The original documents are located in Box 65, folder "10/17/76 HR14451 Federal Property and Administrative Service Act Amendments" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library

APPROVED
OCT 17 1976

10/17/76

THE WHITE HOUSE

WASHINGTON

October 15, 1976

ACTION

Last Day: OCtober 18

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 14451 - Federal Property and Administrative Service Act Amendments

Attached for your consideration is H.R. 14451, sponsored by Representative Brooks and eight others.

The enrolled bill amends the Federal Property Act to bring about significant changes in the utilization and disposition of Federal excess and surplus personal property. These changes include:

-- a major expansion of the purposes for which surplus personal property may be donated;

-- a shift of the principal administrative responsibility for the donation program from Federal to State control;

-- restrictions on eligibility and use of excess property;

-- the centralization of Federal responsibility in a single agency, the General Services Administration.

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

OMB, Max Friedersdorf and I recommend approval of the enrolled bill. Counsel's Office (Lazarus) recommends approval and indicates "It should also be noted that the Department of Justice strongly endorses this legislation which holds great potential for the improvement of State and local law enforcement. A great deal of Federal surplus property, e.g., communications equipment, motor vehicles,etc. would be of great assistance to police departments across the country."

RECOMMENDATION

That you sign H.R. 14451 at Tab B.

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

OCT 11 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14451 - Federal Property and Administrative Service Act Amendments
Sponsor - Rep. Brooks (D) Texas and 8 others

Last Day for Action

October 18, 1976 - Monday

Purpose

To establish an orderly, efficient and equitable system for the allocation and management of Federal personal property.

Agency Recommendations

Office of Management and Budget	Approval
General Services Administration	Approval
Department of Health, Education and Welfare	No objection
Department of Commerce	No objection
Department of Agriculture	No objection (Informally)
Department of Defense	No objection (Informally)
Department of the Interior	No objection
National Aeronautics and Space Administration	No objection
National Science Foundation	No objection

Discussion

The enrolled bill amends the Federal Property Act to bring about significant changes in the utilization and disposition of Federal excess and surplus personal property. These changes include (1) a major expansion of the purposes for which surplus personal property may be donated, (2) a shift of the principal administrative

responsibility for the donation program from Federal to State control, (3) restrictionson eligibility and use of excess property, and (4) the centralization of Federal responsibility in a single agency, the General Services Administration (GSA). These changes are discussed in more detail below.

Expansion of donation program

The enrolled bill expands the types of recipients which may receive, through donation, surplus Federal personal property (which is not needed by any Federal agency) and the purposes for which such property may be used. Under existing provisions of the Federal Property Act, only specified public agencies or institutions engaged in public health, educational, and civil defense activities are eligible to receive such surplus property. In the areas of education and public health, the Secretary of HEW makes the determination of what surplus property is usable and necessary for such purposes. With respect to civil defense activites, similar determinations are made by the Secretary of Defense.

H.R. 14451 provides that the Administrator of the General Services Administration (GSA), acting under criteria based on need and utilization which would be established after consultation with the States, may transfer surplus personal property to the States for subsequent donation to any State or local public or nonprofit institution for any public purpose. The bill enumerates several purposes (i.e., conservation, economic development, education, parks and recreation, public health, and public safety). It lists public or nonprofit institutional recipients such as hospitals, clinics, health centers, schools, universities, etc.

State responsibility for administration

Under current law, the Federal Government determines the need of eligible donees and administers detailed procedures for property assignment and accountability within the States. The enrolled bill requires each State to develop a State plan of operation which would assure designation of a State agency to be responsible for surplus property matters. The chief executive officer of the State is required to certify and submit a State plan (after allowing at least 30 days of comment within a 60 day period of public notice) to the Administrator of General Services before the State would be eligible to receive surplus property donations.

Limitations on use of excess property

The use of excess personal property (which one Federal agency no longer needs) by grantees of Federal agencies has been the subject of GAO and public criticism of mismanagement and abuse. The enrolled bill prohibits Federal agencies from hereafter obtaining excess property and providing it to their grantees, except those grantees which are public agencies or nonprofit tax-exempt organizations which are conducting federally-sponsored research. However, excess personal property held by a grantee prior to the effective date of H.R. 14451 will be regarded as surplus and, upon certification by the grantor that it is being used for the purpose intended, title thereto will pass to the grantee.

The enrolled bill encourages more responsible management and control of excess property hereafter made available to grantees by requiring sponsoring agencies to pay 25% of the original acquisition cost. By also stipulating that title in such instances will pass to the grantee, the enrolled bill reduces the administrative burden now imposed on grantor agencies by current law. Exceptions to the 25% payment requirement would be continued for property furnished under the Foreign Assistance Act of 1961, scientific equipment provided under the National Science Foundation Act, property furnished in connection with the Cooperative Forest Fire Control Program, and property furnished in connection with grants to Indian tribes as defined in the Indian Financing Act.

Each executive agency is required to submit an annual report to GSA on personal property that is (1) obtained as excess or determined to be no longer required for the original appropriated purpose, and (2) furnished in the United States to a non-Federal recipient. The GSA Administrator is to submit a report to the Congress summarizing and analyzing these executive agency reports.

The enrolled bill repeals a provision in the Public Works and Economic Development Act of 1965, added in 1974, which authorized an excess property donation program under the Federal Cochairmen of the Regional Action Planning Commissions for the purpose of assisting the economic development activities of the Commissions. However, former beneficiaries of the program will be permitted to participate, with other eligible donees, in the distribution of surplus property by their State.

Centralized Federal Activity

As previously noted, most of the surplus personal property donation program is now administered by HEW pursuant to regulations of the General Services Administration. Donations for economic development purposes are separately administered by the Department of Commerce. The enrolled bill transfers program responsibility for these donation activities to GSA, and thereby centralizes in one agency all Federal responsibility for dealing with State governments with respect to donable personal property.

Other provisions

The enrolled bill contains several other provisions of an administrative, conforming or technical nature. These provisions

-- generally waive restrictions and reservations now in existence on donated personal property, except as otherwise determined by the GSA Administrator. Restrictions which are or become the subject of judicial proceedings within one year of the effective date of the bill will remain in force.

-- strengthen the role of the Administrator of GSA in determining that the return of foreign excess property is in the interest of the United States.

-- prohibit sex discrimination in the administration of the Federal Property Act.

-- provide that H.R. 14451 becomes effective one year after its enactment.

-- require both the GSA Administrator and the Comptroller General to transmit to the Congress, within 30 months of enactment and biennially thereafter, reports on the operation of the Act.

While several of the affected agencies have minor reservations about certain provisions of H.R. 14451, none has any objection to your approval of the enrolled bill.

James T. Lynn
Director

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 11 Time: 1000pm

FOR ACTION: Lynn May
Max Friedersdorf
Bobbie Kilberg
Jeanne Holm

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

FROM THE STAFF SECRETARY

DUE: Date: October 12 Time: 1100am

SUBJECT:

H.R.14451-Federal Prpperty and Administrative Service Act Amendments

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

X 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

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405

October 5, 1976

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

Dear Mr. Lynn:

By letter of October 1, 1976, you requested the views of the General Services Administration (GSA) on enrolled bill H.R. 14451, "To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes."

GSA testified in favor of this bill before the House and Senate and favors signing of the bill by the President.

Sincerely,

Jack Eckerd

JACK ECKERD
Administrator

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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

OCT 7 1976

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 14451, an enrolled bill "To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes."

In summary, we recommend that the President sign the enrolled bill, although the bill does differ in certain respects from the Administration's proposal in this area, because H.R. 14451 would make the surplus personal property donation program more efficient and useful.

The enrolled bill would expand the scope of the surplus property donation program by permitting surplus personal property (Federal personal property no longer needed by any Federal agency) to be donated to any local or State public agency (including Indian tribes) for any public purpose, in addition to nonprofit educational and public health institutions, as under present law. The administration of the donation program would be transferred from this Department to the General Services Administration (GSA). In addition, a Federal agency could no longer obtain excess personal property (personal property not needed by a particular Federal agency) from other Federal agencies for the use of that agency's grantees unless the Federal agency paid to the U.S. Treasury 25 percent of the original acquisition cost of the property. There would be certain exceptions to the 25 percent payment requirement, in particular for scientific equipment furnished by the National Science Foundation and for property transferred

to Indian tribes. In addition, the special provision of law permitting the economic development regional commissions to donate excess property would be repealed.

The enrolled bill would enact the Administration's proposal to broaden significantly the scope of the Federal surplus personal property donation program and to transfer its administration to GSA, which presently handles other aspects of surplus and excess personal property management. H.R. 14451 would, contrary to the Administration's position, provide for donation of surplus personal property to Indian tribes through State surplus property agencies and would place restrictions on the use of excess personal property by Federal agencies in relation to their grantees. In addition, the enrolled bill does not include a priority for donation for educational and public health purposes, as requested by this Department in testimony in September of 1975 before the Government Activities and Transportation Subcommittee of the House Government Operations Committee. Nevertheless, we feel that the bill as a whole will make the surplus personal property donation program more useful and efficient.

We therefore recommend that the President sign the enrolled bill.

Sincerely,

Marjorie Lynch

Under Secretary

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 5 - 1976

Dear Mr. Lynn:

This responds to your request for the views of this Department on the enrolled bill H.R. 14451, "To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes."

We would have no objection to approval of the bill by the President.

H.R. 14451 amends the Federal Property and Administrative Services Act of 1949 to substantially restructure and streamline the distribution and use of Federal excess and surplus personal property.

While we are in accord with those provisions of H.R. 14451 which would make surplus personal property more available to Indian tribes, we regret that the bill does not include specific authority for the Secretary of the Interior to acquire and donate such surplus property to federally recognized Indian tribes without regard to whether they happen to be recipients of a grant from the Secretary as provided in section 3 of the bill. Similar unrestricted authority for such donations to tribes had been provided for the Four Corners and other Regional Commissions under section 514 of the Public Works and Economic Development Act of 1965 (88 Stat. 1162) which is repealed by section 6 of H.R. 14451.

We shall propose legislation for the 94th Congress to provide such specific authority to the Secretary of the Interior.

Sincerely yours,

Assistant Secretary of the Interior

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

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

OCT 6 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 response to your request for the views of this Department concerning H. R. 14451, an enrolled enactment,

> "To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes."

The purposes of H. R. 14451 are (1) to establish in the General Services Administration (GSA) a centralized system for distributing by donation Federal surplus personal property to the states for a variety of public uses, and (2) to prohibit Federal agencies from obtaining excess personal property for their grantees except if the agency pays an amount equal to 25 percent of the original acquistion cost of the property into the Treasury.

These objectives would be accomplished by a series of amendments to the Federal Property and Administrative Services Act of 1949. (40 U. S. C. 471 et. seq.) (The Act distinguishes between surplus property - which no Federal agency needs - and excess property - which one Federal agency no longer needs.)

In the case of surplus property, H. R. 14451 would require the GSA Administrator to allocate the property fairly and equitably among the states. The Administrator would be authorized to transfer the property to a designated state agency, which would, in turn, distribute the property either to public agencies for such purposes as conservation, economic development and education, or to nonprofit educational or public health institutions. In order to be eligible to

obtain surplus property, the state would have to develop a plan of operation providing for the fair and equitable distribution of the property within the state and containing adequate assurances that the designated state agency has the necessary organizational and operational authority and capability.

With regard to excess property, H. R. 14451 would prohibit Federal agencies from obtaining excess personal property for their grantees except pursuant to GSA regulations and provided that the property would be furnished for use in connection with the grant and the sponsoring Federal agency pays an amount equal to 25 percent of the original acquisition cost into the U. S. Treasury.

Finally, the bill would repeal the regional excess property program of section 514 of the Public Works and Economic Development Act of 1965. This program, established in 1974, authorized the Federal Cochairmen of the Regional Planning Commissions to acquire excess property and to dispose of it for economic development purposes by loan or outright transfer to the states or political subdivisions, tax-supported organizations, Indian tribes, and nonprofit hospitals and colleges.

The Department of Commerce has no objection to the President's approval of H. R. 14451.

The provisions of H. R. 14451 would not become effective until one year from the date of enactment. We do not anticipate, however, that phasing out the section 514 program would require any additional funds beyond those already appropriated for FY 1977.

Sincerely,

General Counsel

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
WASHINGTON, D. C. 20301

8 October 1976

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

Dear Mr. Lynn:

This is in reply to your 1 October 1976 request for a report from the Department of Defense on H.R. 14451, 94th Congress, an Act "To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes."

Except for limited authority retained by the Department of Defense with respect to Service educational activities and by the Department of Health, Education, and Welfare with respect to cooperative agreements relating to transfer of real and related personal property, the Act would transfer to the Administrator of General Services full responsibility for the donation of Federal surplus property pursuant to criteria based on need and utilization and established after such consultation with State agencies as is feasible. Moreover, not only would the Administrator assume the administrative duties connected with the donation program, but he would also receive greatly expanded authority to allocate and transfer property for donations. In this regard, the Act would authorize the Administrator to transfer surplus property to appropriate State agencies for distribution pursuant to an approved plan of operation to any public agency for use in carrying out public purposes, including the economic development of the residents of a given political area.

The Act would transfer to the States primary responsibility for distributing surplus property to ultimate recipients pursuant to an operational plan developed in conformity with certain prescribed provisions, approved by the State's chief executive office and submitted to the Administrator after affording interested parties an opportunity to submit comments through appropriate publications.

In its definitions section, the Act designates certain geographical areas as "States". Although the reason is not clear, this list does not include the Trust Territory of the Pacific Islands (TTPI) as does the current definition of foreign excess property. As a result, therefore, the Federal Property and Administrative Services Act of 1949, as amended, would classify property located in TTPI as domestic surplus, yet not consider TTPI as a State for donation purposes.

With respect to property obtained by Federal grantees prior to its enactment and no longer being used for the purpose for which it was furnished, the Act requires that the Administrator transfer such property to an appropriate State agency. Not only might another Federal agency require such property, but its military or other characteristics might render it totally inappropriate for State use.

The Act would amend Section 402(c) of the Federal Property and Administrative Services Act of 1949, as amended, to authorize the Administrator, as well as the Head of an owning Agency, to direct the return of foreign excess property for donation purposes if the recipient bears the associated transportation costs. However, the proposed Act also authorizes the Administrator to reimburse State agencies for care and handling costs related to property which eligible donees cannot utilize. When combined these two proposed changes appear to authorize the Federal Government to fund the return of this property in connection with the donation of foreign excess property to State agencies. Recognizing that return of foreign excess property for donation can be expensive, the current Section 402(c) places this financial burden solely on the recipient. To the extent that the proposed changes would remove this responsibility, they may encourage return of foreign excess property without the identification of firm requirements for utilization.

