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HEW have asked that this be signed
before the President leaves if at all
possible.

APPROVED
OCT 15 1976
Statement
issued
10/15/76

8/10/15/76

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: October 18

Posted
10/15/76

Archives
10/15/76

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *J. Cannon*
SUBJECT: H.R. 11347 - Conveyance of Federal Interests
in Utah property; HEW Office of Inspector
General

Attached for your consideration is H.R. 11347, sponsored by Representative Howe.

The enrolled bill authorizes the Administrator of GSA to convey, without compensation, the Federal Government's full title and interest in 0.48 acres of land to the Shriners' Hospitals for Crippled Children.

The enrolled bill also establishes in the Department of Health, Education and Welfare, an independent Office of Inspector General to:

- assume primary responsibility for HEW's auditing and investigative activities,
- prevent and detect fraud and abuse in HEW programs, particularly in the Medicaid/Medicare, renal disease and maternal and child health programs, and
- promote economy and efficiency in the administration of HEW programs.

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

OMB, Max Friedersdorf, Counsel's Office (Kilberg) and I recommend approval of the enrolled bill and the attached signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign H.R. 11347 at Tab B.

That you approve the signing statement at Tab C.

Approve *J. Cannon* Disapprove _____





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

OCT 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11347 - Conveyance of
Federal interests in Utah property; HEW
Office of Inspector General
Sponsor - Rep. Howe (D) Utah

Last Day for Action

October 18, 1976 - Monday

Purpose

Conveys certain property interests of the United States in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children; establishes an Office of Inspector General in the Department of Health, Education, and Welfare (HEW).

Agency Recommendations

Office of Management and Budget	Approval (Signing statement attached)
Department of Health, Education, and Welfare	Approval (Signing statement attached)
General Services Administration	No objection
Civil Service Commission	No objection

Discussion

H.R. 11347 was introduced and passed in the House as a bill providing for the transfer of a reversionary interest in land to the Shriners' Hospitals for Crippled Children in Salt Lake County, Utah. During the closing days of the 94th Congress, a major unrelated amendment authorizing the establishment of an Office of Inspector General in HEW was attached by the Senate and passed in both Houses without debate. The Inspector General amendment had been

considered earlier in the session by the Senate and House Government Operations Committees as S. 3678 and H.R. 15390, respectively.

Transfer of Federal property interest. H.R. 11347 authorizes the Administrator of the General Services Administration (GSA) to convey, without compensation, the Federal Government's full title and interest in 0.48 acres of land to the Shriners' Hospitals for Crippled Children, a Colorado corporation. The land is part of a 7.8-acre tract conveyed in 1946 by an Act of Congress to the Shriners' Hospital for the purpose of erecting the hospital currently occupying that site. The 1946 law stipulated that in the event of nonuse of the property for hospital purposes, it would automatically revert to the United States.

In order to permit Salt Lake County to complete certain street and storm drain system improvements on a local street serving the hospital, the hospital has agreed to convey the necessary 0.48 acres to the County. However, the conveyance cannot be made unless the hospital is released from the condition which requires the land to revert to the United States.

GSA generally opposes, as a matter of policy, legislation which provides for the conveyance or release of valuable rights in property to grantees without adequate compensation. In this case, H.R. 11347 does not conflict with Federal policies governing the transfer of property rights. Under the Federal Property and Administrative Services Act of 1949, the United States retains a right of reversion for a period of 30 years and is entitled to adequate payment for any property rights released during that period. Although the land in issue was not transferred under the 1949 law, 30 years have passed since the 1946 transfer. In its report to Congress on H.R. 11347, GSA stated that it did not object to enactment of the bill.

Office of HEW Inspector General. H.R. 11347 establishes in HEW an independent Office of Inspector General to:

-- assume primary responsibility for HEW's auditing and investigative activities,

-- prevent and detect fraud and abuse in HEW programs, particularly in the Medicaid/Medicare, renal disease, and maternal and child health programs, and

-- promote economy and efficiency in the administration of HEW programs.

