

This Week

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COUNTY NEWS

"The Wisdom to Know and the Courage to Defend the Public Interest"

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NACo

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Congress Continues Federal Funds Through '80

With only days to spare before the federal funding cutoff date for major employment, health and welfare programs, Congress passed on Nov. 16 a second resolution that would continue funds for these as well as other federal programs. At press time, the President was expected to sign the bill.

The continuing resolution, H.J. Res. 440, provides funds for the Departments of Labor, Health, Education and Welfare, Transportation, Interior and Defense through Sept. 30, 1980, or until their regular appropriation bills have passed both Houses and are signed into law.

The appropriations bills for the Departments of Interior and Transportation await the President's signature which is expected shortly.

The continuing resolution, however, will probably serve as the funding vehicle for the Labor-HEW appropriations bill for fiscal '80, since the funding levels are the same and the House and Senate are deadlocked over the issue of abortion.

Federal funding for abortions has

hung up conferees on the continuing resolution as well as several appropriations bills. Historically, the House has approved federal financing of abortions only when required to save the mother's life. The Senate has opted for less restrictive language, broadening the provision to include funding in cases of rape and incest, and when two physicians certify that the continued pregnancy would cause "severe and lasting damage" to the mother's health.

A conference version of the first

continuing resolution, H.R. Res. 412/P.L. 96-86, which permitted federal financing of abortions required to save the life of the mother and in cases of rape and incest, passed the House Oct. 10 on a voice vote. The Senate, voting to reconsider the bill after an initial defeat, agreed to it by the slim margin of 44-42. H.R. Res. 412 permitted most federal agencies and departments to continue operating at current levels through Nov. 20 or until their appropriations had

cleared Congress.

Again, in consideration of the second joint resolution, both Houses disagreed over abortion language. On Nov. 13, the House passed H.J. Res. 440, containing restrictive abortion language. Two days later, the Senate Appropriations Committee, in marking up the House-passed bill, voted to exclude the abortion issue from the resolution.

Later, when the bill reached the Senate floor, an amendment to attach the House's abortion language,

offered by Sen. James Exon (D-Neb.), was narrowly rejected 49-44. The Senate then went on to adopt an amendment by Sen. Warren Magnuson (D-Wash.) to substitute the more "liberal" language agreed to in the Senate version of the first continuing resolution.

House and Senate conferees finally opted for the same language contained in the conference version of H.J. Res. 412 Nov. 16 in voting to accept the second concurrent resolution.

IMPACT OF INFLATION STRESSED

Orr Supports GRS Renewal

"Counties stand united behind general revenue sharing, because for a great many local governments it is the one flexible aid program that can be counted on to cushion the blow inflation has dealt to our budgets," NACo First Vice President Roy Orr emphasized to the Senate subcommittee on intergovernmental relations recently. The Dallas County commissioner was introduced by Sen. Lloyd Bentsen (D-Texas).

The subcommittee, chaired by Sen. James Sasser (D-Tenn.), was told that NACo supports a permanent general revenue sharing program and that reauthorization of the program, which expires Sept. 30, 1980, is NACo's number one legislative priority.

Emphasizing the toll inflation and recession have taken on local governments, Orr reported that counties have had to put increasingly larger portions of their revenue sharing funds into operating budgets and maintenance activities.

"NACo is aware of the effect of inflation, income security and energy costs on the federal budget," said Orr. "But we are also aware that county government, still tied principally to the regressive property tax, is a labor intensive industry which requires this form (revenue

General revenue sharing dollars today buy less than 80 percent of what they did in 1972 when the program began. See page 2.

sharing) of federal fiscal assistance." Orr's testimony further reflected a proposed NACo Taxation and Finance Steering Committee recommendation for reauthorization which includes the following provisions:

- Funds should be directly distributed to the states and general purpose local governments. Continuation of this distribution method recognizes the inseparability and interdependence of the federal fiscal system;

- Funds should be distributed through an automatic, annual appropriation to entitlement jurisdictions, recognizing current costs of providing basic services and reflecting annual increases to compensate for inflation;

- Adequate enforcement of the current civil rights, citizen participation, and financial accountability.

See ORR, page 2



THE CASE FOR REVENUE SHARING—Roy Orr, NACo first vice president, explains the role of revenue sharing funds as county governments contend with inflation.

Mortgage Bond Bill Reported

The House Ways and Means committee voted 20 to 12 on Nov. 16 forward a bill, H.R. 5721, to the House that would replace mortgage revenue bonds for financing single family homes with an income tax exemption for interest from savings accounts. The bill would allow a \$100 exemption for an individual, and a \$200 exemption for a couple.

Continued issuance of multi-family rental unit housing bonds by state and local governments would be permitted, provided that 20 percent of the housing is set aside for those eligible for Department of Housing and Urban Development Section 8 housing programs. The bill would liberalize the transition rules originally approved by the committee in June.

The Ways and Means Committee requested that the House Rules Committee bring the measure to the House floor under a modified closed rule, which would permit members to propose two substitutes that were proposed by Ways and Means Committee members before voting on the bill that was finally approved.

The first substitute, offered by Rep. Richard Gephardt (D-Mo.), would further liberalize the transition rules for mortgage revenue bonds "in the pipeline," allowing an estimated \$14.5 billion of new issues to come to market, according to the House Tax Committee. The rules would permit state housing agencies to issue \$150 million of mortgage bonds (less any mortgage bonds already issued under the existing transition rule). Mortgage commitments by state housing agencies would have to be made by Jan. 1, 1980. For local mortgage bond programs the transition rule would

See WAYS, page 7



Ahmann

NACo Drafts Jail Reform Plan

A proposal to assist counties in developing alternatives to incarceration and in providing financial assistance for jail construction and renovation to meet constitutional standards received a favorable response at a recent meeting of county officials and congressional staffers. The meeting, held at NACo's offices, was convened by Rosemary Ahmann, NACo chairman for corrections, and Herbert Jones, associate director for criminal justice and public safety.

Participants agreed that the outline of comprehensive jail reform legislation, developed by the Criminal Justice Steering Committee and approved by NACo members at the 1979 annual conference, was a constructive first step in the effort.

Under NACo's tentative proposal, after fulfilling requirements designed to minimize jail population, counties could receive jail construction funds. These include:

- Establishment of a corrections advisory board;

- Development of a comprehensive plan that emphasizes community-based correctional facilities and programs;

- Use of advanced techniques in designing institutions and facilities;

- Assurances that conditions and programs of the jail will meet federal standards; and

- Provision for sharing of correctional facilities and services on a multi-county basis, where feasible and desirable.

Tim Boggs who staffs the House subcommittee on courts, civil liberties and the administration of justice said that the subcommittee would hold hearings on the nation's jail crisis and NACo's jail reform proposal early next year. NACo has supported such hearings as crucial in achieving legislation in this area.

Discussion at the meeting centered around a phased approach recommended in the bill, and implementation of jail standards.

Participants agreed that there had to be conditions attached to any construction money. James Taylor, director of the National Clearinghouse for Criminal Justice Planning and Architecture, said that a requirement for a clearly defined

REVENUE SHARING HARDEST HIT**Inflation Erodes Buying Power of Grants-in-Aid**

The findings of a recent NACo study, to be presented in two parts by *County News*, examines the overall grant-in-aid system and the effects of inflation on the public dollar. This week's article focuses on the overall federal grant-in-aid commitment and general revenue sharing.

Imagine the following scenario. Sen. James Sasser's subcommittee on intergovernmental relations begins oversight hearings on the general revenue sharing program. The battle for its reenactment and future entitlement levels is debated in the context of the past fiscal year's funding of \$6.85 billion. Then a county official in testimony before the subcommittee raises the dramatic point: \$6.85 billion spent in 1979 is worth only \$4.23 billion in 1972 dollars, purchasing only 79 percent of what it could buy when the program first began.

