

AMENDING THE LAND AND WATER CONSERVATION FUND ACT OF 1965, AS AMENDED, TO ESTABLISH THE NATIONAL HISTORIC PRESERVATION FUND, AND FOR OTHER PURPOSES

SEPTEMBER 2, 1976.—Ordered to be printed

Mr. TAYLOR of North Carolina, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 327]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

In lieu of the matter proposed to be inserted by the House amendment, to strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—LAND AND WATER CONSERVATION FUND

SEC. 101. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987), as amended (16 U.S.C. 4601-4 et seq.), is further amended as follows:

(1) Amend section 2 to read as follows:

"SEC. 2. SEPARATE FUND.—During the period ending June 30, 1989, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the "fund", the following revenues and collections:

"(a) SURPLUS PROPERTY SALES.—All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 485 (b) (e), title 40, United States Code, or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal

property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this Act shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

“(b) MOTORBOAT FUELS TAX.—The amounts provided for in section 201 of this Act.

“(c) (1) OTHER REVENUES.—In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than \$300,000,000 for fiscal year 1977, \$600,000,000 for fiscal year 1978, \$750,000,000 for fiscal year 1979, and \$900,000,000 for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989.

“(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund equivalent to the amounts provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S. 1331 et seq.): Provided, That notwithstanding the provisions of section 3 of this Act, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this Act.”

(2) Amend section 5 to read as follows:

“ALLOCATION OF LAND AND WATER CONSERVATION FUND FOR STATE AND FEDERAL PURPOSES

“SEC. 5. ALLOCATION.—There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less than 40 per centum of such appropriations shall be available for Federal purposes.”

(3) Amend section 6 to read as follows:

“FINANCIAL ASSISTANCE TO STATES

“SEC. 6. (a) GENERAL AUTHORITY; PURPOSES.—The Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

“(b) APPORTIONMENT AMONG STATES; NOTIFICATION.—Sums appropriated and available for State purposes for each fiscal year shall be

apportioned among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

"(1) Forty per centum of the first \$225,000,000; thirty per centum of the next \$275,000,000; and twenty per centum of all additional appropriations shall be apportioned equally among the several States; and

"(2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

"(3) The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 10 per centum of the total amount allocated to the several States in any one year.

"(4) The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection, without regard to the 10 per centum limitation to an individual State specified in this subsection.

"(5) For the purposes of paragraph (1) of this subsection, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (when such islands achieve Commonwealth status) shall be treated collectively as one State, and shall receive shares of such apportionment in proportion to their populations. The above listed areas shall be treated as States for all other purposes of this title.

"(c) **MATCHING REQUIREMENTS.**—Payments to any State shall cover not more than 50 per centum of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. No payment may be made to any State for or on account of any cost or obligation incurred or any service rendered prior to the date of approval of this Act.

"(d) **COMPREHENSIVE STATE PLAN REQUIRED; PLANNING PROJECTS.**—A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the

purposes of this Act: Provided, That no plan shall be approved unless the Governor of the respective State certifies that ample opportunity for public participation in plan development and revision has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, which criteria shall constitute the basis for the certification by the Governor. The plan shall contain—

“(1) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

“(2) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;

“(3) a program for the implementation of the plan; and

“(4) other necessary information, as may be determined by the Secretary.

The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Housing and Home Finance Agency, any statewide outdoor recreation plan prepared for purposes of this Act shall be based upon the same population, growth, and other pertinent factors as are used in formulating the Housing and Home Finance Agency financed plans.

“The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when such plan is not otherwise available or for the maintenance of such plan.

“(e) **PROJECTS FOR LAND AND WATER ACQUISITION; DEVELOPMENT.**—In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

(1) **ACQUISITION OF LAND AND WATERS.**—For the acquisition of land, waters, or interests in land or waters (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition.

Whenever a State provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101(6) of that Act.

“(2) **DEVELOPMENT.**—For development of basic outdoor recreation facilities to serve the general public, including the development of Federal lands under lease to State's for terms of twenty-five years or more: Provided, That no assistance shall be available under this Act to enclose or shelter facilities normally used for outdoor recreation activities, but the Secretary may per-

mit local funding, and after the date of enactment of this Proviso not to exceed 10 per centum of the total amount allocated to a State in any one year to be used for sheltered facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use thereby made possible justifies the construction of such facilities.