The Office is to be headed by an Inspector General (Executive Level IV) and a Deputy Inspector General (Executive Level V), both appointed by the President, with the advice and consent of the Senate. Both also are subject to removal by the President. The bill provides specifically that the appointments are to be made "solely on the basis of integrity and demonstrated ability and without regard to political affiliation." The bill also provides for an Assistant Inspector General for Auditing and an Assistant Inspector General for Investigations. The Inspector General will report to and be under the general supervision of the HEW Secretary and is to be independent of all other departmental officers.

The proposal for an Inspector General's Office in HEW is an outgrowth of recent widely-publicized congressional investigations into fraud and abuse in the Medicaid program. The Administration initially did not favor establishing such an office. Pending enactment of the health block grant proposal (which included Medicaid), however, HEW instituted a series of administrative actions designed to assure greater Federal review of State fraud and abuse efforts. Medicaid is a State-administered program and States have the primary responsibility for policing fraud and abuse. Among the steps taken earlier this year by HEW to strengthen Federal efforts was a consolidation of the HEW Office of Investigations and the HEW Audit Agency into a new Office of Audits and Investigations.

H.R. 11347 was modified by the congressional committees to meet some of the Administration's objections to earlier versions of the bill which would have established an Inspector General Office more independent of HEW. However, the bill still contains several provisions which the Administration strongly opposed. For example, it:

-- requires the Inspector General to report to Congress within 7 calendar days after reporting to the HEW Secretary particularly serious or flagrant problems or abuses. Congress originally proposed that the Inspector General report simultaneously to the Secretary and Congress, while HEW proposed that the Secretary, without the imposition of a time deadline, inform the Congress after receiving and analyzing reports from the Inspector General.

-- requires the Inspector General to inform the Congress without delay if his budget request is reduced, before submission to Congress, to an extent which he believes would be seriously detrimental. This provision, we believe, infringes on your budget and management prerogatives and responsibilities.

-- prevents any reduction in classification or compensation for personnel transferred to the new office. There appear to be conflicting provisions in the bill-- one subsection prohibits reductions for one year after a transfer, while another subsection prohibits reductions from taking place for the duration a person serves in a new position. HEW and the Civil Service Commission recommended that officials and staff of the new office be compensated solely on the basis of their job functions and personal qualifications.

H.R. 11347 also:

-- requires the Inspector General to submit quarterly, annual and ad hoc reports directly to the Congress without Administration clearance,

-- provides the Inspector General with subpoena authority, and

-- requires the HEW Secretary to provide the Inspector General with adequate office space and all necessary supplies and services at central and field office locations.

HEW estimates that the first year costs for the Office of Inspector General would be about \$1.0 million.

Recommendations

HEW points out in its views letter that the Department has sufficient authority to accomplish the bill's objectives of reducing fraud and abuse and increasing program efficiency, and that it has already taken steps administratively to accomplish these objectives. Nevertheless, HEW recommends approval, in view of its recent report to the Congress that the bill "would give feasibility and additional impetus to the steps ... already taken."

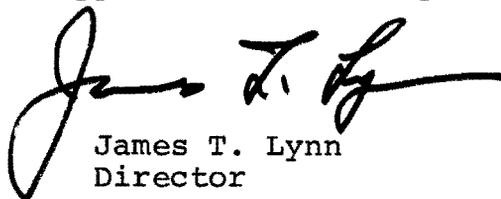
CSC opposes the special protections in the bill for personnel transferred to the new Office, since the civil service system already provides ample protection for such employees. CSC states, however, that it does not consider its objections to be of "such overriding importance as to warrant a Presidential veto."

* * * * *

Although an Office of Inspector General in HEW has a certain cosmetic attractiveness, the bill, as noted above, contains objectionable provisions. In addition, Secretary Mathews has administratively accomplished the bill's primary objective by combining HEW's Office of Investigations and Audit Agency under one director, reporting to the Secretary.

On the other hand, we recognize the tremendous emphasis in recent press reports on fraud and abuse. A veto could be construed as a lack of Administration concern with these problems. Moreover, the problems which could result from the objectionable provisions (e.g., conflicting budget estimates) can be handled, we believe, in the context of the appointment and removal powers provided in the bill. Accordingly, we recommend that you sign H.R. 11347.

We have attached for your consideration a draft signing statement identical to HEW's signing statement, except for deletion of the last sentence which would commit you to move immediately to appoint the new Inspector General.



