

**The original documents are located in Box 67, folder “1976/10/19 S2081 Agricultural Resources Conservation Act of 1976 (vetoed)” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.**

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THE WHITE HOUSE

ACTION

WASHINGTON

October 16, 1976

Last Day: October 19

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *JAC*

SUBJECT:

S. 2081 - Agricultural Resources Conservation Act of 1976

Attached for your consideration is S. 2081, sponsored by Senator Huddleston and seven others.

S. 2081 would significantly expand the authorities of the Soil Conservation Service ("SCS") by requiring it to develop long-range national policies and programs to ensure the orderly development of the Nation's land, water and related resources-- primarily privately-owned. The policy statement, which could be disapproved by either House of Congress or modified by the full Congress, would have to be followed in framing SCS budget requests.

A detailed explanation of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

Agency Recommendations

OMB recommends disapproval because:

"It is essential that the President retain sufficient Executive flexibility to exercise his judgment in the budgetary process with the appropriate balance among all worthy public programs. The normal appropriations process should continue to be relied upon as the appropriate forum for handling budget questions, issues and decisions. In singling out a particular program for special budgetary treatment, the bill is also directly inconsistent with the intent of the Congressional Budget and Impoundment Control Act of 1974. The enrolled bill would have the effect of writing into law a claim on future budgets before either the Congress or the President is able to fully consider the requirements of all other program areas."



OMB also objects to the one House disapproval provision, the threat of increased Federal influence over private lands and the possibility of undesirable future subsidies to private land owners.

Justice recommends disapproval because the bill:

"..contains a provision whereby either House of the Congress may be adopting a resolution reported by the appropriate committee of jurisdiction disapproving the statement of policy, preclude the President from carrying out programs already established in accordance with such policy. It is the position of the Department of Justice that such a one House veto provision would be violative of the provisions of Article I, Section 7, of the Constitution. Article I, Section 7, sets forth the procedure by which legislation is enacted and clearly indicates that the veto power of the President was intended to apply to all actions of Congress which are to have the force of law. The Congress cannot by passing resolutions evade the specified procedure."

Agriculture recommended disapproval in its views letter to OMB citing:

"..its continuing serious concern with both the expected cost of the program as well as those aspects of the bill which would restrict Presidential flexibility and discretion in preparing annual operating plans and budget requests."

However, Acting Secretary Knebel has subsequently informed us that this bill is supported by both the American Farm Bureau and the National Association of Conservation Districts and that, as a consequence, he recommends approval.

The Environmental Protection Agency and the Department of Commerce have no objection. The Department of the Army defers to Agriculture, while the Land and Water Resources Council has no position.

The Council on Environmental Quality recommends approval since it "believes that the development of a national program for the Soil Conservation Service as called for in this bill could have important environmental benefits."



Staff Recommendations

Max Friedersdorf recommends approval of the enrolled bill.

Counsel's Office (Lazarus) recommends veto of the enrolled bill and states:

"It should be noted that the constitutionally infirmed legislative encroachment does not compel a veto. In the event the bill is signed, the President can indicate that he will treat the objectionable provision as merely a reportial requirement and no more."

Robert Hartmann recommends veto on Constitutional grounds.

Recommendation

I recommend that you approve S. 2081 because of its wide support in the Agriculture and farm conservation community where it is viewed as an alternative to other proposals for land use planning.

Decision

Sign S. 2081 at Tab B.

Veto S. 2081 and sign Memorandum of Disapproval at Tab C which has been cleared by Doug Smith.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OCT 14 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2081 - Agricultural Resources  
Conservation Act of 1976  
Sponsors - Sen. Huddleston (D) Kentucky and  
7 others

Last Day for Action

October 19, 1976 - Tuesday

Purpose

Provides a mechanism for establishing long range national policy concerning the conservation, protection, and development of the Nation's land, water, and related resources on non-Federal land; and provides for a one-house veto of a Presidential policy statement, and in effect, of related budget plans.

Agency Recommendations

Office of Management and Budget	Disapproval (Memorandum of Disapproval attached)
Department of Agriculture	Disapproval (Informally)
Department of Justice	Disapproval
Department of the Interior	Disapproval (Informally)
Department of Commerce	No objection
Department of the Army	Defers to Agriculture (Informally)
Environmental Protection Agency	Defers to Agriculture (Informally)
Water Resources Council	No position
Council on Environmental Quality	Approval

Discussion

The Soil Conservation and Domestic Allotment Act of 1935 assigns responsibility, to the Secretary of Agriculture through the Soil Conservation Service (SCS), for developing and carrying out a national soil and water conservation program in cooperation with private landowners and developers,



local and regional planning agencies, and other government agencies at the Federal, State and local levels. Through this program, SCS provides technical assistance to locally organized and operated conservation districts in the development of conservation plans and projects. The SCS also assists in agricultural pollution control, environmental improvement, and rural community development. Soil and water resource data, to the extent compiled by the Service, are available to a variety of public and private land use planning organizations including some 3,000 local conservation districts covering nearly 2 billion acres in all 50 States, Puerto Rico and the Virgin Islands.

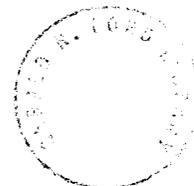
The enrolled bill would significantly expand these authorities by requiring the Soil Conservation Service to develop long range national policies and programs for lands that are primarily owned by private entities to ensure the orderly development of the Nation's land, water, and related resources. The bill is modeled primarily after the Forest and Rangeland Renewable Resources Planning Act of 1974, which included similar provisions directing the Secretary of Agriculture to assess periodically the character and sufficiency of various resources on National Forest System lands and to submit to the Congress, recommendations for long range Forest Service programs designed to ensure the continued integrity of those resources. Specifically, S. 2081 would:

- require the Secretary of Agriculture to prepare an appraisal of the Nation's land, water, and related resources not later than December 31, 1978, and to update it by December 31, 1980;
- require the Secretary to develop a National Land and Water Conservation Program not later than December 31, 1978 and to update it as above. The program is to set forth the direction for future soil and water conservation efforts on private and non-Federal lands of the Nation;



- require that the appraisal report and the program be submitted to the Congress with a detailed statement of policy intended to be used by the President in framing budget requests for SCS activities;
- require that all SCS programs be carried out in accordance with the policy statement unless either House of Congress adopts a resolution disapproving the statement within 60 days. Congress may revise or modify the statement -- in which case the revised statement would have to be used in framing budget requests;
- require that SCS budget requests submitted to the Congress after September 30, 1979, conform to the established statement of policy; and,
- require the Secretary to submit to the Congress annually a report evaluating the program's effectiveness.

In reports to the Congressional Agriculture Committees on S. 2081 and related bills, the Department of Agriculture opposed enactment noting that a number of the activities addressed by the bill are already being undertaken by SCS under existing authorities. Agriculture noted that the bill could greatly expand Federal influence over privately owned lands and that other provisions of the bill would unnecessarily limit Departmental program and budgetary flexibility as well as place pressure to fund programs that would primarily benefit privately owned lands. The Department also expressed its opposition to provisions which would have the effect of increasing direct Federal involvement in State and local land use planning. Although the SCS currently does provide various forms of technical assistance to local planning organizations, the effect of S. 2081 would be to establish a much more dominant Federal role in this area. Further, in duplicating the authorities and functions of several other Federal agencies, including the Water Resources Council and the Environmental Protection Agency, the bill would likely add to the existing confusion of Federal, State and local responsibilities for resource development and



environmental protection. In addition, Agriculture expressed opposition to the one-House veto provision in the bill.

The Department estimates the direct Federal cost of the proposed program to be \$2 million for the first year; \$8 million for the second year; and, \$16-\$17 million annually for the third through the sixth years.

In its attached enrolled bill letter, Agriculture reiterates its opposition to the bill, and accordingly, recommends disapproval. The Department cites its continuing serious concern with both the expected cost of the program as well as those aspects of the bill which would restrict Presidential flexibility and discretion in preparing annual operating plans and budget requests. We strongly concur in these concerns.

In our view, it is essential that the President retain sufficient Executive flexibility to accommodate changing economic and social conditions and to exercise his judgment in the budgetary process with the appropriate balance among all worthy public programs. The normal appropriations process allows ample opportunities for congressional and public questioning of Presidential fiscal priorities and should continue to be relied upon as the appropriate forum for handling budget questions, issues and decisions. In singling out a particular program for special budgetary treatment, the bill is also directly inconsistent with the intent of the Congressional Budget and Impoundment Control Act of 1974. Although a major objective of that Act was to enable the Congress to better develop spending priorities for individual programs within an overall budget context, the enrolled bill would have the effect of writing into law a claim on future budgets before either the Congress or the President is able to fully consider the requirements of all other program areas.