Subsection 1(4) of the Act would require the head of each executive agency disposing of real property under subsection (k) to submit an annual report to the Congress on the acquisition cost of all real property (as well as personal property) so disposed of during the preceding fiscal year. Under a delegation from the Administrator, the Secretaries of the military departments may dispose of land interests having a disposal value of $1,000 or less. Additionally, the military departments have been delegated authority to dispose of real property improvements (e.g., buildings) without the underlying land. The volume in the latter instance is considerable and in the absence of an established minimum (i.e., $3,000 per transaction) would appear to require reporting.

In addition, the proposed donation program would reduce the amount of surplus property available for sale to the general public. Although it is difficult to estimate the Act's total impact, decreased sales proceeds could affect the funding of Department of Defense disposal operations. In this regard, the Department of Defense currently defrays more than $150,000,000 annually of its overall disposal operating expenses with sales proceeds. The adverse financial impact would be reduced if implementing regulations require the recipients to reimburse the donating Federal agencies for costs incurred in transferring property to the State agency including, but not limited to packing, crating, loading, removal, storage, and transporation costs.

Decreased sales proceeds may also affect Defense working capital funds. The Act continues the policy of making no distinction between property capitalized in working capital funds and any other property in determining whether certain property is to be transferred. Accordingly, because Defense working capital funds currently receive a portion of those sales proceeds in excess of disposal expenses, decreased sales proceeds could impact the operation of such funds.

Notwithstanding the reservations noted above, the Department of Defense interposes no objection to enactment of H.R. 14451.

Sincerely,

Richard A. Wiley

DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

October 12, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20250

Dear Mr. Lynn:

This is in response to your request for our position on the enrolled enactment of H.R. 14451, "To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and other purposes."

This Department has no objection to Presidential approval of this bill.

The bill would provide for a unified system of management and control over the distribution of surplus Federal property by, among other things, placing the State surplus property agencies in charge of distributing surplus property and broadening the categories of use of such property. The bill also prohibits Federal agencies from obtaining excess property and donating it to Federal grantees except in certain specified situations or programs.

We are concerned that Section 3 of the bill relating to excess property may be construed to prohibit the continuance of the excess property program conducted by this Department for the benefit of the Cooperative Extension program. Presently, excess property is made available to the State Extension Services on the premise that they are conducting official business of the United States in cooperation with the Extension Service.

Since being established by Congress to disseminate agricultural information throughout the United States, the State Extension Services have been viewed as an integral part of this Department for many purposes. In view of this and the fact that they operate from funds appropriated in the Federal budget for their specific use, with matching funds coming from the respective State and local governments, it may be argued that they are not grantees within the meaning of Section 3 and that excess property may be made available to them.

Honorable James T. Lynn

Accordingly, and because of the desirable provisions of the bill relating to surplus property, we are not recommending that the President veto this bill.

Sincerely,

John A. Knebel
Acting Secretary

National Aeronautics and
Space Administration

Washington, D.C.
20546

Office of the Administrator

OCT 4 1976

Director
Office of Management and Budget
Executive Office of the President
Washington, DC 20503

Attention: Assistant Director
for Legislative Reference

Subject: Enrolled Enactment Report on H.R. 14451, 94th Congress

This is an Enrolled Enactment report on H.R. 14451, "To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes." It is submitted pursuant to Mr. James M. Frey's memorandum of October 1, 1976.

The Bill would make several major changes to the law governing the utilization and donation of excess and surplus personal property by: (1) removing control of the donation process from the Secretary of Health, Education, and Welfare; (2) requiring donated property to be used for one year by the donee or to be returned to the State agency for further donation; (3) requiring 25 per centum of the acquisition cost of excess property to be furnished to a grantee to be paid by the sponsoring Federal agency into the Treasury; and (4) requiring some revised and expanded reporting procedures dealing with the utilization and disposal of excess and surplus property.

NASA currently provides grantees with excess property for their use under the grant with the title remaining with the Government. The new section 5 would require a review of all such property after the effective date of this legislation with title transfer to the grantee or donation through the appropriate State agency. This could be a significant one-time activity for NASA, depending on the amount of excess property held by grantees at that time. The new sections 1(4) and 3(e) would impose new reporting requirements on all Executive Department agencies.

Although this Bill may increase the cost of making excess property available to NASA grantees, this would not be significant. Further, the Bill would not affect NASA's ability to achieve its research goals.

Accordingly, the National Aeronautics and Space Administration would have no objection to approval of the Enrolled Bill H.R. 14451.

James C. Fletcher
Administrator

NATIONAL SCIENCE FOUNDATION
WASHINGTON, D.C. 20550

OFFICE OF THE
DIRECTOR

October 5, 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 reply to your communication of October 1, 1976, requesting the comments of the National Science Foundation on Enrolled Bill H. R. 14451, "To amend the Federal Property and Administration Services Act of 1949 to permit the donation of Federal Surplus personal property to the States and local organizations for public purposes, and for other purposes".

The Foundation has no objection to approval of the bill by the President.

Sincerely yours,

R.C. Atkinson

Richard C. Atkinson
Acting Director

☆ U. S. GOVERNMENT PRINTING OFFICE: 1969—339-156

8

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 11 Time: 1000pm

FOR ACTION: Lynn May
Max Friedersdorf
Bobbie Kilberg
Jeanne Holm

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

FROM THE STAFF SECRETARY

DUE: Date: October 13 Time: 1100am

SUBJECT:

H.R.14451-Federal Property and Administrative Service Act Amendments

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

X For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston,ground floor west wing

Recommend approval. It should also be noted that the Department of Justice strongly endorses this legislation which holds great potential for the improvement of state and local law enforcement. A great deal of Federal surplus property, e.g., communications equipment, motor vehicles, etc., would be of great assistance to police departments across the country.

K. Lazarus 10/13

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a

☆ U. S. GOVERNMENT PRINTING OFFICE: 1969—339-156

8

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 11 Time: 1000pm

FOR ACTION: Lynn May
Max Friedersdorf
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Steve McConahey

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DUE: Date: October 13 Time: 1100am

SUBJECT:

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____ Prepare Agenda and Brief ____ Draft Reply

X For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston,ground floor west wing

Recommend Approval

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a

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THE WHITE HOUSE

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FROM THE STAFF SECRETARY

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X For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston,ground floor west wing

Recommend Approval

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94–1429

DISTRIBUTION OF FEDERAL SURPLUS PROPERTY TO STATE AND LOCAL ORGANIZATIONS

AUGUST 13, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H.R. 14451]

The Committee on Government Operations, to whom was referred the bill (H.R. 14451) to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (all of which are technical, typographical, or conforming in nature) are as follows:

Page 3, line 16, strike out "organizations" and insert in lieu thereof "organizations,".

Page 4, line 24, insert "or amendment" after "plan".

Page 5, line 5, strike out "inventory".

Page 10, lines 6 and 7, strike out "the effective date of the first section of this Act" and insert in lieu thereof "the effective date of this Act as provided in section 9(a)".

Page 10, lines 8 and 9, strike out "the effective date of this Act as provided in section 9(a)" and insert in lieu thereof "such effective date".

Page 10, lines 12 and 13, strike out "the effective date of this Act as provided in section 9(a)" and insert in lieu thereof "such effective date".

Page 10, line 14, strike out "the effective date of this Act" and insert in lieu thereof "such effective date".

57–006 O

I. Purpose of the Bill

It is the purpose of H.R. 14451, by bringing together many similar but separate programs, to establish an orderly, efficient, and fair system for distributing by donation Federal surplus personal property to public or nonprofit institutions for uses of a public character. The bill does not deal with real property.

For many years, unneeded Government property has been a form of substantial Federal assistance to State and local organizations. There are now more than two dozen separate programs of this kind in various agencies. Currently, such property distributions are running at the rate of approximately $600 million annually in terms of the original acquisition cost to the Government.

Some of these programs are statutory. Others are the result of administrative interpretations of general statutory provisions. Yet, in each case property comes from the same sources and is for the most part used by similar local entities, namely, public bodies and educational or public health institutions. Each of these many programs is independently managed by a different Federal agency. The fragmentation has caused waste, inefficiency, and inequitable distribution. Conflict, competition, and confusion prevail among Federal agencies and their property recipients. Lack of knowledge and understanding is widespread concerning applicable law, procedures, and policies. There is urgent need now to group these programs together in an orderly system, to make one Federal agency primarily responsible for overall guidance, to give the States a larger role in distribution and administration, and to bring about the regular reporting to Congress of enough information so it can perform properly its oversight function in relation to this Federal assistance. The bill seeks to fulfill that need.

H.R. 14451 consists chiefly of amendments to the Federal Property and Administrative Services Act of 1949. It was this Committee's predecessor, the Committtee on Expenditures in the Executive Departments, which reported to the House in May of 1949 that landmark legislation. Today, the Committee submits this report on H.R. 14451 in furtherance of the Congressional policy and intent declared in section 2 of the 1949 Act "to provide for the Government an economical and efficient system for . . . the utilization of available property [and] the disposal of surplus property." [1]

II. BACKGROUND

H.R. 14451 deals with personal property (equipment and supplies) that Federal agencies no longer need for their own use. This includes excess property (which one Federal agency no longer needs but another agency may) and surplus property (which no Federal agency needs). The distinction is fundamental, since the Federal Property Act and other legislation, as well as regulations, treat the two types differently.

Section 3 of the Federal Property Act defines excess property as "any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof."

[1] House Report No. 670, 81st Cong., 1st Sess., to accompany H.R. 4754.

The term "surplus property" is defined as "any excess property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator [of General Services]." [2]

Excess property and surplus property are in separate stages of the disposal process. Property cannot be declared surplus until it has been declared excess and screened then for further Federal utilization.

The 1949 Act expressly promotes utilization of excess property by Federal agencies "in order to minimize expenditures for property." [3] The Act provides that personal property once declared surplus may be donated for educational, public health, civil defense, and certain other purposes.[4] Property remaining after donation is generally sold through public advertising.

Congress had recognized very early that, if surplus property were sold, the average rate of return against original Government acquisition costs would be low and would not match the benefits from donating the property for special local users of a public character. The Surplus Property Act of 1944 authorized the transfer of surplus property to State and local entities for educational or public health use. The means of transfer was by sale or lease, but subject to a public benefit discount which might be as much as 100 percent.[5]

Important amendments were added to the program in 1955. They were to clarify the availability of certain surplus property capitalized in working capital funds, to fix controls and reduce administrative costs, to provide for closer Federal and State cooperation, and to set out certain reporting requirements.[6]

In 1956 the Federal Property Act was amended to make local civil defense activity an eligible purpose under the donation program. It was also that 1956 amendment which imposed a Federal requirement that surplus property be transferred to the State agency designated under State law for distributing surplus property.[7] In compliance with this requirement, such agencies were set up in all States.

The 1949 Act requires that actual donation of property be effected by the Administrator of General Services. But the general administration of the Federal donation program is assigned to the Secretary of Heatlh, Education, and Welfare because recipients of the property under the original program were those fulfilling educational or public health purposes. Local management activity, however, is performed by the State surplus property agencies just referred to.

About ten years ago, the donation of surplus personal property ceased to be the sole method whereby property unneeded by Federal agencies for their own use could be distributed to non-Federal users. Agencies began to adopt the practice of lending property to State and local organizations which held grants from those agencies. This method

[2] 40 U.S.C. Sec. 472.
[3] 40 U.S.C. 482.
[4] 40 U.S.C. sec. 483(j).
[5] Public Law 457. 78th Cong., 2nd Sess.; 58 Stat. 766. The 1944 Act was amended in 1947 to authorize the donation of surplus real and personal property for public airport purposes. a provision not repealed by the 1949 Federal Property Act. See section 602(a)(i) of the 1949 Act and 50 U.S.C. App., sec. 1622(g).
[6] P.L. 61. 84th Cong., June 3. 1955; 69 Stat. 83. See H. Report No. 206. 84th Cong. and the informative hearings: "Utilization of Surplus Property for Educational and Public Health Purposes." Hearings before the Special Subcommittee on Donable Property of the Committee on Government Operations, House of Representatives, 84th Congress, 1st Session, on H.R. 3322, February 15. 17, and 21. 1955.
[7] P.L. 655, 84th Congress; July 3, 1956; 70 Stat. 493. See H. Report No. 1455, 84th Cong.

involves taking property before it is declared surplus and while still classified as excess. An agency planning to turn property over to one of its grantees picks up property as soon as it has been declared excess by the original controlling agency. A series of administrative decisions and interpretations have supported this as a permissible type of further Federal utilization of excess property, even though such property is not taken for direct or internal use of the acquiring Federal agency.[8] In 1965, GSA published a Federal Property Management Regulation stating that the "use of excess personal property shall be considered by Federal agencies in their cost-reimbursement type contracts and grants which are made pursuant to programs established by law and for which funds are appropriated by the Congress." [9]

When an agency obtains excess property to provide it to one of its grantees, it participates in the first phase of screening and is therefore able to obtain desirable items before they can be declared surplus property. Yet most of such grantees are either public or private educational or public health institutions which would qualify to obtain property outright under the statutory donation program had it been allowed to become surplus.

Institutions holding Federal grants have found it more convenient to obtain property by loan from their grantor agencies. The grantees actually have employed their own non-Federal screeners to search out, identify, and "freeze" desirable excess property. The sponsoring Federal agency then requests its transfer from GSA and thereupon lend it to the grantee.[10]

However, problems have arisen with the control, use, and accounting of property on loan to grantees. In 1972, for example, the Department of Health, Education, and Welfare was the sponsor of many grantees which held property from excess sources. The Department found it was unable to maintain proper controls and accountability, and the Secretary decided that excess property would no longer be acquired as an adjunct of grant assistance within the Department. HEW has held to this policy ever since, despite strong pressure from many institutions to change. Similarly, a decision was made by the Environmental Protection Agency to terminate its excess property program for grantees in 1973.

On January 7, 1974, an 11-agency study group formed in November 1972 and chaired by GSA reported on the utilization of excess property and the donation of surplus property.[11] It had undertaken the review because of inadequacies in the distribution of excess and surplus property among Federal and non-Federal activities. The report recommended, for the short term, that GSA immediately tighten its regulations for grantee utilization of excess property so that excess property would eventually be limited to Federal agency direct use. The

[8] See "Distribution of Federal Surplus Property to State and Local Organizations." Hearings before a subcommittee of the Committee on Government Operations, House of Representatives, 94th Cong., 1st Sess., on H.R. 9152 and H.R. 9593, September 30 and October 2, 1975, at pages 442–452. Hereafter they will be referred to as "hearings."