James T. Lynn
Director

Enclosures

STATEMENT BY THE PRESIDENT

I have approved H.R. 11347, a bill that would establish within the Department of Health, Education, and Welfare, an Office of the Inspector General to conduct and supervise audits and investigations relating to the programs and operations of the Department.

Secretary Mathews and I share the concern of the Congress and of the American people for the honest and efficient conduct of government programs. Prior to the passage of this legislation, the Secretary had moved to establish a centralized investigative arm within his own office to give effect to this concern. The new law will now enable me to appoint an Inspector General for the Department. Under the Secretary's supervision, the Inspector General will lead the Department's investigative activities. He will keep the Secretary and the Congress appropriately informed on the necessity and progress of action needed to correct program abuse or assure the economical and efficient management of the Department's programs.

In implementing this law, I want to emphasize my complete agreement with the intent of the Congress, as expressed in the bill, that the Inspector General and his Deputy be appointed solely on the basis of integrity and demonstrated ability, without regard to political affiliation.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

18

Date: October 12

Time: 815pm

FOR ACTION: Spencer Johnson *ah*
Max Friedersdorf *ah* cc (for information):
Bobbie Kilberg *ah (comments)*
Robert Hattmann *ah*

Jack Marsh
Ed Schmults
Steve McConahey *difa*

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 500pm

SUBJECT:

H.R.11347-Conveyance of Federal interests in Utah property;
HEW Office of Inspector General

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

K. R. COLE, JR.
For the President

STATEMENT BY THE PRESIDENT ON SIGNING
H.R. 11347, WHICH INCLUDES PROVISIONS ESTABLISHING
AN OFFICE OF THE INSPECTOR GENERAL WITHIN
THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

I have approved H.R. 11347, a bill that would establish within the Department of Health, Education, and Welfare, an Office of the Inspector General to conduct and supervise audits and investigations relating to the programs and operations of the Department.

Secretary Mathews and I share the concern of the Congress and of the American people for the honest and efficient conduct of government programs. Prior to the passage of this legislation, the Secretary had moved to establish a centralized investigative arm within his own office to give effect to this concern. The new law will now enable me to appoint an Inspector General for the Department. Under the Secretary's supervision, the Inspector General will lead the Department's investigative activities. He will keep the Secretary and the Congress fully informed on the necessity and progress of action needed to correct program abuse or assure the economical and efficient management of the Department's programs.

As we move, now, to implement this law, I wish to emphasize my complete agreement with the intent of the Congress, as expressed in the bill, that the Inspector General and his Deputy be appointed solely on the basis of integrity and demonstrated ability, without regard to political affiliation.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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

OCT 7 1976

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 11347, an enrolled bill "To authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation." The enrolled bill is described in detail in the enclosed fact sheet.

We accepted the primary purpose of the bill--to establish an Office of the Inspector General within the Department--in our report of September 13 to the House Committee on Government Operations on a similar bill, H.R. 15390. In conformity with the views we expressed in that letter, we recommend that the bill be approved.

We pointed out in that letter that the Department has sufficient authority to accomplish the bill's objectives of reducing fraud and abuse and increasing program efficiency. Nevertheless, as we also pointed out, the bill "would give feasibility and additional impetus to the steps we have already taken."

The steps included initiation of action to establish an Office of Audit and Investigations within the Office of the Secretary headed by a Director who would report to the Secretary and would exercise a broad mandate to conduct and supervise audits and investigations relating to the Department's programs.

In commenting to the Congress on the provisions of the bill, we did ask for certain modifications. First, in order to protect the Inspector General from any suggestion that political considerations enter into his investigative decisions, we believe that his post should be essentially career. To this end we suggested that the positions be filled by secretarial rather than presidential appointment. Although this suggestion was not followed, the enrolled bill does require

that the Inspector General and his Deputy be appointed by the President "solely on the basis of integrity and demonstrated ability and without regard to political affiliation". This language should allow our objective to be attained.

Our letter also pointed out the inappropriateness of requiring the Inspector General to report flagrant abuses immediately to the Congress, as well as to the Secretary. It was our belief that the Secretary should first be given the opportunity to take steps to correct any such abuses. In response to this point, the enrolled bill now provides the Secretary with seven days after the Inspector General informs him of any such abuse before the Inspector General must report the abuse to the Congress.

