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BEFORE THE

SUBCOMMITTEE ON LEGISLATION AND
MILITARY OPERATIONS

COMMITTEE ON GOVERNMENT OPERATIONS

HOUSE OF REPRESENTATIVES

ON

THE PRESIDENT'S DEPARTMENTAL
REORGANIZATION PROGRAM

Mr. Chairman and Members of the Subcommittee:

We appreciate this opportunity to appear before your subcommittee, to present our views on the administrative provisions of four bills (H.R. 6959, H.R. 6960, H.R. 6961, and H.R. 6962) which have been introduced to carry out the President's Departmental Reorganization Program. The program would reorganize the executive branch by consolidating seven departments (Agriculture, Commerce, HEW, HUD, Interior, Labor and Transportation) and numerous executive agencies into four new cabinet-level departments. The Departments of Defense, Justice, State and Treasury would not be changed under the President's proposal.

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Since the report of the first Hoover Commission in February 1949 and the enactment of the Reorganization Act of 1949, many reorganization plans regarding the executive branch have been proposed. In 1950 the number of reorganization plans reached an all time high with 26 plans filed. However, it should be noted that a reorganization plan may not create a new executive department, abolish or transfer an existing department, or consolidate departments. Hence, the President's program was submitted in the form of proposed legislation rather than in the form of a reorganization plan under the 1949 Act.

The proposed reorganization program follows the same pattern that has run through the recent reorganizations, although it is safe to say that none has been as sweeping as this one, encompassing as it does most of the domestic functions of the Federal Government. The pattern includes grouping of similar functions together, transferring all such functions to the head of the reorganized body, and at the same time transferring all of the personnel, assets, liabilities, contracts, property, records, and unexpended appropriations of the existing units to the new body.

While we make no recommendation concerning the enactment of the bills, we have been requested to comment on certain administrative provisions of the proposed legislation.

Section 403(b) of each bill provides that the Secretary may establish, alter, rename, or discontinue organizational units or components as he

deems necessary, but with varying exceptions. Section 501 of each bill provides for the lapse of any department, agency, or component whenever all of the functions of such organization have been transferred from it.

These two sections provide the Secretary of each new department with broad power to alter or abolish existing organizational units or components, except for the administrations which are to be established within each department and the few existing units or components which are transferred as separate entities under title III of the bills. We believe that it is intended to continue the existence of any existing unit or component which is transferred as a unit to a new department as distinguished from a transfer of its function only, although the language of section 403 of the bills is not identical.

We would further observe, however, that the vesting of such broad authority in the head of a department conforms to the recommendations of the Hoover Commission Report to Congress on the General Management of the Executive Branch (February 1949) that department heads must hold full responsibility for the conduct of their departments with a clear line of authority through every step of the organization and with no subordinate having independent authority (Recommendation No. 14), and that each department head should have administrative authority to organize his department and control its administration (Recommendation No. 18).

Our main concern is not which agencies and components are to be continued as separate entities within one of the new departments. That is a decision for the Congress to make, taking into account the need to

give the Secretaries of the new departments sufficient authority to organize and manage their departments, balanced against the desirability of preserving existing agencies which are effectively organized and administered. Our concern is that whatever legislation is proposed show clearly what happens to each existing department, agency, or other body, or any component thereof, affected by the reorganization.

Such concern involves title III (Transfers), title IV (Definitions and Administrative Provisions) and title V (Transitional and Conforming Provisions). We believe that the four bills as introduced could be clarified in this respect, and we believe that the four bills should be uniform.

Therefore, we offer the following suggestions for the Committee's consideration.

In the case of any organizational unit or component which is not to be fully merged into a new department--for example the Coast Guard in H.R. 6960--the following provisions should be made:

(1) Title III of the applicable bill should state that such unit or component is transferred to the department as a separate entity;

(2) Section 403(b) of the applicable bill should specifically state that the Secretary's authority to establish, alter, rename, or discontinue organizational units or components does not extend to such unit or component. Here, there is a variance between the language of section 403(b) of the four bills. We

recommend the language used in section 403(b) of H.R. 6961 and suggest its use in all four bills.