[9] 43 F.R. 19075, December 2, 1965. In 1974 GSA revised the regulation. Grantees were limited to those receiving "project grants," that is, those made for a specific purpose with established termination dates. More exact procedures with respect to grantor and grantee were imposed. GSA regards the Administrator's authority under the Federal Property Act to be broad enough to enable him to exclude grantees from getting excess property by regulation. (See hearings, page 53.)

[10] Cf. 41 CFR 101–43.320(h) et seq.

[11] The report entitled "Recommendations of the Ad Hoc Interagency Study Group on Utilization of Excess Federal Property" is printed in the hearings, beginning at p. 397. A summary is printed at pp. 57–58.

study group made long-term recommendations for substantial legislative restructuring of the excess utilization and surplus donation programs. The Federal Property Act would be amended to provide for a donation program to benefit State and local entities which would cover a wider range of public uses and users and which also would place the overall responsibility for guiding the broadened program on GSA. The HEW functions with their personnel and funding would be transferred to GSA.

The short-term recommendation was in part carried out in June of 1974 by an extensive revision of the Federal Property Management Regulations to tighten up grantee utilization of excess property.[12]

GSA then began the drafting of proposed language to carry out the legislative recommendation in the Ad Hoc Study Group's Report. The Department of Health, Education, and Welfare undertook a separate drafting task.

The Ad Hoc Interagency Study Group was composed of 19 technical and legal specialists representing the Office of Management and Budget, the National Science Foundation, the Department of Labor, the Office of Economic Opportunity, Defense Civil Preparedness Agency, the Department of Health, Education, and Welfare, the Department of Commerce, the Environmental Protection Agency, the Small Business Administration, the General Services Administration, and ACTION. Serving on the Subcommittee on Donations was the Director of the Maryland State Agency for Surplus Property.[13]

The report of the Study Group listed five general problems:

(1) Proliferation of property screeners with no certification, and uncertainity as to who is authorized to screen and freeze excess property.

(2) Lack of proper inventory controls and accountability by some Federal agencies.

(3) Grantees' using their grants frequently to acquire more than the dollar value of their grants in excess property.

(4) No strong cost accounting system to determine how much grantee programs cost to operate, with few real benchmarks to measure the cost of grantee programs against benefit.

(5) Inadequate review and compliance programs by grantor Federal agencies.

Thus, a long-term recommendation of the Ad Hoc Interagency Study Group was to eliminate the acquisition of excess personal property by Federal agencies for use of their grantees.

During this period of 1973–1974, the Senate initiated legislation to extend the surplus property donation program to cover law enforcement and criminal justice purposes so that local entities serving such purposes would become eligible, like schools, hospitals, and civil defense units, to obtain surplus property through the State surplus property agencies.

The Crime Control Act of 1973 (Public Law 93–83) sought to extend authority of the Law Enforcement Assistance Administration to donate surplus Federal property to local agencies for law enforcement purposes. For technical reasons, GSA held that actual donation authority for this new purpose had not been provided to the Adminis-

[12] See footnote 9, above.

[13] Hearings pages 44–45.

trator. To remedy the omission, the Senate included a provision in S. 821, entitled the "Juvenile Justice and Delinquency Prevention Act of 1974." It would have permitted Federal surplus property to be donated to States for use in their law enforcement and criminal justice programs. There was no comparable provision in the House bill. As a result of discussions between the House Government Operations Committee and the conferees, the Senate amendment was deleted. The joint explanatory statement of the committee of conference contains this comment:

> The conference substitute does not contain the Senate language. In deleting the Senate provision, it is noted, that the House Committee on Government Operations is taking up a general revision of the subject of excess and surplus property distribution. It is hoped that needs of Law Enforcement Agencies will receive due consideration for suitable priority and entitlement to eligibility * * *.[14]

Shortly after the above events, a new matter of paramount concern to GSA, HEW, and the donable property program unexpectedly arose. In September 1974, Congress enacted a new type of excess property distribution program. Again, it was not through amendment of the Federal Property Act. Instead, it came as a Senate amendment to the Public Works and Economic Development Act Amendments of 1974 (P.L. 93–423). Section 11 of that Act added a section 514, which authorizes excess personal property to be loaned or given outright without reimbursement to public bodies, tax supported organizations, Indian tribes, and nonprofit hospitals and colleges.[15] Federal cochairmen of seven Regional Action Planning Commissions are authorized to transfer such property for the purpose of economic development—which is not specifically defined. The new program covers seven economic development regions established by the Secretary of Commerce. They include 32 States or part of States (areas not covered include, for example, Appalachia, to which section 514 does not apply.) Distributed property is not a substitute for any appropriated economic development funds. The excess property is not used to minimize Federal expenditures for property.

The House Committee on Government Operations did not participate in the consideration of this legislation. It did, however, foresee the heavy impact it was to have on existing property utilization and donation programs. In one year the section 514 program has become by far the largest taker of excess property for non-Federal use. From about $10 million in excess property transferred in fiscal year 1975, the taking has grown to over $131 million for the period ending June 30, 1976. (Dollar figures represent original Government acquisition costs of property.)

Yet the section 514 program is only one of many for which Federal agencies obtain excess property directly from the holding agencies in order to put it into the hands of non-Federal users. In the Appendix to this report are tables showing for the fiscal year period ending June 30, 1976, transfers to grantees by 17 Federal agencies and transfers to recipients by Federal Co-chairmen of the seven Federal Regional Action Planning Commissions (section 514 program). Property costing $98,337,132 was transferred to grantees, and, as mentioned, property costing $131,825,644 was transferred under the section 514 program. These programs do not include several similar property programs, such as donations of surplus property for public airports, excess property for federally recognized Indian tribes and for the Cooperative Forest Fire Control Program, and property loans by the Defense Civil Preparedness Agency. Also omitted is the original surplus property donation program for education, public health, and civil defense under section 203(j) of the Federal Property Act, including donations to educational activities of special interest to the armed services. Thus, at least 28 separate programs take Government property and turn it over, in most cases, to local governments, or schools, or hospitals. Excess property programs are taking most of the good property. Programs restricted to surplus property are now suffering seriously for want of suitable items. In particular, the original donable property program under section 203((j) of the Act is in danger of starving while waiting for "surplus" leftovers at the end of the line.

The Federal Government has on its hands today an unplanned collection of Federal programs, a largely random process that has become a hodge-podge. Efficiency, economy and equity are lost in the shuffle. This fragmentation mandates prompt establishment of an orderly, efficient, integrated system.

[14] House Report No. 93–1298. See Congressional Record, August 19, 1974 (daily ed.) pages H8579 and H8580. See also July 25, 1974, pages S13505–13506; August 19, 1974, page S15266; and August 21, 1974, pages H8796–8797.
[15] 42 U.S.C., 1974 Supp., section 1893.

Nonuse of Property by Recipients and Other Problems

The need for a new overall approach to the problems of fragmentation was accentuated by the results of a GAO report to the subcommittee in September 1975.[16] Entitled "Use of Government Excess Personal Property by Non-Federal Entities," it disclosed numerous examples of the inability of both grantor agency and grantee to manage this type property assistance effectively and equitably.

At the subcommittee hearing, the General Accounting Office witnesses testified about the problem in establishing and maintaining administrative controls by grantor agencies. It was their general conclusion that the grantors simply have not had the administrative facilities for administering these programs.[17] Some specific findings and observations presented by GAO follow:[18]

1. Frequently grantees were not using the property.
2. Some property in use could not be directly related to the grants.
3. General supply items were stockpiled and used by both grant and nongrant activities.
4. Despite regulations,[19] no documentary evidence was found to demonstrate that the grantor agency had made a determination that acquisition of the property would result in a reduction in cost to the Government or in an enhancement of benefit from the grant.
5. A detailed system of accountability has been prescribed.[20] But up-to-date, accurate, and complete accountability for transfer of excess

[16] GAO Report LCD–76–207, B–101466 (September 15, 1975.) The report is printed in the hearings, pp. 380ff.
[17] Hearings, p. 91.
[18] Hearings, pp. 78–79.
[19] 43 CFR 43.320(b).
[20] 43 CFR 43.320.

property to grantees generally has not been maintained by the sponsoring Federal agencies.

It is GSA policy to maintain an order of preference or sequence for determining competing transfer orders for excess property. The first order of preference is to transfers which will preclude current new procurement.[21] The serious consequences of nonuse underlie the GAO's testimony concerning the impracticality of determining whether another Federal Agency would have had a need for the excess property at the time it was "frozen" by the acquiring agency for transfers to its non-Federal recipients:

> Mr. RANDALL. But someone some place should have been able to determine the relative internal need, shouldn't they?
>
> I mean you are just an auditing agency. Are you saying you cannot audit? Are you saying that you cannot ever go back and see whether a good job was done?
>
> Mr. SHAFER. I would not say the word "ever" because that is absolute. However, it is not very practical for us, 1 or 2 years later, to go back and look at a given item that was declared excess and reserved for a grantee and then go back and determine whether 1 or 2 years earlier, had it not been given to the grantee, some other Federal agency or State agency might have grantee, some other Federal agency or State agency might have been able to use it.
>
> I do not think it would be practical for the GAO or any other Government agency to do that in an ex post facto situation.
>
> Mr. RANDALL. Do you mean because of cost?
>
> Mr. SHAFER. Yes; it would be too costly.
>
> Mr. RANDALL. You mean the cost of conducting the audit would be in excess of the value of the object?
>
> Mr. CONNOR. In addition to that, Mr. Chairman, if a grantee would select that, then it would not be on the next catalog that went out. If he had not selected it and it was in the next catalog, then another agency would have been able to get it.
>
> Mr. RANDALL. You would never be able to trace it; that is right.
>
> Mr. SHAFER. Mr. Chairman, the problem here is that in the way it is administered the grantee is in the same position of working through the granting agency as any other Federal agency. Once he claims that item, then it is almost impossible to determine whether anyone else would have claimed it had he not done so. [22]

After the subcommittee hearing, GAO again went to the field. It looked at property distributed under several programs, including the regional excess property program for economic development under section 514. It found that much of this property was not being used. Many GAO pictures and documents are reproduced in the appendix of the subcommittee hearings, along with a tabular summary,[23] which shows the following:

[21] GCA Handbook "Utilization of Excess Personal Property," PMD P 7800.1 (May 12, 1970). Part 5, paragraph 35.
[22] Hearings, p. 90.
[23] Hearings, p. 565.

GAO checked 691 items distributed through the Four Corners Regional Action Planning Commission, with an original Government acquisition cost of $232,900. Only 25 were being used. GAO was told that there were plans to use 491 items, but not right away. There were 125 items for which GAO did not report even planned use. Department of Commerce regulations governing the section 514 program provide: "Only property which will be immediately used by a recipient agency will be acquired by a Federal Cochairman. * * * The Federal Cochairman will not acquire property to be stockpiled by a recipient." [24]

GAO examined 145 items provided by the National Science Foundation (most to universities). The items cost the Government $2,467,928. Of the 146 items, 102 were not in use. They originally cost the Government $1.7 million.

GAO also checked property loaned to grantees by the Commerce Department's Economic Development Administration.[25] This is separate from the section 514 program. EDA can only LEND property to grantees. GAO checked 239 items costing $792,784. They found 106 in use, 126 not used, and only 4 for which there was a planned use.

Clearly, these programs are lacking in efficiency, economy, and fairness. It is deplorable that, in the present jumble of programs providing excess property to local entities, so much property is taken and then allowed to sit unused. Moreover, there seems to be no workable system for getting it returned and redistributed to meet true needs elsewhere.

Testifying before the subcommittee, on which as subcommittee chairman he had spent many years in an effort to develop and preserve an effective surplus property program, Full Committee Chairman Brooks summed up this problem and related it to the need for legislation:

> In all these cases and many more illustrated in the GAO report, it must be emphasized that the property was made available prior to being screened by other Federal agencies, without being distributed by GSA through the coordinated State donation agencies, and without any effort to determine which recipients of which States had the highest priority need for such property. H.R. 9152 has been introduced to eliminate these defects.[26]

III. HEARINGS

The Government Activities and Transportation Subcommittee held hearings on H.R. 9152 and H.R. 9593 on September 30 and October 2, 1975. Witnesses included the Full Committee Chairman, Mr. Brooks; representatives of the General Services Administration, the Department of Health, Education, and Welfare, the General Accounting Office, the Department of Commerce, the National Governors' Conference, the National Association of State Agencies for Surplus Property, the Coalition of Eastern Native Americans; and a former assistant

[24] 13 CFR 570.4. Hearings, p. 198–9. The Four Corners Commission's property handbook requires that "Only that property that will be immediately used by a Recipient will be acquired. Neither the Title V Regional Commission nor the Recipient will maintain warehouses and will not acquire and store materiel." Hearings, p. 564.
[25] 13 CFR 314.50. Hearings, p. 301 ff.
[26] Hearings, p. 31.

general counsel of the Department of HEW. Statements for the record were received from three Members of Congress. All witnesses supported reform of the existing legislation, and most either fully or largely favored the approach proposed in the bills. The revision which H.R. 14451 represents is based to a large extent on views and suggestions received during the hearings and in subsequent correspondence and discussions with Federal and State officials and representatives of other interested groups. Appendixes to the printed hearings [27] incorporate numerous letters, statements, reports, regulations, and exhibits.

IV. Summary of the Bill

H.R. 14451 would establish an orderly, efficient, and fair system to consolidate and simplify the many separate, overlapping, uncoordinated activities by various Federal agencies for distributing excess and surplus property to public or nonprofit organizaitons within the States. Its basic approach is to place the Administrator of General Services, as the Government's principal property management authority, in a guiding role over such activities. At the same time, it would create a partnership with the States, which would assume a greater role in the actual handling, distribution, and control of surplus property acquisition and distribution.

This is the same basic donation plan developed for education, Public Health and civil defense recipients as part of the 1949 Federal Property Act. That Act is an immensely useful and durable statutory tool. In amending the Act, the bill builds on an alreadv existing structure. It is an evolutionary step, not a new departure. More simply, it is a reorganization measure.

In brief, the bill—

(1) Puts almost all property programs for State and local users into one system.

(2) Preserves all the benefits enjoyed under existing property programs.

(3) Broadens both the purposes to be served and the categories of eligible recipients.

(4) Puts GSA in general charge on the Federal side.

(5) Assures fair allocation and distribution of property.

(6) Give States and their Governors a more active role.

