

75th CONGRESS
1ST SESSION

S. 1712

IN THE SENATE OF THE UNITED STATES

MAY 15 (calendar day, MAY 17), 1933

Mr. WAGNER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes.


1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—INDUSTRIAL RECOVERY**

4 **DECLARATION OF POLICY**

5 **SECTION 1.** A national emergency productive of wide-
6 spread unemployment and disorganization of industry,
7 which burdens interstate commerce, affects the public wel-
8 fare, and undermines the standards of living of the American
9 people, is hereby declared to exist. It is hereby declared

1 to be the policy of Congress to remove obstructions to the
2 free flow of interstate commerce which tend to diminish the
3 amount thereof; and to promote the organization of industry
4 for the purpose of cooperative action among trade groups,
5 to induce and maintain united action of labor and manage-
6 ment under adequate governmental sanctions and super-
7 vision, to eliminate unfair competitive practices, to reduce
8 and relieve unemployment, to improve standards of labor,
9 and otherwise to rehabilitate industry and to conserve
10 natural resources.

11  ADMINISTRATIVE AGENCIES

12 SEC. 2. (a) To effectuate the policy of this title, the
13 President is hereby authorized to establish such agencies,
14 to accept and utilize such voluntary and uncompensated
15 services, to appoint, without regard to the provisions of the
16 civil service laws, such officers and employees, and to utilize
17 such Federal officers and employees, and, with the consent
18 of the State, such State and local officers and employees, as
19 he may find necessary, to prescribe their authorities, duties,
20 responsibilities, and tenure, and, without regard to the
21 Classification Act of 1923, as amended, to fix the compen-
22 sation of any officers and employees so appointed.

23 (b) The President may delegate any of his functions
24 and powers under this title to such officers, agents, and
25 employees as he may designate or appoint, and may establish

1 an industrial planning and research agency to aid in carry-
2 ing out his functions under this title.

3 (c) This title shall cease to be in effect and any
4 agencies established hereunder shall cease to exist at the
5 expiration of two years after the date of enactment of this
6 Act, or sooner if the President shall by proclamation declare
7 that the emergency recognized by section 1 has ended.

8 CODES OF FAIR COMPETITION

9 SEC. 3. (a) Upon the application to the President by
10 one or more trade or industrial associations or groups, the
11 President may approve a code or codes of fair competition for
12 the trade or industry or subdivision thereof, represented by
13 the applicant or applicants, if the President finds (1) that such
14 associations or groups impose no inequitable restrictions on
15 admission to membership therein and are truly representa-
16 tive of such trades or industries or subdivisions thereof, and (2)
17 that such code or codes are not designed to promote monop-
18 olies or to eliminate or oppress small enterprises and will not
19 operate to discriminate against them, and will tend to effec-
20 tuate the policy of this title. The President may, as a
21 condition of his approval of any such code, impose such
22 conditions (including requirements for the making of reports
23 and the keeping of accounts) for the protection of con-
24 sumers, competitors, employees, and others, and in further-

1 ance of the public interest, and may provide such exceptions
2 to and exemptions from the provisions of such code, as the
3 President in his discretion deems necessary to effectuate
4 the policy herein declared.

5 (b) After the President shall have approved any such
6 code, the provisions of such code shall be the standards of
7 fair competition for such trade or industry or subdivision
8 thereof. Any violation of such standards in any transac-
9 tion in or affecting interstate commerce shall be deemed
10 an unfair method of competition in commerce within the
11 meaning of the Federal Trade Commission Act, as amended.
12 A violation of any provision of any such code shall be a
13 misdemeanor and upon conviction thereof an offender shall
14 be fined not more than \$500 for each offense.

15 (c) The several district courts of the United States
16 are hereby invested with jurisdiction to prevent and restrain
17 violations of any code of fair competition approved under this
18 title; and it shall be the duty of the several district attorneys
19 of the United States, in their respective districts, under the
20 direction of the Attorney General, to institute proceedings in
21 equity to prevent and restrain such violations.

