URBAN GROWTH LEGISLATION: THE FEDERAL AND STATE RESPONSE —1971

BY

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I. Introduction

Development of a national urban growth policy (like the city itself) is perhaps the most complex public policy dilemma facing the nation. By comparison, issues of future outer space exploration, for example, seem almost simplistic. In the Housing and Urban Development Act of 1970,[1] Congress spelled out the basic elements that must be considered: regional approaches, urban-rural balance, poverty, housing, redevelopment, environment and governmental capability.[2] To encourage follow-through by the executive branch, Congress required that in 1972 and in every succeeding even-numbered year, the President should submit to Congress a "Report on Urban Growth."[3] In February 1972, the President submitted the required

1. 42 U.S.C. §§ 4501-32 (1970).
2. *Id.* § 4502.
3. *Id.* § 4503.

document. The title was changed to "Report on National Growth 1972" on the grounds that the term "national urban growth policy [was] too narrow."[4] The difficulties of the assignment were recognized by both the Administration and *The New York Times*,[5] among others, though they drew somewhat divergent conclusions on the merits of the first effort. The *Times* comment regarding the presidential effort was:

> . . . If the Congressional authors of this idea thought they would get an authoritative summing-up of information and legislative recommendation on behalf of the cities—comparable to the annual reports from the Council of Economic Advisers and the Council on Environmental Quality —they must be as sorely disappointed as Mr. Romney.
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> This vapid document spends 74 pages explaining that the Federal Government really cannot do much of anything about urban problems or suburban growth. The fragmented and inadequate authority of other levels of Government has been amply demonstrated, but the report passes the responsibility back to them: "any consideration of growth issues must recognize that many of these issues fall within the boundaries of state and local governments."
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> With an air of bustling discovery, the report states: "Ours is a Federal system with powers shared between the states and national Government. This system preserves the ability of citizens to have a major voice in determining policies that most directly affect them."
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> President Nixon solemnly proclaims in this report that he has no "master plan for directing the multitude of public and private decisions that determine the patterns of progress in modern America."
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> No one expected him to have a "master plan." But citizens and local officials could reasonably look for some leadership, some guidance on alternatives, and some greater coherence in the Federal Government's own policies.[6]

This article seeks to contribute to the development and consideration of new urban growth policy proposals by attempting to relate, in the context of such a policy, such separate but inextricably linked subjects of recent federal and state legislative action as rural develop-

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4. DOMESTIC COUNCIL COMM. ON NATIONAL GROWTH, REPORT ON NATIONAL GROWTH 1972, at ix (1972).

5. N.Y. Times, Mar. 29, 1972, at 42, col. 1.

6. *Id.*

ment, special revenue sharing, distribution of health manpower, the war on poverty, open housing, the regional implications of welfare reform, new communities, housing subsidy consolidation, coastal land management and departmental reorganization.

The basic inputs in this legislative review of federal and state action in 1971 are several in number. Significant new legislation affecting urban growth is cited and analyzed. Discussion is essentially limited to legislation actually enacted, with emphasis on innovative legislation. Appropriate notice is taken of significant Presidential documents, other executive branch actions and additional public documents and recommendations having major implications for national urban policy.

This review uses the statutory declaration in the Housing and Urban Development Act of 1970[7] as an organizing framework. In that Act, Congress declared that a national urban growth policy should:

> (1) favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;
> (2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;
> (3) help reverse trends of migration and physical growth which reinforce disparities among States, regions, and cities;
> (4) treat comprehensively the problems of poverty and employment (including the erosion of tax bases and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline;
> (5) develop means to encourage good housing for all Americans without regard to race or creed;
> (6) refine the role of the Federal government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;
> (7) strengthen the capacity of general government institutions to contribute to balanced urban growth and stabilization; and
> (8) facilitate increased coordination in the administration of Federal programs to encourage desirable patterns of urban growth and stabilization, the prudent use of natural resources, and the protection of the physical environment.[8]

7. 42 U.S.C. §§ 4501-32 (1970).
8. *Id.* § 4502(d).

These components of an urban growth policy will be used to analyze and appraise what occurred in 1971 in response to urban growth needs and to identify emerging specific issues affecting urban growth which are about to be dealt with in the legislative process. Adoption of such a federal urban growth policy, by itself, does little to achieve the economies of regional service systems, ease the human costs of rural to urban migration, improve the ghetto environment, create balanced new communities or improve the capability and accountability of local government. Nor, of course, in a large country administered under a separation of powers system, where decentralization is pursued with a vengeance, is implementation of an urban growth policy solely or even predominantly a national responsibility.

It is also instructive to note that Congress spoke in terms of the development of such a policy—not its adoption or implementation. And indeed we are only at the beginnings of wisdom in identifying the specific legislation that would institute an urban growth policy. To illustrate, much of the early discussion of national urban policy concerned population growth. The Commission on Population Growth and the American Future, which was created by the 91st Congress, made its final report in 1972. In March, 1972, the Commission issued an interim statement, entitled *Population and the American Future*,[9] which limited itself to articulating the fundamental questions that must be answered before an urban growth policy can be determined:

> . . . The concerns of overriding importance are whether population stabilization and redistribution of the population are desirable.
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> . . . [I]f population stabilization is desirable and its achievement would require more than eliminating unwanted childbearing, then additional measures can be considered, such as changes in tax laws, the elimination of pronatalist laws and programs, and educational programs.
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> . . . A principal question is the role that Federal and State governments play in population affairs. Although the Federal government does not have an explicit, comprehensive population distribution policy, many of its policies, programs and statutes seem to have an impact on population distribution incidental to their main objectives. This inadvertent impact may be seen, for example, not only in the Federal Housing Administra-

9. COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE, AN INTERIM REPORT TO THE PRESIDENT AND THE CONGRESS (1971).

> tion program and Federal procurement policies. Others, such as the Economic Development Administration, the New Communities Act and the urban renewal program, are designed in part to redirect growth.
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> . . . We also have many laws directly or indirectly affecting the growth of population, such as those governing immigration, marriage, divorce, contraception and abortion, which require examination.[10]

The chronicle of urban problems to be addressed and re-addressed if a national urban growth policy is to be implemented is by now a familiar litany—poverty as a way of life for millions of Americans, decaying urban centers, inadequate housing, continued pollution of our environment, growing traffic congestion, intensifying economic and social polarization within our metropolitan areas, wider cleavages between metropolitan areas and poor rural counties, gaps in programs and tax efforts between energetic and stand-pat states—each continues to grow apace with urban growth itself.

Before identifying the specific legislative and related executive branch developments, it may be desirable to comment on what appears to be a pervasive attitude concerning the current national posture and performance regarding its urban growth responsibilities. There is a general dissatisfaction with current federal practices which is being expressed within the Congress, in the executive branch and among the major national organizations representing urban communities. While there is no consensus on how to move toward implementation of a national urban growth policy, there is an expectation of major changes in federal policy and practices.

A July, 1971, *National Journal* article[11] captured the situation within the Congress:

> Republican and Democratic policy makers are shedding old beliefs in a scramble to rebuild completely a $2-billion-a-year package of programs to help the cities.
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> . . . Sweeping legislative and administrative reforms, all being developed by relatively independent clusters of politicians and technicians, are in the works.
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> . . . The new urban affairs catchword in Washington is "city strategy." It describes a new approach to the use of Federal dol-

10. *Id.* at 25-30.

11. Lilley, *Urban Report: Both Parties Ready to Scrap Grant Programs in Favor of "City Strategy" Package of Aid*, 3 NATIONAL J. 1393 (1971).

> lars. The goal is to promote comprehensive urban planning in city halls, not in Washington. . . .
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> . . . Working drafts of various legislative proposals make it clear who will win and who will lose with a new approach. The big winners will be the Nation's hard-pressed cities, which will get more money, and their mayors, who will get more power.
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> The big losers will be the semi-autonomous agencies which have traditionally controlled urban aid programs—the public housing authorities, urban renewal agencies, water and sewer districts, transit authorities and others.
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> . . . [Congressman] Ashley said, "We helped lay the cornerstone for this new approach with our 'Urban Growth and New Community Development Act of 1970 (84 Stat. 1770),' when we said in our 'statement of findings and purposes' that our present processes of urban community development programs were wasteful and destructive and that our existing urban development programs were contributing to that waste and destruction. We never said that till last year."[12]

The *Third Annual Report on National Housing Goals*,[13] prepared by the Department of Housing and Urban Development (HUD) and transmitted to the Congress by the President, while primarily directed to meeting the need for providing adequate shelter, was relevant to the range of urban development problems. From the perspective of the executive branch, several reasons were offered for increasing concern:

> . . . These can be grouped into three broad but interrelated categories: cost, equity, and environment. . . . It is vitally important that all concerned with meeting the Nation's housing needs begin focusing on these issues so that necessary reforms in basic policy can be identified, developed, and implemented as quickly as possible.[14]

In a move to strengthen the structure within which key urban policy decisions can be made, a Committee on National Growth Policy was appointed by the President, within the Domestic Council, and chaired by the Secretary of HUD; other members included the Secretaries of Agriculture, Commerce, Labor and Transportation, the Chairman of

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12. *Id.* at 1393-97.