(7) Provides that voices of local interests should be heard at both the Federal and the State levels.

(8) Facilitates transition and limits disruption of existing programs by deferring the effective date.

(9) Requires GSA to keep track of the entire program and report yearly to Congress (something not now done).

Testimony from GSA indicates that each year approximately $5 billion in property (at original acquisition cost) is declared excess. Over $1 billion of this is transferred for further Federal utilization. What remains is generally declared surplus. Donation programs taking surplus property will require about $400 million of this. The remainder, some $3.5 billion, is available for other surplus disposal, generally through competitive sales to the public (See hearings, p. 33.) One-third may represent usable property. If even 10% of this were

[27] See footnote 8, above.

usable in the donation program, it would represent well over $100 million.

The Committee believes and expects that once the Administrator is charged with overall responsibility for the consolidated program, the full weight of GSA's experience and resources will be brought to bear. The result will be that more property will flow to State and local users than would ever have been possible under the current fragmented arrangement. GSA's Federal Supply Service Commissioner testified:

> Mr. Timbers. Let me see if I can remember some of the statistics in my testimony. There is about $26 billion worth of property that has actually been reported and screened over the last 5 years.
>
> That is original acquisition cost. Approximately $5 billion of that was transferred via the excess property program. About $2 billion was transferred under the surplus program.
>
> We feel that there is a tremendous amount of property that could now be donated under the surplus property program and be put to good use. This would only be if we had a broader category of donees and if we improved the system and how it operated.
>
> Mr. Forsythe. Do you mean the computer system?
>
> Mr. Timbers. Yes, the computer system and the way the property would go straight from GSA to the State agencies for surplus property.
>
> We feel in the long run that there is almost an unlimited or a vast amount of resources and personal property that could move forward for this purpose.
>
> We do not see the broadening of the eligibility, along with all of the other things that are envisioned, as being detrimental to those activities.[28]

V. Modifications Made in Earlier Bills

H.R. 14451 does not alter the basic plan or structure of H.R. 9152. However, the Committee believes it is much more workable than H.R. 9152 and should prove more broadly acceptable. It includes many changes responsive to comments and suggestions received after the hearing.

OMB

The Office of Management and Budget, in a letter to the Committee Chairman dated November 18, 1975, expressed four main points of difference with respect to the original bill, H.R. 9152. Virtually all of these differences have been composed in H.R. 14451, and the Committee is advised that OMB now substantially concurs in the provisions of H.R. 14451. The four points, together with the related changes found in H.R. 14451, are as follows:

(1) GSA should not have to determine and enforce eligibility as related to the named purposes to be served by donation.

Related Changes.—The changes make clear that the purposes to be served by property donation are not necessarily confined to those enumerated and also that it is the State's function to determine eligi-

[28] Hearings, page 49. See also page 34.

bility and relate donation to appropriate purposes. Furthermore, eligibility of private, nonprofit organizations serving public health or education purposes is no longer tied to an exclusive list, as in the present donation statute (section 203(j)(3) of the Act).

(2) Indian groups that are the special responsibility of the United States Government should not be dependent upon State distribution of Federal property.

Related changes.—Direct Federal responsibility for federally recognized Indian groups is retained so that excess property would be available for transfer to such groups. (Indian groups on State reservations are classified as "public agencies," eligible for surplus property by donation.)

(3) Federal agencies should retain at least some authority to use excess property for the purpose of furnishing it to project grantees.

Related changes.—All project grantees can obtain excess property with title if the grantor agency pays into the U.S. Treasury from grant funds 25 percent of the acquisition cost of the property item. Also, certain special provisions are made. Federally recognized Indian tribes will be eligible for property as grantees. Scientific and technical equipment can continue to be loaned to grantees under the National Science Foundation Act. Property may be furnished in connection with the Agriculture Department's Cooperative Forest Fire Control Program. These changes made it possible to eliminate from the original bill the complicated provisions giving donee eligibility to Federal grantees, with a special priority for equipment suitable for scientific research.

(4) GSA would retain too many administrative responsibilities in connection with State plans of operation, with accounting and inventory control systems, and with restrictive conditions on property use.

Related changes.—The burden on GSA is further reduced. Responsibility for the plan of operation is largely that of the State. Congress in the bill—not GSA through regulation—sets out minimum required elements of any State plan. Imposing conditions of use on property is chiefly the task of the State agency. Federal conditions could be attached with respect to property having special characteristics. Each State could employ the same accounting and management control systems that it uses for its own property.

CHANGES RELATED TO STATE AND LOCAL CONCERNS

Several amendments assure affected local interests greater participation in the planning and execution of the new system. Those concerned about property for economic development uses should be particularly interested.

(1) GSA is to work out basic property allocation criteria after consultation with State agencies.

(2) When GSA actually allocates and transfers property, it must give fair consideration to needs and interest of eligible institutions as expressed through the State agencies.

(3) The Governor of each State must submit to GSA a separate plan of operation. The plan must be published 60 days in advance. All interested parties have 30 days to comment on the plan before submittal.

(4) Where service charges are authorized to be collected by a State agency, the method is to be set out in the plan of operation. Any such

charges must be fair, equitable, and based on services performed by the State agency.

(5) The phrase "public agency" is expanded to include economic development districts as well as Indian tribes or groups on State reservations.

(6) Each State may use management control and accounting systems for donable property of the same types as are used for State-owned property.

(7) After two years, GSA must send to Congress a full independent evaluation of the new system including how benefits previously rendered under the various prior programs are being satisfied.

VI. Discussions

GSA AND STATE ROLES

H.R. 14451 is based on utilizing the existing structure and organizations of the Federal donable surplus property program established by the Federal Property Act. The question is asked: Can GSA and the States do the jobs they will be called on to perform? The Committee is confident that they can. They have done similar work before. They have administrative and technical resources in being: Organizations, facilities, procedures, equipment, and experienced professionals.

As to GSA, reference has been made above to its readiness.[29] As to the States, the informative testimony of the President of the National Association of State Agencies for Surplus Property is instructive:

> Mr. Stanislawczyk. This concludes our analysis of the bill, Mr. Chairman. We want to turn our attention now to the capabilities we have to serve the donee community.
>
> Out of 47 SASP's which responded to a recent association survey, it was reported that there are 1,110 State employees working in the program. Of these, 155 are screeners. The screeners, all of whom are certified by the Department of Health, Education, and Welfare, average 12 years' experience in screening property for the donation program. We also have access to 71 consultants.
>
> In the 47 responding SASP's, there are 72 distribution centers which have an average of 35,510 square feet of covered storage space and 95,040 square feet of open space. To supplement these facilities, the State agencies have acquired 123 truck tractors, 264 trailers, and 364 other motor vehicles, not including material handling equipment such as forklifts. Most of this equipment, Mr. Chairman, was acquired from SASP revenues, but surplus equipment is used whenever the program can be enhanced and overall costs reduced.
>
> We respectfully submit, Mr. Chairman, that this data shows that the SASP's have the capability of providing the necessary services to donees. Furthermore, we would anticipate a decrease in overall service charges, together with an improvement in the quality and quantity of property.[30]

[29] Hearings pp. 34, 39, 49.
[30] Hearings, p. 49.

Testimony from the Director, Logistics and Communications Division, General Accounting Office, an outside, impartial observer, is also affirmative. He first pointed out that there is a need for a single focal point to oversee and have knowledge of property transferred or donated to special institutions and that the pending bill would set up the State agency at that focal point.[31] Then he added:

> Mr. SHAFER. * * * We have reviewed the agencies in a number of States and found that for the most part they were administering their programs effectively.
>
> Most of the States' accounting records were complete and accurate and showed the current status of property items.
>
> Also, they were determining that the restrictions on certain donated property were being complied with. This was accomplished either through documented correspondence or physical verification.
>
> Therefore, generally, most of the States have the basic organization needed to meet the requirements and responsibilities that would be assigned to them under this bill.[32]

* * * * * * *

As focal points for and within each State, the State surplus property agencies offer important advantages over direct property distribution methods used in the various excess property programs. For example, a State agency can respond immediately to an urgent need such as replacing equipment and furnishing emergency facilities where a school has been destroyed by fire. It can acquire property that can only be taken in large lots or bulk packages and then break these down for distribution to separate recipients. It can provide a means for sharing transportation and screening services on behalf of recipients. It can work through a nationwide communications network of State and Federal agencies to expedite business and to match demand with availability and accessability. It can participate in a so-called "push-supply" operation at certain large bases where a Federal screener receives lists of acceptable property from many States and then sends the property in large shipments to obtain lower freight rates.[33]

Another important advantage of the State agencies is that they have learned to work well together and help one another. This cooperative interdependence is shown in many practical ways, such as the overseas property program and the organizations known as Western States Surplus Property Organization (WSSPO) and Eastern States Surplus Property Organization (ESSPO). The State surplus property directors from Maryland and Utah respectively testified concerning these activities:

> Mr. MAYNARD. My dates may be a little off, but it seems like in 1968 or early 1969, through a recommendation of, at that time, Congressman Monagan.
>
> Mr. RANDALL. He had a subcommittee back years ago. He was from Connecticut. That was the original Donable Property Subcommittee, I think we called it.
>
> Mr. MAYNARD. That is right. He recommended through one of the reports that the State agencies, with the General Services Administration, Department of Health, Education, and Welfare, and the Department of Defense explore the possibility of returning overseas excess property for use within the Federal Government as well as the donable property program.
>
> Several meetings were held, and we hired employees. The state agencies went together under a cooperative arrangement and hired these employees to put in Europe, to start with.
>
> Later on in the program, we hired employees and put them in Asia.
>
> The program has worked very successfully, and I would be happy to give you some statistics as to what has happened since March of 1969. We have 40 States that are participating in this program. From March of 1969 from the Europe program, we have returned 642 trailerloads of property, and 231 shipments of heavy equipment such as bulldozers, cranes, motor graders, and that type material. In the Pacific area, we started approximately March of 1970, and we have returned 862 containers of property—or vanloads of property—and 61 items of heavy equipment.[34]

* * * * * * *

> Dr. DRAPER. * * * The Western States Surplus Property Organization was the first of these which we started about 22 years ago. Under our procedures, this provides for the reporting by the stated location of all nonreportable property which is located in this area.
>
> We actually type up lists, descriptions of this property, and then we send it out to all the other States in the organization. They make their requests from those lists and request the properties through the allocating office.
>
> So what we are doing in the 14 WSSPO States, and, I think, 16 ESSPO States, at the moment, is reporting both reportable and nonreportable, and allocating same.
>
> We hope, some day in the future, to spread this into other parts of the country.[35]

ALLOCATION OF PROPERTY AMONG STATES

H.R. 14451 provides that the Administrator, acting under criteria based on need and utilization and established after consultation with State agencies, shall allocate surplus property among the States, for transfer and distribution through donation. The question is asked: How will this work and will it work fairly and effectively?

Again, the bill draws on existing experience and authority in similar circumstances. A comparable allocation authority is provided to the Secretary of HEW under the existing section 203(j) of the Act in connection with the established donable property program. The current criteria are set out in HEW regulations.[36]

HEW witnesses, the Assistant Secretary for Administration and Management and the Director, Facilities, Engineering, and Property Management, testified concerning allocation. Asked whether HEW

[31] Hearings, pp. 77–78.
[32] Hearings, p. 80.
[33] Hearings, p. 153.
[34] Hearings, p. 151.
[35] Hearings, p. 156.
[36] 45 CFR 13.4. See also hearings, pp. 85–86.

was encountering problems with the present system, which is based on need and utilization, the witnesses responded:

> Dr. OTTINA. We have recently reviewed the formula allocation. We have considered in the formula additional elements such as the cost of transportation and different kinds of schemes.
>
> There has been a formula that has been in effect for about 3 years and has been unchanged.
>
> The complaints or the problems with it are those that if we knew what could be done, we would be more than willing to remedy.
>
> Perhaps Mr. Fremouw could specifically speak to that.
>
> Mr. FREMOUW. We have been working with the State agencies for the last few years on examining the formula frequently to be sure it is acceptable to the States.
>
> We find, generally speaking, that there is someone in one State or another who has a different idea. However, a majority of the States have been concurring and endorsing the formula.[37]

GSA's witness discussed the manner in which that agency expected to perform the allocation function by referring to the existing system as a beginning, adding the step of immediate consultation with State agencies toward making improvements:

> Mr. TIMBERS. Under H.R. 9152, which provides for an allocation system based on need and use, we would probably initially work on the same guidelines that had been established and tested through the HEW system for some time.
>
> We would, however, immediately consult with State agencies for surplus property. We would work with them. We would attempt to see if we could make any improvements in the way in which priority systems are actually administered.[38]

As with formulation of the criteria, the bill requires the Administrator, in the actual allocating, to give fair consideration to expressions of local need and interest from within the State, transmitted through the State agency.[39]

Consultation and cooperation among interested Federal agencies and GSA are provided for both under general provisions of the Property Act[40] and section 203(j)(4)(B) under the bill, as well as other legislation.[41]

PROPERTY FOR ECONOMIC DEVELOPMENT

As has been pointed out, two separate excess property programs now furnish property to local entities for economic development. One is the relatively small program administered by the Economic Development Administration, which acquires excess property for loan to its grantees. Property so transferred in the fiscal year period ending June 30, 1976, totaled $3.9 million in terms of original Government acquisition cost. The other is the new program authorized in 1974 by section 514[42] of the Public Works and Economic Development Act of 1965, as amended. The latter is enormously larger. As mentioned above, the Federal cochairmen of the seven Regional Action Planning Commissions acquired and transferred, by loan or gift, excess property in the FY 1976 period costing $131.8 million.

Although both programs serve economic development purposes, Commerce Department witnesses testified that the two are not coordinated or cross-connected.[43]

In bringing these and other excess or surplus property programs into one orderly system, based on donation through the States, H.R. 14451 expressly preserves property assistance for economic development. The same types of recipients would be eligible under the new system.

Section 3 of the bill limits excess property programs for grantees. This includes the EDA's property program, which is not based on a special statute. Section 6 of the bill affects the regional commissions' property programs; and because they are based on a special statute, section 514, it is necessary to repeal that section. The effect of sections 3 and 6 is that both EDA and the Federal cochairmen would no longer have line responsibility for actual acquisition and accountability of excess property and its transfer to the local recipients.[44] Some participants in these programs, particularly those benefiting from the section 514 program, have expressed opposition or uneasiness to changes in the status quo.