The letter made several additional points, of which the most significant was our objection to the provision to authorize the Inspector General to inform the Congress of Department or OMB reductions in his budget request prior to the President's budget submission. We argued, on the one hand, that this authority would not provide the Congress with information not already available to it while, on the other hand, a special privilege of the Inspector General in this regard threatened to undermine the Secretary's and the President's ability to manage the Department's budget in an evenhanded fashion. The Congress did not accept our position.

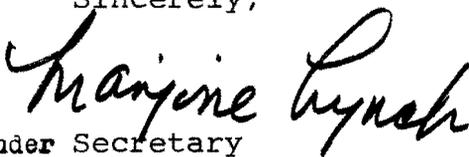
In addition to the provisions dealing with the Inspector General, the enrolled bill would transfer certain property in Salt Lake County, Utah to Shriners' Hospitals for Crippled Children. In a letter of May 27, 1976, we advised the Committee on Government Operations of the House of Representatives that, subject to the views of the General Services Administrator, we saw no objection to this conveyance.

The problems of fraud and abuse in programs of the Department have come under serious scrutiny both in the Congress and and within the Department itself. A central office to concern itself with these problems is desirable and we have already moved to establish one. The additional authority that the

bill would provide, while not in our judgment an essential aid to our efforts, may nevertheless prove helpful. It is our understanding that there are examples within government of officials of the type created by this bill, with similar powers, who have functioned effectively.

For these reasons, we recommend that the President sign the bill. We estimate the cost of implementing this bill during its first year at less than one million dollars in new obligational authority. A draft signing statement is enclosed.

Sincerely,


Under Secretary

Enclosures

FACT SHEET
DESCRIPTION OF H.R. 11347

Overview of H.R. 11347

The principal purpose of H.R. 11347 is to establish an Office of Inspector General within the Department of Health, Education, and Welfare. Headed by an Inspector General appointed by the President at Level IV of the Executive Schedule and responsible to the Secretary, the Office would be responsible for auditing and investigating programs and operations of the Department to promote their economy and efficiency, and to prevent and detect fraud and abuse.

The Positions of Inspector General and Deputy Inspector General

The Inspector General is to be appointed on the basis of integrity and demonstrated ability without regard to political affiliation. He would be assisted by a Level V Deputy who would also be appointed by the President and confirmed by the Senate.

Although the bill does not formally confer upon these officials the protections of civil service status, it requires that their appointment be on the basis of integrity and demonstrated ability without regard to political affiliation. In case of their removal from office, the President must communicate the reasons therefor to the Congress.

The Nature of the Office

The Office would, through an Assistant Inspector General for Auditing, have responsibility for the existing HEW Audit Agency. An Assistant Inspector General for Investigations within the Office would be responsible for administering the existing HEW Office of Investigations. In addition, the Inspector General is required to establish within the Office a staff to devote full-time attention to antifraud and anti-abuse activities relating to Medicare, Medicaid, Maternal and Child Health and Crippled Children's Programs, and the renal disease program. The staff would report to the Deputy Inspector

General. The bill vests in the Inspector General a range of functions commonly exercised by the Directors of principal operating components of a Department or agency. In the matter of considering his budget requests, however, the Inspector General is directed to inform the Congress if he concludes that his request, before its submission to Congress, has been reduced to an extent seriously detrimental to his adequate performance.

Inspection Authority

The Inspector General is given access to all records available to the Department that relate to its programs and operations and, in other cases, may require records by subpoena enforceable by order of any appropriate United States district court.

Reports

The bill requires a range of reports to the Secretary and to the Congress, among them:

- an annual report to the Congress summarizing the office's activities and including a description of deficiencies uncovered in the administration of the Department's programs and recommendations for their correction;
- a quarterly report to the Secretary and to the Congress calling attention to inadequate progress in correcting previously identified significant deficiencies;
- a report to the Secretary (and within seven calendar days thereafter, to the Congress) immediately upon the discovery of deficiencies that are particularly serious or flagrant;
- a report to the Secretary and to the Congress when information or assistance is denied to the Inspector General by a Federal, State, or local governmental entity; and

- any other reports that the Inspector General determines are necessary or desirable, or that either House of Congress requests.