13. U.S. PRESIDENT, THIRD ANNUAL REPORT ON NATIONAL HOUSING GOALS, H R. DOC. No. 136, 92d Cong., 1st Sess. (1971).

14. *Id.* at 21.

the Council of Economic Advisors and the Director of the Office of Economic Opportunity (OEO).

On the other hand, a resolution on national urban growth policy, adopted at the 1971 annual meeting of the United States Conference of Mayors,[15] reflected impatience with the lack of follow-through called for by the Executive on the statement of Congressional intent. In a mood of frustrated forbearance, the Conference expressed its resistance to future piecemeal legislation:

> . . . Whereas, the United States Conference of Mayors has strongly supported the development of a National Growth Policy; and
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> Whereas, the Domestic Affairs Council has, unfortunately, failed to demonstrate a sense of urgency in complying with Congress' mandate; and
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> . . . Whereas, such legislation tends to perpetuate the patchwork character already widespread among Federal programs and the irrelevant criteria based upon distinctions of size and proximity to metropolitan areas.
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> Now, therefore, be it resolved that the United States Conference of Mayors calls upon the President and the Domestic Council to begin immediately to develop recommendations for a National Growth Policy; and
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> . . . Be it further resolved that the Conference urges Congress to consider all legislative proposals involving national growth questions in light of the objective of Title VII of the Housing and Urban Development Act of 1970; and that Congress refrain from enacting piecemeal growth legislation until the Administration has submitted its report.[16]

The National Governors' Conference, at their annual meeting was more forbearing, but also more prolific. Resolutions were passed urging the adoption of no less than seven national policies dealing with balanced national growth: a comprehensive national community development policy, a national population growth and distribution policy, a new communities development policy, a national economic development policy, a national agricultural development policy, a national housing policy and a national land developmental policy.[17]

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15. 117 CONG. REC. 10,393-94 (daily ed. June 30, 1971).

16. *Id.*

17. POLICY POSITIONS OF THE NATIONAL GOVERNOR'S CONFERENCE 41-44 (63d Annual Meeting, Sept. 1971).

The year saw the creation of two new interest groups representing local elected officials and offshoots of existing Washington-based organizations. William Lilley, a keen observer of the Washington scene, noted that in 1971:

> [T]he mayors have had considerable success with their own 17-member U.S. Conference of Mayors Legislative Action Committee which New York's Mayor Lindsay organized in December, 1970. At the July annual convention of the National Association of Counties (NACO), a counterpart NACO Council of Elected County Executives was passed. The group aimed at being a "suburban action" lobbying force and was made up initially of "mayors" of 24 large and growing suburban counties.[18]

Of major importance, of course, are a number of legislative acts passed in 1971 by Congress and the states, which affect key elements of a national urban growth policy. These acts are discussed individually in the text below.

II. Effective Use of Resources In Urban Regions

Cities have, to a great extent, given way to metropolitan areas as the centers of American life. The first of the components of a national urban growth policy calls for sounder, more orderly and balanced patterns of development within our metropolitan regions and those smaller urban places with the potential for accelerated growth to metropolitan scale and size. Generally, policies and programs of any one local government have considerable impact in other parts of the metropolitan area. Local governments share many federally supported facilities which cut across local (and frequently, state) boundaries, such as highway, water and sewer systems, and many other facilities which serve large segments of the metropolitan population, such as airports and hospital centers. These forms of interaction, together with the metropolitan character of housing and employment markets, create a common area of interest. Increasing attention is being paid to the interrelationship of housing, jobs and transportation within an urban area and across jurisdictional boundaries. During 1971, in at least seven major urban legislative areas—transportation, solid waste disposal, crime control, revenue sharing, manpower, education and improved delivery of health services—there was con-

18. Lilley, *Washington Pressures: Suburban Leaders Form Action Lobby to Grab Share of Mayor's Influence*, 3 National J. 1885-88 (1971).

sideration of federal action supporting the creation of comprehensive regional or areawide mechanisms. While many of the proposals were expected to be cited in the second session, none were completed in 1971.

A. *State Action on Solid Waste Management*

Several states did complete action in 1971 to deal with solid waste disposal. Oregon passed a law establishing a state-wide solid waste management program which assigns primary responsibility for adequate solid waste management to local governments, while making the state authorities responsible for assuring that there are effective programs throughout the State.[19] New Hampshire legislation requires that, whenever feasible, regional treatment plants are to be constructed to serve two or more communities.[20] This law is aimed at obtaining maximum value from state funds which are invested in pollution control projects and assuring optimum water quality levels in surface waters. Oklahoma also took a regional approach by authorizing the creation of rural solid waste management districts.[21]

B. *State Action on Mass Transportation*

The problems of public transportation continued to concern state legislatures in 1971, though only a limited number passed related legislation. Several different approaches were taken, ranging from the creation of new departments in the state government to the establishment of tax funds to be used for public transportation.

The creation of departments of transportation in Maine[22] and Illinois[23] brought to 15 the number of states which have chosen to deal with the transportation problem through a separate administrative unit at the departmental level.[24] In addition, Illinois passed the Emergency Public Transportation Assistance Act of 1971[25] which provides for appropriations as part of a state program of public transportation assistance.

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19. ORE. REV. STAT. § 451.570 (1971).

20. N.H. REV. STAT. ANN. § 149-B:1-a (Supp. 1972).

21. OKLA. STAT. ANN. tit. 82, §§ 1324.1-.26 (Supp. 1972).

22. ME. REV. STAT. ANN. tit. 23, § 4205 (Supp. 1972).

23. ILL. ANN. STAT. ch. 127, § 3 (Smith-Hurd Supp. 1972).

24. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, STATE ACTION ON LOCAL PROBLEMS 11 (1972) [hereinafter cited as ACIR, STATE ACTION].

25. ILL. ANN. STAT. ch. 111 2/3, §§ 611-18 (Smith-Hurd Supp. 1972).

Florida approached the administrative problem regionally by passing the Regional Transportation Authority Law.[26] The regional authorities established by this law were empowered and mandated to develop public transportation systems throughout the State.

California joined the few states with comprehensive transportation funds when it passed a law creating a Transportation Tax Fund and a State Transportation Fund approving use of a sales tax on gasoline to support local public transit.[27] Counties with populations over 500,000 are required to allocate this revenue to mass transportation systems. Connecticut gave the Transportation Commission authority to spend up to 10 per cent of the Public Service Tax Fund for mass transit.[28] In a move to alleviate the transportation burden for the elderly, the Nevada legislature passed a law providing for free or reduced rates on public transportation to persons over 65 years old.[29]

III. Urban-Rural Balance and Economic Growth

There is increasing public debate over projected patterns of urban development. Current trends are marked by disorderly urban sprawl in our larger metropolitan regions and a gradual depopulation in the non-metropolitan parts of the country. Is it possible and desirable to achieve a more balanced urban growth which provides realistic choices for people, avoids deterioration of the urban environment and makes use of the resources of smaller cities and growth centers? Is it desirable to try to decelerate current migration patterns to achieve greater urban-rural balance? The Agriculture Act of 1970[30] declared that highest priority be given in all programs of the federal government to the revitalization of rural areas as an integral component of a national policy of balanced growth. The long-term national debate on this fundamental component of an urban growth policy is now underway.

While the overall percentages of regional population shift were small, significant flows of population affecting central cities, metropolitan fringes and smaller urban places did mark the decade. Some new patterns emerged from early Census Bureau reports on the 1970

26. Fla. Stat. Ann. §§ 163.565-.572 (1972).
27. Ch. 1243, §§ 1-40, [1971] Cal. Stat. 2425.
28. ACIR, State Action at 11.
29. Nev. Rev. Stat. § 706.351(3)(b) (1971).
30. 42 U.S.C. § 3122 (1970).

census.[31] The South registered a gain through in-migration of about 400,000 new residents during 1960-70—the first such increase in many decades. The increase resulted from a net gain of about 1.8 million whites through in-migration balanced against a net loss of about 1.4 million blacks. During 1960-70, blacks continued to leave the South in about the same numbers (but at a somewhat reduced rate) as in the two preceding decades, in each of which the loss of blacks was about one and one-half million. The 1960-70 estimates show that large out-migrations of whites from New York and five northeast-central states (Ohio, Indiana, Illinois, Michigan and Wisconsin) were countered somewhat by large in-migrations of blacks. New York, for example, showed a net loss of more than a half million whites through out-migration while gaining nearly 400,000 blacks via in-migration.

Although the possibilities are virtually infinite, there are essentially two basic public options dealing with methods for meeting the needs of urban growth. The first is concentrating attention on improving quality of suburban growth, new town development and redevelopment within the metropolitan region to absorb the new growth—an approach that will be dealt with below. The second, discussed here, is identifying the range of activities underway to move the nation in the direction of supporting the development of smaller urban centers rather than existing large metropolitan areas.