The EDA is, of course, subject to the common management problems associated with lending excess property to grantees and supervising its use. EDA supplied for the record a figure of 2,199 separate pieces of equipment it had provided to its recipients.[45] GAO's findings as to use and nonuse of property by EDA recipients have been referred to earlier in this report. Testimony by the Assistant Secretary of Commerce for Economic Development stressed EDA procedures concerning notification when at grantee's use of property has been completed so the property can be returned to EDA for further utilization. The Subcommittee Chairman sought details about this during the hearing:

> Mr. RANDALL. You made an interesting comment a few moments ago that sounds mighty good. I wonder if it ever happens. You tell us not to worry, that this property that is transferred or loaned to these grantees is all going to be returned. I would like for you to supply us with a list of any that has ever been returned.
>
> [The information follows:]
>
> EXCESS PROPERTY RETURNED TO EDA BY RECIPIENTS
>
> Two floodlight trailers; 1 Caterollar, full track D–6; and 15 dump trucks, 2½-ton.[46]

[37] Hearings, p. 62.
[38] Hearings, p. 49.
[39] Section 203(j)(3) under the bill.
[40] Section 205(h), 40 U.S.C. section 486(h).
[41] Cf. 42 U.S.C. 3183(d), relating to regional action planning commissions.

[42] P.L. 93–423, September 27, 1974; 88 Stat. 1158, 1163; 42 U.S.C., 1974 Supp., sec. 1893.
[43] Hearings, pp. 128 and 139.
[44] In the case of the section 514 program, the line responsibility is not direct. Commerce Department regulations require that the request for property will bear the concurrence of the Governor of the State in which the applicant is located (13 CFR 570.4(a)).
[45] Hearings, pp. 121–122.
[46] Hearings, p. 119. Cf. 41 CFR 101–43.320(j).

Mr. RANDALL. You said a minute ago—don't worry, everyone is going to tell us; the districts, cities, counties, towns, whoever the recipients are. They are going to let us know, you said.

I would like to see some of those letters, some of those documents, some of those phone calls of when they let you know and how many you had. I expect it is not a very long list.

[The information follows:]

As of October 22, 1975, there have been two recipients who wished to return or were no longer in need of, the excess property they received. They are required to report this fact on standard form 120 (rev. April 1957). The following form 120 is a copy of one such report by a recipient.[47]

The section 514 program has an extremely troublesome aspect: It does not cover many areas that unquestionably have just claim to the same benefits. It is startling that Appalachia is excluded. But section 514 does not apply there. Nor does Appalachia have its own special equivalent of the section 514 program.[48] No part of either Mississippi or Alabama is within a Title V regional commission. Yet all of Louisiana and much of Georgia on either side are within Title V regional commissions and receive benefits through section 514. Testimony was received about the part of South Carolina that is outside the Coastal Plains Regional Commission. Among the 18 excluded counties are some of the poorest in the State.[49] Inevitably, States and areas not now covered will insist on the same treatment as the section 514 areas covered today. Bringing in more States and areas will add to the confusion and competition, making it even more imperative to set up a rational system on a nationwide basis. H.R. 14451 will bring such a system into being now.

The Committee concludes that it would be impractical and illogical to establish an integrated property assistance system bringing together more than two dozen separate programs while leaving untouched the largest and most independent excess property program of them all, the section 514 program. The Department of Commerce official responsible for the section 514 program testified for repeal of that section, stating:

Mr. CHAMBERS. However, the commissions and the offices of the Federal Cochairmen are not staffed or organized to be in the property disposal business. In my opinion, this is a program which can be better handled by such agencies as the General Services Administration which has property management, accountability, and disposal as one of its major ongoing functions. The regional commissions have as their primary function the planning for, and coordination of, economic development within their respective multi-State regions.

An expanded ability for individual States to acquire surplus property for economic development as well as for other purposes would result from the provisions of section 1 of

[47] Hearings. p. 125. The form referred to covers two floodlight trailers being returned by EDA to GSA for disposal as scrap.
[48] See hearings, p. 103.
[49] Hearings, page 130.

H.R. 9152. In effect, it removes the necessity for regional commission involvement.

Accordingly, the administration and I support the repeal of section 514 of the Public Works and Economic Development Act as provided for by section 6 of H.R. 9152 as not being a program within the scope of the multi-State intent or Federal staffing of the regional action planning commissions, and as a program that can possibly be administered at less cost to the taxpayer by other sectors of the Federal Government.[50]

The matter of payment of service charges to State surplus property agencies has been raised. Some contend the State agency service charges on donated property would be unfair for some of the smaller recipient entities.

Three main points need to be made. First, these entities already pay some charges. Section 514 requires that property recipients pay, to the Federal agency holding the property, the costs of care and handling (storing, preserving, insuring, repairing, packing and transporting). Second, the service charge matter must be discussed in terms of the language of the bill. H.R. 14451 sets precise and fair standards for those charges. Section 203(j)(4)(C) provides that where a State agency is authorized to collect service charges, the method of establishing the charges must be set out in the State plan of operation. This plan is subject to prior public comment. Further, any such charges must be fair, equitable, and based on services performed, such as screening, packing, crating, removal, and transportation. It is obvious that somebody has to pay the bills for costs incurred in the transfer of the property from the Federal Government to another entity. The issue is whether it should be the Federal taxpayer or the benefited recipient. Third, the Committee received testimony that under the bill it could be anticipated the overall service charges would decrease.[51] Clearly with more and better quality property available, the total cost of servicing each item would be less and the charge to the recipient would be correspondingly reduced.

The Committee further notes that during the past year a number of local public bodies actually were allowed to purchase vehicles through some regional commissions under the section 514 program. They paid 10 percent to 15 percent of the original acquisition cost and were apparently glad to do it. The local entities undoubtedly would still be doing it if the subcommittee had not pointed out that such sales were illegal. The vehicles were not excess property; instead they were property being replaced by DOD under the exchange/sale authority of section 201(c) of the Federal Property Act.[52]

The great expansion of the excess property distribution programs, particularly the section 514 program, is having a serious effect on the present donation program under which surplus personal property is given, through the State surplus property agencies, to State and local entities for education, public health, and civil defense. Since Congress authorized it 27 years ago in section 203(j) of the Federal Property Act, this long-established, valuable program has been con-

[50] Hearings, pp. 134–135. See also p. 124.
[51] Hearings, p. 149.
[52] Hearings, pp. 141–142, 517 ff.

tinuously and actively the subject of the Committee's oversight. Therefore, the Committee has a special concern and responsibility regarding the future of this program; for it is limited by law to surplus property—which must have survived the prior screening of the many excess property distribution programs.

Testimony by the head of the State surplus property agency in Texas offers an example of what is happening in some areas as a result of the excess property programs:

> Mr. UNDERWOOD. * * * Texas is a large State covering 250,000 square miles; it is 820 miles wide, 900 miles long, has a population of approximately 12 million people and has 3 of the 13 largest cities in the United States. We have in excess of 2,500,000 children in school with more than 250,000 teachers. We have 383 active health institutions and 566 participating civil defense organizations. So you can see, Mr. Chairman, our needs are great.
>
> The agency has five distribution centers now serving the donees in the State. Even with this number of centers, many of our donees have several hundred miles to travel to reach one of our centers.
>
> However, as a result of the impact of the regional commission and other excess programs, the agency is now having to close one of its centers; thus, many of our donees will have even further to travel. We have reduced our personnel from a high of 103 a few years ago to our present level of 62. This number will be further reduced to 54 with the closing of the Longview facility.
>
> Mr. RANDALL. Let me interrupt you there, Mr. Underwood. We received a long-distance telephone call last evening from some newspaperman in Longview, Tex. What do you say you have in Longview now—some kind of a depot or something?
>
> Mr. UNDERWOOD. We have a distribution center, sir.
>
> Mr. RANDALL. He seemed quite concerned that it might be closed.
>
> Mr. UNDERWOOD. We are closing the facility effective October 31.
>
> Mr. RANDALL. He said he thought they had done a pretty good job and he could not figure out why they were closing.
>
> Mr. UNDERWOOD. It is because of the impact, primarily, of the excess property program and the Four Corners and the Ozark Regional Commission programs.
>
> Mr. RANDALL. All right. Please proceed.
>
> Mr. UNDERWOOD. We have had to eliminate the purchase of needed trucking equipment and curtail other expenditures.
>
> The agency is self-supporting, receiving no appropriated funds or outside income. We lost money last year, and if something is not done we will lose money this year. The agency is fortunate in having a small reserve. However, we cannot continue to lose money. We will be forced to further reduce our expenditures to stay in operation or close our doors.
>
> The Texas agency has been very active in the donation program over these many years. We have acquired in excess of 500 million dollars' worth of personal property for our educational and health institutions and civil defense organizations for which we are very appreciative.
>
> However, without some help from your subcommittee and Congress, Mr. Chairman, the future is not very promising.[53]

The Committee believes that economic development purposes and recipients must be assured of full opportunity for fair treatment with respect to obtaining surplus property. H.R. 14451 contains a number of provisions, several of them new, which should serve that end:

1. Economic development is a declared purpose for donation of surplus property under the new system.
2. Economic development districts are specifically included as eligible public agencies.
3. All recipients and organizations, including those concerned with economic development, have means for getting their views heard at Federal and State levels in the donation process. Consultative contacts are also provided for at both levels of distribution.
6. Service charges, where authorized, must be fair, equitable, and based on services rendered.
7. There is a 6-month or a 10-months transition period before its provisions go into effect.
8. After two years under the new system, GSA must make a full evaluation report to Congress and include how today's beneficiaries are fairing under the new system.

Federal assistance through local distribution of personal property must be studied as a whole and from a nationwide standpoint. When this is done, the Committee believes support will follow for its conclusion in favorably reporting H.R. 14451 and recommending its passage.

It is appropriate to repeat the assessment of issues relating to economic development made by Representative Preyer and underscored by the Subcommittee Chairman:

> Mr. RANDALL. With his usual capability and good judgment and fine use of words, the gentleman from North Carolina has just about put this in perspective, as we see it:
>
> It is not a question of choice between good and evil, but between two goods.[54]

VII. MISCELLANEOUS

COMMITTEE VOTE

At a meeting of the Full Committee on Government Operations on August 3, 1976, a quorum being present, H.R. 14451 was approved by voice vote.

STATEMENT PURSUANT TO CLAUSE 7(A) OF RULE XIII

The Committee estimates that the enactment of H.R. 14451 will result in no additional costs.

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[53] Hearings, pp. 159–160.
[54] Hearings, p. 106.

Statement Pursuant to Clause 2(l)(3) of Rule XI

(A) No oversight findings or recommendations have been made with regard to this measure.

(B) This measure does not provide for additional budget authority.

(C) The Congressional Budget Office (CBO) provided a cost analysis report pursuant to Section 403 of the Congressional Budget and Impoundment Control Act of 1974. The CBO concluded that no additional costs to the government would be incurred as a result of the enactment of this bill.

Inflationary Impact

In compliance with clause 2(l)(4) of House Rule XI, it is the opinion of this committee that the provisions of this bill will have no inflationary impact on prices and costs in the operation of the national economy.

Cost Savings

The General Services Administration estimates the following savings will result from enactment of this legislation:

1. *Personnel compensation and benefits.*—DHEW has 55 employees with an annual budget of approximately $1.0 million supporting the personal property donation program. If these assets are transferred to GSA we anticipate, through attrition, a 12 percent reduction in personnel and appropriations over the next two to three years. This converts to an ultimate savings of six positions and $120,000. Average annual savings over the next five years would be approximately $72,000 for a total of $360,000.

2. *Travel.*—Elimination of duplication in travel is expected to amount to $10,000 annually.

3. *Administrative expenses.*—The following annual savings are expected: rents, $5,000; printing, (no changes); supplies, $5,000; equipment, $3,000; other services, $10,000. Total: $23,000 annually.

4. *Intangible savings.*—Principal benefits will be from the expedited removal of surplus personal property from the property disposal warehouses. Since requests for donation will no longer pass through DHEW, property will be physically moved from two to three weeks sooner. In addition, on the spot approval authority in the case of the GSA area utilization officers, will enable nonreportable type of surplus property to be moved immediately. No dollar estimates can be made on these savings. In view of the total donations amounting currently to approximately $400 million annually, these savings should be significant but very difficult to quantify.

It is therefore estimated that approximately $105,000 will be the average annual budget savings for the next five years, amounting to a total of $525,000. The additional intangible savings could possibly exceed the budgetary savings.

Section-by-Section Analysis

Section 1

Section 1 of the bill revises section 203(j) of the Federal Property and Administrative Services Act.

Under the existing section 203(j), donations of surplus property may be made, through State agencies, only to certain specified donees and only for purposes of education, public health, and civil defense,

or research for any such purpose. In the areas of education and public health, the Secretary of Health, Education, and Welfare determines that surplus property is usable and necessary for such purposes. With respect to civil defense activities, similar determinations are made by the Secretary of Defense (acting under a delegation from the President).

The amendment considerably enlarges the activities and types of recipients to be benefited through property donations. In section 203(j)(i), it provides that the Administrator of General Services, under such regulations as he may prescribe and at his discretion, may transfer surplus property without cost, except for the costs of care and handling, to the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution, through donation, of all such property. The amendment also provides that the Administrator shall, pursuant to criteria which are based on need and utilization, and established after such consultation with State agencies as is feasible, transfer to the State agency property selected by the State agency for distribution, through donation, within the State.

Section 203(j)(2) is merely a restatement without substantive change of the existing section 203(j)(2), which authorizes the Secretary of Defense to allocate surplus personal property under control of the Department of Defense for donation to educational authorities of special interest to the armed services, such as military, naval, Air Force, or Coast Guard preparatory schools.

Under the existing section 203(j), only specified public agencies or institutions engaged in public health, educational, and civil defense activities are eligible to receive surplus property. The amendment, in subsection (j)(3)(A), permits transfers to any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety. The enumeration of purposes is not exclusive; however, it is intended that in the administration of the programs all such purposes be given full and fair consideration. Two of the existing donation purposes—education and public health—are listed; however, nothing is intended to deemphasize the importance of the third existing donation purpose, namely, civil defense, which is an essential element within the broad public-safety purpose, along with other elements, such as fire protection, law enforcement, and criminal justice.

The existing eligibility of nonprofit educational or public health institutions or organizations to receive property is preserved in subsection (j)(3)(B), which also declares eligibility for child care centers. The list of activities in subsection (j)(3)(B) is descriptive rather than exclusive and is not intended to preclude determination of donee eligibility for other nonprofit and tax-exempt educational and public health activities, such as museums or geriatric centers. Property received by nonprofit institutions must still be used for purposes of education or public health, including research for any such purpose.