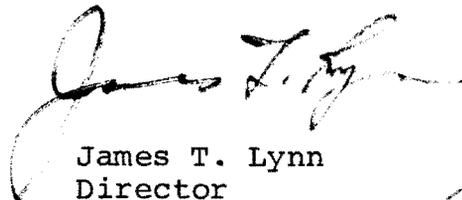
Further, the provision that a resolution enacted by only one House of the Congress would be sufficient to disapprove or modify the Presidential statement of policy required by the bill, in our

view, presents serious Constitutional difficulties. This provision is similar to provisions in other legislation which the Administration has consistently opposed as involving an unconstitutional encroachment of Executive Branch authorities.

As Justice notes in its attached enrolled bill letter, this type of provision stands in direct conflict with the general principle of separation of powers, whereby the Congress enacts laws, but the President and the agencies of government execute them. Furthermore, it violates Article 1, Section 7 of the Constitution which requires that resolutions having the force of law be sent to the President for his signature or disapproval. There is no provision in the Constitution for the procedure contemplated by this bill.

Administration opposition to S. 2081 has been clear and consistent throughout congressional consideration of the measure. We believe the bill would unduly extend Federal influence over privately owned lands and that it could lead to undesirable subsidies to private landowners.

In view of this and other objectionable provisions of the bill, we concur in the views expressed by Agriculture and Justice and strongly recommend that you disapprove S. 2081. Accordingly, we have attached a Memorandum of Disapproval for your consideration.



James T. Lynn  
Director

Enclosures





**GENERAL COUNSEL OF THE  
UNITED STATES DEPARTMENT OF COMMERCE**  
Washington, D.C. 20230

OCT 8 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department on S. 2081, an enrolled enactment

"To provide for furthering the conservation, protection, and enhancement of the Nation's agricultural resources for sustained use, and for other purposes,"

to be cited as the "Agricultural Resources Conservation Act of 1976."

S. 2081 would establish a mechanism for making long-range policy to encourage the orderly development of the nation's soil and water resources. This would be accomplished by requiring:

- (1) the Secretary of Agriculture (hereinafter the Secretary), through the Soil Conservation Service, to prepare an appraisal of the nation's land, water, and related resources by December 31, 1978, and to update it by December 31, 1980;
- (2) the Secretary to develop a national land and water conservation program to assist landowners and users in furthering land and water conservation, by December 31, 1978, and to update it by December 31, 1980;
- (3) submission to Congress of the appraisal report and the program - together with a detailed statement of policy intended to be used in framing budget requests for Soil Conservation Service activities - on the first day Congress convenes in 1979 and in 1981;

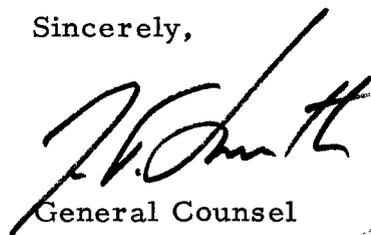


- (4) that programs already established by law be carried out in accordance with the statement of policy, unless either House before the end of 60 days after receiving the appraisal report, program, and statement of policy, adopts a resolution disapproving the statement of policy;
- (5) that beginning with the budget for FY 1979, budget requests sent by the President to Congress governing Soil Conservation Service activities express the extent to which the programs and policies projected under the budget meet the statement of policy approved by the Congress; and, in any case in which the budget recommendations fail to meet the established policy, the President shall set forth the reasons for requesting Congress to approve the lesser program recommended; and,
- (6) the Secretary, beginning with FY 1979, to prepare an annual report evaluating the program's effectiveness in attaining the purposes of S. 2081.

The Department of Commerce would interpose no objection to approval by the President of S. 2081.

The enactment of this legislation would not involve any additional budgetary requirements for this Department.

Sincerely,



General Counsel



**Department of Justice**  
**Washington, D.C. 20530**

October 12, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 2081, "To provide for furthering the conservation, protection, and enhancement of the Nation's agricultural resources for sustained use, and for other purposes."

We note that Section 7(a) contains a provision whereby either House of the Congress may, by adopting a resolution reported by the appropriate committee of jurisdiction disapproving the statement of policy, preclude the President from carrying out programs already established in accordance with such policy. It is the position of the Department of Justice that such a one House veto provision would be violative of the provisions of Article I, Section 7, of the Constitution. Article I, Section 7, sets forth the procedure by which legislation is enacted and clearly indicates that the veto power of the President was intended to apply to all actions of Congress which are to have the force of law. The Congress cannot by passing resolutions evade the specified procedure.

The Department of Justice is not familiar with the subject matter of the bill and is not aware of any factors which might make its prompt enactment necessary. Unless there is an overriding need for this measure now, the Department of Justice recommends against Executive approval of the bill.



In the event of Executive approval, the President may wish to note the unconstitutionality of the provision and to call attention to his having directed the Attorney General to become a party plaintiff in a lawsuit challenging the constitutionality of a comparable provision in the Federal Election Campaign Act (Clark v. Valeo, No. 76-1825, D.C. Cir. 1976).

Sincerely,



Michael M. Uhlmann  
Assistant Attorney General



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

October 12, 1976

MEMORANDUM FOR JAMES M. FREY  
OFFICE OF MANAGEMENT AND BUDGET

ATTN: Ms. Ramsey

SUBJECT: Enrolled Bill, S. 2081, "Agricultural Resources  
Conservation Act of 1976."

S. 2081 would establish a program for the analysis and future direction of national soil and water conservation efforts. This program would be developed by the Secretary of Agriculture through the Soil Conservation Service. The bill requires the preparation before January 1979 and January 1981 of both an appraisal of the Nation's "land, water, and related resources" and a national program to further the "conservation, protection, and enhancement" of these resources (Section 4, 5, and 6).

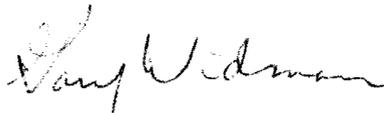
Section 7 of the bill requires the President to transmit the appraisal report and the program to the Congress, together with a detailed policy statement for framing the Administration's Soil Conservation Service budget requests. The President is then bound to carry out existing programs in accordance with that policy statement unless either House adopts a resolution of disapproval within 60 days.

The Council on Environmental Quality supports the intent of this bill, which is to require sound technical and program analyses for the formulation of future departmental and administration policies affecting the Soil Conservation Service. However, the language of this bill as drafted is very broad and general.

Appraisal of "the land, water, and related resources of the Nation" as called for in Sec. 4(c)(1) and Sec. 5(a) overlaps the inventory responsibilities of the Forest Service under the Resources Planning Act of 1974 and could duplicate in part the ongoing activities of several other federal agencies, including Interior (Geological Survey, Fish and Wildlife Service), the Environmental Protection Agency, and the Water Resources Council (which is currently completing a second National Assessment pursuant to the Water Resources Planning Act of 1965). The relationship of the appraisal to these agency efforts is not established in the bill, thus permitting at least the potential for duplication of existing responsibilities.

If the bill is enacted this problem could be minimized by early and continued communication with those responsible for land and water resource inventory in these other agencies, in order to make maximum use of existing data.

The Council believes that the development of a national program for the Soil Conservation Service as called for in this bill could have important environmental benefits. We therefore support its enactment. Thank you for the opportunity to comment.



Gary Widman  
General Counsel





# UNITED STATES WATER RESOURCES COUNCIL

SUITE 800 • 2120 L STREET, N.W. WASHINGTON, D.C. 20037

October 12, 1976

Mr. James M. Frey  
Assistant Director  
for Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to your request for views on the enrolled bill "To provide for furthering the conservation, protection, and enhancement of the Nation's agricultural resources for sustained use, and for other purposes."

The staff of the Water Resources Council have discussed Section 5 of the enrolled bill providing for a continuing appraisal of the land, water and related resources of the Nation with representatives of the Soil Conservation Service. The appraisal is directly related to the continuing assessment of water and related land resources to be carried out by the Water Resources Council authorized by Section 102 of the Water Resources Planning Act, as amended (P. L. 89-80). It is our understanding that the continuing appraisal activity to be undertaken, if the bill is approved by the President, would be closely coordinated with the Council's continuing assessment and the results of the appraisal program would be integrated into the Council's assessment activity.