“(f) REQUIREMENTS FOR PROJECT APPROVAL; CONDITION.—(1) Payments may be made to States by the Secretary only for those planning, acquisition, or development projects, that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under this Act. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: Provided, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired to be developed for public outdoor recreation use.

“(2) Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

“(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

“(4) No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this Act, and (2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State under this Act.

“(5) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount 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.

"(6) 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 that are pertinent to assistance received under this Act.

"(7) Each State shall evaluate its grant programs annually under guidelines set forth by the Secretary and shall transmit such evaluation to the Secretary, together with a list of all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project. Such evaluation and the publication of same shall be eligible for funding on a 50-50 matching basis. The results of the evaluation shall be annually reported on a fiscal year basis to the Bureau of Outdoor Recreation, which agency shall forward a summary of such reports to the Committees on Interior and Insular Affairs of the United States Congress. Such report to the committees shall also include an analysis of the accomplishments of the fund for the period reported, and may also include recommendations as to future improvements for the operation of the Land and Water Conservation Fund program.

"(8) With respect to property acquired or developed with assistance from the fund, discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

"(g) COORDINATION WITH FEDERAL AGENCIES.—In order to assure consistency in policies and actions under this Act, with other related Federal programs and activities (including those conducted pursuant to title VII of the Housing Act of 1961 and section 701 of the Housing Act of 1954) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations."

(4) Amend section 7 to read as follows:

"SEC. 7. (a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

"(1) For the acquisition of land, waters, or interests in land or waters as follows:

"NATIONAL PARK SYSTEM; RECREATION AREAS.—Within the exterior boundaries of areas of the National Park System now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

"NATIONAL FOREST SYSTEM.—Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act, or purchase units approved by the National Forest Reservation Commission subsequent to the date of this Act,

all of which other areas are primarily of value for outdoor recreation purposes: Provided, That lands outside of but adjacent to an existing national forest boundary, not to exceed three thousand acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: Provided further, That except for areas specifically authorized by Act of Congress, not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

"NATIONAL WILDLIFE REFUGE SYSTEM.—Acquisition for (a) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k-1); (c) national wildlife refuge areas under section 7(a) (5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715-715s); (d) any areas authorized for the National Wildlife Refuge System by specific Acts.

"(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation, and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

"(b) ACQUISITION RESTRICTION.—Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law."

(5) Amend section 8 to read as follows:

"SEC. 8. Moneys derived from the sources listed in section 2 of this Act shall not be available for publicity purposes: Provided, however, That in each case where significant acquisition or development is initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the action taken is a product of funding made available through the Land and Water Conservation Fund. Such signing may indicate the per centum and dollar amounts financed by Federal and non-Federal funds, and that the source of the funding includes moneys derived from Outer Continental Shelf receipts. The Secretary shall prescribe standards and guidelines for the usage of such signing to assure consistency of design and application."

(6) Add the following new section:

"SEC. 12. Within one year of the date of enactment of this section, the Secretary is authorized and directed to submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives a comprehensive review and report on the needs, problems, and opportunities associated with urban recreation in highly populated regions, including the resources potentially available for meeting such needs. The report shall include site specific analyses and alternatives, in a selection of geographic environments representative of the Nation as a whole, including, but not limited to, information on needs, local capabilities for action, major site opportunities, trends, and a full

range of options and alternatives as to possible solutions and courses of action designed to preserve remaining open space, ameliorate recreational deficiency, and enhance recreational opportunity for urban populations, together with an analysis of the capability of the Federal Government to provide urban-oriented environmental education programs (including, but not limited to, cultural programs in the arts and crafts) within such options. The Secretary shall consult with, and request the views of, the affected cities, counties, and States on the alternatives and courses of action identified.”

TITLE II—NATIONAL HISTORIC PRESERVATION FUND

SEC. 201. The Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is amended as follows:

(1) Amend section 102 to read as follows:

“SEC. 102. (a) No grant may be made under this Act—

“(1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;

“(2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897);

“(3) for more than 50 per centum of the total cost involved, as determined by the Secretary and his determination shall be final;

“(4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;

“(5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

“(6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

“(b) The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this Act to the National Trust for Historic Preservation in the United States, in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary.