By proclamation, the President designated the week of November 19-25, 1971, as National Farm-City Week and requested the leaders of agricultural organizations, business and labor groups, and other interested organizations to focus their attention upon the interrelationship of urban and rural community development.[32]

A. *Depressed Areas Assistance*

On June 29, 1971, the President vetoed the Economic and Regional Development Act, Public Works Acceleration Act, Public Works and Economic Development Act, and Appalachian Regional Act extensions.[33] The President voiced support for the extension of the present

31. Bureau of the Census, U.S. Dep't of Commerce, 1970 Census of Population (Prelim. Rep. PC(P3)-3, 1970).

32. U.S. President, *National Farm-City Week, 1971, Proclamation 4094,* 7 Weekly Compilation of Presidential Documents 1510 (1971).

33. U.S. President, *The President's Message to the Senate Returning S. 575 Without His Approval and Urging Passage of the Emergency Employment Act of*

economic development programs and, most importantly, optimism that there will be "no gap in service to the people in Appalachia and in the economically depressed areas served by the [Economic Development Administration]."[34] He stated the reason for his opposition to an accelerated public works program: excessively long lead times, little effect on employment where most needed, over-emphasis on the construction industry and inadequately planned projects.[35]

Congress responded on July 30, 1971, by enacting a new four billion dollar extension of the existing Public Works and Economic Development Act[36] and the Appalachian Regional Development Act[37] which increased the authorization of direct grants for public work projects.[38] The amendment expands the definition of the redevelopment areas and contains a new category of special impact regions which includes areas threatened with an abrupt rise of unemployment due to curtailment of a major employment source, regions with concentrations of low-income persons, rural areas undergoing continued out-migration and places where employment suffers a continuing decline. The Appalachian Regional Development Act was strengthened by adding a four-year Appalachian airport program, an authorization for mine drainage pollution projects, additional assistance in making low and moderate-income housing available, and areawide demonstration projects for vocational and technical education.

B. *Rural Credit and Loan Insurance*

There was a great deal of concern in the 92nd Congress for legislation to provide publicly guaranteed sources of capital to help finance the economic development of rural communities.

The Farm Credit Act of 1971[39] was justified, in part, by the need to reduce the pressures of population and urbanization. Improving the quality of life in rural areas is fundamental to an urban growth policy. To do so takes an investment of public as well as private resources. The purposes of the Farm Credit Act are to modernize and

1971 and Appalachian Regional Development Legislation, 7 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 1005 (1971).

34. *Id.* at 1006.

35. *Id.*

36. 42 U.S.C. §§ 3121-66 (1970).

37. 40 U.S.C. § 1 (Appendix 1970).

38. 42 U.S.C. §§ 3135, 3141(c), 3152, 3171(g), 3188 a.(d) (Supp. I, 1971).

39. 12 U.S.C. §§ 2001 *et seq.* (Supp. I, 1971).

remove some archaic restrictions in the authority of the cooperative Farm Credit System in order to assure an adequate flow of funds into rural areas and thereby meet the credit needs of farmers, ranchers, cooperatives and other rural residents. In addition to liberalizing existing farm credit legislation, the Act grants authority to land banks to make loans for rural housing to persons others than farmers or ranchers in amounts up to 15 per cent of outstanding loans.[40] Loans may also be made to farm-related businesses.[41]

An amendment to the Consolidated Farmers Home Administration Act of 1961[42] made permanent the insured loan authority under the Act.[43] The amendment authorized the continuation of three existing loan programs: the Farm Ownership Loan Program, the Water and Sewer Loan Program and the Association Loan Program. The Farmers Home Administration insured loan authority makes possible a much larger volume of loans, both in amount and number, than would have been possible under the direct loan approach.

C. *Rural Telephones*

On May 7, 1971, Congress enacted the Rural Telephone Bank Act,[44] an Administration-supported proposal. The Act establishes a Rural Telephone Bank for the purpose of supplying additional capital for the rural telephone program. The financing is an adaptation of the federal land bank system and thus serves to free a lending program from reliance on Treasury financing over a period of years.

The Senate Agriculture and Forestry Committee, in reporting the Bill, stressed the importance of maintaining basic public services in rural places and the fact that other sources of financing must be sought to supplement the present loan program if the rural telephone systems are to meet their service responsibilities.[45] The Act should serve to supply the supplemental financing needed for continued growth and improvement of the nation's rural telephone system. Subsequently, on July 22, 1971, Congress appropriated funds to finance

40. *Id.* § 2018.

41. *Id.* § 2016.

42. 7 U.S.C. §§ 1921 *et seq.* (1970).

43. 7 U.S.C. § 1928 (Supp. I, 1971).

44. *Id.* §§ 941-50b.

45. SENATE COMM. ON AGRICULTURE AND FORESTRY, RURAL TELEPHONE BANK, S. REP. No. 21, 92d Cong., 1st Sess. 25 (1971).

the new telephone authorization and called on the Administrator of the Rural Electrification Administration "not to make loans to telephone companies or associations when there is any indication that such company or association is likely to be purchased by larger corporate interests."[46]

D. *Rural and Ghetto Health Manpower*

The Comprehensive Health Manpower Training Act of 1971[47] provides increased support for meeting the manpower needs in the health professions and contains a number of provisions directed toward improving the geographic distribution of health personnel.

The House Committee on Interstate and Foreign Commerce, in reporting the Bill, cited relevant statistics on the current uneven distribution of health personnel.[48] There are striking disparities among the states. For example, New York State has a ratio of 219 active (non-federal) physicians per 100,000 population, while South Dakota has only 77. Even those states with a relatively good supply of physicians often have serious shortages in inner cities and in rural areas. There are 134 counties in the United States with no practicing physician at all.

The Act authorizes the funding of projects designed to identify individuals whose background or interests make it reasonable to assume that they will engage in the practice of a health profession in rural or other areas having a severe shortage of such personnel, and to encourage and assist increased numbers of individuals with this motivation to undertake and successfully complete training in a health profession. Support may be given to students to expose them to the special problems of and practice in rural communities, inner cities and other areas with severe shortages. To sustain interest and enhance preparation for service in such areas, there is also new special project authority for traineeships for full-time students to receive part of their education under preceptors in rural communities and other areas having a severe shortage of physicians.[49]

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46. AGRICULTURAL-ENVIRONMENTAL AND CONSUMER PROTECTION PROGRAMS, FISCAL YEAR 1972, CONFERENCE REPORT TO ACCOMPANY H.R. 9270, H.R. REP. No. 376, 92d Cong., 1st Sess. 7 (1971).

47. 42 U.S.C. §§ 292b to 95h-9 (Supp. I, 1971).

48. HOUSE COMM. ON INTERSTATE AND FOREIGN COMMERCE, COMPREHENSIVE HEALTH MANPOWER TRAINING ACT OF 1971: REPORT TO ACCOMPANY H.R. 8629, H.R. REP. No. 258, 92d Cong., 1st Sess. 37 (1971).

49. *Id.* at 31.

Under another provision, it will be possible to provide specialty residency training programs in local communities away from the medical schools in order to expose interns and residents to a cross-section of care and health problems in the community.[50] It is also designed to attract health care personnel to practice in areas where the need for them is great. The Act requires that each Health Manpower Education Initiative grant or contract must be coordinated with the Regional Medical Program in the area in which the project is carried out. The Health Manpower Initiative authority in the Act also includes a separate authority, substantially similar to that proposed for the health professions special projects, to encourage and assist increased numbers of individuals from minority or low-income groups to undertake training in professional courses of study in health.[51] Finally, the Act provides greater incentives to physicians, dentists and other health professionals to practice in shortage areas or in areas where there are large numbers of migratory agricultural workers. Any student who enters into an agreement with the Secretary to practice for at least three years in a shortage area may have the bulk of his education loan waived.[52]

Somewhat similar legislation extends through 1974 programs to train nurses, and authorizes cancellation of up to 85 per cent of loans for student nurses who then work for a non-profit agency for five years or serve for three years in an area designated as a medical shortage area.[53]

E. *New Rural Development Senate Subcommittee*

Of special significance was the creation in 1971 of an already legislatively active Subcommittee on Rural Development within the Senate Committee on Agriculture and Forestry. The Committee Chairman, in announcing its organization, expressed the hope that the major thrust of the Subcommittee would be to move toward revitalization of the nation's countryside and smaller towns "in an earnest effort to achieve more of a balance between rural and urban America."[54]

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50. 42 U.S.C. § 295f-4 (Supp. I, 1971).
51. *Supra* note 48, at 34-35.
52. *Supra* note 48.
53. 42 U.S.C. § 297b (Supp. I, 1971).
54. 117 CONG. REC. 1397 (daily ed. Feb. 17, 1971).