A number of the members of the Water Resources Council will be providing views directly to OMB. Accordingly, the Water Resources Council has not developed a position on the enrolled bill.

Sincerely,

Gary D. Cobb  
Acting Director



MEMBERS: SECRETARIES OF INTERIOR, AGRICULTURE, ARMY, COMMERCE, HOUSING AND URBAN DEVELOPMENT, TRANSPORTATION; ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY; CHAIRMAN, FEDERAL POWER COMMISSION - OBSERVERS: ATTORNEY GENERAL; DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET; CHAIRMEN, COUNCIL ON ENVIRONMENTAL QUALITY, TENNESSEE VALLEY AUTHORITY, RIVER BASIN COMMISSIONS, BASIN INTERAGENCY COMMITTEES.





DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

October 13, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C.



Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled enactment of S. 2081, the Agricultural Resources Conservation Act of 1976, a bill "To provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained uses, and for other purposes."

This Department recommends that the President not approve the bill.

While the Department of Agriculture agrees with the goal of conservation of our Nation's resources, we do not believe the provisions of S. 2081 are necessary to accomplish such goal. Certain activities addressed by S. 2081 are presently being undertaken under existing authorities.

Examples are the identification of prime farmlands and erosion and sediment inventories. The Conservation Needs Inventory which provides valuable information on the condition of our land resources was updated in 1967 and could be updated as needed under existing authority. The Rural Development Act of 1972 provides for the inventorying and monitoring of land, water, and related resources which are the same areas of concern included in section 5(a) of S. 2081.

S. 2081 would reduce Congressional flexibility. It is seriously inconsistent with the basic objectives of the Congressional Budget and Impoundment Control Act of 1974. A major objective in passage of that Act was to enable the Congress to better develop spending priorities for individual programs in an overall budget context. This bill would single out particular programs for special budgetary treatment not warranted by existing or anticipated circumstances. It would write into law a claim on future budgets before the Congress or the President is able to fully consider the requirements of all program areas.

S. 2081 does not provide any new program authorities for the Soil Conservation Service, but only provides for program planning. We are concerned whether the comprehensive planning called for can be adequately accomplished. Orderly planning is of course desirable. However, there is a tendency to view long-term plans as inflexible. This Department now has under way a comprehensive resource assessment and program planning effort for the programs of the Forest Service. We believe that before extending this sort of undertaking, an opportunity should be provided for the thorough review and evaluation by both the Executive and the Legislative Branches of the Government.

Section 7(a) provides that a resolution enacted by only one House of the Congress would be sufficient to disapprove the statement of policy submitted by the President. This provision is similar to provisions in other legislation which the Executive Branch has opposed because the Department of Justice has consistently found that such other provisions are unconstitutional. This provision may present similar constitutional infirmities.

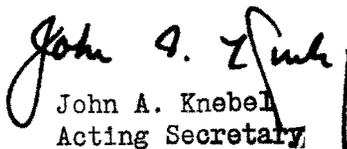
Honorable James T. Lynn

2

We are also concerned with those aspects of the bill which would restrict Presidential flexibility and discretion in preparing annual operating plans and attendant budget requests. It is essential that the President retain the flexibility to accommodate changing economic and social conditions and to exercise his judgment in the budgetary process on the appropriate balance among all worthy public programs. The regular appropriation process allows ample opportunities and an orderly process for questioning Presidential fiscal priorities and should continue to be relied upon as the appropriate forum for handling budget questions, issues, and decisions.

Enactment of this proposed legislation would require the expenditure of funds in the amount of \$2 million the first year; \$8 million the second year; \$16 million the third year; \$16 million the fourth year; \$17 million the fifth year; and \$17 million the sixth year.

Sincerely,

  
John A. Knebel  
Acting Secretary





DEPARTMENT OF THE ARMY  
WASHINGTON, D.C. 20310

13 OCT 1976

Honorable James T. Lynn

Director, Office of Management and Budget

Dear Mr. Lynn:

The Secretary of Defense has delegated responsibility to the Department of the Army for reporting the views of the Department of Defense on enrolled enactment S. 2081, 94th Congress, "To provide for furthering the conservation, protection, and enhancement of the Nation's agricultural resources for sustained use, and for other purposes."

The Department of the Army, on behalf of the Department of Defense, defers to the Department of Agriculture on the matter of approval or disapproval of the enrolled enactment.

This Act provides a declaration of national policy on the conservation and protection of United States land, water, and related resources. In addition, the Act directs the Secretary of Agriculture to carry out a continuing appraisal of United States land, water and related resources, and to establish a land and water conservation program. Finally, the Act would require reports to the Congress on implementation of the above measures, and would establish a specific set of budgetary procedures for the Executive Branch to follow.

If the enactment is approved, it will have no fiscal effect on the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Sincerely,

A handwritten signature in cursive script that reads "Bruce A. Hildebrand".

Bruce A. Hildebrand  
Acting Assistant Secretary of the Army  
(Civil Works)





# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

OCT 13 1976

Dear Mr. Lynn:

This responds to your request for the views of this Department on the enrolled bill S. 2081, "To provide for furthering the conservation, protection, and enhancement of the Nation's agricultural resources for sustained use, and for other purposes."

We recommend that the President not approve the enrolled bill.

S. 2081 would establish a mechanism for making long-range policy concerning the development of the Nation's soil and water resources. The bill requires the Secretary of Agriculture, through the Soil Conservation Service, to: appraise, on a continuing basis, the land, water and related resources of the Nation; develop and periodically update a program for furthering the conservation, protection and enhancement of such resources; provide the Congress and public with the information developed through the foregoing; and periodically provide the Congress with the appraisal report and the program as well as a detailed statement of policy to be used in framing budget requests of the Administration for Soil Conservation Service activities.

The bill defines "land, water, and related resources" as those which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

The enrolled bill duplicates the roles and functions of existing Federal programs. Activities similar to those called for under S. 2081 are already being carried out through programs administered by this Department, the Army Corps of Engineers, the Departments of Agriculture, Transportation, and Commerce, HUD, EPA, CEQ, and the Water Resources Council. These programs presently provide the information, appraisals and planning envisioned by the enrolled bill. The Administration's present policy is to provide for greater coordination of these existing programs within the Federal Government. S. 2081 would only create one more Federal program, overlapping those already in existence, and would not provide the comprehensive government-wide coordination needed.



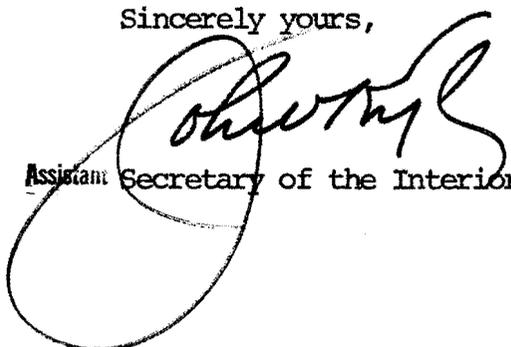
With respect to the Water Resources Council, which is chaired by the Secretary of the Interior, the Council is charged with conducting national assessments of water resources and coordinating Federal water and related resources activities. The Water Resources Council is presently conducting the 1975 National Water Assessment, which is due to be completed in 1977. This Assessment will cost approximately \$6.8 million. S. 2081 would significantly duplicate this function, and at additional Federal cost.

Further, we are concerned with those aspects of the bill which would restrict Presidential flexibility and discretion in preparing annual operating plans and attendant budget requests. It is essential that the President retain the flexibility to accommodate changing conditions and to exercise his judgment in the budgetary process among all the Federal programs in this area, and not be required to give priority to one over others.

While we recognize that the Soil Conservation Service renders a valuable and necessary service in providing technical expertise, information and assistance to land owners and users in soil conservation districts, the multi-Agency participation and multi-resource approach under S. 2081 is broader than the scope of the CSC. We are seriously concerned whether this sort of comprehensive planning can be adequately accomplished by only one bureau. Such an undertaking requires a thorough review and evaluation by the Executive Branch.

While we agree with the goal of furthering the conservation of the land, water, and related resources of the United States, this is presently being done by many agencies within the Federal Government under several existing provisions of law. The Executive Branch can coordinate the functions of these existing programs to work towards this goal. Since enrolled bill S. 2081 does not provide this comprehensive coordination, but only creates an additional program duplicative of the functions of existing programs, we recommend that the President not approve the enrolled bill.