22 (d) Upon his own motion, or if complaint is made to the
23 President that abuses inimical to the public interest and contrary
24 to the policy herein declared are prevalent in any trade or
25 industry or subdivision thereof, and if no code of fair compe-

1 titution therefor has theretofore been approved by the Presi-
2 dent, the President, after such public notice and hearing as
3 he shall specify, may prescribe and approve a code of fair
4 competition for such trade or industry or subdivision thereof,
5 which shall have the same effect as a code of fair competi-
6 tion approved by the President under subsection (a) of
7 this section.

8 AGREEMENTS AND LICENSES

9 SEC. 4. (a) The President is authorized to enter into
10 agreements with, and to approve voluntary agreements
11 between and among, persons engaged in a trade or industry,
12 labor organizations, and trade or industrial organizations,
13 associations, or groups, relating to any trade or industry, if
14 in his judgment such agreements will aid in effectuating the
15 policy of this title with respect to transactions in or affecting
16 interstate commerce, and will be consistent with the require-
17 ments of clause (2) of subsection (a) of section 3 for a
18 code of fair competition.

19 (b) Whenever the President, after such public notice
20 and hearing as he shall specify, shall find it essential to
21 license business enterprises in order to make effective a code
22 of fair competition or an agreement under this title or
23 otherwise to effectuate the policy of this title, and shall pub-
24 licly so announce, no person shall, after a date fixed in such
25 announcement, engage in or carry on any business, in or

1 affecting interstate commerce, specified in such announce-
2 ment, unless he shall have first obtained a license issued
3 pursuant to such regulations as the President shall prescribe.
4 The President may suspend or revoke any such license, after
5 due notice and opportunity for hearing, for violations of the
6 terms or conditions thereof. Any order of the President
7 suspending or revoking any such license shall be final if in
8 accordance with law. Any person who, without such a
9 license or in violation of any condition thereof, carries on
10 any such business for which a license is so required, shall,
11 upon conviction thereof, be fined not more than \$500, or
12 imprisoned not more than six months, or both, and each
13 day such violation continues shall be deemed a separate
14 offense.

15 SEC. 5. While this title is in effect and for sixty days
16 thereafter, any code, agreement, or license approved, pre-
17 scribed, or issued and in effect under this title, and any
18 action complying with the provisions thereof taken during
19 such period, shall be exempt from the provisions of the
20 antitrust laws of the United States.

21 LIMITATIONS UPON APPLICATION OF TITLE

22 SEC. 6. (a) No trade or industrial association or group
23 shall be eligible to receive the benefit of the provisions of
24 this title until it files with the President a statement con-
25 taining such information relating to the activities of the

1 association or group as the President shall by regulation
2 prescribe.

3 (b) The President is authorized to prescribe rules and
4 regulations designed to insure that any organization avail-
5 ing itself of the benefits of this title shall be truly repre-
6 sentative of the trade or industry or subdivision thereof
7 represented by such organization. Any organization violat-
8 ing any such rule or regulation shall cease to be entitled to
9 the benefits of this title.

10 (c) Upon the request of the President, the Federal Tra
11 Commission shall make such investigations as may be neces-
12 sary to enable the President to carry out the provisions of this
13 title, and for such purposes the Commission shall have all
14 the powers vested in it with respect of investigations under
15 the Federal Trade Commission Act, as amended.

16 SEC. 7. (a) Every code of fair competition, agree-
17 ment, and license approved, prescribed, or issued under
18 this title shall contain the following conditions: (1) That
19 employees shall have the right to organize and bargain
20 collectively through representatives of their own choosing,
21 (2) that no employee and no one seeking employment
22 shall be required as a condition of employment to join any
23 organization or to refrain from joining a labor organization
24 of his own choosing, and (3) that employers shall comply
25 with the maximum hours of labor, minimum rates of pay.

1 and other working conditions, approved or prescribed by
2 the President.

3 (b) The President shall, so far as practicable, afford
4 every opportunity to employers and employees in any
5 trade or industry or subdivision thereof with respect to
6 which the conditions referred to in clauses (1) and (2) of
7 subsection (a) prevail, to establish by mutual agreement,
8 the standards as to the maximum hours of labor, minimum
9 rates of pay, and such other working conditions as may be
10 necessary in such trade or industry or subdivision thereof to
11 effectuate the policy of this title; and the standards estab-
12 lished in such agreements, when approved by the President,
13 shall have the same effect as a code of fair competition,
14 approved by the President under subsection (a) of section 3.