F. *Executive Branch Reports on Rural Development*

The Agriculture Act of 1970[55] calls for a sound balance between rural and urban America. Priority must be given to the revitalization and development of rural areas. The law requires the President, the Secretary of Housing and Urban Development, and the Secretary of Agriculture to submit annual reports to Congress on their efforts to provide rural development assistance.[56]

On March 1, 1971, the President transmitted the first such annual report on the availability of government services and levels of federal financial assistance to rural areas.[57] The message and report are essentially a description of the Administration's domestic legislative program, with indications of the expected benefits for rural America. The programs cited included general revenue sharing, the special revenue sharing and welfare reform programs described below, and the comprehensive health program described above.

As required under the Agriculture Act of 1970, the report of the Department of Housing and Urban Development and the Department of Agriculture[58] identified the assistance furnished to non-metropolitan planning districts. As of June 30, 1971, 38 states had officially delineated substate planning and development districts for all or almost all geographic areas. In fiscal year 1971, 3.4 million dollars in HUD comprehensive planning assistance grants were made to 155 non-metropolitan planning districts, including Economic Development Districts, in 34 states. This compares with $2.8 million for 31 districts in fiscal year 1970 and $1.4 million for 61 districts in fiscal year 1969. About three times the latter amount was received by these districts from other federal programs such as planning for air and surface transportation needs, community facilities, health facilities and services, and law enforcement.[59]

In still another accounting required under the Agriculture Act, the President reported to the Congress on September 14, 1971, the begin-

55. 42 U.S.C. § 3122 (1970).

56. *Id.* §§ 3122(a), (b).

57. U.S. PRESIDENT, REPORT ON GOVERNMENT SERVICES TO RURAL AMERICA, H.R. Doc. No. 55, 92d Cong., 1st Sess. 32 (1971).

58. U.S. DEP'T OF AGRICULTURE AND U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, ANNUAL REPORT OF ASSISTANCE FURNISHED IN F.Y. 1971 BY THE DEPARTMENTS OF AGRICULTURE AND HOUSING AND URBAN DEVELOPMENT FOR NONMETROPOLITAN PLANNING AND DEVELOPMENT DISTRICTS (1971).

59. *Id.*

nings of an organized effort to place more federal facilities and activities in rural areas.[60] He stated that:

> During the period covered by this report, more than 60% of all Federal workers placed in newly located activities were employed in areas of low population density. . . .
> . . . All of the major departments and agencies of the executive branch are now giving priority consideration to locating new facilities in areas of low population density.[61]

IV. Problems of Urban Poverty

Perhaps the most fundamental domestic problem is the poverty and social isolation of the poor and minority groups in our central cities and low-income suburban and rural enclaves. Urban policies, which are now receiving increased attention, involve encouraging the dispersal of the central city poor into suburbs where better jobs, schools and housing are more likely to be available. This could mean a strategy of putting governmental resources, such as subsidized low and moderate-income housing, where the solutions are rather than where the problems are. A range of state and federal approaches were explored to improve the conditions of life in ghetto areas through tenants' rights to crime insurance, relocation aid and amendments to the Economic Opportunity Act; the objects being to provide greater areawide mobility for low-income and slum populations through administrative action, to reduce the poverty universe and incentives to migrate into ghettos through welfare reform, and in other ways overcome a de facto demographic and geographic state of siege.

A. *Family Assistance Plan*

The proposed Social Security Amendments of 1971,[62] reported by the House Ways and Means Committee and passed by the House, contain a number of reforms relevant to urban growth and the distribution of poverty within and among urban and rural regions. These reforms include the creation of uniform federal standards of eligibility and minimum payment, aid to working as well as nonworking poor, financial incentives to take work and job assistance in

60. 117 Cong. Rec. 14,235 (daily ed. Sept. 14, 1971).

61. *Id.*

62. House Comm. on Ways and Means, Social Security Amendments, H.R. Rep. No. 231, 92d Cong., 1st Sess. (1971).

the form of federally-supported training programs, and day care centers.

The Bill promises stabilization of state welfare expenditures at current levels. Fundamental to the problem of welfare reform, however, is the uneven coverage of the programs at the regional, state and local level which have created extremes of treatment and are difficult to incorporate into a uniform national system. It is generally acknowledged that the original purpose of the Social Security Act—to allow the states to adapt their own programs to their particular economic and social conditions—had certain adverse effects nationwide in terms of the benefits provided. The great differences in payment levels are well known, but a sharp rise in welfare benefits in the rural South should slow the migration of the poor to the inner city neighborhoods of the North.

In what appeared to be an interim measure, Congress passed an amendment which incorporates the work requirements for unemployed fathers and volunteers of the Family Assistance Plan, but without increased welfare benefits.[63] The new Act also earmarks more money for on-the-job training and for public service jobs offered by local or state government agencies.[64] Federal matching for the public service component was increased to 100 per cent for the first year of employment, 75 per cent the second year and 50 per cent the third year.[65]

B. *Access to Housing*

Open housing legislation is a positive governmental intervention providing greater housing mobility for metropolitan residents and dispersion of ghetto populations. In his news conference of February 17, 1971, the President described his position:

> . . . First, this administration will enforce the law of the land which provides for open housing. Open cities, open suburbs, open neighborhoods are now a right for every American.
>
> Second, however, this administration will not go beyond the law or in violation of the law by going beyond it by using Federal power, Federal coercion, or Federal money to force economic integration of neighborhoods.[66]

63. 42 U.S.C. § 630 (Supp. I, 1971).
64. *Id.* § 631(b).
65. *Id.* § 633(e)(2).
66. U.S. President, *The President's News Conference of February 17, 1971*, 7 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 239 (1971).

The Department of Housing and Urban Development on June 24, 1971, issued guidelines[67] that would limit the proposed community development special revenue sharing grants to communities that agreed to plan for low and moderate-income housing. The guidelines indicated that under existing HUD programs, communities that plan to place federally aided housing outside of ghettos or otherwise segregated areas, would in the future be given priority consideration on their requests for funds.[68]

The Secretary of Housing and Urban Development on December 9, 1971, testified that an agreement has been in effect since July 1971, under which HUD and the General Services Administration (GSA) are seeking to ensure that the federal government, as a major employer, fulfills its fair housing responsibilities under the 1968 Civil Rights Act.[69] HUD is to inform the GSA of the availability of low and moderate-income housing in areas of proposed federal facilities. If GSA has no alternative and must build where the supply of such housing is inadequate to meet the needs of the agency involved, the local community will develop, with HUD's help, a plan to assure an adequate supply of housing within six months after completion of the federal facility.

C. *State Action on Relocation Assistance*

Federal legislation was passed in 1970 to provide for relocation assistance to individuals and businesses whose property is taken by the government for public construction projects. This Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970[70] served as a model for a number of states passing relocation legislation during 1971.

Oklahoma authorized the use of the State Highway Construction and Maintenance Fund to provide funds to people affected by highway right-of-way acquisition.[71] This relocation assistance was

67. 36 Fed. Reg. 12,032 (1971). *See also* U.S. President, *Federal Policies Relative to Equal Housing Opportunity, Statement by the President, June 11, 1971*, 7 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 892, 900-01 (1971).

68. 36 Fed. Reg. 12,032 (1971).

69. *See* 117 CONG. REC. 1306 (daily ed. Dec. 9, 1971).

70. 42 U.S.C. §§ 4601 *et seq.* (1970).

71. OKLA. STAT. ANN. tit. 69, § 1502 (Supp. 1972), *amending* OKLA. STAT. ANN. tit. 69, § 1502 (1969).

exempted from state income tax levies. Montana[72] and Alaska[73] passed legislation providing for uniform and equitable treatment for those displaced as a result of federally assisted programs and established equitable and uniform land acquisition policies. Connecticut passed legislation providing advance grants for relocation to those who did not receive moving cost reimbursement in a condemnation proceeding.[74] In New Jersey, loans to displaced persons are considered part of the cost of a federal or state housing project.[75] Provision is made for the federal or state agency administering the project to make such loans prior to construction. Minnesota revised its eminent domain proceedings to provide for relocation assistance.[76] A significant feature of the law is its provision for application regardless of federal involvement in the project. Several other states passed relocation assistance legislation.[77]

V. Good Homes for All Americans

Rarely does the federal government in its domestic programs explicitly set out quantifiable goals. The Nation's first specifically measurable housing goal was contained in the Housing and Urban Development Act of 1968[78] in which Congress determined that by 1978, 26 million housing units should be built, six million of these for low and moderate-income families.[79] Housing production turned around dramatically in 1970 and 1971, placing the Nation almost in line with the anticipated pace needed to meet the 10-year goal. Total production, including mobile homes, was less than the target, although the starts component was greater. Despite this, in 1971, there was explicit recognition in Congress and the executive branch of the need for a major redirection of what housing assistance programs should accomplish.

