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EXTENDING AUTHORITY FOR EXECUTIVE REORGANIZATION

GOVERNMENT

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HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES NINETY-FIRST CONGRESS

FIRST SESSION

ON

S. 1058

TO EXTEND THE PERIOD WITHIN WHICH THE PRESIDENT
 MAY TRANSMIT TO THE CONGRESS PLANS FOR REORGA-
 NIZATION OF AGENCIES OF THE EXECUTIVE BRANCH OF
 THE GOVERNMENT

AND

H.R. 407, H.R. 2353, H.R. 2652, H.R. 3292, H.R. 4601,
 H.R. 5194, H.R. 6963, H.R. 7712, H.R. 7995, and
 H.R. 8379

TO EXTEND THE EXECUTIVE REORGANIZATION PROVISIONS
 OF TITLE 5, UNITED STATES CODE, FOR AN ADDITIONAL
 2 YEARS

MARCH 10, 1969

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EXTENDING AUTHORITY FOR EXECUTIVE REORGANIZATION

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EXTENDING AUTHORITY FOR EXECUTIVE REORGANIZATION

MONDAY, MARCH 10, 1969

HOUSE OF REPRESENTATIVES,
EXECUTIVE AND LEGISLATIVE
REORGANIZATION SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met at 2:30 p.m., in room 2247, Rayburn Office Building, the Honorable John A. Blatnik (chairman of the subcommittee) presiding.

Present: Representatives John A. Blatnik, Chet Holifield, Benjamin S. Rosenthal, Robert E. Jones, John N. Erlenborn, Clarence J. Brown, and Paul Findley.

Also present: Representative Florence P. Dwyer.

Staff members present: Elmer W. Henderson, subcommittee counsel; James A. Lanigan, general counsel, Committee on Government Operations; and John Philip Carlson, minority counsel.

Mr. BLATNIK. The Subcommittee on Executive and Legislative Reorganization of the House Committee on Government Operations will please come to order.

First, I want to extend a warm welcome to two new—not new Members, but new members to the subcommittee; certainly not new members to the rest of the membership—our colleagues, Mr. Paul Findley, from the other side of the aisle, and Bob Jones, both mild, even-tempered, sage men with a sense of responsibility and duty.

Mr. FINDLEY. This is going into the record, I trust.

Mr. BLATNIK. This is all going into the record.

I honestly do welcome them.

Off the record.

(Whereupon, there was a short discussion off the record.)

Mr. BLATNIK. We have had an excellent working relationship. It seems that most of the time, by far the majority of the time, the problems that come before us are a challenge in themselves without regard to partisanship, and it has always brought out the combined judgment and the best judgment of the combined group, with very positive results.

Mr. Erlenborn, do you want to say anything for your side, either in rebuttal or furtherance?

Mr. ERLBORN. Mr. Chairman, I can hardly rebut what you just said about my colleague. I would not want to. I am happy that we are finally getting our committee and subcommittee organized and underway. I have a suspicion that we are going to have a busy Congress ahead of us and many meetings of this subcommittee.

Mr. BLATNIK. We are delighted to have with us the ranking minority member, Mrs. Dwyer.

Mrs. Dwyer, we welcome you as more than ex officio on this committee. Do you have any comments or anything you would like to say?

Mr. DWYER. I would like to say it has always been a great honor to serve on the Government Operations Committee. I have been on it for 12 years, and I think this subcommittee is going to be tremendously active this next year. I am happy to see so many able members of both sides of the aisle, so to speak, handling the legislation that will come out of this committee. I am proud to have you as chairman and Mr. Erlenborn as your ranking minority member.

You are really in good hands, sir.

Mr. BLATNIK. Thank you so much, Mrs. Dwyer.

Our dean and our leader in the truest sense of the word, a real friend and one who can extend a helping hand any time it is necessary, is Chet Holifield, literally the father of this subcommittee, in a sense, if he wants to agree to that responsibility.

I would certainly appreciate a few words from you, Chet.

Mr. HOLIFIELD. I do not think I could embellish the record by any wise remarks of my own. I am just ready to do my part on this subcommittee, as I have in the past. I think we should get on with the business of the day.

Mr. BLATNIK. If I may welcome Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman.

Mr. BLATNIK. Off the record.

(Whereupon, there was a short discussion off the record.)

Mr. BLATNIK. Mr. Jones was chairman of one of our important subcommittees on resources, particularly in all aspects of water utilization, preservation, and conservation. Without question, he is one of the best informed men in the entire Congress, which includes both bodies, on water and the importance—

Mr. JONES. Mr. Chairman, it is my intention to be tardy from now on, if I get that kind of an accolade.

Mr. BLATNIK. Just very quickly, we are to consider this afternoon several bills which extend the authority granted to the President in the Reorganization Act of 1949. Last year, we reported H.R. 15688 by unanimous vote, after minor amendments. Am I right? This bill was passed by the House, but no action was taken by the Senate. Consequently, the authority expired last December 31, 1968.

A number of bills have been introduced by our colleagues in the House, most of which have an expiration date now moved to December 31, 1970. But recently, on February 28, the Senate passed S. 1058, now before us, which would extend the authority to April 1, 1971.

Now, last year the bill we acted upon had two amendments proposed by Mr. Erlenborn. These were adopted by the House.