The toll inflation has taken on the general revenue sharing program as well as on the pot of money that flows out of Washington to state and

local governments annually—known as grants-in-aid—has been documented in a recent NACo study.

Much has been made, in the lengthy and often heated congressional debate over federal

Analysis

spending and balanced budgets, about the \$82.1 billion said to be allocated to state and local governments. In fact, grants-in-aid to state and local governments, which initially grew at a steady rate for several decades, has slowed considerably in the last decade—increasing but at a decreasing rate.

NACo's study found that this form of federal aid has not escaped the effects of a weakened economy struggling against growing unemployment and soaring inflation. Both the direct current dollar levels obligated, and the indirect market transactions stimulated by grants, have been the victims of a federal dollar whose purchasing power has been steadily eroded. Using 1972 as a constant dollar base, today's federal aid dollar is worth an estimated 62 cents.

When the inflation factor is applied to the Administration's figure of \$82.1 billion in federal assistance to

state and local governments, the amount is reduced to just \$50.7 billion worth of purchasing power. And while the federal aid commitment appears to have increased 71 percent between fiscal '70 and fiscal '80, the increase declines over 30 percent when inflation is taken into account—resulting in a real dollar increase of only 40 percent.

It should also be noted that the federal budget estimate that \$82.1 billion will be spent in grants-in-aid for fiscal '79 is determined by a much broader definition of federal aid. In addition to direct aid to state and local governments, the following is included: "pass-through" funds to individuals and institutions in the form of food stamps and unemployment compensation, and to community-based organizations; aid to autonomous entities such as the Trust Territory of the Pacific; and direct aid that is earmarked for a specific national purpose, as in the case of grant eligibility for national disaster relief.

NACo's study found that, when only those funds constituting direct assistance to state and local governments in 1979 are considered, the grant-in-aid total substantially declines again—from \$50.7 billion in 1972 dollars to \$38.9 billion in 1972 dollars. In 1972, the grant-in-aid

Average Real Growth Rate of Total Grants-in-Aid:

1960-1972... 7.7%
1973-1978... 3.3%

Comparison of GRS 6 Month Entitlements (Real \$):

1972... \$2.65 billion
1979... \$2.12 billion

total of \$34.4 billion was reduced to \$23 billion when only direct assistance is considered.

OTHER SURVEY RESULTS

While NACo's study found that the general revenue sharing program was among the hardest hit by inflation, an analysis of the other programs found:

- The community development block grant program has enjoyed real growth, since its annual appropriation levels have been increased to offset inflation and overall economic decline. Community development grants have had an average 31.5 percent annual growth rate since the program began in 1975.

- The urban mass transportation program has witnessed marked decreases in the capital grants area which have been offset by increases in operating assistance grants, reflecting a shift to providing operating maintenance funds to previous capital grant recipients.

- The food stamp program has actually grown by 48 percent, and funding has more than kept pace with the rate of inflation. However, because food prices have increased faster than the general rate of inflation, the purchasing power of food stamp recipients is correspondingly low.

Although some programs have fared better than others during the past decade, general revenue sharing, the bulwark of fiscal federalism, is chief among the programs seriously cut back. The decrease experienced by general revenue sharing can be explained as the inevitable consequence of holding appropriations constant over three fiscal years. While the funding of several grant-in-aid programs has shown increases above the rate of cost-of-living increases, general revenue sharing has not enjoyed a built-in trigger for inflation. The program is unique because it gives state and local governments the flexibility to decide where the

funds are most needed. They need not put them where Washington policy-makers decide they should be spent. And, although many of the grants targeted for specific purposes have maintained or increased their spending levels, none of them offset the funding decrease experienced by general revenue sharing.

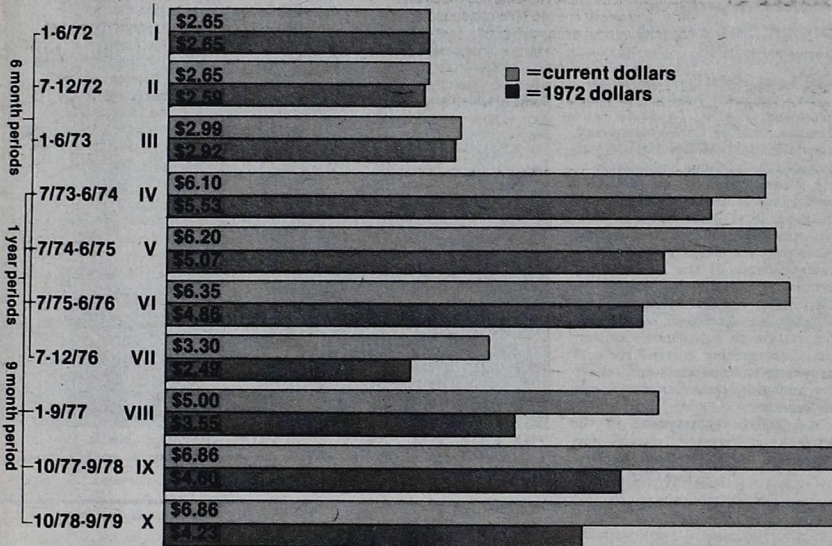
Furthermore, these increases have still not occurred at levels which set the nearly 50 percent decline in general revenue sharing since 1975 as a component of total federal assistance.

WHAT THE FUTURE HOLDS

During succeeding budget debates and upcoming policy decisions about the general revenue sharing program, it will be essential for Congress to scrutinize actual versus inflated spending levels in order to distinguish between actual and perceived funding growth, and at least provide mechanisms to maintain current dollar levels. In addition, the process which accompanies the allocation of federal grants-in-aid to state and local governments is political in nature and will continue to be subjected to the political tides and buffeted by the political winds of policy-makers. Already, the Administration has begun to direct federal aid to its political allies at time grant announcements of maximum political impact on state involved in the early stages of the 1980 campaign.

Next week's article will further examine community development urban mass transportation and food stamp grants, programs which have been the obvious target for increased appropriations in a climate of overall economic decline and scarce resources. For copies of the entire report, "The Impact of Inflation on Federal Grant-in-Aid Commitments," contact Karen Eisner at NACo.

—Karen Eisner

The Toll of Inflation on Revenue Sharing**Entitlement periods****Orr Testifies on GRS Renewal**

Continued from page 1

tability provisions in the current law should be continued.

"We recognize the pressure on all levels of government to hold down spending and on the federal government to move toward a balanced budget," Orr said. But he emphasized that reauthorization of general revenue sharing and the development of a national federal spending policy are not inconsistent or at cross purposes.

"With limited federal funds available, we recognize that some programs may have to be eliminated or reduced. This is a legitimate goal. But we strongly feel that general revenue sharing must not be eliminated or reduced. This program

"We strongly feel that general revenue sharing must not be eliminated or reduced ..."

should come first before all others," he said.

The Dallas County commissioner cited grant consolidation as a way to offset federal spending. "It is estimated that between \$3 billion and \$4.5 billion could be saved through consolidation and reform efforts," he said.

The intergovernmental relations subcommittee has been conducting oversight hearings on the general revenue sharing program and has questioned many groups on the

major issues which will be central to the reauthorization debate. Among these issues will be the state share, alterations in the current formula, the tie-in of a standby countercyclical program with general revenue sharing, increased targeting, compliance and reporting provisions and the continuation of the program on an entitlement basis to all current recipients.

For more information on general revenue sharing, contact Bruce B. Talley of the NACo staff.



NACo First Vice President Roy Orr, left, was introduced by Sen. James Sasser (D-Tenn.), right, before the Senate intergovernmental relations subcommittee, chaired by Sen. James Sasser (D-Tenn.), right.