The existing housing programs were reported to be in difficulty on several grounds. First, there was concern over what has been de-

72. Mont. Rev. Codes Ann. § 32-3925 (Supp. 1971).

73. Alaska Stat. §§ 34.60.010 *et seq.* (1971).

74. Conn. Gen. Stat. §§ 8-266 *et seq.* (Noncumulative Supp. 1971).

75. N.J. Rev. Stat. § 20:4 (Supp. 1972).

76. Minn. Stat. Ann. § 117.095 (Supp. 1972).

77. Miss. Code Ann. § 8023.5-01 (Supp. 1972); Tex. Rev. Civ. Stat. art. 3266b (Supp. 1972); Wis. Stat. Ann. § 32.19 (Supp. 1972).

78. 42 U.S.C. § 1441a (1970).

79. *Id.*

scribed as runaway housing subsidy costs. Secondly, existing programs may have been contributing to certain problems of social and economic disparity since there is continuing resistance to low and moderate-income housing projects in suburban areas. On the other hand, cost limitations restrict the utility of current housing subsidy programs in large central cities. Finally, use of the newer programs to support the purchase of rehabilitated homes and other existing homes needing repairs came under severe criticism for permitting substandard construction practices and for apparent fraudulent behavior by some private builders and federal employees. Support is therefore growing for a drastic rewrite of federal housing policy.

The President's Third Annual Report on National Housing Goals[80] took pride in showing a 700 per cent increase in subsidized housing production from 1968 to 1971, but was critical of the housing industry and existing programs. The Report, submitted by the President to the Congress on June 29, 1971, confirmed the search for new directions and noted that the housing construction outlook both for low and moderate-income, as well as conventional housing, was the brightest in years. Nevertheless, in an open invitation to the Congress, the Report stated that:

> It is also necessary, however, to begin undertaking a long, deep, and searching look at the basic concept of our national housing programs and policies. Present estimates suggest that by 1978 direct commitments for budgetary outlays for subsidized housing will total around $7 billion per year, and loss of tax revenues through various credits and incentives will add further to this cost. Serious questions have arisen with respect to the effect of these programs on housing costs, distribution of income, and social and physical environment. Such questions will be a matter of intensive consideration by the administration over the coming year. It is hoped that others will join open-mindedly in a necessary re-thinking.[81]

The preliminary report of the housing section of the White House Conference on Aging[82] made some 25 recommendations for a national housing policy for the elderly, the first of these calling for a "fixed proportion of all government funds—Federal, State, and local—

80. U.S. PRESIDENT, THIRD ANNUAL REPORT ON NATIONAL HOUSING GOALS, *supra* note 13.

81. *Id.* at 3.

82. 117 CONG. REC. 21,620 (daily ed. Dec. 14, 1971).

allocated to housing and related services, [to] be earmarked for housing for the elderly; with a minimum production of 120,000 units per year."[83]

A. *State Action on Low-Income Housing*

As in 1970, the states took a variety of approaches to solve the serious problem of a housing shortage for low-income persons. One aspect of the solution is, of course, mobile and prefabricated housing which many states sought to standardize for the health and safety of residents. Another approach to the problem is the creation of state housing finance corporations which assist in the acquisition and development of land, construction, rehabilitation, financing, management, maintenance and sale or rental of low-income housing units. Three states moved in this direction in 1971. The Alaska Housing Finance Corporation is a government instrumentality within the Department of Commerce which has a legal identity of its own.[84] It provides for the financing and development of low-income housing by performing those functions mentioned above. The Minnesota Housing Finance Agency Law of 1971[85] created a similar agency which is to participate in federally insured construction loans when such loans for low and moderate-income dwellings are unavailable through private sources. In an important move to deal with the extreme problem which exists in a heavily populated urban area, New York brought into being the New York City Housing Development Corporation[86] which can make mortgage loans and is empowered generally to promote low-income housing. Maryland,[87] Oregon[88] and Texas[89] also took actions to stimulate low-income housing construction.

The creation of governmental units to plan and coordinate housing programs is another aspect of the same search for more and better public housing. Minnesota created county and multi-county housing and redevelopment authorities which preclude the establishment of additional authorities, thus maintaining centralized coordination and

83. *Id.* at 21,620-21.
84. ALASKA STAT. § 18.56.020 (Supp. 1972).
85. MINN. STAT. ANN. §§ 462A.01 *et seq.* (Supp. 1972).
86. N.Y. PRIV. HOUS. FIN. LAW §§ 650 *et seq.* (McKinney Supp. 1972).
87. MD. ANN. CODE art. 41, § 257K (Supp. 1972).
88. ORE. REV. STAT. § 456.570 (1971).
89. TEX. REV. CIV. STAT. art. 28, § 1269k (Supp. 1972).

administration of housing programs.[90] Similarly, New Mexico created six regional housing authorities,[91] Oklahoma provided for the creation of rural electric cooperative housing authorities[92] and Alaska organized Regional Native Housing Authorities.[93]

Hawaii's housing legislation in 1971 extended tax credits to low-income renters,[94] while New York authorized welfare payments up to $750 toward purchase of a house or condominium.[95] In related action, the Hawaii legislature requested the State Housing Authority to continue its policy of providing integrated housing—mixing socioeconomic segments of society.[96] Maine passed a constitutional amendment to assist its Indian population by pledging state credit for guaranteed housing loans.[97]

B. *State Action on Mobile Homes*

At a time when housing prices are soaring and a national housing shortage threatens, mobile homes have proven inexpensive and available. Their increasing popularity has presented new problems of quality control, however, and states are developing greater awareness of the necessity for standards in construction and design. A number of states in 1971 passed a Uniform Standards Code for Mobile Homes, with varying methods of enforcement.[98] The major theme in all of the legislation is the creation of minimum uniform standards. Only Texas provided for an administrative body to insure that standards are met by creating a Performance Certification Board for mobile homes.[99]

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90. MINN. STAT. ANN. §§ 462.426-.429 (Supp. 1972).

91. N.M. STAT. ANN. § 4-30-1 (Supp. 1971).

92. OKLA. STAT. ANN. tit. 63, § 1083 (Supp. 1972).

93. ALASKA STAT. § 18.55.995 (Supp. 1972).

94. HAWAII REV. LAWS § 235-56.5 (Supp. 1971).

95. N.Y. SOC. WELFARE LAW § 131-a1. (McKinney Supp. 1972).

96. Hawaii S. Res. 36 (1971).

97. Constitutional Resolutions, ch. 3, art. ix. § 14-D, [1971] Me. Laws 1465.

98. ALA. CODE tit. 25, § 126 (Supp. 1971); ALASKA STAT. § 45.30.010 (Supp. 1972); IND. ANN. STAT. §§ 20-1601 to 08 (Burns Supp. 1972); MINN. STAT. ANN. §§ 327.31-.34 (Supp. 1972); MONT. REV. CODES ANN. §§ 69-2121 to 24 (Supp. 1971); NEB. REV. STAT. §§ 71-4601 *et seq.* (1971); N.D. CENT. CODE §§ 54-21.1-01 *et seq.* (Supp. 1971); S.C. CODE ANN. 36-561 to 67 (Supp. 1971); TEX. REV. CIV. STAT. art. 5221f (Supp. 1972).

99. TEX. REV. CIV. STAT. art. 5221f (Supp. 1972).

C. *State Action on Industrialized Housing*

Two states provided mobile home standards in the same legislative package that created industrialized housing standards. Virginia provided construction standards for both categories and placed the Act under the jurisdiction of the State Corporation Commission.[100] An Advisory Commission on Industrialized Housing and Mobile Homes, which is to report to the Secretary of the Department of Economic and Community Development, was created in Maryland.[101]

A number of states passed similar legislation, creating standards and authority for their implementation. New York, for example, passed the Uniform Standards Code for Factory Manufactured Homes Act,[102] empowering the State Building Code Council to create standards, rules and regulations for factory-built housing. The Industrialized Housing Law,[103] passed by the Maine lawmakers, puts regulation of the industry under the jurisdiction of the Maine State Housing Authority. This Act also provides that the Authority must observe local ordinances and regulations, and components approved by the Authority must still comply with local requirements. Florida[104] and Nevada[105] both passed a Factory Built Housing Act of 1971; Florida placed it under the jurisdiction of the Department of Community Affairs which is to be assisted and advised by the newly created Factory-Built Housing Council,[106] while Nevada placed its law under the jurisdiction of the Department of Commerce, which is instructed to adopt rules and regulations pertaining to industrialized housing.[107] Other states passed similar industrialized housing legislation.[108]

In 1971, at least one state provided for technological testing in the construction area. The Texas Building Materials and Systems Test-

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100. VA. CODE ANN. §§ 36-70 to -85 (Supp. 1972).

101. MD. ANN. CODE art. 41, § 266EE-5 (Supp. 1972).

102. N.Y. EXEC. LAW §§ 400-a *et seq.* (McKinney 1971), *as amended,* (McKinney Supp. 1972).

103. ME. REV. STAT. ANN. tit. 30, §§ 4771-83 (Supp. 1972).

104. FLA. STAT. ANN. §§ 553.35 *et seq.* (1972).

105. NEV. REV. STAT. §§ 461.010 *et seq.* (1971).

106. FLA. STAT. ANN. § 553.38 (1972).

107. NEV. REV. STAT. § 461.170 (1971).

108. ALA. CODE tit. 25, §§ 114-22 (Supp. 1971); GA. CODE ANN. 92A-2401-09 (1972); MINN. STAT. ANN. §§ 16.83 to .866 (Supp. 1973); OKLA. STAT. ANN. tit. 63, § 1084 (Supp. 1972).

ing Laboratory[109] is intended to help local governments and the private construction industry by developing and testing innovative materials and methods which are able to meet minimum health and safety performance criteria.

