H.R. 2086, THE LOCAL EMPOWERMENT AND FLEXIBILITY ACT OF 1995

HEARINGS

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

H.R. 2086

TO INCREASE THE OVERALL ECONOMY AND EFFICIENCY OF GOVERNMENT OPERATIONS AND ENABLE MORE EFFICIENT USE OF FEDERAL FUNDING, BY ENABLING LOCAL GOVERNMENTS AND PRIVATE, NONPROFIT ORGANIZATIONS TO USE AMOUNTS AVAILABLE UNDER CERTAIN FEDERAL ASSISTANCE PROGRAMS IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLANS

AUGUST 3, AND SEPTEMBER 20, 1995

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H.R. 2086, THE LOCAL EMPOWERMENT AND FLEXIBILITY ACT OF 1995

THURSDAY, AUGUST 3, 1995

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HUMAN RESOURCES AND
INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 9 a.m. in room 2247 Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Members present: Representatives Shays, Morella, Souder, Towns, Barrett, and Green.

Staff present: Lawrence J. Halloran, staff director and counsel; Doris F. Jacobs, associate counsel; Christopher Alfred, Demi Greatorex, Robert Newman, professional staff; Thomas M. Costa, clerk; Kevin Davis, minority professional staff; and Jean Gosa, minority staff assistant.

Mr. SHAYS. I would like to call this hearing to order. And before we invite our first witness, for the record, provide a short statement and then invite our vice chairman to do the same.

This is our first hearing on H.R. 2086, the Local Empowerment and Flexibility Act of 1995, a bill Congressman Clinger and I recently introduced in the House, a bill similar to the one considered by this subcommittee in the last Congress. The bill will create a statutory framework to give local governments greater flexibility in administering Federal funds.

The President's National Urban Policy Report concluded Federal agencies cannot possibly know what is best for each of America's diverse regions and communities. They cannot design a "one-size-fits-all" strategy. H.R. 2086 addresses this problem. It permits local variation in spending based on local needs, freeing up dollars for services that might otherwise be drained away by burdensome and high administrative cost, duplicative audits, and paperwork.

Flexibility is important even in a Federal-State funding relationship dominated by block grants. The principle of local flexibility should be part of the permanent Federal statutory framework. Block grants come and go. Flexibility will always be needed.

We look forward to this hearing and particularly want to thank Senator Mark Hatfield, who is really the originator of this legislation. And we are very happy that he was on short notice able to allow us to set up this hearing so that we can bring this legislation before the full committee and, ultimately, before the floor of the House. In my judgment, this is his bill that we are hearing about.

And I might say, Senator Hatfield, as someone who was younger when you were first elected, I followed your career for many years and consider it a blessing that you are a part of Congress and a part of Senate. I thank you for honoring us today.

[The text of H.R. 2086 follows:]

H. R. 2086

To increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 1995

Mr. SHAYS (for himself and Mr. CLINGER) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

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A BILL

To increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Local Empowerment and Flexibility Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that—

(1) historically, Federal programs have addressed the Nation's problems by providing categorical financial assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of services;

(3) the Nation's local governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery of many kinds of services;

(4) the Nation's communities are diverse, and different needs are present in different communities;

(5) it is more important than ever to provide programs that—

(A) promote more effective and efficient local delivery of services to meet the full range of needs of individuals, families, and society;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede local governments' ability to effectively deliver services; and

(D) empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals; and

(6) many communities have innovative planning and community involvement strategies for providing services, but Federal, State, and local regulations often hamper full implementation of local plans.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) enable more efficient use of Federal, State, and local resources;

(2) place less emphasis in Federal service programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local policy goals;

(3) enable local governments and private, nonprofit organizations to adapt programs of Federal financial assistance to the particular needs of their communities, by—

(A) drawing upon appropriations available from more than one Federal program; and

(B) integrating programs and program funds across existing Federal financial assistance categories; and

(4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical service problems.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "approved local flexibility plan" means a local flexibility plan that combines funds from Federal, State, local government or private sources to address the service needs of a community (or any part of such a plan) that is approved by the Flexibility Council under section 5;

(2) the term "community advisory committee" means such a committee established by a local government under section 9;

(3) the term "Flexibility Council" means the council composed of the—

(A) Assistant to the President for Domestic Policy;
(B) Assistant to the President for Economic Policy;
(C) Secretary of the Treasury;
(D) Attorney General;
(E) Secretary of the Interior;
(F) Secretary of Agriculture;
(G) Secretary of Commerce;
(H) Secretary of Labor;
(I) Secretary of Health and Human Services;
(J) Secretary of Housing and Urban Development;
(K) Secretary of Transportation;
(L) Secretary of Education;
(M) Secretary of Energy;
(N) Secretary of Veterans Affairs;
(O) Secretary of Defense;
(P) Director of Federal Emergency Management Agency;
(Q) Administrator of the Environmental Protection Agency;
(R) Director of National Drug Control Policy;
(S) Administrator of the Small Business Administration;
(T) Director of the Office of Management and Budget; and
(U) Chair of the Council of Economic Advisers.

(4) the term "covered Federal financial assistance program" means an eligible Federal financial assistance program that is included in a local flexibility plan of a local government;

(5) the term "eligible Federal financial assistance program"—

(A) means a Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified organization to carry out the specified program; and

(B) does not include a Federal program under which financial assistance is provided by the Federal Government directly to a beneficiary of that financial assistance or to a State as a direct payment to an individual;

(6) the term "eligible local government" means a local government that is eligible to receive financial assistance under 1 or more covered Federal programs;

(7) the term "local flexibility plan" means a comprehensive plan for the integration and administration by a local government of financial assistance provided by the Federal Government under 2 or more eligible Federal financial assistance programs;

(8) the term "local government" means a subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(9) the term "priority funding" means giving higher priority (including by the assignment of extra points, if applicable) to applications for Federal financial assistance submitted by a local government having an approved local flexibility program, by—

(A) a person located in the jurisdiction of such a government; or

(B) a qualified organization eligible for assistance under a covered Federal financial assistance program included in such a plan;

(10) the term "qualified organization" means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; and

(11) the term "State" means the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

SEC. 5. PROVISION OF FEDERAL FINANCIAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN.

(a) PAYMENTS TO LOCAL GOVERNMENTS.—Notwithstanding any other provision of law, amounts available to a local government or a qualified organization under a covered Federal financial assistance program included in an approved local flexibility plan shall be provided to and used by the local government or organization in accordance with the approved local flexibility plan.

(b) ELIGIBILITY FOR BENEFITS.—An individual or family that is eligible for benefits or services under a covered Federal financial assistance program included in an approved local flexibility plan may receive those benefits only in accordance with the approved local flexibility plan.

SEC. 6. APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN.

(a) IN GENERAL.—A local government may submit to the Flexibility Council in accordance with this section an application for approval of a local flexibility plan.

(b) CONTENTS OF APPLICATION.—An application submitted under this section shall include—

(1)(A) a proposed local flexibility plan that complies with subsection (c); or

(B) a strategic plan submitted in application for designation as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986;

(2) certification by the chief executive of the local government, and such additional assurances as may be required by the Flexibility Council, that—

(A) the local government has the ability and authority to implement the proposed plan, directly or through contractual or other arrangements, throughout the geographic area in which the proposed plan is intended to apply; and

(B) amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal financial assistance programs included in the proposed plan; and

(3) any comments on the proposed plan submitted under subsection (d) by the Governor of the State in which the local government is located;

(4) public comments on the plan including the transcript of at least 1 public hearing and comments of the appropriate community advisory committee established under section 9; and

(5) other relevant information the Flexibility Council may require to approve the proposed plan.

(c) CONTENTS OF PLAN.—A local flexibility plan submitted by a local government under this section shall include—

(1) the geographic area to which the plan applies and the rationale for defining the area;

(2) the particular groups of individuals, by service needs, economic circumstances, or other defining factors, who shall receive services and benefits under the plan;

(3)(A) specific goals and measurable performance criteria, a description of how the plan is expected to attain those goals and criteria;

(B) a description of how performance shall be measured; and

(C) a system for the comprehensive evaluation of the impact of the plan on participants, the community, and program costs;

(4) the eligible Federal financial assistance programs to be included in the plan as covered Federal financial assistance programs and the specific benefits that shall be provided under the plan under such programs, including—

(A) criteria for determining eligibility for benefits under the plan;

(B) the services available;

(C) the amounts and form (such as cash, in-kind contributions, or financial instruments) of nonservice benefits; and

(D) any other descriptive information the Flexibility Council considers necessary to approve the plan;

(5) except for the requirements under section 8(b)(3), any Federal statutory or regulatory requirement applicable under a covered Federal financial assistance program included in the plan, the waiver of which is necessary to implement the plan;

(6) fiscal control and related accountability procedures applicable under the plan;

(7) a description of the sources of all non-Federal funds that are required to carry out covered Federal financial assistance programs included in the plan;

(8) written consent from each qualified organization for which consent is required under section 6(b)(2); and

(9) other relevant information the Flexibility Council may require to approve the plan.

(d) PROCEDURE FOR APPLYING.—(1) To apply for approval of a local flexibility plan, a local government shall submit an application in accordance with this section to the Governor of the State in which the local government is located.

(2) A Governor who receives an application from a local government under paragraph (1) may, by no later than 30 days after the date of that receipt—

(A) prepare comments on the proposed local flexibility plan included in the application;

(B) describe any State laws which are necessary to waive for successful implementation of a local plan; and

(C) submit the application and comments to the Flexibility Council.

(3) If a Governor fails to act within 30 days after receiving an application under paragraph (2), the applicable local government may submit the application to the Flexibility Council.

SEC. 7. REVIEW AND APPROVAL OF LOCAL FLEXIBILITY PLANS.

(a) REVIEW OF APPLICATIONS.—Upon receipt of an application for approval of a local flexibility plan under this Act, the Flexibility Council shall—

(1) approve or disapprove all or part of the plan within 45 days after receipt of the application;

(2) notify the applicant in writing of that approval or disapproval by not later than 15 days after the date of that approval or disapproval; and

(3) in the case of any disapproval of a plan, include a written justification of the reasons for disapproval in the notice of disapproval sent to the applicant.

(b) APPROVAL.—(1) The Flexibility Council may approve a local flexibility plan for which an application is submitted under this Act, or any part of such a plan, if a majority of members of the Council determines that—

(A) the plan or part shall improve the effectiveness and efficiency of providing benefits under covered Federal programs included in the plan by reducing administrative inflexibility, duplication, and unnecessary expenditures;

(B) the applicant local government has adequately considered, and the plan or part of the plan appropriately addresses, any effect that administration of each covered Federal program under the plan or part of the plan shall have on administration of the other covered Federal programs under that plan or part of the plan;

(C) the applicant local government has or is developing data bases, planning, and evaluation processes that are adequate for implementing the plan or part of the plan;

(D) the plan shall more effectively achieve Federal financial assistance goals at the local level and shall better meet the needs of local citizens;

(E) implementation of the plan or part of the plan shall adequately achieve the purposes of this Act and of each covered Federal financial assistance program under the plan or part of the plan;

(F) the plan and the application for approval of the plan comply with the requirements of this Act;

(G) the plan or part of the plan is adequate to ensure that individuals and families that receive benefits under covered Federal financial assistance programs included in the plan or part shall continue to receive benefits that meet the needs intended to be met under the program; and

(H) the local government has—

(i) waived the corresponding local laws necessary for implementation of the plan; and

(ii) sought any necessary waivers from the State.

(2) The Flexibility Council may not approve any part of a local flexibility plan if—

(A) implementation of that part would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under covered Federal financial assistance programs included in that part, over the amounts of such obligations and outlays that would occur under those programs without implementation of the part; or

(B) in the case of a plan or part that applies to assistance to a qualified organization under an eligible Federal financial assistance program, the quali-

fied organization does not consent in writing to the receipt of that assistance in accordance with the plan.

(3) The Flexibility Council shall disapprove a part of a local flexibility plan if a majority of the Council disapproves that part of the plan based on a failure of the part to comply with paragraph (1).

(4) In approving any part of a local flexibility plan, the Flexibility Council shall specify the period during which the part is effective. An approved local flexibility plan shall not be effective after the date of the termination of effectiveness of this Act under section 13.

(5) Disapproval by the Flexibility Council of any part of a local flexibility plan submitted by a local government under this Act shall not affect the eligibility of a local government, a qualified organization, or any individual for benefits under any Federal program.

(c) MEMORANDA OF UNDERSTANDING.—(1) The Flexibility Council may not approve a part of a local flexibility plan unless each local government and each qualified organization that would receive financial assistance under the plan enters into a memorandum of understanding under this subsection with the Flexibility Council.

(2) A memorandum of understanding under this subsection shall specify all understandings that have been reached by the Flexibility Council, the local government, and each qualified organization that is subject to a local flexibility plan, regarding the approval and implementation of all parts of a local flexibility plan that are the subject of the memorandum, including understandings with respect to—

(A) all requirements under covered Federal financial assistance programs that are to be waived by the Flexibility Council under section 8(b);

(B)(i) the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal financial assistance programs included in those parts; or

(ii) a mechanism for determining that amount, including specification of the total amount of Federal funds that shall be provided or used under each covered Federal financial assistance program included in those parts;

(C) the sources of all non-Federal funds that shall be provided as benefits under or used to administer those parts;

(D) measurable performance criteria that shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and

(E) the data to be collected to make that determination.

(d) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Flexibility Council may not, as a condition of approval of any part of a local flexibility plan or with respect to the implementation of any part of an approved local flexibility plan, establish any confidentiality requirement that would—

(1) impede the exchange of information needed for the design or provision of benefits under the parts; or

(2) conflict with law.

SEC. 8. IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS.

(a) PAYMENTS AND ADMINISTRATION IN ACCORDANCE WITH PLAN.—Notwithstanding any other law, any benefit that is provided under a covered Federal financial assistance program included in an approved local flexibility plan shall be paid and administered in the manner specified in the approved local flexibility plan.

(b) WAIVER OF REQUIREMENTS.—(1) Notwithstanding any other law and subject to paragraphs (2) and (3), the Flexibility Council may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal assistance program included in an approved local flexibility plan, if that waiver is—

(A) reasonably necessary for the implementation of the plan; and

(B) approved by a majority of members of the Flexibility Council.

(2) The Flexibility Council may not waive a requirement under this subsection unless the Council finds that waiver of the requirement shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal financial assistance program.

(3) The Flexibility Council may not waive any requirement under this subsection—

(A) that enforces any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(iii) title IX of the Education Amendments of 1972 (86 Stat. 373 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); or

(v) the Americans with Disabilities Act of 1990;

(B) for payment of a non-Federal share of funding of an activity under a covered Federal financial assistance program; or

(C) for grants received on a maintenance of effort basis.

(c) SPECIAL ASSISTANCE.—To the extent permitted by law, the head of each Federal agency shall seek to provide special assistance to a local government or qualified organization to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

(d) EVALUATION AND TERMINATION.—(1) A local government, in accordance with regulations issued by the Flexibility Council, shall—

(A) submit such reports on and cooperate in such audits of the implementation of its approved local flexibility plan; and

(B) periodically evaluate the effect implementation of the plan has had on—

(i) individuals who receive benefits under the plan;

(ii) communities in which those individuals live; and

(iii) costs of administering covered Federal financial assistance programs included in the plan.

(2) No later than 90 days after the end of the 1-year period beginning on the date of the approval by the Flexibility Council of an approved local flexibility plan of a local government, and annually thereafter, the local government shall submit to the Flexibility Council a report on the principal activities and achievements under the plan during the period covered by the report, comparing those achievements to the goals and performance criteria included in the plan under section 6(c)(3).

(3)(A) The Flexibility Council may terminate the effectiveness of an approved local flexibility plan, if the Flexibility Council, after consultation with the head of each Federal agency responsible for administering a covered Federal financial assistance program included in such, determines—

(i) that the goals and performance criteria included in the plan under section 6(c)(3) have not been met; and

(ii) after considering any experiences gained in implementation of the plan, that those goals and criteria are sound.

(B) In terminating the effectiveness of an approved local flexibility plan under this paragraph, the Flexibility Council shall allow a reasonable period of time for appropriate Federal, State, and local agencies and qualified organizations to resume administration of Federal programs that are covered Federal financial assistance programs included in the plan.

(e) FINAL REPORT; EXTENSION OF PLANS.—(1) No later than 45 days after the end of the effective period of an approved local flexibility plan of a local government, or at any time that the local government determines that the plan has demonstrated its worth, the local government shall submit to the Flexibility Council a final report on its implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under those programs.

(2) The Flexibility Council may extend the effective period of an approved local flexibility plan for such period as may be appropriate, based on the report of a local government under paragraph (1).

SEC. 9. COMMUNITY ADVISORY COMMITTEES.

(a) ESTABLISHMENT.—A local government that applies for approval of a local flexibility plan under this Act shall establish a community advisory committee in accordance with this section.

(b) FUNCTIONS.—A community advisory committee shall advise a local government in the development and implementation of its local flexibility plan, including advice with respect to—

(1) conducting public hearings; and

(2) reviewing and commenting on all community policies, programs, and actions under the plan which affect low income individuals and families, with the purpose of ensuring maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

(c) MEMBERSHIP.—The membership of a community advisory committee shall—

(1) consist of—

(A) persons with leadership experience in the private and voluntary sectors;

(B) local elected officials;

(C) representatives of participating qualified organizations; and

(D) the general public; and

(2) include individuals and representatives of community organizations who shall help to enhance the leadership role of the local government in developing a local flexibility plan.

(d) OPPORTUNITY FOR REVIEW AND COMMENT BY COMMITTEE.—Before submitting an application for approval of a final proposed local flexibility plan, a local government shall submit the final proposed plan for review and comment by a community advisory committee established by the local government.

(e) COMMITTEE REVIEW OF REPORTS.—Before submitting annual or final reports on an approved Federal assistance plan, a local government or private nonprofit organization shall submit the report for review and comment to the community advisory committee.

SEC. 10. TECHNICAL AND OTHER ASSISTANCE.

(a) TECHNICAL ASSISTANCE.—(1) The Flexibility Council may provide, or direct that the head of a Federal agency provide, technical assistance to a local government or qualified organization in developing information necessary for the design or implementation of a local flexibility plan.

(2) Assistance may be provided under this subsection if a local government makes a request that includes, in accordance with requirements established by the Flexibility Council—

(A) a description of the local flexibility plan the local government proposes to develop;

(B) a description of the groups of individuals to whom benefits shall be provided under covered Federal assistance programs included in the plan; and

(C) such assurances as the Flexibility Council may require that—

(i) in the development of the application to be submitted under this title for approval of the plan, the local government shall provide adequate opportunities to participate to—

(I) individuals and families that shall receive benefits under covered Federal financial assistance programs included in the plan; and

(II) governmental agencies that administer those programs; and

(ii) the plan shall be developed after considering fully—

(I) needs expressed by those individuals and families;

(II) community priorities; and

(III) available governmental resources in the geographic area to which the plan shall apply.

(b) DETAILS TO COUNCIL.—At the request of the Flexibility Council and with the approval of an agency head who is a member of the Council, agency staff may be detailed to the Flexibility Council on a nonreimbursable basis.

SEC. 11. FLEXIBILITY COUNCIL.

(a) FUNCTIONS.—The Flexibility Council shall—

(1) receive, review, and approve or disapprove local flexibility plans for which approval is sought under this Act;

(2) upon request from an applicant for such approval, direct the head of an agency that administers a covered Federal financial assistance program under which substantial Federal financial assistance would be provided under the plan to provide technical assistance to the applicant;

(3) monitor the progress of development and implementation of local flexibility plans;

(4) perform such other functions as are assigned to the Flexibility Council by this Act; and

(5) issue regulations to implement this Act within 180 days after the date of its enactment.

(b) REPORTS.—No less than 18 months after the date of the enactment of this Act, and annually thereafter, the Flexibility Council shall submit a report on the 5 Federal regulations that are most frequently waived by the Flexibility Council for local governments with approved local flexibility plans to the President and the Congress. The President shall review the report and determine whether to amend or terminate such Federal regulations.

SEC. 12. REPORT.

No later than 54 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that—

(1) describes the extent to which local governments have established and implemented approved local flexibility plans;

(2) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and

(3) includes recommendations with respect to local flexibility.

SEC. 13. REPEAL.

This Act is repealed on the date that is 5 years after the date of the enactment of this Act.

Mr. SHAYS. I would just ask if Mr. Souder has a statement he would like to make for the record.

Mr. SOUDER. I congratulate both of you on your efforts. I have worked as a staffer for a number of years and worked with Bob Woodson in a lot of neighborhood efforts and went out to Operation Beethoven and have seen grassroots efforts where this type of flexibility really can make a difference. I look forward to working with you in legislation and the hearing today.

Mr. SHAYS. We will have a few unanimous consents, but out of courtesy we will wait for the minority to come to make sure that meets with their approval.

Senator Hatfield, welcome. Great to have you here, and look forward to your testimony.

STATEMENT OF HON. MARK O. HATFIELD, A U.S. SENATOR FROM OREGON

Senator HATFIELD. Mr. Chairman, thank you very much for the privilege of being here today. Congressman Souder, I welcome this opportunity to share a few thoughts on this particular piece of legislation that you are holding your hearing and to also congratulate you, Mr. Chairman, and Chairman Clinger for introducing this piece of legislation here on the House side.

I would ask unanimous consent, if that's the procedure to follow, to have my full statement in the record.

Mr. SHAYS. That's the procedure. And we're going to allow that eventually, but until we get a minority member I won't ask for unanimous consent. But you can be assured that your full statement will be in the record.

Senator HATFIELD. I would like to just take a few moments to highlight and respond to any questions that you may have.

Mr. Chairman, as you know, the Republican majority now in both the House and the Senate have taken action through the budget resolution process to commit this Government to a balanced budget by the year 2002. And as chairman of the Senate Appropriations Committee, we are proceeding on our bills of appropriation for fiscal year 1996, much as Chairman Livingston is doing on the House side to comply with that commitment that we have made to the American people.

By the same token, I think it is important to recognize that we're not going to balance the budget merely by continuing the old ways of doing business. I think what has brought us, in part, to this horrible situation that we face in the deficit is our failure to radically transform the way we do business as a Government, as well as the amount of dollars it takes us to do business.

I say that in context of a letter that was signed by Speaker Gingrich and Leader Dole on the Senate side, a letter that was sent last December to the President of the United States urging that the President consider the flexibility factor in these various and sundry programs that relate us to the State and local governments.

We know that our history of this country was, in part, based upon a concept of pluralism, of diversity, not only geographic diversity that we had and we still have, only to a greater extent, but the idea that we could have people that lived in a system of government that held different viewpoints and that we have ways to resolve those differences and to develop consensus. And that is one of the great strengths of our country. Some people look at diversity as a weakness. I think that we have proven as a nation that pluralism, diversity, is a strength.

But we have had a tendency to demand conformity with the Federal level, and this has happened particularly since 1933 when we began to take over more and more responsibilities that heretofore had been at the State, local, and the private sector levels. And in doing so, we were writing prescriptions at the national level. In writing those prescriptions, it was a universal requirement, not recognizing but rather trying to, in effect, at least fuzz over the diversity and the pluralism of this country.

And it came to a point of being in conformity to Federal regulations that were being set forth in an ever-increasing number and dealing with every aspect of human life. We now have over 202 volumes of Federal regulations that number over 130,000. We have 16 volumes on environmental regulations. We have 20 volumes on agricultural regulations, and on and on we could go.

And so it seems to me that in order to really maximize the Federal tax dollar, which is not our dollar, but certainly as stewards of those dollars being paid in by our citizens, we have to look at the way we're doing business.

I can remember in the days that I served in the Oregon legislature—and I came from, basically, a dairy county. And as a dairy county, we didn't like the idea of letting the housewife buy colored oleo. She was given a little packet of color as she bought a pound of white margarine, then she had to take it home and mix the coloring in it in order to make it look yellow, as a butter spread.

Well, from our county's point of view, the dairyman said God made butter yellow, he made oleo white, so that we should never try to violate the laws of God. It got down to that kind of a matter. Whereas, in the urban centers, particularly Portland and so forth, the housewives didn't want to go through that process and they were demanding lifting the law against selling colored oleo.

Now, that today sounds very ridiculous but, nevertheless, it illustrated the diversity that we had within a State. Later, as a Governor, I got a lesson every day on the diversity of my State. We have coastal areas, we have mountainous areas, we have valley areas, we have desert areas, just within one State.

And I think that when we try to write prescriptions without recognizing the role of diversity, we are not only violating the concept of pluralism in this country, but we are legislating to the lowest common denominator. Rather than stimulating creativity and excellence, we are settling for the mediocre.

Now, I think also we have to recognize that all echelons of government and the private sector bring certain strengths to the table. There are things that county, city, municipal, township, whatever the State local governments may be called, have certain strengths. The State governments have certain strengths and the Federal

Government has certain strengths, and it shouldn't be a competitive relationship of either/or or concentration or deconcentration of power for the sake of concentration of power or deconcentration. It should be using each government level's strengths to achieve the whole.

So what does flexibility really boil down to? I am convinced that we should have learned that lesson in this session. In failing to be able to adopt a comprehensive national health reform, Mr. Chairman, I am convinced it will never happen. It can't happen. We don't know enough about what will work and what won't work.

For instance, in the State of Oregon we were the first State to develop a comprehensive health care reform. And we want to try that. We want to experiment. The State of Washington, next-door neighbor, adopted a comprehensive health care reform. They want a single payer plan. We don't have a single payer plan program.

Let us each try to see what really works and let's stimulate and help give financial assistance to those other States to likewise try a comprehensive health care reform and then let's distill that experience and determine what the Federal role should be. That's flexibility. It is not a matter of ignoring an issue. It's trying to create the best method that's going to suit that particular area of our country in this great diverse country of ours.

Therefore, we adopted in the Goals 2000 an amendment that I offered on flexibility. We call it ed-flex. There are more regulations, on the average, at the State level of government governing education than at the Federal level, and yet we know the multiplicity of these regulations within the Department of Education here, as even demonstrated by their hierarchy, the hierarchy of having more Assistant Secretaries of Education, all the small grant program, each categorical grant with its own bureaucracy, leveling up the whole—or leveling down the value of that dollar that's going to a Head Start child because of the overhead.

So, consequently, we could show that there is probably about $500 billion a year that is costing the American public today to do the business in the manner in which we are doing it.

What is the goal? Conformity. What is the goal? Conformity and compliance. Compliance with what? The goals of a program? No. Compliance with the bureaucracy and the rules and the regulations that are suffocating the programs that we have carefully crafted with great care in a way of trying to target certain persons in our demographics.

I believe that we can prove that in the field of education. Oregon is proving it. Secretary Riley designated Oregon as one of the first States to engage in the educational flexibility program. That means the Federal Department of Education, Secretary Riley, Norma Paulus, the State Superintendent of Schools, have joined together in saying these are the goals we want to achieve—lifting all the rules and regulations in certain test cases of school districts or different kinds of school districts within our State, lifting all but the rules on civil rights and health in education. We don't set them aside under any condition in terms of health and safety and civil rights.

But lift all the other regulations, both at the State level and at the Federal level, and free up these school districts to be creative and innovative complying with the goals that we have agreed to,

and then take in benchmark tests within the year to see how we are reaching those goals. That means we don't have all of the energy diverted to filling out forms, paper requirements, regulations, all the costs and the energy that goes into that. I think we are going to prove the validity of that.

I would like to close by saying let us remember that Social Security, the progressive income tax, unemployment compensation, workmen's compensation, child rights, women's rights, civil rights, were all proven at the State level before the Federal Government ever got into that business.

We had demonstrated through the innovative creative federalism that was intended by the forefathers anyway to give that diversity a focus of stimulus, of creativity, innovation. Now we are at this conforming, standardizing, bureaucratic control or bureaucrats talking to bureaucrats. We're not listening to the local areas because they are too busy in complying with all the rules and regulations.

So I believe that we can do this in every area where there is a Federal relationship. We have now 528 categorical grant programs, and that has grown by about 150 in a period of 20 years and it's going to grow another 150, probably, at the rate we're going. And Mr. Chairman and members of this committee, every one of those categorical grants have spawned their own bureaucracy, and it's bureaucrat talking to bureaucrat.

Let's get back to let the people who have the creativity and the desire to innovate to achieve these goals that we all share and not be so concerned about compliance that we've destroyed the creative abilities and settle for the mediocre.

Mr. SHAYS. I thank you very much, Senator. And I would like to welcome Mr. Green and, obviously, as well, our ranking member, Mr. Towns. Before we ask you some questions, I just want to ask either gentleman if they had an opening statement that they wanted to insert into the record or any comments they wanted to make, and then we will get right to your questions.

Mr. TOWNS. Mr. Chairman, I would like to just include my opening statement in the record and just go right to the Senator.

Mr. GREEN. Mr. Chairman, I have a statement I would like to put in the record.

Mr. SHAYS. Thank you. And so I would ask unanimous consent that all members of the subcommittee be permitted to place an opening statement in the record and that the record remain open for 3 days for that purpose. And without objection, so ordered.

[The prepared statements of Hon. Christopher Shays, Hon. William F. Clinger, Jr., Hon. Edolphus Towns, and Hon. Gene Green follow:]

PREPARED STATEMENT OF HON. CHRISTOPHER SHAYS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

This is our first hearing on H.R. 2086, the Local Empowerment and Flexibility Act of 1995, a bill Congressman Clinger and I recently introduced, and a bill similar to one considered by this Subcommittee in the last Congress.

The proposed legislation is designed to help solve the longstanding problem of fragmentation of federal government programs to assist distressed communities and their residents. The bill would create a statutory framework to give local governments greater flexibility in administering federal funds.

There are a dozen or more federal departments and agencies which now administer hundreds of programs in the areas of housing, economic development and social services. According to the GAO, these agencies seldom, if ever, coordinate their efforts because they have different statutory missions, a separate body of regulations to follow, and worry about losing control over their own resources.

All local communities are different, but federal regulations treat them all the same. Local governments are eligible for hundreds of separate categorical grants to provide services and implement federal programs. These communities, however, are stymied by regulatory handcuffs and red tape in their efforts to use these funds locally in the most effective manner.

The Administration recognizes the problem.

A recent report of the National Performance Review stated: "The current system of federal grantmaking fragments the ability of government at all levels to address people's needs in an integrated manner. These problems have contributed to the frustration of individuals and families that depend on federal assistance, and have added to taxpayer and customer cynicism about government's ability to manage."

The President's National Urban Policy report (July, 1995) also concluded: "Federal agencies cannot possibly know what is best for each of America's diverse regions and communities. They cannot design a 'one size fits all' strategy . . ."

H.R. 2086 addresses this problem. It permits local variation in spending based on local needs, freeing up dollars for services that might otherwise be drained away by burdensome and high administrative costs, duplicate audits and paperwork.

Under the framework established by the bill, local governments would prepare a "Local Flexibility Plan" for the integration of federal funds. Local governments would identify all federal, state, local and private resources to be used as well as regulations which would need to be waived. The plan would include input from the community and would be approved by a federal "Flexibility Council."

Flexibility is important. Even in a federal/state funding relationship dominated by block grants, the principle of local flexibility should be part of the permanent federal statutory framework. Blocks grants come and go. Flexibility will always he needed.

This legislation will not increase federal spending and it will allow public money to go farther in serving community needs.

I am pleased to welcome all our witnesses here today. I particularly want to welcome our lead-off witness, Senator Mark Hatfield, sponsor of the Senate counterpart of the Local Empowerment and Flexibility Act of 1995 (S.88). His bill has already received favorable responses from the National Association of Counties, National League of Cities, and the U.S. Conference of Mayors.

We look forward to working with the Senator, governors, mayors and community groups to reach the goals of H.R. 2086.

PREPARED STATEMENT OF HON. WILLIAM F. CLINGER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

I would like to thank Chairman Shays for scheduling this morning's hearing, and for introducing the bill before us today. As he knows, providing more flexibility for local governments to improve federal programs is near and dear to me; in fact, I introduced legislation very similar to this in the last Congress. I thought it was a good idea then, and it's an even better idea now as the Federal Government strives to make the most out of every dollar spent. I am pleased to be an original cosponsor of this bill.

As the strong local government support for this legislation would indicate, the current web of categorical grants is not working as well as it should. Services offered are often crisis-oriented, and rarely designed to prevent problems. Access to the myriad programs available is often confusing and difficult for individuals and families. And the laws and regulations governing many categorical programs impede community-based initiatives that would address the broad range of issues confronting our local governments today.

Local elected officials have demonstrated time and again that they can be innovators when given a chance, and the Local Flexibility and Empowerment Act offers that opportunity. Mayors, county executives, community leaders, low income citizens and their advocates will have the opportunity to work together to redesign existing social service programs to meet the needs of the community better, faster, and more effectively than before.

I think it is clear to us all that massive new social service spending is not in the immediate future. Indeed, billions of dollars poured into social programs in the last 30 years have failed utterly to lift generations of families out of poverty. Obviously,

Washington's way is not working—but the opportunities created through the Local Empowerment and Flexibility Act present a viable, desirable alternative.

The legislation provides communities with the flexibility to direct resources where needs are greatest, without requiring new spending by the Federal Government. Indeed, a locality may not implement a plan to integrate services if it would require additional federal dollars. This allows us to meet the challenges facing our communities in a fiscally responsible way.

Mr. Chairman, I applaud you and the gentleman from Oregon, our colleague in the Senate, Mr. Hatfield, for introducing this legislation. I hope we can move this legislation forward as soon as possible, so our communities can start serving their low income citizens as they can and should—with more federal cooperation, and less federal intervention.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF HON. EDOLPHUS TOWNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, thank you for convening this hearing today on H.R. 2086, the "Local Empowerment and Flexibility Act." During my chairmanship of this subcommittee, I worked very diligently on a similar piece of legislation that would have enabled local governments, and private, non-profit organizations to have greater flexibility to use Federal funds to achieve local policy goals. I therefore commend you Mr. Chairman for continuing work in this area.

When this subcommittee last held hearings on this issue, we learned from our witnesses that the requirements of Federal grant programs are often far too narrow, duplicative, and are overly prescriptive. I recall hearing testimony from a local official in Prince George's County, Maryland, who complained that the rigidity of HUD waiting list requirements hindered the county from providing housing to low income individuals. Mr. Chairman, this is exactly the type of situation that I want to see remedied, and I am pleased that your bill seeks to do so.

This bill would allow local governments greater flexibility to tailor programs to local needs, through the development of local flexibility plans. It would also allow local governments to waive Federal regulations that are often conflicting, or otherwise hinder them from providing services to the target communities. Most importantly, in times of increasing fiscal austerity, this bill would cut back on bureaucratic red tape and allow Federal funds to be used most efficiently and productively.

Mr. Chairman, I wholeheartedly embrace the concept of this legislation. As a former local elected official, I am aware of, and can appreciate the concerns that many localities have about the administration of Federal programs. I recall my former mayor, David Dinkins, testifying before this subcommittee about the need for local flexibility. I do want to ensure however, that we do not allow localities to waive important Federal regulations. I also want to ensure that low income communities have the opportunity to participate in the formulation of the flexibility plans, and to benefit from Federal grants. As usual, Mr. Chairman, I look forward to working with you to address these concerns, and to craft legislation that will enable localities to more efficiently use Federal funds.

PREPARED STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Thank you, Mr. Chairman, for holding this hearing on ways we can help local communities use Federal resources in a more efficient way. I believe you have pointed out a problem that has plagued our efforts in the past to help local communities solve social and economic problems: that too much money is spent on overhead and administration of the program and too little is spent on the actual problem.

As a new member of this subcommittee I would like to use this hearing as a learning opportunity. I have questions about how the waiver process would work and what sort of rules would be waived. Furthermore, I understand that this bill does not include assurances as the Conyers-Clinger bill did previously that the local programs would have to help low income residents. Still, I am intrigued by the Chairman's ideas and I will keep an open mind.

I welcome Senator Hatfield this morning well as our other panelists and I look forward to today's hearing.

Mr. SHAYS. I also ask unanimous consent that our witnesses be permitted to include their written statements in the record. Without objection, so ordered.

[The prepared statement of Hon. Mark O. Hatfield follows:]

PREPARED STATEMENT OF HON. MARK O. HATFIELD, A U.S. SENATOR FROM THE STATE OF OREGON

I would first like to thank Chairman Christopher Shays for inviting me here to testify today and for the wisdom that he and Chairman Clinger have shown by introducing the Local Empowerment and Flexibility Act of 1995 in the House of Representatives.

My motivation for introducing the companion bill to H.R. 2086 in the Senate is two fold. First as a former governor of Oregon, I experienced the frustration expressed by many state and local authorities when federal policies do not make sense for their particular communities. Blanket standards from the federal government are incapable of taking into consideration the diversities of each locality. National policy objectives often stifle creativity at the state and local level because authorities are compelled to comply with rigid federal stipulations. In addition, as an Appropriator, I have witnessed first hand the shrinking pool of federal resources for local and state governments. This decline is unavoidable and we must now concentrate our efforts to making the most of the scarce dollars that are available.