Sincerely yours,

  
Assistant Secretary of the Interior

Honorable James T. Lynn  
Director, Office of  
Management and Budget  
Washington, D.C.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 15 1976

OFFICE OF THE  
ADMINISTRATOR

Dear Mr. Lynn:

This is in response to your October 7, 1976 request for a report on S. 2081, an enrolled bill "To provide for furthering the conservation, protection, and enhancement of the Nation's agricultural resources for sustained use, and for other purposes."

The bill would establish a comprehensive means to appraise and program Department of Agriculture Soil Conservation Service efforts to promote conservation of land and water resources to assure their sustained use.

The Secretary of Agriculture would be directed under the bill to appraise the use of land and water resources, develop an overall program for their conservation and enhancement, and report on the same to the Congress and the public.

The appraisal would include resource quantity, quality, and potential; the effect of use on resource status and condition; and a discussion of current laws, policies, programs, and other conditions affecting the resource.

The national land and water conservation program would assist land owners and land users in furthering conservation on private and non-Federal lands, in accordance with basic conservation goals developed under the program. One other element of the program would be an analysis of the prospects for collecting rural and urban organic waste and using it to improve soil fertility.

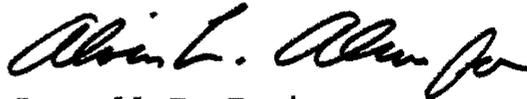
Such funds as may be necessary are authorized for appropriation.



The Environmental Protection Agency defers to the Department of Agriculture on the merits of the enrolled bill. We fully support its land and water conservation purpose but defer to Agriculture on the need for and effectiveness of the appraisal and program provided in the bill.

We also support collection and use of organic wastes to improve soil fertility, as provided in the bill. In the absence of appropriate provision in the bill, we recommend that the Secretary of Agriculture consult with this Agency concerning our findings on the usability of rural and urban organic wastes as well as the practicality and economy of collecting and transporting such wastes for the purpose stated.

Sincerely yours,



Russell E. Train  
Administrator

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D.C. 20503



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: 1230pm

FOR ACTION: Paul Leach

cc (for information): Jack Marsh

Max Friedersdorf *oyn*

Ed Schmults

Bobbie Kilberg *Veto*

Steve McConahey *Veto*

Robert Hartmann *Veto*

George Humphreys *Veto*

FROM THE STAFF SECRETARY

DUE: Date:

October 16

Time:

noon

SUBJECT:

S.2081-Agricultural Resources Conservation Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: 1230pm

FOR ACTION: Paul Leach  
Max Friedersdorf  
Bobbie Kilberg  
Robert Hartmann  
George Humphreys

*mf*

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 16

Time: noon

SUBJECT:

S.2081-Agricultural Resources Conservation Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*Sign*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: 1230pm

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please return to judy johnston, ground floor west wing

*I recommend dropping and*  
*cut*



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James M. Cannon  
For the President

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\_\_\_ Draft Reply

For Your Comments

\_\_\_ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend veto. However, it should be noted that the constitutionally infirmed legislative encroachment does not compel a veto. In the event the bill is signed, the President can indicate that he will treat the objectionable provision as merely a <sup>reportorial</sup> requirement and no more.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.



Ken Layman

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

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please return to judy johnston, ground floor west wing

10/15/76 - copy sent for researching, nm  
10/15/76 - Researched copy returned, nm

*Recommended vete on  
Constitutional grounds*



*RAM*

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James M. Cannon  
For the President

ON MEMORANDUM

WASHINGTON

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FROM THE STAFF SECRETARY

395  
to RKO 4:54  
10/15 6Am  
to DJS 3:37  
10/15  
6Am

DUE: Date:

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noon

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James M. Cannon  
For the President

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 2081, <sup>OK</sup>  
the "Agricultural Resources Conservation Act of <sup>OK</sup>  
1976."

S. 2081 would have required the Federal Govern-  
ment -- the Soil Conservation Service of the <sup>OK</sup>  
Department of Agriculture -- to appraise the land,  
water and related resources of the Nation, and to  
develop a plan and administer a program for the use  
of private <sup>OK</sup> and non-Federal <sup>OK</sup> lands.

I have several major objections to S. 2081.  
First, it perpetuates or gives credence to the  
mistaken idea that Federal planning is the answer  
to the Nation's problems.

S. 2081 would set the stage for the creation of  
a large and costly bureaucracy to "cooperate" with  
State and local governments and private landowners  
in an attempt to insure land use in compliance with  
the master plan. Too often Federal "cooperation" --  
when accompanied by vast amounts of Federal dollars  
and a large bureaucracy -- becomes Federal  
"direction."

I am not opposed to providing technical  
assistance to those who need it. The Federal  
Government, including the Soil Conservation  
Service, already does a great deal in the manage-  
ment and protection of our natural resources. My  
1977 budget proposal called for outlays in excess  
of \$11 billion for these programs. Included in the  
amount is over \$400 million for just the program

Attached to  
back-up

P. 208  
P. 211  
177 Budget



*Attached  
back-up  
James Lynn*

administered by the Soil Conservation Service to which this bill would add approximately \$76 million over the next six years.

Finally, the bill would subject the President's statement of policy--a document that would be used in framing Executive Branch budget requests for this program--to a 60-day review period during which either House of Congress may disapprove the statement of policy by simple resolution. This would be contrary to the general principle of separation of power whereby Congress enacts laws but the President and the agencies of government execute them. Furthermore, it would violate Article I, section 7 which requires that resolutions having the force of law be sent to the President for his signature or veto.

*Attached  
Dept of Justice  
back-up*

In summary, S. 2081 would violate the principles of fiscal responsibility, minimum Federal regulation, separation of powers, and constitutional government, and accordingly, I am constrained to withhold my approval.

THE WHITE HOUSE

October , 1976





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OCT 14 1976

To: J. Johnston  
10-14-76  
6:30 P.M.

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2081 - Agricultural Resources  
Conservation Act of 1976  
Sponsors - Sen. Huddleston (D) Kentucky and  
7 others

Last Day for Action

October 19, 1976 - Tuesday

Purpose

Provides a mechanism for establishing long range national policy concerning the conservation, protection, and development of the Nation's land, water, and related resources on non-Federal land; and provides for a one-house veto of a Presidential policy statement, and in effect, of related budget plans.

Agency Recommendations

Office of Management and Budget	Disapproval (Memorandum of Disapproval attached)
Department of Agriculture	Disapproval (Informally)
Department of Justice	Disapproval
Department of the Interior	Disapproval (Informally)
Department of Commerce	No objection
Department of the Army	Defers to Agriculture (Informally)
Environmental Protection Agency	Defers to Agriculture (Informally)
Water Resources Council	No position
Council on Environmental Quality	Approval

Discussion

The Soil Conservation and Domestic Allotment Act of 1935 assigns responsibility, to the Secretary of Agriculture through the Soil Conservation Service (SCS), for developing and carrying out a national soil and water conservation program in cooperation with private landowners and developers,



MEMORANDUM OF DISAPPROVAL

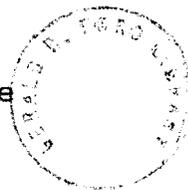
I am withholding my approval from S. 2081, the "Agricultural Resources Conservation Act of 1976."

S. 2081 would have required the Federal Government -- the Soil Conservation Service of the Department of Agriculture -- to appraise the land, water and related resources of the Nation, and to develop a plan and administer a program for the use of private and non-Federal lands.

I have several major objections to S. 2081. First, it perpetuates or gives credence to the mistaken idea that Federal planning is the answer to the Nation's problems.

S. 2081 would set the stage for the creation of a large and costly bureaucracy to "cooperate" with State and local governments and private landowners in an attempt to insure land use in compliance with the master plan. Too often Federal "cooperation" -- when accompanied by vast amounts of Federal dollars and a large bureaucracy -- becomes Federal "direction."

I am not opposed to providing technical assistance to those who need it. The Federal Government, including the Soil Conservation Service, already does a great deal in the management and protection of our natural resources. My 1977 budget proposal called for outlays in excess of \$11 billion for these programs. Included in the amount is over \$400 million for just the program



administered by the Soil Conservation Service to which this bill would add approximately \$76 million over the next six years.

Finally, the bill would subject the President's statement of policy--a document that would be used in framing Executive Branch budget requests for this program--to a 60-day review period during which either House of Congress may disapprove the statement of policy by simple resolution. This would be contrary to the general principle of separation of power whereby Congress enacts laws but the President and the agencies of government execute them. Furthermore, it would violate Article I, section 7 which requires that resolutions having the force of law be sent to the President for his signature or veto.