None of these reports is subject to the clearance or approval procedures otherwise applicable within the Department or the Executive Branch.

Effective Date and Transitional Provisions

The bill is effective upon enactment. Any person who, on that date, held a General Schedule (i.e., non-Executive) appointment, and who is transferred to a comparable position in the new Office, is protected against any reduction of salary in the new position.

Transfer of Lands

The Inspector General provisions were added to a noncontroversial bill to authorize conveyance of the interest of the United States and certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation.

STATEMENT BY THE PRESIDENT ON SIGNING
H.R. 11347, WHICH INCLUDES PROVISIONS ESTABLISHING
AN OFFICE OF THE INSPECTOR GENERAL WITHIN
THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

I have approved H.R. 11347, a bill that would establish within the Department of Health, Education, and Welfare, an Office of the Inspector General to conduct and supervise audits and investigations relating to the programs and operations of the Department.

Secretary Mathews and I share the concern of the Congress and of the American people for the honest and efficient conduct of government programs. Prior to the passage of this legislation, the Secretary had moved to establish a centralized investigative arm within his own office to give effect to this concern. The new law will now enable me to appoint an Inspector General for the Department. Under the Secretary's supervision, the Inspector General will lead the Department's investigative activities. He will keep the Secretary and the Congress fully informed on the necessity and progress of action needed to correct program abuse or assure the economical and efficient management of the Department's programs.

As we move, now, to implement this law, I wish to emphasize my complete agreement with the intent of the Congress, as expressed in the bill, that the Inspector General and his Deputy be appointed solely on the basis of integrity and demonstrated ability, without regard to political affiliation. I intend to move promptly to fill this important position.

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



October 7, 1976

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

Dear Mr. Lynn:

By letter of October 4, 1976, you requested the views of the General Services Administration (GSA) on enrolled bill H.R. 11347, "To authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation."

GSA opposes, as a matter of policy, legislation which provides for the conveyance or release of valuable rights in property to grantees without the payment of adequate consideration except as provided in laws of general application. However, in view of the reasons set forth in our letter of May 14, 1976, to Honorable Jack Brooks (copy attached), we offer no objection to the signing of this legislation.

Inasmuch as Title II would have no effect upon GSA's functions and responsibilities, we offer no comment on its merits.

Sincerely,

A handwritten signature in cursive script that reads "Terry Chambers".

TERRY CHAMBERS
Acting Administrator

Enclosure

MAY 14 1976

Honorable Jack Brooks
Chairman, Committee on
Government Operations
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Your letter of January 7, 1976, requested our comments on H.R. 11347, a bill "To convey the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation."

H.R. 11347 directs the Administrator of General Services (GSA) to convey, without consideration, all right, title, and interests remaining in the United States in and to a 0.48-acre portion of a tract of land conveyed to the Shriners' Hospitals for Crippled Children by deed dated July 12, 1946. The original tract of land, consisting of 7.8854 acres, was a portion of the Fort Douglas Military Reservation and the conveyance to the Shriners' Hospitals for Crippled Children was made by the Secretary of War pursuant to Public Law 324 dated March 14, 1946. Section 2 of that Public Law provided a reversionary interest in the United States in the event the grantee shall fail or cease to use the subject lands as a location for a hospital for crippled children, or shall alienate or attempt to alienate such lands.

The purpose of the bill is to eliminate the reversionary interest as it pertains to the 0.48 acres.

We have been informed that since conveyance of the 7.8854 acres in 1946, the land has been improved by the construction of a hospital and related facilities, including a parking area. We have also been informed that the County of Salt Lake wishes to acquire a portion of the parking area for the construction of a road through the property to serve traffic to the University of Utah.

The road is not interstate in character nor is it being constructed under any Federal aid program.

The county and hospital authorities have negotiated an arrangement whereby the county will reimburse the hospital for the land involved by relocating and reconstructing an enlarged parking area elsewhere on the 7.8854 acres. However, the conveyance cannot be made unless the hospital is released from the condition which requires the land to revert to the United States.