15 (c) Where no such mutual agreement has been
16 approved by the President he may investigate the labor
17 practices, policies, wages, hours of labor, and working con-
18 ditions in such trade or industry or subdivision thereof;
19 and upon the basis of such investigations, and after such
20 hearings as the President finds advisable, he is authorized
21 to prescribe a limited code of fair competition fixing such
22 maximum hours of labor, minimum rates of pay, and other
23 working conditions in the trade or industry or subdivision
24 thereof investigated as he finds to be necessary to effectuate
25 the policy of this title, which shall have the same effect as a

1 code of fair competition approved by the President under sub-
2 section (a) of section 3. The President may differentiate
3 according to experience and skill of the employees
4 affected and according to the locality of employment;
5 but no attempt shall be made to introduce any classifica-
6 tion according to the nature of the work involved which
7 might tend to set a maximum as well as a minimum wage.

8 (d) As used in this title, the term "person" includes
9 any individual, partnership, association, trust, or corporation.

10 APPLICATION OF AGRICULTURAL ADJUSTMENT ACT

11 SEC. 8. This title shall not be construed to repeal or
12 modify any of the provisions of the Act entitled "An Act to
13 relieve the existing national economic emergency by in-
14 creasing agricultural purchasing power, to raise revenue
15 for extraordinary expenses incurred by reason of such
16 emergency, to provide emergency relief with respect to
17 agricultural indebtedness, to provide for the orderly liquida-
18 tion of joint-stock land banks, and for other purposes",
19 approved May 12, 1933.

20 RULES AND REGULATIONS

21 SEC. 9. (a) The President is authorized to prescribe
22 such rules and regulations as may be necessary to carry out
23 the purposes of this title, and fees for licenses and for filing
24 codes of fair competition, and any violation of any such rule

1 or regulation shall be punishable by fine of not to exceed
2 \$500 or imprisonment for not to exceed six months, or both.

3 (b) The President may from time to time cancel or
4 modify any order, approval, license, rule, or regulation issued
5 under this title; and each agreement, code of fair competition,
6 or license approved, prescribed, or issued under this title
7 shall contain an express provision to that effect.

8 TITLE II—PUBLIC WORKS AND CONSTRUCTION
9 PROJECTS

10 FEDERAL EMERGENCY ADMINISTRATION OF PUBLIC WORKS

11 SECTION 201. (a) To effectuate the purposes of this title,
12 the President is hereby authorized to create a Federal Emer-
13 gency Administration of Public Works (hereafter referred
14 to as the "Administration"), all the powers of which shall
15 be exercised by a Federal Emergency Administrator of Pub-
16 lic Works (hereafter referred to as the "Administrator"),
17 and to establish such agencies, to accept and utilize such vol-
18 untary and uncompensated services, to appoint, without re-
19 gard to the civil service laws, such officers and employees, and
20 to utilize such Federal officers and employees, and, with the
21 consent of the State, such State and local officers and em-
22 ployees as he may find necessary, to prescribe their authori-
23 ties, duties, responsibilities, and tenure, and, without regard
24 to the Classification Act of 1923, as amended, to fix the com-
25 pensation of any officers and employees so appointed. The

1 President may delegate any of his functions and powers
2 under this title to such officers, agents, and employees as he
3 may designate or appoint.

4 (b) The Administrator may, without regard to the
5 civil service laws or the Classification Act of 1923, as
6 amended, appoint and fix the compensation of such experts
7 and such other officers and employees as are necessary
8 to carry out the provisions of this title; and may make
9 such expenditures (including expenditures for personal
10 services and rent at the seat of government and elsewhere,
11 for law books and books of reference, and for paper, printing
12 and binding) as are necessary to carry out the provisions
13 of this title.

14 (c) All such compensation, expenses, and allowances
15 shall be paid out of funds made available by this Act.