Under the Reorganization Act, the President may submit reorganization plans to the Congress which will go into effect after 60 days unless either the House or the Senate vetoes the plan by a simple majority vote. The vote is taken on a resolution of disapproval. This authority has been in existence in one form or another since the Hoover administration in 1932. The present legislation was enacted as a result of a recommendation of the first Hoover Commission and many plans have been submitted and approved by the Congress. Exercising its prerogative, the Congress has seen fit on various occasions to disapprove certain plans.

The purpose of the act is to enable the reorganization of Government agencies to produce greater efficiency and more effective administration. I believe, by and large, this intent has been followed and that the operation of our Government is better because of this act. When reorganization plans are submitted to this committee—and under the rules, all such plans must be referred to us—a careful scrutiny is made, including holding hearings, to determine if the plan meets the requirements of the act. I believe the committee and the subcommittee have faithfully carried out their responsibilities over the years.

The bills before us will be S. 1058 and the House bills, and the subject matter for discussion right now would be the policy or the procedural determination of shall we or can we act on the Senate bill to avoid the necessity of going into conference, and also having to ask for unanimous consent on the House floor to substitute the House-passed bill for the Senate version.

(The bills before the subcommittee were S. 1058, H.R. 407, H.R. 2353, H.R. 2652, H.R. 3292, H.R. 4601, H.R. 5194, H.R. 6963, H.R. 7712, H.R. 7995, and H.R. 8379.)

(The bill, S. 1058 follows:)

[S. 1058, 91st Cong. 1st Sess.]

AN ACT To extend the period within which the President may transmit to the Congress plans for reorganization of agencies of the executive branch of the Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 905(b), title 5, United States Code, is amended by striking out "December 31, 1968", and inserting in lieu thereof "April 1, 1971".

Mr. BLATNIK. Mr. Holifield, may we have your thinking on the question I asked with regard to S. 1058?

Mr. HOLIFIELD. Mr. Chairman, I believe that under the circumstances, the Senate bill having been passed and it being in the form in which the administration would like to have it, and Mr. Erlenborn being in a position to retreat gracefully from his amendments which we adopted before, it would seem to me that the expeditious way of handling the matter would be to consider the Senate bill 1058, which has already been passed. Then we would go to the floor with a clean bill, without any extraneous amendments which would have to be voted down in this committee anyway.

So it would seem to me that the expeditious way and the most efficient way to handle it, I think, would be to consider the Senate bill and take it to the floor, and hope that we could get a simple action on it on the floor.

Mr. BLATNIK. Could we proceed with the witnesses at this time?

Mr. FINDLEY. Does the list of bills include H.R. 8379, Mr. Chairman?

Mr. BLATNIK. Yes.

Mr. ROSENTHAL. Who was the author of that bill, Mr. Chairman?

Mr. FINDLEY. A Member from Illinois, a very junior member of this subcommittee.

Mr. ROSENTHAL. Mr. Findley has been following me around on committees since 1962. He followed me on the Agriculture Committee. Thereafter, I transferred, was promoted, to the Foreign Affairs

Committee. He followed me there. Now, he follows me here. I do not know if there is a pattern in these things, but if there is, I am afraid of it.

Mr. BLATNIK. Certainly there is a consistency about it.

Mr. ROSENTHAL. There may be a conspiracy about it, too.

Mr. BLATNIK. We are very pleased to meet and get to know Mr. Robert P. Mayo, Director of the Bureau of the Budget.

Mr. Mayo, will you introduce your associate, Mr. Ink, to the subcommittee members? Mr. Hughes is an old friend of ours.

STATEMENT OF HON. ROBERT P. MAYO, DIRECTOR, BUREAU OF THE BUDGET; ACCOMPANIED BY PHILLIP S. HUGHES, DEPUTY DIRECTOR; AND DWIGHT INK, ASSISTANT DIRECTOR

Mr. MAYO. Mr. Chairman, I have with me Sam Hughes, Deputy Director of the Bureau, and Dwight Ink, Assistant Director.

Sam is the solid rock of the Bureau, upon which we all depend. He was the first appointment I made when I came to the Bureau.

Dwight Ink, on my right, is the Assistant Director of the Bureau of the Budget. He is specifically in charge of the Office of Executive Management, which is now being beefed up, so to speak, in response to a Presidential declaration of intention, so to speak, to have the Budget Bureau give much more conscious support and active support to the whole problem that I think concerns you people as well as it does us.

For the past 2 years, there has been an Office of Executive Management in the Budget Bureau without an Assistant Director in charge of it. Sam has tried to carry both jobs at the same time, which is a bit difficult, to say the least, because he is pretty busy on the deputy job.

I would like to be excused at about 3:20, if I may, Mr. Chairman, for a meeting back at the Bureau. We are in this budget review process right now. If it is agreeable to the committee, that is; but I would like to leave Mr. Hughes and Mr. Ink, who are, incidentally, but importantly, better qualified to answer some of your questions, I am sure, than I am.

With your permission, I would like to read a brief introductory statement into the record.

Mr. BLATNIK. Please proceed, Mr. Mayo.

Mr. MAYO. I appreciate the opportunity to appear before your subcommittee to testify in support of extending the President's authority to transmit reorganization plans to the Congress under chapter 9 of title 5 of the United States Code. This authority expired on December 31, 1968.