“(c) The Secretary may in his discretion waive the requirements of paragraph (3) of subsection (a) of this section for the purposes of making grants for the preparation of statewide historic preservation plans and surveys and project plans. Any grant made pursuant to this subsection may not exceed 70 per centum of the cost of a project, and the total of such grants made pursuant to this subsection in any one fiscal year may not exceed one-half of the funds appropriated for that fiscal year pursuant to section 108 of this Act.

"(d) No State shall be permitted to utilize the value of real property obtained before the date of approval of this Act in meeting the remaining cost of a project for which a grant is made under this Act."

(2) Amend section 103(a) by deleting "Provided, however, That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for that State, as determined by the Secretary,".

(3) Amend section 106 by inserting after the words "included in" the phrase "or eligible for inclusion in".

(4) Amend section 108 to read as follows:

"SEC. 108. To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the 'fund') in the Treasury of the United States.

"There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 338), and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: Provided, That appropriations made pursuant to this paragraph may be made without fiscal year limitation."

(5) Amend section 201 to read as follows:

"SEC. 201. (a) There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as the 'Council') which shall be composed of twenty-nine members as follows:

"(1) The Secretary of the Interior;

"(2) The Secretary of Housing and Urban Development;

"(3) The Secretary of Commerce;

"(4) The Administrator of the General Services Administration;

"(5) The Secretary of the Treasury;

"(6) The Attorney General;

"(7) The Secretary of Agriculture;

"(8) The Secretary of Transportation;

"(9) The Secretary of State;

"(10) The Secretary of Defense;

"(11) The Secretary of Health, Education, and Welfare;

"(12) The Chairman of the Council on Environmental Quality;

"(13) The Chairman of the Federal Council on the Arts and Humanities;

"(14) The Architect of the Capitol;

"(15) The Secretary of the Smithsonian Institution;

"(16) The Chairman of the National Trust for Historic Preservation;

"(17) The President of the National Conference; and

"(18) Twelve appointed by the President from outside the Federal Government. In making these appointments, the President shall give due consideration to the selection of officers of State and local governments and individuals who are significantly interested and experienced in the matters to be considered by the Council.

"(b) Each member of the Council specified in paragraphs (1) through (17) of subsection (a) may designate another officer of his department, agency, or organization to serve on the Council in his stead.

"(c) Each member of the Council appointed under paragraph (18) of subsection (a) shall serve for a term of five years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of from one to five years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not less than one nor more than two of them will expire in any one year.

"(d) A vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term).

"(e) The Chairman and the Vice Chairman of the Council shall be designated by the President. During the absence or disability of the Chairman or when the office is vacant, the Vice Chairman shall act in the place of the Chairman.

"(f) Fifteen members of the Council shall constitute a quorum."

(6) Amend section 204 by deleting the term "(10)" in the first sentence and inserting in lieu thereof the term "(17)", and by striking the term "(11)" in the second sentence and inserting in lieu thereof the term "(18)".

(7) Amend section 205 to read as follows:

"Sec. 205. (a) There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

"(b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

"(c) The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5, United States

Code: Provided, however, That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of title 5, United States Code.

"(d) The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949.

"(e) The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5, United States Code.

"(f) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: Provided, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative controls of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Council: And provided further, That the Council shall not be required to prescribe such regulations.

"(g) The members of the Council specified in paragraphs (1) through (16) of section 201(a) shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties."

(8) Amend section 206(c) to read as follows:

"(c) For the purposes of this section there are authorized to be appropriated not more than \$175,000 per year for fiscal years 1977, 1978, and 1979: Provided, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization."

(9) Add the following new sections:

"SEC. 207. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used programed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act.

"SEC. 208. Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all the rights, benefits, and privileges pertaining thereto held prior to such transfer.

"SEC. 209. The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of the Administrative Procedure Act (80 Stat. 381) shall govern the operations of the Council.

"SEC. 210. Whenever the Council transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs. No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

"SEC. 211. The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act.

"SEC. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. To carry out the provisions of this title, there are authorized to be appropriated not more than \$1,500,000 in fiscal year 1977, \$1,750,000 in fiscal year 1978, and \$2,000,000 in fiscal year 1979.

