senate bill and the House amendment in providing that no coastal state is eligible to receive any financial assistance under this section unless such state (1) has an approved coastal zone management program; (2) is receiving a coastal zone management development or completion and initial implementation grant; or (3) is making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303 of the 1972 Act, as amended. Paragraph (2) requires each coastal state to provide, to the maximum extent practicable, that financial assistance provided under this section be apportioned, allocated, and granted to units of local government of such state on a basis which is proportional to the extent to which such units need such assistance.

Subsection (h) establishes the Coastal Energy Impact Fund in the Treasury of the United States, as a revolving fund based on appropriated funds and miscellaneous receipts related thereto. The Fund shall be available to the Secretary for the purposes of subsections (c) and (d).

Subsection (i) prohibits the Secretary from interceding in any land use or water use decision of any coastal state with respect to the siting of energy facilities or public facilities by making siting in a particular location a prerequisite to financial assistance under this section.

Subsection (j) authorizes the Secretary to evaluate and report to the Congress on the efforts of the coastal states to reduce or ameliorate any adverse consequences resulting from coastal energy activity and the extent to which such efforts involve adequate consideration of alternative sites for such activity.

Subsection (k) provides that to the extent that Federal funds are available under any other law with respect to (1) study and planning for which financial assistance may be provided under subsection (b)(4)(B) and (c), or (2) public facilities and public services for which financial assistance may be provided under subsection (b)(4)(B) and (d), the Secretary shall administer such subsection to the extent practicable (A) on the basis that the financial assistance shall be in addition to, and not in lieu of, any Federal funds which any coastal state or unit of general purpose local government may obtain under any other law; and (B) to avoid duplication.

Subsection (1) defines the terms "retirement", "unavoidable", and "unit of general purpose local government" as used in section 308.

### *Section 8. Interstate Grants*

Section 8 of the conference substitute follows the Senate bill and the House amendment in adding a new section 309 to the Coastal Zone Management Act of 1972. This new section 309, which is entitled, "Interstate Grants", follows the content of the new section 309 added by the Senate bill and the new section 309 added by the House amendment.

Subsection (a) encourages the coastal states to coordinate coastal zone planning, policies, and programs with respect to contiguous areas of such states and to study, plan and implement unified coastal zone policies with respect to such areas. Such coordination, study, planning and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary is authorized to assist therein through the making of grants in an amount not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation. Such grants may only be made if the Secretary finds that the proceeds thereof will be used for purposes consistent with sections 305 and 306 of the Coastal Zone Management Act of 1972.

In subsection (b), the Congress grants its consent to any two or more coastal states to negotiate and enter into agreements or compacts for coordinated coastal zone activities and the establishment of such executive instrumentalities or agencies as such states deem desirable for implementation of such agreements or compacts; so long as such agreement or compact is not in conflict with any law or treaty of the United States.

Subsection (c) encourages each executive instrumentality or agency which is established by such an interstate agreement or compact to adopt a Federal-State consultation procedure as to mutual problems affecting the coastal zone. Specified Federal officials are authorized and directed to participate in such consultations whenever requested by such an instrumentality or agency.

Subsection (d) provides for coordination by the Secretary of coastal zone activities described in subsection (c) and for the making of grants for temporary planning and coordinating agencies established and maintained by any interstate instrumentality or any group of coastal states, if no applicable interstate agreement or compact exists, to provide, inter alia, an effective mechanism and a Federal-State consultation procedure.

### *Section 9. Research and Technical Assistance*

Section 9 of the conference substitute follows the Senate bill and the House amendment in adding a new section 310 to the Coastal Zone Management Act of 1972. (The conference substitute renumbers existing sections 308 through 315 of the 1972 Act as sections 311 through 318, respectively.) This new section 310, which is entitled, "Coastal Research and Technical Assistance for Coastal Zone Management", follows the content of the new section 310 added by the Senate bill and subsections (a) and (b) of the new section 310 added by the House amendment.

Subsection (a) authorizes the Secretary to conduct a program of research, study, and training to support the development and im-

plementation of coastal zone management programs. The Secretary is authorized to enter into contracts and other arrangements for these purposes and other Federal agencies are to assist in carrying out these purposes.

Subsection (b) authorizes the Secretary to make grants to any coastal state to assist such state in carrying out research, studies, and training required in support of coastal zone management, in an amount not to exceed 80 per centum of the cost of such research, studies and training.

Subsection (c) requires the Secretary to provide for the coordination of these research and training activities with other such activities conducted by the Secretary. The Secretary shall make the results of any such research available to any interested person.

#### *Section 10. Review of Performance*

Section 10 of the conference substitute makes a conforming change in section 312 of the 1972 Act (formerly section 309) to apply the performance review requirement of that section to the Coastal Energy Impact Program provided for under section 308.

#### *Section 11. Audit of Transactions*

Section 11 of the conference substitute follow the House amendment by making a conforming change in section 313 of the 1972 Act (formerly section 310) to provide for recordkeeping and auditing, by the Secretary and the Comptroller General of the United States, with respect to financial assistance and transactions under section 308.

#### *Section 12. Acquisition of Access to Public Beaches and Other Public Coastal Areas*

Section 12 of the conference substitute follows the House amendment in amending section 315 of the Coastal Zone Management Act of 1972 (formerly section 312) to authorize the Secretary to make grants to coastal states for up to 50 per centum of the cost of acquisition of access to public beaches and other public coastal areas of specified value and follows new section 320(6) of the Senate bill in including in such authorization grants for the preservation of islands. The amendment and the existing section are conformed for the sake of greater clarity.

#### *Section 13. Annual Report*

Section 13 of the conference substitute follows the Senate bill and the House amendment in adding three more mandatory subjects to the required annual report on the administration of the Coastal Zone Management Act of 1972, under section 316(a) of the 1972 Act (formerly section 313). The three new topics follow the three new sections added by the conference substitute.

#### *Section 14. Authorization of Appropriations*

Section 14 of the conference substitute amends section 318 of the Coastal Zone Management Act of 1972 (formerly section 315) to provide for appropriation authorizations for each of the several programs for which funds may be expended under the 1972 Act and the conference substitute amendments to that Act. In each case, the authoriza-

tion figure included in the conference substitute is the lower amount authorized as between the amounts authorized for the same purpose in sections 308, 319, and 320 as redesignated and amended by the Senate bill and in sections 308, 319, and 320 as redesignated and amended by the House amendment.

Section 318(c) sets forth existing law and follows the House amendment by providing that Federal funds from other sources shall not be used to pay a coastal state's share of costs under section 305, 306, 309 or 310.

#### *Section 15. Administration*

Section 15 of the conference substitute follows section 103 of the Senate bill and section 3 of the House amendment in creating in the National Oceanic and Atmospheric Administration a new officer to be known as the Associate Administrator for Coastal Zone Management. This Associate Administrator shall be an individual who is especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972. The section also authorizes the Secretary to create four new management positions to carry out the provisions of the amendments made by this legislation.