The reorganization statute places upon the President a permanent responsibility to "examine the organization of all agencies" and to "determine what changes therein are necessary" to accomplish the purposes of the statute. Those purposes include promoting the better execution of laws, reducing expenditures, increasing efficiency in Government operations, abolishing unnecessary agencies, and eliminating duplication of effort.

However, without the authority to transmit reorganization plans, the President's ability to insure that the executive branch is effectively and efficiently organized and managed is severely limited.

We believe the reorganization procedure has become a well-accepted

and proven tool. Under this procedure a reorganization plan providing for the reorganization of agencies and activities of executive agencies or functions is transmitted to the Congress by the President and takes effect after 60 days of continuous session of Congress, as defined in law, unless either House of Congress passes a resolution of disapproval during the 60-day period. This procedure enables the President to initiate improvements in executive organization, and it reserves to the Congress effective powers of review and disapproval. Eighty-five reorganization plans have been transmitted to the Congress since the Reorganization Act of 1949 became law on June 30, 1949. Of these, 65 have become effective.

The cooperative executive-legislative approach authorized in the reorganization statute was adopted after long experience had demonstrated that improvements in organization were difficult to achieve when the sole way of correcting defects was to rely upon the passage of specific legislation.

Improvements were long delayed and often overdue when a reorganization contained in a bill had to pursue its course through the legislative machinery and compete for attention with urgent substantive legislation.

The reorganization statute permits an alternative, or supplemental, way of approaching this problem. It places the responsibility for initiating improvements upon the President and provides ample opportunity for all who wish to be heard for or against any particular proposed change.

Except for brief periods when the reorganization authority lapsed, every President since 1949 has made use of it. President Truman had the authority until the end of his term of office. President Eisenhower had the authority available when he assumed office. President Kennedy received the authority after he had been in office less than 3 months. The authority was available almost continuously to President Johnson from July 2, 1964, until the end of 1968.

President Nixon has stressed the importance of responsiveness of Government. As he pointed out in his inaugural address:

In this past third of a century, government has passed more laws, spent more money, initiated more programs, than in all our previous history.

We now must do all in our power to make our essential programs more than laws on the statute books, more than just spending money, and more than just an assortment of unrelated and uncoordinated efforts.

In his message of January 30 on the reorganization authority, the President said:

Government organization is created to serve, not to exist; as functions change, the organization must be ready to adapt itself to those changes.

The President's authority to transmit plans to the Congress proposing reorganizations of programs and functions is one of the most effective ways by which he can keep the executive branch abreast of the changing times and new priorities.

The various bills introduced to date to extend the President's reorganization authority indicate recognition of the problem by the Congress. Among those bills before this subcommittee, we prefer H.R. 6963 and S. 1058. The latter bill is the one that passed the Senate.

However, we have no objection to those provisions of the other bills which are identical to the technical amendments incorporated in H.R. 15688 which passed the House of Representatives on April 29, 1968. We urge extension of the President's authority until April 1, 1971, as provided in H.R. 6963 and S. 1058 at the earliest possible date.

I might add, to elaborate on the conversation that the subcommittee was holding at the beginning of the session today, that we might suggest that, in the interest of expeditious action, if this committee and the House feel that they wish to concur in the Senate-passed bill or the similar bill of your own introduction here, that it is the firm intention of the Budget Bureau to conform in our submission of plans to you to those technical amendments if you were to ask us to do so, in satisfying the spirit as well as the terminology of those technical amendments, even if they are not written into the law itself.

That completes my statement, Mr. Chairman.

Mr. BLATNIK. Well, you have asked the question I was going to ask; if we could technically adopt S. 1058 and perhaps include in our committee report that would be released, the wishes of the committee and the assurance received from you that the amendments would be complied with.

Mr. Henderson, could you explain if that could be done?

Mr. HENDERSON. Oh, yes. I think we could state in the report, Mr. Chairman, that the amendments that were adopted last year have been discussed with the Bureau of the Budget and the Bureau of the Budget has agreed, through its Director, to submit the information that those amendments had proposed whenever a reorganization plan is submitted to the Congress. And with that type of commitment, it should not be necessary to put the language in the law.

Mrs. DWYER. Mr. Chairman, I would like to hear from either Mr. Holifield or Mr. Erlenborn on their amendments and their approval of the amendments being in a statement in the report rather than in the bill.

Mr. HOLIFIELD. Mr. Erlenborn could probably answer that.

Mr. ERLENBORN. Yes, Mr. Chairman. As you know, the two amendments that were incorporated in the bill we passed last year were offered by me and adopted by the subcommittee. The two amendments, I think we are all aware—except perhaps the two new members are not—required, first of all, that the message of transmittal would specify which purpose of the act was being accomplished by the reorganization plan, and secondly, to specify the aggregate amount of savings if savings were being accomplished by the act, since the Bureau of the Budget had testified before our committee on many occasions that they could not identify with particularity each item of savings, and therefore had fallen into the practice of merely having a stock phrase—"it is not feasible to itemize" the amount of savings at this time.

I have no objection, on my part, to the agreement with the Bureau of the Budget that they will live up to the spirit of these two amendments if they are not incorporated into the law. For the purpose of expediting the passage of this bill, I would agree to taking up the Senate bill and passing that without the two technical amendments referred to, now that we have their agreement.

I would like to ask one other question of Mr. Mayo, if I might, at this time.