"(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs."

SEC. 202. Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(135) Executive Director, Advisory Council on Historic Preservation."

TITLE III—STATES OIL SHALE FUNDS

SEC. 301. Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by striking the period at the end of the proviso and inserting in lieu thereof the language as follows: ": And provided further, That all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by such State and its subdivisions for planning, construction, and maintenance of public facilities, and provision of public

services, as the legislature of the State may direct, giving priority to those subdivisions of the State socially or economically impacted by the development of the resource."

And the House agree to the same.

ROY A. TAYLOR,
HAROLD T. JOHNSON,
ABRAHAM KAZEN, JR.,
JONATHAN B. BINGHAM,
JOHN F. SEIBERLING,
BOB ECKHARDT,
ALLAN T. HOWE,
KEITH G. SEBELIUS,
VIRGINIA SMITH,

Managers on the Part of the House.

HENRY M. JACKSON,
J. BENNETT JOHNSTON,
LEE METCALF,
FLOYD K. HASKELL,
DALE BUMPERS,
MARK O. HATFIELD,
DEWEY F. BARTLETT,

Managers on the Part of the Senate.



JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

INTRODUCTION

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. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, and to amend the Act of October 15, 1966, to establish a program for the preservation of additional properties throughout the Nation, as amended, and for other purposes submit this joint statement in explanation of the effect of the language agreed upon by the Managers and recommended in the accompanying Conference Report.

The language agreed upon by the Managers is the language of the Senate bill with modifications incorporating various provisions of the House amendment. There were numerous points of difference between the Senate version and the House amendment which were the subject of discussion and action by the Committee of Conference. The major points at issue, and the disposition of them are discussed below.

Title I and Title II, as approved by both the House and Senate, included numerous complex technical changes in the Land and Water Conservation Fund Act and in the National Historic Preservation Act. To simplify and clarify these changes, the amendment recommended has been drafted to incorporate the changes in context. While this requires some repetition of existing law in which no substantive change has been made, it facilitates complete understanding of the recommendation and minimizes the possibility of error in the consideration of this legislation and in the future, should further amendments be proposed.

LAND AND WATER CONSERVATION FUND PROVISIONS

LEVEL OF THE FUND

Both the House and Senate versions of the legislation provided for a substantial expansion of the Land and Water Conservation Fund. The Senate approved a \$1 billion per year authorization for the life of the program (through 1989). In the House, the funding level was to increase in stages to \$800 million by fiscal year 1980. The Conference Committee recommends that the House staging provision be adopted, but that the levels be increased to \$600 million in fiscal year 1978, \$750 million in fiscal year 1979, and ultimately to \$900 million in fiscal year 1980 and annually thereafter through 1989.

ALLOCATION FORMULA

This provision provides that in any appropriation, not less than 40 percent shall be for Federal purposes. The conferees are concerned over the continuing backlog of unappropriated funds despite the critical needs for land acquisition in the National Park System and elsewhere. The current backlog is, in large measure, the result of past years when the Federal portion was reduced drastically. The conferees are aware that both Senate and House Interior Committees have been required to significantly increase the authorization ceilings at many units of the National Park System because the needed funds have not been forthcoming and inflation and land price escalation have driven the cost of these areas up.

While the Conference Committee did not approve the mandatory 60-40 division in the House version of this legislation, because of its inflexibility, it did recognize that the States may sometimes be unable to provide the amounts necessary to match their share of the appropriations from the fund. Generally, appropriations should continue to reflect the 60-40 allocation established by the Act, to allow the States to have an opportunity to match their full share of the fund, but the conferees believe that if the situation arises when the States are unable to match their portion of a full appropriation, then the unmatched moneys should be distributed to the Federal agencies. The conferees strongly believe that the present unappropriated moneys in the fund should be immediately released and that no backlog should be permitted to occur again. The ability of the Congress to control the activities of the Federal agencies should insure that any portion of the normal 60 percent available to the States which could not be matched is in fact spent by the Federal agencies to preserve and protect those areas which the Congress and the President have agreed should be preserved for future generations.