16 (d) After the expiration of two years after the date
17 of the enactment of this Act, or sooner if the President
18 shall, by proclamation, declare that the emergency recog-
19 nized by section 1 has ended, the President shall not make
20 any further loans or grants or enter upon any new con-
21 struction under this title; and any agencies established here-
22 under shall cease to exist and any of their remaining func-
23 tions shall be transferred to such departments of the Govern-
24 ment as the President shall designate: *Provided*, That he
25 may issue funds to a borrower under this title prior to

1 January 23, 1939, under the terms of any agreement entered
2 into with such borrower prior to the date of termination,
3 under this section, of the power of the President to make
4 loans.

5 SEC. 202. The Administration, under the direction
6 of the President, shall prepare a comprehensive pro-
7 gram of public works, which shall include among other
8 things the following: (a) Construction, repair, and im-
9 provement of public highways and park ways, public
10 buildings, and any publicly owned instrumentalities and fa-
11 cilities; (b) conservation and development of natural re-
12 sources, including control, utilization, and purification of
13 waters, prevention of soil erosion, development of water
14 power, transmission of electrical energy, and construction
15 of river and harbor improvements; (c) any projects of
16 the character heretofore constructed or carried on either
17 directly by public authority or with public aid to serve the
18 interests of the general public; (d) construction under public
19 regulation or control of low-cost housing and slum-clearance
20 projects; (e) any project (other than those included in the
21 foregoing classes) of a character heretofore eligible for loans
22 under subsection (a) of section 201 of the Emergency
23 Relief and Construction Act of 1932, as amended; and if
24 in the opinion of the President it seems desirable the
25 construction of naval vessels within the terms and/or limits
26 established by the London Naval Treaty of 1930 and of air-

1 planes required therefor and construction of such Army
2 housing projects as the President may approve, and pro-
3 vision of original equipment for the mechanization or
4 motorization of such Army tactical units as he may desig-
5 nate: *Provided however*, That in the event of an inter-
6 national agreement for the further limitation of armament,
7 to which the United States is signatory, the President is
8 hereby authorized and empowered to suspend, in whole or
9 in part, any such naval construction or mechanization and
10 motorization of Army units.

11 SEC. 203. (a) With a view to increasing quickly em-
12 ployment (while reasonably securing any loans made by
13 the United States) the President is authorized and em-
14 powered, through the Administration or through such other
15 agencies as he may designate or create, (1) to construct,
16 finance, or aid in the construction or financing of any public-
17 works project included in the program prepared pursuant
18 to section 202; (2) upon such terms as the President shall
19 prescribe, to make grants to States, municipalities, or other
20 public bodies for the construction, repair, or improvement
21 of any such project, but no such grant shall be in excess of
22 30 per centum of the cost of the labor and materials em-
23 ployed upon such project; (3) to acquire by purchase, or
24 by exercise of the power of eminent domain, any real or
25 personal property in connection with the construction of

1 any such project, and to sell any security acquired or any
2 property so constructed or acquired or to lease any such
3 property with or without the privilege of purchase: *Pro-*
4 *vided*, That all moneys received from any such sale or lease
5 or the repayment of any loan shall be used to retire obliga-
6 tions issued pursuant to section 207 of this Act, in addition
7 to any other moneys required to be used for such purpose;
8 and (4) to aid in the financing of such railroad maintenance
9 and equipment as may be approved by the Interstate Com-
10 merce Commission as desirable for the improvement of trans-
11 portation facilities: *Provided*, That in deciding to extend any
12 aid or grant hereunder to any State, county, or municipality
13 the President may consider whether action is in process or in
14 good faith assured therein reasonably designed to bring the
15 ordinary current expenditures thereof within the prudently
16 estimated revenues thereof. The provisions of this section
17 shall extend to public works in the several States, Hawaii,
18 Alaska, the District of Columbia, Puerto Rico, and the
19 Virgin Islands.