Could you tell us approximately how many plans are ready for transmittal to the Congress at this time?

Second, in your opinion, how many plans should we have pending at any one time? There was talk one time in the past of amending this law to limit the number of plans that could be submitted and pending before Congress at any one time. I would like your thinking on that.

Mr. MAYO. Well, it is a little early in the game for us to give a number of plans, and I cannot conscientiously answer your question, because I just do not know. As you are all aware, the President has assigned specifically to Arthur Burns as counselor to the President the assignment of trying to come up with the basic ingredients of plans and programs for the executive branch.

That process is right in the middle, right now. I am not aware, therefore, of any backlog, you might say, of plans that we are just sitting there with our hands on, waiting for this bill to be passed, to shoot right back to you. There are, of course, quite a few that are being considered at this stage. But I do not feel free to comment on any of them yet. They are not that far along.

Mr. ERLBORN. I wonder if you might answer the second part of the question: In your opinion, how many of the plans should be submitted at any one time or how many should be pending at any one time?

Mr. MAYO. This is a matter I have no personal judgment on, not having been around the track in this particular area. I might ask Mr. Hughes if he believes that we can have a judgment in terms of quantity.

I suppose part of the answer must relate to the practical matter of the complexity as well as the number of plans that are being considered.

Mr. HUGHES. Mr. Erlenborn, I think the answer to the question probably centers on not just complexity, but controversiality. Very simple plans can be very controversial. I think, therefore, absolute numbers are pretty hard to specify. But it would seem to me that we ought to try to continue the cooperative working relationship with the committee and its staff that we have maintained over the years in order that both the committee and the Bureau not be in any sense "snowed" by a volume of plans of controversial or complex nature, or a larger volume than the committee can handle.

I think the nature of the Reorganization Act is such that it funnels all of these kinds of actions through the single committee and, as a matter of fact, through this single subcommittee. That presents some problems of scheduling for the committee and of analysis if the committee is to continue to do the conscientious and careful job that it has done over the years.

I think for my part, Mr. Mayo, it would seem to me that we ought to try to pace our plans in accordance with the committee's capacity to receive them.

An additional factor there is the specific time schedule for plans, so that the committee is in a different position than a legislative committee. It cannot just extend its schedule; it has to act promptly after submission of plans. We, therefore, it seems to me, owe it to the

committee to give whatever workload we have to the committee and the subcommittee in manageable bites.

Mr. ERLBORN. I am happy to see you recognize this as a problem, scheduling and pacing this properly. I trust that you will work with the committee as you suggested, in seeing to it that these are not all dumped into our lap at any one time and that they are extended over a reasonable length of time.

Mr. MAYO. We will.

Mr. ERLBORN. Thank you, Mr. Chairman.

Mr. HOLIFIELD. I would like to emphasize that I share Mr. Erlenborn's concern about this matter of dumping a group of plans on us at one time, because we feel obligated to hold hearings on each one of these plans. In a short time, if we have a number of these plans before us that terminate at the same date, it does not give us, really, the time that we need.

I also would like to add that I hope they will not be brought up all at once at the ending of the session, or within 60 days of the ending of the session. We have worked out this plan before with the Budget Bureau and they have been cognizant of our problem up here in handling these plans, and we would hope that this would be followed, because it will work better for you in having your plans given the proper consideration, giving us time to have the hearings and have them printed and get them to the other Members so that they can get the information which they would not have ordinarily unless they did have access to the hearings. So I am hoping you will follow that line of procedure.

Before I yield the floor to my friend on my right, who has some important questions to ask, I would just like to say to the Director and in the hearing of my colleagues that Mr. Ink has appeared before the Joint Committee on Atomic Energy since about 1952, if I remember right. I have at all times found him capable and responsive to the questions of the Members. He does his homework, he is knowledgeable on the subjects that he testifies on, and I have the utmost confidence in his dedication to the best interests of the Government.

Mr. FINDLEY. Will the gentleman yield?

Mr. BLATNIK. Mr. Findley?

Mr. FINDLEY. The only thing that concerns me, I have not had enough personal acquaintance with Mr. Ink to know whether he responds to the nickname "Red" or "Black." It seems that would be highly important in the Bureau of the Budget.

Mr. MAYO. His first name is "Indelible."

Mr. BLATNIK. I was going to say it is black and blue.

Mr. HOLIFIELD. That is a happy interracial solution.

Mr. BLATNIK. Following the testimony of the Director of the Bureau of the Budget, we will have the testimony and statements which were submitted to the subcommittee in writing: First, the statement by the Honorable Joe L. Evins, chairman of the House Select Committee on Small Business. This statement will appear in its entirety at this point in the record, accompanied by letters and statements of support from members of his Select Committee on Small Business, the Honorable John C. Kluczynski of Illinois, the

Honorable John D. Dingell of Michigan, the Honorable James C. Corman of California, and the Honorable Joseph P. Addabbo of New York.

(The letters and statements referred to follow:)

SELECT COMMITTEE ON SMALL BUSINESS,
HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D.C., March 7, 1969.

HON. JOHN A. BLATNIK,
Chairman, Subcommittee on Executive and Legislative Reorganization, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that your subcommittee is meeting Monday morning to receive testimony regarding a proposed extension of the Reorganization Act of 1966.