The amendment also provides that the Administrator, in allocating and transferring surplus property, shall give fair consideration, consistent with established criteria, to expressions of need and interest on the part of public agencies or other eligible institutions within the State, transmitted to GSA through the State agency.

Sections 203(j)(3) and 203(j)(4) of existing law authorize the Secretary of HEW and the Secretary of Defense (by delegation from the President) to prescribe minimum standards of operation for the donation of surplus property. The amendment, in section 203(j)(4)(A), provides that before property may be transferred to any State agency, the chief executive officer of the State shall approve and submit to the Administrator a detailed plan of operation conforming to the provisions of section 203(j)(4) and including adequate assurance that the State agency has the necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultaton with advisory bodies and public and private groups.

A significant provision of the subsection is that no State plan of operation, or major amendment thereof, shall be filed with the Administrator until sixty days after general notice of the proposed plan or amendment has been published and interested persons have been given at least thirty days during which to submit comments.

Section 203(j)(4)(B) provides additional requirements for provisions in the State plan of operation including a management control system and accounting system for donable property of the type required by State law for State-owned property. There must be provisions for the return of donable property for further distribution by the State agency if not placed in use within one year of donation or if the property ceases to be used within one year of being placed in use by the donee.

The amendment, in section 203(j)(4)(C), requires the State to set forth, in its plan of operation, the method of establishing service charges to be assessed and collected against participating donees to cover direct and reasonable indirect costs of the activities of the State agencies. It is not mandatory under the bill that the State agency be authorized to impose service charges; but when it is, the charges shall be fair and equitable and based on services performed by the State agency.

Section (j)(5) of existing law authorizes the Secretary of HEW and the Secretary of Defense (under delegation) to impose reasonable terms and conditions in the disposal of property with an acquisition cost of $2,500 or more. The amendment, in section 203(j)(4)(D), provides that the State agency may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated and shall impose such terms, conditions, reservations, and restrictions in the case of any passenger motor vehicle and any item of other property having a unit acquisition cost of $3,000 or more. The Administrator may impose appropriate conditions on the donation of property if he finds that an item or items of property have characteristics that require special handling or use limitations.

Under section 203 (j)(4)(E), the State plan of operation must also provide that surplus property which the State agency determines cannot be utilized by eligible recipients shall be disposed of, subject to the disapproval of the Administrator within 30 days after notice to him, through transfer to another State agency, or by abandonment or destruction where the property has no commercial value or the estimated

cost of continued care and handling would exceed the estimated proceeds of sale. Otherwise, such property is to be disposed of in accordance with the Act and under such terms and conditions and in such manner as prescribed by the Administrator. From the proceeds of sale of any such property, the Administrator in his discretion may reimburse the State agency for care and handling expenses incurred by the State agency.

The foregoing paragraphs incorporate the minimum basic components of a plan of operation. A State is, of course, free to add other provisions not inconsistent with provisions and purposes of the Act.

Subsection (j)(5) of the amendment sets forth definitions of the terms "public agency," and "State." The former term is given a broad scope. It expressly encompasses economic development districts and Indian tribes or groups on State reservations. Instrumentalities created by compact or agreement between States or political subdivisions are included. The term would also cover, for example, a multijurisdictional substate district established by or pursuant to State law.

Section 203(k) of the Federal Property Act deals primarily with transfers of surplus real property. It does not explicitly refer to personal property except that closely related to specific real property. Existing section 203(k)(4)—originally 203(k)(3)—provides authority to various Federal agency heads with respect to compliance with terms and conditions in property transfer instruments, correction or amendment of such instruments, and granting leases from terms and conditions therein. Section 203(k)(4) has been interpreted administratively to cover personal property transfers for education, public health, and civil defense. H.R. 14451 vests transfer authority for donable property entirely in GSA and at the same time provides that, except for property requiring special handling or use restrictions, conditions of transfer are to be imposed by the State agency. In view of these basic shifts in functions and responsibilities with respect to personal property donation, it is necessary to amend section 203(k)(4). Section 1 (2) of H.R. 14451 amends subsection (k)(4) by adding language to make it clear that the subsection applies only to transfers of real property (and related personal property). Also, since subsection (k)(4) will, as a result of the amendment, only apply to real and related personal property, and since no transfers of such property are authorized for civil defense purposes under the Federal Property and Administrative Services Act, the existing subsection (k)(4)(E) is repealed.

Section 203 (n) of existing law authorizes the Secretary of HEW and the Secretary of Defense (under Presidential delegation) to enter into cooperative agreements with State agencies to carry out subsections (j) and (k)(1). Such agreements may provide for HEW or DOD to utilize on a nonreimbursable basis certain property, facilities, personnel and services of the State agency and in turn to make available to the State agencies on a nonreimbursable basis property, facilities, personnel, or services of the Federal agency. Also, with the approval of the Administrator, surplus property may be used by the State agency if it would facilitate the effective operation of the State agency in performing its functions; and, in certain circumstances, title to such surplus property would be vested in the State agency. The amendment to subsection (n) would transfer to the Administrator

authority to enter into such cooperative agreements. He may also designate other Federal agency heads to enter into such agreements. Utilization under cooperative agreements may be with or without reimbursement. As in existing law, surplus property transferred to a State agency may be retained by the State agency for use in performing its functions with title to all such property vesting in the State agency, unless otherwise directed by the Administrator. The amendment would, however, continue the authority of the Secretary of HEW to enter into cooperative agreements with respect to transfers of real and related personnal property under subsection (k)(1).

Section 2 of the Crime Control Act of 1973 (Public Law 93–83; August 6, 1973; 87 Stat. 216) provided certain authority to the Administrator, Law Enforcement Assistance Administration, to approve surplus property for donation for law enforcement programs pursuant to subsections (j)(3) or (j)(4). GSA, however, did not regard the provision as sufficient to give the Administrator actual authority to donate the property, since subsection (j) was not amended at the same time to include law enforcement programs. In view of H.R. 14451's enlargement of the donation program to include the public-safety purpose (one of whose elements would be law enforcement) and in view of the bill's vesting in the Administrator of General Services the overall responsibility with respect to property donations, references to law enforcement and to the Administrator of LEAA are ommitted in the revision of subsection (n).

Section 203 (o) of existing law is amended to require submission of annual reports concerning donations of personal property by the Administrator, rather than by the Secretary of HEW. It is also broadened to provide that such reports show donations according to States and include other information and recommendations deemed appropriate by the Administrator.

Section 2

This section is for the purpose of vacating restrictions and reservations imposed on donated personal property pursuant to existing law, except that the Administrator may determine otherwise with respect to specific items or categories of property. The only restrictions which will remain in force are those which are, or which become the subject of judicial proceedings within one year of the effective date of the Act as provided in section 9(a). This will assist in an orderly transition from the present donation program to the one to be established by the bill.

Section 3

This section of H.R. 14451 adds two new subsections to section 202 of the Federal Property and Administrative Services Act. New subsection (d) prohibits Federal agencies from obtaining excess property in order to furnish it to their grantees, except those which are public agencies or nonprofit and tax-exempt organizations and which are conducting federally sponsored projects. In such cases, however, the property is to be used in connection with the project grant and the sponsoring Federal agency is to pay an amount equal to 25 percent of the original acquisition cost (except for costs of care and handling) of the excess property. Subject to regulations of the Administrator, this provision does not apply to the acquisition of excess property for

use in certain specified programs, namely, (1) property furnished under section 608 of the Foreign Assistance Act of 1961 where the Administrator determines the property is not needed for donation; (2) scientific equipment furnished under the National Science Foundation Act of 1950, where title is retained in the United States; (3) property furnished under section 203 of the Department of Agriculture Organic Act of 1944, in connection with the Cooperative Forest Fire Control Program, where title is retained in the United States; and (4) property furnished in connection with grants to Indian Tribes as defined in section 3(c) of the Indian Financing Act, which covers tribes and other groups recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

New subsection (e) of section 202 requires each executive agency to submit an annual report to the Administrator with respect to (1) personal property obtained as excess or (2) personal property determined to be no longer required for the purpose of the appropriation for which it was purchased where, in either case, the property is furnished to any recipient other than a Federal agency. The Administrator shall furnish a report to Congress summarizing and analyzing such individual agency reports. This requirement, for the first time, will give GSA and the Congress a ready source of information on how excess property and other property not technically excess but available for transfer to non-Federal users are, in fact, being utilized. The reports are in addition and supplementary to the annual reports of surplus property donations required under the revised section 203(o).

Section 4

Section 402(c) of the Act was added by P.L. 91–426 (September 26, 1970; 84 Stat. 883). It deals with foreign excess property, a term defined in section 3 of the Act as excess property located outside the United States. Section 402(c) provides that foreign excess property may be returned to the United States for further Federal use, or for donation under section 203(j), whenever the head of the executive agency having the foreign excess property determines it is in the interest of the United States to do so. Transportation costs for returning the property must be borne by the acquiring Federal agency or donee. The program has proved to be effective. (See "Interim Report of the Activities of the House Committee on Government Operations, Ninety-Fourth Congress, First Session." Committee Print, January 1976, p. 35.)

Section 4 of H.R. 14451 amends section 402(c) by strengthening the role of the Administrator in determining that the return of foreign excess property is in the interest of the United States.

Section 5

This section would authorize the Administrator to vest title in grantees of Federal agencies to excess property obtained pursuant to section 202 of the Federal Property and Administrative Service Act, and furnished to such grantees pursuant to the terms of a grant. But the grantor agency must first certify that the property is being used for the purposes for which it was acquired. This authorization would be applicable only to property furnished to and held by the grantee prior to the effective date of the Act as provided in section 9(b). Property which is not being so used by the grantee will be transferred to a

State agency, upon its request, for donation, or otherwise disposed of in accordance with the Act.

Section 6

This section repeals section 514 in Title V of the Public Works and Economic Development Act of 1965, as amended. Section 11 of P.L. 93-423 (September 27, 1974; 88 Stat. 1162) added section 514 to Title V. It set up an entirely new property assistance program by authorizing the Federal cochairmen of seven Regional Action Planning Commissions, operating within their respective economic development regions as previously established by the Secretary of Commerce, to obtain excess personal property in order to distribute it locally by loan or gift for economic development purposes. Recipients do not have to be Federal grantees. The regions occupy in whole or in part 32 States. They include any State or political subdivision, tax-supported organization, Indian tribe or unit, nonprofit private hospital, and nonprofit college or university. Section 514 is repealed so that these seven separate and independent programs, along with other programs which transfer excess property to local users, may be brought within the enlarged and more orderly program to be established under H.R. 14451. Recipient categories under section 514 will be eligible to receive surplus property by donation under H.R. 14451. Similar recipients (such as those in Appalachia) not located within one of the seven regions covered by such commissions (and hence ineligible under section 514) will also be eligible for donation under H.R. 14451.

Section 7

The enlarged donation program provided under section 203(j) as amended by H.R. 14451 would be assigned to the Administrator of General Services. To assist GSA with these broader responsibilities, staff and other resources used by HEW to carry out the existing personal property donation program would be needed. (Hearings, pp. 56, 63, 73.) Accordingly, section 7 provides for the transfer to GSA of personnel, property, records, appropriations and other funds of HEW as they relate to the personal property functions being assumed by GSA. The transfer would be directed to the Office of Management and Budget.

Section 8

This section adds a new section 606 to the Federal Property and Administrative Services Act with respect to prevention of sex discrimination.

Section 9

This section is to assure a smooth and orderly transition. It provides that the effective date of the Act is 180 days after the date of enactment, except that section 3 and 5—the provisions for limiting the acquisition of excess property for grantees and for vesting title to property in existing grantees—become effective 300 days after date of enactment. The 180-day deferral will assist States where necessary, to get required statutory authority enacted. The State agencies will be able to prepare for expanded functions. Time will be needed to revise, upgrade, and approve new plans of operation. GSA must prepare or revise regulations and guidelines. The additional deferral of 120 days applicable to excess property for agency grantees, will

particularly benefit both grantor and grantee by enabling them to complete necessary action for the use-certification required so that title to loaned property can be vested.

Section 10

This section requires the Administrator to submit a report to Congress not later than 30 months after the effective date of enactment, covering a two year period, and presenting an evaluation of the Act, the extent to which its objectives have been fulfilled, and how needs met by prior property programs have been met. The report is to include any recommendations the Administrator determines necessary and desirable.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

* * * * * * *

TITLE II—PROPERTY MANAGEMENT

* * * * * * *

PROPERTY UTILIZATION

SEC. 202. (a) * * *

* * * * * * *

(d) Notwithstanding any other provisions of law, Federal agencies are prohibited from obtaining excess personal property for purposes of furnishing such property to grantees of such agencies, except as follows:

(1) Under such regulations as the Administrator may prescribe, any Federal agency may obtain excess personal property for purposes of furnishing it to any institution or organization which is a public agency or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and which is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination date: Provided, That—

(A) such property is to be furnished for use in connection with the grant; and

(B) the sponsoring Federal agency pays an amount equal to 25 per centum of the original acquisition cost (except for costs of care and handling) of the excess property furnished, such funds to be covered into the Treasury as miscellaneous receipts.

Title to excess property obtained under this paragraph shall vest in the grantees and shall be accounted for and disposed of in accordance with procedures governing the accountability of personal property acquired under grant agreements.

(2) Under such regulations and restrictions as the Administrator may prescribe, the provisions of this subsection shall not apply to the following:

(A) property furnished under section 608 of the Foreign Assistance Act of 1961, as amended, where and to the extent that the Administrator of General Services determines that the property to be furnished under such Act is not needed for donation pursuant to section 203(j) of this Act;

(B) scientific equipment furnished under section 11(e) of the National Science Foundation Act of 1950, as amended (43 U.S.C. 1870(e)), where title is retained in the United States;

(C) property furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a), in connection with the Cooperative Forest Fire Control Program, where title is retained in the United States; or

(D) property furnished in connection with grants to Indian tribes as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c)).

This paragraph shall not preclude any Federal agency obtaining property and furnishing it to a grantee of that agency under paragraph (1) of this subsection.

(e) Each executive agency shall submit during the calendar quarter following the close of each fiscal year a report to the Administrator showing, with respect to personal property—

(1) obtained as excess property or as personal property determined to be no longer required for the purposes of the appropriation from which it was purchased, and

(2) furnished in any manner whatsoever within the United States to any recipient other than a Federal agency,

the acquisition cost, categories of equipment, recipient of all such property, and such other information as the Administrator may require. The Administrator shall submit a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) summarizing and analyzing the reports of the executive agencies.