In summary, S. 2081 would violate the principles of fiscal responsibility, minimum Federal regulation, separation of powers, and constitutional government, and accordingly, I am constrained to withhold my approval.

THE WHITE HOUSE

October , 1976



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administered by the Soil Conservation Service to which this bill ~~would add approximately \$76 million over the next six years.~~

~~In addition,~~  
Finally, the bill would subject the President's statement of policy--a document that would be used in framing Executive Branch budget requests for this program--to a 60-day review period during which either House of Congress may disapprove the statement of policy by simple resolution. This would be contrary to the general principle of separation of power whereby Congress enacts laws but the President and the agencies of government execute them. Furthermore, it would violate Article I, section 7 which requires that resolutions having the force of law be sent to the President for his signature or veto.

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I have several objections to S. 2081. The bill would set the stage for the creation of a large and costly bureaucracy to "cooperate" with State and local governments and private landowners in an attempt to insure land use in compliance with the master plan. Too often Federal "cooperation" -- when accompanied by vast amounts of Federal dollars and a large bureaucracy -- becomes Federal "direction."

I am not opposed to providing technical assistance to those who need it. The Federal Government, including the Soil Conservation Service, already does a great deal in the management and protection of our natural resources. My 1977 budget proposal called for outlays in excess of \$11 billion for these programs. Included in that amount is over \$400 million for the very program administered by the Soil Conservation Service to which this bill is directed.

In addition, the bill would subject the President's statement of policy -- a document that would be used in framing Executive Branch budget requests for this program -- to a 60-day review period during which either House of Congress may disapprove the statement of policy by simple resolution.



This would be contrary to the general principle of separation of power whereby Congress enacts laws but the President and the agencies of government execute them. Furthermore, it would violate Article I, section 7 which requires that resolutions having the force of law be sent to the President for his signature or veto.

In summary, S. 2081 would violate the principles of fiscal responsibility, minimum Federal regulation, separation of powers, and constitutional government, and accordingly, I withhold my approval.

*Gerald R. Ford*

THE WHITE HOUSE,



## LAND AND WATER RESOURCE CONSERVATION ACT OF 1976

MAY 14, 1976.—Ordered to be printed

Mr. EASTLAND, from the Committee on Agriculture and Forestry,  
submitted the following

### REPORT

[To accompany S. 2081]

The Committee on Agriculture and Forestry, to which was referred the bill (S. 2081) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

#### SHORT EXPLANATION

S. 2081 would establish a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources. The bill—

(1) requires the Secretary of Agriculture to prepare an appraisal of the Nation's land, water, and related resources not later than December 31, 1977, and to update it by December 31, 1979, and each fifth year thereafter;

(2) requires the Secretary to develop a National Land and Water Conservation Program not later than December 31, 1977, and to update it by December 31, 1979, and each fifth year thereafter. The program is to set forth the direction for future soil and water conservation efforts on the private and non-Federal lands of the Nation;

(3) requires submission to Congress of the appraisal report and the program—together with a detailed statement of policy intended to be used in framing budget requests for Soil Conservation Service activities. The material is to be transmitted on the first day Congress convenes in 1978, in 1980, and at each five-year interval thereafter;



(4) requires that programs established by law be carried out in accordance with the statement of policy (or any subsequent amendment or modification thereof approved by the Congress) *unless* either House before the end of 60 days after receiving the appraisal report, program, and statement of policy, adopts a resolution disapproving the statement of policy. (Congress may revise or modify the statement of policy, and the revised or modified statement of policy shall be used in framing budget requests);

(5) requires—beginning with the fiscal budget for the year ending September 30, 1979—that requests sent by the President to Congress governing Soil Conservation Service activities express the extent to which the programs and policies projected under the budget meet the statement of policy approved by the Congress. In any case in which the budget recommendations fail to meet the established policy, the President shall set forth reasons for requesting Congress to approve the lesser program or policies recommended;

(6) requires—beginning with fiscal year 1979—that the Secretary submit to Congress an annual report evaluating the program's effectiveness in carrying out the purposes of the Act.

#### SUMMARY OF APPRAISAL REPORT AND PROGRAM

The *appraisal* required by the bill would include (but not be limited to)—

(a) data on the quality and quantity of land, water, and related resources;

(b) an analysis of the potential of those resources for various uses;

(c) a determination of the changes in the status and condition of those resources resulting from various uses; and

(d) a discussion of current laws, policies, programs, rights, regulations, ownerships, and other considerations associated with the land.

The appraisal is to be made in cooperation with conservation districts and with State soil and water conservation agencies and other appropriate State agencies under such procedures as the Secretary may prescribe to insure public participation.

The *program* required by the bill to establish a framework for furthering land and water conservation on the private and non-Federal lands of the Nation would include (but not be limited to)—

(a) an analysis of the Nation's land, water, and related resource problems;

(b) an analysis of existing authorities and adjustments needed;

(c) an evaluation to determine the effectiveness of existing soil and water conservation programs and the progress being achieved in meeting the soil and water conservation objectives of the Act;

(d) an identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of land and water resources, and a recommendation of the preferred alternative; and

(e) an analysis of the Federal and non-Federal inputs required to implement the program.

The Secretary, in the development of the program, is to provide for participation by the public through conservation districts, local, State, and national organizations, and other means.

#### COMMITTEE AMENDMENT

The Committee amendment strikes all after the enacting clause and inserts in lieu thereof an amendment in the nature of a substitute.

#### BACKGROUND AND NEED FOR LEGISLATION

##### I.

In 1974, Congress enacted legislation to provide long-term planning for the Nation's renewable resources. The Forest and Rangeland Renewable Resources Planning Act (Public Law 93-378) directs the Secretary of Agriculture to assess periodically the national situation of the forest and rangeland resources, and to submit, at regular intervals, recommendations for long-range Forest Service programs essential to meet future needs for those resources. The program recommendations are to cover all the activities of the Forest Service. In short, the Act provides a process which should permit better informed choices to be made in the management and administration of the National Forest System.

##### II.

However, the majority of the Nation's land is privately owned, and there is a need for more information concerning the condition of the soil and the competing demands for land.

The conservation of the Nation's soil and water resources is, of course, a matter of great importance. This importance is reflected, in part, by the fact that the Federal Government makes considerable conservation investments on privately owned land. More than \$500 million is expended annually by the Department of Agriculture alone for soil and water conservation programs.

There is a growing demand on the land, water, and related resources of the Nation to meet present and future needs for food and fiber, rural and urban development, agricultural, industrial, and community water supply, fish and wildlife habitat, recreational facilities, and other needs of the people.

##### III.

During the 1930's, demographers predicted that the population of the United States would stabilize at a peak of 150 million people after 1950. However, the population has expanded to over 200 million, with another 50 million predicted by the turn of the century. On a global basis, the population has now reached four billion, and much of this growth has been in the so-called Third World, where hunger and malnutrition are often endemic.

Therefore, the conservation and enhancement of America's farmland will, in the foreseeable future, be related directly to the preservation of human life in the United States and much of the world.

Further, since 1970, there has been a shift of the United States population back to the countryside. This is the first time this phenomenon has occurred since the early settlers arrived from Europe. Rural America is being examined as a good place to establish industry, and a good place to live. These factors are bound to have an impact on the amount of remaining farmland and its quality.

Statistics compiled by the Department of Agriculture show that despite dramatic urbanization in the Nation, there has been no net loss in the number of acres devoted to agriculture. For every urbanized acre, new land has been reclaimed. What is not known is the quality of the reclaimed lands. Nor is information available showing the other values being lost as a result of cropland conversion (such as the reduction of forest reserves on private lands).

## IV.

With respect to the Federal moneys presently being expended for soil and water conservation, questions arise as to what the Government is purchasing with the money; whether the expenditures have been consistent with needed conservation practices and consistent with the condition of the land; and whether the expenditures take into account the changing uses of the land.

While land use decisions should, of course, be made at the State and local levels, if the Federal Government is to make sizable investments in soil and water conservation, it is imperative that the basis for such investments be clearly understood. Further, there should be sound assurances that Federal conservation efforts do not conflict with practices which are environmentally sound or which are locally desired.

Resource appraisal is basic to wise land and water conservation. Since individual and governmental decisions concerning land and water resources often transcend administrative boundaries and affect other programs and decisions, a coordinated appraisal and program framework are essential.