Special Report:

Counties and Growth Management



"I'll never forget those years. The '50s. The early '60s. We were all going the same direction ... thanks to Big Bill Levitt we all had a chance. You talk about dreams. Hell, we had ours. We had ours like nobody before or since ever had theirs. Seven thousand bucks! One hundred dollars down! We were cowboys out there. We were the pioneers."

—from *The Man Who Loved Levittown*, a short story by W.D. Wetherell, copyright October 1979 by the Atlantic Monthly Co., reprinted with permission.

Farmlands: Feeling the Pressure

The demographic history of the United States, since its founding as a predominantly rural nation just over 200 years ago, has been characterized by a steady process of urbanization. Towns and villages have coalesced into larger metropolitan centers. Cities have grown and spawned suburbs. And the major urban complexes themselves have begun to merge into the megalopolis. Our population expansion and concentration have brought problems—as you would expect when people are crowded together so closely—which urban planners have struggled to manage by attempting to control growth patterns and even the pace of development.

"Growth management," as this combination of planning and science is called, has tried to separate

incompatible land uses to minimize nuisances; to revitalize the inner cities and encourage compact settlement to keep in check the cost of providing public services; and to protect natural resources, the environment and the quality of life. Its attention has been focused, not surprisingly, in the metropolitan areas.

But a fundamental change in population trends is now taking place. In the early 1970s, demographers discovered that, for the first time in our history, growth and development in non-metropolitan areas began to outpace that in the urban centers. This turnaround has put another important item on the growth management agenda: the preservation of agricultural lands.

Every day, another 12 square miles of

See STEMMING, page 4

Reaction against the waves of new suburban subdivisions which spread over the American countryside during the past 30 years has gradually coalesced into what is now unofficially called "growth management." Its supporters include mayors and downtown businessmen who want to save the city, elected county officials who find themselves closing inner suburban schools while opening new ones on the suburban fringe, farmers and consumers who are trying to maintain a local farm economy, and environmentalists who want to preserve wetlands, floodplains and wildlife habitats.

Growth management differs from the old-style land use planning and zoning by trying to control or encourage not only where new homes, stores, offices and factories are built, but also when they are built, and how they fit into an overall growth plan. To carry out the plan, county officials could phase in public improvements like roads and water and sewer lines to ensure adequate capacity without excessive public cost.

Still in its infancy, growth management makes use of the traditional tools of zoning and subdivision regulation. But it is experimenting with new techniques, some of which are described in this two page special report.

The variety of techniques offers local officials a choice depending on their circumstances. The following articles describe the approaches taken in energy "boomtowns," rural counties fast turning urban, and urban counties swamped with growth they can't absorb.

Although sophisticated growth management programs are not common among counties or cities, the results of applying new development control techniques in places such as Ramapo, N.Y. and Petaluma, Calif. are being studied to determine their results.

A strident critic, however, of restrictive growth controls is city planning Professor Bernard Frieden. In his new book, *The Environmental Protection Hustle*, Frieden warns against "suburban environmentalists" who use the "politics of no growth" to preserve their affluent environment and keep out not only the poor but even the middle class.

What troubles Frieden is the absence of potential housing consumers in the planning and regulatory process. He contends that land use controls and required site improvements often raise the price of land, and thus the price of homes, beyond the budget of most Americans. The decisions are made by local elected officials responsive to their constituents—people who already live there.

The Department of Housing and Urban Development is preparing to survey county and city officials to determine how much development controls and requirements are costing the new home buyer. From his study of the San Francisco region, Frieden concluded that opposition to residential developments blocked about one year's supply of housing in that area between 1970 and 1977, thereby raising the cost of all housing. Developers tried to fend off the opposition by substituting fewer large-lot expensive houses for the more controversial tract-type dwellings.

He favors "infill development" (see related article on this page) with orderly development in fringe suburbs. If the environmentalists supported such a policy, instead of "blanket opposition to new housing," he feels they would be more effective.

Alan Magan, NACoR

Vacant Sites Offered as Urban Growth Alternative

Although most people associate growth management with controlling suburban development and preserving agricultural land, planners and elected officials have recently begun to explore the growth possibilities of vacant, passed-over land in their urban, mostly developed areas.

The goal of both approaches is the same—guide new construction to locations where it will serve the public interest. Encouraging the use of vacant land in urban areas can mean carrying out several policies at once: rejuvenate deteriorating areas, protect valuable farmland, save money by using existing services and facilities to the fullest, and keep areas compact, thus minimizing transportation and energy costs.

A 1971 survey of 80 major American cities showed 25 percent of the land was vacant and that it could be developed. The Department of Housing and Urban Development recognized the potential value of these vacant properties and commissioned a study this year to ascertain how much vacant land there is and how local governments might encourage its use. Dubbed "urban infill" study, it is being prepared by the Real Estate Research Corporation which, years earlier, produced another growth management report entitled *The Costs of Sprawl*.

For the study they define "infill sites" as:

- vacant parcels of land of any size (no abandoned buildings requiring demolition);
- located anywhere in the urbanized portion of a metropolitan area;
- having water and sewer lines running to (or very close to) the property line;
- but excluding land not suitable for development due to physical limitations or local environmental regulations.

The study will try to answer the following questions, using three metropolitan areas for case study research (Seattle-King County, Wash., Rochester-Monroe County, N.Y., and Miami-Dade County, Fla.):

- How much land qualifies as "infill"?
- How much is in the central city versus the suburbs?
- Why hasn't it been developed?
- What public actions would make the sites more attractive?
- How much projected growth could the sites accommodate?
- And how much would infill development cost compared to growth on the urban fringe?

King County Inventory

King County Executive John Spellman committed his administration to an infill policy when projections showed that a managed

growth program would lead to a more compact urban area and be 30 percent less costly than providing services to far-flung new development.

Before proceeding to encourage growth within the urbanized areas, the county council directed the planning department to perform a vacant land inventory. With the cooperation of Seattle and the county's 27 other municipalities, the department tabulated and mapped the vacant land by zoning type, acres in sensitive natural areas and sewer service areas, and amount of land in vacant platted lots.

As part of the HUD/RERC study, King County will expand the inventory to cover the entire county, monitor building and subdivision activity to update the inventory, and study the reasons why the vacant land was "skipped over."

Why Vacant?

Since World War II the federal highway and sewer construction programs have encouraged development at the urban fringe. Although such public expenditures are slowing, developers find fringe locations less risky even though they (and ultimately the home buyer) may now have to pay for required site improvements that before were subsidized by the public.

The risk of using vacant, urban land varies depending on many factors including the

capacity and the repair of the infrastructure. Undersized water and sewer lines, or insufficient water pressure, would deter a developer. Renewal of infrastructure has never received the attention and funding that officials bestow on new construction projects. New York City recently admitted its reconstruction cycle was 200 years for streets and 300 years for sewers.

Speculation in vacant land often raises its price, forcing developers to look elsewhere. Current land assessment and taxation often abet holding land off the market. For example, Cook County, Ill., assesses vacant lots at 22 percent of market value but assesses developed commercial and industrial properties at 40 percent of market value, whereas the city of Pittsburgh in Allegheny County encourages the use of vacant land by assessing all properties the same and levying a tax rate on land which is double that on buildings.

Other reasons for the sizable amount of vacant land could be the small or irregular sizes of vacant parcels, corporate reserves for future expansion, fear of crime, or improper zoning.

Persons interested in the "urban infill" study should contact Deborah Brett, RERC, 72 West Adams St., Chicago, Ill. 60603.

—Alan Magan, NACoR

CLEARING THE AIR: A PROGRESS REPORT

State Completion of Air Plans Lagging

No major project has yet been delayed nor is there a state with significant economic disruption caused by clean air sanctions applied July 1, said EPA recently, even though the Clean Air Act of 1977 will not allow construction of new major sources of air pollution in nonattainment areas without an approved state air plan.