* * * * * * *

DISPOSAL OF SURPLUS PROPERTY

SEC. 203. (a) * * *

* * * * * * *

(j)(1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to [donate] *transfer*, without cost (except for costs of care and handling) [for use in any State for purposes of education, public health, or civil defense, or for research for any such purpose, any equipment, materials, books, or other supplies (including those capitalized in a working capital or similar fund) under the control of any executive agency which shall have

been determined to be surplus property and which shall have been determined under paragraph (2), (3), or (4) of this subsection to be usable and necessary for any such purpose.] , *any personal property under the control of any executive agency which has been determined to be surplus property to the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution, through donation, of all property transferred in accordance with the provisions of paragraphs (2) and (3) of this subsection.* In determining whether *the* property is to be [donated] *transferred for donation* under this subsection, no distinction shall be made between property capitalized in a working-capital fund established under section [405 of the National Security Act of 1947, as amended] *2208 of title 10, United States Code*, or any similar fund, and any other property. [No such property shall be transferred for use within any State except to the State agency designated under State law for the purpose of distributing, in conformity with the provisions of this subsection, all property allocated under this subsection for use within such State.]

(2) In the case of surplus *personal* property under the control of the Department of Defense, the Secretary of Defense shall determine whether such property is usable and necessary for educational activities which are of special interest to the armed services, such as maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools. If [such] *the* Secretary [shall determine] *determines* that such property is usable and necessary for [such purposes,] *said purposes*, [he] *the Secretary* shall allocate it for transfer by the Administrator to the appropriate State agency for distribution, *through donation*, to such educational activities. If [he shall determine] *the Secretary determines* that such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph (3) [or paragraph (4)] of this subsection.

[(3) Determination whether such surplus property (except surplus property allocated in conformity with paragraph (2) of this subsection) is usable and necessary for purposes of education or public health, or for research for any such purpose, in any State shall be made by the Secretary of Health, Education, and Welfare, who shall allocate such property on the basis of needs and utilization for transfer by the Administrator to such State agency for distribution to (A) tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, and radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, (B) other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, and radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, and (C) public libraries. No such property shall be transferred to any State agency until the Secretary of Health, Education, and Welfare has received, from such State agency, a certification that such property is usable and needed for educational or public health purposes in the State, and until the Secretary has determined that such State agency has con-

formed to minimum standards of operation prescribed by the Secretary for the disposal of surplus property.

[(4) Determination whether such surplus property (except surplus property allocated in conformity with paragraph (2) of this subsection) is usable and necessary for civil defense purposes, including research, in any State shall be made by the President, who shall allocate such property on the basis of need and utilization for transfer by the Administrator of General Services to such State agency for distribution to civil defense organizations of such State, or political subdivisions and instrumentalities thereof, which are established pursuant to State law. No such property shall be transferred until the President has received from such State agency a certification that such property is usable and needed for civil defense purposes in the State, and until the President has determined that such State agency has conformed to minimum standards of operation prescribed by the President for the disposal of surplus property. The provisions of sections 201(b), 401(c), 401(e), and 405 of the Federal Civil Defense Act of 1950, as amended, shall apply to the performance by the President of his responsibilities under this section.

[(5) The Secretary of Health, Education, and Welfare and the President may impose reasonable terms, conditions, reservations, and restrictions upon the use of any single item of personal property donated under paragraph (3) or paragraph (4), respectively, of this subsection which has an acquisition cost of $2,500 or more.

[(6) The term "State", as used in this subsection, includes the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States.

[(7) The term "public library", as used in this subsection, means a library that serves free all residents of a community, district, State, or region, and receives its financial support in whole or in part from public funds.]

(3) Except for surplus personal property transferred pursuant to paragraph (2) of this subsection, the Administrator shall, pursuant to criteria which are based on need and utilization and established after such consultation with State agencies as is feasible, allocate such property among the States, and transfer to the State agency property selected by it for distribution through donation within the State—

(A) to any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or

(B) to nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, and libraries serving free all residents of a community, district, State, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, for purposes of education or public health (including research for any such purpose).

The Administrator, in allocating and transferring property under this paragraph, shall give fair consideration, consistently with the established criteria, to expressions, transmitted through the State agency, of need and interest on the part of public agencies or other eligible institutions within that State.

(4)(A) Before property may be transferred to any State agency, the chief executive officer of such State shall approve and submit to the Administrator a detailed plan of operation, developed in conformity with the provisions of this subsection, which shall include adequate assurance that the State agency has the necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups. No such plan, and no major amendment thereof, shall be filed with the Administrator until sixty days after general notice of the proposed plan or amendment has been published and interested persons have been given at least thirty days during which to submit comments. The Administrator may consult with interested Federal agencies for purposes of obtaining their views concerning the administration and operation of this subsection.

(B)(i) The State plan of operation shall require the State agency to utilize a management control system and accounting system for donable property transferred under this section of the same types as are required by State law for State-owned property, except that the State agency, with the approval of the chief executive officer of the State, may elect, in lieu of such systems, to utilize such other management control and accounting systems as are effective to govern the utilization, inventory control, accountability, and disposal of property under this subsection.

(ii) The State plan of operation shall require the State agency to provide for the return of donable property for further distribution if such property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for such purposes within one year of being placed in use.

(C) Where the State agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing such charges shall be set out in the State plan of operation. Such charges shall be fair and equitable and shall be based on services performed by the State agency, including, but not limited to, screening, packing, crating, removal, and transportation.

(D) The State plan of operation shall provide that the State agency may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under paragraph (3) of this subsection and shall impose such terms, conditions, reservations, and restrictions in the case of any passenger motor vehicle and any item of other property having a unit acquisition cost of $3,000 or more. If the Administrator finds that an item or items have characteristics that require special handling or use limitations, he may impose appropriate conditions on the donation of such property.

(E) The State plan of operation shall provide that surplus property which the State agency determines cannot be utilized by eligible recipients shall be disposed of—

(i) subject to the disapproval of the Administrator within thirty days after notice to him, through transfer by the State agency to another State agency or through abandonment or destruction where the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale; or

(ii) otherwise pursuant to the provisions of this Act under such terms and conditions and in such manner as may be prescribed by the Administrator.

Notwithstanding sections 204 and 402(c) of this Act, the Administrator, from the proceeds of sale of any such property, may reimburse the State agency for such expenses relating to the care and handling of such property as he shall deem appropriate.

(5) As used in this subsection, (A) the term "public agency" means any State, political subdivision thereof (including any unit of local government or economic development district), or any department, agency, instrumentality thereof (including instrumentalities created by compact or other agreement between States or political subdivisions), or any Indian tribe, band, group, pueblo, or community located on a State reservation and (B) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Virgin Islands, Guam, and American Samoa.

(k) (1) * * *

* * * * * * *

(4) Subject to the disapproval of the Administrator within thirty days after notice to him of any action to be taken under this subsection, *except with respect to personal property transferred pursuant to subsection (j)*—

(A) The Secretary of Health, Education, and Welfare, through such officers or employees of the Department of Health, Education, and Welfare as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and tax-supported and other nonprofit educational institutions for school, classroom, or other educational use;

(B) the Secretary of Health, Education, and Welfare, through such officers or employees of the Department of Health, Education, and Welfare as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions and instrumentalities thereof, tax-supported medical institutions, and to hospitals and other similar institutions not operated for profit, for use in the protection of public health (including research);

(C) the Secretary of the Interior, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended; and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and municipalities for use as a public park, public recreational area, or historic monument for the benefit of the public; *or*

(D) the Secretary of Defense, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, to States, political subdivisions, and tax-supported instrumentalities thereof for use in the training and maintenance of civilian components of the armed forces[; or].

[(E) the President, in the case of property transferred pursuant to this Act to civil defense organizations of the States or political subdivisions or instrumentalities thereof which are established by or pursuant to State law,

is authorized and directed—

[(i) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

[(ii) to reform, correct, or amend any such instrument by the execution of a corrective, reformative, or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

[(iii) to (I) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (II) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by, any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: *Provided*, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he shall deem necessary to protect or advance the interests of the United States.]

* * * * * * *

(n) For the purpose of carrying into effect the provisions of subsections (j), *the Administrator or the head of any Federal agency designated by the Administrator, and, with respect to subsection* and (k) (1), the Secretary of Health, Education, and Welfare, [the President,[10] and] *or* the head of any Federal agency designated by [either such officer] *the Secretary*, are authorized to enter into cooperative agreements with State surplus property distribution agencies designated in conformity with [paragraph (1) of] subsection (j). Such cooperative agreements may provide for utilization by such Federal agency, *with or* without payment or reimbursement, of the property, facilities, personnel, and services of the State agency in carrying out any such program, and for making available to such State agency, *with or* without payment or reimbursement, property, facilities, personnel, or services of such Federal agency in connection with such utilization. *Payment or reimbursement, if any, from the State agency shall be credited to the fund or appropriation against which charges would be made if no payment or reimbursement were received* [In addition, under such cooperative agreements and subject to such other conditions as may be imposed by the Secretary of Health, Education, and Welfare, or the Director, Office of Civil and Defense Mobilization, or the Administrator, Law Enforcement Assistance Administration, surplus property, which the Administrator may approve

for donation for use in any State for purposes of law enforcement programs, education, public health, or civil defense, or for research for any such purposes, pursuant to subsection (j)(3) or (j)(4), may with the approval of the Administrator be made available to the State agency after a determination by the Secretary or the Director or the Administrator, Law Enforcement Assistance Administration that such property is necessary to, or would facilitate, the effective operation of the State agency in performing its functions in connection with such program. Upon a determination by the Secretary or the Director or Administrator, Law Enforcement Assistance Administration, that such action is necessary to, or would facilitate, the effective use of such surplus property made available under the terms of a cooperative agreement, title thereto may with the approval of the Administrator be vested in the State agency.] *In addition, under such cooperative agreements and subject to such other conditions as may be imposed by the Administrator, or with respect to subsection (k)(1) by the Secretary of Health, Education, and Welfare, any surplus property transferred to the State agency for distribution pursuant to subsection (j)(3) may be retained by the State agency for use in performing its functions. Unless otherwise directed by the Administrator, title to property so retained shall best in the State agency.*".

[(o) The Secretary of Health, Education, and Welfare, with respect to personal property donated under subsection (j) of this section, and the head of each executive agency disposing of real property under subsection (k) of this section shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year.]

(o) The Administrator with respect to personal property donated under subsection (j), and the head of each executive agency disposing of real property under subsection (k), shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year. Such reports shall also show donations and transfers of property according to State, and may include such other information and recommendations as the Administrator or other executive agency head concerned deems appropriate.

* * * * * * *

TITLE IV—FOREIGN EXCESS PROPERTY

* * * * * * *

METHODS AND TERMS OF DISPOSAL

SEC. 402. * * *

* * * * * * *

(c) Under such regulations as the Administrator shall prescribe pursuant to this subsection, any foreign excess property may be returned to the United States for handling as excess or surplus property under the provisions of sections 202, 203(j), and 203(l) of this Act [whenever the head of the executive agency concerned determines that it is in the interest of the United States to do so], *whenever the head of the executive agency concerned, or the Administrator after consultation with such agency head, determines that return of the property to the United States for such handling is in the interest of the United States: Provided,* That regulations prescribed pursuant to this subsection shall require that the transportation costs incident to such return shall be borne by the Federal agency, State agency, or donee receiving the property.

* * * * * * *

TITLE VI—GENERAL PROVISIONS

* * * * * * *

SEX DISCRIMINATION

SEC. 606. No individual shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision shall be enforced through agency provisions and rules similar to those already established with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or remove any other legal remedies available to any individual alleging discrimination.

* * * * * * *

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

* * * * * * *

[REGIONAL EXCESS PROPERTY PROGRAM

[SEC. 514. (a) Notwithstanding any other provision of law, and subject to subsection (b), the Federal cochairman of each regional commission established under section 502 of this Act may acquire excess property, without reimbursement, through the Administrator of General Services and shall dispose of such property, without reimbursement and for the purpose of economic development, by loaning to, or by vesting title in, any of the following recipients located wholly or partially within the economic development region of such Federal cochairman:

[(1) any State or political subdivision thereof;

[(2) any tax-supported organization;

[(3) any Indian tribe, band, group, pueblo, or Alaskan village or Regional Corporation (as defined by the Alaska Native Land Claims Settlement Act of 1971) recognized by the Federal Government or any State, and any business owned by any tribe, band, group, pueblo, village, or Regional Corporation;

[(4) any tax-supported or nonprofit private hospital; and

[(5) any tax-supported or nonprofit private institution of higher education requiring a high school diploma, or equivalent, as a basis for admission.

[Such recipient may have, but need not have, received any other aid under this Act. For the purposes of this section, until a regional commission is established for the State of Alaska under section 502 of this Act, in the case of the State of Alaska the Secretary of Commerce shall exercise the authority granted to a Federal cochairman under this section.

[(b) For purposes of subsection (a)—

[(1) each Federal cochairman, in the acquiring of excess property, shall have the same priority as other Federal agencies; and

[(2) the Secretary shall prescribe rules, regulations, and procedures for administering subsection (a) which may be different for each economic development region, except that the Secretary shall consult with the Federal cochairman of a region before prescribing such rules, regulations, and procedures for such region.

[(c)(1) The recipient of any property disposed of by any Federal cochairman under subsection (a) shall pay, to the Federal agency having custody of the property, all costs of care and handling incurred in the acquiring and disposing of such property; and such recipient shall pay all costs which may be incurred regarding such property after such Federal cochairman disposes of it, except that such recipient shall not pay any costs incurred after such property is returned under subsection (e).

[(2) No Federal cochairman may be involved at any time in the receiving or processing of any costs paid by the recipient under paragraph (1).

[(d) Each Federal cochairman, not later than six calendar months after the close of each fiscal year, shall account to the Secretary, as the Secretary shall prescribe, for all property acquired and disposed of, including any property acquired but not disposed of, under subsection (a) during such fiscal year. The Secretary shall have access to all information and related material in the possession of such Federal cochairman regarding such property.

[(e) Any property determined by the Federal cochairman to be no longer needed for the purpose of economic development shall be reported by the recipient to the Administrator of General Services for disposition under the Federal Property and Administrative Services Act of 1949.

[(f) The value of any property acquired and disposed of, including any property acquired but not disposed of, under subsection (a) shall not be taken into account in the computation of any appropriation, or any authorization for appropriation, regarding any regional commission established under section 502 or any office of the Federal cochairman of such commission.

[(g) For purposes of this section—

[(1) the term "care and handling" has the meaning given it by section 3(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(h)); and

[(2) the term "excess property" has the meaning given it by section 3(e) of such Act (40 U.S.C. 472(e)), except that such term does not include real property.]