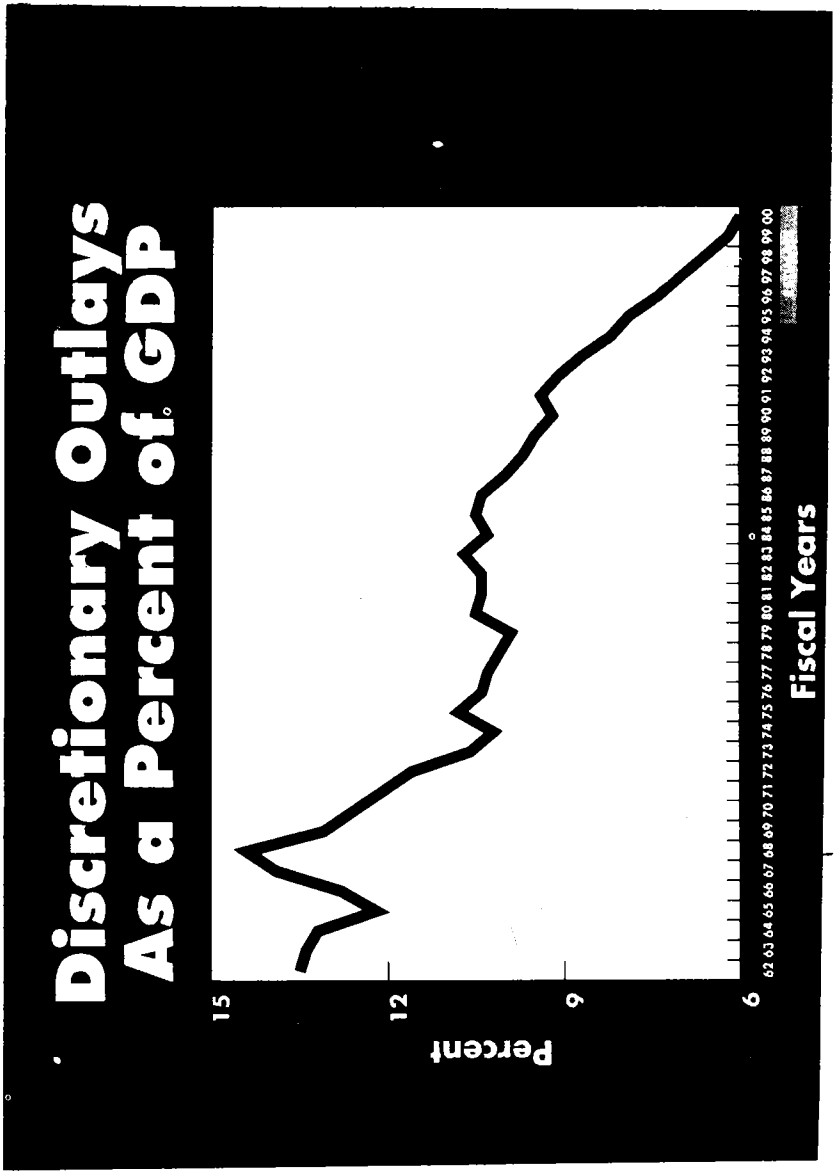
As the debate over the budget continues, it is important to remember that long-term fiscal responsibility should not only depend upon cuts in spending. It demands a radical transformation in the way we do business as a government. Business as usual is no longer sufficient. We have finally realized that we can no longer spend more than we have, and the next step is to look to the innovators at the state and local level to see how they are making limited resources go further. From my experience as governor I have discovered that it is on these levels that much of the innovation and creativity in government takes place.

The federal budget outlook is growing increasingly bleak. Nondefense discretionary spending will decline 12% from 1995 spending levels by the year 2002, shrinking from its current level of 18 percent of the total federal budget, to 13 percent in 2002. As the attached chart indicates, total outlays in discretionary spending as a percentage of GDP have declined from 13.5 in 1962 to a projected 6 percent in the year 2000. It is this block of shrinking dollars that fund the grant programs that benefit local governments. In our efforts to reduce the deficit, discretionary dollars are becoming scarce. Faced with declining resources, we must turn our attention to developing the most efficient allocation of these dollars.

Permit me to provide one example from my home state that demonstrates a poor allocation of federal dollars. As a result of the Crime bill passed last year, Marion County in Oregon was the recipient of additional federal funds. These funds were a welcome addition to the community but the money came with many strings attached that prohibited the county from spending it where it was needed. Instead of using the funds to hire additional corrections officers to deal with the growing number of prisoners, the county was directed by federal law to spend the money only for hiring additional police. This federal mandate did not serve the best interests of the community of Marion County in their effort to fight crime. This example highlights the need for providing increased flexibility for state and local governments. The federal government was willing to spend federal dollars to help, but without flexibility, the needs of the county could not be addressed.

The federal government should compliment not hinder the efforts of innovators on the local level. The need to provide flexibility to local and state governments is immense. These localities need to be able to use their acquired funds in a manner suitable to the needs of their communities. While I was pleased with the passing of the Unfunded Mandates Reform Act of 1995, Congress has failed to examine the existing regulations that continue to hamper the innovation of local authorities. We need to replace program compliance and regulatory rigidity with local flexibility.

There are four crucial aspects to H.R. 2086. First, different governments of this nation have different strengths. The federal government does two things well: effectively establishing broad goals that tie us together as a nation and achieving certain economies of scale which cannot be attained at the local level. The federal government often forgets that local governments bring a great deal of resources to the table. Perhaps the greatest strength is that states and local governments are innovators. Local and state governments have demonstrated again and again that they find the most creative ways to tackle problems in solutions that fit the local context. Local governments are eligible for hundreds of separate federal categorical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grants to provide services and implement federal programs. The number of these categorical grants has skyrocketed in the last decades. In 1972 there were 422 different types of categorical grants compared with 1993 in which there were a total 578. These grants often encumber local government with burdensome stipulations and requirements.

Secondly, the Local Empowerment and Flexibility Act will not only permit variation in how local governments meet national goals, but it will encourage solutions that best fit the local context. Federal laws and regulations have tended to treat every area of the county the same. Universal requirements force Congress to legislate to the lowest common denominator, and consequently, few governments perform to their full capability. We all strive to meet the average instead of to excel. Politically, socially, structurally, local and state governments are very different from one another. Adding flexibility to the federal/state relationship will encourage local governments to find solutions that fit the local context. In addition, providing flexibility will eliminate regulations that force local governments to "solve" problems that they do not have. Many programs are narrowly designed which means dollars end up mired in audits and record-keeping rather than directed to meet community needs. While the well-intentioned programs of the New Deal and the Great Society put safety nets in place for those who are in greatest need, these nets now strangle the federal government by tying up precious funding in a knot of regulations and poor management.

Thirdly, this legislation will create a new system of accountability. Currently, the federal government holds state and local governments accountable through regulation, procedures and paperwork. The existing accountability structure is very good at determining where federal money is spent, but it tells us very little about whether we are actually achieving results. Hundreds of hours and scarce dollars are invested in complying with these regulations, and the investment in bureaucratic processes does nothing to improve the quality of services that we deliver to citizens. Moreover, our current structure of accountability has made us very responsive to each other, rather than to the people we serve We need to re-orient our system of government to view taxpayers as investors and our citizens as customers of the business of government.

Finally, we must also help re-tool all governments for this new relationship. We need to re-equip our nation's governments to function in a new cooperative environment. The federal bureaucracies need to re-create the ability to listen to local governments. In the 1980s, we witnessed the destruction of the "intergovernmental" affairs offices at most federal agencies. The federal government must actively solicit and use the ideas and experience of state and local governments.

My bill, S. 88, and H.R. 2086 are designed to create a new spirit of cooperation among federal, state, and local governments. It will lead to strategic and realistic decentralization and deconcentration of power throughout the government. Governments will be allowed to combine their different strengths to achieve their objectives. It will also permit variation in how local governments meet national goals, encouraging solutions that best fit the local context.

The Republican-controlled Congress has committed itself to a more efficient, cost-effective approach to governing. This commitment is highlighted in a letter sent to the President in December of last year signed by Senate Majority Leader Bob Dole, and Speaker of the House, Newt Gingrich. The letter suggests that the President, "recommend actions to give state, local, or tribal governments more flexibility to meet federally-imposed responsibilities." Providing local flexibility has also enjoyed a wide array of bipartisan support. In February of 1994, the Senate voted 97–0 in favor of a demonstration project for education flexibility along the same lines as this legislation. While that project provided for 6 test sites throughout the country, due to its effectiveness, all 50 states have expressed interest in the program.

I would like to thank the Committee again for the opportunity to testify. I look forward to seeing the Local Empowerment and Flexibility of 1995 become the launching point for this country's greatest innovators, the state and local government of this nation.

Mr. SHAYS. And so we have taken care of our housekeeping.

Senator, I believe government has a definite role and I have always taken the view that there are things the Federal Government should do and there are things the State government should do and there are things the local governments should do.

But I have come to conclude that in the Federal Government in particular, if people have shoe sizes from 8 to 16 or more, we say

everyone has to wear a size 9. That's why I am particularly interested in this legislation.

How many years did you serve as Governor?

Senator HATFIELD. I beg your pardon?

Mr. SHAYS. How many years did you serve as Governor?

Senator HATFIELD. Eight.

Mr. SHAYS. So you have been able to see the need for this, obviously, as a Governor and you have been able to see it in your position as the chairman of appropriations.

Do you think that by allowing this flexibility you have, in a sense—I mean, it's interesting to me that the chairman of the Appropriations Committee, which more likely would want to make sure things are just the way you've written them would support flexibility. How long did it take for you to evolve to this position? Did you come to this position over time?

Senator HATFIELD. Mr. Chairman, I must say that I was taught this viewpoint, literally taught it, by my county governments and city governments the 8 years that I was Governor of my State. It's a small State. We have about 3 million people and at that time probably closer to 2 million.

But I still found that in our State agencies, they can be just as bureaucratic as Federal agencies. Let's not think that all bureaucracy and the mentality of bureaucracy is in the Federal Government.

I saw just as much in the State agencies that somehow those rules and regulations in our relationship with the counties and the cities could be totally uniform. We couldn't because of the diversity in our State. So I learned it in that kind of a laboratory and I have felt that very strongly since that time.

A few years ago I convened a group of 150 small water districts in my State because we were looking at this Clean Water Act which I co-sponsored. And I believe in that legislation. And they were showing me where they were required by Federal contaminant listings to test for contaminants that didn't exist in my State, and yet they had to go through that cost and that expense to test for those same that were tested in Florida or Louisiana or New York or any other State.

We have built into the Senate version now a flexibility factor that there has to be two things: the flexibility relating to if those contaminants exists, and you make that by scientific determination, not by a political decision. If they do not exist in those areas, those local small water districts don't have to test for that.

Or how frequently should the test be run? Well, that's a variability too in terms of different contaminants. And so, because we had that rigid formula at the Federal level, these small water districts were going to go out of business. They couldn't perform. And so, by building that in, and there again I'm learning all the time about the importance of flexibility.

Mr. SHAYS. The importance of flexibility is constantly getting reinforced by examples like that. Let me just ask this one last question. It is logical to me on the face of it that if you allow flexibility you are going to be able to spend your money more wisely and more appropriately?

Do you think though that there are any savings in terms of administrative costs? One of the things that our committee has set out to do, we are concerned—we oversee five government agencies and one of them, HHS, which has Social Security—its budget is larger than the gross domestic product of Canada.

But we also have the whole issue of federalism. And one of the issues that we want to look at is how much money gets siphoned off in the administrative process before it gets to the person on the street.

So my last question to you is do you think there is any savings in administrative costs, or do you think basically it's a wash?

Senator HATFIELD. Well, let me speak as appropriator. When I see the budget resolution that is attempting, basically, to balance the budget on what is today about an 18 percent baseline to the total budget, namely the nondefense discretionary programs, and I see that by the year 2000 we are going to squeeze that down to 13 percent of the total budget expenditures, we are going to see not only that in the discretionary programs but, by contrast, military is going to continue to level an increase and have blips, as well as the entitlements are going to increase by 44 percent, the indebtedness that we pay our interest will only stay at 15 percent.

Mr. Chairman, I am convinced that we cannot balance the budget on a 17 or 18 percent baseline, but as an appropriator dealing with 1996 and 1997—that is all I have left on this term, who knows about the future—I have to say this to you. It's not only a matter of saving the overhead, but it's a matter of survival for some of our programs that we have commitments to.

We just marked up the transportation bill. Let me give you an illustration. We had to reduce the support to airport facilities from $1.4 billion down to $1.2 billion. I proposed, and I told the authorizers, let us make it voluntary but let us give the local airports an opportunity to raise the passenger fee from $3 to $5. Well, you can imagine what happened. The airline industry came out of their hive like a swarm of bees and they were all over the Senate side.

Now, my point is simply this: We cannot maintain the needs of our airport facilities by squeezing that budget down without compensating somewhere else or by saving overhead. And, really, at this point it's going to be a combination of both.

Now, to me, that is the illustration. We have to have a better system of doing business and save every penny we can save. And I am convinced that they can make more of those creative ideas at the local level than we can at the Federal level writing a national prescription. Here United Airlines charges $40 in Denver.

I can't imagine why in the world that they object to perhaps going up to $5 in Portland or some other city, but that's the inequity we see within our system today. We don't have an equitable system.

Mr. SHAYS. Thank you. At this time I would like to ask Mr. Towns if he would like to ask the Senator some questions.

Mr. TOWNS. Thank you very much, Mr. Chairman. Let me begin by first thanking you very much, Senator. We have been following your legislation on the Senate side.

What type of feedback have you received from your colleagues on S. 88?

Senator HATFIELD. From my colleagues?

Mr. TOWNS. Yes.

Senator HATFIELD. My colleagues—we did get support from my colleagues on amending the President's Goals 2000 for education to build in the educational flex, so we have taken that action. I did get support from the colleagues and we offered it in the Safe Water Act. From the Senate version we built the flexibility factor into it.

So those have been two very, I think, significant demonstrations of the support of my colleagues in the Senate.

May I add one further point? This is not a theory. Governor Roberts of Oregon and Mayor Katz of the city of Portland and Commissioner Stein of the Multnomah County in which Portland resides, all work together to create this so-called flexibility factor in the State government of Oregon.

So you have three levels of government in which we have had what we call the Oregon Option, or the Oregon Benchmarks. They went down to the White House, these three ladies, and believe me, they were a force to reckon with wherever you meet Governor Roberts and Mayor Katz and Commissioner Stein, all three Democrats. And they attacked the White House, so to speak and really within one morning sold the whole concept to the administration that it was a valid one and it worked.

So that it's, again, not only the colleagues, but we have it actually functioning in one State today as a demonstration project.

Mr. TOWNS. In terms of selling this idea, Senator, what do you think in terms of the factors that have sort of moved your colleagues toward this? What do you think that sort of helped you to move them toward the concept?

Senator HATFIELD. Congressman Towns, I don't think that it's fully impacted as yet on what we did in the budget resolution. I think there is still a view that somehow we can make these drastic reductions in the dollars, resource dollars particularly—and I'm talking now about the nondefense discretionary programs—and still have the programs.

I think everybody thinks, well, they ought to cut somewhere else and not in my area of interest. But in this cycle of the appropriation cycle I am sure that it's going to come home to every member of our body that we can not keep our commitments in these various programs without finding either new resources to take the place of those we have eliminated—and we cannot at the same time sustain those program commitments.

And I really feel that we have not yet fully awakened to the fact that we have put the whole crunch on the nondefense discretionary area. They want the programs in transportation, in housing, and all these other needs of people in welfare, education, medical research. But we are going to have to face the fact that we're spending too much in overhead or we don't have enough resources or a combination thereof, and we are going to have to make some tough decisions. I don't think it has become fully a reality yet.

Mr. TOWNS. Senator, you made a comment about a national health plan and I didn't get the statement. You made a comment about the national health plan. You were saying?

Senator HATFIELD. I was saying that I think one of the reasons that we failed in the recent efforts to develop a national com-

prehensive health program, we were trying to write a prescription base and then superimpose it upon all the existing areas of the country with different bases, different baselines, or different areas of progress.

We feel that we are a very progressive State in most areas—environment, health, education, et cetera—and that we would find our efforts that we have moved ahead with, restricted backwards, not to advance. We would be penalized in a sense by national prescriptions because they have a tendency to reach to at least a lower denominator to get uniformity than some of us who were ahead of the game.

And I think you are going to have to stimulate States to go out and experiment like we are in our State with a comprehensive health care. And nine other States are doing the same today. We've got to expand that to some of the poorer States with Federal support, in my view, to get a national uniform idea of where we are and what we should be doing at the Federal level.

Mr. TOWNS. Senator, I agree with you. I agree with you wholeheartedly. On that note, I yield back.

Mr. SHAYS. I thank the gentleman. Mr. Souder, you have the floor, vice chairman of this committee.

Mr. SOUDER. One of the things that one of my Democratic friends back in Fort Wayne said in the Reagan era, and I'm sure he feels that way now with the freshman Republicans in the congressional Republican era again, and that is that the one good thing, because he wasn't happy about the cutbacks, but he said the one good thing is it's forcing agencies to cooperate in ways that they hadn't before because there was so much sensitivity.

And as long as you had money you could do that, but when the money goes down, all of a sudden you have to try to manage the caseload and try to cut out anything you can. He doesn't support the Republican agenda, but that is one of the side benefits that happens in this type of thing.

To make this very practical, one of the things in the Education Committee we're going through right now is the careers bill. And a lot of this relates to the question of block granting versus revenue sharing. How much flexibility do we do? Do we do just one block grant? Do we do multiple block grants?

We spent the last couple days on the phone battling back and forth with the Governors who basically want us to raise the revenue and give them no guidelines and be able to do whatever they want with the money, which raises a question of why don't we just transfer the taxing authority and let them raise it, unless there is some balancing between the States in the revenue. Why collect it, take some out, and send it right back?

How do you balance that? Do you believe as the Federal Government we shouldn't even be setting goals as far as this flexibility? Do you believe that we should have minimum goals and then let them figure out how to execute those goals?

Where do you see this act and your general principles fitting into what is going to be a big debate over the next—this term of Congress?

Senator HATFIELD. Congressman Souder, I believe we should approach that in the same way as the philosophy of flexibility. I don't

think we can approach it in a uniform, hard and fast formula because the States are so different. I think the goals that we would want to set should be done on a flexibility factor.

I would think that the mutual goals we had set in education would depend on what the State is doing today in education. Is it behind the average? Is it ahead of the average? There is so much flexibility there in their resources. You would have to set those goals within reality of what can be achieved by the States.

I voted against revenue sharing, and I still oppose revenue sharing on the basis that when you separate the tax collecting from the tax spending authorities, you don't strengthen federalism; you make it more centralized.

People often ask me did I like being Governor better than being a Senator. I said, well, my view in a very semi-facetious and oversimplified way, is that when I was Governor I had to raise my revenues and I had to raise them for the programs.

Today, Governors spend about half their time complying with Federal regulations and the other half of their time being bag people to the Federal treasury. And I just don't think that strengthens the States at all. I think States are going to have to assume those responsibilities, as we have, to set our priorities. We should be setting our priorities, which we aren't doing in my view, at the Federal level; so must the States.

And I don't think that you could set up a single formula that would work in New York, Mississippi, Oregon, and Louisiana, just as an example. I'm not being critical of any of those States. I'm just saying look at the schedule of how much they are spending for education per student in comparison to each other and, therefore, I don't think we could set up a Federal formula. I think what we have to do is stimulate those States that are paying less of how they can be more economically prosperous to assign more of their revenues to education.

But I do think we could set goals and give those stimulus through the setting of mutual goals in education and any other program. I don't think what you do in education is going to apply perhaps in housing or what would apply perhaps in transportation or the management of your resources. I just think we have to look at flexibility in any kind of a relationship with the States.

Mr. SOUDER. What we are getting into in the careers bill is merely by saying, for example, that you have to spend a certain amount, like I had one amendment that said that they had to show that they were serving a high-risk population. They didn't have to show us how they were serving the high-risk population. That is the latitude of the States. But the Governors maintained that that was prescriptive because that would lead to an agency looking at them trying to define the regulations as to whether or not that population was high-risk, lead to paperwork with that. And there is some sort of a balance here.

Senator HATFIELD. You are right. And I think that balance could be achieved by a series of thresholds. In other words, rather than setting one threshold of what the States have to be doing in order to comply enough to get a grant or to be eligible, I think you would have to set a series of thresholds based upon the economic realities of those States amongst other issues as to what they can afford.

And then I would think that you ought to have some kind of a trust fund to help subsidize some of those States to a higher threshold where they can achieve, or to look at ways in which the Federal Government can assist them in economic growth and economic development. Again, I don't believe there is a single formula.

Mr. SOUDER. May I ask one other brief question? Bob Woodson for years—and we've experimented when I worked with Senator Coats with the concept of a ZIP Code test. In other words, that a certain percentage of a grant going into a community needs to go to people who live in that area, because one of the problems we have in a lot of this type of thing is you have the so-called beltway bandits, or the State or a city variation of those, of people who are not indigenous to that community.

How do you feel about something like that as far as actually resulting in reality in community-based type of things, or is that in itself too prescriptive?

Senator HATFIELD. Congressman Souder, I really hadn't thought about that. I hadn't heard of that particular approach. I don't think you can separate the social and the economic of life. I think they are interdependent. Maybe zip codes would get to an area of a city or a State where there is a lower level of income where there is greater poverty.

And I always believe that there should be two things that you consider when you address those problems. One is how do you help to get them on their own feet. Not how do you imprison them in a welfare approach, but how do you help them to get on their own feet. And, second, how do you create incentives at the same time so that it's not just a handout as a dole or as a piece of welfare program.

I think that welfare has gone through an awful lot of criticism, justifiably, but also I haven't heard of anything that has been suggested as a replacement for welfare other than just abandoning those people, and I don't think that's a wise action either.

So I say help create the educational—special added educational support to build their educational abilities, to build their skills, focusing on vocational education perhaps, in some of those areas, and spending money at the Federal level to help in building up that, but to build it toward an independence, not a dependence.

Mr. SHAYS. I thank the gentleman.

Mr. GREEN. Thank you, Mr. Chairman. Senator, I couldn't help but comment on what's going on then on the budget, with your last comment that we need to build that independence instead of that dependence. But when we see what's happening on labor and education funding this session, I couldn't help but make that comment.

Last session you—this provision of this bill and we heard hearings last time on this, and it was put in the National Competitive Act and it was taken out in conference committee.

Can you say—can you tell us why to some of us who weren't on that conference committee? Was there some big opposition from Members at that time?

Senator HATFIELD. No, I can't tell you. I wished I knew because I think a lot of times in conference I have found over the past, particularly where we're dealing with money, is again what priority

prevails within that conference and what has to be sacrificed in that conference.

Today I think we are at a point where we are sacrificing some of our favorite children, our favorite things, because we have got a higher favoritism with some others. It's not that we think what is bad and what is good. It's now all based on, well, can we afford it. Well, there you get into a real philosophical dilemma because, to me, I think sometimes we can afford—we can't afford not to do something that's going to cost more money at the moment.

But at the same time, I am faced with the dilemma that when they wanted to cut $7.7 billion in our budget resolution out of the National Institutes of Health of an $11.3 billion budget, in that same budget resolution they wanted to increase nuclear research for nuclear weaponry by $100 million. Now, Congressman Green, to me that is just an upside-down priority, but I have been fighting that battle for 28 years in this body and I haven't won much except in underground test bans.

Mr. GREEN. I can relate to that. I've only been here 3 years.

Senator HATFIELD. I would just like to trade that military budget just for 1 year, just for 1 year, for some of these social programs that we really have not been able to conquer or to solve at this point.

Mr. GREEN. What are the—and I understand the need because, for example, coming from Texas we don't need to test for radon very often in Texas, although I know it's a problem in other States. So I understand the need to have local flexibility.

One of the concerns I have though is there are policy statements that we make, and some of them are controversial. For example, with the local flexibility allowed for the waiving of Davis Bacon rules or OSHA requirements or something like that.

Senator HATFIELD. Well, I don't think in those Federal laws that we have—I think we have to address them. I've been working with both contractors, as your example, and labor on getting a reform of Davis Bacon at the Federal level. I think some of those things that are so definitively involved in interstate, I think we could have regional differences because of regional characteristics.

But I do think some of those national commitments—that's why we don't lift civil rights legislation, why we don't lift health and safety regulations. Some of those are truly national that we have to maintain.

Mr. GREEN. Thank you, Senator. We appreciate you coming over.

Mr. SHAYS. Thank you, Senator. We really appreciate you spending so much time with us today, and have a great day.

Senator HATFIELD. It's been a great privilege. I haven't been over here to testify for a number of years and, believe me, I prefer to testify in here than on the other side.

Mr. SHAYS. I hope that's not because we're too easy on you. Thank you.

We have a second panel and at this time I would call them forward. Judy A. England-Joseph, Director, Housing and Community Development Issues, General Accounting Office, GAO; Charles Griffiths, director, intergovernmental liaison, Advisory Commission on Intergovernmental Relations (ACIR); and Carl W. Stenberg, di-

rector, center for public service at the University of Virginia, representing the National Academy of Public Administration.

I am not going to be swearing you witnesses in today because this is a hearing on legislation. I may be told by my full committee that next time I have to do that, but we didn't swear the Senator in and we won't be swearing you in as well. But we know that what you will tell us will be the truth and as you see it.

And if I could now, Ms. England-Joseph, nice to have you here. And we'll just kind of go right in the order that you're sitting. Welcome.

STATEMENTS OF JUDY A. ENGLAND-JOSEPH, DIRECTOR, HOUSING AND COMMUNITY DEVELOPMENT ISSUES, GENERAL ACCOUNTING OFFICE; CHARLES GRIFFITHS, DIRECTOR, INTERGOVERNMENTAL LIAISON, ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS; AND CARL W. STENBERG, DIRECTOR, CENTER FOR PUBLIC SERVICE AT THE UNIVERSITY OF VIRGINIA, REPRESENTING THE NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Ms. ENGLAND-JOSEPH. Terrific, thank you. And I would like to submit my entire statement for the record and simply summarize my remarks. Good morning, and thank you very much for allowing us to testify on your piece of legislation and to discuss a little bit the work that we have done that we hope in some way will contribute to the discussion or debate.

Now having listened to Senator Hatfield, it was interesting because the perspective that we bring of the work that we can talk about today takes on a slightly different focus even though, ultimately, it's an issue of streamlining, of flexibility, issues associated with ultimate Federal cost and maybe perhaps saving of some money, maybe a lot of money.

But the perspective that I am bringing today, the work that we did for Congressman Towns and you, Chairman Shays, a report that was issued in February of this year where we looked at communities from the perspective of the bottom up.

Typically, GAO has been asked to look at programs from the top down, how well are Federal programs working outside the beltway. We thought that it would be appropriate and necessary to go out to selected communities and try to understand from a community's perspective how they are addressing complex problems.

And to the extent that they are attempting to address them in what we are characterizing as a comprehensive approach, how effective are they in addressing these complex problems and what type of Federal assistance and support is necessary, what type of obstacles or barriers may exist in helping communities actually meet that intent.

Now, when I say comprehensive, I am talking about not just one focus or one approach to solving a complex urban or social issue. Typically, Federal programs and typically lots of foundations and private non-profits have focused on local community problems from a certain perspective, like housing or social services or education or employment or economic development.

And what I think we have learned over the years, when you look at it from the problem's perspective rather than from the program

or a program funding or design perspective, the problems are interrelated. Many different programs actually are needed and many different types of funds are needed in order to support solving very difficult urban problems.

What we found was that you have to link together—I guess the hypothesis we were attempting to test, linking together the housing or physical aspects, infrastructure issues, with social needs, which would include education, health care, child care, all the supportive services necessary from a social perspective, and economic development, jobs, businesses, with the intent of trying to understand whether if we were to combine those three broad elements together could we, in fact, better address the complex problems that face local communities.

What we did was a case study approach, looked at four communities across the country who had over the past maybe 7 to 10 years been experiencing and experimenting with a comprehensive approach. And what we found was that there—it holds a great deal of promise if you look at those problems in those ways rather than to be forced to look at problems from a stovepipe Federal program design perspective.

Now, what we also learned, in addition to the fact that this may be promising as an approach, is that it takes a lot of time. It's very difficult to do. You need to bring a lot of different people together. And, clearly, these problems are so complex. You need to understand clearly what the problems really are.

But having said that, I think what the communities were able to teach us and what I think we have to offer you today, is that it was extremely difficult when addressing complex problems at the community level when you have hundreds of Federal programs with many different application and reporting requirements, a lot of levels of sophistication, timing differences, so that from a community's perspective when they are focused on problem solution and attempting to try to solve these very difficult problems, trying to match those problems with Federal programs and Federal funding sources is extremely difficult.

In some cases, communities told us it was worth it not to involve or participate with the Federal Government and that in the event that they did participate or did receive funds from the Federal Government, they preferred the community development block grant or the community service block grant that allowed them the flexibility to use funds in a wide variety of ways to solve problems, rather than many of the categorical programs that were so narrow in design and focus that it made it extremely difficult to try to force-fit a program requirement to the problem itself.

Now, what they told us were that there were several problems, even in their attempts to try to use Federal programs, they needed a level of sophistication or expertise that required full-time staff in some cases. That was clearly an additional cost to these communities.

In some cases, people were hired strictly to write proposals for the Federal Government proposals—for Federal Government grants and applications. They found that they had to create whole systems of tracking and accounting for these Federal program funds even if some of those funds were fairly small in comparison to private

funds that they were using to address similar problems, and that in creating these different accounting systems or reporting systems that they would have multiple systems because they had to meet certain system requirements depending on the grant or program that they had finally gotten approval for.

But having said that in terms of complexity, we found that they are highly dependent on Federal funds. In many cases, 30, 60 percent of the funds that might be used at the community level were from a multiple of public funding sources. And so, in many ways, they couldn't walk away from the complexity of working with the Federal Government; they just had to live with working with the Federal Government.

So I think there were a lot of things that we learned from this case study approach that told us if we are really serious about trying to address the complex problems of communities that the way in which Federal programs are designed can, in fact, inhibit the ability of effective outcomes or effective performance outcomes, and that perhaps what we need are greater flexibility to allow communities to be able to marry various different program opportunities together in order to solve their problems.

Now, the other thing that I have to offer deals with the Empowerment Zone, Enterprise Community Program. And that is to say that even though it is very new in its implementation, as you know, it's very few months only since these communities have been selected to be a part of the EZ–EC program; however, I think there are a couple things that we can provide you in terms of information about the experience thus far.

The big thing I wanted to mention is that that program allowed for communities, through the application process, to request waivers of Federal regulations, Federal statutes. And that's very similar to the design in the local flexibility act that you are discussing today.

Now, what we learned was that there have been over 1,000 requests for waivers, many of them, about 60 percent of them, are statutory based. And I think what that tells us is that there are a number of communities out there that see the need for some flexibility outside of the design of the programs that exist today and that in order for them to effectively address some of their problems, even through the empowerment zone program, they will need the type of flexibility that perhaps you are envisioning in your legislation.

The other thing that I think we can offer about the EZ–EC situation is that there too is a board made up of many different agencies, not all the same agencies that are in the legislation we're discussing but certainly most of the agencies. It's called the Community Enterprise Board. And that board is intended also to be a funnel and a conduit for understanding that if there are requests for waivers to try to stimulate the Federal Government the various departments to respond expeditiously in trying to approve those waivers.

I think what we would caution as you move forward with your legislation is to understand that we already have a board that exists. It remains to be seen how effective it is. Clearly, it does not have the statutory authority to actually approve the waivers that

these communities are asking for, and so that is a difference from perhaps what you are intending in the legislation that we're talking about today.

However, there is a need to recognize there could be potential for duplication of effort and a recognition that once you open the doors in terms of waivers you should and will probably expect many, many waivers to come from communities because of the need from a community's perspective to try to have the flexibility they currently do not have to address their problems.

So I hope this was helpful and I will be happy to answer any questions you or members may have.

[The prepared statement of Ms. England-Joseph follows:]

PREPARED STATEMENT OF JUDY A. ENGLAND-JOSEPH, DIRECTOR, HOUSING AND COMMUNITY DEVELOPMENT ISSUES, GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to participate in your hearing on the Local Empowerment and Flexibility Act of 1995, whose purpose is to create increased flexibility for local governments and private nonprofit organizations using federal programs to assist communities and their residents. The act would, among other things, create a council composed primarily of cabinet-level officials to review and approve local plans that could include requests to waive federal requirements.

Our testimony is based primarily on our February 1995 report on community groups that are using a multifaceted—or comprehensive—approach that relies on residents' participation to address housing, economic, and social service needs in distressed neighborhoods.[1] Comprehensive efforts are often begun out of the frustration of residents regarding neighborhood conditions and the dissatisfaction of assistance providers with the results of more limited approaches. In our February report we examined (1) why community development experts and practitioners advocate this approach, (2) what challenges they see to its implementation, and (3) how the federal government might support comprehensive approaches. The report incorporated information obtained during our review of four organizations that are applying a comprehensive approach for improving their respective communities.[2]

In summary, we reported that community development experts advocate comprehensive approaches to address the problems of distressed neighborhoods because such complex, interrelated problems are better addressed in tandem than individually. The comprehensive approach was endorsed by the Department of Housing and Urban Development (HUD) in March 1994. Several national foundations—frustrated with the results of programs they previously funded—have begun funding organizations that are taking a comprehensive approach.

Multiple challenges confronted the four organizations we studied. The organizations had to, among other things, piece together a complex web of funding from several private and public sources to cover program and administrative costs. Overall, the groups relied on public funding—often with conditions and/or restrictions on its use—for 30 to 60 percent of their budgets. The organizations also faced the onerous task of managing a diverse set of concurrent housing, economic development, and social service programs.

The federal government assists distressed urban communities and their residents through a complex system involving at least 12 federal departments and agencies.[3] Together, these agencies administer hundreds of programs in the areas of housing, economic development, and social services. These agencies have tended not to coordinate their efforts with one another because they have separate missions and

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[1] *Community Development: Comprehensive Approaches Address Multiple Needs but Are Challenging to Implement* (GAO/RCED/HEHS–95–69, Feb. 8, 1995).

[2] The four organizations we studied were (1) the Core City Neighborhoods in Detroit, Michigan, (2) the Dudley Street Neighborhood Initiative in Boston, Massachusetts, (3) the Marshall Heights Community Development Organization in Washington, D.C., and (4) the Neighborhood Housing Services in Pasadena, California.

[3] The Departments of Agriculture, Commerce, Education, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, Transportation, and the Treasury; the Environmental Protection Agency; and the Small Business Administration operate programs available to distressed communities. Other agencies, such as the Department of Defense, also operate programs that may be regarded as assisting distressed urban communities under certain circumstances.

have been concerned about losing control over their own resources. In addition, the federal efforts to coordinate that have been undertaken have had few successes, leaving community organizations—such as the ones we reviewed—with the burden of trying to piece together programs to serve their communities.

BACKGROUND

Despite overall economic growth in the United States during the 1980s, the economic and social health of many cities declined. While crime, poverty, and the physical and social deterioration of urban neighborhoods increased, intergovernmental aid to cities declined between 1980 and 1993 by about 19.4 percent in constant dollars. Meanwhile, the out-migration of many middle-income residents and businesses has caused city tax bases to shrink, hampering the ability of local governments to assist economically and socially distressed areas suffering from a mix of interrelated problems.

Over the past several decades, the public and private sectors have tried different strategies to assist people living in distressed communities. Some of these efforts have focused on improving the chances for individuals in these areas to obtain the education, social services, and other support that they need in order to leave their neighborhoods. Others have focused on improving the neighborhoods' physical environment through affordable housing or economic development. Still others have combined aspects of both approaches by addressing the needs of residents and their environment. These latter efforts are referred to as comprehensive by community development experts because they consider the housing, economic development, and social service needs of communities and are considered community-based because they focus on specific geographic areas and involve the residents in the planning and implementation. Comprehensive community-based efforts have often begun within communities in response to neighborhood conditions—rather than in response to a federal program—and are operated by local nonprofit organizations.

COMPLEX PROBLEMS CALL FOR COMPREHENSIVE APPROACHES

According to the experts we consulted, comprehensive approaches enhance the chances of improving conditions in distressed neighborhoods because the problems in these areas are complex and interrelated. Addressing these problems in tandem, the experts believe, makes long-term results possible. In addition, the experts said that comprehensive approaches are more viable now than they were in the past because community organizations have gained experience and an infrastructure has evolved to provide funding and technical assistance. However, the experts cautioned that conditions in distressed neighborhoods cannot be quickly reversed and that the outcome of much of the work these groups do—community outreach, counseling, and referral services—is hard to quantify, making evaluation of the results difficult. The comprehensive approach was endorsed by HUD in March 1994 in a publication in which the Secretary wrote, "We believe the best strategy to community empowerment is a community-driven comprehensive approach which coordinates economic, physical, environmental, community, and human needs." Dissatisfied with the results of previous single-focused approaches to community revitalization, national organizations and foundations have begun funding organizations that are taking a comprehensive approach.