#### *Section 16. Shellfish Sanitation Regulations*

Section 16 of the conference substitute follows new section 310(c) and (d) of the House amendment in providing for a special study of shellfish. The Secretary of Commerce is directed to undertake a comprehensive review of all aspects of the molluscan shellfish industry and to evaluate the impact upon such industry of Federal law concerning water quality. By not later than April 30, 1977, the Secretary is required to submit to the Congress a report of the findings, comments, and recommendations (if any) which result from this review and evaluation. The section further provides that the Secretary of Health, Education and Welfare shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977 and that such Secretary, in consultation with the Secretary of Commerce, shall publish an analysis of the economic impact of such regulation on the domestic shellfish industry and of the cost of the national shellfish sanitation program relative to the benefits that it is expected to achieve. This analysis shall be published at least 60 days prior to the promulgation of any such final regulations. This analysis, with respect to cost relative to the benefits means the publication in the Federal Register of (1) an estimate, based on the best data available to the Secretary of Health, Education and Welfare, of the probable cost (in terms of annual impact or other appropriate measure) to the shellfish industry, the consuming public, and the Federal Government which is likely as a consequence of the implementation of these final regulations and (2) a description of the probable benefits which might be expected from such implementation in terms, for example, of the prevention of serious illness or death or in the reduction of the risk of illness to consumers of shellfish. Since the conferees are aware that in the area of food safety regulation the quantification of public health benefits is extremely difficult, if not impossible, this provision

is not intended to require a formal cost-benefit analysis with respect to quantifiable benefits, but an effort should be made to weigh the costs and benefits as objectively as possible.

LEONOR K. SULLIVAN,  
THOMAS N. DOWNING,  
PAUL G. ROGERS,  
JOHN M. MURPHY,  
PIERRE S. DU PONT,  
DAVID C. TREEN,

*Managers on the Part of the House.*

WARREN G. MAGNUSON,  
ERNEST F. HOLLINGS,  
JOHN V. TUNNEY,  
TED STEVENS,  
LOWELL P. WEICKER, JR.,

*Managers on the Part of the Senate.*

## XI. HOUSE AGREES TO CONFERENCE REPORT, JUNE 30, 1976

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of June 24, 1976.)

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. Murphy) will be recognized for 30 minutes, and the gentleman from Delaware (Mr. du Pont) will be recognized for 30 minutes.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Mrs. Sullivan).

Mrs. SULLIVAN. Mr. Speaker, it is with pleasure that I bring before the House today the report of the committee of conference on S. 586, the Coastal Zone Management Act Amendments of 1976.

What we bring to you today is a carefully worked-out measure that, by and large, holds to the position of the House adopted by a 370 to 14 vote on March 11. Since that vote, the members of the conference committee and staff have worked continuously to perfect a measure which not only balances the bills adopted by both the House and Senate, but also incorporates some of the suggestions made by Representatives of the administration.

This three-way discussion made the process of perfecting this measure more time-consuming than usual. We all felt it worthwhile, however, to bring to you a measure today which we can say is a true product of Congressional initiative and, at the same time, one which will be acted on favorably by the White House. We have had assurances on this latter point, Mr. Speaker, based on the accommodations which the conferees were willing to make towards the viewpoint of the representatives from the Department of Commerce and the Office of Management and Budget.

We took time because of the critical importance of this legislation.

We must expand our domestic supply of oil and gas, which effectively means we must tap new offshore fields around the continental United States. At the same time—and this is something we should not lose sight of—we must see to it that the coastal zone management program succeeds.

At stake in this program is whether or not we as a nation are going to protect our coasts for future generations or whether we are going to let future development in the coasts take place in a haphazard and damaging fashion.

The coastal zone program is a pioneering effort to bring about a system of rational management of a resource of incalculable value—the coastal lands and waters of this Nation. A successful coastal zone program will be good for business. It will allow companies to know where they can locate plants and businesses in the coast. A successful coastal zone program will protect the public interest. It will mean especially valuable coastal areas will be set aside for limited or no development, as appropriate. Local communities will remain in basic control over the use of property within their jurisdiction, but consideration will be given to broader regional and State interests as well. If this program succeeds it will be of immense value to present and future generations.

I want us to keep in mind what we are doing with this legislation. We are, as the conference report states: “To improve coastal zone management in the United States, and for other purposes.”

We provide numerous improvements to the coastal zone program. My colleagues will detail some of these for you. Basically, we are extending the life of this vital program, adding a new interim phase between the time a State prepares its coastal program and the time it is ready to put it into operation, coastal planning and increasing the Federal matching share and funding levels, among other things.

The major new element, of course, is the coastal energy impact program. The total authorized for this new feature of coastal management is \$1.2 billion over 10 years, in the form of loans, grants and bond guarantees. You will also hear in detail from others about the various components of this impact program.

Let me state two essential principles guiding us in the development of the energy impact program. One, we see it as responsive to the legitimate complaints and suggestions from coastal States and communities faced with the responsibility for producing needed new energy. Some coastal areas will be able to absorb a major new industry such as that associated with offshore oil and gas production; others, particularly rural areas will not. It is to aid these latter areas particularly that we have designed a balanced package of assistance. In doing so we will take a long step toward enabling this country to improve its posture with regard to self-sufficiency in energy.

The second major point is this. We are united in our belief that a coastal energy impact program must be administered by and in the context of the coastal zone management program. To have administration of the impact program separate from that of the coastal zone office in the National Oceanic and Atmospheric Administration would endanger the coastal zone program and violate the aim of Congress in this regard. What we anticipate is a separate administrative apparatus within the coastal zone offices here in Washington and in the various States. It would be folly for Congress to make it a requirement that



a State participant in coastal zone management in order to be eligible for energy impact assistance and to then turn around and see the programs administered in different offices.

The clear intent of Congress in S. 586 is to improve the ability of the State coastal zone management efforts to meet today's challenges represented by the need to use additional areas of the coasts for our energy needs. We in no way intend to see our real and great energy needs displace or supplant coastal zone management. Quite the contrary. We intend to fit our short-term energy needs into the context of long-range coastal zone management programs, thereby assuring preservation and sound development of this Nation's coastal areas. I urge the support of my colleagues on this important legislation.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MURPHY of New York asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Speaker, before us today is one of the most significant pieces of legislation which the House has—or will consider—in the 94th Congress. The Coastal Zone Management Act Amendments of 1976 was overwhelmingly supported by this body when it was considered after coming from the Merchant Marine and Fisheries Committee. On March 11, we approved the bill by a 370 to 14 margin.

After nearly 4 months of work in conference with the Senate, I am pleased to be able to report to the House that we have fashioned a bill which maintains the integrity of the House position on practically all of the issues.

S. 586 was unanimously approved by the Senate yesterday. Today, I urge your support for this bill so that we may get a Presidential signature as soon as possible and thus allow the Department of Commerce's National Oceanic and Atmospheric Administration to begin the important work of implementation. The Office of Management and Budget and the Department of Commerce have indicated their intentions to recommend to the President that he sign this legislation.

The bill which is before you now will greatly assist in expediting the exploration and development of our Nation's offshore oil and gas resources. It will do this by providing coastal States with a strengthened coastal zone management program and the necessary financial assistance to plan for and ameliorate any diverse impacts which occur as a result of energy activity in or affecting their coastal areas.

The basic premise on which this legislation was developed is that energy development and environmental protection are not mutually exclusive categories.