(3) Section 501 of the applicable bill providing for lapse of units whose functions have been wholly transferred, should contain an express exemption for such unit or component. This would require a slight change in the language of section 501, and we suggest adapting the language of section 9(i) of the Department of Transportation Act (Pub. L. 89-670, 49 U.S.C. 1657(i), Supp. V), i.e.,

> "In any case where all of the functions of a department, agency, or other body, or any component thereof, other than [e.g., the Coast Guard], are transferred pursuant to this Act, the department, agency, or other body, or component thereof, shall lapse * * *."

Section 426 of each of the four bills authorizes appropriations without fiscal year limitation to carry out the functions of each proposed department. Appropriations for the regular operations of a department, other than for construction and other capital needs, have traditionally been authorized on an annual basis.

We believe, however, that the Congress, in seeking relief from the pressure of time in which to transact its business and in seeking to eliminate delays in the passage of appropriation bills, may wish to consider greater use of appropriations for a period longer than one fiscal year. Funds for certain projects and programs, such as construction projects, which should be completed in a given length of time,

could be appropriated for that specific number of years. Other funds, particularly for the regular on-going functions of Government made up principally of personnel and related costs, such as the Internal Revenue Service, could be appropriated for a period of 2 years instead of for one year. This would cut the appropriation workload considerably. Rather than for such appropriations to run for the same 2-year period, approximately half could run for the 2-year period beginning with even-numbered years and the other for a 2-year period beginning with the odd-numbered years. This would balance the workload of the Congress between years and enable the total job to be done in considerably less time than now required.

In a related area, reviews made by the General Accounting Office lead us to believe that delays in notification and allocation of funds to State and local governments and other grantees lead to poor planning, program delays, and waste in the administration of grant-in-aid programs. In light of this situation, we believe that consideration should be given to more frequent use of the practice of authorizing and making appropriations for the fiscal year next following the usual budget year. This type of advance funding has already been authorized for certain programs such as Title I-A of the Elementary and Secondary Education Act of 1965; grants for airports under the Federal Airport Act; and by the Economic Opportunity Amendments of 1969. While we believe that advance funding is particularly important for grant-in-aid programs to State and local agencies, it would also be desirable for many other types of

programs and activities of the Federal Government where firm planning prior to the beginning of the appropriation year is a significant factor in the successful execution of such programs and activities.

Each of the bills authorizes the Secretary to make grant agreements with public agencies and private organizations or persons. There appears to be no precedent for any such blanket authorization to enter into grant agreements to carry out any program as proposed. We note also an absence of the access to records and books provision normally included in grant statutes to assure the Federal Government's right to audit or examination.

The Secretaries are given authority under each bill to acquire property and construct facilities, especially those facilities which are to be used for special purposes, wherein the Secretaries are authorized considerable discretion. It would appear that the authority of the General Services Administration as overall Government property manager is curtailed as a result. Perhaps this provision should be clarified so that there is no question as to the respective authorities of the GSA and the Departments.

Section 417 of the bills would permit the Secretary to make his own arrangements for printing and distribution. We believe that under the broad language the Secretary would not be bound to use the Government Printing Office. The OMB analysis does not offer a justification for the proposal.

We would invite your attention, generally, to the administrative provisions relating to concessionaire, special studies and joint projects, working capital funds, transfers between appropriations and service funds. We have previously furnished the committee staff additional comments on these provisions as well as on certain other administrative provisions in the bills. At the request of the staff, we have analyzed in detail certain of the administrative provisions indicating, first, what is generally provided for in the bill or bills, secondly, an analysis of the provision and, thirdly, the authority presently existing for the various departments and agencies to conduct such functions or activities. This, we hope, provides the Committee with a view of the new or changed authority sought in the bills. With your permission, we offer for the record this analysis.