VI. Renewing Old Communities and Creating New Communities

Inner city areas are in need of rational land use planning and development if their tax base is to be enhanced and their inventories of housing are to be maintained and augmented. Similarly, development of new towns and major additions to existing communities are crucial and complementary components of any future national urban growth program.

A. *Extension of Federal Housing Programs*

Interim legislation to extend certain housing programs was signed by the President on December 22, 1971.[110] This legislation extends the authority of the Secretary of HUD to establish FHA mortgage interest rate levels, an emergency flood insurance program, and the period within which communities may qualify for basic water and sewer facilities grants even though their planning programs for an areawide system are still in the preparation stage. Any entities eligible for basic categorical grants are also made eligible for supplemental grants to assist construction of public facilities in new communities. The authorization for the comprehensive planning program is increased by $50 million and the authorization for the open-space program by $100 million. In addition, a provision prohibits the reduction of welfare payments to public housing tenants receiving the benefit of the 25 per cent rent-to-income ratio.

B. *New Communities Regulations*

The Housing and Urban Development Act of 1970[111] was possibly the most innovative piece of urban growth legislation enacted that year due to its creation of a New Community Development Corporation. Authority was provided for a panoply of guarantees, loans and grants to be provided for eligible new community development programs. Proposed regulations for the Community Development Cor-

109. Tex. Rev. Civ. Stat. art. 4413(39), §§ 1-8 (Supp. 1972).
110. 12 U.S.C. §§ 1709-1, 1727(g) (Supp. I, 1971).
111. 42 U.S.C. §§ 4501-32 (1970).

poration were published in the *Federal Register* to permit interested persons to make recommendations prior to final issuance.[112] The definition of "new community" offered was a broad one. Criteria identified included:

(1) Although no minimum population size was prescribed, the size must be significant with comparison to surrounding developments;

(2) The new community must have a full range of governmental powers and be provided with public services in addition to having access to other public facilities;

(3) A general internal development program must be completed which provides for internal diversity and an adequate range of housing;

(4) The community need not be a separate political unit but may be governed by an existing city or county;

(5) Developers must secure state and local approval as required by law, including adoption by the local governing body of the new community program;

(6) The project must include location of housing to avoid segregation and a program of citizen participation.

Initial comments in the draft regulations noted the lack of recognition of the new-town-in-town objectives of the Act, the charging of high fees to public or non-profit developers and the absence of earmarking low and moderate-income housing resources of HUD for new community projects.

By July of 1971, federal assistance under the 1970 Act and previously enacted authority had been pledged to six new community projects, and over 40 applications were under consideration by the Department of Housing and Urban Development's Office of New Communities.[113]

C. *State Action on New Communities*

In positive action for new communities, Tennessee authorized recognition of certain areas as possible new communities under the Prospective New Community Certification Act.[114] Certification of

112. 36 Fed. Reg. 14,205-14 (1971).

113. Department of Housing and Urban Development, *New Communities: Vital Point of National Growth Policy*, 71-411 HUD NEWS 2 (July 8, 1971).

114. TENN. CODE ANN. §§ 13-1501 *et seq.* (Supp. 1971).

those areas involves a filing of annual progress reports with the State Planning Commission after the initial forms, fees and filings have been approved.

To prevent unmanageable urban areas from developing in the future, North Carolina passed a constitutional amendment prohibiting the incorporation of new cities which are within a certain prescribed distance of existing cities.[115]

VII. Strengthening the Capacity of General Governments to Manage the Urban Environment

Increasingly recognized as fundamental to all other reforms is that component of the new national urban growth policy calling for strengthening the capacities of general government institutions. The necessity of federal action to assist state and local governments in overall management was emphasized by the President's Advisory Council on Executive Organization in its Memoranda for the President:[116]

> The need for improving the management capacity and the authority to manage State and local government extends across the entire range of Federally assisted activities. . . . We have adopted a broad definition of executive management support not merely to consolidate the various comprehensive planning grants, but because we view the failure to reconcile priorities among governments as a major impediment to the effectiveness of government at all levels. This failure produces program imbalances and non-responsiveness to local needs—both we have found are major complaints of the critics of local government.[117]

A primary objective of federal and state governments must be to support or restore the managerial and fiscal vitality of urban governments. Without such capability, responsible elected officials have little or no discretion to initiate creative changes.

A. *State Action to Manage Urban Affairs*

Several states created administrative machinery to deal with the problems of urban areas and to coordinate the numerous federal, state

115. N.C. Const. art. VII, § 1 (Supp. 1971).

116. President's Advisory Council on Executive Organization, Memoranda for the President of the United States, Establishment of a Department of Natural Resources: Organization for Social and Economic Programs 148 (May 12, 1970).

117. *Id.*

and local programs. For example, Texas established the Department of Community Affairs[118] which, in addition to coordinating programs, is to assist local governments in providing essential public services and overcoming financial, social and environmental obstacles. Oregon created a Department of Human Resources[119] to coordinate programs in the areas of employment, economic opportunity, vocational rehabilitation and public assistance. In Utah, there is now a Department of Community Affairs[120] to assist communities financially and technically in improving health, safety and living standards.

Maine enhanced its capability for executive direction by creating a Department of Commerce and Industry.[121] This department is to promote and assist economic and community development to attain improved quality and quantity of job opportunities.

The Texas Intergovernmental Cooperation Act[122] created an Advisory Commission on Intergovernmental Relations which will regularly evaluate the interrelationships between the various governing and administrative levels—federal, state and local. The Commission will prepare studies and make recommendations to improve the relationships.

B. *Proposed Federal Departmental Reorganization*

Of the four new departments proposed by the President's consolidation of seven existing departments and a few related agencies, the Department of Community Development Bill[123] would have the most impact on urban growth, improved management of federal programs and support of state and local administrations concerned with such programs. HUD's Under Secretary described the function of the proposed department:

> Under this proposal a single Federal Department would be directly responsible and accountable for strengthening community institutions and for addressing the problems of community growth.

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118. TEX. REV. CIV. STAT. art. 4413(201) (Supp. 1972).
119. ORE. REV. STAT. §§ 184.750 *et seq.* (1971).
120. UTAH CODE ANN. §§ 63-44-5 to -7 (Supp. 1971).
121. ME. REV. STAT. ANN. tit. 10, § 8101 (Supp. 1972).
122. TEX. REV. CIV. STAT. art. 4413(32b) (Supp. 1972).
123. S. 1430, H.R. 6962, 92d Cong., 1st Sess. (1971).

> This new department would administer Federal assistance to communities for physical and institutional development; for strengthening State and local governmental process; for enhancing the effectiveness of citizen action; and for the planning and building of highways and houses supporting community facilities. By bringing together these programs, the Department of Community Development would be able to move beyond fragmented categorical program administration and toward a geographically based and community-oriented approach to problems. The establishment of a unified Federal Department of Community Development would greatly simplify the resolution—by both Federal and local officials—of significant issues of community growth and development.[124]

The new department would have major development-related functions now in the Transportation, Commerce and Agriculture Departments and the Office of Economic Opportunity. The most massive transfer would be the Federal Highway Construction, Urban Mass Transportation and Highway Traffic Safety programs of the Department of Transportation. Highway interests have expressed opposition to integrating federal and state highway operations with other community development programs. The Rural Electrification and the Farmers Home Administration programs of water and sewer grants, loans and rural housing would be transferred from the Agriculture Department. Also to be included are the Commerce Department's Economic Development Administration and Regional Action Planning Commissions, the Appalachian Regional Commission and the Small Business Administration's disaster loan programs.

Congress did extend for two years the President's authority to transmit reorganization plans to the Congress.[125] In so doing, it limited the President's authority to submit reorganization plans to one plan during any 30-day period.[126]

C. *Strengthening Federal Aid Administration*

Of special relevance to improved state and local management capacity was the Second Annual Report to the President on Federal Assist-

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124. *Hearings on S.J. Res. 52 and Title II, S. 1618 Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking, Housing and Urban Affairs*, 92d Cong., 1st Sess. 43-44 (1971).

125. 5 U.S.C. § 905 (Supp. I, 1971).

126. *Id.* § 903(b).

ance Review.[127] The Report summarized improvements achieved in grant-in-aid administration to state and local governments during the last 18 months. Highlights included seven federal agencies fully conforming to a new uniform system of 10 regional boundaries, with Federal Regional Councils (with Office of Management and Budget leadership) operating in the headquarter cities of each of the regions. Major decentralization of decision-making and greater reliance on state and local governments in the administration of federal programs were reported in HEW's Emergency School Assistance program, the Juvenile Delinquency Prevention and Control Act, Medicaid and health planning. Virtually all of the programs of the Department of Housing and Urban Development are being decentralized below the regional office level through establishment of sub-regional local service offices.