The Clean Air Act set forth a number of deadlines for governments to meet in order to achieve federally acceptable air quality standards. The July 1, 1979 deadline for states to revise their plans for those areas not meeting federal air quality standards marked the "middle of the road to clean air," a process that began nearly a decade ago.

The Environmental Protection Agency anticipated in June that most state implementation plans, known as SIPs, would be approved by now, but only one state—Wyoming—has received final approval of all portions of its nonattainment area plan. With one exception, all states have submitted at least portions of their plans, but a dozen states have not submitted complete SIPs.

Failure to meet the July 1 deadline was not without its hazards. The "stick" given to EPA by law to nudge states into compliance was the power to withhold transportation, sewage and air pollution control grants from those "nonattainment" areas. In addition, no new construction that would contribute to dirty air would be allowed to start.

To ease public concern about the potential economic disruption that could occur as a result of applying these sanctions, top EPA officials announced in June that "growth would not stop in nonattainment areas," claiming that the two-to-four month normal processing time for air permits would provide a built-in cushion so new development could continue when plans are being approved. Construction permit applications received before July 1 could be granted, and applications received after July 1 could be processed even though construction could not begin.

A Slow Process

The time involved in developing EPA criteria for deciding where to apply discretionary sanctions has meant that federal grants have not yet been affected. Announcement of specific areas where transportation funding limitations will be applied is expected shortly.

In order for EPA to take final action and lift vulnerability to sanctions, the agency must publish a notice of availability of proposed rulemaking, and only then, once comments are received, can they publish a final rulemaking specifying approval, conditional approval or disapproval. EPA has been clear in specifying that the growth sanctions cannot be lifted until the plan is finally approved, not just proposed for approval.

To avoid major economic effects, the agency developed the "conditional" approval mechanism to allow states to improve plans with minor deficiencies. Areas with conditionally approved plans can again grant construction permits to new polluters while they work to revise the plans.

EPA has also been taking action on parts of plans as they are submitted, by area and by pollutant. Development sanctions apply only to the specific area and for the specific pollutant not covered in an approved section of a SIP. For example, if an area does not meet federal standards for

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Development Hinges on High Air Quality

States are developing plans, not only to clean up dirty air, but to keep clean air relatively clean. "Prevention of significant deterioration" or PSD plans developed by the states will affect the amount and kind of development allowed in your county. Development of these plans is now under way in many states. At present, the program is being administered by EPA in almost all states.

Congress set up a three-tiered classification system for clean air areas, which regulates potential increases in two pollutants—sulfur dioxide and particulates.

Class I, which includes large national parks and other federal wilderness lands, allows a minimal amount of additional pollution. Class II, which includes at present virtually every other clean air area, allows a moderate increase. Class III allows the greatest amount of pollution increase. No area presently attaining standards can allow development which would put more pollution in the air than federal ambient air quality standards would allow for any pollutant.

Redesignation Procedure

Classifications can be changed, but only after state consultation with local governments. For present Class II areas to be reclassified as Class III allowing more pollution, local governments representing a majority of affected residents must enact concurring legislation. Affected local governments must be consulted on redesignation of lands from Class II to Class I; this reclassification would allow for less economic growth.

The redesignation procedure differs from state to state. For example, in Wyoming, citizens must petition for redesignation and obtain the requisite number of signatures. According to a state health department official, local governments would also have to go through the petitioning procedure. In Montana, citizens must petition a local government to ask the state for redesignation.

In both states, as well as in North Dakota, the group that petitions the state for redesignation must also pay for the environmental and social analysis required by the Clean Air Act. State officials said that the state could not pay for the analysis because they are also expected to evaluate it—"a clear conflict of interest." The three western states report little redesignation action and none requesting redesignation from Class II to Class III.

EPA presently issues PSD permits to new sources of pollution in almost all states. Since most areas are attainment areas for some pollutants and nonattainment for others, this creates a confusing situation for new industries, which must obtain both a state and federal air permit.

State Administration

EPA has been encouraging the states to take over administration of the PSD program, which they can do by submitting a revised state implementation plan to EPA. Wyoming, North Dakota and Montana have submitted plans; plans in Wyoming and North Dakota have been approved. Other states, such as Pennsylvania, New York, Illinois, Tennessee and California, are expecting to submit plans soon.

EPA has been granting permits on a first come, first served basis. Every time a permit is given to an industry emitting sulfur dioxide and particulates, a portion of the allowed

See MAINTAINING, page 6

Counties Preparing to Clean Up Smog

In terms of number of counties as well as number of people affected, smog (ozone) is this country's biggest air pollution problem. Over 20 percent of all counties do not meet ozone health standards, and well over four-fifths of the people in the United States live in these affected areas.

Ozone is the principal photochemical oxidant found in smog—a chemical which forms when hydrocarbons and other substances react in sunlight. Hydrocarbons come from cars and trucks as well as from industry. Eighty percent of the carbon monoxide in the air comes from transportation activities. In 1977, cars and trucks spewed 107,300,000 metric tons of pollution into the air.

Much of the responsibility for cleaning up the smog falls to local government. The 1977 Clean Air Act gave cities and counties together the job of devising ways to control transportation-caused pollution and appropriated funds to do so.

A great deal of emission reduction will come from the requirements placed on new cars and the inspection/maintenance programs run for the most part by the states. But public transit and traffic flow improvements, ridesharing encouragement, bus lanes and other locally administered methods can reduce air pollution and help save gasoline, too.

The transportation control plans in the 1979 state implementation plans (SIPs) have been mostly developed by organizations of local government with the states. The Clean Air Act requires the entire country to meet or exceed federal air standards by 1982, but most urban areas with ozone and carbon monoxide problems have been given attainment extensions to 1987.

What's Been Done So Far?

The state implementation plans submitted to EPA this year had to have measures already in place for such things as stack emission control from factories, but, for transportation-control measures, schedules for implementation were judged sufficient.

So the transportation control portions of the present SIPs are a combination of commitments to implement and plans to do further planning. Urban areas must demonstrate some commitment to put reasonably available measures to reduce car pollution into effect as soon as possible.

EPA has generally not been questioning the assessment of "reasonableness" identified by the local planning agency, said an EPA official in Washington. Most of the substantive SIP review is, however, done by EPA regional offices.

The 1979 SIPs must show how a state will continue to reduce emissions year by year and set milestones to accomplish transit improvements or other mechanisms to do this. Those areas receiving attainment extensions to 1987 have until 1982 to identify additional methods they will use to meet standards, going beyond those identified this year.

Gary Hawthorne, chief of EPA's transportation section, emphasizes the importance of commitment to some measures in the 1979 SIP. "Those plans without specific measures identified have been conditionally approved. Agencies have been given three months to select projects from their DOT transportation plans that will improve air quality and insert them into the SIP," he said. A joint EPA/DOT agreement gives higher priority for funding to those projects. Also, no transportation project can be approved by DOT if it adversely affects air quality in nonattainment areas.

A Regional Plan

The Southwestern Pennsylvania Regional Planning Commission encompasses Allegheny, Westmoreland, Washington, Butler and Beaver counties in the Pittsburgh area. It is being cited by EPA as an example of how a core of projects which will be implemented by 1982 form a good basis for planning to meet standards by 1987.