On that same morning I am presiding at hearings dealing with appropriations for the Securities and Exchange Commission. Accordingly, it will not be possible for me to appear personally before your subcommittee as I would like to do. However, I have prepared a statement, copy attached, which I wish you would have read to the subcommittee. In my view, the preservation of the independence of the Small Business Administration is of paramount importance if the Agency is to be expected to function efficiently.

Your favorable consideration to exempt the Small Business Administration from the coverage of the bill would be appreciated.

The position expressed herein has the full support of my Small Business Committee.

With kindest regards and best wishes, I am

Sincerely your friend,

JOE L. EVINS, *Chairman.*

STATEMENT OF HON. JOE L. EVINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE AND CHAIRMAN, HOUSE SMALL BUSINESS COMMITTEE, REGARDING FURTHER EXTENSION OF THE REORGANIZATION ACT OF 1966

Mr. Chairman and distinguished members of the subcommittee, I wish to commend this subcommittee for holding these hearings on the proposed extension or reenactment of the Reorganization Act of 1966. In my view, there are issues associated with the instant bill which call for serious study before reaching conclusions upon its merits. I am glad, therefore, to see that this committee is giving this matter the very serious consideration which I feel the proposal deserves.

As all of you gentlemen know, when the Congress first enacted one of these bills back in 1945, the Congress was told that the purpose was to permit the President to make adjustments and improvements within and among the various Cabinet departments, and some of the agencies within the executive branch of the Government.

The initial legislation did not purport to confer upon the President the power to make such changes or exercise such control over the regulatory agencies—those agencies which literally are the arms of the Congress and which are not a part of the executive branch of the Government. I refer, of course, to the Federal Trade Commission, the Communications Commission, and several others.

During 1949 the Congress was asked to reenact the reorganization bill and the Congress did so, but this time this bill was amended so as to include the various regulatory agencies. As a result, these agencies, in a sense, have become a part of the executive branch of the Government. This development represents a definite dilution of the powers of the legislative branch of the Government and increases substantially the powers of the executive branch.

The agencies in question, as you gentlemen well know, are quasi-legislative and quasi-judicial. They do not belong under the control of the executive.

I want to urge and recommend that this committee, in reporting out this measure, exclude the various regulatory agencies from the coverage of the bill.

Mr. Chairman, I wish now to turn to one other aspect of the pending measure—the impact upon small business.

In enacting the Small Business Act, the Congress created the Small Business Administration and placed it under the general supervision of the President.

The act states, however, that the agency "shall not be affiliated with or be within any other agency or department of the Federal Government."

There has been advanced on several prior occasions, proposals to make SBA a part of the Department of Commerce. In all cases, these proposals emanated either from the Bureau of the Budget or the White House. In all cases, the Members of the House Small Business Committee took sharp issue with the suggestion and urged that no such course of action be adopted. In all prior instances, the proposals subsequently were withdrawn.

There are today more than 5 million small business concerns and they are fully entitled to the attention and services of a separate governmental agency. Congress has spoken clearly on this issue, and I am firmly convinced that a big majority of all Members of the House of Representatives continue to hold this view.

About 10 days or 2 weeks ago, the President nominated Mr. Hilary J. Sandoval, Jr., to be SBA's new Administrator. I am advised that during the course of his testimony at the hearing which lead to his confirmation, he failed to express any desire or preference that SBA remain an independent agency of the Government. I am advised that just a few days ago, Secretary Stans said that SBA belongs in the Department of Commerce.

These recurring proposals or threats to transfer SBA are not well received. The time has come when the House of Representatives should reiterate and make clear its determination that SBA is not to be subordinated or relegated to some giant department of the executive branch of the Government, such as the Department of Commerce.

The bills under consideration here today should be amended so as to exclude the Small Business Administration.

SELECT COMMITTEE ON SMALL BUSINESS,
HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D.C., March 7, 1969.

Hon. JOHN A. BLATNIK,
Chairman, Subcommittee on Executive and Legislative Reorganization, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed you will find a copy of the statement for the record of your hearing on the proposed extension of the Reorganization Act of 1966.

It was my hope to be able to appear personally, however, the press of business in my district has required my presence there.

Any consideration that you and your colleagues may give the positions I have taken in my statement will be most appreciated.

With warmest personal regards, I am

Sincerely,

JOHN C. KLUCZYNSKI,
Member of Congress.

STATEMENT OF HON. JOHN C. KLUCZYNSKI, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ILLINOIS

Mr. Chairman, members of the subcommittee, thank you for allowing me to file this statement. My purpose in filing this statement is to join with Chairman Joe L. Evins of the House Small Business Committee, in urging that the regulatory agencies and the Small Business Administration be excluded from any extension or reenactment of the Reorganization Act of 1966.

With respect to the Small Business Administration, it is clear that it was the intent of Congress, as expressed in the Small Business Act, that it be an independent agency. As you know, for several years now, there have been recurrent efforts to place SBA inside the Department of Commerce. This would be depriving the Nation's small businessmen of an independent agency to act as their spokesman.

As to the regulatory agencies, these arms of the Congress, being quasi-judicial and quasi-legislative, as they are, in terms of many functions, should be controlled by the Congress, not by the executive branch of the Government. If they are to be reorganized, it should be done legislatively.