APPORTIONMENT OF FUNDS AMONG THE STATES

Another major point of difference involved the House-approved provision which would have modified the present formula for distribution of Land and Water Conservation Fund moneys among the States to benefit the more populous States. The Senate version was silent on this issue and would have retained the present formula which works to the benefit of the less populous States. In reaching the recommended solution, the Committee of Conference agreed to a three-stage formula which retains the 40 percent equal distribution for the first \$225 million (the same as existing law), but once the level of the fund begins to grow, the portion of the incremental sums to be divided equally will decrease. Of the first \$225 million, 40 percent (\$90 million) will be equally divided among the State. When the States share of the fund exceeds that amount, then 30 percent (\$82.5 million) of the next \$275,000,000 is to be equally divided. Finally, when the States share exceeds \$500 million, then only 20 percent of that incremental amount will be divided equally. In addition, both versions of the bill increased the maximum share of the fund which any single State may receive from 7 percent to 10 percent and the conferees agreed that the District of Columbia, Puerto

Rico, the Virgin Islands, American Samoa, and the Northern Marianas (when the latter achieves Commonwealth status) should be entitled to receive, on the basis of their relative populations, an amount equal to the share of one State in terms of the portion of the fund apportioned equally among the States.

SHELTERED FACILITIES

The Senate version of S. 327 proposed permitting States to use up to 25 percent of their allocation to shelter ice skating rinks and swimming pools in areas where the severity of the climate and the increased use made possible by the sheltering justifies such action. The House version permitted unrestricted use of local funds for shelters, but prohibited any Federal matching assistance from being used for such shelters. The conferees agreed that the basic concept of the Land and Water Conservation Fund as a source of financial assistance for *outdoor recreation* should remain paramount, but the conferees recognize that modest enclosures and shelters in northern tier areas can provide significantly increased recreation opportunities for the normal outdoor activities of ice skating and swimming. Therefore, the conferees agreed that States may use up to 10 percent of their annual allocation (including the matching funds for that 10 percent) for future sheltered facilities for ice skating rinks and swimming pools. The conferees also agreed that it would be appropriate to permit States to use local funds to shelter existing facilities or new facilities. The conferees, however, have retained the limitations contained in the Senate version that there may not be any sheltering unless the severity of the climate and the increased public use thereby made possible justifies such sheltering. The conferees understand severity of climate to mean extreme cold, heavy snow, or high winds with respect to ice skating rinks; warm weather is *not* contemplated as justification. For swimming pools, the conferees again are concerned with the onset of cold weather which unduly restricts the available days in which the facility may be used.

The conferees wish to emphasize that for the purposes of computing the 10 percent of a State's allocation, the entire cost of a sheltered facility is to be used not just the cost attributable to the shelter.

URBAN RECREATION

The House version of the bill addressed the issue of expanding urban recreation needs and the planning which is needed in order to find a solution to this matter. The Conference Committee recommendation provides that within 1 year from the date of enactment of this section, the Secretary of the Interior shall prepare and submit a *comprehensive* review and report on urban recreation.

This language was proposed in response to nearly a year of difficulties experienced in obtaining urban recreation study data and alternatives from the Department of the Interior. Hypothetical examples and general studies of past policies are not a useful tool for congressional decisionmaking on these issues. The cities and metropolitan areas selected for study need not include locations on which the Congress has already acted or which it has under active consideration since

for these areas sufficient data has already been developed. The more populous regions should be examined in detail sufficient to distill a policy and program agenda for the future.

The study would neither accept nor reject any feasible alternative, from full Federal acquisition and management as a part of the National Park System to total financial and operating responsibility at the local level or in the private sector. It is the sense of the Conference Committee that for each of the areas studied, the National Park Service should provide a professional analysis and opinion on the significance and suitability of sites identified as to their possible inclusion in the National Park System. It is understood such findings do not commit the Department to support National Park System status. Such analysis can, however, assist the Congress in gauging relative significance, and subsequent priorities in considering options and alternatives.

Numerous efforts have been made in the past in considering strategies for coping with urban recreation needs. The study directed by this legislation should, therefore, be as specific as possible. The land and water resources which could satisfy the unmet needs in particular urban areas should be identified, and various approaches to meeting recreation needs in each of these areas should be detailed. Federal land managing agencies, particularly the National Park Service, which might be involved under some of the options to be identified, should play an active role in the study from the time of its inception through its presentation to the committees.