Rather, through strong planning efforts and sound principles of management, this Nation can, and will, achieve greater production of domestic sources of energy while, at the same time, protect the valuable environmental resources which are also vital to our well-being.

This takes a delicate balance between the pursuit of energy independence and the protection of ecological resources. It is such a balance which the Congress sought in 1972 when it passed the basic Coastal Zone Management Act. Although not funded until well into 1973, this voluntary federally assisted State-administered program enjoys full participation among all eligible States. Right now, 29 of the 30 coastal

States are engaged in developing the structure of their coastal management programs. One State—Washington—has just recently obtained approval from the Secretary of Commerce for its program and will be receiving Federal funds to administer its coastal management effort.

Built upon the excellent work being carried out by the States, we have fashioned a bill to update the basic act and further strengthen the balance which we are all seeking.

It should be noted that the 1972 program was enacted before the full thrust of our energy crisis became evident. Clearly, obtaining a greater degree of energy self-sufficiency is a recognized national objective of the highest importance and priority.

Yet recent statistics indicate that we continue to move away from that self-sufficiency. For example, for the week ending June 11, 1976, we imported 6.23 million barrels of crude oil per day. This is the highest level of such imports ever.

This trend must be reversed. Continued susceptibility to political blackmail from foreign oil-producing nations, rising levels of inflation caused by the high cost of energy, and a serious distortion of our balance of payments are just some of the consequences of our heavy dependence on the foreign energy market.

As chairman of the House Ad Hoc Select Committee on the Outer Continental Shelf—OCS—I have become acutely aware of the potential importance of this Nation's offshore oil and gas reserves. Of all domestic oil and gas produced, some 17 percent now comes from the Continental Shelf. However, the prospects are that the U.S. Continental Shelf can be the largest domestic source of oil and gas between now and the 1990's.

At the same time, I have also become aware of the concerns of the coastal States about the onshore impact of this offshore development. Our OCS committee heard testimony from approximately one-third of the Governors of the coastal States of this country.

Not one wanted to stop our offshore efforts to develop these important resources. Yet they all noted their apprehension about the population explosion caused by this energy activity, the necessity for planning, and for new public facilities and services, and the need for Federal aid to assist in balancing our environmental values and energy needs.

The bill which has come out of our conference committee goes a long way in meeting these requests of the coastal States. Built upon their coastal management work already underway, the States will be eligible to receive financial assistance, through loans, bond guarantees, and grants, to address themselves to the impacts on their fragile coastal areas.

The coastal energy impact program, which is the heart of this legislation, contains a total authorization of \$1.2 billion over a 10-year period; \$800 million of this is in the form of loans and Federal guarantees of State and local bonds. Except for those cases in which the State or local government, through no fault of its own, cannot pay for the public facilities or public services required or the environmental costs incurred, the Federal Government will be paid back for its investment. What we have structured is a program in which needed front-end capital is made available to States affected by energy activity—but a program which is also fiscally responsible.

This impact program involves more than providing for OCS exploration and development pressures on the coastal zone. Any energy activity, which by its very nature and technical requirements, must be carried out along the coast, is also included. In other words, activities involving the transportation, storage, or conversion of liquefied natural gas, and the transportation of oil, natural gas and coal, are within the program. For example, the impacts from the operation of a deep-water port would be eligible for impact assistance, as well as the increased demands on the Great Lakes States for the transportation of coal.

Although the coastal energy impact program in this legislation has received the most attention, I would like to note that the bill also makes a number of significant and strengthening changes in the basic coastal zone management act. Existing authorizations are increased and extended, matching funds for assuring access to public beaches are provided, interstate coordination and coastal management research and training are funded, local governments are provided further protections, the Federal share of development and administrative grants is increased from 66 $\frac{2}{3}$  percent to 80 percent, and a new interim period allowing the States to move more smoothly from planning to administration is established.

Consequently, this legislation does not only address the energy problem. It also reinforces and strengthens the basic program, while, at the same time, provides protection for the enormous energy-related pressures which are occurring, and will continue to occur, along our Nation's coasts.

Finally, I would like to note that this Congress has been criticized for not doing enough in the field of energy. S. 586 is, in part, an answer to those criticisms. When this bill is signed into law, our OCS activity will be expedited by a new spirit of cooperation between the Federal Government and the States. Congress has shown, through the development of this legislation, that it can be responsive to both the energy and environmental needs of this Nation. And, I can assure you, that we will continue to be responsible in other energy-related areas also.

I would like to take this opportunity to thank my colleagues on the Merchant Marine and Fisheries Committee—and those who participated in our conference committee—for their diligence and interest in this significant legislation. In particular, I would like to thank our chairman, Lee Sullivan, who will be leaving the Congress at the end of this session. All of us on the Merchant Marine and Fisheries Committee will miss her legislative leadership and experience, and Congress will not be the same without her.

I want to take a moment to pay special tribute to the efforts of a number of persons who have over the months labored to make this legislation possible. Mr. du Pont has very ably represented the minority side during the subcommittee deliberations and later before the full Merchant Marine and Fisheries Committee and during our conference discussions with the Senate. Our colleagues from Louisiana who have worked on this bill, Messrs Breaux and Treen, deserve a word of thanks for their willingness to cooperate on this bill even though its final provisions do not contain everything they would like for their State.

We have been ably assisted in our work by competent staff. I want to thank the members of the staff of the full Merchant Marine and Fisheries Committee and the staff of the Oceanography Subcommittee. In particular, I would congratulate Dr. Thomas Kitsos and Wayne Smith for their hard work during the last year and a half.

A word of thanks also to our colleagues in the Senate for their perseverance. Senators Fritz Hollings and Ted Stevens have given outstanding support to the coastal zone program. I would also call attention to the contributions of Commerce Committee staff member John Hussey on this legislation as he is about to leave Capitol Hill for the private sector.

And finally, I would like to publicly thank Secretary of Commerce Richardson, his assistant Frank Hodsall, and Ms. Joellyn Murphy—no relation—of the Office of Management and Budget for their cooperation in putting together a bill which Congress can be proud of and which the President will sign. Secretary Richardson has taken a strong personal interest in this bill which has helped bring us to this point today.

I urge my colleagues to support the Coastal Zone Management Act Amendments of 1976.

Mr. DU PONT. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. DU PONT. Mr. Chairman, the conference report before us today on the Coastal Zone Management Act Amendments of 1976 represents the culmination of many months of effort by many Members of this House, and the final product is one for which we can all be justly proud and supportive.

The heart of this bill is in section 308, the coastal energy impact program. This program would authorize \$1.2 billion over a period of 10 years to financially assist those coastal States which are or will be bearing the burdens of energy activity. If our Nation is to achieve the goal of energy self sufficiency, we must obtain the full cooperation of all of the coastal States. Fortunately, despite the fact that the States must bear one-third of the cost, the existing Coastal Zone Management Act of 1972 has been well accepted—all 30 coastal States have chosen to participate in the program. Therefore, we have a perfect vehicle—if amended—to ameliorate the added burdens placed upon coastal States as project independence is achieving fruition.