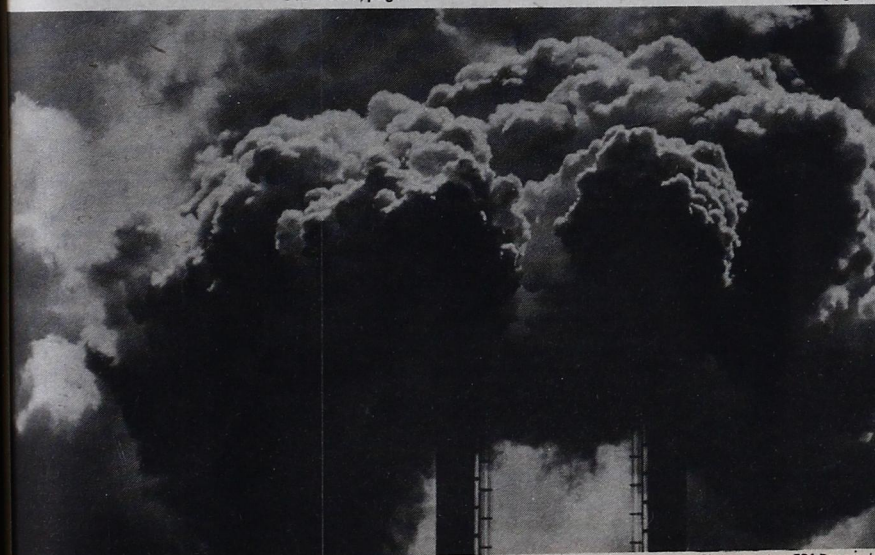
Several measures have been agreed to by participating governments as reasonable, and commitments made to develop them. Park-and-ride fringe parking lots, exclusive bus and carpool lanes and bike-and-ride lockers will be established by the Port Authority of Allegheny County. The parking lots are actually noncapital projects which have been developed through agreements with shopping centers, churches and municipalities. The port authority plans to open two to three lots per year.

An existing carpool and vanpool program will be increased in scope by the regional planning agency itself, and evaluated in the next several months to see if goals are reasonable or if reliance on this strategy should be reduced.

County, state, port authority and federal funds are all involved in financing the capital projects.

The plan estimates the amount of hydrocarbon reductions expected from each measure, the number of vehicle miles of travel reduced and the gallons of gas saved per year. The measure which will have the greatest effect on reducing vehicle miles traveled and on gasoline is the areawide carpool/vanpool program, if goals of 25 vans per year and 1,700 new carpools a year are reached. About 5.5 million

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Photos courtesy EPA DOCUMERICA

First Step for States

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hydrocarbons and does not have an approved hydrocarbon control strategy, an industrial polluter emitting only sulfur dioxide is not affected by the growth sanctions.

Revising its original optimistic prediction, EPA now says final action will be taken on 10 state plans by the end of this month, and another 10 are due for final action by the end of the year.

However, the most serious problem lies with those states whose legislatures have not granted enabling authority for vehicle emission inspection and maintenance programs in urban areas with smog problems.

Vehicle Inspection Controversy

Congress considered inspection/maintenance to be a very economical and reasonable way to make sure the emission improvements made in new cars continue once the car is on the road. The sanctions provided in the 1977 act emphasize that commitment: federal transportation funds must be withheld from states not making a good effort to get inspection/maintenance programs going. This has proven to be an extremely controversial issue in many legislatures.

Twenty-nine states encompassing 52 urban areas were required by law to have inspection/maintenance programs for auto emissions. Only four states are still having real problems meeting this requirement—California, Michigan, Ohio and New York.

In some instances, local governments will take on this responsibility in the face of state inaction. At least six cities and/or counties will be running auto emission inspection/maintenance programs for their areas; the other programs will be run by the state.

Several states have enacted legislation with conditions attached, for example, contingent on neighboring states enacting similar legislation. These conditions are being negotiated with EPA to make sure clear legal authority exists so that they will not be subject to federal funding sanctions.

There are currently six operating mandatory emission inspection/maintenance systems in the country, including both private garage and centralized systems. Other cities and counties have been operating voluntary programs, or require inspections and repair upon change of car ownership.

Just the First Step

Even after a 1979 SIP is approved, the potential threat of sanctions remains. The state must take "reasonable further progress" toward clean air, that is, proportionate pollution reductions must be made each year. If significant milestones set in the 1979 SIPs are missed, EPA must by law examine these failures and again decide whether the construction and federal funding penalties and conditions must be imposed.

Maintaining the Air

Continued from page 5

increase has been used up. Large projects might use as much as 25 percent to 50 percent of a Class II "increment."

The two states with approved PSD plans are also granting them on a first come, first served basis. "So far, no one's come up with a better idea," said one state official.

A recently settled court case, *Alabama Power Company vs. Costle* (the EPA administrator) set aside major portions of EPA's complex PSD rules. EPA has proposed changes to its regulations conforming to the court opinion. For example, the Clean Air Act mandates preconstruction review of "major emitting sources."

In defining "major emitting source," EPA's original rules calculated the annual emission potential of an industry based on the pollution emitted without any controls. The court said that EPA must give the industry credit for controls it proposes to use. Thus, fewer sources will have to apply for PSD permits.

The new regulations, recently proposed, have yet to be promulgated. States are developing PSD programs which will eventually have to be revised once the new rules are final. In North Dakota, for example, state officials are issuing permits which conform to whichever set of regulations, new or old, are more stringent.

Most of the attention from local governments and citizens in the public hearings in these three states has focused on the redesignation procedure and less on the permit process itself, said state officials. Yet state permitting procedures may determine much local economic growth, traditionally a local prerogative. Affected local governments have been given specific administrative and legal remedies if states do not consult them both during development of the PSD plan and in redesignation actions.

An EPA official noted recently that until the states take over the PSD programs, no redesignations can occur, since Congress gave that power specifically to state governments. Also, local officials have no opportunity of reserving increment consumption for economic development in the future. The blanket first come, first served policy used by EPA means that if an industry meets certain conditions, the permit must be granted to that industry.

Despite criticisms of the PSD program, it would be to the advantage of counties and other local governments to encourage their state to assume control of the PSD permit-granting. EPA has indicated that, due to the necessity of preparing nonattainment plans and the uncertainty surrounding the *Alabama Power* decision, most states are only beginning the PSD development process and local involvement in the coming months could determine its future.

This supplement was prepared by Arleen Shulman, Clean Air Project, NACoR.

Lightening the Smog

Continued from page 5

gallons of gas per year could be saved with only a .7 percent reduction in vehicle miles traveled, the planning commission estimates.

Emission Inspection/Maintenance

Emissions from new cars are only part of the smog problem. Recent research indicates that 100 million cars now on the road fail to meet design emission standards, and more than half of the cars built since 1974 exceed federal standards within one year after sale.

Almost half of all failures are caused by simple maladjustments in engine settings. Another quarter are caused by premature deterioration or illegal use of leaded fuels. Tampering, inadequate maintenance and design faults make up the balance.

Emission inspection and maintenance is the only specific transportation control measure mandated by the Clean Air Act in areas not meeting ozone or carbon monoxide standards by 1982.

State legislatures have been reluctant to pass enabling laws when needed because of the political unpopularity of a new inspection program, the cost of running a program and questions about its effectiveness.

Preliminary results from a large scale study of a program in Portland, Ore. indicate that hydrocarbon and carbon monoxide emissions are cut in half when failed vehicles with catalytic converters are repaired. Emission reductions for older cars are about 33 percent.

A study in New Jersey concludes that these emission reductions do affect ambient air quality, although not as much as new car control programs. A 28 percent cut in carbon monoxide there over seven years is attributed to new car standards and inspection and repair programs. Since carbon monoxide decreased about 5 percent in areas without the programs, 3 percent of the improvement in air quality can be attributed to inspection/maintenance.

The percentage of gasoline savings which can come from mandatory repair for emissions remains a little unclear. Some studies indicate a potential 3 to 4 percent fuel economy improvement, but repairs in the real world are not always up to specifications. EPA's Portland study shows no significant gas savings, but the agency is attributing this result to lack of mechanic training.

The city of Phoenix installed its own inspection equipment to save the costs of driving to state inspection stations and reduced fuel consumption in its light-duty vehicles more than 10 percent in the past six months. The "loaded mode" test used by the city required three staff people. (A loaded mode test requires the vehicle to be driven into a chassis dynamometer which simulates actual driving conditions. An idle mode test, the most frequently used, measures emissions only at idle, and the equipment is less expensive.)