## V.

On October 6, 1975, the Department of Agriculture's Public Advisory Committee on Soil and Water Conservation expressed strong concern about the identification, location, and availability of prime farmland. The advisory committee recommended that the Department of Agriculture accelerate its programs to ensure adequate conservation on cropland and encourage land users to convert to cropland only those lands that can be adequately protected.

In July of 1975, the Department of Agriculture's Committee on Land Use held a seminar, including persons from all walks of life, on the preservation of prime lands. Secretary of Agriculture Earl L. Butz, in a foreword to a publication of the seminar papers presented at the seminar, stated the following:

America's land must produce more food and fiber today than ever before. At the same time, additional space is needed for homes, factories, roads, parks, wildlife and recreation, power plants, and all the other activities that knit together the fabric of modern American life. These competing demands for land are becoming more and more a matter of public concern.

Conflicting demands do not press with equal urgency on all lands. Much land lacks the physical characteristics that make it desirable for development. It may be mountainous, swampy, or have severe climatic conditions. It may have thin stony soils or lack available water resources. It may be remote from transportation systems or population centers.

On the other hand, there are those lands that are relatively level, fertile, well-drained, and served by networks of roads, power lines, and communications. They are open, so land development is relatively cheap, and water is generally plentiful. Any builder with an eye toward low construction costs will be drawn to such a location. But low initial economic costs may disregard social costs and thus be only part of the story when prime lands are taken for development.

Many developments require relatively large areas. Instead of a single house or subdivision, new towns have ranged up to 20,000 acres in size. Instead of ordinary power plants on 40 acres, nuclear plants can take 5,000 acres for cooling lakes and "nuclear centers" may require up to 100 square miles of land. Land use decisions of this magnitude must carefully consider the long-term impact on agricultural and forest production.

The Department of Agriculture is concerned with land use alternatives and priorities, particularly those that involve expenditures of Federal funds. Federal projects that take prime land from production should be initiated only when this action is clearly in the public interest. Long-term implications of various land use options on the production of food and fiber must be understood to assure that the public is aware of the trade-offs involved.

\* \* \* \* \*

Our Nation is blessed with bountiful land resources, a technology that produces food and fiber more efficiently than any in man's history, and political and economic systems that foster individual enterprise. These factors, working together, have made American agriculture the envy of the world. They have provided the backbone of our country's strength. We must not be content, however, with past success. Future needs and opportunities demand that we constantly check our facts, test our assumptions, and rethink our options and priorities. . . .

## VI.

S. 2081, as amended by the Committee, will provide local citizens, as well as the Federal Government, with needed data on agricultural land and thereby promote the wise and orderly development of the Nation's soil and water resources. Further, it provides for a detailed evaluation on a continuing basis of the land and water resource conservation programs administered by the Soil Conservation Service.

The legislation does not provide new program authorities for the Soil Conservation Service, but provides for program planning that will more effectively utilize the programs now authorized. S. 2081 contemplates that conservation programs will continue to be carried out through existing types of cooperative arrangements, with voluntary participation by private landowners.<sup>1</sup>

<sup>1</sup> A summary of the Soil Conservation Service and the programs it administers is contained in Appendix 1 of this report.

Both the appraisal of resources and the program provided for in the Act must be developed in cooperation with State and local government entities, reflecting their interests and needs. The Act recognizes the basic responsibilities of such governmental entities for conservation of the States' land and water resources. There is no provision in the Act that would inhibit or conflict with these State and local responsibilities.

#### COMMITTEE CONSIDERATION

On July 10, 1975, Senators Huddleston and Eastland introduced S. 2081 as a companion measure to the Forest and Rangeland Renewable Resources Planning Act of 1974. However, the Senators made it clear that they wanted assistance in perfecting the language of the bill. A number of meetings were held with conservation and agricultural groups, and on October 1, 1975, the two Senators introduced Amendment No. 947, which was a product of the meetings held on the bill.

On October 7, 1975, Amendment No. 947 to S. 2081 was submitted to the Department of Agriculture for a report, and an adverse report was received on November 26, 1975.

Hearings were held on the bill on November 10, 1975, by the Subcommittee on Environment, Soil Conservation, and Forestry. Subsequently, the bill was polled from the Subcommittee. The Committee on Agriculture and Forestry, meeting in Executive Session, made a number of minor amendments to Amendment No. 947 and ordered S. 2081, as amended, reported to the Senate.

#### SECTION-BY-SECTION ANALYSIS

##### *Short title*

The first section provides that the Act may be cited as the "Land and Water Resource Conservation Act of 1976".

##### *Section 2. Findings*

Section 2 sets forth Congressional findings with respect to the importance of the Nation's land, water, and related resources.

The section states that such resources must be conserved, protected, and enhanced to promote their wise use and to avoid their loss, misuse, and damage.

##### *Section 3. Declarations of policy and purpose; promotion thereof*

*Subsection (a)* of section 3 declares it to be the policy of the United States and the Act to achieve and maintain—

- (1) quality, quantity, and productivity of the natural resource base for sustained multiple uses;
- (2) quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and
- (3) quality in the standard of living based on community improvement and adequate income.

*Subsection (b)* recognizes the cooperative arrangements under which the Department of Agriculture and the Soil Conservation Service have provided conservation assistance to States, local units of government, and land users through conservation districts. The subsection declares

it to be the policy of the United States that such cooperative arrangements be utilized to the fullest extent practicable to achieve the purposes of the Act.

*Subsection (c)* recognizes that competition for the use of the Nation's land and water resources is intense, and that each competitive interest must be understood and respected.

*Subsection (d)* states that the Secretary of Agriculture shall promote the policies and purpose of the Act by—

- (1) appraising on a continuing basis the land, water, and related resources of the Nation;
- (2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of such resources; and
- (3) providing information on the appraisal and program to Congress and the public.

##### *Section 4. Appraisal*

*Subsection (a)* of section 4 requires that the Secretary of Agriculture carry out, through the Soil Conservation Service, a continuing appraisal of the land, water, and related resources of the Nation. The appraisal would include (but not be limited to)—

- (1) data on the quality and quantity of land, water, and related resources;
- (2) an analysis of the potential of those resources for various uses;
- (3) a determination of the changes in the status and condition of those resources resulting from various uses; and
- (4) a discussion of current laws, policies, programs, rights, regulations, ownerships, and other consideration associated with the land.

*Subsection (b)* requires that data collected under the Act and all other pertinent data be utilized in making the appraisal. The Secretary is required to establish a data base on the land, water, and related resources.

*Subsection (c)* requires that the appraisal be made in cooperation with conservation districts and with State soil and water conservation agencies (and other appropriate State agencies) under such procedures as the Secretary may prescribe to insure public participation.

*Subsection (d)* requires that a report of the appraisal be completed by December 31, 1977, by December 31, 1979, and at each five-year interval thereafter.

##### *Section 5. Land and Water Conservation Program*

*Subsection (a)* of section 5 requires that the Secretary of Agriculture develop, through the Soil Conservation Service, a National Land and Water Conservation Program for furthering land and water conservation on the private and non-Federal lands of the Nation. The program would set forth the direction for future soil and water conservation efforts on the private and non-Federal lands of the Nation and would also include (but not be limited to)—

- (1) an analysis of the Nation's land, water, and related resource problems;
- (2) an analysis of existing authorities and adjustments needed:

(3) an evaluation to determine the effectiveness of existing soil and water conservation programs and the progress being achieved in meeting the soil and water conservation objectives of the Act;

(4) an identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of land and water resources, and a recommendation of the preferred alternative; and

(5) an analysis of the Federal and non-Federal inputs required to implement the program.

*Subsection (b)* requires that the Secretary, in the development of the program, provide for participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means.

*Subsection (c)* requires that the program plan be completed not later than December 31, 1977, and updated by December 31, 1979, and at each five-year interval thereafter.

#### *Section 6. Report to Congress*

*Subsection (a)* of section 6 requires that on the first day Congress convenes in 1978, in 1980, and at each five-year interval thereafter, the appraisal report and the program—together with a detailed statement of policy intended to be used in framing budget requests for Soil Conservation Service activities—are to be transmitted to the Congress by the President. Following the transmission of such appraisal report, program, and statement of policy, the President shall—subject to other actions by the Congress—carry out programs already established by law in accordance with such statement of policy (or any subsequent amendment or modification thereof approved by the Congress) *unless* either House before the end of 60 days after receiving the appraisal report, program, and statement of policy, adopts a resolution disapproving the statement of policy. Congress may revise or modify the statement of policy transmitted by the President, and the revised or modified statement of policy shall be used in framing budget requests.