COMPREHENSIVE APPROACHES ARE DIFFICULT TO IMPLEMENT

Multiple challenges confronted the four organizations we studied. All experienced substantial difficulty organizing residents, gaining their trust, and maintaining their involvement. All four organizations said that residents needed to see a tangible result—rehabilitated housing or a cleaner neighborhood—before they wanted to participate. Obtaining financial support and managing a diverse set of concurrent programs also presented significant challenges. The four organizations relied on a myriad of public and private funding sources, such as federal block grant and program-specific funding, foundation grants, and corporate donations. Overall, the organizations relied on public funding—often with conditions and/or restrictions on its use—for 30 to 60 percent of their budgets. After obtaining funds, the organizations faced the challenge of concurrently managing multiple programs, each with several separate funding sources, application requirements, and reporting expectations.

The four organizations we studied responded to the challenges confronting them in a variety of ways. They obtained residents' support by including residents in their planning and decision-making. They also used the multiple funding sources and collaborations to leverage resources that could then be applied over a wide range of needs in the communities. In addition, each organization had access to some relatively flexible funding—either public block grants or private foundation funds—

that enabled it to set priorities consistent with its community's needs. Finally, the organizations built a cadre of experienced staff to administer and manage the array of programs.

FRAGMENTATION OF FEDERAL PROGRAMS IS BURDENSOME TO COMMUNITIES

The federal government assists distressed urban communities and their residents through a complex system involving at least 12 federal departments and agencies. Together, these agencies administer hundreds of programs in the areas of housing, economic development, and social services. For example, we reported that there are at least 154 employment and training assistance programs, 59 programs that could be used for preventing substance abuse, and over 90 early childhood development programs.[4] Considered individually, many of these categorical programs make sense. But together, they often work against the purposes for which they were established, according to a National Performance Review report.

In addition, there has traditionally been little coordination among the many federal departments and agencies with the responsibility for administering the programs that can be used to assist distressed communities. Agencies have tended not to coordinate efforts with one another because they have been protective of their own resources and separate organizational missions.

The proliferation of federal programs and the lack of coordination among agencies impose a burden on local organizations that attempt to piece together programs to serve their communities. The neighborhood organizations we studied found it burdensome to manage multiple programs with individual funding streams, application requirements, and reporting expectations. In addition, one organization reported that it had strained its managerial and financial systems to meet federal record-keeping and accounting standards for several funding sources. While the organization implemented the necessary procedures to comply with the standards, officials said that the administrative burdens nearly forced the organization to reduce the scope of its services.

We see the potential for ongoing efforts to make federal programs more accessible to community organizations. As you know, the Empowerment Zone and Enterprise Community program allowed communities to request waivers to federal requirements.[5] In addition, the President established the Community Enterprise Board to, among other things, assist with the implementation of the program. In their applications for this program, urban applicants requested over 1,000 waivers. Almost 60 percent of the requests will require statutory changes. The Local Empowerment and Flexibility Act of 1995 includes provisions for a similar board to review and approve local plans for flexibility and requests for waivers. If such a board is to fulfill its mission, it will require the commitment of high-level agency officials and open dialogue among the agencies.

Mr. Chairman, this completes my prepared statement. I would be pleased to respond to any questions that you or Members of the Subcommittee may have.

Mr. SHAYS. We'll have some questions. Thank you.

Mr. Griffiths.

Mr. GRIFFITHS. Thank you, Mr. Chairman. I appreciate the opportunity to comment, and I believe in support, of H.R. 2086. I would like to point out my comments are as a staff member of the ACIR. Our commission has not yet taken a position on either this legislation or the companion legislation in the Senate, Senate bill 88.

I have worked in the intergovernmental arena for nearly 25 years and during that time I have probably been involved with Federal assistance in just about every capacity that you can think of at the State and local level. And I believe over those years I can characterize that experience as a love-hate relationship.

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[4] See *Multiple Employment Training Programs: Major Overhaul Is Needed* (GAO/T–HEHS–94–109, Mar. 3, 1994), *Drug Use Among Youth: No Simple Answers to Guide Prevention* (GAO/HRD–94–24, Dec. 29, 1993), and *Early Childhood Programs: Multiple Programs and Overlapping Target Groups* (GAO/HEHS–95–4FS, Oct. 31, 1994).

[5] The Empowerment Zone and Enterprise Communities (EZ/EC) program was adopted in 1993 under the Omnibus Budget Reconciliation Act. This program promotes the comprehensive revitalization of distressed communities by funding broad, community-based strategic plans.

Certainly Federal money was appreciated in its ability to tackle many State and local problems, but State and local officials have always, as long as I can recall, been frustrated with the number of barriers, overlaps, duplication, and simply cost-ineffectiveness in solving specific needs at the local level.

Over the years—and I point this out because I think it's important. Over the years there have been a lot of Federal attempts to reform this system, going back to the 1960's. You could probably count a dozen or more different varieties of reform measures. Some were successful in whole and part; some failed.

But I believe that the ones that did succeed in whole or part have a common characteristic, and that was there was a commitment to success. And by that I would point out three characteristics. One is the long-term outlook that these reforms had. In other words, it was a resolve to make them work. Flexibility that permitted the reform to adapt and be refined when problems arose, and they always arose. And, finally, to avoid excessive complexity. Any reform that becomes too complex is almost, by nature, doomed to fail. It has to be truly cost-effective and it has to be time-saving, or else State and local officials just won't participate.

I believe that H.R. 2086 embodies the first two of those characteristics, certainly the resolve of this Congress and the President to reform this system I believe is long-term and I believe is sincere. It is flexible. The very heart of this bill is flexibility and I think that's a major objective. It focuses on outcomes and it focuses on adaptation.

Most of my comments are going to pertain to the last characteristic, that of complexity. My hope is that some of my comments will—my suggestions will help to lessen the complexity and perhaps make the end result more cost-effective and time-efficient.

In my statement, which I am not going to read, but in my statement I discuss two of the historical reforms that I think are very relevant to H.R. 2086. Part of my remarks will be based upon lessons of those experiences, but I will not discuss them here and I will not try to elaborate on all these points. I am going to go through it in outline fashion because I know that red light comes on very quickly.

On the governmental focus, H.R. 2086 focuses on local governments, obviously, and local governments are, indeed, a very important part of the intergovernmental system. They are on the front line for achieving most Federal policy objectives. Nonetheless, I believe the purposes of H.R. 2086 are as worthy for State and tribal governments as they are for local governments. I can't think of a good reason not to include them.

The other part of this is that we're in the period now of rather dramatic intergovernmental reform in the Congress and the President. And I believe that States, when the dust settles, are going to come out much stronger, but also State-local relationships are going to be much stronger. A new dynamic is going to occur if we devolve these responsibilities and provide more flexibility. Not to include States in this legislation, therefore, I believes leaves out a very critical component which is not only important to this act but important to intergovernmental reform.

As far as the purposes of the act go, which I think are meritorious and we certainly support them, the bill concentrates primarily on consolidating two or more Federal programs. That's pretty much its essence. I believe, and if you look at the historical perspective again going back to the lessons, I believe that the bill should permit flexibility for State and—for Federal and State and local agencies to join programs.

And I do not believe this needs to be more than one Federal program; for instance, one Federal program and one State program be joined to achieve common goals at the local level. Why can't we do that? We could do that, for instance, in the pooling of funds, we can do that in synchronizing time periods, regulatory requirements, and reporting.

I have got language in my testimony which I would add to the bill that would perhaps accomplish that purpose. I won't read it. Second, I believe that the purpose of the bill should be to streamline Federal planning requirements. I believe that there should be an objective of coming up with common standards that would permit governments, local governments, to use their existing comprehensive plans for the purposes of the program, and assuming that those comprehensive plans are up-to-date and reasonably adequate.

I say this because for particularly small local governments the planning requirements of Federal programs can be very costly. When you take a look at what it costs them to put together the plans necessary to apply, given the amount of money they are probably going to get, which is not a lot of money, the overhead cost is very, very excessive and a lot of local governments simply can't afford to participate as partners in our intergovernmental system because they can't afford the overhead requirements.

If we have more than one Federal program, we compound the program because now we're talking about application requirements for two, three, four, five. So, again, I've got language in here which I believe would address that in the legislation.

As far as definitions go, the bill pretty much—well, it talks about eligible local governments, which I believe looking at it does not include any other entity than a single local government. I would like to change that language to read eligible applicant and I would like to have that be able to include local governments, councils of governments, regional bodies, and States, if my other suggestion were adopted.

Regional bodies are particularly important because for many local governments in States like I come from, Pennsylvania, they depend on regional bodies to be their administering agent. They can't do it themselves. They don't have the staff, as was said. They don't have the facilities or the expertise, so they look to regional bodies to perform these functions.

If we gave this to a—if a regional body were able to be a participant under this program, they could submit one plan for multiple governments, save a lot of money, save a lot of overhead, and they would have the expertise to do it. So I would like to suggest that.

On the application review and approval part of the legislation, of course that creates the flexibility council, and my suggestion would

be that the Federal role be as minimal as possible. Again, I believe States can play a role in this.

I would like to suggest States be given an optional role for not only reviewing proposals, which the legislation already provides for, but recommending approval to the flexibility council. States are obviously in a better position to evaluate the circumstances and merits of local government proposals.

This would reduce the workload at the Federal level and, I might add, the cost, and save time. The States, at the same time, could then opt to use substate regional bodies to help them and, thereby, reduce their costs. Again, this is particularly important for rural areas and small governments which I have talked to already.

As a means to offset this cost to the State, the State, of course—I said optional but there is still a cost involved, I would recommend that the cost at the State level be included as indirect costs in the Federal Cash Management Act. That is already in place. This would be a minimal loss to the Treasury. It would be more than offset, I believe, by the cost savings at the Federal level by the reduced workload.

I also would like to suggest you consider interstate bodies because there may be situations where projects cross over boundaries, something like the Appalachian Regional Commission made up of Federal and State representation would be an ideal body, I think, to handle something along these lines.

I would also like to suggest that the Flexibility Council be given the authority to delegate or designate lead agencies which would take away the need to detail a lot of staff, would put the responsibility in agencies that have a lot of experience in program relationships and, I think again, would be a more cost-effective approach. This would leave the Flexibility Council primarily with an oversight responsibility. It wouldn't have to be a large bureaucracy to do that.

I also would like to support the idea of the community empowerment board as perhaps the structure for that Flexibility Council.

I also would like to suggest, and again this goes back to problems that I know occur at the local level, and that is that the flexibility plan that they have to submit satisfy all Federal application requirements. In other words, this should not be an overlay on top of other requirements. If they submit a flexibility plan they should not have to submit six other applications to separate Federal agencies in addition to that. This should satisfy everything. That's not clear in this particular legislation.

Mr. SHAYS. Let me ask you, are you almost concluding? This is very helpful.

Mr. GRIFFITHS. I can conclude.

Mr. SHAYS. Why don't you just summarize your last point because the staff is going to take—by the way, your suggestions are very helpful, but the staff is going to take these suggestions and we're going to discuss them as a full committee.

Mr. GRIFFITHS. OK.

[The prepared statement of Mr. Griffiths follows:]

PREPARED STATEMENT OF CHARLES GRIFFITHS, DIRECTOR, INTERGOVERNMENTAL LIAISON, ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. Chairman, I appreciate the opportunity to comment on H.R. 2086, the Local Empowerment and Flexibility Act of 1995.

My remarks today are from the perspective of a staff member of the Advisory Commission on Intergovernmental Relations. The Commission itself has not taken a position on either H.R. 2086 or its companion legislation, Senate Bill 88, that has been introduced by Senator Hatfield.

I hasten to add, however, that I believe the Commission would endorse the general purposes and thrust of this legislation. For over two decades, ACIR has stressed the need for the type of federal assistance reform embodied in H.R. 2086.

Mr. Chairman, I have worked in the intergovernmental arena for nearly 25 years. Prior to coming with the ACIR, I served as Chief of Federal Program Coordination for the Commonwealth of Pennsylvania, and then served as Director of the Pennsylvania Intergovernmental Council, a state-local body similar to ACIR.

I am well acquainted with the growth, benefits, and problems associated with federal assistance. In a sense, state and local governments have had a "love-hate" relationship with federal aid. These governments have certainly appreciated the help that federal aid has been in critical program areas. At the same time, though, these governments have had to endure federal program structures, processes, and requirements that often frustrated state and local efforts to apply and manage this assistance effectively and efficiently.

In response to the frustrations expressed by state and local governments, there have been numerous efforts over the years to reform the federal aid system, by streamlining and simplifying it in ways intended to increase effectiveness and efficiencies. Some of these efforts were successful in whole or part, while others simply failed.

I believe that the overriding ingredient of successful reform is a commitment to success. This ingredient has three important characteristics:

A long-term outlook that gives the sense that the initial resolve and energy behind the reform is enduring and will not dissipate with time;

Flexibility that allows for adaptation and refinement; and

The avoidance of excessive complexity in the objectives being sought, and the processes involved. The results must be truly cost-effective, and time-saving.

Mr. Chairman, I believe that H.R 2086 already embodies the first two of these important characteristics. There can be no doubt of the long-term resolve of this Congress and the President to reform the current federal aid system. This legislation can be seen as part of that reform effort.

The very heart of H.R 2086 is the flexibility it endeavors to bring to this reform. Its focus is on outcomes as opposed to rigid procedures. Federal agencies, as well as local governments are given considerable leeway to adapt federal assistance to specific needs and circumstances.

As to the last characteristic, I believe there is room for further refinements to avoid undue complexity, while making the process more cost-effective and time-saving. Most of my remaining comments speak to this point.

Before turning to those comments, I would like to briefly outline two past reform efforts that I believe are instructive, and which help to set the foundation for my suggestions.

INTEGRATED GRANT ADMINISTRATION

The Integrated Grant Administration (IGA) was initiated in 1972 by OMB, as a test for simplifying the funding and administration of federal program assistance.

The central objective of the IGA was to simplify the process by which state and local grantees identified, applied for, and administered funds comprised of more than one Federal assistance program to carry out a single project. Initially, the only programs excluded were those supporting construction or the acquisition of land. Later, even these exclusions were lifted for some demonstration projects.

Federal Regional Councils (FRCs), which were in place at that time, were given the primary responsibility for liaison with state and local governments, and to coordinate the packaging of IGA applications.

To qualify as an IGA project, the federal programs involved had to be included in a single application, be related by a common purpose or ability to support related goals, and based on an overall strategy to achieve a common objective.

One Federal agency "point-of-contact" was be appointed to process each consolidated application, rather than making an applicant deal with multiple federal agencies. A single grant award notice was issued with synchronized funding periods.

Funding was "pooled" from the different federal agencies, and delivered as a single funding stream through one federal agency.

Grantees were required to submit single financial reports to a single federal agency. These reports were guided by one set of coordinated federal requirements to monitor progress.

It should be noted that the IGA provided no additional funds to grantees other than what they were already eligible to receive, and which had been appropriated.

The IGA began with 24 approved projects totaling over $33 million dollars. OMB's first assessment of the program was a favorable one. For example, the assessment found that the IGA promoted improved intergovernmental working relationships.

On the other hand, assessments by OMB and GSA found a need for greater commitment on the part of federal agencies for participating in this program. Problems of "turf", as well as statutory barriers to program consolidation were seen as stumbling blocks to agency cooperation.

It was also found that the IGA required more time and effort by Federal agencies than what would be normally expected with individual categorical grants. Observers believed this to be an normal part of the "learning curve", and not necessarily a long-term condition.

This latter finding suggested that significant changes to existing financial assistance processes require several years to implement and refine, before their full potential could be realized.

JOINT FUNDING SIMPLIFICATION ACT OF 1974

Based on the encouraging experience of the IGA, the House Subcommittee on Intergovernmental Relations held "New Federalism" hearings in 1974.

At the time, H.R 11236, the Joint Funding Simplification Act, was before the Subcommittee. The purpose of this legislation was to embody the essence of the IGA experiment.

In the hearings on this legislation, it was again stressed that it takes time to implement and perfect significant changes to the federal aid system. It was pointed out, for example, that the early years of the IGA tended to concentrate more on procedural issues than substantive outcomes.

The Joint Funding Simplification Act was enacted in 1974. The three purposes of the act closely resemble the purposes of H.R 2086:

- Enable states, local governments, and private nonprofit organizations to use assistance of the United States Government more effectively and efficiently;
- Adapt the assistance more readily to particular needs through wider use of projects that are supported by more than one executive agency, assistance program, or appropriation. . . .; and
- Encourage Federal-State arrangements under which local governments and private nonprofit organizations may more effectively and efficiently combine Federal and State resources to support projects of common interest to those local governments and those organizations.

Some of the key provisions of this act included:

- Requiring the President to promulgate regulations to assure that the act was applied by all federal agencies consistently, in accordance with the purposes of the act;
- Authorizing federal agencies to identify programs suitable for joint funding, and to develop guidelines and common application forms;
- Authorizing federal agencies to modify administrative requirements that might impede joint funded projects;
- Permitting the Administration to develop a system for designating "lead agencies" to coordinate the review of joint programs applications, and for overseeing projects that are approved;
- Authorizing the creation of "joint management funds" to finance multipurpose projects, into which the participating agencies could transfer their share of the funding to be paid out by the "lead agency"; and
- Permitting federal agencies to determine a single "non federal matching share" for each project, where such requirements applied.

It is interesting to note that this act also permitted a federal agency to enter into joint funding agreements with states, where a single federal program could be jointly funded with a single state program, and granted to a local government for implementation.

After becoming law, and in successive executive orders, oversight of this act was given first to GSA, and then later to OMB. The act was authorized for five years. In 1980, the act was reauthorized for another five years. However, in 1982, this act,

along with a number of other laws considered to be obsolete or ineffective, including the Intergovernmental Cooperation Act of 1968, were repealed.

I have been unable to find any significant evaluations of the Joint Funding Simplification Act. I did find, however, passing comments about the act that lead one to the conclusion that act never really got off the ground. Some who remember the act believe that there was never a strong commitment on the part of federal agencies to make this process work (because of the difficulties of crossing agency and program boundaries). Those state and local governments who knew about the act (and this was not a large number), found it difficult and time-consuming to pursue joint funding, and therefore became less interested in attempting to do so.

H.R 2086

I believe that H.R 2086, in combination with current block grant reforms, provides an important opportunity to address grant assistance issues that have bothered state and local governments for many years.

The suggestions below attempt to build on the lessons of the past, and to reflect the circumstances found today.

Governmental Focus

H.R 2086 focuses on local governments. This is understandable because local governments are on the "front-line" for achieving most federal policy objectives. The success of these objectives rests largely on the ability of local governments to apply and manage federal and state funding as effectively and efficiently as possible.

H.R 2086 attempts to strengthen local abilities by providing increased flexibility for local officials to pursue federal objectives in a cost-effective manner most suitable to local circumstances and needs. Greater flexibility will enable local officials to better coordinate and achieve federal, state, and local priorities.

H.R 2086 is particularly useful to smaller and rural communities that lack the capacities to obtain and manage federal programs. In effect, these communities are not able to participate as full partners in our intergovernmental system for no other reason than their size.

Nonetheless, I believe that the purposes of H.R 2086 are important objectives for all governments, including state and Tribal governments. H.R 2086 is concerned with achieving maximum economies and efficiencies in the use of federal funds, by focusing on outcomes rather than rigid requirements and processes. Certainly these are worthy goals for state and tribal governments as well.

In addition, we are now in a period of dramatic reforms of American Federalism. These reforms will result in shifting roles and responsibilities, including how federal money is distributed and applied. The movement towards consolidating and blocking federal programs at the state level will result in stronger state-local assistance relationships. These changes will give states a greater role and involvement in the kind of "local empowerment and flexibility," envisioned by H.R 2086. Not to give states and tribal governments the same flexibility is to leave out a very important component that can be critical to the purposes of the act, and to federal reform efforts.

Purposes

The purposes of H.R 2086 are meritorious. But I would like to make two suggestions that believe would help to clarify the intent of the legislation.

First, the bill's focus appears to concentrate on consolidating two or more federal programs or appropriations. I believe that it is also important to provide the flexibility for federal and state agencies to join programs that can serve a common purpose at the local level. This may involve the pooling of funds through a single administering agency, and/or synchronizing time periods, regulatory requirements, and reporting. I would add here that this flexibility should be available even if only one federal program is involved.

Perhaps the bill's language could be changed under Section 3.(3), that includes a new subsection (C) to read: "integrating one or more federal programs or appropriations with one or more state programs."

Second, I believe one purpose of the bill should be to streamline federal planning requirements, by providing common standards that can be met by applicants with existing comprehensive plans that are up-to-date and reasonably adequate. This is particularly important to smaller local governments. Federal planning requirements are costly for small communities, and more so if they have to develop separate plans for each federal program.

This purpose could be made clear if, under Section 3, a new (2) were inserted as follows: "reduce local government costs by streamlining federal planning requirements, and by allowing communities to use existing, updated comprehensive plans for federal program planning purposes

Definitions

The definition of "eligible local government" does not appear to include entities other than a single government. It does not, for example, appear to include Councils of Government, or other regional bodies that may be eligible to receive federal assistance. For rural areas, these regional entities often serve groups of local governments in certain programmatic areas because they have a greater capacity to do so.

I believe that the term "eligible local government" should be changed to "eligible applicant", and that the definition include local governments, councils of governments, qualified regional bodies, and states if my previous suggestion is included.

If regional bodies are not included, it may remain difficult if not impossible for some smaller governmental bodies to participate (even with increased flexibility) because they lack the capacity or expertise.

One important benefit of having regional bodies listed as "eligible applicants," is that these entities could than prepare a single Flex Plan for two or more smaller communities. As the bill is now written, if several local governments wished to cooperate in a joint program endeavor, the bill would require separate flexibility plans and assurances from each community. It would be much more cost-effective if a regional body could develop a single plan, with assurances of participation and public hearings by the participating governments.

Application Review and Approval of Flexibility Plans

H.R 2086 creates a Flexibility Council at the federal level to receive local flexibility plan proposals, to approve or disapprove applications, and to provide technical assistance if requested and feasible. The bill gives agencies the authority to detail personnel to the Council. Given the current fiscal situation, it is likely that detailed personnel would be required.

I have several suggestions related to this part of the bill which I believe would be less expensive but more effective for the Federal Government, and which would be more consistent with the Federalism reforms now underway.

First, I believe that the Federal role should be as minimal as possible. This can be done by giving the states an optional coordinating role for processing local Flex Plan proposals, and also for recommending approval actions to the Flexibility Council. States are in a much stronger position to evaluate the circumstances and merits of local proposals. This would reduce the workload (and cost) at the Federal level, and the time required to make final decisions.

- In turn, states could opt to use sub-state regional bodies as the first level of review and comment as a means to reduce their workloads. This would be particularly relevant in rural areas which are often served by regional planning agencies such as Rural Development Councils.
- As a means to offset the costs of this state role, states could be allowed to include these costs as indirect costs under the Federal Cash Management Act. This would amount to minor losses to the Federal Treasury, that would be more than offset by the reduced Federal costs for reviewing local applications.
- The direct role (and cost) for the Flexibility Council would be lessened as more states opt to serve this coordinating function.

One other option to consider in this regard is to permit interstate bodies the opportunity to coordinate appropriate flex plan reviews and recommendations. An example of an interstate body is the Appalachian Regional Commission, and there is legislation today that would create similar regional Economic Development Commissions to succeed the Department of Commerce. These interstate bodies consist of federal and state representation, and are therefore ideal for this role.

Second, we can take the lesson of past experience with the IGA and Joint Funding Simplification Act, by giving the Flexibility Council the authority to designate "lead agency" responsibility for different types of Flex Plans. This would minimize the need for detailing staff to the Council, and place review decisions in agencies with relevant experience and program relationships.

- That would leave the Flexibility Council primarily with an oversight responsibility, including reporting to the Congress and President about the issues and achievements under the law.
- With respect to the Council, the current Community Empowerment Board (CEB) would be an appropriate structure to be assigned this responsibility.

Finally, this bill does not speak to a very important issue, which is the need to simplify application requirements and costs. A major component of this need is to make clear that the Flexibility Plan of an applicant will satisfy the application requirements for all of the Federal programs included in the Plan.

If the Flexibility Plan is simply an additional layer on top of individual program applications, the bill will fail to provide the cost and time savings intended under the law. This provision would also help to stimulate greater inter-agency coordina-

tion and cooperation at the Federal level with respect to the standardization of processes and requirements.

Program Waivers

Program waivers are a critical aspect of H.R 2086. In order to give applicants sufficient flexibility to accomplish the objectives set out in the Flex Plan, it may be necessary to waive certain statutory or regulatory requirements that would otherwise inhibit success. This provision recognizes that "one-size" public laws and regulations cannot be expected to fit all local needs and circumstances, and hence the need for exceptions by waiver.

I would like to make a few observations and suggestions related to this waiver provision.

First, the bill prohibits waivers that would qualitatively reduce the level of services or benefits to any individual or family that are eligible for benefits under one or more of the covered programs.

I would suggest that the language in Section 8 (b)(2) be revised to read as follows: "The Flexibility Council may not waive a requirement . . . unless the Council finds that [waiver] shall not result in a net qualitative reduction in services or benefits for any individual or family, within available federal funding levels, that is eligible for benefits. . . ."

I propose this change because the major thrust of H.R 2086 is its focus on achieving desired outcomes. In some circumstances, recipients of program benefits may prefer and be better off if the Flex Plan includes certain "trade-offs" that may reduce some benefit levels in favor of raising other types of benefits. This could involve, for example, a reduction in housing assistance in favor of increased health or child-care benefits.

In this example, the level of specific benefits may be altered, but the net level of qualitative benefits would remain the same.

Given that the bill prohibits any increases of funding other than what would otherwise be available, it might be necessary to alter the "mix" of the money available to achieve the most beneficial outcomes.

The addition of the language, ". . . within available federal funding levels . . ." is intended only to clarify that net qualitative benefit levels are to be measured within the context of actual Congressional appropriations.

Finally, the bill prohibits waivers of Federal matching requirements. I would like to suggest that there may be instances when a waiver of matching requirements may be appropriate, either in whole or part, for communities experiencing financial distress, or for very small communities that have very limited fiscal capacities. The situation in Washington, DC is instructive in this regard, related to the City's problems in matching transportation funding.

For these types of communities, their ability to make use of federal assistance may depend on a lower matching ratio or, in some cases, no matching requirements.

To be truly flexible, the bill should recognize the special fiscal circumstances of distressed or small communities (perhaps within some population parameters), and allow for negotiated matching ratios if justified by fiscal considerations, and the objectives being sought.

Community Advisory Committees

Most federal programs require that an applicant for assistance establish some type of special advisory body for review and comment on the program design, operation, and accomplishments.

Such requirements are intended to ensure adequate public participation and input. For larger governments, such requirements are not a significant problem. They already have and regularly sue many such mechanisms. If anything, the issue for them will be avoiding redundancy.

But, for smaller communities, the added cost can be significant given the probable size of the assistance and the program objectives being sought. The point that I would like to make here is that applicants should be given the option of using existing citizen participation mechanisms that are in place, provided that they are reasonably representative of the stakeholders targeted by the Flex Plan. This is likely to be the case if the government or organization is already administering an existing federal program.

Reports

I would like to conclude by commenting briefly on Section 12 of the legislation.

This section requires GAO to conduct a study of the law's implementation, and report to the Congress within 54 months of the date of enactment. The study is to look at the extent of local government use of the law, the effectiveness of federal

programs as part of the flexibility process, and to provide recommendations with respect to local flexibility.

GAO is an experienced and quality research agency. But this agency does not have state and local government officials serving in its leadership to guide the study, and to decide what recommendations most effectively express their view of the law's merits and shortcomings.

I would like to suggest, Mr. Chairman, that this type of evaluation should really be an intergovernmental endeavor with involvement by federal, state, and local government representatives. As such, I believe that an organization like ACIR may better serve this purpose.

Finally, I would also like to suggest that the report of this experience be presented to the President as well as the Congress. Again, this process involves and impacts all branches and levels of government.

I appreciate the opportunity to make these comments on H.R 2086, and will be happy to answer any questions that you may have.

Mr. SHAYS. But I would like to ask you, Mr. Stenberg, if you have comments and would love to hear from you.

Mr. STENBERG. Thank you, Mr. Chairman, members of the subcommittee. In the interest of time I have asked for my written statement to be submitted for the record.

Mr. SHAYS. That will be in the record.

Mr. STENBERG. I appear today in the capacity of chair of the National Academy of Public Administration's Standing Panel on the federal System. As some of the Members and staff know, the Academy was chartered by Congress several years ago.

Mr. SHAYS. You make a big assumption. Did you know that?

Mr. STENBERG. I was just testing you. It was chartered by Congress, and there are several current and former Members of Congress who have been elected fellows. We would be happy to submit a membership list as background to you.

Mr. SHAYS. It is interesting to know that.

Mr. STENBERG. The Academy basically is in business to identify emerging issues and concerns that affect all levels of government and to provide help to decisionmakers in addressing those. And it stands ready to assist this subcommittee and others who are working on H.R. 2086.

We feel that this legislation goes a long way toward upholding the golden rule and challenging the wisdom of the golden rule of public administration. You know that the golden rule is do unto others as you would have them do unto you.

Senator Hatfield made very good points as to his being sensitized as Governor to the concerns of county and city and town officials. We feel that many Federal regulators would benefit from some service in Federal regional offices or at the State and local levels. They would have an opportunity to see exactly how their policies and regulations impact at the point of delivery.

The golden rule of public administration is a little bit different: He or she who has the gold makes the rules. Senator Hatfield addressed many of the problems of the highly fragmented and highly prescriptive categorical aid system.

But the legislation addresses a very difficult balancing act that as stewards of Federal dollars and taxpayers' dollars this subcommittee and others have to be aware of: This involves ensuring accountability to the Congress and to the Federal agencies administering programs on the one hand, and giving discretion and flexibility to those at the delivery end on the other hand.

It is a very difficult balancing act, and the block grants that have already been enacted have not done a very good job historically in doing that. Historically, as block grants grow older they become more like categorical programs and less like Congress envisioned them at the outset. And so for those who propose to give greater flexibility at the local level through this or other legislative proposals, it is a very challenging task, because the balancing act between accountability to the Congress and discretion at the local level has been historically very difficult to achieve, as Mr. Griffiths has mentioned.

But we commend the subcommittee for taking on this challenge at this time when greater flexibility and greater incentives for creativity and initiative at the local level are imperative.

In reviewing the legislation, we have identified a number of areas where the excellent departure that it represents bears some fine-tuning, if you will. And I would like to just highlight a couple of those for the subcommittee's consideration.

First, with respect to the local flexibility plans, I think these are powerful incentives to encourage innovation at the local level, unquestionably, and they do place great responsibility on local officials to come up with creative ways to mesh Federal programs.

Mr. Griffiths has mentioned the concern about the States, and having spent 6 years as executive director of the Council of State Governments, I would share those. I would urge the subcommittee to take another look at the role the Governors play in reviewing the local flexibility plans and signing-off of them.

From one standpoint, most of the Federal aid programs at this point, including the block grants, are Federal to State, not Federal to local, and so there is a substantial State financial stake and, as Senator Hatfield has mentioned, a very significant State regulatory responsibility that will come into play in ensuring that the flexibility intended by Congress ultimately is provided to the local governments.

The Governors play a key role in this process, as do the legislatures, and I would urge the committee to reconsider the process and consider more than just a gubernatorial review because that may prove to be inadequate.

Second, calling local governments to identify goals and measurable performance criteria, as well as to monitor the performance against the criteria and to evaluate progress, are all commendable. These things are extremely difficult, for reasons indicated in my statement. The data are inadequate in terms of baselines. The assistance that local governments may well need oftentimes is unavailable. Basically, we feel that more attention should be given to ensuring that the flexibility plans have an opportunity to be fine-tuned by the Flexibility Council, as well as by the implementors. There are some suggestions in the statement along those lines.

Third, we have talked today about the regulatory process and, in closing, the legislation does identify, rather uniquely, a kind of feedback system, by requiring reports on Federal regulations that are most frequently waived under the new authority that would be given to the Flexibility Council.

Perhaps the subcommittee should consider going further than just simply identifying those regulations that are subject to the

common waivers. Other organizations, including ACIR, have identified lists of the most onerous and intrusive Federal regulations for years. GAO has done likewise. But they still exist.

And I would suggest that this committee, and perhaps in tandem with some other pending regulatory reform legislation, look at moving beyond just identifying these troublesome recommendations but providing a means to eliminate them or at least reduce their burdens.

There are other specifics in my statement, Mr. Chairman. In the interest of time, though, I would like conclude. And on behalf of the National Academy of Public Administration, thank you for the opportunity to appear before you.

[The prepared statement of Mr. Stenberg follows:]

PREPARED STATEMENT OF CARL W. STENBERG, DIRECTOR, CENTER FOR PUBLIC SERVICE AT THE UNIVERSITY OF VIRGINIA, REPRESENTING THE NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Good morning Mr. Chairman, Representative Towns, and members of the Subcommittee. I am Carl Stenberg, director of the Center for Public Service in Charlottesville, Virginia and a Fellow of the National Academy of Public Administration. I appear before you today in my capacity as chair of the Academy's Standing Panel on the Federal System. The Academy is delighted with the opportunity to supply input for your consideration of important reforms to federal categorical grants and the intergovernmental systems for administering them.

The Academy is an independent, nonpartisan, nonprofit organization chartered by Congress to identify emerging issues of governance and to provide practical assistance to federal, state, and local governments to improve their performance. The Academy's unique resource is its membership—more than 400 current and former members of Congress, cabinet secretaries, senior federal executives, state and local officials, businesspersons, diplomats, journalists, and civic activists who are elected by their peers.

The Alliance for Redesigning Government was created in 1993 as part of the Academy. The Alliance's mission is to help generate a dramatically more effective system of governance by connecting and supporting people at the federal, state, and local levels who are developing new and better ways to make government work. Through the Alliance's bimonthly newsletter, The Public innovator, this network is up-to-date on cutting-edge practices and reforms being implemented. As always, the Academy stands ready to share its resources with this subcommittee and the rest of Congress.

First, we want to express our appreciation to the bill's sponsor and this subcommittee for sparking discussion on a series of issues that are vital to our nation's future. H.R. 2086 (and its companion S.B. 88) propose important steps toward upholding the golden rule and challenging the wisdom of the golden rule of public administration.

The golden rule, of course, is "Do unto others as you would have them do unto you." If federal officials who enact and administer categorical programs were required to rotate jobs from time to time with those on the front line of developing and implementing programs, we would no doubt see less "doing unto" and some significant "undoing" of restrictions and red tape.

The federal categorical grants system has grown like topsy. A 1995 study by the Advisory Commission on Intergovernmental Relations (ACIR) reports that there were 618 categorical programs available to state and local governments in the federal system as of January 1, 1995. The count included 110 education programs, more than 100 health care grant programs, 82 social service grant programs, and close to 30 grant programs dealing with community and regional development.

As the number and variety of categorical grants has grown, so too has the list of requirements and restrictions imposed through both statute and regulation. Born of good intentions, in practice they can hinder or frustrate effective efforts to achieve the ambitious goals these programs have established. Negotiating the maze of mandates related to planning, applying for, and administering some of these programs would test the patience of Job and the wisdom of Solomon.

It also imposes significant compliance costs. Scarce resources are diverted from the intended recipients to administration and overhead. In his statement introducing S.B. 88, Senator Mark Hatfield starkly stated the problem: "Many of these pro-

grams are too narrow and regulatory rigidity translates into funding spent wastefully in audits and record-keeping rather than directed to meet community needs."

The golden rule of public administration is equally succinct: "He who has the gold, makes the rules." In exercising their duties, federal officials are exercising a sacred public trust. You must ensure that the public's money is allocated to meet our highest priorities and that each and every taxpayer dollar is used as effectively as possible. Generally, the intergovernmental system has sought to meet this obligation by imposing a series of processes, management, accounting, and reporting requirements.

However, depriving our partners in the intergovernmental system of discretion that could produce misbehavior also limits the discretion that could call forth outstanding innovation and achievement of important and legitimate public responsibilities. That doesn't mean the federal government should hand out blank checks. It does mean a more balanced approach that gives greater flexibility to make the system work and at the same time requires accountability for achieving results—a difficult balancing act.

In the kind of overly centralized, prescriptive system that's been created, we also pay a price for limiting the ability of others to experiment and to learn how to get the public's work done better, faster, or cheaper. Setting priorities and ensuring accountability for producing real results are the responsibility of top policymakers and political leaders. Dictating the details of the strategies, methods, and procedures applied to meet those goals may be counterproductive, however. The control of discretion and resources does not guarantee that the holder has a monopoly on the knowledge about how to adapt and respond to the disparate needs of communities across the country. America is too diverse for "one size fits all" policies and programs. Administrative "stovepipe" mentality precludes addressing functionally related needs. To be effective, federal, state, and local programs must recognize the differences among our communities, permit variation in spending and administration based on local needs and changing conditions, and seek to provide flexibility while enhancing accountability for results that really matter.

During the 1980s, corporations around the world learned a powerful lesson. If the gap between those with the power to decide and those on the production line or in the front line with consumers grows too large, the businesses' vitality and profitability sag. The federal government specifically—and the public sector generally—should learn how these lessons apply to the public service.

Public and nonprofit organizations at the state and local level are the front line in our intergovernmental partnership. They are the vital key to achieving the best possible performance. Rather than enforce compliance with rigid rules, we should challenge these capable and committed people to apply the full measure of their skills, creativity, and adaptability to achieving results for communities and people. The good news is that there is a wellspring of promising innovations at the state and local levels and from community-based and other nonprofit organizations that others can learn from.