The Office of Management and Budget established procedures for reporting to states information on all federal grants awarded within their boundaries, as required by the Intergovernmental Cooperation Act of 1968.[128] In addition, under new government-wide instructions, there are now 206 metropolitan information clearinghouses which review local federal grant-in-aid applications to determine their conformance with regional plans. These clearinghouses cover 1,600 counties containing over 80 per cent of the population. State clearinghouses now include all 50 states. Finally, in February 1971, the Office of Management and Budget issued a revised A-95 Circular[129] which expanded the federal programs reviewed at the state and metropolitan (and non-metropolitan) clearinghouse level and implemented the review of environmental impact statements (required by the National Environmental Policy Act of 1970[130]) in applications for federal aid.

D. *Support for Public Sector Manpower*

Almost all of the previous extensive federal training and manpower programs were directed at private sector employment. The Emer-

127. OFFICE OF MANAGEMENT AND BUDGET, RESTORING THE BALANCE OF FEDERALISM: SECOND ANNUAL REPORT TO THE PRESIDENT ON THE FEDERAL ASSISTANCE REVIEW (1971).

128. 42 U.S.C. § 4211 (1970).

129. Office of Management and Budget Circular No. A-95 Revised (Feb. 9, 1971).

130. 42 U.S.C. § 4332(2)(C) (1970).

gency Employment Act of 1971,[131] signed by the President on July 12, 1971, sought to redress this imbalance. In so doing, the Act directly contributes to carrying out the national urban growth policy component aimed at strengthening the capability of state and local governments.

The Mayor of Detroit, representing the U.S. Conference of Mayors, reported in support of the Bill that local governments were unavoidably adding to unemployment. "In the past year the City has not had the revenue to fill nearly 2000 vacant positions in City government. In addition, last year I was forced to lay off some 600 City employees."[132]

The Act, similar to a title of the proposed Employment and Manpower Act which was vetoed by the President in 1970,[133] recognized that, as a result of a lack of revenue, many governmental units have had to curtail public services or have been unable to implement new services. The Act makes available major new resources for employing persons to meet such needs. Eligible applicants are individual or combined units of federal, state and local government, their subdivisions or institutions, and Indian tribes on federal or state reservations.

There are two basic funding provisions specified in the Act. Funds are made available for public service employment programs whenever the Secretary of Labor determines that the nationwide unemployment rate equals or exceeds 4.5 per cent for three consecutive months.[134] An additional $250 million may be appropriated for local programs in "areas of substantial unemployment"—where the unemployment rate is six per cent or greater.[135] In moving promptly to implement the Act, the Secretary of Labor decided that only larger governmental units of specified size would be eligible for direct federal grants.[136]

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131. 42 U.S.C. §§ 4871 *et seq.* (Supp. I, 1971).

132. *Hearings on H.R. 17, H.R. 29, and H.R. 3613 Before the Select Subcomm. on Labor of the House Comm. on Education and Labor*, 92d Cong., 1st Sess. 285 (1971).

133. U.S. President, *Employment and Manpower Bill*, 6 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 1696 (1970).

134. 42 U.S.C. § 4874 (Supp. I, 1971).

135. *Id.* § 4875.

136. *Guidelines of the U.S. Department of Labor for Developing Programs Under the Emergency Employment Act of 1971*, MANPOWER INFORMATION SERVICE REFERENCE FILE 91:1325 (1971).

Units invited to apply directly for needed assistance under the Act are: cities with a population of at least 75,000; counties with a population of at least 75,000, not counting the population of designated cities within such counties; and all states. Examples of public services eligible include: health care, education, public safety, crime prevention and control, manpower services, prison rehabilitation, transportation, waste disposal, housing and neighborhood development, rural development and others. No more than one-third of the jobs funded can be professional positions.

In its December 1971 report on the implementation of the Public Service Program under the Act,[137] the General Accounting Office questioned the Labor Department's procedure of allowing states to allocate funds to local areas primarily on the basis of population without considering the degree of unemployment in the area.

E. *Trends in the Urban Environment*

The Second Annual Report of the Council on Environmental Quality[138] contained some useful appraisals of the inferior environment of the inner city. Documentation was provided on the severity of air and water pollution, solid waste, neighborhood deterioration, lack of open space, lead poisoning, rat bites and adverse impacts of highway construction. The findings varied nationally, with only a slight increase in air and water pollution, a reduction in radiation levels, an increased presence of toxic substances, a runaway solid waste problem and a continued loss of wetlands, especially around urban areas.

The year 1971 was a banner year for Congressional action on environmental issues. Of the 695 bills signed into law during the 91st Congress, 121 were identified as "environment oriented." At the end of the 91st Congress, a proposal to create a Joint Committee on the Environment died in conference. However, another proposal to create a Joint Committee was passed by the Senate.[139] These pro-

137. GENERAL ACCOUNTING OFFICE, ALLOCATION OF FUNDS FOR THE PUBLIC EMPLOYMENT PROGRAM UNDER THE EMERGENCY EMPLOYMENT ACT OF 1971, at B-163922 (1971).

138. COUNCIL ON ENVIRONMENTAL QUALITY, SECOND ANNUAL REPORT ON ENVIRONMETAL QUALITY (1971).

139. S.J. Res. 3, 91st Cong., 2d Sess. (1971).

posals would create a 22-member committee which would have a broad responsibility for study and review of environmental problems. However, no legislation would be referred to this committee.

F. *State Planning*

There was an increase in the number of states recognizing the need for state-wide planning agencies and programs to guard against unchecked or unbalanced growth and development. West Virginia, for example, passed an act delegating responsibility to the Governor for establishing regional planning and development councils to review comprehensive planning proposals.[140] To ensure that planning will be done state-wide, the Act provides that all cities and counties will be members of regional councils.

Georgia created a Metropolitan Area Planning and Development Commission[141] in each standard metropolitan statistical area with a population over one million. These commissions are charged with the obligation of providing and amending comprehensive development guides for their respective areas after appropriate study and public hearings. They will also review each Area Plan prepared by a political subdivision or other substate governmental body.

The Oklahoma legislature created 11 regional planning districts and designated funds for state financial participation.[142] Each region will receive $18,000 a year and new regions will be eligible for an additional $5,000. Eight regional planning districts were created in Utah.[143]

G. *State Land Use and Coastal Zone Management*

Some of the administrative planning mechanisms were specifically geared to land protection and preservation. Washington established a State Land Planning Commission[144] to act as a clearinghouse for information and to assist in the creation, evaluation and improvement of middle and long-range land use policies. In addition, the Commission will concern itself with the related issues of population growth and distribution, open space, urban growth, preservation and utiliza-

140. W. VA. CODE ANN. § 8-25-5 (Supp. 1972).
141. *See* GA. CODE ANN. ch. 40-29 (Supp. 1972).
142. Ch. 225, § 6, [1971] Okla. Laws 547.
143. UTAH CODE ANN. §§ 63-44-1 *et seq.* (Supp. 1971).
144. WASH. REV. CODE §§ 43.120.010 *et seq.* (Supp. 1972).

tion of resources, and other factors affecting the quality of life in the State. A Joint State-Federal Natural Resources and Land Use Planning Commission[145] was the creation of the Alaska legislature in 1971. Its purpose is to formulate and coordinate land use policies in the State. The Office of Intergovernmental Management[146] was designated by the California legislature as a clearinghouse for city and county requests for state evaluation of the environmental impact of land use proposals such as the creation of subdivisions.

The Tennessee Natural Areas Preservation Act of 1971[147] calls for the designation, classification and protection of natural areas which are judged to have geological, biological, historical, scenic or recreational values. Land sales regulations for state property are included in Arizona legislation which authorizes the State Land Commissioner to make long-range state land use plans.[148] Provision was made for the establishment by July, 1972, of county land use planning commissions in Colorado.[149] The state commission already in existence was also directed to provide the legislature with a state plan by 1973, and it was empowered to review and veto all local planning proposals not consistent with state planning policies. Other land use laws were passed in several states.[150]

Coastal zone management was the concern of at least four states in 1971. The strongest law, causing a great deal of controversy, was the one passed by the Delaware legislature.[151] All heavy industry was prohibited from a one to six-mile area along Delaware's 25-mile Atlantic coastline. Banned from the area were such industrial ventures as oil refineries, steel plants, pulp paper mills and petrochemical complexes. Industries which are permitted within the area, but only with a permit, are garment, jewelry and leather products factories and auto assembly plants. One impact of the law is to prohibit the use of the Delaware Bay as a deep water port for supertankers. Other states passing limited coastal zone management laws were North Carolina,[152] Texas[153] and Washington.[154]

145. ALASKA STAT. §§ 41.40.010 *et seq.* (Supp. 1972).
146. CAL. GOV'T CODE § 12037 (Deering Supp. 1972).
147. TENN. CODE ANN. §§ 11.1701 *et seq.* (Supp. 1971).
148. ARIZ. REV. STAT. ANN. § 37-132 (Supp. 1972).
149. ACIR, STATE ACTION, at 15.
150. *Id.*
151. DEL. CODE ANN. tit. 7, §§ 7001 *et seq.* (Noncumulative Supp. 1972).
152. N.C. GEN. STAT. §§ 159A-1 *et seq.* (1971).
153. TEX. REV. CIV. STAT. §§ 21.001-.612 (Supp. 1971).
154. WASH. REV. CODE ANN. §§ 90.58.010-.930 (Supp. 1972).