*Subsection (b)* provides that commencing with the fiscal budget for the year ending September 30, 1979, requests sent by the President to Congress governing Soil Conservation Service activities shall express the extent to which the programs and policies projected under the budget meet the statement of policy approved by the Congress. In any case in which the budget recommendations fail to meet the established policy, the President shall set forth reasons for requesting Congress to approve the lesser program or policies recommended.

*Subsection (c)* provides that beginning with fiscal year 1979, and each year thereafter, the Secretary shall submit to Congress a report which evaluates the program's effectiveness in carrying out the purposes of the Act.

#### *Section 7. Definitions*

Section 7 contains definitions of certain terms used in the Act.

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "land, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary through the Soil Conservation Service.

(3) The term "land and water conservation program" means a framework for attaining the purposes of the Act.

#### *Section 8. Authorization for appropriations*

Section 8 authorizes to be appropriated such funds as may be necessary to carry out the Act.

#### *Section 9. Effective date*

Section 9 provides that the Act shall become effective on October 1, 1976.

#### DEPARTMENTAL VIEWS

In a letter to the Chairman dated November 26, 1975, the Department of Agriculture recommended that S. 2081 not be enacted. The letter from the Department reads as follows:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., November 26, 1975.

HON. HERMAN E. TALMADGE,  
Chairman, Committee on Agriculture and Forestry, U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of July 18, 1975, requesting a report on S. 2081, a bill "To provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and other purposes." This responds to Amendment 947 which has been introduced as a substitute to S. 2081.

While the Department of Agriculture agrees with the goal of conservation of our nation's resources, we do not believe the provisions of Amendment 947 to S. 2081 are necessary to such goal. Indeed certain of the activities addressed by the bill are presently being undertaken under existing authorities which we feel are adequate. The bill, however, goes well beyond what is needed and contains provisions which we feel would limit Presidential flexibility. Further, USDA opposes any legislation that may lead to a Federal presence in state and local land-use planning. Therefore, the Department of Agriculture recommends that Amendment 947 S. 2081 not be enacted.

The bill provides for establishing a national policy for furthering the conservation of the land, water, and related resources; emphasizes that the institutional framework through which the Federal Government cooperates with state and local governments is effective in improving our land and water resources and should be utilized to its fullest in the future; directs the Secretary of Agriculture to carry out through the Soil Conservation Service a continuing appraisal of the land, water, and related resources of the Nation; provides for a program to further land and water conservation on the private and non-Federal lands of the Nation; and provides for reports to the Congress concerning the appraisal, program, and effectiveness of the program.

The bill would broaden and strengthen existing statutory authorities in some areas, but it would also have a number of adverse effects.

We are concerned with those aspects of the bill which would restrict Presidential flexibility and discretion in preparing annual operating

plans and attendant budget requests. It is essential that the President retain the flexibility to accommodate changing economic and social conditions and to exercise his judgment in the budgetary process on the appropriate balance among all worthy public programs. The regular appropriation process allows ample opportunities and an orderly process for questioning Presidential fiscal priorities and should continue to be relied upon as the appropriate forum for handling budget questions, issues, and decisions.

The bill would also reduce Congressional flexibility. It is seriously inconsistent with the basic objectives of the Congressional Budget and Impoundment Control Act of 1974. A major objective in passage of this act was to enable the Congress to better develop spending priorities for individual programs in an overall budget context. This bill would single out particular programs for special budgetary treatment not warranted by existing or anticipated circumstances. It would write into law a claim on future budgets before the Congress or the President is able to fully consider the requirements of all program areas.

The bill duplicates the role and functions of other Federal agencies. For example, the Water Resources Council, of which this Department is a member, is presently charged with conducting national assessments of water resources. There could be overlap with the Environmental Protection Agency responsibilities under Sections 208 and 303 of the Federal Water Pollution Control Act Amendments of 1972. Moreover, the Soil Conservation Service presently has sufficient authority to utilize the broad resource assessments of other agencies and its own information system in conducting orderly program planning.

We are also seriously concerned whether this sort of comprehensive planning can be adequately accomplished. Orderly planning is of course desirable. However, there is a tendency to view long-term plans as inflexible. This Department now has under way a comprehensive resource assessment and program planning effort for the programs of the Forest Service. We believe that before extending this sort of undertaking, an opportunity should be provided for the thorough review and evaluation by both the Executive and the Legislative Branches of the Government. This would obviously require some time since the required reports on the Forest Service plan have not yet been made.

Section 6(a) provides that a resolution enacted by only one House of the Congress would be sufficient to disapprove the statement of policy submitted by the President. This provision is similar to provisions in other legislation which the Executive Branch has opposed because the Department of Justice has consistently found that such other provisions are unconstitutional. This provision may present similar constitutional infirmities.

The Office of Management and Budget advises that there is no objection to presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,  
*Acting Secretary.*

### COST ESTIMATE

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the costs that would be incurred by the Federal Government as a result of enactment of this legislation would be \$2 million in fiscal 1977. Assuming full implementation of the bill, the cost would subsequently rise to an estimated \$17 million in five years.

*Cost estimates for fiscal 1977 and the subsequent 5 fiscal years for S. 2081*

Fiscal year:	<i>Estimated cost</i>
1977 -----	\$2,000,000
1978 -----	8,000,000
1979 -----	16,000,000
1980 -----	16,000,000
1981 -----	17,000,000
1982 -----	17,000,000

No official cost estimate was received from the Department of Agriculture. However, the Department furnished the Committee informal estimates that are in agreement with the Committee estimates.

## APPENDIX 1

## SOIL CONSERVATION SERVICE

The Soil Conservation Service, an agency in the Department of Agriculture, was established in 1935. The agency assists conservation districts, communities, watershed groups, Federal and State agencies, and other cooperators with erosion control and water management problems and in bringing about needed physical adjustments in land use. The purpose is to conserve soil and water resources, improve agriculture and reduce damage caused by floods and sedimentation.

The Soil Conservation Service has general responsibility for administration of the following programs of the Department of Agriculture:

1. *Conservation Operations Program.*—Under this program, technical assistance is provided to landowners and operators in accomplishing locally-adapted soil and water conservation programs, primarily through conservation districts in the 50 States, Puerto Rico, and the Virgin Islands. As of June 30, 1975, about 3,000 conservation districts cover 97 percent of the Nation's farm and ranch lands. Activities include:

A. Technical assistance to district cooperators and other landowners in the development of plans and application of conservation treatments.

B. A national program of land inventory and monitoring to provide soil, water, and related resource data for land conservation, use, and development, for guidance of community development, for identification of prime agricultural producing areas that should be protected, for use in protecting the quality of the environment, and to issue land inventory reports of resource conditions.

C. Soil surveys are made as an inventory of a basic resource and to determine land capabilities and conservation treatment needs. Soil survey publications include interpretations useful to cooperators, other Federal agencies, State and local organizations.

D. Snow survey water forecasting from basic data collected to provide estimates of water availability from high mountain snow packs and relating this to summer stream flow.

E. Operation of plant materials centers to assemble, test, and encourage increased use of plant species which show promise for use in conservation problem areas.

2. *River Basin Surveys and Investigations Program.*—This program involves cooperation with other Federal, State, and local agencies in the conduct of river basin surveys and investigations and flood hazard analyses in order to aid in the development of coordinated water resource programs, including the development of guiding principles and procedures. SCS represents the Department on the Water

Resource Council, river basin commissions, and river basin interagency committees for coordination among Federal departments and States.

3. *Watershed Planning Program.*—This program consists of (a) making preliminary investigations to assess proposed small watershed projects in response to requests made by sponsoring local organizations and (b) assistance to sponsors in the development of watershed work plans. SCS is responsible for development of guiding principles and procedures.

4. *Watershed and Flood Prevention Operations Program.*—Activities under this program include:

A. Flood prevention operations; planning and installing works of improvement for flood prevention and for the conservation, development, utilization, and disposal of water. This may also include the development of recreational facilities and the improvement of fish and wildlife habitat. Activities are authorized in 11 flood prevention watersheds.

B. Emergency operations to install measures for runoff retardation and soil erosion prevention needed to safeguard lives and property from floods and products of erosion on any watershed whenever fire or any other natural element or force has caused a sudden impairment of that watershed.

C. Watershed operations; cooperation with local sponsors, State and other public agencies in the installation of planned works of improvement in approved watershed projects. Such works of improvement reduce erosion, floodwater and sediment damage. They also further the conservation, development, utilization, and disposal of water, including the development of recreational facilities and improvement of fish and wildlife habitat.