* * * * * * *

APPENDIX

Transfers to the grantee program for fiscal year 1976

Executive Office of the President	$7,287,746
Department of Agriculture	26,313
Department of Commerce	2,409,816
Department of Interior	336,159
Department of Justice	3,908,370
Department of Labor	7,111,186
Department of Navy	338,219
Department of Army	48,998
Veterans' Administration	21,787
DCPA	1,135,829
Action	10,891
NSF	73,336,092
Air Force	68,814
DHEW	8,334
NASA	1,101,026
HUD	185,109
ERDA	1,029,867
Other	12,576
Total	98,377,132

Source: GSA, July 30, 1976.

TRANSFERS TO REGIONAL COMMISSIONS FOR FISCAL YEAR 1976

Region	Upper Great Lake	New England	Pacific Northwest	Four Corners	Coastal Plain	Ozark	Old West	Total
1	41,307	26,924,174	907	0	0	19,075	0	26,985,463
2	16,813	1,384,275	0	0	35,070	0	0	1,436,159
3	217,282	1,260,443	20,807	680,870	4,398,388	490,124	64,177	7,132,091
4	30,906	62,948	0	8,340	10,472,545	1,848,176	104,006	12,526,921
5	2,420,987	27,879	0	98,488	20,320	26,591	348,536	2,942,801
6	222,115	0	0	11,295	0	3,928,725	7,450,531	11,612,666
7	41,400	6,916	3,294	8,640,508	60,609	14,606,429	91,560	23,450,716
8	263,933	3,815	104,458	11,064,407	0	665	4,576,519	16,013,797
9	41,536	6,895	885,498	21,140,369	71,685	51,657	58,684	22,256,324
10	1,038	0	7,004,366	459,875	0	0	3,427	7,468,706
CO	0	0	0	0	0	0	0	0
Total	3,297,317	29,677,346	8,019,330	42,104,152	15,058,617	20,971,442	12,697,440	131,825,644

Source: GSA, July 30, 1976.

CORRECTED SHEET

H. R. 14451

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 amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended as follows:

(1) Subsection (j) is amended to read as follows:

"(j)(1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer, without cost (except for costs of care and handling), any personal property under the control of any executive agency which has been determined to be surplus property to the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution, through donation, of all property transferred in accordance with the provisions of paragraphs (2) and (3) of this subsection. In determining whether the property is to be transferred for donation under this subsection, no distinction shall be made between property capitalized in a working-capital fund established under section 2208 of title 10, United States Code, or any similar fund, and any other property.

"(2) In the case of surplus personal property under the control of the Department of Defense, the Secretary of Defense shall determine whether such property is usable and necessary for educational activities which are of special interest to the armed services, such as maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools. If the Secretary determines that such property is usable and necessary for said purposes, the Secretary shall allocate it for transfer by the Administrator to the appropriate State agency for distribution, through donation, to such educational activities. If the Secretary determines that such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph (3) of this subsection.

"(3) Except for surplus personal property transferred pursuant to paragraph (2) of this subsection, the Administrator shall, pursuant to criteria which are based on need and utilization and established after such consultation with State agencies as is feasible, allocate such property among the States in a fair and equitable basis (taking into account the condition of the property as well as the original acquisition cost thereof), and transfer to the State agency property selected by it for distribution through donation within the State—

"(A) to any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or

"(B) to nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child

care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, museums attended by the public, and libraries serving free all residents of a community, district, State, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, for purposes of education or public health (including research for any such purpose).

The Administrator, in allocating and transferring property under this paragraph, shall give fair consideration, consistently with the established criteria, to expressions of need and interest on the part of public agencies and other eligible institutions within that State, and shall give special consideration to requests by eligible recipients, transmitted through the State agency, for specific items of property.

"(4)(A) Before property may be transferred to any State agency, such State shall develop, according to State law, a detailed plan of operation, developed in conformity with the provisions of this subsection, which shall include adequate assurance that the State agency has the necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups. The chief executive officer shall certify and submit the plan to the Administrator. In the event that a State legislature has not developed, according to State law, a State plan within two hundred and seventy calendar days after the date of enactment of this Act, the chief executive officer of the State shall approve, and submit to the Administrator, a temporary State plan. No such plan, and no major amendment thereof, shall be filed with the Administrator until sixty days after general notice of the proposed plan or amendment has been published and interested persons have been given at least thirty days during which to submit comments. In developing and implementing the State plan, the relative needs and resources of all public agencies and other eligible institutions within the State shall be taken into consideration. The Administrator may consult with interested Federal agencies for purposes of obtaining their views concerning the administration and operation of this subsection.

"(B) The State plan shall provide for the fair and equitable distribution of property within such State based on the relative needs and resources of interested public agencies and other eligible institutions within the State and their abilities to utilize the property.

"(C)(i) The State plan of operation shall require the State agency to utilize a management control system and accounting system for donable property transferred under this section of the same types as are required by State law for State-owned property, except that the State agency, with the approval of the chief executive officer of the State, may elect, in lieu of such systems, to utilize such other management control and accounting systems as are effective to govern the utilization, inventory control, accountability, and disposal of property under this subsection.

"(ii) The State plan of operation shall require the State agency to provide for the return of donable property for further distribution if such property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for such purposes within one year of being placed in use.

"(iii) The State plan shall require the State agency, insofar as practicable, to select property requested by a public agency or other eligible institution within the State and, if so requested by the recipient, to arrange shipment of that property, when acquired, directly to the recipient.

"(D) Where the State agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing such charges shall be set out in the State plan of operation. Such charges shall be fair and equitable and shall be based on services performed by the State agency, including, but not limited to, screening, packing, crating, removal, and transportation.

"(E) The State plan of operation shall provide that the State agency may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under paragraph (3) of this subsection and shall impose such terms, conditions, reservations, and restrictions in the case of any passenger motor vehicle and any item of other property having a unit acquisition cost of $3,000 or more. If the Administrator finds that an item or items have characteristics that require special handling or use limitations, he may impose appropriate conditions on the donation of such property.

"(F) The State plan of operation shall provide that surplus property which the State agency determines cannot be utilized by eligible recipients shall be disposed of—

"(i) subject to the disapproval of the Administrator within thirty days after notice to him, through transfer by the State agency to another State agency or through abandonment or destruction where the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale; or

"(ii) otherwise pursuant to the provisions of this Act under such terms and conditions and in such manner as may be prescribed by the Administrator.

Notwithstanding sections 204 and 402(c) of this Act, the Administrator, from the proceeds of sale of any such property, may reimburse the State agency for such expenses relating to the care and handling of such property as he shall deem appropriate.

"(5) As used in this subsection, (A) the term 'public agency' means any State, political subdivision thereof (including any unit of local government or economic development district), or any department, agency, instrumentality thereof (including instrumentalities created by compact or other agreement between States or political subdivisions), or any Indian tribe, band, group, pueblo, or community located on a State reservation and (B) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Virgin Islands, Guam, and American Samoa.".

(2) Subsection (k) is amended—

(A) in the first sentence of paragraph (4), immediately following the word "subsection", by adding ", except with respect to personal property transferred pursuant to subsection (j)";

(B) in subparagraph (4)(C), by inserting "or" immediately after the semicolon;

(C) in subparagraph (4)(D), immediately following the words "armed forces", by striking out "; or" and inserting in lieu thereof a period; and

(D) by striking out subparagraph (4)(E).

(3) Subsection (n) is amended to read as follows:

"(n) For the purpose of carrying into effect the provisions of subsection (j), the Administrator or the head of any Federal agency designated by the Administrator, and, with respect to subsection (k)(1), the Secretary of Health, Education, and Welfare or the head of any Federal agency designated by the Secretary, are authorized to enter into cooperative agreements with State surplus property distribution agencies designated in conformity with subsection (j). Such cooperative agreements may provide for utilization by such Federal agency, with or without payment or reimbursement, of the property, facilities, personnel, and services of the State agency in carrying out any such program, and for making available to such State agency, with or without payment or reimbursement, property, facilities, personnel, or services of such Federal agency in connection with such utilization. Payment or reimbursement, if any, from the State agency shall be credited to the fund or appropriation against which charges would be made if no payment or reimbursement were received. In addition, under such cooperative agreements and subject to such other conditions as may be imposed by the Administrator, or with respect to subsection (k)(1) by the Secretary of Health, Education, and Welfare, any surplus property transferred to the State agency for distribution pursuant to subsection (j)(3) may be retained by the State agency for use in performing its functions. Unless otherwise directed by the Administrator, title to property so retained shall vest in the State agency.".

(4) Subsection (o) is amended to read as follows:

"(o) The Administrator with respect to personal property donated under subsection (j), and the head of each executive agency disposing of real property under subsection (k), shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year. Such reports shall also show donations and transfers of property according to State, and may include such other information and recommendations as the Administrator or other executive agency head concerned deems appropriate.".

SEC. 2. Except to the extent that the Administrator of General Services, in the case of specific items or categories of property, has determined otherwise, no term, condition, reservation, or restriction imposed pursuant to subsection (j)(5) of section 203 of the Federal Property and Administrative Services Act of 1949 (as in effect prior to the date of enactment of this Act), on the use of any item of personal property donated pursuant to subsection (j)(3) or (j)(4) of section 203 prior to the effective date of this Act as provided in section 9(a), shall remain in effect beyond the thirtieth day after such effective date. This section shall not be deemed to terminate any civil or criminal liability arising out of a violation of such a term, condition, reservation, or restriction which occurred prior to such effective date if a judicial proceeding to enforce such liability is pending on such effective date, or is commenced within one year after such date.

SEC. 3. Section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) is amended by adding the following new subsections:

"(d) Notwithstanding any other provisions of law, Federal agencies are prohibited from obtaining excess personal property for purposes of furnishing such property to grantees of such agencies, except as follows:

"(1) Under such regulations as the Administrator may prescribe, any Federal agency may obtain excess personal property for purposes of furnishing it to any institution or organization which is a public agency or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and which is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination made: *Provided*, That—

"(A) such property is to be furnished for use in connection with the grant; and

"(B) the sponsoring Federal agency pays an amount equal to 25 per centum of the original acquisition cost (except for costs of care and handling) of the excess property furnished, such funds to be covered into the Treasury as miscellaneous receipts.

Title to excess property obtained under this paragraph shall vest in the grantees and shall be accounted for and disposed of in accordance with procedures governing the accountability of personal property acquired under grant agreements.

"(2) Under such regulations and restrictions as the Administrator may prescribe, the provisions of this subsection shall not apply to the following:

"(A) property furnished under section 608 of the Foreign Assistance Act of 1961, as amended, where and to the extent that the Administrator of General Services determines that the property to be furnished under such Act is not needed for donation pursuant to section 203(j) of this Act;

"(B) scientific equipment furnished under section 11(e) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(e));

"(C) property furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a), in connection with the Cooperative Forest Fire Control Program, where title is retained in the United States; or

"(D) property furnished in connection with grants to Indian tribes as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c)).

This paragraph shall not preclude any Federal agency obtaining property and furnishing it to a grantee of that agency under paragraph (1) of this subsection.

"(e) Each executive agency shall submit during the calendar quarter following the close of each fiscal year a report to the Administrator showing, with respect to personal property—

"(1) obtained as excess property or as personal property determined to be no longer required for the purposes of the appropriation from which it was purchased, and

"(2) furnished in any manner whatsoever within the United States to any recipient other than a Federal agency,

the acquisition cost, categories of equipment, recipient of all such property, and such other information as the Administrator may require. The Administrator shall submit a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) summarizing and analyzing the reports of the executive agencies.".

SEC. 4. Section 402(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 512(c)) is amended by striking out

"whenever the head of the executive agency concerned determines that it is in the interest of the United States to do so" and inserting in lieu thereof ", whenever the head of the executive agency concerned, or the Administrator after consultation with such agency head, determines that return of the property to the United States for such handling is in the interest of the United States".

SEC. 5. Notwithstanding any other provision of law, and except as the Administrator of General Services may otherwise provide on recommendation of the head of an affected Federal agency, excess personal property acquired by a Federal agency pursuant to the authority of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and furnished to and held by a grantee of such agency prior to the effective date of this Act (as provided in section 9(b)) under grants made pursuant to programs established by law shall be regarded as surplus property. The Administrator of General Services upon receipt of a certification by the head of an agency that the property is being used by the grantee for the purposes for which it was furnished shall transfer title to the property to the grantee. The grantor agency shall survey Federal property acquired from excess sources in the possession of its grantees and shall notify the Administrator of General Services, not later than two hundred and forty days from the date of enactment of this Act, of those items of property which are being used by each grantee for the purpose for which it was furnished, and those items which are not being used by each grantee. If the property is not being so used, the Administrator shall transfer such property to an appropriate State agency, upon its request, for distribution in accordance with subsection 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)). Property not so transferred shall be otherwise disposed of pursuant to the provisions of that Act.".

SEC. 6. Section 514 of the Public Works and Economic Development Act of 1965 (88 Stat. 1162) is repealed.

SEC. 7. (a) So much of the personnel, property, records, and unexpended balance of appropriations, allocations, and other funds as are, in the judgment of the Director of the Office of Management and Budget, employed, used, held, available, or to be made available in relation to those personal property functions which the Secretary of Health, Education, and Welfare was authorized to perform under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) immediately prior to the date of enactment of this Act and which under this Act become vested in the Administrator of General Services shall be transferred to the General Services Administration at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget deems necessary to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as the Director shall direct.

SEC. 8. Title VI of the Federal Property and Administrative Services Act of 1949 is amended by adding after section 605 the following new section:

"SEX DISCRIMINATION

"SEC. 606. No individual shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision shall be enforced through agency provisions and rules similar to those already estab-

lished with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or remove any other legal remedies available to any individual alleging discrimination.".

SEC. 9. The provisions of this Act shall become effective one year after the date of enactment of this Act.

SEC. 10. Not later than thirty months after the effective date of this Act, and biennially thereafter, the Administrator and the Comptroller General of the United States shall each transmit to the Congress reports which cover the two-year period from such effective date and contain (1) a full and independent evaluation of the operation of this Act, (2) the extent to which the objectives of this Act have been fulfilled, (3) how the needs served by prior Federal personal property distribution programs have been met, (4) an assessment of the degree to which the distribution of surplus property has met the relative needs of the various public agencies and other eligible institutions, and (5) such recommendations as the Administrator and the Comptroller General, respectively, determine to be necessary or desirable.

Speaker of the House of Representatives.

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