S. 586, the Coastal Zone Management Act Amendments of 1976, constitutes an amalgamation of principles adhered to by both Houses of Congress and the administration. Adopting the fully accepted CZMA of 1972 to provide for energy development, it demonstrates to our coastal States a responsible Government commitment to protect the coastal zone—a Federal-State partnership made possible by matching grants which will seal the mutual understanding required to expedite energy production and development.

There are two major elements in the impact program adopted by the conference committee—a formula grant section and a loan and bond guarantee section. The formula grants would be allocated to the coastal states based on a carefully constructed set of criteria which are closely related to Outer Continental Shelf energy activity. This means

that the affected coastal States would, in fact, receive funds on an annual basis and the only Secretarial discretion would occur after the funds were committed or expended. At that point, the respective State must show that it had expended or committed the funds received for one of the purposes as set forth in the bill. This particular section of the legislation is consistent with the basic principles advocated by myself and the other House conferees.

Unfortunately, just hours before the conference report was to be filed, a change was made in the formula grants section by a 4 to 3 vote of the House conferees. This change, had the effect of inserting a major discretionary element into an otherwise straightforward and uncomplicated grant provision.

I feel that we have, in effect, robbed the coastal States of the one previously attractive feature which they overwhelmingly supported. Prior to the change, the States could have expended the funds received if they had a demonstrated need for public facilities and services which were required as a result of OCS development. Now they can only spend these funds if the Secretary first determines that other loan or guarantee options are not available to them. The loan and guarantee provisions in this bill are full of all sorts of terms and conditions to be established by the Secretary of Commerce in order to establish eligibility standards for State applicants. By tying the formula grants to the loan section, we have effectively turned the automatic grants into a discretionary pot—to be administered by the Secretary at his pleasure. This is a much different approach from that which the Committee on Merchant Marine and Fisheries adopted, and I am sorely disappointed with those House conferees who decided to withdraw their support for our originally agreed upon concept. If this bill becomes law, I will be closely watching the administration of this energy impact program within the Commerce Department. The promulgation of the rules and regulations which are now necessary to properly complement this program could make-or-break the impact assistance scheme which has been devised. I have been assured by Secretary Richardson that this program will be administered in a manner which will adequately assist the affected coastal States. This impact program can work if the Secretary does not promulgate overly restrictive rules and regulations—and I am hopeful that this will be the case.

Even though I have reservations concerning the total impact program, I feel that the conference substitute is worthy of support. We have amended the original Coastal Zone Management Act to assist States in the development and implementation of their respective coastal management program, and we have done so in a comprehensive and responsible manner.

Most of the coastal States are well on their way in the initial development process and the additional elements included in this bill will provide the necessary boost to encourage and assist these States in their efforts.

I believe that this bill represents a very significant and important action by this Congress. There has been much rhetoric during this past session concerning the best ways to deal with our Nation's ongoing energy crisis, but nothing much has been done to tackle the problems head on. With the passage of this bill, this Congress will

make a major commitment toward our national goal of energy self-sufficiency. I urge the passage of the conference report.

Before closing, Mr. Speaker, I would like to make one comment about some debates that occurred on the Senate floor yesterday concerning the provisions of this act because I think it is important to correct a misstatement that was made by the Senator from South Carolina (Mr. HOLLINGS) about his interpretation of the bill.

I have written a letter to Secretary Richardson hoping to call to his attention this misunderstanding.

Mr. Speaker, I ask unanimous consent to insert the letter in the Record at this point.

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

There was no objection.

The letter is as follows:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., June 30, 1976.

HON. ELLIOT RICHARDSON,  
Secretary of Commerce, The Commerce Department, Commerce Building, Washington, D.C.

DEAR MR. SECRETARY: The Coastal Zone Management Act (S. 586) Conference Report will be before the House this afternoon. I am, of course, in support of the legislation but want to clarify, for the purpose of legislative history, a serious misstatement of the bill's intent which appeared in the Senate's discussion yesterday.

On page S10931 of the June 29, 1976 Congressional Record, Senator Hollings, referring to the automatic formula grants of section 308(B) stated:

"Proceeds or guarantees to which a state is entitled will not be disbursed or made until the state demonstrates to the Secretary that they will be used for the purpose described in the bill. Until such demonstration, the proceeds of the formula grants will stay in the states account with the Secretary. . . ." "Thus, the Secretary still will have the discretion he needs before disbursement to assure that the process of such assistance will be expended for the proper purposes."

Neither the legislation nor the conference report says any such thing. The Secretary only has discretion to require, under section 308(B) (5):

"Before disbursing the proceeds of any grant under this sub-section to any Coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts not expended for purposes listed in section 308(B) (4)."

This should make it very clear that the states are entitled to their grants upon such assurances and that the Secretary has no discretion beyond requiring certification by the state. Indeed, in section 308(B) (5) the language of the act is written in the past tense:

"(5) the Secretary in a timely manner, shall determine that each Coastal state has expended or committed . . . grants which such state has received. . . ."

At an appropriate time in this afternoon's debate, I will insert this letter into the RECORD so that there can be no doubt that the Secretary does not have the discretion to make determinations on grant eligibility beyond those set forth in section 308(B) (4).

Sincerely,

PIERRE S. DU PONT,  
Member of Congress.

MR. DU PONT. Mr. Speaker, what the gentleman from South Carolina said on the floor of the other body yesterday, referring to the automatic grants, and this appears at page S10931 of the CONGRESSIONAL RECORD of June 29, 1976, was as follows:

Proceeds or guarantees to which a state is entitled will not be dispersed or made until the state demonstrates to the Secretary that they will be used for the purpose described in the bill. Until such demonstration, the proceeds of the formula grants will stay in the states account with the Secretary.

Mr. Speaker, that is not what the bill says at all. There is no discretion in the Secretary to withhold approval or retain any proceeds in the State's account. The only discretion of the Secretary occurs in section 308(b)(5) of the bill. In that section of the bill the language reads as follows:

The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expand or commit, grants which such state has received.

Mr. Speaker, I think it is important, as a matter of legislative history to establish very clearly that the Secretary does not have the right to impose additional conditions prior to the approval of automatically granted funds, except for the condition that the States must certify that they are going to be used for proper purposes. As soon as that certification is made, that is the end of it as far as the Secretary is concerned.

Mr. Speaker, I wanted to take this time to make it very clear that I thought that there might be some question as to the interpretation of this section and wanted the foregoing to appear in the legislative history so that everyone would understand exactly what the bill says.

Mr. Speaker, in conclusion, I strongly support the passage of the conference report. I believe we have a good bill and a bill that will help the coastal States in their efforts to protect their coastal zones.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. BREAUX).

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

Mr. BREAUX. Mr. Speaker and my colleagues, I take this time to try and elaborate on some of the happenings in the conference committee that we held on the coastal zone management bill.

Many Members might not realize exactly how important this legislation is. It is extremely important. It is landmark legislation as far as this Congress is concerned. For the first time this Congress is recognizing the fact that coastal States who are involved with offshore oil and gas developments are entitled to consideration from the Federal Government in aiding them in trying to satisfy some of the troubles that are occurring in their areas.

I was in very strong support of this bill when it left the House and I also agreed with the general concept and philosophy that was contained in the Senate bill.