The bad news is that the burden of federal compliance and oversight measures can be overwhelming and often wasteful and detrimental to achieving program goals. For example, in Multnomah County, Oregon, a local community college leads a consortium that has integrated a wide range of services and is showing remarkable success in supporting the transition from dependency to work for local welfare recipients. A portion of the funds are provided by the Job Training Partnership Act (JTPA). The JTPA link created two administrative problems. First, although JTPA funding amounts to less than 10 percent of the community college's overall funding, a separate accounting process is required to meet JTPA's precise financial monitoring and reporting requirements. Second, in some cases equipment purchased with JTPA funds cannot be used by clients or students who do not meet JTPA eligibility requirements. To comply with the letter of the law, some equipment would be left idle when it could be put to fuller use with clients who are not JTPA eligible.

To achieve the highest level of performance, we should create systems that are capable of continuous learning and adjustment. Prescriptive systems place too much emphasis on outmoded "command-and-control" models and too little emphasis on flexibility with accountability for meeting ambitious performance goals and cross-cutting needs.

We can and must do better. H.R. 2086 is a good starting point in at least five respects:

• First, authorizing Local Flexibility Plans creates a powerful incentive for the most innovative local governments and nonprofit organizations to pioneer new approaches to meeting pressing social needs. It will help demonstrate the efficacy of placing greater emphasis on aligning public and nonprofit resources through a "bottom up" process. State governments are also an important conduit for categorical

programs and provider of services and we urge you to consider expanding the bill to include State Flexibility Plans as well. The broadening of the scope of the Flexibility Plan approach has merit in view of the fact that relatively few direct federal-local grant programs currently exist.

• Second, the bill would require participants to "specify goals and measurable performance criteria." to monitor and report performance against these goals, and to provide for a "comprehensive evaluation" of the impacts and costs. All are important steps toward more results-oriented governance systems.

However, the proposal may benefit from greater specificity on the procedures for ensuring accountability. The "Evaluation and Termination" provisions would require annual reports on activities under each approved Local Flexibility Plan. Periodic reporting will be necessary. but it may be better to authorize the Flexibility Council to establish reporting periods appropriate for individual cases. Further. rather than emphasizing termination of plans when goals and performance criteria have not been met, the proposal should stress prompt consultation between the federal agencies and the local authorities and the opportunity to adjust both the flexibility plan and its goals and measurable objectives based on experience and changing conditions. Ambitious goals may not be met by successful programs, just as modest goals can be met by failing programs.

• Third, the bill recognizes the importance of developing data bases, planning, and evaluation processes in building more results-oriented governance systems. Policymakers too often assume data are available—reliable, current, and with appropriate geographical coverage—to support effective benchmarking, performance monitoring, and reporting. This is not generally the case. Data systems and collection efforts should be improved to meet the uses envisioned. Confidentiality requirements, such as those that limit the use of Social Security Numbers as identifiers, can limit the utility of administrative data bases for these purposes. In many cases, integrating administrative data bases across an array of state and local programs will be the best method for tracking results. On the federal level, proposals to reduce funding or limit the type of social and demographic data to be collected in the next census would also hamper performance measurement. Both are issues that merit congressional attention.

• Fourth, the proposal creates a feedback system by requiring reports on the federal regulations most frequently waived under this new authority. Congress should consider giving an "early out" to statutory and administrative restrictions that are identified as outmoded in the course of implementation and evaluation of Local Flexibility Plans. To do so, you may consider a process similar to the system used to review and recommend the closure of military bases. The most frequently granted waivers of statutory and regulatory restrictions could be reviewed by a nonpartisan panel. They would recommend which of the many individual changes should be considered in a single package in the legislative process. There should be some mechanism to trigger congressional action to allow broader exemption from general rules when identical or similar waivers arise from separate jurisdictions and from across the jurisdictions of a number of authorizing committees.

• Finally, section 10 of the proposal will help ensure that technical assistance will be available to local governments and others involved in designing flexibility plans. This is a desirable feature in view of the complexity of and inadequate information available about applying this new approach. While federal agencies can be an effective provider of such assistance, you may consider broadening the range of options by authorizing or directing the agencies to support technical assistance provided by others—such as ACIR, state governments, state and national associations of public officials, and NAPA and other organizations with existing capacity to provide effective technical assistance and support.

The 104th Congress has dedicated itself to addressing fundamental issues in our system of governance. In his January 4, 1995 address to the opening of this session, Speaker Gingrich declared:

> "We should insist that our success for America is felt in the neighborhoods, in the community, is felt by real people leading real lives who can say 'yeah, we're safer, we're healthier, we're better educated, America succeeds.' "

In light of the critical role the state and local public and nonprofit sectors play in meeting those goals, the reforms and exciting challenges presented by this proposal would be a good step toward translating the speaker's and this Congress' vision into reality.

Thank you Mr. Chairman for the opportunity to share NAPA's viewpoint on this important proposal. I would be happy to answer any questions you or other members may have.

Mr. SHAYS. I thank all three of you, and I will start with Mr. Towns.

Mr. TOWNS. Thank you very much, Mr. Chairman. Let me thank all three of you for your testimony. Let me begin with you, Ms. Joseph. Following GAO's study of community organizations, what specific Federal statutes or regulations were most commonly cited as most burdensome in providing services to the community? What was in their way?

Ms. ENGLAND-JOSEPH. I would say it was more process-oriented restrictions that stood in their way, typically design of programs, not so much statutes driving certain requirements like public health and safety or environmental, although environmental issues tended to be raised as a concern especially with brownfields in trying to redevelop urban areas.

But it typically was design in terms of application, timing, complexity of trying to match different sources of funds. The ability to try to deal with a problem by using Federal sources of funds was difficult because they were forced sometimes to design their effort based on the funding stream rather than to say I have this problem, let me figure out exactly how I'm going to solve it.

Mr. TOWNS. If your testimony—in your testimony, I should say, you indicated that over 1,000 waivers were requested in the empowerment zone or enterprise zones, enterprise communities, I should say.

What were the nature of those and why were they requested? I mean, were most based on regulations of a certain sort? Could you sort of be more specific?

Ms. ENGLAND-JOSEPH. Sure. Of the 1,000 or so, and we have just a little bit of information. I can't give you a lot of details, but about 60 percent of them, according to HUD, are statutorily based. Many of those actually are in HUD.

I believe about almost 40 percent of those waivers are directed at the Housing and Urban Development requirements, anything from one-for-one replacement in public housing to issues dealing with rent restrictions, rent reform, many of the things that tend to inhibit local communities when they are trying to address either public housing or low income housing.

The second largest area I think was in HHS and I think there too there were some restrictions in terms of eligibility requirements, issues associated with program design, again limiting communities when they were trying to apply these different sources of funds and implementing them at the local level.

Now, even though 60 percent of those were statutorily based, again if you were to categorize them they tended to be requests in general to try to streamline application processes, streamline reporting requirements or documentation requirements, the ability to be able to waive matching—dollar matching requirements, the ability to try to pull together or pool funds from different sources of Federal programs in order to apply them for a particular type of need.

Mr. TOWNS. Mr. Chairman, may I make a request here at this point? That if she could sort of give us a list of some of those and that we could sort of look at them and maybe include some of that

in the legislation to make certain that we don't make some of the mistakes that we've made in the past, make them again.

Ms. ENGLAND-JOSEPH. We would be happy to summarize it. We also have a list that we can provide you which just lays out every waiver that's been requested.

Mr. SHAYS. That would be very helpful. And I am going to suggest to the staff, both majority and minority, that they sit down with all three of you and go through our legislation line by line. You all have tremendous insight, especially since this hearing was put together in just 3 days, and I'm very pleased with all three of our witnesses.

Mr. TOWNS. Right. Deduct that from my time.

[Laughter.]

Mr. TOWNS. What percentage of the four community groups resources have been devoted to satisfying Federal administrative requirements, you know, like completing paperwork, providing documentation, et cetera? And, of course, would passage of this legislation—would it substantially cut down on the amount of time, in your assessment?

Ms. ENGLAND-JOSEPH. I can't give you a quantitative number for how much money is actually spent to apply for all of these different things, largely because when you get to a community level it's hard enough for them to have documentation to show the process that they're following in meeting Federal requirements.

They tend not to measure a lot of their activities and so evaluation was another message in our report. It is often very difficult to evaluate these programs and success of these programs because of the lack of real data, hard data, that are available at the community level.

But suffice it to say from an anecdotal perspective, all four communities, community leaders, consistently said that it was extremely expensive and they could point to individual circumstances where they had to hire people full-time to be either proposal writers or to design systems. So I mean we have either anecdotal or specifics, but if you wanted me to roll that up and tell you a percentage of total, I can't do that.

Mr. TOWNS. OK, last question, Mr. Chairman. What mechanism can be put in place to ensure that organizations serving distressed communities are actively involved in the development of the local flexibility plan and ultimately receive their fair share of Federal grant money?

You know, I think it's important that we stress—I mean, the community support is involved in the plan. You know, if not, I think we will make mistakes that we would not make if we had them talking to us.

Ms. ENGLAND-JOSEPH. Right. At a minimum, as a part of any sort of planning or application requirement to ensure that the communities are, in fact, including key representatives from the neighborhoods that you are describing or that you are talking about.

What we saw from the application process of the empowerment zone effort was that many communities that we talked to said for the first time many community organizations typically not asked for in the past were asked to participate in providing input in terms of the application process.

So there were good feelings, at least in the communities we spoke with, that for the first time they felt more were at the table and more input was received from communities and neighborhoods and organizations than may have traditionally been sought, you know, input had been sought in the past.

So I think the way in which you articulate either the plan development, or if it's an application for something, the application design, I think clearly would articulate the intent that you have that you want representatives and organizations that represent neighborhoods and communities throughout the area that you are describing or needing input from is critical.

Mr. TOWNS. Thank you very much, all of you. Thank you, Mr. Chairman. I yield back.

Mr. SHAYS. Thank you. Any questions on this, Mrs. Morella?

Mrs. MORELLA. Thank you very much. This is a very interesting idea. I guess it ties in with the passage of such things as unfunded mandates and all the block grants that we're giving to the States.

But my State of Maryland, for instance, I have helped to intercede for the kinds of waivers that deal with Medicare, Medicaid, thinking of, for instance, our all payer system which has been so effective in Maryland.

Would these kinds of waivers be part of this bill? I mean, would it mean that that would be something that the board would be looking at?

Ms. ENGLAND-JOSEPH. The way I interpret the description in the bill, it's not terribly restrictive. The legislation for the empowerment zone was a bit more restrictive in terms of the kinds of things that could be requested in terms of waivers, but this bill is much broader.

Mrs. MORELLA. Or even public housing, a waiver of the voucher system or whatever. It means the State or locality then—and I haven't studied the bill, Mr. Shays, but it looks like it's a very appropriate one.

But it would mean then that a jurisdiction, whether it's a State or even a county, would prepare a plan and say we want to have an exemption, this is our flexibility plan. What are we going to save by that? I mean, are we going to save time or is it going to be longer? Are we going to save cost? Tell me what the benefit is.

I know that all sizes are all sizes, not just one, and so I can see merit in that. But I'm just wondering what is the bottom line benefit of this bill.

Mr. GRIFFITHS. I believe the benefit is that it is—I think it is cost-effective and I think it is time-saving. If a community or State, but if a community were able to tailor the programs, State and Federal, to meet the specific needs and circumstances of that community, the opposite would be to have to take programs that don't fit well and spend a lot of time trying to jerry-rig them so that they meet the circumstances and needs of your community, which becomes a more time-consuming and costly endeavor.

I have administered programs, I have granted money, and I have seen this from all sides. The only program I ever saw work well was one back in the late 1970's before—actually this was an oddity in Pennsylvania, but I was actually given the authority by a Federal agency to create a small communities program. And I was

given permission to be as flexible as I wanted. And this was in housing, community development, transportation, the whole nine yards. And for 2 years they wanted to see how this worked.

And the overriding comment from community people who I dealt with said this is the most interesting and the first time practical and reasonable approach we have ever seen. Unfortunately, that was a 2-year trial and it died because the Congress changed.

But the point of it is it did work and one of the reasons why they felt it so intriguing was because it made sense to them. You know, I can recall programs where we just wanted to rehab a particular home and we had to use farmers home, we had to use HUD, we had to use some HHS money, we had to use some other types of money.

And these officials were pulling their hair out saying that this reg contradicts this reg contradicts this reg contradicts this reg, and what their final conclusion was we can't rehab this house. This wasn't just a house. It was a homeless shelter.

But, I mean, the point is that's the kind of frustrations and this bill would try to overcome that.

Mrs. MORELLA. Would the—if the flexibility plan were approved, would it be for an indefinite period of time or would it be like a demonstration program?

Mr. GRIFFITHS. No, as I understand it, the waivers are limited. I mean, they are for a finite period of time and they would have to be reviewed again, I would assume.

Mr. STENBERG. Congresswoman Morella, that is my understanding as well. The National Academy has been wrestling with a problem that might help address your concern about what is the purpose here. One of the purposes, I think, is to get around the so-called stovepipe mentality in delivering Federal programs.

The NAPA Federal System Panel concern has been the need for public schools to deal with at-risk children's problems in a comprehensive and integrated way which the stovepipe mentality makes very difficult, if not impossible.

Because of the array of separate Federal programs, it's very difficult at the school site to provide health care, counseling, social services, drug abuse prevention programs and the like as part of the education system. Oftentimes, the child or his or her parents have to travel around the community getting services and, in part, that's because of the separate programs having separate requirements and agency reporting relationships.

This bill offers some promise to allow school officials, for example, to pool together those programs as part of a flexibility plan and deliver them in a comprehensive way. It may save money but I think, more importantly, it may look at the problem as a whole and perhaps enable the intergovernmental system to better address it.

Mrs. MORELLA. So education is probably a good field where you could find the need for this kind of flexibility and creative planning that would still, you know, reap benefits for a particular system.

With regard to my questions about Medicare and Medicaid, I note here it's been pointed out to me that in the legislation it says that the—it does not include a Federal program under which financial assistance is provided by the Federal Government directly to

a beneficiary of that financial assistance or to a State as a direct payment to an individual.

So I guess that would eliminate Medicare and Medicaid from that category so, therefore, what is the area where you think it would be most important where the need is greatest? Would it be education or would it be community development?

Ms. ENGLAND-JOSEPH. Well, based on the work that we have done, it was clearly in the community development area if you broadly define it to mean housing, economic development, and social services.

There are many support programs, local support programs, that are intended to provide services but not in a direct subsidy to the individual and economic development programs beyond the social service side, meaning jobs creation, jobs programs, day-care assistance.

So there are a number of—if you broadly define community or economic development there are a number of Federal programs that fit under that category that tend to be very narrow in focus or categorical. And what we found was looking at it from a community's perspective in trying to match the problem they are trying to solve with the Federal program in its design, sometimes there weren't nice, neat matches between the right program and the right problem. And what this legislation would allow is greater flexibility in trying to marry need with a multitude of programs.

Mr. GRIFFITHS. I can give you one good example in that housing illustration I brought up. We had this model that housing doesn't do much good unless you have the employment and social services to go along with it. One of the problems we had was that we were serving the low-income to moderate-income population. Every one of those programs, and there was at least a half a dozen, had a statutorily defined level of low income and moderate income, and not one of them was the same.

Now, the problem was how do we combine those programs and fit one person who has got six different definitions of what his income has got to be. And in that case, we waived it. In that case we were able to waive it in that 2-year period.

But this is a problem today. There is a lot of statutory requirements among programs that attempt to do the same thing, but they define it differently. There are six different definitions of rural in our Federal laws. I mean, are you rural if you are 5,000, are you rural if you are 10,000, are you rural if you are outside of a metropolitan area? What are you when you're rural?

Well, that's the problem with the Federal programs that you can't look at that program and define rural as far as the Federal Government goes. So what do you do? You waive some of these things so that you can address a problem without having to break your head trying to figure out what rural is.

Mrs. MORELLA. Don't they do it already though? I mean, it just simplifies something that an enterprising government would promote? Because I think a jurisdiction would say, OK, you know, we're rural even though we are part of Montgomery County, MD, you know.

Mr. GRIFFITHS. Well, you can be rural for, say, a HUD program but Agriculture can't touch you because you're not rural to them

but you may be rural to HUD. I mean, the problem is it's across the landscape.

And what this legislation is trying to do is be able to mix and match programs from different agencies, different appropriations, and that's where you run into a real problem.

Mrs. MORELLA. Are you satisfied with the composition of the flexibility boards in this bill? I mean, is there over-or under-representation in some areas, or have you had a chance to really look at it? Should the composition be changed?

Mr. GRIFFITHS. It's fairly large.

Mr. STENBERG. I think the question is who is left off.

Mrs. MORELLA. That's what I wondered.

Mr. STENBERG. It may be worth taking another look at, in light of the clustering of Federal programs in particular, which secretaries or other key Federal officials should be on the board. The board may be too large a body, given just the working realities of it.

Mr. GRIFFITHS. This, by the way, was one of the reasons why I suggested the delegation of responsibilities to agencies, lead agencies. This was done in the past and what this does is it cuts down on that need for that board to meet quite as often. I think it gives a different dynamic to it and I think there is something to be said for that, particularly if you want to save money at the Federal level.

Mrs. MORELLA. I want to thank the three of you very much, and thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentlewoman.

Mr. TOWNS. A real quick one. This bill prohibits civil rights laws from being waived. Are there any other additional laws or regulations that should be prohibited from being waived?

Ms. ENGLAND-JOSEPH. I can describe for you some of the categories that are included in the empowerment zone legislation.

Mr. SHAYS. If the gentlewoman would yield, I am just going to point out that this is the second to last day. I have to be somewhere in 1 second so I am going to give the gavel to my ranking member to close up.

But I want to say my biggest concern is, obviously, going to spend money better? I have no doubt about that. What would be helpful in your interaction with the staff is how we make this a workable system where we don't have this large bureaucracy, don't have a lot of government red tape, and don't increase administrative costs more in the process. Money will be spent better, but I want to make sure we don't have those administrative costs.

And I am going to give you the gavel, sir. And, I am going to thank all of the witnesses for coming this morning, especially on such short notice.

Ms. ENGLAND-JOSEPH. Thank you.

Mr. TOWNS [PRESIDING]. Ms. Joseph.

Ms. ENGLAND-JOSEPH. Mainly because I think your question is a public policy call. So as I read off the areas that are clearly not allowed as a waiver opportunity within the empowerment zone it may give you some idea of some of the other categories that you may want to consider. It's public or individual health and safety, civil rights or nondiscrimination, environmental protection, labor relations, labor standards, occupational health and safety, pen-

sions, taxation, banking standards, and eligibility and benefit provisions for the Social Security Act and the Food Stamp Act.

So those are off the table in terms of opportunities for waivers by the applicants in the EZ–EC program. Some of those may touch a chord with you. I think it's really a public policy call as to which of these areas you really want to have as hands-off, which of them do you really want to have on the table and to see some debate associated with whether they are too intrusive or too burdensome for communities.

Mr. TOWNS. Thank you.

Mr. GRIFFITHS. This debate really harkens back to when I was sitting looking at the debate on the unfunded mandates act. There were very few exclusions initially and they spent days debating additional exclusions.

The theory, of course, was that let's not load it up with exclusions but let it stand or fall on its merits and there will be wise people that will make those judgments and that good will prevail. I happen to be one that believes that's probably the better way to go.

Some of the things that she mentioned there as exclusions I have a hard time believing that you are going to be able to satisfy the intent of this law if you exclude everything there. I know exclusions is a very sensitive area.

I think though, in fact, in my testimony which I did not include, we had heads get together and decided maybe I shouldn't, but I thought about this problem of they are going to try to load this bill up with a lot more exclusions and maybe one thing to look at, and I only suggest it, is some type of Congressional review that's included in the mandates legislation when it comes to what the Federal agencies do on regulatory to give Congress 60 days to take a look at some of the stuff.

The reason why I didn't include it is because when you try to think of the logistics of that it starts to become a nightmare but, nonetheless, I mean, if that's what saves the bill from getting loaded up with exclusions it may be an acceptable tradeoff.

Mr. STENBERG. I think the legislation identifies a handful of regulations—civil rights, the Americans With Disabilities Act, a few others—which are excluded. I am very comfortable personally with that. As a policy matter, I think that it makes sense to keep those exclusions to the absolute minimum number with which the Congress is comfortable. But I think that the legislation makes a good first step identifying those that should be taken off the table.

Mr. TOWNS. Let me—Congresswoman, do you have any other questions?

Mrs. MORELLA. No, thanks.

Mr. TOWNS. Let me thank all three of you for your testimony. I think you have been extremely helpful, and I would like to leave the record open for 5 days for additional comments and information that has been requested.

At this time, without any further comments, this hearing is adjourned.

[Whereupon, at 10:30 a.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

PREPARED STATEMENT OF FRANK PARENTE, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL–CIO appreciates the opportunity to present its views on H.R. 2086, the Local Flexibility and Empowerment Act. The Act authorizes local governments to develop a "Local Flexibility Plan" for the integration of federal funds. The local government would identify all available federal, state, local and private resources and any federal, state and local statutory or regulatory requirement which would need to be waived in order to promote efficiency and flexibility in the administration of federal categorical grant programs A federal "Flexibility Council" is charged with reviewing and approving local flexibility plans submitted by state and local governments.

This legislation aims at improving overall economy and efficiency of government operations through the more efficient and flexible use of federal funds. However, the legislation goes too far by threatening statutory protections covering occupational health, safety, labor standards, prevailing wage protections and more.

Section 8 of the bill requires that any funds included in a local flexibility plan be paid and administered in the manner specified in the approved local flexibility plan. This section also states that the Flexibility Council may waive the requirements applicable under federal law to the administration of, or provision of benefits under, any covered federal assistance program included in an approved plan if that waiver is reasonably necessary for the implementation of the plan. The Flexibility Council is forbidden in Section 8(b)(3) to waive any requirement under title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or the Americans with Disabilities Act of 1990.

The bill, however, leaves undefined which statutes or regulations might be waived. It is the AFL–CIO's fear that the act will permit waivers of national statutory labor standards such as, but not limited to, the Fair Labor Standards Act including the minimum wage, OSHA, the Davis-Bacon Act, the Family and Medical Leave Act, the Occupational Safety and Health Act, or the Service Contract Act.

We believe this legislation has the potential to undermine or eliminate national laws through an administrative waiver mechanism, rather than through the deliberative congressional processes which set them up in the first place. We do not think it is good policy-making to repeal national legislation through an administrative waiver by a Flexibility Council headed by unelected public officials, including assistants to the president, the Attorney General, Secretaries of the various federal agencies, the FEMA Director and others as listed in Section 4 of the bill. There should, in fact, be representation from all interested groups, including, but not limited to, labor unions, local government groups, non-profit service provider coalitions, and the private sector. The language covering Community Advisory Committees should be strengthened to require the Committee to represent "all interested parties," which would include those who would be giving up their current funding to support the local flexibility plan. The Flexibility Council should have the right to send back a plan into which all the interested parties have not had adequate input.

While it is much in fashion to advocate sweeping away regulations and to give state and local people more discretion and flexibility, many regulations represent safeguards against waste, fraud and mismanagement. The August 7, 1995 issue of Business Week cites recent examples of where block grant programs were misused by states. In Mississippi a state audit has disclosed that existing federal block grant money intended for child care for the poor was diverted by state officials to buy items such as $37.50 designer salt-and-pepper shakers, as well as $40,000 in improvements to a building the state didn't own. And it would be a serious undermining of federal efforts to address important national priorities, if local governments were permitted, through a local flexibility plan, to abandon their responsibilities for matching federal dollars with local monies. This obviously suggests that the subject of waivers of statutory and regulatory requirements be approached with caution.

It is doubtful that there is a need for a waiver mechanism such as contained in this bill. Many federal programs already have waiver mechanisms. Isn't it possible that the national Flexibility Council could itself become yet another bureaucratic layer through which cities must operate to carry out local programs? It is not clear that introducing program simplifications and consolidations through the mechanism of waivers is thus appropriate or necessary at this time.

Avery troubling aspect of this bill is the list in Section 8 of laws that the Flexibility Council may not waive. The list is arbitrary and incomplete. Why should some laws be listed as untouchable, but not the minimum wage law, for example, or occupational safety and health laws? The goal of Congress should not be to facilitate local programs at all costs in the name of efficiency, but for programs to go forward

while at the same time respecting civil rights, fair labor standards and other worthwhile social regulations.

The Empowerment Zone program for urban redevelopment launched only last year contains a more comprehensive and, in our view, more reasonable list of federal requirements that can't be waived. The U.S. Department of Housing and Urban Development, which administers the Empowerment Zone/Enterprise Community program explains its requirements to applicants as follows:

"You should not . . . base your entire strategic plan on receiving specific waivers or particular changes in Federal statutes or regulations. Our ability to take action varies widely from program to program and in some cases may be constrained by statute. Nevertheless, we will make every effort to accommodate your needs; and, where appropriate, we will work with you to seek statutory authority for broader flexibility of Federal programs, including waivers.

"You should be aware that we will not consider changing any Federal requirements that pertain to: (1) public or individual health or safety, civil rights or nondiscrimination, environmental protection, labor relations, labor standards, occupational health and safety, pensions, taxation, and banking standards; and (2) eligibility and benefit provisions of the Social Security Act and the Food Stamp Act. We will work with you to meet such essential mandates." (Empowerment Zones and Enterprise Communities Application Guide. Building Communities: Together. The President's Community Enterprise Board. U.S. Dept. of Housing and Urban Development. U.S. Dept. of Agriculture. p. 11 Undated.)

There is and will continue to be a tension between the achievement of national goals and the need for flexibility so that scarce federal resources are used efficiently. This legislation places too great an emphasis on flexibility and thus threatens accountability and the achievement of national goals. Further, if enacted, it would encourage states and localities to attempt to repeal by waiver those-laws and regulations they disagreed with or perceived to be too costly or inconvenient. Federal labor standards protect workers, their families and their communities.

H.R. 2086, LOCAL EMPOWERMENT AND FLEXIBILITY ACT

WEDNESDAY, SEPTEMBER 20, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HUMAN RESOURCES AND
INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2247, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Members present: Representatives Shays, Morella, Souder, Towns, Barrett, and Green.

Staff present: Lawrence J. Halloran, staff director and counsel; Christopher Allred, professional staff; and Thomas M. Costa, clerk.

Mr. SOUDER [presiding]. I call this hearing to order. For the record, I note that a quorum is present.

I welcome Mr. Green, Congressman Green from Texas, and I ask unanimous consent that all members of the subcommittee be permitted to place any opening statements in the record and the record will remain open for 3 days for that purpose. Without objection, so ordered.

I also ask unanimous consent that our witnesses be permitted to include their written statements in the record. Without objection, that is so ordered.

We will insert Mr. Shays's and Mr. Green's statements in the record.

[The prepared statements of Hon. Christopher Shays and Hon. Gene Green follow:]

PREPARED STATEMENT OF HON. CHRISTOPHER SHAYS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

This is our second hearing on H.R. 2086, the Local Empowerment and Flexibility Act of 1995, a bill Congressman Clinger and I introduced recently, and a bill similar to one considered by this Subcommittee in the last Congress.

In our first hearing, witnesses told us that communities need local control and greater flexibility in their management of numerous, often overlapping or duplicative, federal grant programs. We heard that local initiative and a comprehensive approach to deeply rooted problems are too often stymied by regulatory handcuffs and red tape.

The proposed legislation is designed to address that problem. The bill would create a statutory framework to give local communities the flexibility they need to use federal funds most effectively. Flexibility is the key, and the door we seek to unlock leads to the more efficient and beneficial use of scarce federal tax dollars.

When this Subcommittee traveled to Chicago recently to examine that city's troubled public housing agency, we learned in stark detail that the problems facing dis-

tressed communities across America today do not come in the neat little categories described by regulation-writers, accountants, or even congressmen.

Instead, we saw housing needs, education and job-skills needs, health care needs and community economic development needs inextricably woven into a barrier stronger than any individual, or individual federal program, could overcome. Only a highly targeted, coordinated and comprehensive approach will move people through that barrier. In this bill, we endeavor to give distressed communities the power and the flexibility to implement those community-based strategies to move families from dependency and isolation to self-sufficiency and community.

One of our witnesses today will describe Illinois' effort to give Chicago public housing residents greater flexibility in addressing their problems. Illinois is redesigning its health and human services delivery system to decentralize decision making, create flexibility at the local level, to link the state's efforts to local community needs and to measure program outcomes.

These are the same goals of H.R. 2086. Under the framework established by the bill, local governments would be permitted to integrate federal funds, combine them with state and local resources, and address local problems with local solutions. Through waivers of federal regulatory requirements, communities would be able to target those resources and eliminate costly, duplicative compliance overhead and red tape.

The purpose of this legislation is to encourage solutions that fit the local context, allow public monies to go farther to meet urgent needs and empower communities to design their efforts based on solutions rather than federal restrictions.

I am pleased to welcome all our witnesses today to help us achieve that purpose.

PREPARED STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Thank you, Mr. Chairman, for calling this second hearing on your bill, The Local Empowerment and Flexibility Act of 1995. We will have an opportunity today to discuss in greater detail the pros and cons of relieving local governments and entities of federal laws and regulations.

At the outset, I am very interested in the general aims of this bill. I believe that one-size-fits-all regulations can impede innovation and creativity at the local level. I need some assurance, however, that certain statutory laws will not be overturned, at least not without evidence that it is absolutely necessary to do so: I am talking about laws like the minimum wage, Davis-Bacon, OSHA requirements, and the like.

I was heartened by Sen. Mark Hatfield's response to my question on this issue during the first hearing by responding that his intention was not to engage in regulatory reform legislation through the back door.

I look forward to seeing that sentiment reflected in the final bill. Along those lines, I am very interested in hearing the testimony of today's witnesses and, once again, I thank the Chairman.

Mr. SOUDER. I think I will go ahead right way to the first panel. You have been patiently waiting. We need to swear you in, so if you will stand and raise your right hands.

[Witnesses sworn.]

Mr. SOUDER. I note for the record that the witnesses answered in the affirmative.

Our two witnesses on the first panel are Howard Glaser, Deputy Assistant Secretary for Operations, Office of Community Planning and Development, Department of Housing and Urban Development; and Mr. John Koskinen, Deputy Director for Management, Office of Management and Budget. I welcome you here today to talk about this legislation and look forward to your testimony.

Mr. Glaser.

STATEMENTS OF HOWARD GLASER, DEPUTY ASSISTANT SECRETARY FOR OPERATIONS, OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND JOHN KOSKINEN, DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET

Mr. GLASER. Thank you, good morning. On behalf of Secretary Henry Cisneros and Assistant Secretary Andrew Cuomo, thank you for the opportunity to comment on H.R. 2086, the Local Empowerment and Flexibility Act of 1995. Assistant Secretary Cuomo, who is unable to be here this morning due to a conflict, asked that I convey to you his appreciation for your efforts to empower local governments and your leadership in encouraging Federal, State and local partnerships.

By way of background, over the past 2½ years, the Federal Government has undertaken a number of initiatives to promote Federal and local partnerships. You will be hearing about one of those models, the Federal partnership with the State of Oregon, from that State's representative today.

In addition, the Vice President has been working with the U.S. Conference of Mayors to encourage the creation of additional performance partnerships between the Federal, State, and local governments. These partnerships, based in concept on the Oregon option, will provide State and local governments with far more flexibility in how they use Federal resources in exchange for measurable results. In fact, the State of Connecticut has entered into discussions with the Vice President's Community Empowerment Board about creating a broad partnership between the Federal Government and Connecticut's neighborhood revitalization zones, an initiative which aims to support the growth of distressed areas by enhancing flexibility on a State and local level.

These efforts all complement the empowerment zone enterprise community initiative, which is, as you know, a cornerstone of President Clinton's urban revitalization strategy. At HUD, under Secretary Cisneros' leadership, we have been very aggressive in redefining our relationships with local governments to reduce Federal burdens and encourage local innovation. The Department has, for example, entered into a partnership agreement with the city of Dallas to coordinate Federal, State, and local resources for maximum impact in a time of limited funding.

Assistant Secretary Cuomo has reengineered the CDBG, Community Development Block Grant, and HOME programs which are both mainstays of many city economic development strategies to reduce the application and reporting requirements for those programs from 12 submissions into a single consolidated plan, replacing thousands of pages of reports with an electronic mapping system which provides actually a visual picture of how Federal funds are spent, neighborhood by neighborhood, block by block.

As you know, the Secretary has proposed a sweeping reinvention of HUD which would replace 60 different programs with just three streamlined funds. We believe that the Local Empowerment and Flexibility Act would support these efforts, and in particular the act would complement the objectives of the empowerment zone enterprise community initiative.

The EZEC initiative represents one of the most ambitious efforts to date by the Federal Government to provide flexibility to local governments to implement locally determined solutions to inner-city and rural problems. In considering the act, it may be useful to take a look at some of the lessons that we have learned about the EZEC initiative, including the limits of the current authority that we have and the challenges and opportunities presented by an across-the-board effort to maximize local flexibility.

By way of background, the legislation creating nine empowerment zones and 95 enterprise communities was passed and signed into law by President Clinton in 1993. The basic premise of the program was that in return for a comprehensive strategic plan to revitalize a distressed community, incorporating private sector investment, meaningful community input, and measurable results, the Federal Government would make a substantial commitment of tax incentives and block grants and remove regulatory barriers to local solutions.

Over 500 communities responded by submitting strategic plans in a competitive application process, and on December 21st of last year, the President announced the designation of 71 urban and 33 rural empowerment zones and enterprise communities. In the application process the applicants were invited to identify within their strategic plans the specific programmatic or regulatory impediments to achieving the outcome sought by the locality.

We, in turn, pledged to strive to overcome these impediments wherever possible. Applicants were advised that the EZEC initiative did not provide authority to eliminate statutory constraints. In addition, we indicated that we would not consider changing any Federal requirements that pertain to a variety of areas such as public or individual health or safety, civil rights or nondiscrimination, environmental protection, labor relations and standards, occupational health and safety, pensions, taxation and banking standards, and eligibility and benefit provisions of the Social Security Act and Food Stamp Act.

Applicants made very broad use of the invitation. We received over 1100 requests for Federal program flexibility for programs at 17 different Federal agencies. The majority concern programs at EPA, Labor, Health and Human Services, HUD, and SBA. To move this process ahead, the President created the Community Empowerment Board or the CEB to coordinate Federal programs in the zones and communities and to respond to requests for flexibility in program administration.

The board consists of the heads of 17 agencies and departments. The agencies have detailed staff on a full-time basis to the task force, managed at HUD by Assistant Secretary Cuomo. We process the waivers, provide technical assistance and engage in true interagency collaborations to support the zones and communities.

I would like to take a moment, if I could, to review some of the results of the EZEC waiver process to date. The first phase of our response focused on the 12 largest empowerment zones and enterprise communities. Together, these 12 cities accounted for almost 50 percent of the requests received from designated EZ's and EC's. Of the 271 requests made by the 12 cities——

Mr. SOUDER. Could you move to kind of summarize?

Mr. GLASER. Sure. The bulk of this is obviously in the statement.

Actually, Mr. Chairman, I would like to say a couple of things. First, we did find that many of the requests that came from communities were statutory in nature. Almost 40 percent of all the requests that we received were beyond the authority of the Federal Government right now to do, and a lot of those requests were some of the most innovative things. We have created as one of the documents we have for you today is a compendium which is almost a laboratory really of what these communities would like to do but are unable to do. This is approximately 130 or so requests.

They are currently barred, but which would potentially be permitted by the legislation in front of you. We also found that there were numerous waiver requests which could be acted upon, and we have also compiled those for you to take a look at today. That is in the second document called Federal Barrier Removal Summary, and this contains some of the best ideas from communities around the Nation that the Federal Government can take a position on.

A couple of quick lessons that we learned in the process. One is that it is extremely time-intensive, staff-intensive. Many times communities did not really know what it was they were asking for and needed some substantial dialog between the various Federal agencies and the communities to get where they wanted to go. They might think they needed a waiver, but, in fact, all they needed to do was work through some Federal program areas, and so we have set up a system that provides a lot of that to them. I would make that note.

Second, the States are very important players in the process. Many of the requests that we received involved not Federal waiver authority, but State waiver authority under Federal programs that flow to the States, and so we do need to incorporate a role for the States and make the States eligible for the flexibility as well.

Finally, in place currently is the Community Empowerment Board. It has proven to be a very effective tool for coordinating this interagency effort and providing flexibility. Our recommendation is that the local Flexibility Council, as proposed in the bill, be replaced with the CEB.

The agencies are very similar, the mission is similar, and the powers are quite similar. As I say, it has proven to be effective. We would like to work with you on the bill to make this a success. We think that the Zone Program provides a number of lessons which may be useful. It has been the largest effort to date by the Federal Government to broadly invite communities to come in for flexibility, and we would like to help out. Thank you.

Mr. SOUDER. Thank you very much.