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MICHIGAN

Mr. Chairman, members of the subcommittee, I would like to thank you for this opportunity to present my views concerning H.R. 2353. The Reorganization Act, which this bill would extend, excludes from the definition of agencies subject to reorganization plans "only the General Accounting Office and the Comptroller General of the United States." This has been the case since the act of 1949.

This was a vast departure from the Reorganization Act of 1945, which in section 5(B), specifically prohibited a reorganization plan from "provide(ing) for any reorganization affecting * * * the Interstate Commerce Commission, the Federal Trade Commission and the Securities and Exchange Commission * * *." Further, reorganization plans pertaining to the Federal Communications Commission and certain other agencies were required to pertain to that agency alone. Section 5(D) prohibited any reorganization plan affecting the FCC and certain other named agencies "if it also provides for a reorganization which does not affect such agencies."

Gentlemen, today our regulatory agencies face real problems. Their dockets contain an astounding number of cases which are 5, 10 or 20 years old and in some cases, I regret to say, even older. All too often interested parties, except the very largest corporations, are unable to finance the tortuous intricacies of the regulatory proceedings affecting their vital economic interests. Unhappily, this same situation pertains with respect to the public interest.

This is 20 years after the Reorganization Act of 1949 gave to the executive branch the power to reorganize the regulatory agencies. During these 20 years not less than 17 reorganizational plans affecting regulatory agencies have been sent to the Congress. All but seven of these plans have been accepted by the Congress. Yet, despite two decades of the power to reorganize and the acceptance of 10 different reorganizational plans by the Congress, the situation today is worse than it has ever been.

I would like to emphasize that I am not saying this in a partisan sense and that my remarks are not directed at the new administration. Rather, my position is based on an appraisal of the record as it has been written during 20 years of administration by both political parties.

I urge you to add the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, and the Federal Power Commission to the statutory exclusion, appearing in the Reorganization Act of 1966—which Chairman Dawson's bill, H.R. 2353 and S. 1058 would reenact—presently consisting of only the General Accounting Office and the Comptroller General of the United States—section 902 C.

It may be that the members of the subcommittee will want to scrutinize the entire list of independent agencies including those of a regulatory nature. But it seems to me that these seven, conducting as they do the great majority of the total volume of regulatory actions, must definitely be excluded from the exercise of reorganizational power by the executive branch.

I would like to emphasize that this is not a new or radical proposal but simply a call to the Congress to reassert its powers which it surrendered to the executive branch in 1949.

These independent regulatory agencies are arms of the Congress. They exercise quasi-legislative and quasi-judicial functions. I believe they should be controlled by the Congress, not by the executive branch.

I speak both as a senior member of the Committee on Interstate and Foreign Commerce and as chairman of the Small Business Committee's Subcommittee on Regulatory Agencies.

In line with the thoughts expressed here on the independent nature of these agencies, I have introduced H.R. 1068, which has been referred to your committee. It would provide that the appropriations requests of these agencies would be transmitted directly to the Congress, not through the Bureau of the Budget.

Further, my Small Business Subcommittee has been authorized by the full committee to hold extensive hearings on the entire regulatory process including the workings of all these agencies. I am sure we will have much to report to the House. I know, too, that your committee and the Committee on Interstate and Foreign Commerce have a continuing interest in these matters.

To translate the work of the Congress into greater efficiency by these agencies requires that we retain to ourselves the reorganizational power.

Another agency which should be protected from reorganization is the Small Business Administration. SBA, an independent agency, has been the subject of recent attempts to place it within the Department of Commerce. The new SBA Administrator, upon the occasion of his confirmation hearing in the other body, declined to state that he favored the continuing independence of SBA.

Because of the continuing fear that SBA, as the spokesman for the Nation's small businessmen, will be irretrievably harmed by its being placed within the Department of Commerce. I wish to join with the Honorable Joe L. Evins, chairman of the House Small Business Committee in urging that SBA likewise be excluded from the operation of the reorganizational power.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 10, 1969.

HON. JOHN A. BLATNIK,
Chairman, Subcommittee on Executive and Legislative Reorganization, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On this date, Representative Joe L. Evins, chairman, House Small Business Committee, submitted a statement to your subcommittee concerning the proposed extension of the Reorganization Act of 1966. I concur without reservation in that statement.

My congressional experience has given me no opportunity to gain particular knowledge concerning the regulatory agencies discussed by Chairman Evins. I have, however, during the past 4 years done considerable work with the Small Business Administration. In my opinion, transferring that agency to the Department of Commerce, or in any other way diminishing the degree of independence and objectivity it presently has, would be a serious blow to the small business community in this Nation.

The small businessman is already burdened at every turn. High interest rates strike him first; our tax structure gives him less latitude than is enjoyed by his giant competitors; mergers and acquisitions are a constant threat to his continued independence. For all of these reasons, it is imperative that the one agency at the Federal level directly concerned with his well being remain intact.

Respectfully,

JAMES C. CORMAN,
Member of Congress.

SELECT COMMITTEE ON SMALL BUSINESS,
HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D.C., March 7, 1969.

HON. JOHN A. BLATNIK,
Chairman, Subcommittee on Executive and Legislative Reorganization, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have been informed that your subcommittee is meeting Monday morning to receive testimony regarding a further extension of the Reorganization Act of 1966.