I know that everyone sitting here this afternoon is absolutely spellbound to know why I was the only member of the conference committee that did not sign the conference report, and just because everyone is really wondering why, I am going to tell the Members why.

Basically the program provided for \$400 million in grants that were going to be allocated to the various coastal States for projects that we listed in this committee bill. The money was going to be based on a formula which the committee came up with which basically states that it depends on how much offshore activity is occurring off the coast of a State.

Based on that activity the \$400 million was to be allocated out to the various States.

That was fine, and that was what I understand our conference with the Senate had agreed upon. I guess we learn something new in this

body every day because after I had signed the conference report originally with the understanding that we were going to have a grant program in the bill, which was going to be voted on by this House, I find that, lo and behold, we have an extra conference session which was after we had already signed the original conference report. Of course, I dutifully walked over to the second conference after the first conference and was told by one of the Members of the other body: "Well, we needed one more phrase in the conference report, which really is not going to mess up anything."

But we had assurance that if the little phrase was added, the bill would be signed—at least, they would recommend that it be signed—by the President. Of course, the little phrase that was added in at the eleventh hour, in my opinion, effectively guts the whole grant program that we have worked on for about a year in the House and in the Senate.

The House conferees by a close 4 to 3 vote agreed to accept the language that the Senate said was so necessary, and the Senate said that they had unanimously agreed that this was going to be added after the conference was over, so I thought that the only way that I could register my objection to what had happened was by not signing the conference report.

I do say that the bill is better than anything we have had before. I say that, I guess, because we never have had anything before, so it is better than nothing. But I am deeply disappointed that the conferees decided the way to do it was to have a conference after the conference and add all of this additional language, which we voted through so quickly in about a 15-minute conference over here on the House side. I really think we have done severe damage to the concept of grants and the way it should be handled.

One of the other points I want to make, and I will ask this question of the chairman of the committee and the chairman of the conference, the gentleman from New York (Mr. MURPHY) is that it was my understanding that the concept of the bill that left the House and the Senate was that under the formula, States would be allocated a certain amount of money based on a set formula contained in the bill, and that that money would revert back to the general and that if the States did not use it after the fiscal year was over, then that money would revert back to the general treasury. In reading the CONGRESSIONAL RECORD, as we all did last night, I know everyone noticed the fact that the chairman of the Senate conferees said that it really would not work like that. His language and statement on the conference reported on the Senate side yesterday basically said that the money would not be disbursed to the States until the State had demonstrated to the Secretary that it would be used for the purposes described in the bill. In my opinion that is yet another addition to what our understanding was originally, that being that the money would be allocated and then if not used, would be returned back to the general treasury. I would like to ask the chairman, what is his interpretation?

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. BREAU. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

The gentleman states the case very accurately. As the committee proceeded through its deliberations, and we had wanted to have grant



money not only for environmental impacts but also grant money for planning, we did retain those grants.

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

Mr. MURPHY of New York. Mr. Speaker, I yield 2 additional minutes to the gentleman from Louisiana.

If the gentleman will yield, however, where the very expensive mortar and brick requirement came, we felt that we would have to go to the area of guaranteed loans, and that is what the conference committee finally did agree to reluctantly, of course. I think this conflict is similar to the conflict that we have taken on with our education and health programs, and that is to guarantee loans. But, as far as the States are concerned, after the calculations are made, based on the four OCS criteria, the grants are to be disbursed to the States which are affected by OCS activity, of course. Louisiana being the major State at the present time. These grants are to be used for the purposes set forth in the statute. If the Secretary determines that the grants are not used for these purposes, such grants will revert to the treasury.

Mr. BREAUX. I thank the gentleman for his interpretation which, in my opinion, clearly indicates that the money, as the gentleman from Delaware brought up, is allocated and actually given to the States, and then if not used by the States, and only then, it does revert back to the general treasury.

The last question I need to ask is that the automatic grants can now be used for amelioration of environmental and ecological losses under subsection (c) of section 308.

My interpretation, and I would like to ask the chairman if it is also his interpretation, is that the section is to be given broad interpretation as far as what it can be used for and that we also can take into consideration damages to the environment that have occurred in the past as well as damages that can be occurring in the future. Is that the chairman's interpretation?

Mr. MURPHY of New York. Yes. The answer is basically yes, but if we could broaden it a little bit for the gentleman, the bill is designed to provide assistance with respect to unavoidable environmental losses caused by prior coastal energy activities.

We know there has been environmental damage to the States such as Louisiana, as we know from our hearings, and so on, but the term "unavoidable loss" is defined in the bill as a loss, the costs of prevention, reduction or amelioration of which cannot be directly or indirectly attributed to or assessed against, an identifiable person and cannot be paid for with other Federal funds. This is in accord with the generally accepted principle that the polluter pays. Funds are provided in the bill for cases which cannot be dealt with under existing Federal programs.

Examples of the above might include: Erosion of coastal canals; salt water intrusions into fresh water bodies; loss of wetlands; loss of recreational lands; erosion of shorelines, and sedimentation or "runoff" losses.

Mr. BREAUX. I thank the chairman.

I would just conclude by saying I do intend to vote for the conference report with the assurances of the full committee chairman and myself as subcommittee chairman that our committee is going

to be extremely watchful and diligent in our efforts at seeing that the Coastal Zone Management Act is going to be carried out with the intention of the Congress being of paramount interest and we are going to follow up on it.

MR. DU PONT. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. RUPPE).

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

MR. RUPPE. Mr. Speaker, congressional passage of the Coastal Zone Management Act of 1972, represented the first positive step to preserve and protect our national coastline. The conference report we have before us today is intended to improve and strengthen the provisions of the original act, while permitting that area to be fully and properly utilized. The 1972 act has been well accepted by our coastal States—without exception, every one of those states has opted to participate in the voluntary programs made possible through this act.

When Congress passed the original act, we had not yet experienced an energy crisis. The 1973 oil embargo forced a recognition that an alteration in our national energy policy was mandatory. In an effort to implement a more valid energy policy, we could not but realize there would be an increased demand for the oil and gas resources which are available beneath our offshore areas. Individual coastal states are ill-equipped to cope with inherent impacts as we pursue offshore leasing programs, deepwater ports, and additional energy facilities. We cannot hope to secure a policy of energy self-sufficiency without these offshore deposits, and we surely cannot expect to retain them without smooth cooperation between the Federal Government, and State and local governments.

The coastal energy impact program, which may consist of loans, guarantees, and grants to States and local governments for new or improved facilities, contained in section 308 of the conference report assures that such cooperation will be achieved in a flexible and responsible matter.

The conference report also addresses a problem of serious concern to my State, namely that of shoreline erosion. This erosion problem is not limited to the Great Lakes States, or even the remaining coastal States, but has become national in nature. Close to one-quarter of our Nation's shoreline is eroding, some of it extremely seriously. A large portion of that critical erosion occurs along the Great Lakes coastline. As there is more development per mile of shore along the Great Lakes than exists in remaining coastal areas, the amount of potential and actual damage to life, public safety, property, and wild-life habitats is proportionately greater estimates of annual shoreline erosion damage vary, but \$300 million would be an acceptable figure.