H. *State Action on Environmental Protection*

Protection of the environment was one of the most active areas of legislative concern in the states during 1971. Actions ranged from constitutional amendments to specific remedial acts and the creation of departmental units which will coordinate, consolidate and upgrade the administration of environmental protection to ensure the improvement and preservation of environmental quality.

Three states approached environmental quality through constitutional amendments. The New Mexico electorate approved an amendment which makes environmental quality a fundamental right of the people, a right which is to be protected by the legislature.[155] In Pennsylvania, voters approved an amendment which asserts the right of the people "to clean air, pure water and to the preservation of the natural, scenic, historic and aesthetic values of the environment."[156] A third state, North Carolina, planned to present an amendment to the people which would establish an environmental bill of rights.[157]

Better management of environmental programs was the objective of those legislatures which created new departments at the state level to coordinate state-wide administration. Alaska added to its existing environmental protection law a chapter establishing the Department of Environmental Conservation.[158] The Department is responsible for coordination and development of policies, programs and planning related to the environment. It will promulgate and enforce regulations prohibiting various kinds of existing and potential pollution, including water, land, subsurface land and air. Connecticut created a Department of Environmental Protection[159] which has jurisdiction over all protection and preservation matters in the State. The Maine legislature established a Department of Environmental Protection.[160] Other states approved similar administrative agencies to coordinate environmental protection efforts.[161]

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155. N.M. CONST. art. XX, § 21 (Interim Supp. 1972).

156. PA. CONST. art. 1, § 27 (Supp. 1972).

157. Ch. 630, [1971] N.C. Acts 160 (No. 8).

158. ALASKA STAT. § 46.03.020 (1971).

159. CONN. GEN. STAT. REV. §§ 22a-1. to -20. (Noncumulative Supp. 1971).

160. ME. REV. STAT. ANN. tit. 38, § 341 (Supp. 1972).

161. ALA. CODE tit. 8, §§ 270-87 (Supp. 1971); NEB. REV. STAT. §§ 81-1501 *et seq.* (Supp. 1971); N.M. STAT. ANN. §§ 12-20-1 *et seq.* (Supp. 1971); ORE. REV. STAT. §§ 449.016-.990 (1971); PA. STAT. ANN. tit. 71, §§ 510-1 *et seq.* (Supp. 1972).

Five southern states entered into an Interstate Environmental Compact in 1971.[162] The Compact is aimed at promoting intergovernmental cooperation toward multi-state action for environmental protection. The law encourages joint action and coordination with the federal government and with intergovernmental and interstate agencies. It also provides that a state may withdraw from the Compact by legislative act a year after notification of all signatories in writing.

In other pollution control actions, North Carolina passed the Pollution Abatement and Industrial Facilities Financing Act[163] which authorizes creation of county authorities to provide anti-pollution financing. In addition, these authorities are to finance industrial facilities which alleviate unemployment and improve job opportunities in an area. A related action in North Carolina was the passage of a bill providing for the investigation of the environmental impact of proposed new industries.[164] Washington authorized its Department of Ecology to develop a state-wide episode avoidance plan utilizing air pollution forecasts.[165]

Other environmental actions included financing of environmental programs through bond issues, strengthening of enforcement agencies, and stricter water pollution laws. Missouri approved $150 million in bonds for sewage treatment.[166] Texas and Oregon provided bond issues of $100 million,[167] and lesser amounts were approved for bond issues by New Jersey, Massachusetts, Minnesota and Vermont.[168] Stricter air pollution laws and better enforcement were provided by a large number of states, including Louisiana,[169] Utah,[170] Mary-

162. FLA. STAT. ANN. § 403.60 (Supp. 1973); GA. CODE ANN. §§ 92A-2301 to -24 (1971); LA. REV. STAT. ANN. § 40:2331 (Supp. 1972); MISS. CODE ANN. §§ 7106-161 (Supp. 1972); N.C. GEN. STAT. §§ 113A-21 to -23 (Supp. 1971).

163. N.C. GEN. STAT. § 159A-197 (1972).

164. N.C. GEN. STAT. § 113-15.2 (Supp. 1971).

165. WASH. REV. CODE ANN. § 70.94.710 (Supp. 1972).

166. ACIR, STATE ACTION at 16-17.

167. *Id.*

168. *Id.*

169. LA. REV. STAT. §§ 40:2204, 40:2214 (Supp. 1972).

170. UTAH CODE ANN. §§ 26-24-1.5 to -18. (Supp. 1971).

land,[171] New Hampshire,[172] Rhode Island[173] and South Dakota.[174] Industrial and waste discharges into water systems concerned a number of states during 1971.[175]

VIII. Conclusion

In furtherance of recognizing that metropolitan areas, governmentally fragmented though they may be, are social and economic entities, a number of significant federal and state developments have been cited and related to each other and to the national statutory declaration of national urban growth policy. At the federal level, consideration was given or action taken on regional incentives in the special revenue sharing proposals for transportation, manpower training, improved delivery of health services through seed money grants and loan guarantees for "health maintenance organizations," and incentive and demonstration funds for metropolitan inter-school district programs and area-wide education parks to reduce the educational disadvantages of minority group isolation.

Perhaps the most active component of national urban growth policy in 1971 was concern for the development of smaller urban centers as an alternative to present metropolitan growth trends. The list of legislative developments is indicative of a new thrust: extension and expansion of the activities of the Economic Development Administration and the Appalachian Commission, Presidential proposals for rural development, special revenue sharing, liberalization of farm credit and proposals for new public and private rural community development credit sources, financing of additional rural telephone systems, incentives to get professional health manpower to locate outside of our metropolitan areas, and creation of a new and already active Rural Development Subcommittee in the Senate Agriculture Committee.

The poor and minority groups in central cities and elsewhere received attention, though the public policy directions varied. New

171. Md. Code Ann. art. 33B, §§ 2-33 (Supp. 1972).

172. N.H. Rev. Stat. Ann. §§ 125:78 to :94 (Supp. 1972).

173. R.I. Gen. Laws Ann. §§ 23-25.1-1. to -11. (Supp. 1972).

174. S.D. Compiled Laws Ann. §§ 34-16A-44.1, 34-16A-58.1 (Supp. 1971).

175. Alaska Stat. § 46.03.070 (1971); Minn. Stat. Ann. § 361.29 (Supp. 1972); N.J. Stat. Ann. § 23:9-18 (Supp. 1972); N.C. Gen. Stat. § 14-134.1 (Supp. 1971) For additional statutes and a brief description of each see ACIR, State Action at 16-17.

provisions in the bills extending the Economic Opportunity Act ranged from self-help projects to backing for new local community development corporations. Reform of the national welfare system through the Family Assistance Plan, by upgrading minimum payments, made eligibility more uniform, and promised to slow the migration of rural poor to inner city slums.

Housing, which has been suggested as the key to any national urban growth policy, was subjected to intensive scrutiny by the Administration and Congress. Examination of proposals for consolidation of housing subsidy programs, use of new metropolitan and state mechanisms and accelerating the application of technological improvements in housing construction indicated legislative action in this area in the second session of the 92nd Congress.

Similarly, general dissatisfaction with present inadequacies and gaps in existing community development programs made major reform appear to be certain during the 1972 Congress. The Administration's special revenue sharing proposal and the House and Senate grant consolidation proposals differed only over less than fundamental issues: allocation formulae, planning and application requirements, and review of performance. The concepts of consolidation, flexibility and support of general local governments were accepted.

A final element of national urban growth policy, receiving explicit recognition for the first time by the federal government, was support for assisting state and local governments in overall management. The Administration proposed revision and doubling of the Department of Housing and Urban Development's Comprehensive Planning Assistance program to explicitly cover management, program development and evaluation assistance to chief executives at all levels of government. Other proposals, using the planning mechanism, sought to thrust upon the states an active role in local land use regulation. Grant consolidations, general revenue sharing, and creation of four super-departments to replace seven existing cabinet level agencies and a host of lesser federal management reforms made up the rest of an ambitious agenda designed to improve state and local capability and viability.

Thus, the evidence accumulates that the federal government and the states are beginning to come to grips with their most complex domestic challenge—to find effective ways of guiding and directing the inevitable migration, growth and development that will occur in the foreseeable future.

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