D. Loans to local organizations to help finance the local share of the cost of carrying out planned watershed and flood prevention works of improvement. Loans are made on an insured basis from the Agricultural Credit Insurance Fund administered by the Farmers Home Administration.

5. *Great Plains Conservation Program.*—Activities under this program include:

A. Cost-sharing of conservation practices under long-term contracts with farmers and ranchers in designated counties of the ten Great Plains States.

B. Cost-share programming and contract administration and technical assistance to help make needed land use adjustments and install conservation measures specified in basic conservation plans in accordance with contract schedules.

6. *Resource Conservation and Development Program.*—Activities under this program include:

A. Project planning assistance to help local sponsors develop overall programs and plans for land use and conservation.

B. Technical assistance and cost-sharing assistance to sponsors, local groups, and individuals in carrying out such plans and programs.

C. Loans services for resource improvements and developments in approved projects. Loans are made on an insured basis from the Agricultural Credit Insurance Fund administered by the Farmers Home Administration.

The Soil Conservation Service maintains its central office in Washington, D.C. Most of its activities, however, are carried out in about 3,000 field offices in the 50 States and Puerto Rico. Four technical service centers provide program coordination and technical support. This includes services such as engineering and watershed planning, cartographic work, soil mechanics laboratories, professional help in agronomy, soils, biology, forestry, information, plant materials, range conservation, other technical work, and special laboratories. Technical programs are carried out in cooperation with conservation districts and other sponsoring local organizations. As of June 30, 1975, there were 13,575 full-time employees and 2,935 part-time, intermittent, and other employees.

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# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### An Act

To provide for furthering the conservation, protection, and enhancement of the Nation's agricultural resources for sustained use, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Resources Conservation Act of 1976".*

#### FINDINGS

SEC. 2. The Congress finds that—

(1) There is a growing demand on the land, water, and related resources of the Nation to meet present and future needs.

(2) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization, and disposal of water, animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(3) Resource appraisal is basic to wise land and water conservation. Since individual and governmental decisions concerning land and water resources often transcend administrative boundaries and affect other programs and decisions, a coordinated appraisal and program framework are essential.

#### DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "land, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

(3) The term "land and water conservation program" means a framework for attaining the purposes of this Act.

#### DECLARATIONS OF POLICY AND PURPOSE; PROMOTION THEREOF

SEC. 4. (a) In order to further the conservation of land, water, and related resources, it is declared to be the policy of the United States and purpose of this Act that the conduct of programs administered by the Secretary of Agriculture for the conservation of such resources shall be responsive to the long-term needs of the Nation, as determined under the provisions of this Act.

(b) Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land



## S. 2081—2

users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this Act.

(c) The Secretary shall promote the attainment of the policies and purposes expressed in this Act by—

(1) appraising on a continuing basis the land, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the land, water, and related resources of the Nation; and

(3) providing to Congress and the public, through reports, the information developed pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 6.

## APPRAISAL

Sec. 5. (a) In recognition of the importance of and need for obtaining and maintaining information on the current status of land, water, and related resources, the Secretary is authorized and directed to carry out, through the Soil Conservation Service, a continuing appraisal of the land, water, and related resources of the Nation. The appraisal shall include, but not be limited to—

(1) data on the quality and quantity of land, water, and related resources;

(2) an analysis of the potential of those resources;

(3) a determination of the changes in the status and condition of those resources resulting from various uses; and

(4) a discussion of current laws, policies, programs, rights, regulations, ownerships, and other considerations associated with the land.

(b) The appraisal shall utilize data collected under this Act and pertinent data and current information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integrated system capable of using combinations of resource data to determine the quality and potential for alternative uses of the resource base and to identify areas of local, State, and national concerns pertaining to land conservation, resource use and development, and environmental improvement.

(c) The appraisal shall be made in cooperation with conservation districts and with State soil and water conservation agencies and other appropriate State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) A report of the appraisal shall be completed by December 31, 1978, by December 31, 1980.

## LAND AND WATER CONSERVATION PROGRAM

Sec. 6. (a) In order to establish a framework for achieving the national land and water policy and purpose of this Act, the Secretary is hereby authorized and directed to develop, through the Soil Conservation Service, in cooperation with the participation by the public through conservation districts, State and national organizations and

## S. 2081—3

agencies, and other appropriate means, a national land and water conservation program (hereinafter called the "program") to assist land owners and land users, at their request, in furthering land and water conservation on the private and non-Federal lands of the Nation. The program shall set forth the direction for future soil and water conservation efforts based on the current land, water, and related resource appraisal developed in accordance with section 5 of this Act, taking into consideration both the long- and short-term needs of the Nation, the land owners, and the land users. The program shall also include, but not be limited to—

(1) analysis of the Nation's land, water, and related resource problems;

(2) analysis of existing authorities and adjustments needed;

(3) an evaluation, based on a system to determine the effectiveness of the soil and water conservation ongoing programs and the progress being achieved in meeting the soil and water conservation objectives of this Act;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of land and water resources, in the context of specific time frames, and a recommendation of the preferred alternative;

(5) analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting or similarly treating such materials, transporting such materials to farms and rural areas, and placing such materials into the soil to improve soil fertility. The analysis shall include the projected cost of such collection, transportation, and placement until the year 2000; and

(6) analysis of the Federal and non-Federal inputs required to implement the program.

(b) The program plan shall be completed not later than December 31, 1978, and be updated by December 31, 1980.

## REPORT TO CONGRESS

SEC. 7. (a) On the first day Congress convenes in 1979, and in 1981, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, the appraisal report and the program as required by sections 4 and 5 of this Act, together with a detailed statement of policy intended to be used in framing budget requests of the Administration for Soil Conservation Service activities. Following the transmission of such appraisal report, program, and statement of policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such statement of policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such appraisal report, program, and statement of policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the statement of policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-



## S. 2081—4

day period. Notwithstanding any other provision of this Act, Congress may revise or modify the statement of policy transmitted by the President, and the revised or modified statement of policy shall be used in framing budget requests.

(b) Commencing with the fiscal budget for the year ending September 30, 1979, requests presented by the President to the Congress governing Soil Conservation Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so represented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser program or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344.

(c) The Secretary, during budget preparation for fiscal year 1979, and annually thereafter, shall prepare a report which evaluates the program's effectiveness in attaining the purposes of this Act. The report, prepared in concise summary form with appropriate detailed appendices, shall contain pertinent data from the current resource appraisal required to be prepared by section 4 of this Act, shall set forth the progress in implementing the program required to be developed by section 5 of this Act, and shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. The report shall also indicate plans for implementing action and recommendations for new legislation where warranted.

## AUTHORIZATION FOR APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

## EFFECTIVE DATE

SEC. 9. The provisions of this Act shall take effect on October 1, 1977, and shall terminate on December 31, 1981.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

OCTOBER 20, 1976

Office of the White House Press Secretary

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THE WHITE HOUSE

## MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 2081, the "Agricultural Resources Conservation Act of 1976."

S. 2081 would have required the Federal Government -- the Soil Conservation Service of the Department of Agriculture -- to appraise the land, water and related resources of the Nation, and to develop a plan and administer a program for the use of private and non-Federal lands.

I have several objections to S. 2081. The bill would set the stage for the creation of a large and costly bureaucracy to "cooperate" with State and local governments and private landowners in an attempt to insure land use in compliance with the master plan. Too often Federal "cooperation" -- when accompanied by vast amounts of Federal dollars and a large bureaucracy -- becomes Federal "direction."

I am not opposed to providing technical assistance to those who need it. The Federal Government, including the Soil Conservation Service, already does a great deal in the management and protection of our natural resources. My 1977 budget proposal called for outlays in excess of \$11 billion for these programs. Included in that amount is over \$400 million for the very program administered by the Soil Conservation Service to which this bill is directed.

In addition, the bill would subject the President's statement of policy -- a document that would be used in framing Executive Branch budget requests for this program -- to a 60-day review period during which either House of Congress may disapprove the statement of policy by simple resolution. This would be contrary to the general principle of separation of power whereby Congress enacts laws but the President and the agencies of government execute them. Furthermore, it would violate Article I, section 7 which requires that resolutions having the force of law be sent to the President for his signature or veto.

In summary, S. 2081 would violate the principles of fiscal responsibility, minimum Federal regulation, separation of powers, and constitutional government, and accordingly, I withhold my approval.

GERALD R. FORD



THE WHITE HOUSE,

October 19, 1976.

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