Funds Available to Combat Smog

The second portion of federal funds aimed at urban smog problems will soon be dispersed to areawide air quality/transportation agencies. About \$23 million, appropriated under Section 175 of the Clean Air Act, will go to areas which will not be able to meet federal standards for transportation-related pollutants by 1982, according to a soon-to-be-published EPA announcement.

Although funds are available only to designated lead planning agencies (for the most part, councils of governments, regional planning counties and/or metropolitan planning organizations for transportation), EPA emphasizes that these agencies should pass through the money to local agencies with proven expertise. The air quality/transportation grants should not, say EPA, support single agency planning and a closed process.

About \$25 million was appropriated for fiscal '79, most of which has now reached local planning agencies. The funds are actually distributed through the Department of Transportation's Urban Mass Transportation Administration.

EPA notes that its first priority for the new money is to remedy the 1979 SIPs. For example, if a planning agency did not submit any commitments from local governments in 1979 to put some reasonable measures into effect, the new money can be used to help local agencies hammer out agreements and working relationships.

By 1982, agencies will also have to analyze packages of alternatives for their effectiveness in cleaning up the air and their economic and social impacts. Other planning possibilities include emission inventories and forecasting.

Money can also be used to integrate other planning, such as economic development and housing, with air quality. For example, a planning agency or local government could develop a clearinghouse to manage pollution tradeoffs so that whatever "pollution rights" are available go to industries valuable to the community.



Public and Elected Official Involvement

Funds must also be spent on an extensive public participation process. This is especially crucial because so many transportation control measures rely on incentives for people to use public transit or carpools. As much as 10 to 30 percent of the federal grant could reasonably be spent on an aggressive public participation effort. EPA includes elected official involvement in its participation regulations.

According to rules to be promulgated soon, lead planning agencies must:

- Integrate public participation into its overall work program and set out clearly defined goals for the process;
- Identify affected groups and their interests;
- Be aggressive and timely in informing and involving the public, including, but not limited to, citizens' advisory groups;
- Consider the views of the public when making decisions;
- Evaluate the effectiveness of the program;
- Allocate sufficient resources for the program.

EPA is particularly emphasizing setting goals for the process and evaluating the success of the public involvement by these goals.

Here are some decision points where the public, including elected officials not specifically sitting on policy boards of lead planning agencies, must be involved:

- Development and adoption of the air quality work plan into the DOT work program;
- Development and adoption of the public participation program itself;

- Identification and analysis of transportation measures beyond what have been included in the 1979 SIP, including how much of the total air pollution reduction should come from transportation control;

- Assessment of the impacts of these measures;
- Revision of the existing plan;
- Deciding whether the area's broad transportation plan is consistent with the air quality plan (required by law).

Much of the important and long-term work of the air quality/transportation control planning agencies for which the 1979 SIP only set the stage, will be done in the next two years.

Demonstration Funds

Two million dollars of the new round of money will be set aside in a discretionary fund. Most of this money will eventually be granted to lead planning agencies to test new ambitious ways to control air pollution from cars. Innovative ways to involve elected officials in the planning process could also be funded by a demonstration grant.

An EPA official said recently that urban counties interested in the demonstration program should contact their air planning agency to develop a short concept paper. This can be submitted directly to EPA headquarters. More information, including examples of what new programs might be developed, will be forthcoming shortly. For information on the demonstration and discretionary fund, contact George Boning at EPA, 202/755-0603, or Arleen Shulman at NACoR.

Conservation:

Third in a Series by Neal Peirce

The nation's ability to conserve energy—and thus weather the severe energy shortages which loom in the 1980s—will be a key test of American federalism.

From President Carter on down, there's a growing consensus that the cumulative benefits from conservation—in weatherization, better building design, in mass transit, carpools, vanpools, in more compact use—could be enormous.

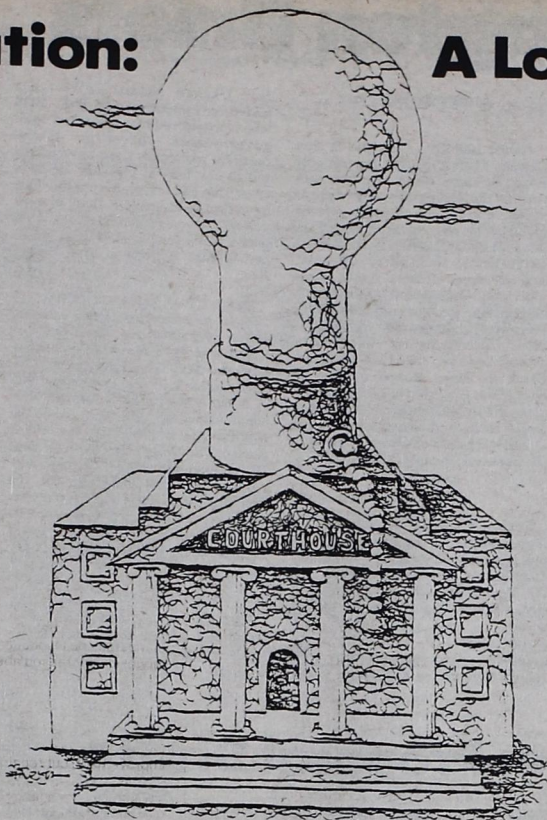
But while Americans wait for some grand presidential gesture or congressional enactment to set a

**"Overregulation
can kill local
initiative and
imagination."**

course, it's actually in the nation's individual states, counties and cities, in individual homes and workplaces and communities, that the conservation battle must be won.

Washington may be able to help come— with bigger tax breaks for weatherization, for instance. But states and localities have the real power: to regulate utilities' rates and practices, to control zoning and land use, to regulate highway patterns, to build and control transit systems, to control building codes, dispose of waste, to decide on siting of parks and schools and community centers. All these decisions have profound effect on the patterns of daily life, work and movement, and thus on the amount of energy Americans actually use.

A STRONGER clarion call for conservation from the nation's capital may help. But it is the states and localities that must mount the requisite massive education job (attuned to each area's particular climate). It is these jurisdictions which must pass mandatory local conservation laws, and indeed mount



a grassroots mobilization effort comparable to the localities' role in the World War II mobilization effort.

Washington's familiar 1960s and 1970s response to national domestic problems—major funding programs, replete with an infinite array of rules and conditions—simply won't work on the conservation front. Imagine the federal energy department, given its already stellar record of bureaucratic incompetence, attempting to fund and regulate energy conservation programs in tens of

thousands of localities. One shudders at the very prospect.

Given the dominance of the federal income tax as a revenue raiser, some forms of national assistance may be

necessary to help local conservation plans along. But the help should be light, the conditions virtually nonexistent. Overregulation can kill local initiative and imagination.

There are ample reasons for states and localities to develop thorough conservation plans whether they get any outside help or not. Every dollar a city or its citizens and businesses "exports" to utilities or oil companies for energy reduces the money available for economic activity and job creation within.

For example, Portland, Ore., which this summer adopted what is probably the nation's most comprehensive local energy plan, estimates that by 1995 it can be saving \$162 million annually by cutting back citywide energy use by 30 percent.

THE PORTLAND plan illustrates both the marketing and "teeth" required in a truly significant local plan. After 1983, any Portland homeowner who hasn't weatherized his house to energy "cost efficiency"—all improvements, from storm windows to insulation, that will pay themselves back in reduced heating and cooling costs within 10 years—simply won't be allowed to resell his house. Apartment-house owners and businesses will face similarly stiff requirements.

To sweeten the pill, Portland plans a door-to-door marketing campaign to explain the new rules, plus "one-stop" weatherization centers to help homeowners arrange for energy audits, get financing, arrange for contractors, and review federal and state tax credits due them. (Poorer families may receive subsidized loans, financed through either federal grants or a local bond issue to create a revolving loan pool.) The

city's promise: for combined monthly energy bills and weatherization loan payments, no one is to have to pay more—in constant dollars—than his or her energy bill alone cost before.