20 (b) All expenditures for authorized travel by officers
21 and employees, including subsistence required on account of
22 any Federal public-works projects, shall be charged to the
23 amounts allocated to such projects notwithstanding any other
24 provisions of law; and there is authorized to be employed
25 such personal services in the District of Columbia and

1 elsewhere as may be required to be engaged upon such
2 work and to be in addition to employees otherwise provided
3 for, the compensation of such additional personal services
4 to be a charge against the funds made available for such
5 construction work.

6 (c) In the acquisition of any land or site for the pur-
7 poses of Federal public buildings and in the construction
8 of such buildings provided for in this title, the provisions
9 contained in sections 305 and 306 of the Emergency Relief
10 and Construction Act of 1932, as amended, shall apply.

11 SEC. 204. (a) For the purpose of providing for emer-
12 gency construction of public highways and related projects,
13 the President is authorized to make grants to the several
14 States (not to exceed \$400,000,000 in aggregate amount)
15 as follows:

16 (1) For expenditure in emergency construction on
17 the Federal aid highway system and extensions thereof
18 into and through municipalities. The amount appor-
19 tioned to any State under this paragraph may be used to
20 pay all or any part of the cost of highway construction
21 including the elimination of hazards to highway traffic,
22 such as the separation of grades at crossing, the reconstruc-
23 tion of existing railroad grade crossing structures, the relo-
24 cation of highways to eliminate railroad crossings, the
25 widening of narrow bridges and roadways, the building

1 of footpaths, the replacement of unsafe bridges, the con-
2 struction of routes to avoid congested areas, the construction
3 of facilities to improve accessibility and the free flow of
4 traffic, and the cost of any other construction that will provide
5 safer traffic facilities or definitely eliminate existing hazards
6 to pedestrian or vehicular traffic. In carrying out the im-
7 provements to eliminate traffic hazards in connection with
8 railroad crossings at grade, the State highway depart-
9 ment shall constitute an agency of the Federal Government.
10 No funds made available by this title shall be used for the
11 acquisition of any land, right of way, or easement in con-
12 nection with any railroad grade elimination project.

13 (2) For expenditure in emergency construction on
14 secondary or feeder roads to be agreed upon by the State
15 highway departments and the Secretary of Agriculture:
16 *Provided*, That the State or responsible political subdivision
17 shall provide for the proper maintenance of said roads.
18 Such grants shall be available for payment of the full cost of
19 surveys, plans, improvement, and construction of secondary
20 or feeder roads, on which projects shall be submitted by
21 the State highway department and approved by the Secre-
22 tary of Agriculture.

23 (b) Any amounts allocated by the President for grants
24 under subsection (a) of this section shall be apportioned
25 among the several States, three fourths in accordance with

1 the provisions of section 21 of the Federal Highway Act,
2 approved November 9, 1921, as amended and supple-
3 mented, and one fourth in the ratio which the population
4 of each State bears to the total population of the United
5 States, according to the latest decennial census, and shall be
6 available on July 1, 1933, and shall remain available until
7 expended; but no part of the funds apportioned to any State
8 need be matched by the State.

9 (c) All contracts involving the expenditure of such
10 grants shall contain provisions establishing minimum rates
11 of wages, to be predetermined by the State highway depart-
12 ment, which contractors shall pay to skilled and unskilled
13 labor, and such minimum rates shall be stated in the invita-
14 tion for bids and shall be included in proposals for bids for
15 the work.

16 (d) In the expenditure of such amounts, the limita-
17 tions in the Federal Highway Act, approved November 9,
18 1921, as amended and supplemented, upon highway con-
19 struction, reconstruction, and bridges within municipalities
20 and upon payments per mile which may be made from
21 Federal funds, shall not apply.

22 (e) As used in this section the term "State" includes
23 the Territory of Hawaii. The term "highway" as defined
24 in the Federal Highway Act, approved November 9, 1921,

1 as amended and supplemented, for the purposes of this
2 section, shall be deemed to include such main parkways as
3 may be designated by the State and approved by the Secre-
4 tary of Agriculture as part of the Federal-aid highway
5 system.