In view of the fact that I shall be back in the district, it will be impossible for me to appear personally before your subcommittee. However, I do wish to advise that I fully support the statement presented to your subcommittee by the distinguished chairman of the Select Committee on Small Business, to preserve the independence of the Small Business Administration.

I believe it imperative that Small Business continue as an independent agency, in order to retain its strength to protect the 5 million small business concerns which exist in our country today. All of us, I am sure, are aware of the vital part small firms play in maintaining the strength of our national economy.

Thank you and very best wishes.

Sincerely yours,

JOSEPH P. ADDABBO,
Member of Congress.

(Subsequently the subcommittee received the following letters and statements for insertion in the record:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 7, 1969.

HON. JOHN A. BLATNIK,
Chairman, Subcommittee on Executive and Legislative Reorganization, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR COLLEAGUE: I believe our colleague Joe Evins has written to you concerning the proposed extension of the Reorganization Act of 1966 and indicated that at least some of us on the Small Business Committee believe that the Small Business Administration should be exempt from the coverage of the bill. For many years there have been attempts to terminate the independent status of the Small Business Administration and I fear that it might again be attempted. Therefore, I believe it would be desirable to exempt the Small Business Administration from coming under the proposed Reorganization Act.

Thanking you for your consideration, I am,
Sincerely,

NEAL SMITH,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 10, 1969.

HON. JOHN A. BLATNIK,
Chairman, Subcommittee on Executive and Legislative Reorganization, House Committee on Government Operations, Washington, D.C.

DEAR MR. CHAIRMAN: I want to express my support and approval of the statement being made today before your subcommittee by Chairman Joe Evins of the House Committee on Small Business in connection with the proposed extension of the Reorganization Act of 1966.

I believe it is important to exclude the independent regulatory agencies and the Small Business Administration from the scope of such reorganization.

With kindest personal regards, I am,
Sincerely yours,

TOM STEED,
Member of Congress.

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington, D.C., March 7, 1969.

HON. WILLIAM L. DAWSON,
House of Representatives,
Washington, D.C.

DEAR MR. DAWSON: The Chamber of Commerce of the United States supports reinstatement of the authority granted to the President by the Reorganization Act of 1949, as amended, to submit plans to the Congress for reorganizations in the executive branch of the Government. This authority expired on December 31, 1968.

The National Chamber considers S. 1058, passed by the Senate on February 28, 1969, and which may soon be referred to your committee, as an appropriate vehicle for accomplishing the desired results.

The Reorganization Act authorizes a simplified procedure for improving the structure and management of the executive branch. Under this procedure a reorganization plan transmitted to the Congress by the President takes effect after 60 days of continuous session of Congress, unless, either House of Congress passes a resolution of disapproval during the 60-day period.

Efforts have been made in the past to amend the act so as to eliminate the expiration date for Presidential authority to transmit reorganization plans. In most cases, however, Congress has, quite correctly, declined to commit future Congresses and has limited the authority to a 2-year period.

Recognizing that the Reorganization Act permits in effect "legislation in reverse," in that it grants considerable power of legislative initiative to the Chief Executive, the Congress should not surrender or abrogate its legislative prerogative over such matters on a permanent basis.

Use of the reorganization power to create a new department or agency with new or expanded functions, involves much more than reorganization and enters far into the area of substantive legislation. For this reason the National Chamber endorses retention of the amendment adopted in 1964, which prohibits using the act for the creation of new executive departments or completely abolishing existing departments. In matters of such magnitude, the normal legislative process should be followed.

For the reasons stated, the National Chamber urges the House Government Operations Committee to favorably report S. 1058 which provides for a simple 2-year extension of the Presidential authority without further amendment.

Cordially,

DON A. GOODALL,
General Manager, Legislative Action.

STATEMENT OF HON. DANTE B. FASCELL, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF FLORIDA

As a cosponsor of H.R. 2652, a bill to extend for 2 years the authority of the President to reorganize the departments and agencies of the Federal Government, I urge committee approval of this noncontroversial measure.

Congress first granted this power to President Hoover in 1932 and has given it to every President since then. The procedure has been extremely effective, and I can see no reason why our new President should be denied the authority to further streamline the Government.

As the committee knows, Presidential authority to submit plans to the Congress to modernize our Government comes from the Reorganization Act of 1949. This act resulted from recommendations of the Hoover Commission which studied ways to improve efficiency in Government.

Under the act the President is required to periodically examine the functions of all executive agencies to determine what changes are necessary. Plans encompassing these changes are then submitted to the Congress. The plans become law unless vetoed by either the House of Representatives or the Senate within 60 days.

This system, while in some respects reversing the usual legislative process, nonetheless has given the President the latitude to put his own house in order while at the same time retaining for Congress an effective means to exercise its will on the proposed reorganizations. Of the 83 plans submitted since 1949, 22 have been rejected.

In most instances, reorganization authority has been used by Presidents to achieve greater efficiency and control in the management of the Government's many programs. Since this is a laudable purpose, we should approve this legislation designed to facilitate its continued availability.

The reorganization authority expired on December 31, 1968, since the Senate failed to approve an extension which was approved by the House last year. This year, the Senate has already acted. It is up to us to concur in this much-needed objective by approving legislation to extend the authority.

STATEMENT OF HON. WILLIAM L. HUNGATE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman and members of the subcommittee:

I am pleased that these hearings are being held on the proposed extension or reenactment of the Reorganization Act of 1966.