To remedy this problem, the conference report requires coastal States to institute a planning process to assess the effects of shoreline erosion, and to evaluate methods of control, and restoration of areas stricken by such erosion, whether the damage is natural, or induced by man. Knowing full well the grave implications if this erosion is permitted to continue unchecked, and having heard much additional testimony on the subject, I was pleased to introduce this provision into the House-passed bill, H.R. 3981, and am greatly satisfied that the necessity for such a measure was recognized by the conferees.

However, there is a provision in the legislation that I do not support. I am speaking about that provision which calls for the development of a State planning process for the protection of and access to public beaches and other public areas of identified value. Also, I must reiterate my opposition to the provisions that provide for grants to assist States in acquiring access to public beaches and other public coastal areas. I am of the opinion that the Federal Government should not as a matter of policy impose what would be tantamount to a Federal mandate to acquire public accessways cross private lands.

Except for the reservation expressed above, I support the conference report, commend my colleagues for their work, and urge adoption by the House.

MR. DU PONT. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. Treen).

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

MR. TREEN. Mr. Speaker, I understand many would like me to accomplish this in less than 5 minutes and I will endeavor to do so.

First of all, I do want to compliment the chairman of the committee and the ranking member for the diligence and patience that they have exhibited throughout this long effort on a piece of legislation which is landmark legislation.

I particularly want to thank the gentleman from Delaware (Mr. du Pont), and Wayne Smith of our staff for his almost daily assistance to me and others on this bill.

Mr. Speaker, I share the disappointment of my colleague, the gentleman from Louisiana (Mr. Breaux) at the last minute change in the bill by the conference. I was opposed to that and voted against it; however, I did sign the conference report and I do support the bill, because I do think that on balance it is a major step forward in solving problems in an area that has been crying out for assistance for a long time.

I would like, Mr. Speaker, to ask the chairman of the subcommittee, the gentleman from New York, Mr. MURPHY, if he would respond to one inquiry that I have with respect to the language we inserted in the final decision of our conference. We decided to condition use of 308(b) funds for public services and public facilities on the unavailability of funds under any other subsection of this act. Could we describe it as our intention that the Secretary make grant funds available for provision of public facilities and public services for those States which cannot demonstrate, to the satisfaction of the Secretary, that expanded energy activity will create additional revenue at present rates of taxation to make repayment of section 308(d) loans possible from the increased revenues generated by taxes now imposed?

MR. MURPHY of New York. Mr. Speaker, if the gentleman will yield, grant funds which have been received can be expended by the States for public facilities and services when the Secretary determines that ordinary tax revenues generated by the new or expanded OCS energy activity would not permit full amortization of loans or guaranteed loans.

MR. TREEN. Mr. Speaker, I thank the gentleman from New York for responding.

Mr. DU PONT. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

(Mr. Young of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of this conference report and I compliment the two gentlemen that worked very hard on it. It is the first time that Congress has recognized the importance of the coastal States in providing energy for this Nation.

There is some reservation on my part about the amounts of the grants and the rates with reference to the private sector. It is in the bill, but regardless of that, I support the strong work of the House conferees on this bill.

Mr. MURPHY of New York. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HUGHES).

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

Mr. HUGHES. Mr. Speaker, I rise in strong support of the conference report on S. 586, the Coastal Zone Management Act Amendments of 1976. I would like to commend the chairman, my colleague from New York, for his work, both in the House and also in the conference.

I am somewhat disappointed that the grant funds were not more than came out of the conference; but I look upon the overall conference report as a step in the right direction.

As my colleagues know, the administration's accelerated leasing program will soon bring OCS energy operations to many areas of the Nation which have never before had to cope with the problems of offshore oil and gas development. An offshore lease sale has been scheduled for August off the coast of my congressional district, in southern New Jersey, which includes approximately 90 miles of Atlantic coastline.

In my home area of south Jersey, we have a well developed tourist economy, based primarily upon our ocean and coastal resources. Many millions of visitors come to south Jersey each year to enjoy our sandy beaches, clean waters, and beautiful surroundings.

Needless to say, our recreational and environmental resources are very valuable to us. Tourism in New Jersey is a multibillion-dollar industry, much of which is generated in the southern part of the State. Many thousands of our residents depend upon the tourist trade for their employment and livelihood.

The programs included in S. 586 will help preserve and protect our coastal areas from the pressures brought on by new industrial development and the influx of new population if oil and gas are discovered off our shores. It will help assure the proper planning so that we can avoid haphazard and destructive development. It will also help coastal communities cope with the increased financial pressures which will accompany oil and gas operations.

The program contemplated by S. 586 would authorize a total of \$400 million between fiscal 1977 and 1984 for grants to coastal States. These funds would be allocated automatically to States on the basis of OCS acreage leased, the volume of oil and gas produced or landed, and the number of new energy related employees entering the State.

These automatic grant payments could be used by the States to retire bonds issued in connection with energy facilities related to offshore

operations, the planning and development of public facilities, and the prevention or amelioration of unavoidable losses brought about by offshore energy activities.

A second part of the program would authorize \$800 million for loans and Federal bond guarantees to coastal States or local governments to assist in providing new or improved public facilities and services related to coastal energy activities. If the net increases in employment and population in a State are not sufficient to generate necessary tax revenues to cover the costs of such projects, the loans or guarantees could be converted into grants.

The conferees on S. 586 have done a good job considering the circumstances. They have been under considerable pressure from the administration to abandon the grant provisions of this important legislation entirely. The legislation recommended by the conferees represents a compromise in that it contains \$400 million for grants as contained in the original House-passed version of this legislation, but the \$800 million for discretionary grants has now been converted into a program of loans and guarantees.

It is my earnest hope that, in implementing this new program, the Secretary will proceed expeditiously to develop the necessary guidelines and allocate funds so that our coastal States can be in a position to take advantage of the program.

It is very disturbing to me that the press has reported recently that the President is considering vetoing this legislation. All things considered, this administration in its leasing policies has followed a course of complete disregard for the needs of our coastal areas. Their needs are rarely considered and their voices are rarely heard at the Department of the Interior where important OCS decisions are made.

Under the doctrine of Maine against United States, it is now clear that the Federal Government owns our Nation's lands beyond the 3-mile limit. Accordingly, it has been the Federal treasury which has been the prime beneficiary of revenues received from offshore leasing bids and royalties.

But it is the coastal areas, such as New Jersey, Delaware, Maryland, New England, Alaska and the West and Gulf Coast States which are going to be bearing the burdens of OCS development. These are the States and communities which will have to cope with new industrial development and withstand the pressures which might lead to the despoilation of our valuable coastal lands and resources. It is the coastal states which will have to expend public funds for new facilities to meet the needs of new industry and population.

It seems only fair and equitable under the circumstances that the coastal areas should share, in some measure, the revenues which will be derived as a result of offshore leasing and development.

The coastal zone management amendments represents a way to channel a very small portion of those Federal funds to the coastal states so that they can protect their coastal areas from harmful development. I might point out that the total funds provided, approximately \$1.2 billion over a period of 8 years, are only a small fraction of the funds which will be received in this year alone from OCS bonus bids. The budget indicates that approximately \$6 billion is expected in offshore revenues in fiscal 1977 alone.

I urge my colleagues to give their strong support to this important legislation.