Portland's plan goes beyond weatherization. There's a major land use component, encouraging more dense housing (attached and multi-family units) and concentrated developments of housing, retailing and offices, all accessible by mass transit. The goal is to save energy by reducing the number and length of trips.

Portland did receive a federal grant to conduct a detailed city energy audit. But the crucial process was all local. A broadly representative energy steering committee—people from business, labor, neighborhoods, environmentalists, bankers, utilities—worked on the plan for eight months, weeded out politically impractical elements, and created a master plan with impressive community credibility.

Portland-style plans could provide a transition to a new energy age with efficiency and grace, without severe social discord. The alternative: general procrastination until dire energy shortages occur and Washington seeks emergency power to impose draconian measures.

Some say federalism is a quaint, outmoded doctrine, irrelevant for times of stress. But in this vast nation, quite the opposite may be true. Federalism respects real power, it can tailor policies for a thousand and one special local circumstances. By being locally democratic, it can evince responsiveness and creativity and effectiveness. It would be hard to conceive a more appropriate system to attack the energy conservation challenge of the '80s.

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COUNTY OPINION

Handicapped Regs: CBO's Price Tag

According to a recent report by the Congressional Budget Office, new regulations to make public transportation accessible to the handicapped could cost the government \$6.8 billion over the next 30 years or roughly \$38 a trip for each disabled rider. This startling news should have a significant bearing on the continuing debate over the best way to serve the transportation needs of the handicapped.

CBO reported that the federal government would be much better off buying specially equipped automobiles for severely handicapped persons, rather than modifying the nation's public transportation system to accommodate wheelchair users. CBO said that specially equipped automobiles would not only save millions, but, as importantly, would benefit four times as many handicapped persons.

The CBO report is particularly well-timed since the transportation/mobility regulations issued this July by the Department of Transportation are being challenged in court by NACo and the American Public Transit Association (APTA). The rules demand, among other things, wheelchair lifts on all newly purchased buses and modification of subway and light rail systems across the country.

NACo strongly believes that transportation for the handicapped must be improved, but we do not agree that the DOT

regulations are in the best interest of our counties and their handicapped citizens when the cost and level of service are taken into account. As the recent CBO report indicates, handicapped persons would be better served under an "on-call" door-to-door arrangement or even a plan which would provide direct financial aid to disabled people so they could purchase specially equipped automobiles.

According to CBO, the on-call door-to-door plan, which many counties now currently provide, would cost an estimated \$4.4 billion and serve 26 percent of the severely disabled; the auto plan would cost \$6.4 billion and serve 30 percent of the severely handicapped. More importantly the cost per trip of either plan would be less than \$8.

What influence the CBO report will have is open to question. We do hope the Administration and Congress will take a long hard look at this most provocative report. Meanwhile, the handicapped/transportation regulations are now in the hands of the judge for the federal district court in Washington, D.C. A decision is expected any time.

We only hope the decision respects the service needs of the handicapped and is sensitive to the financial costs of providing adequate handicapped transportation service levels.

Days and Means Reports Mortgage Bond Measure

Continued from page 1

low issues of either \$35 million or \$50 million per capita. Mortgage commitments from these programs also would have to be made by Jan. 1,

The "roll-over" rule and provisions prohibiting advance refunding of bonds are the same as those approved in the earlier committee bill.

H.R. 3712. The rules also include numerous special provisions that effectively will allow many issues that were questionable under the previous transition rule to come to market.

Should the Gephardt transition rule be voted down on the floor, the substitute offered by Rep. Thomas Downey (D-N.Y.) would be considered. This plan, which would permit very limited issuance of mortgage revenue bonds, is essentially similar to the earlier committee bill. However, it would not require a study to be made of mortgage revenue bonds as a financing tool and it would change the sunset provision from two to three years.

If the House members also reject the Downey substitute, only then would they take up the committee bill H.R. 5721 that provides a tax exemption for small savers, coupled with elimination of tax-exempt mortgage revenue bonds for single family housing.

It is anticipated that the legislative package of the Ways and Means Committee will go to the Rules Committee this week in an effort to bring it to the House floor before the mid-December recess.

For further information, contact Martharose Laffey at 202/785-9577.

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EDITOR: Bernard Hillenbrand
MANAGING EDITOR: Christine Gresock
PRODUCTION MANAGER: Michael Breeding
ADVERTISING: Karen Eldridge, Robert Redding,
Deborah Salzer
ASSISTANT EDITOR: Joan Amico
EDITOR/PHOTOGRAPHER: Paul Serber
CIRCULATION COORDINATOR: G. Marie Reid
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Washington Briefs

Community Development

Economic Development Reauthorization. House passed H.R. 2063, the National Public Works and Economic Development Act of 1979, 301 to 99 Nov. 14. The bill extends the EDA program for three years, and expands the eligibility as supported by NACo. It also extended the Appalachian Regional Commission and other multistate commissions; provides a greatly expanded development financing program for private business development and establishes a \$2 billion standby local public works program if unemployment reaches 6.5 percent. The Senate has passed S. 914, a four-year reauthorization bill which expands EDA programs, but limits eligibility for them. A conference is expected soon.

Housing Authorization Bill. A House-Senate conference committee is still considering H.R. 3875, the Housing and Community Development Amendments of 1979. Conferees have agreed to an authorization of \$1.14 billion for the Section 8 assisted housing program. This amount, also included in the fiscal '80 HUD appropriations bill, is estimated to produce 266,000 units of assisted housing, significantly down from the 326,000 provided this year. The conferees have also agreed to provisions broadening eligibility for pockets of poverty in the urban development action grant program, which NACo strongly supports. Conferees have a few remaining differences to resolve which should occur soon.

Fiscal '80 HUD Appropriations. The House and Senate have approved H.R. 4394, the fiscal '80 HUD appropriations bill which contains \$3.9 billion for the community development block grant program, \$675 million for the urban development action program, and \$1.14 billion for the Section 8 assisted housing program. The amount provided by the bill for the Section 8 program, however, is higher than the target amount provided in the First Concurrent Budget Resolution and may be subject to reconciliation if the second budget resolution retains the lower amount, a move which NACo opposes. The bill will be sent to the President once the housing authorization bill has been enacted.

Energy

Energy Mobilization Board. A date has not yet been set for the House-Senate conference committee needed to resolve differences between the versions of the board. The Senate has appointed the entire Committee on Energy and Natural Resources to serve as conferees. The House has not yet appointed its conferees. Despite the delay, it is still possible that an agreement can be reached and final approval completed prior to the December recess.

Windfall Profits Tax. Last week the Senate began debate on the proposed windfall profits tax. Final action is not expected until this week. In action last week, the Senate easily turned back efforts to reduce the amount of revenue which would be raised by the tax. Other amendments to increase the amount to be raised and to eliminate the trust funds for low-income assistance and public transportation are anticipated.

Nuclear Waste Management. Although the committee wants to schedule markup of the Nuclear Waste Reorganization Act of 1979, S. 742, prior to the December recess it appears that the press of other business will make this unlikely. If

December consideration is not possible, the committee will resume deliberations when Congress returns in January.

Energy Impact Assistance. Efforts to develop an amendment to the existing Farmers Home Administration energy impact assistance program are progressing. A compromise may be developed and passed in time to be offered as an amendment to the Department of Energy Authorization bill which is due on the Senate floor following completion of the debate on the windfall profits tax. Sponsors of the proposal, Sens. Gary Hart (D-Colo.), Wendell Ford (D-Ky.) and John Glenn (D-Ohio) are optimistic that final action is possible this session.