I note that proposals have been made to bring regulatory agencies under the act and to annex the Small Business Administration by the Department of Commerce.

Since enactment of the Executive Reorganization Act of 1932 the President's authority to reorganize the executive branch has been amended on several occasions. I recognize the value in periodically reviewing the organizational and structural requirements of the executive branch but would urge that care be taken lest Congress surrender constitutional authorities. I would respectfully request that the regulatory agencies be excluded from coverage by the act.

Small businesses perform a vital service in the Ninth Congressional District in rural and urban areas alike. They deserve the status afforded them by an agency not affiliated with or within any other agency or department of the Federal Government.

During my four terms in Congress I have had occasion to request constituent services from loan divisions within the various departments and agencies. I have seldom encountered the speed and efficiency from Cabinet-level loan divisions that I have received from the Small Business Administration.

I do not believe SBA should lose the apparent advantages it derives from separate identity and would respectfully urge that it be excluded from the extensions under consideration.

Mr. BLATNIK. Mr. Evins raises the question of the Small Business Administration. Because its jurisdiction is quite substantial now—they state that today there are more than 5 million small business concerns coming under their jurisdiction—they feel that SBA is entitled to the attention and services of a separate governmental agency and should be exempted from any real reorganization or any attempt to either place them in the Department of Commerce or consolidate them with any other agency.

In short, Chairman Evins states:

The time has come when the House of Representatives should reiterate and make clear its determination that SBA is not to be subordinated or relegated to some giant department of the executive branch of the Government, such as the Department of Commerce.

Would you care to make a comment on that?

Mr. MAYO. I can appreciate his concern. I am familiar with the operations of the Small Business Administration and have been for quite a period of years in various activities, for example, the job that Mr. Samuels has done as head of Small Business and his "Operation Own," to encourage minority businessmen in our urban areas.

I am quite conscious, therefore, of the need to retain a basic independence of spirit and decisionmaking in the SBA, while also relating it to the whole problem that the Urban Affairs Council has been charged with by President Nixon in its efforts to seek the proper solution of the problems of finance in our urban areas.

I am not aware at the moment of any suggestion that would be likely to reach fruition here on a reorganization plan such as he has suggested. I would not bar that possibility.

I think, in terms of the legislation itself, though, it would be preferable to keep it as general in tone as has been the practice here, rather than to seek a specific exemption for a specific agency, which would set a precedent for heaven knows how many other specific exemptions.

Sam, you may want to add something.

Mr. HUGHES. I do not believe I would have anything to add to that, Mr. Chairman.

Mr. BLATNIK. Then we have one statement by Mr. Dingell, which has been entered in its entirety, in which he includes several regulatory agencies. To quote from Mr. Dingell's prepared statement:

I urge you to add the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, and the Federal Power Commission to the statutory exclusion appearing in the Reorganization Act of 1966 * * *.

He suggests that perhaps the members of this subcommittee will want to scrutinize the entire list of the independent agencies, including those of a regulatory nature. His argument on the regulatory agencies

is primarily that these independent regulatory agencies are arms of the Congress. To quote further:

They exercise quasi-legislative and quasi-judicial functions. I believe they should be controlled by the Congress, not by the executive branch.

Would you have any comment on that recommendation, Mr. Mayo?

Mr. MAYO. I believe my comment would follow essentially the same line, that I think one of the strengths of the statute is its general applicability here so that we do not have too many inhibitions—we meaning both the executive branch and you people—with regard to making the plans that we feel would be constructive toward better organization of the Government.

Mr. BLATNIK. Is it not true, Mr. Mayo, that the Congress would have the final say in any Government reorganization proposal that came before it?

Mr. MAYO. That is correct.

Mr. BLATNIK. And it would have full opportunity to present its case, either in hearings before the subcommittee or the full committee, and in statements on the floor of the House.

Mr. MAYO. Yes.

Mr. BROWN. Mr. Chairman.

Mr. BLATNIK. Mr. Brown.

Mr. BROWN. I think what Mr. Dingell is talking about is the functions of these agencies and not the agencies themselves, because under legislation which created the Transportation Department, which sprang originally from this subcommittee and also from this full committee, the independence, if that is a fair term, of the Interstate Commerce Commission and of some of the other agencies to which Mr. Dingell refers was tampered with—not by a reorganization plan, but by substantive legislation, even though they were in this unique position between the executive branch and the Congress, where they are at once legislative and of themselves, regulatory, and administrative.

So I do not know that there is any way literally to exempt any facet of the Federal Government from the prospect of some tampering without limiting the concept of the method by which you approach the problem.

In other words, you would not make the Federal Communications Commission tamperproof simply by exempting it from this act.

Mr. MAYO. No.

Mr. BROWN. So I do not see, really, the significance of exempting anybody from this act as proposed in that statement of Mr. Dingell's.

Mr. BLATNIK. Are there any further comments or questions?

(No response.)

Mr. BLATNIK. There being no further questions or comments, Mr. Mayo, Mr. Ink, and Mr. Hughes, we thank you for your assistance and your cooperation in making yourselves available at a time convenient to us, when time is of the essence and there is unified support and interest to get the bill approved expeditiously.

With that, the hearing is adjourned, and the subcommittee will go into executive session.

(Whereupon, at 3:15 p.m., the hearing was adjourned.)