[The prepared statement of Mr. Glaser follows:]

PREPARED STATEMENT OF HOWARD GLASER, DEPUTY ASSISTANT SECRETARY FOR OPERATIONS, OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Good morning Mr. Chairman and members of the Subcommittee. I am Howard Glaser, Acting Deputy Assistant Secretary for Operations at the Office of Community Planning and Development at H.U.D. On behalf of Secretary Henry Cisneros and Assistant Secretary Andrew Cuomo, thank you for the opportunity to comment on H.R. 2086, the Local Empowerment and Flexibility Act of 1995. Assistant Secretary Cuomo, who was unable to be here this morning due to a conflict, asked that

I convey to you his appreciation for your efforts to find ways to empower local governments, and your leadership in encouraging federal, state and local partnerships.

FEDERAL FLEXIBILITY INITIATIVES

During the past two and one half years, the Federal government has undertaken a number of initiatives to promote federal-local partnerships. You will be hearing about one of those models, the federal partnership with the State of Oregon, from that states representative today. In addition, the Vice President has been working with the U.S. Conference of Mayors to encourage the creation of additional performance partnerships between the Federal, State and local governments. These partnerships, based in concept on the Oregon Option, would provide State and local governments with far more flexibility in how they use Federal resources in exchange for measurable results. In fact, Mr. Chairman, with your encouragement, the State of Connecticut has entered into discussions with the Vice President's Community Empowerment Board about creating a broad partnership between the federal government and Connecticut's Neighborhood Revitalization Zones, an initiative which aims to support the growth of distressed areas by enhancing program flexibility on a state and local level. These efforts complement the Empowerment Zone/Enterprise Community Initiative, a cornerstone of President Clinton's urban revitalization strategy.

HUD FLEXIBILITY INITIATIVES

Under the leadership of Secretary Cisneros, the Department of Housing and Urban Development has also been very aggressive in redefining relationships with local governments to reduce federal burdens and encourage local innovation. The Department has, for example, entered into a partnership agreement with the city of Dallas to coordinate federal, state, and local resources for maximum impact in a time of limited funding streams. Assistant Secretary Cuomo has re-engineered the Community Development Block Grant and HOME programs—mainstays of many city economic development strategies—to reduce application and reporting requirements from twelve submissions into one Consolidated Plan, replacing thousands of pages of reports with an electronic mapping system which provides a visual picture of how federal funds are spent, neighborhood by neighborhood, block by block. And the Secretary has proposed a sweeping reinvention of HUD, which would replace 60 different programs with three streamlined funds.

The Local Empowerment and Flexibility Act would support these efforts. In particular, the Act would complement the objectives of the Empowerment Zone/Enterprise Community Initiative. The EZ/EC Initiative represents one of the most ambitious efforts to date by the federal government to provide flexibility to local governments to implement locally determined solutions to inner city and rural problems. In considering the Local Empowerment and Flexibility Act, it is useful to review some of the lessons to date of the EZ/EC Initiative, including the limits of current authority, and the challenges and opportunities presented by an across the board effort to maximize local flexibility.

THE EMPOWERMENT ZONE/ENTERPRISE COMMUNITIES EXPERIENCE

Legislation creating nine Empowerment Zones and 95 Enterprise Communities was passed and signed into law by President Clinton in 1993. The basic premise of the program was that, in return for a comprehensive strategic plan to revitalize a distressed community, incorporating private sector investment, meaningful resident input, and measurable results, the federal government would make a substantial investment of tax incentives and block grants, and remove regulatory barriers to local solutions. Over 500 communities submitted strategic plans in this competitive application process, and on December 21, 1994 President Clinton announced the designation of 71 urban and 33 rural Empowerment Zones and Enterprise Communities.

EZ/EC applicants were invited to identify within their strategic plans the specific programmatic or regulatory impediments to achieving the outcomes sought by the locality. The federal government, in turn, pledged to strive to overcome these impediments, wherever possible. Applicants were advised that the EZ/EC initiative does not contain authority to eliminate statutory constraints. In addition, we indicated that we would not consider changing any Federal requirement that pertains to: (1) public or individual health or safety, civil rights or nondiscrimination, environmental protection, labor relations, labor standards, occupational health or safety, pensions, taxation, and banking standards; and (2) eligibility and benefit provisions of the Social Security and the Food Stamp Act.

Applicants made broad use of this invitation. Over 1100 requests for federal program flexibility were made for 17 different federal agencies. The majority of requests concerned programs administered by the Environmental Protection Agency, the Department of Labor, the Department of Health and Human Services, the Department of Housing and Urban Development, and the Small Business Administration.

The Administration is committed to responding very seriously and creatively to the requests received from EZ/EC applicants. The President created the Community Empowerment Board (CEB) to coordinate federal programs in Empowerment Zones and Enterprise Communities, and to respond to requests for flexibility in program administration. The Board consists of the heads of 17 agencies and departments. These agencies have detailed staff on a full time basis to an EZ/EC Task Force, managed by HUD under the supervision of Assistant Secretary Cuomo, to process waiver requests, provide technical assistance, and engage in true interagency collaborations to support Empowerment Zones and Enterprise Communities.

Results of the EZ/EC Waiver Process

The first phase of our analysis and response to requests for flexibility focused on the twelve largest Empowerment Zones and Enterprise Communities. These twelve cities accounted for almost 50% of the requests received from designated EZ's and EC's. An analysis of these requests and the process utilized to respond to them yields some information directly relevant to the Local Empowerment and Flexibility Act:

- Of the 271 requests made by these 12 cities, 115 were beyond the statutory authority of the agencies responsible for program administration. In fact, some of the most innovative and potentially most effective ideas are beyond the statutory reach of the federal government. A comprehensive analysis of the statutory requests is attached as Exhibit 1.
- Of the remaining requests, the federal government is taking favorable action on approximately 130 requests, with about 25 requests still under consideration. No request for flexibility which is within the statutory authority of the Executive Branch has been denied, reflecting the sensible nature of the requests as well as the CEB's strong commitment to removing federal barriers wherever possible. A full summary of the federal response to requests for flexibility is attached as Exhibit 2.
- Most of the requests received were framed by the applicants as "waiver requests". However, many of these were not true "waiver requests" but "help requests" which could be resolved through dialogue between the appropriate federal, state and local agencies. However they might be characterized, these requests have prompted a productive—and staff intensive—discussion between local governments and the agencies of the CEB on multitude of federal-local issues. Indeed, this ongoing dialogue is one of the prime benefits of this effort.
- Another benefit of this effort is the data it has produced about the tools communities need for their development efforts. The waiver summary we have compiled contains a wealth of ideas on the creative use of federal programs. We are circulating this document to communities around the country, and making it available on our Internet homepage. The summaries also provide a valuable source of information for policy-makers seeking to identify the sticking points in regulatory mechanisms, and reduce regulatory and statutory barriers to local flexibility. Where several communities identify similar program impediments, it makes sense to consider whether statutory or regulatory changes are appropriate, rather than granting relief on an ad-hoc basis to communities which request it. For example, in response to the ideas contained in the EZ/EC waiver requests, the Department of Housing and Urban Development completed a page-by-page review of all of the Department's regulations, eliminating 65 codes and 2800 pages of regulations. An additional 153 codes and regulations will be simplified and streamlined. As a result of these changes, localities no longer need waivers from HUD to accomplish a number of their objectives. The legislation under consideration by the Committee would facilitate this process by requiring reports similar to those produced by the EZ/EC Task Force on the federal regulations most frequently waived.

Challenges to Federal Flexibility

While the effort to date has yielded positive results, we have also faced some significant challenges to the implementation of our objective to provide maximum flexibility to local communities in exchange for measurable outcomes. First, as noted earlier, many of the requests for relief made by communities cannot be accomplished without statutory changes, or the ability to waive statutory requirements. Second, localities often lacked enough knowledge about federal programs to define the regulatory relief sought. For example, many of the requests submitted were relevant to

state rather than federal agencies. And very often, a community's objectives required not a formal waiver, but simply technical assistance from a federal agency to work through perceived impediments. The lesson is that the waiver process cannot simply be a static process wherein the locality submits a request and the federal government approves or disapproves it. A substantial amount of dialogue and technical assistance is required to help the community achieve its desired objectives. The legislation recognizes this by making technical assistance available to local government and others involved in designing flexibility plans. Third, within each federal agency, there is a different framework for dealing with individual waiver requests. Some agencies lack global authority to grant regulatory waivers; others have authority but must formally issue new regulations prior to making any waivers. The majority of agencies simply have no formal process for reviewing and granting waivers. Decision authority may lay in the field in some agencies, or at central headquarters in others. As a general matter, a prime mission of a good part of the federal government is regulation; the move toward greater flexibility and federal-local partnerships requires not only new processes, but also a cultural change within federal agencies regarding their relations with local governments and communities.

Mr. Chairman, the Department believes that H.R. 2086 would support and expand the federal government's ability to respond to local innovation and creativity in kind. Based on the observations and the experience the EZ/EC Task Force has had to date with the EZ/EC requests for flexibility, the Department has several recommendations which would enhance the effectiveness and efficiency of the Local Empowerment and Flexibility Act, and avoid duplication. There are two specific areas I would like to mention:

Avoid Duplication by Substituting the Existing Community Empowerment Board for the Flexibility Council

The Community Empowerment Board (CEB) is already in place with a membership and mission very similar to that outlined in the bill for the Flexibility Council. The CEB has proven to be an effective entity for managing interagency cooperation and ensuring federal responsiveness to locally driven, "bottom-up" strategic planning. The Department believes that the CEB should replace the Flexibility Council with the CEB, as suggested by prior witnesses Judy A. England Joseph of the Government Accounting Office and Charles Griffiths of the Advisory Commission on Intergovernmental Relations. Moreover any effort of this type should allow for the time and staff intensive nature of the process, recognizing that dialogue with the community is an important element to help them get where they want to go. The workload required on a single waiver to adequately serve a community's objectives can be quite substantial. With the expansion of waiver requests we can expect under this bill, the CEB or Flexibility Council should be provided with adequate administrative support to enable it to serve communities and process waiver requests as effectively as possible.

Include the States as Eligible Participants

We learned in the EZ/EC waiver process that the role of states is critical. Some agencies, such as Education, Labor, and HHS make a large number of categorical grants directly to state agencies. The States are thus important partners in any attempt to devolve flexibility to local governments.

Once again, Mr. Chairman, on behalf of Secretary Cisneros and Assistant Secretary Cuomo, thank you for the opportunity to share with the Committee some of the early results and lessons of the Empowerment Zone/Enterprise Community Initiative. We stand ready to assist you and the Committee in any way possible to support your efforts to achieve the objectives of H.R. 2086 and the EZ/EC Initiative.

[Exhibits 1 and 2 have been retained in the subcommittee files.]

Mr. SOUDER. Mr. Koskinen.

Mr. KOSKINEN. Thank you, Mr. Chairman. I am pleased to have the opportunity today to testify before the subcommittee on H.R. 2086, the Local Empowerment and Flexibility Act of 1995. The leadership of this subcommittee and its efforts to encourage innovation and entrepreneurship at the State and local levels has been exemplary.

The administration believes H.R. 2086 is focused on an important issue, especially the question of how to assist our distressed rural and urban communities to empower themselves. We appreciate the chance to express our views and concerns about this legis-

lation. The President has consistently supported efforts to empower communities to take charge of their own destinies and to remove Federal impediments that can strain innovation, experimentation and entrepreneurship at the local level. We have worked hard to restore the balance to the intergovernmental partnership between the Federal Government and State and local and tribal governments to promote bottom-up solutions to our Nation's problems and to curtail the imposition of unfunded Federal mandates.

The President submitted and signed legislation to create 105 Empowerment Zones and Enterprise Communities, signed the Unfunded Mandates Reform Act, approved welfare reform waivers for 34 States and 11 Statewide Medicaid waivers, proposed performance partnerships consolidating over 200 programs as part of the 1996 budget, and entered into an agreement with the State of Oregon to form a new partnership with increased flexibility as well as increased accountability for results.

In a time of declining availability of Federal resources, the granting of waivers and the providing of flexible funding streams are two ways to increase the impact of Federal programs. A few existing Federal programs are authorized to provide waivers to States in administering programs within statutory and regulatory guidelines. The best known are the demonstration authorities in AFDC and Medicare. Those particular authorities were designed to allow State experimentation with new ideas for research and evaluation purposes, not as a vehicle for regulated State flexibility.

This administration has increased the use of the existing system of granting waivers, and we are proud of the fact that we have been able to reduce the time it takes to review waiver requests. However, no matter how much we continue to streamline the existing waiver process, there are statutory limits to our ability to reinvent the present waiver system.

In his 1996 budget therefore, President Clinton has proposed, as I noted earlier, that 271 separate programs be consolidated into 27 performance partnerships. Each of these would consolidate funding streams and eliminate overlapping authorities, create financial incentives and reward results consistent with broad national purposes, and reduce micromanagement and wasteful paperwork.

The distinctive feature of the performance partnerships model, in contrast to the traditional block grant approach to consolidation is the combination of greatly increased flexibility with accountability and rewards for performance. This model empowers States and communities who can use Federal resources flexibility to construct the best local solutions to problems and rewards them for their success.

While these efforts have proven to be a strong beginning to devolving power to the local level, they are not complete answers to the problem. For Federal grant programs to work, we believe strongly that the executive branch agencies must have the flexibility to waive statutes and remove barriers that interfere with communities trying to improve their economic and social conditions. Your legislation, with some key changes, we think, would help to address this issue.

The administration would like to support legislation such as yours if we can reach agreement on the issues that we believe are

critical to the effectiveness of your legislation. These issues include: Improving ways to review applications for waivers, such as establishing an appropriate time for reviewing them. The 45-day review period provided by the legislation in its present form does not provide, we think, sufficient time to ensure that strategic plans are of high quality.

Also, we need to ensure that the legislation does not make the process so complex and difficult to administer that it unnecessarily delays community efforts. We also need to make sure that we are making approval of plans by the flexibility council contingent upon the submission of a strategic plan containing specific goals and measurable performance criteria.

We need to make the States, as noted, as well as local governments eligible for waivers and expand the involvement of States in the review of proposed waivers. We need to provide additional exclusions for certain important areas such as tax policy, worker safety, environmental protection, financial management, and public health. We think we need to provide appropriate authority for Federal agency heads to approve waiver requests and sufficient administrative support for the interagency mechanism to efficiently respond to local strategic plans and waiver requests in a timely manner.

We need to replace, as noted earlier, the flexibility council provided in the legislation with the already existing Community Empowerment Board which performs, many of the same functions. We need to tie the continuation of waivers to the performance measures provided under related strategic plans, and we need to narrow the criteria of those who can apply or provide some priority consideration to communities with greater need or distress so that the departments at the Federal level can process requests in reasonable timeframes.

We look forward to working with you to address these concerns, and we thank you for your leadership in sponsoring this bill and the hearings. I would be happy to answer any questions any members of the subcommittee might have.

[The prepared statement of Mr. Koskinen follows:]

PREPARED STATEMENT OF JOHN KOSKINEN, DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET

Mr. Chairman, I am pleased to have the opportunity today to testify before the Subcommittee on Human Resources and Intergovernmental Relations on H.R. 2086, the "Local Empowerment and Flexibility Act of 1995." Your leadership in the efforts to encourage innovation and entrepreneurship at the State and local levels has been exemplary. The Administration commends you for your dedication to improving State and local flexibility. The Administration believes H.R. 2086 is focused on an important issue, especially the question of how to assist our distressed rural and urban communities empower themselves, and we appreciate the chance to express our views and concerns about this legislation.

The President has consistently supported efforts to empower communities to take charge of their own destinies and to remove Federal impediments that constrain innovation, experimentation, and entrepreneurship at the local level. The President and his Administration have worked hard to restore balance to the intergovernmental partnership between the Federal government and State, local and tribal governments, to promote bottom-up solutions to our nation's problems, and to curtail the imposition of unfunded Federal mandates. The President submitted and signed legislation to create 105 Empowerment Zones and Enterprise Communities (EZ/EC), signed the Unfunded Mandate Reform Act, approved welfare reform waivers for 34 States and 11 Statewide Medicaid waivers, proposed "Performance Partnerships"

consolidating over 200 programs as part of the 1996 Budget, and entered into an agreement with the State of Oregon to form a new partnership with increased flexibility as well as increased accountability for results.

In a time of declining availability of Federal resources, the granting of waivers and the providing of flexible funding streams are two ways to increase the impact of Federal programs. In September 1993, the National Performance Review (NPR) recommended bottom-up grant consolidation to encourage innovation and create flexibility in the face of grant proliferation. In the 103rd Congress, we proposed legislation, as part of the EZ/EC initiative, that would have given the Federal government the authority to provide waivers in a one-stop process to local governments who develop a comprehensive strategic plan. The Senate adopted similar legislation as an amendment offered by Senator Hatfield to S.4 the "Competitiveness Act", but the bill was not enacted.

A few existing Federal programs are authorized to provide waivers to States in administering programs within statutory and regulatory guidelines. The best known are the demonstration authorities in AFDC and Medicaid. Those particular authorities were designed to allow State experimentation with new ideas for research and evaluation purposes, not as a vehicle for regulated State flexibility. This Administration has increased the use of the existing system of granting waivers and we are proud of the fact that we have been able to reduce the time it takes to review waiver requests. However, no matter how much we continue to streamline the existing waiver process, there are statutory limits to our ability to reinvent the present waiver system.

When this Administration first took office in 1993, we recognized two major impediments to the empowerment of State and local governments. First was the burgeoning growth of unfunded mandates placed on State and local governments which exploded in the 1980s. Before 1964, the number of explicit mandates from Congress placed on State and local governments was zero. On the day President Clinton took office, 172 pieces of legislation imposed requirements on State and local governments. According to the Congressional Budget Office, between 1983 and 1990, the cost to States and localities of all the regulations imposed from the Federal government reached $8.9 billion. Since his days as Governor of Arkansas, President Clinton has spoken out on the need to address the burgeoning growth of Federal unfunded mandates. Too often in the past, the Federal Government placed unfunded requirements on State, local, and tribal governments, taking important decision-making responsibilities out of the hands of local elected officials and their communities. Recognizing the need to move quickly, the President took action to control the growth of unfunded mandates within the Executive Branch by issuing Executive Order 12875, "Enhancing the Intergovernmental Partnership," on October 26, 1993. This Executive Order prevents the issuing of any new, non-statutory unfunded regulations except in cases where the agency submits to OMB, prior to promulgation, a justification supporting the need for the regulation and includes a description of the extent of the agency's prior consultation with State, local, and tribal governments. Equally as important, the Executive Order also set a deadline of 120 days for the approval or notification of waiver requests. State and local governments praised the signing of this Executive Order.

The President worked closely with Congress earlier this year to pass the Unfunded Mandate Reform Act. This law, which the President signed on March 22, 1995, restricts Congress from passing on new mandates to State and local governments without providing funding for them. This law reflects the President's commitment to reinvent government and to create a government that works better and costs less. The bill requires Congress to show how much each mandate over $50 million will cost State and local governments, to require Congress to identify a specific funding source for these mandates, and if it does not meet these criteria, Congress must explicitly waive the requirement that there be no unfunded mandates.

The second major impediment to empowering State and local governments that the Administration attempted to remove was the myriad of regulations, applications, and red tape, associated with the ever-growing number of grant programs. This Administration has worked try to reduce these impediments, especially for communities willing to develop partnership agreements.

One example of Administration efforts is the Oregon Option. The Oregon Option is just one example of the benefits of "getting out of Washington"—that is, sitting down with stakeholders and developing partnership agreements for reaching common goals quickly and less expensively. In the last two years, other examples have been developed throughout the Federal Government. Many involve partnerships between Washington and the States designed to consolidate funding streams, eliminate overlapping authorities, create incentives for achieving concrete results, and re-

duce the excessively detailed micromanagement that has characterized some Federal grant programs in the past.

In his 1996 budget, President Clinton has proposed that 271 separate programs be consolidated into 27 "Performance Partnerships". Each of these would consolidate funding streams and eliminate overlapping authorities, create financial incentives and reward results consistent with broad national purposes, and reduce micromanagement and wasteful paperwork. The distinctive feature of the Performance Partnerships model, in contrast to the traditional block grant approach to consolidation, is the combination of greatly increased flexibility with accountability and rewards for performance. This model empowers States and communities, who can use Federal resources flexibility to construct the best local solutions to problems, and rewards them for their success. In the welfare program, as I mentioned earlier, 34 States have been granted waivers from Federal requirements which give them flexibility to demonstrate alternatives that have the potential to address the job of reducing welfare dependency more effectively, more flexibly, and in some cases more innovatively than uniform Federal rules have allowed.

In a similar vein, the Community Empowerment Board, comprising 17 Federal agencies and departments, has helped the agencies provide waivers of Federal job training, community development, and various "safety net" rules for 95 Enterprise Communities and 9 Empowerment Zones. The difference between such waivers and simple block grants is that the waivers required the development of comprehensive community plans and results-based measurement systems; they also ensure accountability for taxpayer's money.

While these efforts have proven to be a strong beginning to devolving power to the local level, they are not complete answers to the problem. For Federal grant programs to work, we believe strongly that the Executive Branch agencies must have the flexibility to waive statues and remove barriers that interfere with communities trying to improve their economic and social conditions. Some departments currently have this authority, but others do not. Your legislation, with some key changes, would help to address this issue.

The Administration would like to support legislation such as yours, if we can reach agreement on the issues that we believe are critical to the effectiveness of your legislation. These include:

1) improving ways to review applications for waivers such as establishing an appropriate time frame for reviewing waivers (the 45 day review period does not provide sufficient time to ensure that strategic plans are of a high quality) and ensuring the legislation does not make the process so complex and difficult to administer that it unnecessarily delays community efforts;

2) making approval of plans by the Flexibility Council contingent upon the submission of a strategic plan containing specific goals and measurable performance criteria;

3) making States as well as local governments eligible for waivers and expanding the involvement of States in the review of proposed waivers;

4) providing additional exclusions for certain important areas, such as, tax policy, worker safety, environmental protection, financial management, and public health;

5) providing appropriate authority for Federal agency heads to approve waiver requests and sufficient administrative support for the interagency mechanism to efficiently respond to the local strategic plans and waiver requests;

6) replacing the Flexibility Council with the Community Empowerment Board (CEB), removing the Assistants to the President for Domestic and Economic Policy, and maintaining the President's discretion in choosing the CEB's members;

7) tying the continuation of waivers to the performance measures provided under related strategic plans; and

8) narrowing the criteria of those who can apply or providing some priority consideration to communities of greater need or distress so that the departments can process requests in reasonable time frames.

We look forward to working with you to address these concerns and we thank you for your leadership in sponsoring this bill and the hearings.

I would be happy to answer questions you and the members of your committee may have.

Mr. SOUDER. Thank you both for your testimony.

Would you like to start with questions, Mr. Green?

Mr. GREEN. I have a number of questions. Let me—first of all, the statutory waivers, you said in your outline that it will have—I don't think we have a copy of it. Can you give us an example of some of those 40 percent—obviously, 60 percent were not statutory

waivers, then, I guess, but the 40 percent, were they ones like waiving Davis-Bacon or minimum wage or something like that, overtime provisions?

Mr. GLASER. They fell into a number of categories. Davis-Bacon was a popular item, certainly it was.

Mr. GREEN. Even though probably some of those States also have prevailing wage statutes, too?

Mr. GLASER. Correct. There were a number of those. But there were other areas also that were very interesting.

For example, I think it was Philadelphia came in with a request, they wanted to build an intermodal transportation center. The idea is to link various transit together, including rail transit, into a commercial hub; and they would like to use some Federal transit dollars for part of the commercial development because it is an integrated, all one integrated unit. They could not do that under the current law. Therefore, at this point, they cannot go ahead with the project because they can only spend a dollar on the rails and not on the associated commercial development. That is one example.

Another might be, we had a request from a number of communities to restructure the payment on health—student health loans for health professionals who would locate in the zones, the idea being that these are underserved neighborhoods—bring in health care professionals, but give them a little bit of a break on the loans. Innovative idea, maybe worth considering, couldn't do it currently, take a small change to do it.

Mr. GREEN. OK. I guess that is what—and I know we will hear from other panels, and I was with our mayor of Houston when our empowerment zone was announced, and one of the benefits were waivers that were provided for that empowerment zone, and part of my district is part of that empowerment zone in the waivers. But, again, I know there is a certain level where we say, well, there are some things you just can't waiver.

But I agree that—and that is why I am generally supporting this legislation—that there are some things we can do, but again, there are basic laws that cover everyone.

Let me talk about or ask you, the large number of waivers under the empowerment zone request and which are the ones that the Community Empowerment Board are not waiving—that 60 percent that are regulatory in nature or agency generated—do you have a percentage on those that you have the authority now to grant the waivers on?

Mr. GLASER. Of the ones that are within—there are really only two categories. There are ones that are beyond executive authority and the ones that are within executive authority; and at this point, the process has worked well, I think, because we have not denied any request for a waiver for flexibility, which is in executive authority to accomplish. So you always have these two completely polar opposites, the ones we can do, we did all of them; the ones we can't do, we are barred from doing.

Mr. GREEN. And you are barred by statute?

Mr. GLASER. We are barred by statute from doing them or, same thing, in many cases the State may have a role to play.

For example, in some of the HHS waivers that were requested concerning raising income thresholds, for example, under various

AFDC or welfare programs, we can't do that ourselves; that is something that has to be done in conjunction with the State itself. So there is a partnership that takes place.

I might mention that one of the real values of that whole process is not just at the end of the day that you did a waiver, because it is really not about waivers, it is about getting done what the local community wants to get done. But part of the advantage has been, it has forced really the Federal agencies, the States, the local city and the local community to enter into this dialog about where they want to go, and the waiver has been the excuse for that in many cases, but, you know, lots of times not always the end in itself.

Mr. GREEN. Mr. Koskinen, in the time I have left, I am going to try to combine two questions. One, you suggest expanding the involvement of States in the review of waiver requests, and if you could give specifics on how States could be more involved—and also you indicate that the 45-day review period may not be enough for the flexibility council to review the waiver applications in light of the empowerment zone. Was there time limits on the empowerment zone to grant waivers like 45-day? So if you could cover both of them——

Mr. KOSKINEN. I may turn to my expert here on the empowerment zones for the answer to your second question. With regard to the involvement of the States, the statute presently provides that a locality will provide its plan to the State, and the Governor has 30 days to comment. A comment is not required, and the community after the 30 days can apply directly to the Federal level.

What we would like to do, while not giving the States a veto over our applications, is encourage more of a dialog between localities, States, and the Federal Government to make sure that everybody is on the same page. Our experience thus far is that one of the major benefits of the waiver process has been the development of a shared set of expectations and goals at the local and the State level as well as at the Federal level.

What we have also found in our prior experience is that many of the things to be waived are at the State level. Therefore, we would like to encourage communities to come to the Federal Government with a joint plan with the States for what the States not only will waive but what their contribution will be to the strategic plan of the local area.

Again, I would stress, we don't want to give the Governors a veto over the localities, on the other hand, we would like to make it clear through the statutory mechanism, that we would like more and to encourage or require more of a dialog between the localities and the States when they come to the Federal Government for waivers.

Mr. GREEN. Mr. Souder, I don't have any more questions. Let me comment, though, since we have a person here from HUD, I have been involved for about 8 months with a group in Houston between our local housing and urban development, the city of Houston, the State of Texas, and our office dealing with low-income housing, trying to make sure not that we grant waivers, but we have all these State, local, and Federal agencies all together working. And it is working, but we have to keep the fire burning.

If we don't have these monthly or every-six-weeks meetings, the city will go off on theirs, the State will go off on theirs, and HUD will go off on theirs, or the State will just say, well, that is a local or Federal problem. But there can be cooperation even under current law. Again, we are not asking for waivers; we just want us to talk to each other in some cases.

Thank you.

Mr. SOUDER. I want to make sure the record shows that Mr. Towns, our distinguished ranking member, was here and we have also been joined by Mr. Barrett of Wisconsin.

I would like to ask Mr. Glaser, first, what further action is being taken on the request for waivers, the statutory requirements that the Community Enterprise Board does not have the authority to approve; and are the relevant Federal agencies reviewing the request to determine if legislative changes are needed?

Mr. GLASER. Yes, they are, and primarily using this document for the request for statutory waivers, one of the functions of the CEB is to review the statutory impediments. When enough communities come in and say, well, gee, we would like to get where we are going, but we can't because of this, then it argues for a broader approach than just the ad hoc waiver; and part of the import of this process is what you learn by it.

Even with the nonstatutory ones, enough communities come in for regulatory waivers; maybe you ought to take a look at changing the regulation, so that process is ongoing, not just with the statutory, but with the ones you can waive. In fact, at HUD as a result of what we learned communities wanted to do that our regulations wouldn't let them do, we did about 53 regulatory changes, and as a result, a lot of what communities wanted to do with the waiver they no longer need a waiver to do. We changed the regulation to allow them to do it as a matter of law. That is a positive result of the process, too, and one to keep in mind. I believe that the bill incorporates a reporting process for that purpose, and we would enhance that and like to see that as part of the final legislation.

Mr. KOSKINEN. I would just note, along those same lines, that in the development of the performance partnerships in the 1996 budget, where we took the programs and consolidated them, legislation was required because waivers were not possible without specific statutory authority. So technically your question is right: We could do this with a series of statutory amendments.

The advantage of the legislation you are considering is it would give general flexibility to our Federal agencies without having to tailor specific pieces of legislation across the board.

Mr. SOUDER. It was very difficult in just skimming through the different things here to—they are kind of all over the place, although you do have them by different departments and so on. Could you come up with a couple of general categories that you might put these in? I saw there was one on a Pell grant waiver, AFDC waiver requests. One category that would be useful for me is how many of these are kind of income benefit related, like the Pell grants, AFDC, SSI, housing funding?

Mr. GLASER. I think a pretty high percentage of them. Communities complained about the fact that these programs, which often serve the same populations, have different eligibility requirements

across the board and different program standards. They wanted to see some standardization between them so you could make the programs work together; that is pretty common.

I will give you an example of one. It is a pet peeve for some people; it is a Davis-Bacon issue, as a matter of fact. There is an exclusion from Davis-Bacon for very small projects. The idea there is that you want to—for small housing projects you don't want to make them too expensive or they won't get done, plus you want to be able to use them as a training ground for training workers, and you can't pay those workers prevailing wage because they don't have the skills yet. CDBG and HOME are the two main funding sources for those types of projects, and they both have two different thresholds at which Davis-Bacon kicks in, one for lower than eight units, the other one for lower than 12 units. If you want to build 12 single-family units or a small density project with 10 apartments in it, you can't use those two programs together under Davis-Bacon. And it is a small thing, it is the kind of thing that drives communities crazy because they say you are not—the left hand isn't talking to the right hand within the same agency. That is a statutory bar.

That is repeated time and time again with different programs that came in at different times and now just don't work together to enable local communities to do what they want to do.

Mr. SOUDER. I kind of took you off from my original question which was, can you give me a couple of general categories?

Mr. GLASER. I would say five general categories: one, providing more flexibility in the use of funds; second, waiving some or all matching grant requirements; third, reconciling conflicting eligibility requirements; fourth, streamlining processes, application requirements and reporting and documentation requirements; and fifth, eliminating economic disincentives to participating in job training programs. So those are the five major areas; within them JTPA, Davis-Bacon, AFDC, SSBG, Title XX, Medicare, Medicaid, site cleanup and permitting at EPA, food stamps and student nutrition at USDA, Section 8 homes, CDBG and Public housing at HUD. Those are broad categories; we would have to go into that part of that booklet to look at each one and analyze it further.

Mr. KOSKINEN. It is a very good question. One of the concerns expressed by a number of people about the statute that you are proposing in its present form is it is without limitation. Therefore, you sweep in a lot of issues like environmental regulations and tax policy that are not intended. One way to look at this would be to treat the empowerment zones as a pilot program, to see what issues at the community level are most difficult. Rather than work from the general back, we might start with the specific problems and work out and really solve a lot of the problems that people have, who otherwise would be supportive I think of this legislation.

Mr. SOUDER. I want to make a brief comment to Mr. Glaser. It is not directly on this bill, although it is a related thing that I would like to talk to you about at a separate point.

We have a problem in—it first came up in Kendallville in my district, and then now in Angola, where whenever you have a group home go in, there is a battle, all residents usually do not want the group home next to them. I have now run into it in two cities that

there was a complaint. We have taken it to HUD in Indianapolis that HUD said that they can't protest or they can't discuss the issue, and it is a question of a gag question, it is not directly related to where the group home is going to be.

But I would like to talk about whether that is in a civil rights question here as it relates to group homes or that type of thing.

Mr. GLASER. We would be glad to address that.

Mr. SOUDER. Mr. Barrett.

Mr. BARRETT. Thank you. Just a couple of questions.

The last time this subcommittee considered similar legislation, it was limited to 30 communities. I am just curious, Mr. Koskinen, based on your experience, whether we should be taking that approach here or opening it up. It was 30 communities, it was more limited.

Mr. KOSKINEN. We are concerned about the process. Back to the question we didn't really answer about the 45 days, we are trying to make sure that we don't create a new process that itself gets flooded with applications and becomes as aggravating as the present process. So one of the advantages of working with the States is you might be able to screen these programs and projects as they came from localities, so they began to fit together. As noted, there are 19,000 potential applicable local communities. We are concerned that if we just say anybody can apply for any waivers from anywhere in any format, we are going to get deluged.

We need to try to deal with this either by looking at specific categories, as Mr. Glaser has described, or by looking at some relationships between the States and localities to screen and coordinate applications. Perhaps a potential first step, would be to look at geographic limitations, so we don't kill what is really a terrific idea by swamping it.

Mr. BARRETT. OK. One of the concerns that has been raised to me is that by giving more local flexibility, that you have a potential for shutting out low-income groups. Is that a concern you have, or maybe with the States' rights mentality, it is something that we shouldn't worry about at all. Has the administration looked at that?

Mr. KOSKINEN. It is a good point. Again, one of the best things about this legislation is that you don't get waivers automatically. You have to come in with a strategic plan and a set of performance measures as to what you are trying to accomplish and what the waivers will allow you to do. Therefore, localities will not be able to take funds directed toward any particular group and design the program away from that group.

For example, whether it is low-income communities or individuals, if the funds are ultimately meant to benefit them, the strategic plans and the performance measures will have to relate to what the goals of the program are. I think as long as we stick to that principle we will do well.

When you start more broadly, with block grants, when you say here is the money, go do something with it, you don't have accountability. You don't have the dialog about what it is we are trying to accomplish, when the dialog is between the locality, the States and the Federal Government. If we move in that direction, I think

we will protect against exclusion, while at the same time, becoming much more efficient in the delivery of resources to solve problems.

Mr. BARRETT. Finally, you mentioned the waiver provision. Does the administration have any specific concerns with the waiver provision in this legislation?

Mr. KOSKINEN. We are interested in waivers. We are concerned, as noted earlier, that as stated now the bill would sweep in waivers for any regulation. The bill probably is broader than I think any of us intend. Conceivably you could come in and ask for waivers of tax regulations or environmental regulations that are not what we are really trying to focus on here.

We are really looking at the provision of services and financial support to communities and are trying to make that streamlined as best we can. We would be concerned, as I noted, if we didn't make it clear in the legislation what we are intending to cover and what we are not intending to cover.

Mr. BARRETT. Do you think it would be better to say those things for which a waiver could be obtained, or do you think it is better to say these are areas where you cannot obtain a waiver? Or do you think it is six of one and a half-dozen of the other?

Mr. KOSKINEN. I suspect it is probably six of one, half-dozen of the other. You are probably always better off trying to look at what you are trying to cover. It is clearer than having an argument about whether the exclusions are included or not. In other words, I think you are probably better saying, much as we are looking at the program areas, these are the areas we are concerned about, this is where we want to start.

It is always possible to take a look after 2 or 3 years of experience and say, now there is another group of things we are not covering that we ought to. But my instinct is, we would do better to be clear about what we are trying to solve rather than to work backwards by process of elimination. to that core.

Mr. BARRETT. OK, thank you.

Mr. SOUDER. Thank you. Congresswoman Morella from Maryland has joined us. Welcome.

Mrs. MORELLA. Thank you. Delighted to be here, thank you. I will make it brief. I was at the first hearing; I am glad there is a continuation. I guess I just want to address a question to Mr. Glaser of HUD.

You know, Baltimore, MD, in my State has been designated—I guess they call it now an empowerment zone rather than an enterprise zone. I am just wondering about how do you see this legislation fitting in with these empowerment zones? Would you like to comment on empowerment zones as they relate, as they have been given waivers, et cetera?

Mr. GLASER. We think it is really an integral portion of the whole empowerment zone program. We really said to cities and empowerment zones, come up with a package, put first your whole community together—the community groups, business sector, local government and State government—and come up with a comprehensive, strategic plan as to where you want to be in 10 years. The components of that would include private sector investment, they would include the use of the government funds that come through the empowerment zone program, and very importantly, it

would include ideas about what Federal impediments exist right now to the things that you want to get done. And within that application they included not just funding requests, but regulatory barrier removal requests as well; and I think we see it as essential. A primary mission of the Community Empowerment Board as defined by the President is to work on those waivers.

Mrs. MORELLA. So, frankly, you see the empowerment zone as the epitome of what could be accomplished with legislation like this in terms of pulling back regulatory impediments or obstacles, allowing flexibility in partnerships?

Mr. GLASER. It provides, we think, a model that is well worth looking at.