This study should have been an integral part of the Nationwide Outdoor Recreation Plan and, in fact, was included in early drafts of that document. Unfortunately, when that plan finally surfaced, it was so severely compromised as to be virtually useless as a guide for congressional action. What is necessary for proper consideration of the various proposals before both the Senate and House of Representatives is a series of options which can be related directly to resources.

To satisfy the requirements of this provision, it is recognized that the study cannot be quickly completed; however, the conferees expect that it can be accomplished in 1 full year. This will allow the Secretary to consult with affected States and localities in developing options with respect to each site to assure their maximum participation and cooperation in future planning and implementation. In developing the options, the Secretary is required to analyze the potential role of Federal agencies in providing interpretive programs and support functions for such activities as environmental education, the performing arts, and so forth.

HISTORIC PRESERVATION FUND PROVISIONS

LEVEL OF HISTORIC PRESERVATION FUNDING

Both the House and the Senate approved the creation of an Historic Preservation Fund similar to the Land and Water Conservation Fund. The Committee of Conference recommends the adoption of the 5-year program approved by the Senate rather than the longer program in the House amendment. In making this recommendation, the conferees recognize that the program must be extended in order to accomplish the objectives of the original National Historic Preservation Act, but

it was agreed that at the end of the 5-year authorization, the Congress would be in a better position to judge what future needs might be.

Upon agreeing to limit this authorization to 5 years, the conference adopts the staged implementation of the incremental increases contained in the House amendment, but recommends that the funding levels increase to the Senate-approved level. If approved as recommended, the funding level will be \$24.4 million in fiscal year 1977, \$100 million annually in fiscal years 1978 and 1979, and \$150 million for fiscal years 1980 and 1981.

The conferees agreed that Federal matching grants might provide up to 70 percent of the cost of statewide planning for historic preservation. This limited use of a greater matching ratio was considered justified to encourage the States to proceed with their inventories of historic properties. Identification of potential National Register properties and planning for their preservation will be vital to the effective use of the expanded matching grants program for the restoration of historic properties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

The Committee on Conference recommends approval of the Senate provisions dealing with the Advisory Council on Historic Preservation. As approved by the Senate, the legislation recognizes the Council as an independent agency and makes all of the necessary changes in the National Historic Preservation Act of 1966 to accomplish this purpose, including the changes required to staff the Council with its own personnel. In light of the great need for administrative personnel to carry out the functions assigned to the National Park Service throughout the United States, it is expected that the personnel ceiling applicable to this agency will remain unchanged so that the number of positions now assigned to the Council can be utilized elsewhere in the National Park System where the needs are greatest.

EXTENSION OF PARTICIPATION IN THE INTERNATIONAL CENTRE FOR THE STUDY OF THE PRESERVATION AND RESTORATION OF CULTURAL PROPERTY

The Committee of Conference recommends the approval of the provision in the House amendment extending U.S. participation in the Centre for 3 additional years. In accordance with the House provision this authorization is limited to not more than \$175,000 for each of the 3 fiscal years involved.

OIL SHALE FUNDS

On August 4, the Federal Coal Leasing Amendments Act (S. 391) was enacted into law. Section 9(a) of Public Law 94-377 relates to the sharing of Federal mineral leasing revenues with the States. It provides in part that:

Such funds now held or to be received, by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as "C-A"; "U-A" and "U-B" shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the devel-

- opment of minerals leased under this Act for (1) planning,
 (2) construction and maintenance of public facilities, and
 (3) provision of public services.

Section 301 of the Conference Report makes it clear that this provision of Public Law 94-377 applies to *all* money paid to Colorado and Utah, from the oil shale leases, specified in the Act. In addition, section 301 would apply to *all* moneys paid to *any* State as its share of Federal oil share revenues.

CONCLUSION

There are other differences between the House and Senate versions of the legislation; however, the key issues in disagreement have been discussed above. The recommendation reported represents the agreements reached by the Committee of Conference and has been reported in context to facilitate comprehension of the changes to be made in the Land and Water Conservation Fund Act and National Historic Preservation Act if S. 327 is approved as recommended.

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