Mr. BAUMAN. Mr. Speaker, the coming weekend of national celebration promises to signify a great reaffirmation of the liberty and security of one group of Americans in particular. I am speaking of the many citizens working in our country's shellfish industry, citizens who hope as I do that the House will quickly give final passage to the conference report to accompany S. 586, the Coastal Zone Management Act amendments.

Section 16 of this bill includes the substance on my original bill, H.R. 7153, now called the Bauman amendment, Adopted by the full Merchant Marine Committee and voted upon affirmatively by the full House, the amendment requires that a full evaluation and report be submitted to Congress not later than April 30, 1977, evaluating the impact of Federal water quality laws and proposed regulations upon the shellfish industry. Proposed Federal regulations which were to be promulgated by the FDA would have driven the many shellfish processors and watermen into bankruptcy. It has been estimated by the President's Council on Wage and Price Stability that had these FDA regulations gone into effect, they would have cost the shellfish industry almost one fourth of their annual product value. This not only portended increased prices for consumers of oysters and clams, but it would have meant that the many families dependent on the shellfish industry as a way of life and a means of support would henceforth be included in our national unemployment figures.

Section 16 of the bill before us however, places a de facto moratorium on such severe Federal regulatory procedure. It specifically prevents the Secretary of HEW and his agents, from promulgating any Federal regulations with respect to the national shellfish safety program and related areas prior to June 30, 1977. At such time as any future regulaions would be promulgated, a 60-day public notice would be given, and HEW would be required to publish these regulations including an estimate of the probable cost of such regulations relative to any benefits to be anticipated for the general public.

I want to particularly commend my colleagues responsible for my amendment's inclusion in this bill, especially the House conferees for supporting a provision which makes liberty and security concrete realities for the shellfish producers and their families who are directly benefited by the moratorium provision. Naturally, I am enthusiastic in support of the final passage of this important measure. There are many important parts of this bill but for the people of Maryland dependent upon shellfish for their livelihood, section 16 is most important.

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 14, not voting 27, as follows:

[Rollcall Vote No. 494]

YEAS—391

Abdnor	Burton, John	Eshleman
Abzug	Burton, Phillip	Evans, Colo.
Adams	Butler	Fary
Addabbo	Byron	Fascell
Alexander	Carney	Fenwick
Allen	Carr	Findley
Anderson, Calif.	Carter	Fish
Anderson, Ill.	Cederberg	Fisher
Andrews, N.C.	Chappell	Fithian
Andrews, N. Dak.	Chisholm	Flood
Annunzio	Clancy	Florio
Archer	Clausen, Don H.	Flowers
Armstrong	Clawson, Del	Flynt
Ashbrook	Clay	Foley
Ashley	Cleveland	Ford, Mich.
Aspin	Cochran	Ford, Tenn.
AuCoin	Cohen	Forsythe
Badillo	Collins, Ill.	Fountain
Bafalis	Conable	Fraser
Baldus	Conlan	Frenzel
Baucus	Conte	Frey
Bauman	Corman	Fuqua
Beard, R.I.	Cornell	Gaydos
Beard, Tenn.	Cotter	Gaiamo
Bedell	Coughlin	Gibbons
Bell	D'Amours	Gilman
Bennett	Daniel, Dan	Ginn
Bergland	Daniel, R. W.	Gindwater
Bevill	Daniels, N.J.	Gonzalez
Biaggi	Danielson	Goodling
Biester	Davis	Gradison
Bingham	de la Garza	Grassley
Blanchard	Delaney	Gude
Blouin	Dellums	Guyer
Boggs	Derrick	Hagedorn
Boland	Derwinski	Haley
Bolling	Devine	Hall, Ill.
Bonker	Diggs	Hall, Tex.
Bowen	Dingell	Hamilton
Brademas	Dodd	Hammerschmidt
Breaux	Downey, N.Y.	Hanley
Breckinridge	Downing, Va	Hannaford
Brinkley	Drinan	Harkin
Brodhead	Duncan, Ore.	Harrington
Broomfield	Duncan, Tenn.	Harsha
Brown, Calif.	du Pont	Hawkins,
Brown, Mich.	Early	Hayes, Ind.
Brown, Ohio	Eckhardt	Hechler, W. Va.
Broyhill	Edgar	Heckler, Mass.
Buchanan	Edwards, Ala.	Hefner
Burgener	Edwards, Calif.	Hicks
Burke, Calif.	Eilberg	Hightower
Burke, Fla.	Emery	Hillis
Burke, Mass.	English	Holland
Burleson, Tex.	Erlenborn	Holt

Holtzman	Metcalfe	Robinson
Horton	Meyner	Rodino
Howard	Mezvinsky	Roe
Howe	Michel	Rogers
Hubbard	Mikva	Roncallo
Hughes	Milford	Rooney
Hungate	Miller, Calif.	Rose
Hutchinson	Miller, Ohio	Rosenthal
Hyde	Mills	Rostenkowski
Ichord	Minish	Roush
Jacobs	Mink	Roybal
Jarman	Mitchell, Md.	Runnels
Jeffords	Mitchell, N.Y.	Ruppe
Jenrette	Moakley	Russo
Johnson, Calif.	Moffett	Ryan
Johnson, Colo.	Mollohan	St Germain
Johnson, Pa.	Montgomery	Santini
Jones, N.C.	Moore	Sarasin
Jones, Okla.	Moorhead, Calif.	Sarbanes
Jones, Tenn.	Moorhead, Pa.	Satterfield
Jordan	Morgan	Scheuer
Kasten	Mosher	Schneebeli
Kastenmeier	Moss	Schroeder
Kazen	Mottl	Schulze
Kelly	Murphy, Ill.	Sebelius
Kemp	Murphy, N.Y.	Seiberling
Keys	Murtha	Sharp
Kindness	Myers, Ind.	Shiple
Koch	Natcher	Shriver
Krebs	Neal	Shuster
Krueger	Nedzi	Sikes
LaFalce	Nichols	Simon
Lagomarsino	Nix	Sisk
Landrum	Nolan	Skubitz
Latta	Nowak	Slack
Leggett	Oberstar	Smith, Iowa
Lehman	Obey	Smith, Nebr.
Lent	O'Brien	Snyder
Levitas	O'Hara	Solarz
Lloyd, Calif.	O'Neill	Spellman
Lloyd, Tenn.	Ottinger	Spence
Long, La.	Patten, N.J.	Staggers
Long, Md.	Patterson, Calif.	Stanton, J. William
Lott	Pattison, N.Y.	Stanton, James V.
Lujan	Pepper	Stark
Lundine	Perkins	Steed
McClory	Pettis	Steelman
McCloskey	Pickle	Steiger, Wis.
McCullister	Pike	Stokes
McCormack	Poage	Stratton
McEwen	Pressler	Studds
McFall	Preyer	Talcott
McHugh	Price	Taylor, Mo.
McKay	Pritchard	Taylor, N.C.
McKinney	Quie	Thompson
Madden	Quillen	Thone
Madigan	Railsback	Thornton
Maguire	Randall	Traxler
Mahon	Rangel	Treen
Mann	Rees	Tsongas
Martin	Regula	Udall
Mathis	Reuss	Ullman
Matsunaga	Rhodes	Van Deerlin
Mazzoli	Richmond	Vander Jagt
Meeds	Rinaldo	Vander Veen
Melcher	Risenhoover	Vanik



Vigorito  
Waggoner  
Walsh  
Wampler  
Waxman  
Weaver  
Whalen  
White  
Whitehurst  
Whitten

Wiggins  
Wilson, Bob  
Wilson, C. H.  
Wilson, Tex.  
Winn  
Wirth  
Wolf  
Wright  
Wydler  
Wylie

Yates  
Yatron  
Young, Alaska  
Young, Fla.  
Young, Ga.  
Young, Tex.  
Zablocki  
Zeferetti

## NAYS—14

Ambro  
Burlison, Mo.  
Collins, Tex.  
Crane  
Evans, Ind.