I mean, there are other models out there. You will hear a little bit about the Oregon performance partnership idea today. Empowerment zones is a more focused effort. Empowerment zones says, you have more limited goals, take a specific area of the community, literally, you know, maybe a multiblock neighborhood. Under this legislation, the whole city is eligible, and that way we would expect an expanded interest by communities, but also it will take an expanded response by the Federal Government.

Mr. KOSKINEN. I would note that this legislation would, in effect, increase the impact of the empowerment zone program. As noted earlier, there are statutory waivers that are requested that are not allowed under the empowerment zone program that would be allowed under this legislation, so we would be able to provide more flexibility in those areas.

Mrs. MORELLA. And you think that would be beneficial; you both agree?

Mr. KOSKINEN. Yes.

Mr. GLASER. Yes.

Mrs. MORELLA. Just one final point about Davis-Bacon, since that may well be part of reconciliation, and some of us think it shouldn't be totally repealed but maybe the threshold increased. Mr. Glaser, you commented on the fact that Davis-Bacon is a problem for local governments and States. Do they tell you that?

Mr. GLASER. They do.

Mrs. MORELLA. Could you elucidate a little bit more on that?

Mr. GLASER. You will see within the analysis that we provided to the subcommittee, there are a number of Davis-Bacon issues raised. It is really a barometer of what is on communities' minds and how they want to get to where they go.

I talked in depth about one issue. Another idea is just the—if a project is under a certain dollar value, that certain requirements of Davis-Bacon be modified. But communities are really struggling with a lot of those issues. We've got vague requests in some cases.

I know one city came in, and their waiver request on Davis-Bacon was modified Davis-Bacon, that is all it said, it is really hard for us to respond to that. You have to sit down with the community and say, what do you really want to accomplish here. But clearly that is one of the issues that is on their mind.

Mrs. MORELLA. Do you work with the administration on this?

Mr. GLASER. Yes.

Mrs. MORELLA. Do they agree with you?

Mr. GLASER. On Davis-Bacon as a whole? Well, what we agree with is, we want to help communities accomplish their end goal, however we might be able to do that.

Mrs. MORELLA. Good answers. All right. Thank you, gentlemen, very much.

And thank you, Mr. Chairman.

Mr. SOUDER. Thank you.

I appreciate the testimony from the first panel and the constructive suggestions you gave; and with that, I think we will take a recess, go vote, and if the second panel could come forward when we get back, we will proceed.

Mr. KOSKINEN. Thank you.

Mr. GLASER. Thank you, Mr. Chairman.

[Recess.]

Mr. SOUDER. The committee is back in session. Mr. MacDougal and Ms. Paulus, I need to swear you in. It is customary that we do that with all of our witnesses.

[Witnesses sworn.]

Mr. SOUDER. For the record, I note that both witnesses responded in the affirmative.

Mr. MacDougal, who was at our hearing in Chicago and so rather than have him testify there, we brought him all the way out here to testify in Washington, appreciate you coming today.

STATEMENTS OF GARY MacDOUGAL, CHAIRMAN OF THE GOVERNOR'S TASK FORCE ON HUMAN SERVICES REFORM FOR THE STATE OF ILLINOIS; AND NORMA PAULUS, SUPERINTENDENT OF PUBLIC INSTRUCTION FOR THE STATE OF OREGON

Mr. MACDOUGAL. This is obviously a lot easier.

I am Gary MacDougal, I am a former corporate CEO, McKinsey partner, a foundation executive, and chairman of the Governor's Task Force on Human Services Reform in Illinois. I am an unpaid volunteer, almost full time on this effort for the State of Illinois.

I applaud your efforts represented in H.R. 2086, the Local Empowerment and Flexibility Act of 1995, in particular, the act's emphasis on listening to local communities, which we regard as the absolute key to our effort in Illinois, which is a major reform of all of the human service systems in Illinois.

Also, providing flexibility in use of funds, this couldn't be more important; and we too have horror stories—not the inch-thick organized book that you saw earlier, but many examples.

Reducing the resources tied up in red tape is also a crucial example, and I will get to this—a crucial issue as we go forward. I think you are right on track with long overdue legislation.

The Governor's Task Force in Illinois is a blue ribbon group appointed by Jim Edgar in 1993. On the task force are representatives of business, churches, academia, and the heads of all of the human service departments in Illinois, representing $10 billion of human services spending. These are departments that are almost solely focused on human services.

There is other human services spending in Illinois. This $10 billion is spent largely on 1.1 million people in poverty; and if you go back to your basic arithmetic, you will find it is about $9,000 per

person in poverty. And nobody can tell you exactly where all that money goes because, for a family of four, that is $36,000, which is more than twice the $14,700 poverty line for a family of four, giving rise to that old question, why not just write them a check? But that is not what I am proposing here today.

But after 9 months of hard work, we came up with a list of basic principles upon which we would reorganize the human service systems in Illinois. Those principles are provided in your material, Exhibit II. There are 13 of them. They are the cornerstone of our effort, and summarized briefly, they relate to decentralizing the systems to get closer to the people, linking the systems to communities and to the private sector—a huge amount of interest, effort, and resources in the private sector are at this point virtually disconnected from the State and Federal Government efforts—and then third, measuring the outcomes, actually seeing whether this spending changes the life of a human being.

This measuring of outcomes sounds obvious, but with the exception of Oregon, Illinois, and a couple of other places, process is measured and measurement is done to make sure the funds went where they are supposed to go, not that the funds produced any difference in anybody's life.

We know that poverty problems in southern Illinois are dramatically different from the problems in Chicago's inner city, and yet both have well above the Nation's and the State's average unemployment and poverty levels.

The basic building block or the core of this reform effort is an organization called a Community Federation. Right now we have five test sites where Community Federations have been formed. One is in the southern seven—the southern seven counties of Illinois where there is severe rural poverty; one is Waukegan, a largely Latino community that is a suburb dependent on Chicago, but which has an independent economy as well; Grand Boulevard, one of the toughest inner city areas in the Nation—some say the worst—where two of the three most difficult housing projects in America are located, the Robert Taylor Homes I and II, Springfield, and then DuPage County.

Each of these federations is made up of independent volunteer people—ministers, principals of local schools, executives of businesses in the areas, users of services, people who, when the public aid fellow gets up and explains how public aid works, can interrupt the meeting and say that is how it is supposed to work, but let me tell you how it really works. Federations are also linked in each case to the local community.

There is a trustee of the city of Waukegan on the Waukegan Federation. There is a representative of Mayor Daley's office on the inner city federation, as well as representatives from the Chicago Housing Authority—CHA. So these are the broadest groups ever formed in these communities linked to all of the important players in those communities.

What do the federations do? First of all, they are provided with all of the information on the amount of money flowing into their community from all sources relating primarily to human services.

This means, for example, in Grand Boulevard that the seven major State departments providing human services, all of which

are now independent, have carved out and provided the amount of money going into this inner city area. And we have come up with $135 million a year flowing into a community that has only 35,000 people. You could walk around this community in an hour, $135 million a year, 28,000 of those people are in poverty. If you divide out the per capita there, you are pretty close to $5,000.

There is a gap between that and the overall Statewide spending that could be attributed both to bureaucracy and to some statewide institutions that cannot be easily allocated, or should not be, to the local community.

So here we are with knowledge—with a community for the first time having the State budget director come and give them the knowledge of the amount of money spent each year in the community. The community then sits down and says, how can we use this money better?

A typical program, Project Chance——

Mr. SOUDER. We need to have you wrap up.

Mr. MACDOUGAL. I'll move quickly.

There are programs easily identifiable that can be redirected, redeployed. We then take some uniform needs that they have, uniform intake and so forth, spread them across the State.

Your bill, three comments. Big cities are crucial to this. Chicago is 65 percent or more of the problem in Illinois. But you should not fund the city or the local government. There are 64 communities within the city of Chicago. You have to find a way to get your flexibility to the communities and bypass local government in the case of big cities. At present most of the programs are Federal/State programs that go direct to the communities, not through the cities, so that, I think, needs to be reflected in your bill.

You need to focus on outcomes. The word "outcome" doesn't appear very often.

And finally on the bureaucracy in the reporting, remember that the bigger waste is on programs that don't work, not on people processing those programs.

Mr. SOUDER. Thank you very much.

[The prepared statement of Mr. MacDougal follows:]

PREPARED STATEMENT OF GARY MACDOUGAL, CHAIRMAN OF THE GOVERNOR'S TASK FORCE ON HUMAN SERVICES REFORM FOR THE STATE OF ILLINOIS

Dear Chairman Shays: I want to applaud your efforts to begin to address the need to have local communities play a key role in setting priorities for spending and determining their desired outcomes. The framework that you outline sounds similar in a number of ways to what we in Illinois are attempting to do through the Governor's Task Force on Human Service Reform by integrating the appropriate resources to the specific needs identified by a community and helping to remove the impediments that stand in the way.

Illinois Governor Jim Edgar appointed the Governor's Task Force on Human Service Reform in February of 1993. The Task Force, composed of public and private sector members, was charged with the responsibility to reexamine Illinois's Health and Human Services delivery system, determine the nature and scope of the problems of the system as experienced by citizens, providers, advocates, and public services; and develop community-based strategies for implementation of state-wide reform. This initiative is supported by the Annie E. Casey Foundation.

The Task Force works on multiple levels first through a state-wide board that includes community representatives from the five pilot sites in the state, the Governors' Deputy Chief of Staff (overseeing all human service departments), the directors for each of the human service departments, representatives of private industry, academia and other elements of the private sector. The pilot sites are in five eth-

nically and geographically distinct areas that reflect the overall make-up of the state. The sites are referred to as Federations; the composition of each Federation is inclusive of all segments of the community. The role of a Federation is to determine the needs of their communities and to develop strategies that enable the state human services system to effectively reach specific outcomes relevant to those needs.

The project has created linkages to management.and labor through a employee involvement committee that has representation both state-wide and at each local site. The federations are each assigned key department staff who function as liaisons between state government and the local community to insure participation and communication among all the partners.

At this point, the Task Force and the Federations have made strong linkages to other institutions and organizations. One example has been in the Grand Boulevard Federation which, as the attached list shows, has a very broad representative group—probably the most inclusive ever put together by this community of 35,0000. Grand Boulevard. while linked to the City of Chicago, is a community entity not a city or state entity. This distinction between big city government and communities often gets lost. The Grand Boulevard Federation is one of the most impoverished communities in the nation and includes the infamous Robert Taylor Homes. housing development.

The Federation recognized early on the need to develop an on-going relationship with the Chicago Housing Authority (CHA). The Chicago Housing Authority has assigned a representative to be an active member of that Federation and Vince Lane, the Former Chairman of CHA, is a member of the state-wide Task Force. The Grand Boulevard community has what appears to be about 100 million dollars per year of resources flowing through it design to address a host of human service needs. The reform effort has provide this community the mechanism for beginning to strategize how to use those current resources to produce outcomes that more families from dependency to self-sufficiency and strengthens the role of the whole community.

I am enclosing a packet of information on the Governors' Task Force and the Federations for your review and welcome your thoughts or comments on our state initiative on Human Services Reform. The principles and outcomes to be measured, developed by the Task Force and all the state agency heads, is particularity valuable and guides our efforts. Again, I want extend my support to your effort to expand the role of local communities in the determining and overseeing the utilization of their local resources to address the needs they have identified to reach their desired outcomes for the future.

GOVERNOR'S TASK FORCE ON HUMAN SERVICE REFORM

BACKGROUND

In early 1993, Governor Jim Edgar appointed the Governor's Task Force for Human Services Reform. The Task Force, with the support of Annie E. Casey Foundation, is broadly charged with the re-examination and restructuring of human services delivery in Illinois. The purpose of the effort is to improve the lives of children and families and to improve the delivery system in our State, consistent with the attached principles.

Principles

The Task Force has adopted some basic principles which are listed below:

- We are helping families and children help themselves by seeking to increase the capacity of families to meet their responsibilities to their children.
- Only with a partnership effort involving parents, businesses, the community, schools, churches and synagogues, and local, state and federal government will restructuring, redirection and renewal be successful.
- We need to make fullest use of, work with and learn from highly effective private sector and community-based organizations, rather than presume solutions through additional efforts by the state.
- We will emphasize cost effective prevention over inefficient, after the fact, treatment, amelioration, and crisis management.
- Local/community efforts are likely to be more flexible, relevant and effective than centralized/uniform state-wide efforts.
- We will be working to integrate services and to work with the whole family—bringing together programs historically separated by bureaucratic boundaries and categorical funding. This includes an emphasis on case management and fund decategorization.

• We will eliminate disincentives to preventive and integrated responses that have inevitably appeared with the hodgepodge of laws and programs that have been patched together over the years.
• We will find ways to end permanency of participation in and dependence upon the welfare system.
• We will explore opportunities to increase the effective use of volunteers (companies, community groups, individuals. etc.) providing social services.
• We will increase the proportion of caregivers (those in direct contact with disadvantaged people) in relation to recordkeepers, administrators, etc.
• We will measure the effectiveness of private and government dollars invested in terms of real outcomes and real costs.
• We will find ways to strengthen community economic development, utilizing resources coming into the community to provide training and jobs for residents of the community.

EXECUTIVE SUMMARY

A. Introduction

Governor Jim Edear appointed the public/private membership of the Governor's Task Force on Human Services Reform in February 1993. The charge to the Task Force was the reexamination of Illinois health and human services delivery systems. The work before the Task Force in the past year was to determine the nature and scope of the problems of the human services system—as experienced by citizens, providers and advocates, and public servants—and to develop frameworks for planning and implementation of system-wide reform.

Through this process the Task Force has identified systems problems and articulated goals in the areas of outcomes, broad prevention efforts, management, financing, and practice. This proposal: describes the best thinking of the Task Force, illuminates the difficult terrain we must cross, and suggests new structures and activities. These represent the first steps toward the creation of an outcome-driven, geographically-based flexible, and comprehensive services system for children and their families.

In organizing its continuing work, the Task Force recommends the field trial of two major structural entities: community federations and a State-level collaborative. The Task Force recognizes the many community based networking efforts underway in the State and will bring these efforts together through the establishment of federations at the community level and the creation of a State-level collaborative to coordinate planning and decision making These structures will focus and organize the complex work of reform. The relationship between these structures will yield important new directions and learning in a new and non-categorical public/private partnership.

B. Community Federations

A centerpiece of the Administration's plan to reinvent the State's human services systems will be the identification or formation of a human services federation in each of the field trial communities: Grand Boulevard, Waukegan. the Southern Seven counties, DuPage County and Springfield. The organization of local federations will be flexible to insure that they are truly representative of the community. The primary goal of each federation is to improve life outcomes for its disadvantaged families and children. The work of the federation involves establishing specific community priorities and needs and drawing upon the full range of resources, public and private, to address those priorities and needs.

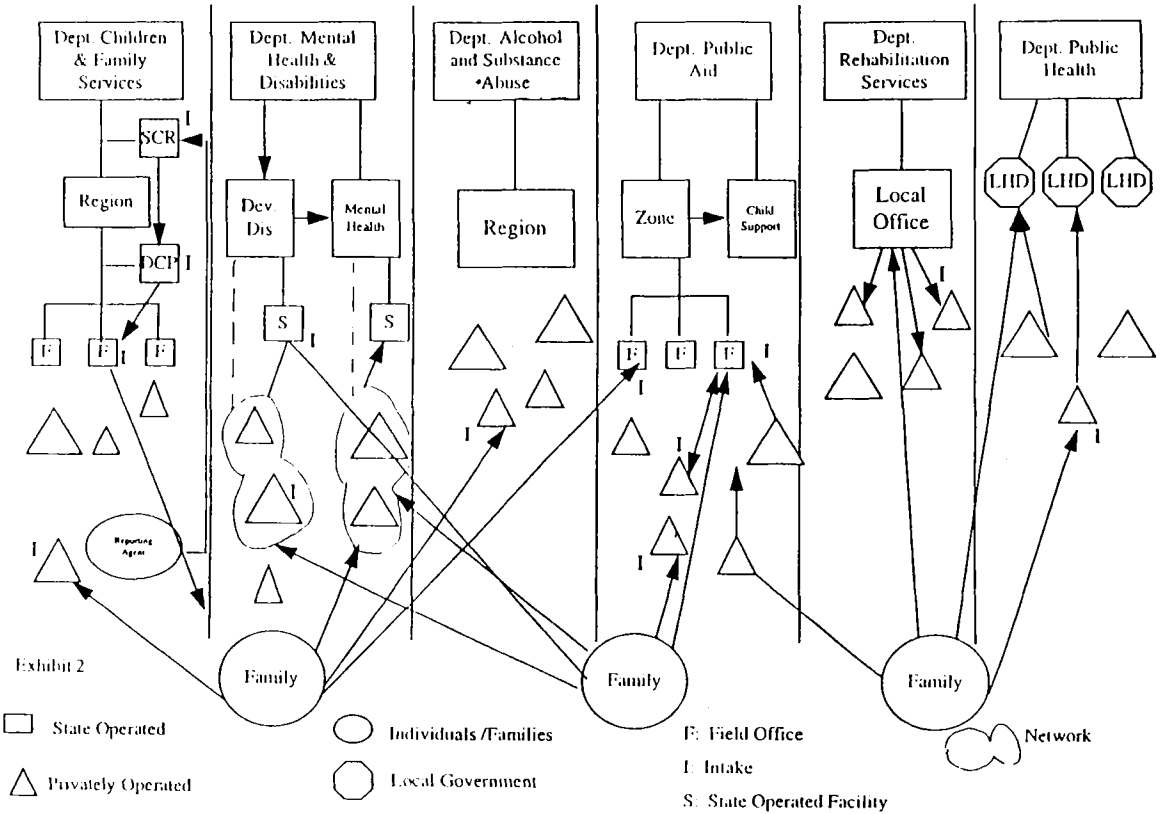
First year activities will focus on information gathering and capacity building within the field trial communities. Initial responsibilities of the local federations in the first project year will be:

• to identify highest priority community needs, independent of whether or not they fall within traditional state human service system responsibilities.
• to word; with the State and the private sector to identify and evaluate all resources flowing into the community and other resources spent on behalf of the community.
• to utilize training provided by the State, best practices information and success models from other states, together with other relevant information, identify opportunities for improved outcomes and for savings.

Once these original development activities have been undertaken federation responsibilities will be expended to include:

• to make every effort to fund highest priority community needs through redeployed resources and private support, removing barriers as required.

ILLINOIS HUMAN SERVICES SYSTEM CURRENT STRUCTURE



• to link private sector organizations (e.g. churches, businesses) with public sector systems to work toward a seamless array of services and to maximize effectiveness of community efforts to improve outcomes.

• to maintain accountability for the Governor's goals and principles and for measuring outcome changes in the community.

Over the longer term, local federations would be expected to ensure the building of local human services capacity and assume substantial responsibility for the management of resources.

Federations will be empowered with information necessary to propose change options to the State for possible approval. The federations will be provided by the State with information on all programs carried out by the State on behalf of human services users in the communities. The State will also provide information to the federations on the various mandates governing human service delivery, guidelines on the practical implications of these mandates, and a description of the current programs and procedures for meeting these mandates. Federations will be encouraged to develop alternative, locally-relevant service solutions for meeting the requirements of these mandates within the local community. Where the State has affirmed that the suggested changes meet all judicial and other requirements efforts will be made to adopt them within the community area.

The incentive for strong community involvement will be the Administration's commitment to make its best effort to support change based upon community determined priorities and to redeploy community achieved savings within the community. This commitment will include the State's best efforts to meet community priorities in areas other than those traditionally defined as human services. This might be achieved through collaboration with other agencies (in the area of economic development, for example), or through using human service programs to meet multiple community needs. The WIC food stores in Illinois are a current example of such a multi-focused program promoting job creation and economic development as well as meeting public health needs. Similar programs that focus specific attention on providing jobs to community members through human services will be an important goal.

This major move to bottom up community based priority determination in the proposed Task Force pilot programs is not without risk. However, strong controls are built into the trial as follows:

• Initially, few rules can be changed and almost no funds going into the community are discretionary. To make changes in programs or combine programs, federal or state waivers must be obtained, and thus community "responsibility" will be phased in over time as the community earns it. In addition, judicial and legislative mandates must be met.

• Any change or redeployment of funds would appear in a proposed "budget" that would have to be submitted to the designated state group/administrator for approval. Other than funds needed for an executive director and a small staff for the federation, it would not be necessary for the federation to have direct fiscal control of funds.

• A regular, independent, third party audit of each federation would be required.

A complete discussion of the community federation idea is contained throughout the proposal and in detailed Appendices.

As this community based approach is developed and refined in the pilot program sites, planning will be carried out to extend the approach to other Illinois communities. Perhaps new communities would be accepted into the program based upon their application and demonstration that they have an effective federation and related plans. Hopefully, in 5–7 years almost all Illinois communities would become part of the new, reformed human services system.

The importance of community "ownership" and responsibility cannot be overemphasized. The Governor cannot be the primary person responsible for each abused and neglected child. It takes a whole village to raise a child.

C. State Level Collaborative

A crucial element in Illinois Human Services is the creation of a collaborative at the highest levels of state government. The purpose of the collaborative is to provide a single point of response and support to community federations and to break down bureaucratic barriers, replacing categorized decision making with holistic, family centered plans and structure. The current Governor's Task Force, appropriately augmented, could function as the collaborative if it met frequently enough, but it would need to be supported by a senior state official. Assistant to the Governor. reporting directly to the Governor's Executive Assistant for Human Services.

The Assistant to the Governor' after consultation with the Governor's Office and the Task Force, would have authority to make cross departmental decisions regarding requests from the five pilot sites, and lead other cross departmental reform

projects such as an integrated, community based management information system and other steps necessary to move toward a true collaborative at the State-level. The collaborative is "one stop shopping" for community federations.

Assisting the Task Force the Senior Policy Council (generally deputy level departmental representation) would meet regularly and work with the Assistant to the Governor to respond to the cross-departmental operational decisions that will arise in the course of supporting the local federations, starting with the five pilot programs The Task Force and Senior Policy Council has been expanded to include representatives from Project Success and the Illinois State Board of Education. Additionally, the Assistant to the Governor would work cooperatively with staff from other agencies to coordinate planning and action where such coordination would be necessary to meet community priorities.

D. Conclusion

This Administration—the Governor and human services executive staff has made a strong commitment to far-reaching system change, and believes it is crucial to build on this momentum. This proposal outlines major systems reform through a sequence of steps that builds upon our progress to date and permits experimentation, learning, and adaptation over time.

Over time, as the number of local federations grow, (assuming successful pilots) the department directors would spend increasing proportions of time supporting and expanding state collaborative activities.

The process of evolving from categorized, top down decision making to collaborative/ integrated support of local federations is difficult and time consuming, but will have great rewards in the form of better use of scarce resources and therefore better outcomes for the disadvantaged children and families in Illinois.

CHARACTERISTICS OF A LOCAL FEDERATION

Purpose:

Improve the life outcomes of the disadvantaged (below poverty level) children and families in the community. Help build a healthy community.

Membership:

There is no predetermined size, membership composition (by training, occupation, ethnic group or any other criteria), except that the federation truly represent the community and be capable of performing assumed responsibilities. Clearly the Southern Seven federation will be much different than Grand Boulevard, for example. The federation could be an existing group, a federation or existing groups, a new group of community citizens, or any combination of these possibilities. Likewise the procedure for selecting federation members will vary by community.

Responsibilities:

1. Identify highest priority community needs, independent of whether or not they fall within traditional state human service system responsibilities (e.g. transportation to work).

2. Work with the State and the private sector to identify and evaluate all resources flowing into the community and other resources spent on behalf of the community.

3. Utilizing training provided by the State, best practices information and success models from other states, together with other relevant information identify opportunities for improved outcomes and for savings (e.g. reducing out of home or out of community placements).

Over the longer term, local federations would be expected to ensure the building of local human services capacity and assume substantial responsibility for the allocation and management of resources.

4. Make every effort to fund highest priority community needs through redeployed resources and private support removing barriers as required.

5. Link private sector organizations (e.g. churches, business) with public sector systems (e.g. public aid) and state funded providers (e.g. Catholic Charities) to work toward a seamless array of services and to maximize effectiveness of community efforts to improve outcomes.

6. Maintain accountability for the Governor's goals and principles and for measuring outcome changes in the community.

Working Relationships:

1. Works with the community: activities must be conducted in a manner to ensure the widest possible community support and consistent with the highest ethical standards.
2. Works with the other community groups (providers, churches, Boys and Girls Clubs, etc.) in mutually supportive manner.
3. Works with the state collaborative and the State Director of Human Services Reform or designee to secure budget approvals, assure necessary state training and planning assistance, review audit results, ensure accomplishment of mandates, and to obtain necessary executive actions, legislative approvals, federal and state waivers etc.
4. Develop mutually supportive relationships with local and county governments as required.

EMPLOYEE INVOLVEMENT COMMITTEE

Charge

The Employee Involvement Committee is charged with ensuring the transition to a client/community based human service delivery system which will have as positive an impact as possible on the state employees affected. The Employee Involvement Committee will provide workers and management with opportunities to study and explore new and innovative approaches and enhance the involvement of workers in planning, problem-solving and decision-making that affect their working lives. State employees, collective bargaining and community agency representatives will be involved in the planning and implementation, development of goals and objectives, identification and prioritization of critical processes, provision of necessary supports and resources, and development of appropriate reward and recognition systems. As this process evolves it will be necessary to retrain and reorient the existing staff in relation to the new model while maintaining the integrity of the present pay and benefit structure, union representation and number of jobs.

Tasks

1) Assume primary responsibility for public relations component to employees.
2) Develop a plan for introductory sessions with state agency staff to prepare them for involvement with Local Federations and State Level Collaboratives.
3) Work with Andersen Consulting to conduct a Change Readiness Survey.
4) Disseminate information to department personnel to increase involvement with the project.
5) Develop a mechanism in which employees can offer feedback and guidance in the development of the Local Federations and State Level Collaboratives.
6) Collaboratively develop a model(s) of employee involvement. The approach for achieving this goal will focus on the retraining and reorientation of employees and is specific to the human service redesign and organization practices of each field site.
7) Develop a policy and procedures manual which delineates the characteristics and objectives of the employee involvement model(s) specifically adapted to each field site.

PUBLIC RELATIONS COMMITTEE

Overall responsibility for public relations with all individuals and groups interested in Human Services Reform wit the exception of state employees. State employees and the unions will be the responsibility of the Employee Involvement Committee. Relevant groups are providers, legislators, associations, advocacy groups, opinion leaders, media and the general public. Assistance will be provided by an outside public relations firm. Also responsible for developing appropriate communications with the Leadership Advisory Council Plans should be developed and implemented in at least the following three areas:

- *Service providers:* regular face to face, and written communication and involvement with leading service providers both in Chicago and Springfield (initial list, Attachment 1). Development and implementation of a plan for involvement of service providers on Leadership Advisory Group (Attachment II). Work with Jimmy Lago.
- *Legislative:* Identify the most relevant legislators and establish regular communication. Special focus on legislative leadership and staff, relevant committee members and staff, and legislators representing pilot areas.
- *Opinion Leaders:* Identify top 100 opinion leaders (excluding providers and legislators) in field of human service reform and develop a strategy for enlisting their support. This group would include journalists (print and electronic) and their editorial boards, academics, philanthropic community, leaders of advocacy groups, pro-

fessional associations, local political leaders and others. Responsibility for relations with opinion leaders in local pilot sites would be shared by the local federation. It is this area that will be the principal focus of the outside public relations firm.

This outside public relations/communications effort is crucial to the success of the project. The immediate thrust would be the communication of the principles underlying the reform and the basic structural framework (state collaborative, community federations, pilot sites the intention of eventual statewide implementation, etc.). Also communicated would be current statewide improvement efforts that parallel and facilitate the overall direction of structuring reforms e.g., developing and implementing the outcome and community based budget process, parallel MIS systems; geographic alignment of state agencies by community, etc.

Future dialogue will relate to subsequent stages in the process as it unfolds. At every step, involvement and dialogue will be sought, thoughtful considered and acted upon as appropriate.

BUDGET COMMITTEE

The Budget Committee has overall responsibility for analyzing and monitoring the allocation of resources that fund services and programs in the field trial sites for purposes of determining:

- Aggregate government funding and its purposes;
- Aggregate not-for-profit funding and foundation funding and their purposes;
- Specific program funding and any related restrictions or limitations.
- Funding disparities between field trial sites and other geographic areas;
- Funding gaps where an identified need is not being met;
- The availability of flexible funds that can be used for specific unmet needs.

The Committee will develop outcome and performance measures for each of the state programs within the field trial sites through the following means:

- Creating common definitions of terms (program, service, etc.) among agencies;
- Developing a uniform indirect cost and cost-of-service methodology;
- Developing statistical and demographic indicators/descriptors that can be used for benchmarking the field trial sites against the state as a whole and its subdivisions:
- Formalizing program/service goals and measuring current performance to establish baseline measures.

The Committee will use the annual budget process to develop and reinforce state policy regarding the allocation of resources as it relates to both geographical distribution and achievement of outcomes. The Committee will seek to improve and refine the development of outcome/performance measures and determine the viability of relating allocation decisions to outcomes as a long range goal.

MANAGEMENT INFORMATION SYSTEMS COMMITTEE

Organize and Start-up MIS Committee

Identify and recruit a small group of individuals to sit on the committee. Membership would be targeted at information systems professionals and key functional experts representing the human services agencies and the Task Force. The Committee will establish a formal meeting schedule and project plan.

Create a long-term vision for integrated human services information systems

Prepare an information systems vision that reflects the long-term goal of a client-focused, community-based human services system. This vision should:

- describe how various parties (state agencies, community groups, provider organizations, and individual clients) interact with the system;
- describe how the system supports local decision-making;
- describe how the system provides for more effective deployment and use of resources.

Create a development and implementation approach for fully-integrated information systems

Prepare a development approach and implementation plan that identifies the steps, timeframes, and costs involved in converting the existing information systems to one that supports the long-term vision. Identify incremental steps that will facilitate migrating towards the long-term vision within practical constraints (budgets, manpower, reasonable levels of change, etc.). Determine how the vision and implementation plan will be modified over time to support changes in the human services system as well as for new and changing technologies.

Create a plan to support the information needs of the pilot Community Federations

Determine the information needs of the pilot Community Federations. Identify information systems that can be developed and implemented in the near- and mid-term to support these groups. Develop costs estimates for these systems and create a plan for their implementation and maintenance.

Establish Committee Workplan

Create a workplan and preliminary schedule for completing the activities outlined above.

INTRA-GOVERNMENT PLANNING COMMITTEE

Develop and implement a plan for creating an effective intra-government planning function. As part of the plan, define planning activities necessary to support community based service development.

Evaluate state progress toward establishing an effective state level collaborative, ensuring responsive decision making in support of community federations. Make recommendations as necessary to simplify the process of removing barriers (administrative, legislative, federal) impeding Federations as they seek to redeploy funds consistent with community priorities and state mandates.

Identify and evaluate state of the art ideas/human services innovations which are suitable for implementation in Illinois.

Identify necessary and current planning activities related to health care reform, state agency litigation management and emerging social welfare issues such as welfare reform.

Carry out other intra-government human services activities not assigned to any other Task Force group which will facilitate achievement of Governor's Task Force on Human Services Reform goals (e,g. establishment of common geographic boundaries).

ATTACHMENT I

Agency Laisons for Field Trial Sites

	Grand Blvd	Waukegan	So. Seven	DuPage	Springfield
DASA	John Moran 312/814-4766.	Jim Potter 312/814-4778.	Sandy Marshall 217/524-9074.	John Moran 312/814-4766.	Theresa Tudor 217/782-9088
Bureau of Budget.	Valerie Biggs 217/782-8485.	Valerie Biggs 217/782-8485.	Valerie Biggs 217/782-8485.	Valerie Biggs 217/782-8485.	Valerie Biggs 217/782-8485
DCFS	Mozell Nelson 312/814-7416.	Chris Munson 708/801-3448.	Sue Castellano 618/993-7128.	Chris Munson 708/801-3448.	Donna Morrison 217/524-2106
DMH/DD	Helen Sorrell 312/814-4906.	Gordon Reiher 312/814-4904.	Carlene Rumple 312/785-6023.	Gordon Reiher 312/814-4904.	Ingrid Hansen 217/785-6023
Public Aid ...	Mary James 312/538-8900.	Roberta Leonard 312/793-7520.	Kathy Rushing 618/524-2631.	Jon Walen 708/530-1120.	Greg Matarelli 217/782-0400
Public Health.	Linda Miller 312/814-4836.	Merryjo Ware 312/814-6126.	Janet Stone 618/993-7010.	Gloria Singer 708/293-6800.	Ralph Schubert 217/782-2735
DORS	Vivian Collins 708/857-2380.	Betty Butler 312/814-2924.	Ron Condry 618/997-1864.	Betty Butler 312/814-2924.	Dean Hale 217/244-0678

ATTACHMENT II

IMPROVE THE LIVES OF CHILDREN AND FAMILIES

Economic Well Being

Increase the proportion of children above the poverty line.

Reduce unemployment especially by increasing work opportunities which pay above minimum wage.

Increase home ownership.

Increase savings and equity formation.

Increase the opportunity for residents to own their own businesses.

Promote community economic stability.

Increase the percent of dollars that stay within the community.

Reduce homelessness.

Good Health

Reduce health disparities.

Reduce malnutrition.

Increase the access to primary health care and promote daily health.
Increase the healthy lifespan.
Increase immunization.
Reduce infant mortality and the number of low birth weight babies.
Reduce the teenage birthrate.
Reduce the incidence of AIDS and other STDs.
Reduce emergency room admissions.
Reduce the percentage of psychiatric readmissions.

Drug-Free Lives

Decrease the substance abusing population.
Reduce substance related illnesses and emergency treatment needs.
Reduce the number of young people starting to use alcohol, tobacco and other drugs.
Increase the recovery rate of substance abusers.
Reduce the rate of recidivism among ex-users.

Strong Community

Make greater opportunities available for community participation.
Increase the resources available for recreation.
Promote the integration of persons with disabilities into community life.
Reduce the number of individuals in institutions.
Increase the availability of childcare and other supports for working parents.
Increase the availability of affordable/accessible housing.
Promote stable community residence.
Lower the crime rate and reduce the incidence of violence in the community.

Life Readiness

Ensure that all children are prepared for school.
Ensure that children will achieve self sufficiency.
Promote literacy and numeracy.
Increase the job readiness of adult family members.
Increase the proportion of adults who are high school graduates.
Promote family well-being and stability.
Reduce the rate of out-of-home placement.
Reduce the rate of child abuse and neglect.
Reduce adult domestic violence.

IMPROVE THE HUMAN SERVICE SYSTEM

Empowered Communities

Create community collaborative that includes businesses, community organizations, schools religious institutions, and local, state and federal government.
Provide structural and organizational resources for community planning and decision making.
Incorporate the community 'voice' in all service delivery decisions.
Increase the involvement of volunteers and existing community based organizations in human service delivers.
Utilize and build upon the capacities of the community for service provision.

Accessible and Appropriate Services

Integrate service delivery to focus on the family rather than categorical programming or funding decisions.
Create a social service system that reduces dependency and increases self sufficiency.
Assure that community members are aware of services available.
Emphasize preventive and developmental rather than interventive services.
Provide an array, of services to meet the full spectrum of needs.
Utilize service dollars to strengthen community economic development by providing training and jobs for residents of the community.

System Efficiency

Reduce duplication (intake, assessment, or certification of programs).
Create an effective referral mechanism to link families with the most appropriate publicly or privately funded programs.
Streamline case management, record keeping, accountability and fiscal management through the use of MIS systems and standardized forms.
Replace the inefficient centralized state-wide system with a flexible community based system.

Incorporate the knowledge and the expertise of the community voluntary sector into service delivery.

Increase the effectiveness of private and government dollars invested.

Create an integrated financing strategy to support the service system.

POSITION DESCRIPTION

EXECUTIVE DIRECTOR—GRAND BOULEVARD FEDERATION

Overall Responsibilities

Working with the Federation Board, assume staff leadership in linking together and maximizing the effectiveness of all human services resources flowing into Grand Boulevard, with the primary objective of improving the outcomes of people in the community.

Working Relationships

1. Report to the Grand Boulevard Federation Board of Directors
2. Work closely with the staff of the state Task Force and the Assistant to the Governor for Human Services Reform
3. Maintain a close working relationship with the state liaisons (a group with a representative from each major state human service department)
4. Maintain mutually productive working relationships with the following groups: Grand Boulevard Mental Health Initiative, Provider Advisory Council, Mid-South Planning & Development, Chicago Community Trust's Children, Youth, & Families Initiative

Specific Duties

1. Support the Federation in determining the highest priority community needs, independent of whether or not they fall within traditional state human service system responsibilities.
2. Work with the state and the private sector to identify and evaluate all resources flowing into the community and other resources spent on behalf of the community.
3. Identify attractive opportunities to re-deploy state funds to achieve better outcomes and present them to the Federation for approval by the Federation and the State Collaborative, consistent with Task Force and Federation principles (attached).
4. Ensure effective implementation of approved projects.
5. Establish and manage effective staff organization to achieve above changes.
6. Inventory and develop effective linkages with all other relevant community organizations (churches, businesses, schools, etc.) to work toward creating a ladder of opportunity to self-sufficiency.
7. Take a leadership role to assist the community in building relevant human services capacity appropriate to primary priorities.
8. Maintain accountability for the Governor's goals and principles and for measuring outcome changes in the community.
9. Develop and implement a public relations/media strategy for the reform effort.