6 SEC. 205. All contracts let for construction projects
7 and all loans and grants pursuant to this title shall contain
8 such provisions as are necessary to insure (1) that no con-
9 vict labor shall be directly employed on any such project;
10 (2) that (except in executive, administrative, and super-
11 visory positions), so far as practicable, no individual directly
12 employed on any such project shall be permitted to work
13 more than thirty hours in any one week; (3) that all em-
14 ployees shall be paid just and reasonable wages which shall
15 be compensation sufficient to provide, for the hours of labor
16 as limited, a standard of living in decency and comfort;
17 and (4) that in the employment of labor in connection with
18 any such project, preference shall be given, where they are
19 qualified, to ex-service men with dependents.

20

RULES AND REGULATIONS

21

22 SEC. 206. The President is authorized to prescribe
23 such rules and regulations as may be necessary to carry out
24 the purposes of this title, and any violation of any such rule
25 or regulation shall be punishable by fine of not to exceed
\$500 or imprisonment not to exceed six months, or both.

1 ISSUE OF SECURITIES AND SINKING FUND

2 SEC. 207. (a) The Secretary of the Treasury is author-
3 ized to borrow, from time to time, under authority of the
4 Second Liberty Bond Act, as amended, such amounts as may
5 be necessary to meet the expenditures authorized by this Act,
6 or to refund any obligations previously issued under this
7 section, and to issue therefor bonds, notes, certificates of
8 indebtedness, or Treasury bills of the United States author-
9 ized by such Act, as amended, in the manner and under
10 the terms and conditions therein prescribed.

11 (b) For each fiscal year beginning with the fiscal
12 year 1934 there is hereby appropriated, in addition to and
13 as part of, the cumulative sinking fund provided by section
14 6 of the Victory Liberty Loan Act, as amended, out of any
15 money in the Treasury not otherwise appropriated, for the
16 purpose of such fund, an amount equal to $2\frac{1}{2}$ per centum
17 of the aggregate amount of the expenditures made out of
18 appropriations made or authorized under this Act as deter-
19 mined by the Secretary of the Treasury.

20 REEMPLOYMENT AND RELIEF TAX

21 [Taxation provisions to be inserted later as section
22 208.]

23 APPROPRIATION

24 SEC. 209. For the purposes of this Act, there is hereby
25 authorized to be appropriated, out of any money in the Treas-
26 ury not otherwise appropriated, the sum of \$3,300,000,000.

1 TITLE III—AMENDMENTS TO EMERGENCY
2 RELIEF AND CONSTRUCTION ACT AND
3 MISCELLANEOUS PROVISIONS

4 SECTION 301. After the expiration of ten days after
5 the date upon which the Administrator has qualified and
6 taken office, (1) no application shall be approved by the
7 Reconstruction Finance Corporation under the provisions
8 of subsection (a) of section 201 of the Emergency Relief
9 and Construction Act of 1932, as amended, and (2) the
10 Administrator shall have access to all applications, files,
11 and records of the Reconstruction Finance Corporation
12 relating to loans and contracts and the administration of
13 funds under such subsection: *Provided*, That the Recon-
14 struction Finance Corporation may issue funds to a borrower
15 under such subsection (a) prior to January 23, 1939,
16 under the terms of any agreement entered into with such
17 borrower pursuant to an application approved prior to the
18 date of termination, under this section, of the power of the
19 Reconstruction Finance Corporation to approve applications.

20 DECREASE OF BORROWING POWER OF RECONSTRUCTION
21 FINANCE CORPORATION

22 SEC. 302. The amount of notes, debentures, bonds, or
23 other such obligations which the Reconstruction Finance
24 Corporation is authorized and empowered under section

1 9 of the Reconstruction Finance Corporation Act, as
2 amended, to have outstanding at any one time is decreased
3 by \$.

4 SEPARABILITY CLAUSE

5 SEC. 303. If any provision of this Act, or the applica-
6 tion thereof to any person or circumstances, is held invalid,
7 the remainder of the Act, and the application of such pro-
8 vision to other persons or circumstances, shall not be affected
9 thereby.

10 SHORT TITLE

11 SEC. 304. This Act may be cited as the "National
12 Industrial Recovery Act."

A BILL

To encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes.

By Mr. WAGNER

May 15 (calendar day, May 17), 1938

Read twice and referred to the Committee on Finance