Hansen  
Ketchum  
McDonald  
Myers, Pa.  
Paul

Roberts  
Rousselot  
Steiger, Ariz.  
Symms

## NOT VOTING—27

Brooks  
Conyers  
Dent  
Dickinson  
Esch  
Evins, Tenn.  
Green  
Harris  
Hays, Ohio

Hébert  
Heinz  
Helstoski  
Henderson  
Hinshaw  
Jones, Ala.  
Karth  
Litton  
McDade

Mineta  
Passman  
Peysner  
Riegle  
Stephens  
Stuckey  
Sullivan  
Symington  
Teague

The Clerk announced the following pairs :

Mr. Brooks with Mr. Hays of Ohio.  
Mr. Dent with Mr. Karth.  
Mr. Helstoski with Mr. Peysner.  
Mr. Conyers with Mr. Green.  
Mr. Mineta with Mr. Esch.  
Mr. Riegle with Mr. Heinz.  
Mr. Henderson with Mr. McDade.  
Mr. Evins of Tennessee with Mr. Dickinson.  
Mr. Stuckey with Mr. Teague.  
Mr. Symington with Mrs. Sullivan.  
Mr. Harris with Mr. Stephens.  
Mr. Passman with Mr. Litton.  
Mr. Hébert with Mr. Jones of Alabama.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.



## XII. PRESIDENT'S REMARKS AND STATEMENT ON SIGNING THE COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976, JULY 26, 1976

### COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976

THE PRESIDENT'S REMARKS UPON SIGNING S. 586 INTO LAW. JULY 26, 1976

*Secretary Richardson, distinguished Members of the House and the Senate, Frank Zarb, and guests:* It's a great privilege and pleasure to have you all here this morning. And I especially wish to thank the Members of the Congress for working on this legislation and cooperating with the administration in putting together what I think is very excellent legislation.

I am here this morning with all of you to sign into law the Coastal Zone Management Act Amendments of 1976. These amendments include many of the principal elements of the proposal that I sent to the Congress in February, which were designed to assist communities significantly affected by the development of federally owned energy resources.

These amendments will provide a basis for long-term planning by the coastal States, so that they can better balance the needs for energy development, urban growth, of resource conservation, and recreational use. These amendments also include a good balance between Federal, State, and local interests in the very sensitive areas of coastal land and water uses and energy development.

By creating a coastal energy impact program with funds of \$1.2 billion over the next 10 years, we recognize a national responsibility to help coastal States and communities that are affected as we speed up exploration and production of oil and gas from the Outer Continental Shelf.

At the same time, these amendments rightly limit the extent to which the Federal Government will become involved in decisions that should be made at State and local levels. I see this bill as a very encouraging sign for the future, first, because it represents the kinds of progress that can be made when the Congress and the administration work together—and I repeat what I said at the outset, I am very grateful for the cooperation of both the House and the Senate—and second, because it shows that two issues high on our national agenda—the need for energy and the need for environmental protection—can indeed be reconciled.

So, it's with pleasure that I have the opportunity of signing this bill this morning and thank all of you for coming on this fine day for a rather historic occasion.

Thank you all very, very much.

NOTE.—The President spoke at 11:15 a.m. at the signing ceremony in the East Garden at the White House.

As enacted, the bill (S. 586) is Public Law 94-370, approved July 26, 1976.

## COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976

STATEMENT BY THE PRESIDENT ON SIGNING S. 586 INTO LAW. JULY 26, 1976

I am pleased to sign into law today S. 586, the Coastal Zone Management Act Amendments of 1976. This legislation fills a critical need in the development of our domestic energy resources and the improved management of the Nation's valuable coastal zones.

The bill recognizes a national responsibility to assist coastal States and communities that will be affected by the accelerated exploration and production of oil and gas from the Federal Outer Continental Shelf. It incorporates for coastal States the principal elements of the Energy Development Impact Assistance Program, which I recommended to Congress in February of this year.

Specially, the bill creates a Coastal Energy Impact Program with an authorization level of \$1.2 billion over the next 10 years. The principal form of the assistance will be loans and loan guarantees to assist communities in developing the additional public facilities needed to cope with the expanding population associated with new OCS and coastal-dependent energy activities. In addition, Federal grants are authorized to assist States and communities in planning for these impacts, in ameliorating unavoidable environmental losses, and in providing public facilities and public services for limited time periods to the extent adequate credit under the bill is available.

The legislation has been carefully designed to insure that Federal assistance is limited to those situations where the assistance is needed, and only for those specified projects or activities directly related to increased coastal energy activity. Clearly, the national taxpayer should not be asked to underwrite costs normally covered by ordinary State and local taxes; similarly, the energy industry should bear its normal tax load and the usual costs of doing business.

Under the bill, loans and loan guarantees will be provided for public facilities needed because of new or expanded coastal energy activity in recognition that such facilities would normally be financed through State and local bonding. Grants for public facilities can only be used if the Secretary of Commerce finds that the loans and loan guarantees are not available. Grants may also be used for planning and for the prevention, reduction, or amelioration of unavoidable environmental losses, if the Secretary determines that the loss is not attributable to, or assessable against, any specific person and cannot be paid for through other Federal programs.

The bill also appropriately limits the extent to which the Federal Government will become involved in decisions that should be made at State and local levels. The individual States and localities will determine whether their principal need is for schools, roads, hospitals, new parks, or other similar facilities. The Secretary of Commerce will have responsibilities which are limited to those areas where Federal involvement is necessary.

Prior to the disbursement of funds, the Secretary of Commerce must make certain that States which are entitled to receive loans or grants will expend or commit the proceeds in accordance with authorized purposes, and that Federal loan grants will not subsidize public services for an unreasonable length of time. The Secretary

must also determine, prior to the disbursement of funds, that particular environmental losses cannot be attributed to identifiable persons, and that grants for public facilities are used only to the extent that loans or loan guarantee assistance is not available.

The Secretary of Commerce will act expeditiously to implement the energy development impact provisions so that we can accelerate OCS energy development to meet our Nation's energy needs in an environmentally responsible manner and to work closely with the 30 coastal States which are now participating in the Coastal Zone Management Program.

It is appropriate that this new program, established by this major innovative piece of legislation, is being signed in the first year of our Nation's third century. The issues of energy and our environment—to which this bill is directed—will surely be high on our Nation's list of priority concerns throughout the decades ahead.

NOTE.—As enacted, the bill (S. 586) is Public Law 94-370, approved July 26, 1976.



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