Grand Boulevard is off to a good start with enthusiastic participation of the very senior leadership of the community, and an interviewing committee was established to select an executive director. Agreement was reached on the composition of the Federation membership by category, and a number of additional names have been submitted. The overall workplan over the next 12-plus months is as follows:

	Date	Responsibility
Reach agreement with senior leadership group (Attachment II) on specific names for Grand Boulevard Federation membership.	12/1/94	Norwood/MacDougal
Hold initial Grand Boulevard Federation meeting, select chair, and name by which group will be known; establish meeting schedule.	12/15/94	Norwood/MacDougal
Conduct interview and select Grand Boulevard Federation Executive Director.	01/15/95	GBF Selection Committee/Norwood/MacDougal
GBF establish committee structure, commence determining community priorities.	02/15/95	GBF/Executive Director
Conduct initial review of current state spending in Grand Boulevard to provide background for determining redeployment possibilities.	02/15/95	GBF/Norwood/MacDougal
Develop and evaluate GBF budget and operations plans ("free" office space? staff?, etc).	03/01/95	GBF/Norwood/MacDougal
Identify other groups in the community with similar or related objectives. Develop linkage mechanisms.	04/01/95	GBF/Assistant to Governor/Executive Director

	Date	Responsibility
Review modules developed by Task Force and and identify initial redeployment and capacity building possibilities consistent with priorities.	04/01/95	GBF/Assistant to Governor/ MacDougal/Barbell
Identify providers in the community and establish appropriate links, including possible advisory committee.	05/01/95	Executive Director/Assistant to Governor/GBF
Develop and commence implementation of community relations effort .	05/01/95	GBF/Executive Director
Develop a plan where GBF and the Task Force MIS Subcommittee can obtain in a single location all relevant information about community clients together with a referral capability to local resources.	06/01/95	MIS Subcommittee/Executive Director/Assistant to Governor
Working with Craig Kennedy and others, develop and commence implementation of plan to link GBF efforts with the City of Chicago.	06/01/95	Executive Director/Assistant to Governor/MacDougal
Establish formal links with local businesses and obtain a major corporate sponsor (business advisory council?).	07/01/95	Executive Director/Assistant to Governor/MacDougal
Using Woodstock Institute data, evaluate funds flowing into the community for resident job potential and develop a plan to capture this potential.	08/01/95	Budget Subcommittee/GBF/Executive Director/Woodstock
Implement initial (perhaps temporary) local MIS capability	12/01/95	MIS Subcommittee/Executive Director/Assistant to Governor
Reach agreement on outcome measurement plan utilizing budget subcommittee information and outcome matrix contained in the proposal (Attachment III). Work with Casey to agree on an evaluation process.	12/15/95	Walters/Barbell/GBF/Assistant to Governor

The tasks above have many components, and can be elaborated upon if desired. All of the above tasks and dates are subject to revision as the community group gets underway and assumes greater responsibility for this effort.

Mr. SOUDER. Ms. Paulus.

Ms. PAULUS. Thank you very much. For the record, I am Norma Paulus, the elected superintendent of public instruction in the State of Oregon. I was elected in 1990, and in the course of my election, I heard from teachers, parents, administrators, and school boards about the restrictive requirements that categorize Federal education grants and that they were seeking freedom from some of those restrictions.

But I really became very, very aware of the necessity of changing the system once I started administering the program. I was convinced that we were not getting as much as we could out of our Federal dollars because of the rigid restrictions that came with the Federal dollars and the accounting processes. At the same time that I was elected, Oregon passed the most comprehensive school improvement effort in the history of this country, at least in the last 50 years, and that brought the then-Secretary of Education Lamar Alexander to Oregon to view what we were doing, and he pronounced that every State should be trying to follow that lead which was to set higher standards and develop a testing system to see if we were getting there; and to involve more parents, site councils, a lot of things.

In the course of that visit to Oregon, Secretary Alexander turned to me and said Norma, how would you like to be the first State in the Nation to have a waiver for Federal funds, flexibility for Federal funds, the use of them? And I said, which bridge do you want me to jump off? This was a real priority with me.

So he and I set a date 3 months hence for us to come back to his Department and explain to his people how we would change schools, what we would do if we had that kind of flexibility; and when we presented that evidence—and it was December 4, I remember it because it was a very important day for us—they said,

This is just wonderful, this is really going to help us, and we will give you an administrative waiver.

In another office, I was Oregon's auditor for 8 years, and I knew from that experience that an administrative waiver would not give me what I needed. And I will emphasize that point because shortly before I took office in a school district south of Seattle in a very impoverished area, a young woman was named principal, and without being given the authority to do so, she used what she thought was common sense and her educational talents and ignored Federal restrictions that came with the dollars, kept all the children together.

As a result, she improved test scores, made it into a very vibrant, high-performance, successful school which had parents from the more affluent neighborhoods trying to get in the school, it was lauded as a very successful effort. However, 2 years later, the General Accounting Office came into the Seattle School District and said, now you will pay us back the $2 million because your principal did not abide by these restrictions. The upshot of that was that made me even more leery about accepting an administrative waiver to do some of the things that we felt needed to be done.

I then took my case to Senator Mark Hatfield, and he responded by eventually successfully amending the Goals 2000 legislation to give us that flex factor in the use of Federal funds for six demonstration States, and last February Secretary Riley gave me, as Superintendent, the first "ed-flex" status. And I will just give you three quick examples of changes, but there are many:

Federal dollars for math and science education that restrict teacher training to school workshops. We have a very energetic school-to-work program to take our teachers and students out into the workplace. We have 4,000 partnerships with the Oregon Business Council Associated Oregon Industries, because that is where technology is, that is where laser, robotic, and computational equipment is that we can't put in our high schools. And we could not use that Federal math and science money to take our teachers out of those traditional school workshops into the business community and industries where they could see how math and science and technology were used and integrated in the workplace. With this new flexibility, we can do that.

And we have partnerships within Tektronix, Sequent, and others to bring our teachers up to snuff on this but also to make math and science much more relevant and exciting for children. Oregon has a K–14 system, and we are developing our school improvement effort as a K–14 system.

The Oregon Office of Professional Technical Education urged the forming of regional consortiums, because our school effort, school improvement effort and school-to-work initiatives tend to be regionally focused. This is a totally different configuration than is suggested in the Carl Perkins Act, so without ed-flex, we would not have been able to do that; which also brought us into a partnership with a lot of other State agencies, and that flexibility allowed us to do that.

Title I regulations require money to be targeted to schools most in need. With ed-flex, administrators can distribute the grant throughout the district and, in turn, help all children.

In addition, Title I, migrant and English-as-a-second-language regulations typically require children who receive these services to be pulled out of the regular classroom which we found was dumbing down the curriculum for the very children it was intended to help. With ed-flex, all students may participate in the entire school program and the students no longer feel isolated from the rest of the class or stigmatized.

Those are just three examples, and every day we are finding more. So I would urge that you extend this flexibility to more States than just the six.

Thank you.

[The prepared statement of Ms. Paulus follows:]

PREPARED STATEMENT OF NORMA PAULUS, SUPERINTENDENT OF PUBLIC INSTRUCTION FOR THE STATE OF OREGON

It was not long after being elected Oregon's superintendent of public instruction, that I experienced the onerous and restrictive requirements that characterize federal education grants. In many instances, we were made to comply with regulations that had no relevance to our circumstances in Oregon. These stipulations exist because federal officials are compelled to administer grant programs to the lowest common denominator. While many of these programs are effective in raising inadequate school districts to an average level, it conversely hampers successful school districts by impeding innovation with universal requirements.

We presented our case for flexibility to Senator Mark Haffield and he resounded by successfully amending the Goals 2000 legislation providing a flex factor in the use of federal funds for six demonstration states. In February 1995, Oregon became the first "ed-flex" state. Ed-flex has beneficial in Oregon in a multitude of situations. Let me give three examples of the successes of this policy in my state.

- Federal dollars for mathematics and science education restrict teacher training to school workshops. With ed-flex, school districts in Oregon may use the money to send teachers to businesses and industries where they can learn how mathematics, science and technology are used in the workplace.
- Oregon has a K–14 system. The Oregon Office of Professional Technical Education urged the forming of regional consortiums because school reform and school-to-work initiatives tends to be regionally focussed. This is a different configuration than suggested in the Carl Perkins Vocational Education Act. Without ed-Flex, it would not have been possible for Oregon to receive funds for our efforts in vocational education.
- Title I regulations require money to be targeted to schools most in need. With ed-flex, administrators can distribute the grant throughout the district in turn helping all the children. In addition Title 1, migrant and English-as-a-second-language regulations typically require children who receive these services to be pulled out of the regular classroom. With ed-flex, all students may participate in the entire school program. These students receiving special services will no longer feel isolated from the rest of their class.

Each federal grant program comes with its own paperwork and mandates compliance to its own set of regulations and restrictions. With ed-flex, administrators can allocate federal money where it is most needed, accounting for its use as a whole. The existing accountability structure is very good at determining where federal money is spent, but it tells us very little about whether we are actually achieving results. Local administrators know best how to achieve the maximum results from the scarce federal dollar. Ed-flex shifts the focus from the process and procedure to the positive results achieved from the use of federal grants.

The federal government should compliment, not hinder the efforts of innovators on the local level. The need to provide flexibility to local and state governments is immense. These localities need to be able to use their acquired funds in a manner suitable to the needs of their communities. The Local Empowerment and Flexibility Act will not only permit variation in how local governments meet national goals, but it will encourage solutions that best fit the local context.

Federal laws and regulations have tended to treat every area of the country the same. Consequently, we all strive to meet the median instead of to excel. Politically, socially, structurally, local and state governments are very different from one another. Adding flexibility to the federal/state relationship will encourage local governments to find solutions that fit the local context. In addition, providing flexibility

will eliminate regulations that force local governments to "solve" problems that they do not have.

Local education is best administered on the local level. The superintendent of the local school district has a better understanding of the needs of their district than a federal bureaucrat 3,000 miles away in Washington. By cutting many of the strings attached to federal dollars this superintendent can use this money more creatively and effectively. Local school districts can tailor the use of federal money to best address the needs of their students. Until we became an ed-flex state, we had no relief from these federal impediments. Now that the program is so successful, all 50 states have expressed interest in participation. To meet the growing demand for ed-flex, a bipartisan effort is underway to expand the current limit of 6 ed-flex states to 12.

As the statewide elected official for education in Oregon, I wanted a say in how Oregon spends its federal education dollars. Other elected state officials in Oregon and across the country want the same opportunity. The Local Empowerment and Flexibility Act of 1995 would do for other state and local agencies what ed-flex did for our local school districts. In a time of budgetary constraints, this legislation would maximize the use of federal resources while still accomplishing federal goals. By freeing the creative spirit at the state and local level, Local Flex establishes a new standard of excellence in governing.

Lest I be accused of biting the hand that feeds, let me assert that a federal presence in education is imperative. The Department of Education was originally created to serve as a supportive partner to the states and local communities, working to set national standards and implement needed changes. The Department of Education has enabled many middle- and low-income students the opportunity to attend college.

Federal assistance has also ensured that students with disabilities receive a quality education. The Department of Education has served a vital function in the improvement of our schools, and the Local Flexibility and Empowerment Act would enhance the positive influence of the department in local school districts.

The State of Oregon has worked in a bipartisan manner to ensure ed-flex was a success, and it has been. I hope that this bipartisanship will continue with the Local Empowerment and Flexibility Act of 1995.

Cooperation between all levels of government is the key to success for so many problems this nation is trying to address. If Congress is willing, I know the states are ready to make the commitment to seeing this idea work.

Mr. SOUDER. Thank you very much for your testimony.

We have been joined by our Chairman, Mr. Shays.

Mr. SHAYS. Sorry I missed the first panel. I am sorry, Mr. MacDougal, I missed yours.

Mr. Souder, do you want to start with some questions? Then Mr. Barrett is going to come back and he can begin asking, and we won't have to keep the witnesses waiting.

Mr. SOUDER. I had for Mr. MacDougal, but also for Mrs. Paulus, Superintendent Paulus.

A number of years ago I was, I visited and I talked to Greg Kohler some about Operation Beethoven, which was one of the first experiments in the effort to coordinate State, Federal, local and private sector, targeting the kids in a given school and hoping to track them all the way through from birth through graduation, figuring that we could see then which programs were working and how. A couple of things arose out of that that were frustrating.

Among other things, what they found was, anybody who was interested in getting in the program and focused in the program very long and kind of started paying attention to things, their first goal was to get out of the Robert Taylor Homes and out of the neighborhood, which meant that if you, in effect, self-selected yourself to get into the program, soon you left. And you weren't able to track them, which is one of the problems that I would assume we potentially have in some waivers in estimating the effectiveness of waiv-

ers, because to some degree, if the program works, people move up and out, which is one of the goals in these communities.

But a second thing we toyed around with in some legislation is that if we do statutory changes, should there be—as we heard on the first panel, a lot of the complaints that are coming in are actually State and local. Should there be some sort of a tie, much like what you are talking about doing in Illinois, and what you have done in Oregon, that in order to get waivers, the State and local governments have to participate in that also, and there needs to be kind of a shared relationship; or do you think it is sufficient to focus on what we can concentrate on this?

Mr. MACDOUGAL. Well, first, on people exiting, such as the Beethoven experience, Beethoven itself has proven to be less wonderful than we might have hoped in the sense that it required a lot of private money and the cost per student doesn't make it easily replicable. An awful lot of what we are talking about is rebuilding the community, and the core of the federation people are focused on making the community a better place to live, the black metropolis. It was once a great community. We will have exits, but we don't expect that to be the norm.

Mr. SOUDER. And the exits were not from Chicago, they were even movements within Chicago neighborhoods?

Mr. MACDOUGAL. Within Chicago, yes, but the same would apply with regard to the Grand Boulevard neighborhood. If you lived in Grand Boulevard, you would think the West Side was another country. We do think that we can help rebuild and maintain community. However the question you raise makes the evaluation challenge much more substantial, and we haven't gotten around to spending as much time on evaluation as we hoped, but we know that is going to be a problem.

Mr. SOUDER. How do you feel about, if we grant Federal waivers, the States should also be granting waivers and flexibility to be eligible?

Mr. MACDOUGAL. Absolutely. The State—I think the State is really the key player if you look at who runs this money, particularly human services money; and I hope you don't make us go over a city hurdle in order to get it changed. Right now, we don't have to do that; we can go to the State and get waivers, and we can inform and make sure politically we are bipartisan and together with the city. But we don't have to file and go through a formal request with the city in order to get things done. I think that would be an extra barrier rather than a removal of the barrier for us.

Mr. SOUDER. You have touched on another thing, and the question is how can we get at this with our Federal dollars, and both of your States, particularly Oregon, is strong on citizen participation, but Bob Whitson has suggested over the years that we have some sort of a ZIP code test that up to one-third of any Federal grant has to go to people who live inside that ZIP code, because many of our Federal dollars go into basically what we call in Washington the "Beltway Bandits," but the local versions of Beltway Bandits where you have researchers who get it, they come in.

There is a joke in Los Angeles, when I was there, that they could always tell who had a Federal grant for gangs because it would be some white guy who had a walkie-talkie in his belt, a clipboard,

interview a few people, and head back to the suburbs, rather than the money actually getting into the community programs; and often even our waivers are oriented toward units that don't necessarily involve that community participation from the most grass-roots level.

How can we get at that, and do you see that as something we should have a focus on as—being that you also have to have a level of private sector involvement and a community base in addition to State and Federal Government, if you are going to say it is a true community project.

Ms. PAULUS. Well, first of all, I would like to make the point that the ed-flexibility that we have under the legislation passed and amended, Goals 2000, fits in with what our local statutory school improvement effort is, which is essentially to turn the system entirely upside down in Oregon where the State department, prior to, was a regulatory body and had many, many restrictions that the school districts complained about that emanated from administrative rules promulgated at the State board level, or by legislative action.

So in Oregon what we are trying to do is tell school districts that here are the high standards that we want all children to meet, not just the ones that are going to college, but all children must meet these standards. Here is the money and here are some ideas about how you get there, but you may fashion your own program. But we are going to come back with a statewide testing system that we are developing and see if your methods are bringing these children to the levels of proficiency that we expect. In other words, we in Oregon now for the last 5 years have been giving the locally elected school boards maximum flexibility in how to reach these standards, so ed-flex fits right in with that.

Mr. SOUDER. Do you have parents involved in that as well?

Ms. PAULUS. Yes, as a matter of fact, the law specifically requires that every school building, not a school district, but every school building have a site council made up of parents and teachers.

When the law was initially passed in 1991, the teachers union was successful in keeping parental involvement at a minimum. This last session of the legislature expanded that, so it is 50–50, and the site councils with teachers and parents are critical to the success of this.

In addition, the legislature has passed a law—and this has been a very bipartisan effort; all of what I have described to you in our State has been very bipartisan. We have—just this last session significant amounts of money were taken from the State Human Resources Department that were designated for children and given to a commission. In turn, the commission has channeled the money down to locally selected groups of the Commission on Children and Families to decide how to spend the human resource moneys to shore up families, reduce teenage pregnancy, reduce abuse of children, that sort of thing, and it works hand in hand with our school improvement efforts.

Mr. SOUDER. The Chairman would like to ask one question before we break to vote.

Mr. SHAYS. I would just like to say that when I come back I want to ask this basic question:

First, I am very excited about this bill. The Federal Government always takes a one size fits all approach, and that is crazy. What we need to do is document where there is waste. I mean, I can give you examples of where I see waste, but if during the course of my going to vote if you both would give me examples of where you see categorical grants, not maximizing their benefit or just plain downright being wasteful, I would love to be able to ask you to put that on the record.

Mr. SOUDER. We stand in recess.

[Recess.]

Mrs. MORELLA [presiding]. I am going to reconvene the meeting in the interests of time. I know other Members will be joining us. The last vote was totally unexpected, as was the one previous to the last vote, so people will certainly be coming in.

But I wanted to thank Panel Two for being with us here, and direct a few questions to them. We will keep the record open also for others who may want to ask questions.

I wanted to ask Ms. Paulus, you are Superintendent of Public Instruction for the State of Oregon. Can you tell us how education enters into this equation with regard to the bill that we are looking at, maybe the complexities of it? How do you see the role of education?

Ms. PAULUS. Thank you.

From the very beginning of my tenure, I have been working to get more flexibility and to be freed up from the onerous restrictions that come with every Federal dollar to our State, and the accounting procedures that come with each stream of money. And your colleague asked about examples of waste or inefficiency, and I can suggest two to you.

Under ed-flex, prior to ed-flexibility, each money stream that came to us, whether it was Title I, Carl Perkins money, Eisenhower math money, each money stream came with its own accounting restrictions and procedures, and that meant people at the Federal level, regional level, State level, and local level were meeting in these silos, accounting for dollars and tracking dollars. That is not only very time consuming, but it is very, very wasteful. That has been changed.

One of the things that I wish you could change, and it is a good example of waste that flexibility would—this is an answer to his precise question, so maybe I should wait until he is seated.

Mrs. MORELLA. Talk about timing, Mr. Chairman, she is now responding to the question you asked, and you came in the door at just the right moment.

Ms. PAULUS. About flexibility. Two examples that I can think of right off the top of my head about waste in the present system, and I was just giving Congressman Morella an example of flexibility, not only in the curriculum, in the delivery of instruction, but every Federal money stream comes with its own accounting procedures and requirements, and that means that people at the Federal level, regional level, State level, and local level then are meeting in these silos of activity to make certain that the accounting procedures are followed and that the monitoring system is.

Now, with ed-flex, we are able to meld those Federal money streams together and have one comprehensive accounting system.

It saves money, makes it more efficient and allows—frees up time to work with children.

Another example, and something that I have suggested to our two Congressmen this year and last year, was the way in which the Federal Government gives us money for nutritional programs, I think, is just nonsensical. If you would give us the Federal dollars and allow us to buy locally—Oregon grows the most wonderful vegetable and fruit products, and if I could buy locally, it would not only help the farmers, but the children would get more palatable food and certainly more nutritious.

Mr. SHAYS. Would you elaborate, what you mean by "buying locally." In other words, I am not familiar with how you have to buy.

Ms. PAULUS. There were some States that were given the flexibility to buy locally from their own dairy farmers, dairy products, meat products.

Mr. SHAYS. Where would you ordinarily buy if you didn't buy locally?

Ms. PAULUS. Well, oftentimes we get surplus food; we get all kinds of restrictions that come with it, that we are not able to give it to the local schools and say, here it is, and you can buy locally, local products. We need that freedom.

You have given that—I wish I could remember the States, because I asked to be included in it, but we were not. You, in the past, have given a few States that maximum freedom and flexibility to buy locally.

Now Oregon has just recently won a national award because we changed—in some school districts we were able to, as a demonstration project, change the system so that the students themselves were given the choice. At the cafeteria lines, they had a greater choice, and they weren't all served the same meal, that certain things were made available to them, and that has provided more nutritious food and less waste. So if we could have more freedom to buy from Oregon producers with Federal dollars, that would help not only the nutritional content of the food, but it would be much more palatable, fresher and certainly less expensive.

Mrs. MORELLA. I would like to just pick up again on the education issue.

We have many different kinds of scholarships and so many different programs under education. This 104th Congress is probably going to combine a lot of them, to begin with anyway. How we give States the kind of flexibility they need, without all those regulations and still get our points across? How can we tell States, for example, there should be scholarships for women in math and science or some more work should be done with a Perkins loan or vocational education?

Can we do that, too? Can we still get some points in with maybe some of the money that would go to you and let you still do it, or are we making it more cumbersome? Are you saying to us, Hands off, completely?

Ms. PAULUS. Well, my first——

Mrs. MORELLA. Mr. MacDougal is.

Ms. PAULUS. My first suggestion to you would be to expand the present flexibility program that Secretary Riley is administering so well—it fits right in with what we are trying to do in the State of

Oregon—and give more flexibility from the State department to local school districts. So my first recommendation would be that you expand the present program from the six demonstration sites.

It was very difficult to get six demonstration sites past the special interests that guard those categorical grants at the State level, at the national level. So I would urge you to give the Secretary of Education more flexibility to expand it and to offer the same thing that Oregon has to other States. They are all clamoring for it, and they certainly should have the opportunity to do it.

I also think, as you proceed with the block grant provisions, that you explore ways in which you can give us the money and tell us what you want the money to be used for, if it is to benefit migrant children or for the instruction of math, but hold us to meeting the standards and give us maximum flexibility. Because we come—I come from the most diverse State in the Nation. It is a very large State geographically, but sparsely populated; and what fits in Federal regulations, that works in inner cities, does not work in Oregon. We need maximum flexibility to accomplish the goals that you set for us.

Mrs. MORELLA. That makes sense. I thank you. It was nice meeting you, too.

Mr. MacDougal, I want to give him one chance——

Mr. SHAYS. If I could just ask the gentlelady to yield for a second.

Mr. MacDougal, if we get you out at 12:20 or so, and you make a 1 flight, is that going to be all right for you?

Mr. MACDOUGAL. If the plane is on time, that will work, so I am willing to take the risk.

Mr. SHAYS. We can get you out in 10 minutes and you might make a 12:30. Would you prefer that?

Mr. MACDOUGAL. I prefer the 12:30, but having come here, I don't want to——

Mr. SHAYS. Why don't we ask any Members here to focus on you for the next 10 minutes.

Do you have a little more time, ma'am?

Ms. PAULUS. I have an appointment, I had one at noon, but I could delay that.

Mr. SHAYS. If you don't mind just delaying it, if you are able to.

Mrs. MORELLA. I just wanted to give you an opportunity, Mr. MacDougal, since you showed me your various silos with regard to human services, do you want to make any comments about how this bill is a first step toward alleviating that kind of morass?

Mr. MACDOUGAL. I think it is definitely a step in the right direction, but I think we are talking about large-scale organizational change here, and most States have categorized departments that go down to the basic—all the way through with their own accounting, just as my colleague here has said; and somebody is going to have to take a deeper look at how all this mass of programs have been put together over many, many years, all with good intentions, but which work in conflict one with another.

You know, I believe you are getting a start here, but you are not really grabbing it. I think my Wall Street Journal article a couple of weeks ago gets at it maybe a little bit more closely. Examples of waste that you asked for, Mr. Chairman, Project Chance is a welfare-to-work program in Illinois, and in going to take a look at

this program, I watched the young men being trained in how to fill out applications and how to apply for a job, how to do an interview, and how to dress and so forth.

Then I talked to the MSW—Master in Social Work—that was running the program, and I said, What kind of success are you having? He said, Not very good.

I said, What percentage of these people get jobs? He said, 3 percent or less.

Well, why are you doing this? Well, this is what the regulations call for in order for them to be eligible for other programs.

What would you do if it was your money? Well, that is easy. I would get a van and I would run it from Robert Taylor Homes out to Elk Grove Village where the jobs are.

There is a WIC computer that by Federal law can't be used for any other services than WIC. And yet, one of the big needs we have at the community level is integrated MIS systems, so that when a person who is receiving services comes to an intake worker, the information can cover the whole range of services provided. No State, to my knowledge, has this yet.

It is a very complex thing getting all of these silos linked on a computer system. Right now, a family has to go to all six systems, and most of the inner city users are multiple system users. I asked the Governor what he thought about it 1 day. He said, You know, 70 percent of the problems we have got are the Feds, and if we could get rid of that, we really could get more done with less money in terms of outcomes.

Mrs. MORELLA. Thank you. We will see whether that can happen. Thank you, Mr. Chairman.

Mr. SHAYS. Mr. Barrett, do you have any questions?

Mr. BARRETT. Yes, I do.

Mr. MacDougal, I understand you are in a hurry. My understanding also is that the Governor's Task Force in Illinois is concentrating on five pilot sites; is that right?

Mr. MACDOUGAL. That is right.

Mr. BARRETT. Do you think it is wise for us at this level to use a demonstration project approach, pilot approach, or should we go for the whole enchilada and just open it up throughout the country?

Mr. MACDOUGAL. I think there are steps you can take to encourage the formation of community groups and give them a voice at the table. I don't think there is anything fundamentally risky about that.

Some of the things—how far we can go in empowering these community groups is yet to be determined, but with proper checks and balances there is really nothing wrong with going broad scale. Encouraging the formation of these federations and giving them a major say in how the community priorities are developed and how the money is spent in their communities.

Mr. BARRETT. Are there certain areas where you think we should still keep our finger in the pie? I think of, for example, in Wisconsin, right over the border from where you are, there is always a concern that people are being encouraged to move to Wisconsin from Illinois for welfare; and I assume you have the same thing at your southern border as they do at their southern border.

How do you think we should deal with it?

Mr. MACDOUGAL. I think the States will tend to take corrective action themselves. There are 50 States looking out for their people and their State interest. I don't think the kind of problem you describe should govern the overall principle of getting closer to the communities and getting the communities involved in how the money is spent.

Mr. BARRETT. But don't you think that there are some areas, if I may mix metaphors and use an example outside human services, where it may be in the best interest for the State of Minnesota for example, to put its waste in the Mississippi River and send it south.

Mr. MACDOUGAL. If you are getting into the environment, I don't assume this has really much of anything——

Mr. BARRETT. But I am saying, I think there might be some analogous things, it might be in the best interests of the people in a community to put all the poor people in the community on a bus and send them out of State. That is a rational——

Mr. MACDOUGAL. I don't see that as a realistic—something to worry about in human services.

Mr. BARRETT. But it is something we have seen.

Mr. MACDOUGAL. It is certainly not a major factor in what we are talking about here. To have any semblance of the perpetuation of the rules and regulations—and by the way, a random sample walking through these offices, which I have done; I have spent the last several years of my life as a volunteer learning about this system. You ask the people where the paperwork goes, and they say, I need a quarter of it or less to serve the client.

Mr. BARRETT. I am not arguing with that at all. I agree with you.

Again, my question is, are there basic fundamental safeguards that go beyond paperwork that you see as being something where the Federal Government should say, "This is not something as a Nation that we think is good public policy."

I am not going to be sitting here defending bureaucrats or paper, but I am concerned about how far we go.

Mr. MACDOUGAL. OK. I would like to think more about that. I am sure there are some areas in the health area where we need to have some national input, but as far as supporting the communities to create a ladder out of poverty, I see that as a very local thing.

Mr. BARRETT. OK.

Ms. Paulus, I think of public instruction or public education as being pretty much——

Mr. SHAYS. Could I interrupt the gentleman just a second?

If we keep you 5 more minutes, you can make that 12:30 flight. It is at National?

Mr. MACDOUGAL. Yes, it is. You are very considerate.

Mr. SHAYS. You can just go out the door and get a taxi.

Mr. MACDOUGAL. It is a legal proceeding; otherwise, I would reschedule it.

Mr. BARRETT. Maybe I should yield to Mr. Green to see if he has any questions.

Mr. GREEN. I don't have any of Mr. MacDougal. I have some for Ms. Paulus.

Mr. SHAYS. I have some, but I am going to let you go. Ms. Paulus probably can respond to some of those questions, so I do think you need to get on your way. Anytime I hear "legal proceeding"——

Mr. MACDOUGAL. Thank you very much. I think you all are on the right track, very exciting.

Mr. SHAYS. Thank you.

Mr. Barrett.

Mr. BARRETT. Ms. Paulus, as I was saying, I think of public education as being basically in the province of the State. What areas do you see specifically where we hamper you too much, just to help me out?

Ms. PAULUS. Well, as I said earlier——

Mr. BARRETT. And I apologize, I missed a lot of it because of the vote.

Ms. PAULUS. Sure, I understand that.

In 1991, the Oregon legislature, which was dominated on one side by the Republicans and in another by the Democrats from an urban center, passed the most comprehensive school reform effort in this country; and it has been heralded now by most people involved in education and the business community as a true leader. And we were working very closely with President Bush's Secretary of Education, Lamar Alexander, who praised our efforts, and we are working very closely with Secretary Riley; and I would like to emphasize to you, sir, that it has been an extremely bipartisan effort with myself as a Republican and two Democratic Governors that have been totally supportive. So legislators and State officeholders have been working very closely on flexibility at the local level for schools and for human resources.

Governor Barbara Roberts, a Democrat, was leading the fight for flexibility for human resources in our State, following what we were doing with education. We found that so many of the Federal restrictions that, our impression is, started with addressing inner city, large inner-city problems. When they came to—when the money came down to Oregon, with the programs, with restrictions and the accounting processes, it didn't give us the flexibility that we needed to maximize the use of that money; and with flexibility, we can demonstrate that we have raised test scores for the children that were targeted by the moneys.

I would also like to emphasize to you as a former legislator and as a statewide elected official, I feel very keenly about following legislative intent and laws, and if I don't like or agree with one, I don't ignore it, I try to change it. So I would not under any circumstances condone a procedure whereby the State would take money given to me for migrant children and let it be melded into the generic pool and benefit children for whom the money was not intended.

But some very quick examples: Most of our categorical grants and most Federal money is given to us in that way. We would have to pull children out of schools and out of classes and put them in mobile homes. They were stigmatized; they often got a teacher that was at the end of their career, not nearly as bright-eyed and bushy-tailed and energetic as the teacher in the elementary classroom.

We found that if we can keep all of the children together and bring extra resources in, provided by Federal dollars, that those

children benefit. I can give you many examples of our poorest schools in impoverished areas that were able to use Federal dollars in different ways and raise reading scores that were jumping right off the page.

So it is not our intent to take money given to us by the Federal Government for migrant children, special ed kids, Title I kids from impoverished circumstances and use it for middle-class, white, suburban kids. That is not our purpose.

Our purpose is to be able to, through innovative methods and being freed up, take that extra money and help those children in a much more comprehensive way; and we have demonstrated that it works. And two Secretaries of Education have agreed with me, one Democrat and one Republican, so I would encourage you to do a couple of things.

No. 1, expand this, give all States the flexibility you have given me. They all want it.

Two, on the—you were questioning my colleague from Illinois about job training, and this is something I feel very strongly about and we are changing in Oregon in a bipartisan way. Most job training in this country has been dealt with connected to the human resources department and area, and it has not worked. We are urging Congress and our States to take job training money and programs and connect it to the educational community instead, and that is what we are doing in Oregon. Secretary Riley and Secretary Reich just hired away from me the woman that was making that such a success in Oregon, so this is a very bipartisan effort.

The time has come to change the way in which you give us money and the laws to account for it. Set the standards in your goals and hold us to it, but give us the flexibility we need.

Mr. BARRETT. Thank you.

Mr. SHAYS. Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman.

Ms. Paulus, my other committee I serve on in Congress is the Economic and Educational Opportunities, and I served a lot of years in the Texas legislature and was on the education committee there, so I know where you come from; and last year we reauthorized elementary/secondary education that granted a lot of flexibility that is built into this bill.

One of the concerns I have is that I also remember in 1965, when it was provided for, the original intent was to try and target that funding to those harder-to-educate children; and I notice in your statement where you said the ed-flex can distribute grant money throughout the district, in turn, helping all children.

I know last year, during reauthorization, we tried to address that by lowering the percentages in a given school over the next few years, and I think it is going to be 50 percent—50 percent of the children in the school—to eliminate the take-out program and the setting-these-children-aside issue.

I guess the problem I have is, we have so limited Federal resources to go to States and the local communities, if we serve—if we divide that money among all the students, not just eligible students, then we don't have that impact of those students that are the original intent and we talk about.

And, again, we tried to balance it last year; and I agree with what you say, because we wanted to take away a lot of those requirements that were just absolutely silly, although with a little hindsight—I talked to an elementary school principal in my district the other day who is receiving Title I money. She lost $100,000 of Title I money in an elementary school in Houston this year because of the rescission cutbacks that we did, so that pot is reducing even what we did last year.

How did you address that, you know, when you——

Ms. PAULUS. I could give you an example. Just a very short time ago in our State most of our migrant population was centered around the capital city because that is the heart of the Willamette Valley where the food processing industry is paramount and where most of our agricultural products that needed migrant labor for harvest centered. So the migrant population that we had, and have had now for two generations, was centered in that area, so the migrant money was kind of ingrained in the systems there.

With the demise of the timber industry, that changed our situation overnight and the schools bore the brunt more than any other in that the timber industry, that industry, when it took a nosedive, there were other industries that began to spring up very rapidly, but all around the State, to use our natural resources.

For instance, Christmas tree farming is one of our largest exports now, and nursery stock was not, but it is one of our largest exports; and vineyards, which is a new, burgeoning industry; and all three of those industries that are now just growing by leaps and bounds—and they are in all regions of the State, rather than just in the central part of Oregon—they all use migrant labor.

This has had an immediate impact on schools all over, which is totally different than the experience that we have had before. So I think that statement about the migrant class, we might have a few migrant children, but they have the same needs as the larger concentration of them had in the valley, and this ed-flex legislation we have now allows us to try to serve those children in different ways. So that is one example.

Mr. GREEN. I guess that is—and I agree with that, because having seen those hoops and been frustrated with a lot of teachers and administrators over the years and seeing that happening the last couple of years, and I know it started before I got here in 1993, so—because you are right about the bipartisan effort of it. I guess particularly on education the Federal grant program comes with its own set of paperwork and mandates.

Again, we have tried through elementary/secondary education and other programs, you know, School-To-Work, to make sure that there are not those—or the Goals 2000; and this legislation is, I think, an overall effort to build on that success that we have seen.

Ms. PAULUS. We greatly appreciate that. We have worked very, very closely with Senator Hatfield and the other members of our delegation and followed that very closely and appreciated the efforts.

Mr. GREEN. I guess if I can follow up on Congressman Barrett's question, there are some particular concerns that I guess—that maybe local waivers, you know, you can look at them, whether the environmental or using the example, prevailing wage, minimum

wage, you know, 40-hour-week requirements, overtime requirements. Of course, my wife is a public school teacher, and she is not subjected to the 40-hour week, because she works many more hours.

But do you have any level that you would say that there is some programs that really ought to apply to Oregon as well as they do to California or Washington?

Ms. PAULUS. I think I can answer your question and be very blunt with you about it.

I have a very strong environmental voting record, and that doesn't set very well in some Republican circles, but in the State of Oregon it does. I am very proud of it.

On the other hand, labor has never been my friend. I voted against the collective bargaining law when I was in the legislature, and I just led an effort in the senate and the house to narrow the scope of bargaining so that the teachers union would not try to control our site councils. So, yes, I do have limits.

Mr. GREEN. OK.

Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. I think we will get you out of here shortly after 15 after. Is your meeting in the Capitol or on the Senate side?

Ms. PAULUS. It is in the Senate office building, Senator Dole's office.

Mr. SHAYS. OK. Not in his Capitol office building? It is another 5 minutes. OK, we will get you out of here in a few minutes.

This bill attempts to establish the flexibility plan that the categorical grant still has to be spent in the area of focus. My understanding is, it has to achieve the very goals of that categorical grant. Is that your general understanding?

Ms. PAULUS. Yes.

Mr. SHAYS. In terms of your efforts, when you were giving waivers did labor oppose what was happening or were they, for the most part, accepting?

Ms. PAULUS. Flexibility provisions?

Mr. SHAYS. Yes.