Local Energy Management. A second day of House hearings on the Local Energy Management Act and related legislation is still possible this session. However, serious House consideration and action is not anticipated until early next session. Senate action on a combined proposal will not occur until next session. However, an amendment, similar to the Sharp (D-Ind.) amendment on the House side, may still be offered to the DOE authorization bill.

Continued from page 1

level of alternatives to incarceration was needed, with close monitoring of the progress toward an agreed upon goal.

Most participants had problems with the way jail standards are now promulgated and enforced, citing the lack of local input. In addition, Gayle McNutt, Washington representative for Harris County, Tex., said it is crucial for a county to know, before it spends millions of dollars to meet federal guidelines, that "the standards will be accepted over a period of years." There also was discussion about the need for standards which regulate the flow of inmates into jails.

Participants agreed with Richard Velde, minority counsel for the Senate subcommittee on improvements in judicial machinery, that standards should not be "set in

Labor Relations

Public Liability. On Nov. 6, Sen. Charles Mathias (R-Md.) introduced a bill, S. 1938, which sets the parameters for bringing suit against states and units of local governments. The bill, also known as the Civil Rights Improvement Act of 1979, defines counties as "persons" and reinforces citizens' rights to sue individual elected and appointed officials and the governments themselves for damages. The right to sue local government had been established by the 1978 Supreme Court decision, *Monell versus the New York City Board of Social Services*. This bill further clarifies and limits local and state government liability. The bill has been referred to the Senate Judiciary Committee.

Social Security Disability Insurance/Deposit Payments. House has passed H.R. 3236, the Disability Insurance Amendments of 1979, and the Senate Finance Committee on Nov. 8 amended and reported out its version of H.R. 3236. Both bills would cap the Social Security disability benefits allowed and reduce the number of dropout years.

Sen. Gaylord Nelson (D-Wis.) has added an amendment to H.R. 3236 which would require state and local governments to remit Social Security payments they have collected to the federal treasury 30 days after the end of each month. This amendment is stricter than current policy, but more flexible than that proposed by HEW. The bill as amended awaits action on the Senate floor.

Federal Pay Reform. On Nov. 14 the House subcommittee on compensation and employee benefits (Post Office and Civil Service Committee) held one day of hearings on the Administration's federal pay reform bill, H.R. 4477. Most of the witnesses were congressmen whose districts would be significantly affected by the bill if passed. The bill proposes to tie federal pay to local prevailing wages for comparable positions including, for the first time, state and local government employees. NACo has endorsed certain major principles of the proposed legislation. No action is expected until next year.

PERISA. No legislation has been introduced thus far this session in the Public Employee Retirement Income Security Act area, but new

legislation is expected to be introduced shortly. No action is expected until next session.

Mine Safety and Health Act. House Education and Labor Committee's health and safety subcommittee held 13 days of oversight hearings on MSHA; NACo testified Oct. 18. Hearings have concluded for this year but will resume in January or February. The Labor/HEW appropriations bill deletes funds for enforcement of MSHA training standards as they apply to surface sand, gravel, clay and stone operations. No other legislative changes have been made.

Transportation

Aircraft Noise. In a last ditch effort to sidetrack the Senate's Aircraft Noise bill, S. 413, California Rep. Norman Mineta and Glenn Anderson tried unsuccessfully to prevent quorum in the House Public Works Committee. The way is now clear for Rep. Harold "Bizz" Johnson (Calif.), chairman, to go to conference with the Senate. The bill, which NACo strongly opposes, would lessen the effects of the federal regulations aimed at "quieting" aircraft engines. Transportation Secretary Neil Goldschmidt has said that he will recommend to President veto the legislation if measures extend or prolong government's policies to reduce aircraft noise.

Windfall Profits Tax/Transportation. The Senate is expected to strike the transit trust fund from the Senate Finance Committee's version of the windfall profits tax bill. The proposal would have created a transit trust fund, using 25 percent of the committee's windfall profits up to a maximum of \$15 billion/10 years. Opponents of the trust fund, supported by Russell B. Long, argued that since trust funds are off-budget items, congressional budget and appropriation committees would be circumvented.

DOT '80 Appropriations. The appropriation bill for the Department of Transportation, H.R. 4440, passed conference and was approved by the House Nov. 15 and the Senate Nov. 19.

Welfare and Social Services

Welfare Reform. House passed H.R. 4904, Social Welfare Reform Amendments of 1979 Nov. 7. NACo is urging Senate Finance Committee to schedule hearings before Dec. adjournment.

Social Services and Child Welfare. House named conferees and agreed to conference on H.R. 3434, but gave notice that Senate AFDC amendments will not be accepted. No date set for conference committee.

IRAP. Second continuing resolution authorizes payment at end of fiscal '80 for health and social services payments to Indo-Chinese refugees.

Low-Income Energy Assistance. Congress has approved appropriations for 1980 assistance. Senate has not passed authorizing legislation. In other action, Senate and House committees continue work on S. 1724 and H.R. 3919, introduced by Sen. Harrison Williams (D-N.J.), is a general revenue bill aimed at reducing heating costs. H.R. 3919, the Oil Tax bill, is similar in intent to the President's windfall profits tax on oil.

Jail Reform Proposal Drafted

stone" in a bill, but rather that legislation should set forth national goals and objectives and a process for evaluating progress towards them.

NACo is currently trying to learn more about federal suits against county jails. If you are being sued or are under court order, please send copies of legal briefs, relevant court documents or other summary materials to Don Murray, Criminal Justice Team. NACo will use them to begin an information clearing-house on county jail suits.

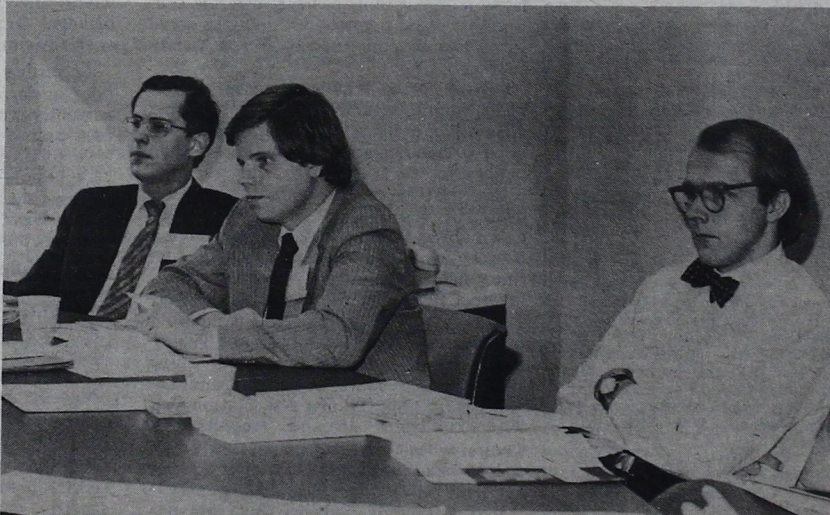
Chairing the meeting was Rosemary Ahmann, commissioner, Olmsted County, Minn. She gave attendees an overview of jail problems—reasons that jail reform is

the number one criminal justice priority for counties.

One out of every four of our nation's 3,493 jails is over 50 years old, she told participants. Three-quarters of them house less than 20 people; nearly 90 percent are without either educational or recreational facilities; and two-thirds have only first-aid medical capability. Thousands of people in jail do not belong there—juveniles, alcoholics, the mentally ill and retarded, and most of those who cannot afford bail, Ahmann said.

She also reminded participants that 10 percent of all jails are under court order to upgrade conditions, and more face the same fate.

The hearings announced by Boggs mark an important step forward in NACo's two-year jail reform effort. Similar hearings will be sought on the Senate side.



ALTERNATIVES TO INCARCERATION—Tim Boggs, right, legislative assistant, House subcommittee on courts, discusses NACo's draft legislation for jail reform. Also seen are Douglas Jones, center, from Sen. Howell Heflin's office and Andrew Karp, Clark County, Nev.