Ms. PAULUS. We had the full support of the school community, the administrators, the teachers union. The school community supported it in toto, as did the Governor and legislative leaders, so it has been a very bipartisan effort.

Mr. SHAYS. And they all participated in the process, I imagine, or not?

Ms. PAULUS. The case that we laid out for then-Secretary Alexander to get our first foot in the door on flexibility, no, that was done in house with the Department of Education, outlining how we presently were restricted in the use of Federal funds and what we would do and some actual examples of schools that because of the configuration of their clientele, had been able to raise test scores by new methods. But we kept the legislature and other people fully apprised of what we were doing.

We have had absolutely no opposition. We had some questions from parents of special education children. They are very protective of them; they fought very hard for special ed money, so they want to be assured that we are not going to take money meant for their

children and spend it on those that are not within that purview. But those have been——

Mr. SHAYS. Just as Mr. Green has spent a good deal of time in the State legislature, as well as being here, I have as well, and I have seen it from the State level and the Federal level. I have to come to the conclusion that the Federal Government creates a shoe and instead of getting people the size shoe that fits them, it just gets a size 8 and says everybody has to fit that size.

So when you provide the flexibility, my view of it is that you are creating a shoe; you are going to have a lot of different shoes that are going to fit different people and meet different needs. That is the intent of it.

What it doesn't get at in some cases is the paperwork problem of a categorical grant, and it doesn't necessarily even get, unfortunately, at the pass-through costs. Block grants get at pass-through costs because you can eliminate the bureaucracy. I served on a Federal panel that had to look at categorical grant applications. And you know, candidly, when you got down to the final 50, and we had to choose 10, I mean, you could almost toss a paper in the air and grab it. It is difficult at that point; it becomes obviously quite subjective.

But we are going to try to make sure this bill stays on focus, that it approaches and deals with the issue that the categorical grant was provided for.

I don't have any other questions, given your time requirements. Does any other Member want to have a follow-up?

I would like to thank you for being here, and I know you receive high marks for the job you do from Republicans and Democrats alike, and it was nice that you took the time to come down here.

Ms. PAULUS. Well, thank you for the invitation.

Mr. SHAYS. Thank you very much.

We are going to conclude with our next two panelists, which are Peter Lehner, a senior attorney, Natural Resources Defense Council; and David Baker, director of the public division of the Service Employees International Union.

Gentlemen, I should have asked you to stay standing because we are going to swear you in. We swear in all of our witnesses, being this is an investigative committee, even though this is legislative hearing.

[Witnesses sworn.]

Mr. SHAYS. Both responded in the affirmative for the record. We welcome your testimony and thank you for your patience, and we are happy that you are here.

Shall we start with you, Mr. Lehner?

STATEMENT OF PETER LEHNER, SENIOR ATTORNEY, NATURAL RESOURCES DEFENSE COUNCIL; AND DAVID BAKER, DIRECTOR OF THE PUBLIC DIVISION OF THE SERVICE EMPLOYEES INTERNATIONAL UNION

Mr. LEHNER. Thank you. Good afternoon. Thank you for inviting me to offer the comments of the Natural Resources Defense Council on H.R. 2086.

As you may know, the Natural Resources Defense Council is a national not-for-profit environmental organization with over

170,000 members. I am a senior attorney at NRDC in its New York office, and I am particularly pleased to be commenting on this proposal, because prior to working for NRDC, I worked for the law department of the city of New York for 8 years. There I had the opportunity to learn about both the need for and the benefits of local flexibility and also the need for limits on that flexibility. I also came to have great respect for municipal government personnel and the many difficulties they face.

The Natural Resources Defense Council supports the concept of local input into the establishment of Federal spending priorities at the local level. More particularly, we support an enhanced municipal role in the establishment of local environmental priorities. There is a substantial body of local knowledge about environmental health and social issues that could never be replicated at the State or Federal level and that could improve spending decisions.

There is also an important incentive that can motivate municipal officials and local residents to spur on local environmental improvements. The challenge, however, is to tap into this knowledge and energy without hindering the attainment of important baseline national environmental health and safety safeguards that the Americans deserve and desire.

We believe that any enhanced municipal role must be guided by four key principles:

First, tradeoffs between programs must be limited to those groups of programs where the benefits of the tradeoffs can be understood and balanced rather than based on the vagaries of political power and media hype.

Second, flexibility in waivers should not jeopardize fundamental health, safety, and environmental protections. The Federal environmental standards were based on scientific assessments of health and environmental impacts and do not really depend on bureaucratic changes.

Third, important procedural requirements that now exist, particularly those relating to public input to decisions—environmental and health decisions particularly—and access to information and data need not and should not be waived. Procedural requirements such as these exist under most Federal environmental laws, allowing the public to participate in permit hearings and get access to pollution data. I believe these have been key to their success and to their credibility.

And finally, the flexibility should relate to the establishment of relative schedules for funding environmental improvements. It should not allow environmental requirements to be weakened.

Upon review, it appears that H.R. 2086 fails to conform to these four principles. To be candid, it appears that this bill was not written, or this proposal was not written, with environmental programs in mind. The language of the bill suggests that it was primarily aimed at Federal social welfare programs, or as the prior witness, Mr. MacDougal, said, "the ladder out."

Indeed, the letter inviting me to come here today referred to Federal categorical grant programs in which one does not generally include environmental programs. So to the extent that it would not address environmental issues, the Natural Resources Defense Council does not take a position.

The language of the bill, however, is broad enough to potentially cover environmental programs, perhaps in a very dramatic fashion; and if it does cover environmental programs, the resulting potential waivers could have very significant and very negative consequences which I think would distress many of the members of this committee and many Americans.

To the extent the bill could allow local governments to trade environmental protections against welfare payments, schools or police enhancement, we would oppose it. Moreover, to the extent the bill would allow waivers of substantive environmental and health programs and standards, we would oppose it. And finally, to the extent it would allow waivers of important procedural requirements, we would oppose it.

As I said, we don't believe this bill was meant to cover these programs, and we urge you to reexamine the bill carefully and limit its scope to exclude environmental programs and clarify its effect.

We would be happy to work with you in this effort, and I will be happy to answer any questions you may have.

Mrs. MORELLA [presiding]. I really appreciate the fact that you gave us a synopsis of the written testimony, Mr. Lehner.

[The prepared statement of Mr. Lehner follows:]

PREPARED STATEMENT OF PETER LEHNER, SENIOR ATTORNEY, NATURAL RESOURCES DEFENSE COUNCIL

Thank you for inviting me to offer the comments of the Natural Resources Defense Council on H.R. 2086, the Local Empowerment and Flexibility Act of 1995. The Natural Resources Defense Council is national not-for-profit organization with over 170,000 members.

My name is Peter Lehner and I'm a Senior Attorney with NRDC in its New York office focusing on clean water and coastal issues. I am particularly pleased to be commenting on this proposal because prior to working for NRDC I worked for the Law Department of the City of New York for eight years. There, I had the opportunity to learn about both the need for and benefits of local flexibility and the need for limits on that flexibility. also came to have great respect for municipal government personnel and the many difficulties they face.

The Natural Resources Defense Council supports the concept of local input into the establishment of federal spending priorities at the local level. More particularly, we support an enhanced municipal role in the establishment of local environmental priorities. There is a substantial body of local knowledge about environmental, health and social issues that could never be replicated at the state or federal level that could improve spending decisions. There is also an important incentive that can motivate municipal officials and local residents to spur on environmental improvements: local officials drink the water, breathe the air, and enjoy the natural resources protected by environmental laws. The challenge of this bill is to tap into this knowledge and energy without hindering the attainment of the important baseline national environmental health and safety safeguards that America's desire and deserve.

We believe, however, that this enhanced role must be guided and bounded by three key principles. First, trade-offs between programs must be limited to those groups of programs where the benefits of the trade-offs can be understood and balanced, rather than based on the vagaries of political power and media hype. Second, flexibility should not jeopardize fundamental health, safety and environmental protections. Third, important procedural requirements that now exist, particularly those relating to public input to decisions and access to information and data, need not and should not be waived. Finally, the flexibility should relate to the establishment of relative schedules for funding environmental improvements; it should not allow environment requirements to be weakened.

Upon review, it would appear that H.R. 2086 fails to conform to these principles.

To be candid, it appears that H.R. 2086 was not written with environmental programs in mind. The language of the bill suggests it was aimed primarily at federal social welfare programs under which the federal government provides funds to local

governments for the direct benefit of individuals. As to that portion of the bill, the Natural Resources Defense Council does not take a position.

The language of the bill, however, is broad enough to potentially cover environmental programs, perhaps in a very dramatic fashion. To the extent this bill could allow local governments to trade environmental protections against welfare payments, schools, or police enhancement, we would opposed it. Moreover, to the extent this bill would allow waivers of substantive environmental and health programs and standards we would oppose it. We urge you to re-examine this bill carefully and limit its scope and clarify its effect. We would be happy to work with you in this effort.

COVERAGE OF THE BILL

The first issue is whether environmental programs are meant to be covered by the bill at all. The intent of the bill's drafters or this Committee on this question is not evident. We would suggest that you consider addressing flexibility in environmental spending in a separate bill since that issue raises very different concerns than flexibility relating to federal individual benefit payments.

By its precise terms, however, it would appear that environmental programs could be addressed under flexibility plans under this bill. The Flexibility Council established by the bill would include the Administrator of the Environmental Protection Agency and the Secretary of Interior; does this imply the inclusion of environmental matters? (On the other hand, the Secretary of Defense is also on the Council; are military programs to be included?) Moreover, the definition of "eligible Federal financial assistance program" has no subject-matter limitations. Thus, it appears that environmental programs under the Clean Water Act, the Clean Air Act, Superfund, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Marine Mammal Protection, Research and Sanctuaries Act and other statutes could come within the reach of this bill.

The second issue concerns the scope of coverage even within applicable federal programs. The bill defines an eligible Federal financial assistance program as any "Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified organization to carry out the specified program." What exactly is the coverage of this definition? Funds are available under a number of federal environmental programs. If funds are available under one title of a federal program, could the entire federal program be included in a flexibility plan? Even within a title, are just the spending elements to be included within the flexibility plan or the entire title? If this bill has the broader effects, we would be very concerned about it.

SCOPE OF AVAILABLE WAIVERS

The scope of potential waivers also raises concerns. It is not uncommon for local governments and other to complain about procedural requirements of federal programs. While some of these complaints are justified, and the Natural Resources Defense Council is not an advocate of unnecessary or excessive procedures, some procedural safeguards such as those relating to public input, review and access are extremely important. There would seem to be no need to waive these requirements in order to enhance municipal flexibility. Indeed, it would be a strange system that a party could get a "reward"—the avoidance of disliked requirements—for getting federal money. We would suggest that such procedural requirements, especially those relating to public accountability, not be eligible for waivers (or at least not eligible absent a very compelling showing).

The waiver of substantive health, safety and environmental safeguards is even more troubling. Many environmental limits are based on scientific assessments about levels of certain pollutants that could cause human health or environmental problems. A flexibility plan does not and cannot alter the scientific and health reality underlying these standards. While there can be flexibility as to the timing of environmental improvements—such flexibility is already provided under numerous environmental laws. We do not believe there should be any waivers of the environmental standards or requirements.

SPECIFIC EXAMPLES WHICH DEMONSTRATE POTENTIAL PROBLEMS

Let me offer a few specific scenarios which highlight some of the potential weaknesses of this bill.

The Clean Water Act has a number of titles. One establishes a pollution discharge permit system that is the backbone of the Act. Another provides federal funds for construction of sewage treatment plants. If a city proposes flexibility in the allocation of the construction funds, could this bill allow waivers of the permit system and

other substantive pollution limits? Could it allow waivers of the wetlands permitting program? We certainly hope not, and would strenuously oppose such waivers, but the bill is not now clear.

Another scenario: the Coastal Nonpoint Pollution Control Program, a part of the Coastal Zone Management Act, requires states which have entered into the CZM program to develop runoff pollution control program with enforceable policies and provides some federal funds for the development and implementation of the program. If a local government were to propose that these funds be included in a flexibility plan, could it get a waiver of the remainder of the nonpoint pollution control program? Or a waiver of other Coastal Zone Management requirements? Again, we hope not, but again the bill is unclear.

Yet another scenario: Federal money may be available to a municipality indirectly under the Superfund program if the EPA is working to clean up a Superfund site within the city. Are such specifically targeted funds eligible for inclusion in a flexibility plan? If so, could this bill allow a waiver of the Superfund provisions that require public input in the development of that cleanup plan or require that the cleanup standards be based on a sound risk assessment? More broadly, could this bill allow waivers of other hazardous waste reporting and labelling requirements under the Resource Conservation and Recovery Act? Again, we hope not, but these unfortunate consequences could perhaps be a result of this bill.

THE PROPER BOUNDS OF FLEXIBILITY PLANS

Besides the problem of waivers of procedural and substantive environmental safeguards, we have broader concerns about trade-offs between environmental and other programs.

A local government receives federal funds for sewage treatment plant construction, aid to families with dependent children, police equipment and numerous other programs. Could this bill allow a local government to put all those programs into a flexibility plan and stop sewage treatment plant construction in favor of police equipment? Or in favor of school construction? We do not believe such dramatic trade-offs are in the public interest. While of course we support those other efforts, we believe that any such trade-offs between such broadly unrelated programs could not be done—or at least are extremely unlikely to be done—in a balanced, science- or health-based fashion. Rather, the decisions would be made on the basis of crisis-of-the-moment thinking or short-term political demands. It is not unlikely that in such comparisons, environmental efforts would be unfairly and improperly discounted given their long-term and widely dispersed impacts. (I recognize that this could be criticized as an unfairly critical and cynical description of municipal decision-making, but my experience and that of others I have worked with suggests that it is unfortunately a correct description far too often.)

On the other hand, NRDC does support increasing municipal input into establishing local environmental priorities. Let me give you some examples of flexibility that the Natural Resources Defense Council believes would be beneficial. A local government faces numerous environmental issues and receives federal funds for a variety of projects such as landfill closure, sewage treatment plant construction, and drinking water supply protection or filtration. Within the bounds of programs where the health and environmental effects can be compared, municipal input into reallocation of federal assistance could be appropriate.

We could envision a local government properly deciding to focus all federal environmental construction funds first on drinking water protection, then on sewage treatment and finally on landfill cleanup. A reallocation of funds from three separate federal environmental statutes, without a waiver of the related substantive requirements and related only to the timing of the expenditures, could make a lot of sense. We do not believe that the substantive requirements should be changed, but we would favor allowing local prioritization in spending efforts. Certainly a local government should be encouraged to make its views known to the federal government, even if they are not binding on the federal government.

Consider another possibility. A local government is faced with the need to rehabilitate its sewer system to reduce overflows of raw sewage. It is also faced with the need to develop and implement plans to reduce the environmental impact of stormwater runoff discharges. Federal funds are available for both efforts but under separate programs. It may be appropriate for a local government to apply to the federal government, with solid scientific support, to reallocate federal assistance between these two efforts and thus in essence be able to move funds from one federal program to another. Of course, any such reallocation must be carefully reviewed by knowledgeable people and bounded by proper conditions; nevertheless it may lead to overall environmental improvement.

THE NEED FOR ACCOUNTABILITY

Let me add one very important additional issue: accountability. We are discussing taxpayer money here. Federal taxpayers have repeatedly indicated in polls—both Republican and Democratic and from all parts of the country—that they are willing to spend money oh environmental protections. (In fact, they want to spend more.) However, they also want to know what their money is getting and that their money is being well spent. Any flexibility must keep this in mind. All federal taxpayers, not just those in the relevant municipality with the flexibility plan, have an interest in how federal money is spent. The flexibility plans must continue to work for the environmental goals of a clean and healthy environment that taxpayers have agreed to support; they must not divert from that end.

SPECIFIC RECOMMENDATIONS ON THE BILL'S LANGUAGE

In addition to these larger conceptual concerns with the bill, which are closely related to its drafting, we have several more specific concerns that you might consider.

- § 3(2) (p. 3): We are not sure what is meant by placing less emphasis on "measuring resources." If this could be construed to mean having less information about environmental program, impacts and causes being available to the public, we would be very concerned.
- § 4(3) (p. 4): The Flexibility Council is comprised of so many high level members that it will in reality be delegated far down the bureaucratic chain of command. As noted above, we believe that flexibility plans should be limited to groups of programs where trade' offs could be understood; if this is the case, fewer federal officers will have an expertise or jurisdiction relevant to the plan and thus fewer will be needed to review a plan application. NRDC believes that one top level federal officer should pay personal attention to plans within his or her specific jurisdiction. For example, the Administrator of EPA should be the lead and should be expected personally to review any plan that would reallocate funds among EPA administered funding programs.
- § 5(a) (p. 8): The bill appears to exempt payments pursuant to a plan from all other provisions of law. As noted above, if this were to allow payments to avoid important public participation requirements or substantive requirements (such as limits on infiltration and inflow on sewage treatment plant funding), we would be strongly opposed.
- § 6(b)(4) (p. 9): It appears that the local government developing a flexibility plan does not need to respond to public comments that are submitted on the plan. We believe coherent responses should be required as they are in the National Environmental Policy Act process.
- § 6(c)(2) (p. 10): The plan currently requires the identification of those who will benefit from the plan. It is important that it also identify those people and services which would be temporarily reduced under a flexibility plan. It is easy and pleasant to discuss who gets more; the real rub is discussing who gets less.
- § 6(c)(3) (p. 10): We support the requirement that the plan include specific goals and measurable performance criteria related to the plan.
- § 6(c)(5) (p. 11): The plan is to identify those "federal statutory or regulatory requirements applicable under a covered Federal financial assistance program" the waiver of which "is necessary to implement the plan." Who makes this determination of necessity? Is it reviewable? Can any requirement be waived? The bill should expressly provide that health and environmental requirements may not be waived.
- § 6(d)(2) and § 7(a)(1) (p. 12): The Governor has 30 days to review a plan; it is not clear that this is enough time in all circumstances. The state may request additional information or data to assess the merits of the plan. Similarly, the Flexibility Council has only 45 days to review the plan. For the same reasons, this may not be sufficient time in all circumstances. Both reviewing governments should have the opportunity to request additional information. It is not clear the provisions in sections 6(b)(5) and 6(c)(9) are sufficient to permit requests for information after plan application submittal.
- § 7(b) (p. 13): The Flexibility Council's decisions are made by majority vote. Since as noted the Council has numerous members, many of whom may have little information or interest in the programs discussed in the plan. We suggest that a consensus, among the interested Council members be required for approval of a plan.
- § 8(b)(2) (p. 18): We support the limitation on waiver of requirements that it "shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits." This language, however, must be clarified to ensure that it covers environmental protections that benefit individuals indirectly as members of a larger community.

• §8(d)(1)(B) (p. 20): The evaluation of a plan should also address the effect implementation has had on those who received fewer benefits under the plan.
• §8(e)(2) (p. 22): There appears to be no limitation on the time frame of the plan beyond the sunset provision of the entire bill. It may be appropriate to require that the first plan be only for one year and that there be a comprehensive review of the plan before it can be renewed for longer periods of time.
• §9(b)(2) (p. 22): We suggest that reviewing the potential environmental impact of plans should be explicitly identified as one of the functions of the community advisory committee (CAC) if this bill addresses environmental Programs at all.
• §9(c) (p. 23): It is not clear what it means that the CAC shall "consist of the general public." It appears that the community advisory committee is weighed inordinately in favor of the very municipal government devising the plan since it is represented by three of the four identified interests to be included on the CAC. We also believe that neighboring municipalities should have a voice on the CAC, at least as to environmental issues that could affect them. (For example, landfills are almost always located on town lines.)
• §9(d) (p. 23): There is no time provided for input by the CAC and other members of the public. Adequate time for knowledge about the plan to be disseminated and for careful, constructive comments to be developed must be provided.

In sum, the Natural Resources Defense Council appreciates this opportunity to comment on H.R. 2086. While we support the general concept of greater flexibility, we are concerned that the bill as drafted is overbroad and could be used to weaken vitally important environmental programs. Thank you.

Mrs. MORELLA. Now David Baker, the director of the public division of the Service Employees International Union.

And, again, welcome and thank you for being so patient and waiting for the third panel.

Mr. BAKER. Thank you, Madam Chair. Good afternoon, I am David Baker; I am the director of the public division of the 1.1 million-member Service Employees International Union. I am here today to voice the opinion of our union, which is in strong opposition to H.R. 2086, the Local Empowerment and Flexibility Act of 1995. Our concerns are that this bill could allow localities to waive critical labor and environmental statutes and regulations all in the name of local innovation and flexibility.

We represent members employed in both the public and private sectors, including thousands of local government employees who are committed to delivering services effectively and efficiently within their communities. While we recognize the value of granting localities greater flexibility in tailoring programs to meet the unique needs of their communities, we also believe that this flexibility should not come at the expense of important Federal laws and regulations.

According to H.R. 2086, the Flexibility Council could waive any requirement under Federal law for the administration or provision of benefits under Federal assistance programs as long as the waiver is "reasonably necessary for the implementation of the plan." Such language grants localities broad discretion in seeking waivers for Federal statutes and regulations. We are particularly concerned about the threat these waivers may present to maintaining essential labor standards.

SEIU strongly believes that all citizens of this country are entitled to certain basic rights and protections, regardless of the State or locality in which they live. Labor standards, including minimum wage, overtime, occupational safety and health and the regulations that clarify them are among the fundamental protections to which all Americans are entitled; yet H.R. 2086 may allow these statutes and regulations, which organized labor fought for decades to attain,

to be waived with the sweep of a pen. This is a blatant disregard for workers' rights and should not occur.

The bill's broad waiver authority also opens the door for wide-scale contracting out of public sector jobs, which SEIU opposes. We represent over 25,000 social services workers throughout this country who administer various Federal benefit programs, including AFDC, food stamps, and SSI. Federal laws governing client confidentiality and fiscal accountability, for example, have kept administration of these programs within the public domain. If existing laws and regulations are waived, local governments could be free to turn these programs over to the private sector.

Contracting out public services to the private sector always raises questions of accountability of public funds, as well as issues of discrimination in the delivery of services. This legislation also appears—although we are a little unclear about the way the language is written, appears to favor private nonprofit organizations over the public sector in other respects.

For example, the Flexibility Council can give "priority funding" or higher priority to applications for Federal assistance submitted by local governments having approved local flexibility programs by nonprofit organizations. The bill clearly gives preference to localities that engage in contracting out of public services to the private sector.

In addition, the Community Advisory Committee, as suggested in the bill, includes representatives from private, nonprofit organizations, including persons with leadership experience in the private and voluntary sectors; but with the exception of local elected officials, the advisory committee does not include any corresponding representatives from the public sector or from the unions representing those workers, the folks who really know how the jobs get done. To be meaningful, any advisory committee must tap the expertise and years of experience that public employees bring to bear in the operation of social programs.

We also oppose this bill because it seems to fail to take into account the needs of low-income individuals or the communities in which they live. I think Mr. Barrett raised that question earlier today. In fact, the bill provides no assurance that low-income communities will benefit from these Federal grant programs. Given the shrinking share of Federal dollars that go to the local level, it is essential that these moneys be spent where they are needed most, in economically depressed localities.

Allow me to close with the following observation: The consensus in Washington these days seems to be that government closest to the people always governs best. That certainly appears to be the rationale behind this bill, but simply turning over Federal money to the local governments with few or no strings attached presents a host of problems of its own. We enter into dangerous territory when we try to disregard Federal laws that have been enacted over the years to benefit and safeguard the rights of all U.S. citizens.

Thank you for the opportunity to present our views on this bill. And I might add, Mr. Chairman, that being at this hearing has been somewhat of an educational process for me and my staff in terms of where we are coming from on this bill. It is a very complicated, obviously, piece of legislation; and we would be most

happy to work with the committee in correcting what we see are some major concerns with the bill, particularly around labor standards and environmental standards.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Baker follows:]

PREPARED STATEMENT OF DAVID BAKER, DIRECTOR OF THE PUBLIC DIVISION OF THE SERVICE EMPLOYEES INTERNATIONAL UNION

Good morning. I am David Baker, Director of the Public Division of the 1.1 million member Service Employees International Union (SEIU). Thank you, Chairman Shays, and the other members of the Subcommittee on Human Resources and Intergovernmental Relations of the Committee on Government Reform and Oversight, for the opportunity to present the views of my union. I am here today to voice strong opposition to H.R. 2086, the "Local Empowerment and Flexibility Act of 1995." This bill would allow localities to waive critical labor and environmental statutes and regulations—all in the name of local innovation and flexibility.

SEIU represents members employed in both the public and private sectors, including thousands of local government employees who are committed to delivering services effectively and efficiently within their communities. While SEIU recognizes the value of granting localities greater flexibility in tailoring programs to meet the unique needs of their communities, we also believe that this "flexibility" should not come at the expense of important federal laws and regulations.

According to H.R. 2086, the Flexibility Council can waive any requirement under federal law for the administration or provision of benefits under federal assistance programs as long as the waiver is "reasonably necessary for the implementation of the plan." Such language grants localities broad discretion in seeking waivers for federal statutes and regulations. SEIU is particularly concerned about the threat these waivers may present to maintaining essential labor standards.

SEIU strongly believes that all citizens of this country are entitled to certain basic rights and protections—regardless of the state or locality in which they live. Labor standards, including the minimum wage, overtime, and occupational safety and health are among the fundamental protections to which all American workers are entitled. Yet H.R. 2086 may allow these statutes—which organized labor fought for decades to attain—to be waived with the sweep of a pen. This kind of blatant disregard for workers' rights should not occur.

The bill's broad waiver authority also opens the door for widescale contracting out of public sector jobs, which SEIU opposes. We represent over 25,000 social service workers throughout the country who administer various federal benefit programs, including AFDC, food stamps, and Supplemental Security Income. Federal laws governing client confidentiality and fiscal accountability, for example. have kept the administration of these programs within the public domain.

If existing laws and regulations are waived, local governments could be free to turn these programs over to the private sector. Contracting out public services to the private sector always raises questions of accountability of public funds, as well as issues of discrimination in the delivery of services.

The legislation appears to favor private, nonprofit organizations over the public sector in other respects as well. For example, the Flexibility Council can give "priority funding" or higher priority to applications for federal financial assistance submitted by local governments having approved local flexibility programs by private, nonprofit organizations. The bill clearly gives preference to localities that engage in contracting out of public services to the private sector.

In addition, the Community Advisory Committee established under the bill includes representatives from private, nonprofit organizations as well as persons with leadership experience in the private and voluntary sectors. With the exception of local elected officials, the advisory committee does not include any corresponding representatives from the public sector, or from the unions representing these workers. To be meaningful, any advisory committee must tap the expertise and years of experience that public employees bring to bear in the operation of social programs.

SEIU also opposes this bill because it fails to take into account the needs of low-income individuals or the communities in which they live. In fact, the bill provides no assurance that low-income communities will benefit from these federal grant programs. Given the shrinking share of federal dollars that make their way to the local level, it is essential that these monies be spent where they are needed most—in economically depressed localities. It would be a shame to squander these scarce resources in areas where there is no demonstrated need.

Allow me to close with the following observation. The consensus in Washington these days seems to be that the government closest to the people governs best. That certainly appears to be the rationale behind this bill. But simply turning federal money over to local governments, with few or no strings attached, presents a host of problems on its own. We enter dangerous territory when we try to disregard federal laws that have been enacted over the years to benefit and safeguard the rights of all U.S. citizens.

Thank you for the opportunity to present SEIU's concerns with the Local Empowerment and Flexibility Act. I would be happy to answer any questions.

Mrs. MORELLA. Thank you, Mr. Baker, and I thank both of you. I have just one question that I would pose to you, and that is, how would you individually—how would you correct this legislation to make sure that the environmental standards, the labor standards are not totally ignored? Is there phrasing that you think could be included? Do you think the bill moves in the right direction if there are some reservations to preserve safety, other laws, environmental?

Mr. BAKER. I believe section 8 of the bill, Mrs. Morella, talks about the Flexibility Council could not waive any statutory rights that inure to individuals; but then it articulates or enumerates five specific statutes. So to specifically answer your question, including in that list of specific statutes which could not be waived, the Fair Labor Standards Act, the Occupational Safety and Health Act, Davis-Bacon, some of the other labor standards that we are concerned about, it would at least correct that piece of it.

We do have some concerns about public policy by waiver to begin with, but that is another discussion, but I think enumerating some of those specific statutes would get to the problem.

Mrs. MORELLA. Could you give us that in writing, too, directed to the subcommittee?

Mr. BAKER. Surely.

Mr. LEHNER. To also answer the question, I have some specific, actually many specific suggestions, in the written testimony, but I think, more fundamentally, one possibility is to simply provide that environmental programs are not covered by the statute.

I noted in the testimony that one of the administration officers gave this morning, he pointed out that in the environment enterprise community and empowerment zone program, environmental protections are specifically excluded from that program. I would suggest that although we support the notion of municipal flexibility in some ways, and we give some examples in our written testimony of what we mean, the issues are so different from the issues confronting flexibility of the sort that I have heard testimony this morning—administrative flexibility concerning the provision of money to individuals—that it really should be addressed in a separate statute. I think it would be very hard to jigger this bill a little bit and make a program that works well for your goals with respect to social service programs and also works well for environmental programs. Thus I would suggest perhaps starting with a new bill.

Mrs. MORELLA. With a new bill that would cover everything as you have suggested, not two bills?

Mr. LEHNER. No, two bills, to exclude environmental protections from this bill; and perhaps to the extent you want to follow on the concept of municipal input to environmental decisionmaking or environmental funding by the Federal Government at the local level,

to address that separately. I think the issues are very, very different.

Mrs. MORELLA. Interesting point. Thank you, thank you very much.

Thank you, Mr. Chairman.

Mr. SHAYS [presiding]. Thank you, Mrs. Morella.

Mr. Green, why don't you go next? Then I will go.

Mr. GREEN. I will be real brief.

I generally am supportive of the idea of the waivers, particularly like you said for "the ladder out." But I have a level of concern, and I think Mr. Barrett talked about it, that it would be cheaper for Minnesota to dump their waste in the Mississippi River and let somebody down the river do it, clean it up. I mean, you know, so we don't want to grant waivers for that.

Prevailing wage, we are in a fight here on the floor or in committee, in my other committee and on the floor on Davis-Bacon provisions. There are things that I don't think need to be waived—minimum wage requirements, 40-hour week. I would like to be a cosponsor of the bill, and I am hesitating to do it because of that concern. If we could address that, I would—because I like the idea of taking in local conditions, but again not with some of the basic things. That is why we have a national government, you know; again, some of the benefits that we have learned for the last 50 or 60 years.

With that, Mr. Chairman, I don't have any particular questions. I am glad these individuals are here because they point up the concerns, and if we can address those concerns, I think we will see some real bipartisan support. Like I said, I would like to be a cosponsor if we can address those.

Mr. SHAYS. I do have some questions. We have a series of votes, so we will—Mr. Baker, I want to accept very eagerly your invitation to work with the committee.

And, Mr. Lehner, I am probably more sensitive to the environmental side than I would be with the labor side. However, I have to say to you I would not want this legislation to be used to go around Davis-Bacon. If Davis-Bacon is the law, I would want that to be there.

What we are trying to get at is the stupidity of a Bridgeport, CT, having declared bankruptcy and attempting to have it be recognized by the courts, shutting down all its parks and then finding that they, in all their categorical grants—one that they got was one to beautify a park they had closed down, and so they fixed up a park that is closed down and not used. I mean, it is that kind of stupidity; and I could just go on with a lot of other kinds of examples.

I would think you would be more inclined to support this legislation than block grants, because with this legislation, you have to come up with a flexibility plan and it ultimately has to be accepted by the central government. Don't you think that is enough of a protection, that the central government would basically have to say, your plan works here, but it doesn't work here?

Mr. BAKER. We have a couple of concerns about that, Mr. Chairman. One, I don't know the answer to your question specifically,

whether or not that is good enough, because the bill, it seems to us, covers so much territory, so many laws and regulations.

We are specifically concerned about the labor standards, but it also seems that we are setting up yet another level of bureaucracy even. Given the level of appointees to the Flexibility Council, this is going to end up being staff work. We are not going to have the Secretaries of 13 Cabinet departments and all the other agencies sitting around in a room every 2 weeks going over flexibility plans, obviously, so it is going to be another staff-driven thing. I don't know what kinds of decisions they are going to make.

And so the concern I have is setting up a fundamental public process, a policy process where we have laws, regulations on the books, when our goal is to kind of push them aside.

Again, I laud the ultimate objective of this bill, which is flexibility to local level, making government work better. SEIU is second to no one—we represent—over half our membership work in the public sector, and my job is to deal with our public sector members all the time. We are renowned nationwide, working in worker participation programs to help government work better at the State and local level, and we applaud those kinds of efforts. We just get very concerned about the comprehensive nature of what could be waived.

Mr. SHAYS. I have to agree with the one thing it doesn't do; it certainly doesn't get rid of the red tape, because in order to get the categorical grant, you have to go through all that process. You have to work with a bureaucracy to get it. It is a signal to me that we have to try to focus on the bigger areas where we want flexibility and not have it so often that you end up with a whole new bureaucracy to deal with.

Mr. BAKER. Just one concern, Mr. Chairman, on the Fair Labor Standards Act. A few years ago the public sector was brought back under its coverage, and every year, literally, we have to deal with Republican Governors, Democratic Governors asking the Labor Department to do away with the regulations that implemented the provisions of the Fair Labor Standards Act that cover our workers. And if they get yet another forum in which that could happen, we have some grave concerns.

Mr. SHAYS. The Federal Government oversees States on pollution spillover and protects me, living in Connecticut, from the pollution of New York and New Jersey, including air and water. In the same way, on the Hudson River the State of Connecticut is going to prevent one local community from polluting the next one down.

I just don't—with Mr. Green's comment about the Mississippi River, I don't see how our bill would enable someone to pollute a river upstream and how our bill would give them that opportunity. So maybe you could run through a scenario that you fear.

Mr. LEHNER. Sure. Again, I have tried to provide some more details of these comments in the written material, but for example, under the Clean Water Act there are many different titles. Under some of those titles, funding is available to States and localities for construction of sewage treatment plants and other matters. There are also titles which provide that there shouldn't be pollutant discharges except in conformance with a permit, and that permit has

to conform to certain federally mandated standards, such as secondary treatment for sewage, or certain ecology requirements.

Mr. SHAYS. If I could interrupt, your concern is that in the process of getting money for a sewage treatment plant a community might not have to meet the entire standards of that sewage treatment plant?

Mr. LEHNER. That is correct. Or, for example, one could apply and take environmental grant money that you are getting to build a sewage treatment plant, and either not have to comply with the substantive standards, which are in a different title or perhaps a related title of the bill; or perhaps not use it for environmental matters at all, and perhaps use it for welfare payments or something like that.

Mr. SHAYS. The grants have to be used in the area of concern; they would have to be used for environmental purposes. I don't see the funds being redirected, and if you see that the legislation allows that, then that is well beyond—with block grants, you have the possibility of other things happening, but I don't sense that would be a problem in this bill.

Mr. LEHNER. That may not be the intent. I am concerned in the provision, on the approval of the bills, it requires that the money be spent for providing benefits under covered Federal programs; so, for example, if you put both a welfare program and an environmental program and a few others into one big flexibility plan, you could—you would still be addressing the covered Federal programs, but you would be putting almost all of it where it wasn't intended. And I think that would be a concern.

Mr. SHAYS. The comment from my staff is that you would have to show outcomes. I am going to concede that there is that potential danger, but you do have to show outcomes. The question would be how you would relate the outcome to each area of the grant if you mix the grants together.

Mr. LEHNER. If I can add two more comments about that: One is that the Flexibility Council, as Mr. Baker noted, is comprised of so many high-level people it will become a staff issue—and I have nothing against staff, I usually work with the staff and have great respect for them, but it would be very hard in an area like this, with so many different people, for anyone to pay close attention and really take personal charge of the tradeoffs being made.

So what we recommend is that, for example within an area of tradeoffs, such as among environmental programs, that a very high-level administration member—for example, the Administrator of EPA—would be personally in charge of making those Flexibility Council decisions and——

Mr. SHAYS. I think that is feasible.

Mr. LEHNER [continuing]. And have a specific role.

The second, if I could say, is that tradeoffs between as broad an issue as environmental protections and something entirely unrelated are extremely hard to do in a very careful way. My experience suggests that it would more often be based on, as I mentioned, crisis-of-the-moment thinking, so——

Mr. SHAYS. Are you both based in Washington?

Mr. LEHNER. I am based in New York, but I am available.

Mr. SHAYS. OK. I am going to suggest that we bring you down, and others, and go through this. I think that you want this system to work, and you have raised some valid concerns. We need to get on to a vote, and I am going to adjourn this hearing. I believe very strongly in this legislation, and I guess the extent of how broad we make it will be the issue. I would not like to exempt anything, but I would like to be able to narrow it so it would not be abused, but still allow flexibility. So I have some conflicting desires maybe, but your input would be very helpful.

Mr. LEHNER. We would be happy to provide it.

Mr. BAKER. I will follow up, Mr. Chairman.

Mr. SHAYS. Thank you very much.

With that, I am going to adjourn the hearing and thank all witnesses for coming.

[Whereupon, at 12:40 p.m., the subcommittee was adjourned.]

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