GSA opposes, as a matter of policy, legislation which provides for the conveyance or release of valuable rights in property to grantees without the payment of adequate consideration except as provided in laws of general application.

Under normal procedures, if the Shriners' Hospitals for Crippled Children had acquired the property under the Federal Property and Administrative Services Act of 1949, as amended, for health and educational purposes, at no cost, the United States would have retained a right of reversion in the event the property was not used for the purposes deeded for a period of 30 years. If at any time during the 30 years the hospital requested abrogation of the reversionary provision for the purpose of making a portion of it available to a State or county for the construction or widening of a street or road, GSA would require the hospital to pay the current fair market value of the portion to be released from the reversionary provision less credit for that proportion of the 30 years during which the property was devoted to hospital use. At the end of the 30 years the reversionary right would automatically expire.

As indicated, heretofore, the property which is the subject of this bill was conveyed to the Shriners' Hospitals for Crippled Children almost 30 years ago. The 30 years will expire July 12, 1976. However, since the right of reversion was created by Congress in the 1946 act, it must be removed by Congress.

In view of all of the foregoing, we offer no objection to the passage of this legislation.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,

TERRY CHAMBERS
Deputy Administrator



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

October 8, 1976

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

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in response to your request for the Commission's views on enrolled H.R. 11347, an act "To authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation."

The stated purpose of this Act is accomplished in Title I. Our main interest is in Title II which would establish an Office of Inspector General within the Department of Health, Education, and Welfare (HEW), the purpose of which would be to conduct and supervise audits and investigations relating to programs and operations of HEW.

The new office is to be headed by an Inspector General appointed by the President by and with the advice and consent of the Senate. The Inspector General would be compensated at the rate prescribed for Level IV of the Executive Schedule; his deputy (also appointed by the President) would be compensated at the rate prescribed for Level V. These rates are appropriate.

The staff of the new office is to be appointed subject to the appointment, classification, and pay provisions of title 5, United States Code. This, too, is appropriate.

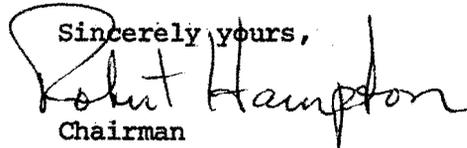
Section 206 of the Act provides for transferring the functions of certain HEW agencies and offices to the new Office of the Inspector General, subject to applicable laws and regulations, with the provision that the classification and compensation of personnel so transferred may not be reduced for 1 year after such transfer. The Commission is opposed to this limitation since it gives these employees a statutory right to their jobs that places them in a position superior to all other agency employees-- including veterans. Not only is this contrary to the order of

retention provided for in section 3502 of title 5, United States Code, but the wording is such that it could preclude the agency from separating any of these employees for cause. The special protections provided by this Act are unnecessary since an established system already exists that would provide ample protection to employees so transferred.

But while we consider this a defect in the Act, we do not consider it of such overriding importance as to warrant a Presidential veto. Should a veto be indicated for other reasons, however, our objection to this provision should be given due consideration.

By direction of the Commission:

Sincerely yours,

Handwritten signature of Robert Hampton in cursive script.

Chairman

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 12

Time: 815pm

FOR ACTION: Spencer Johnson
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann

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

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 500pm

SUBJECT:

H.R.11347-Conveyance of Federal interests in Utah property;
HEW Office of Inspector General

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend Approval.

Tracy

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 12

Time: 815pm

FOR ACTION: Spencer Johnson
Max Friedersdorf
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SUBJECT:

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HEW Office of Inspector General

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend approval. However, note suggested change in the text of the signing statement to the effect that the Inspector General will keep the Congress "appropriately informed". This would recognize that he would not report to the Congress on matters relating to criminal fraud on the part of individuals which may be appropriate for prosecution.

Ken Lazarus 10/13/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

CONVEYANCE OF UNITED STATES INTERESTS IN CERTAIN LANDS IN SALT LAKE COUNTY, UTAH, TO THE SHRINERS' HOSPITALS FOR CRIPPLED CHILDREN

JUNE 9, 1976.—Committed to the Committee of the Whole House and ordered to be printed

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

REPORT

[To accompany H.R. 11347]

The Committee on Government Operations, to whom was referred the bill (H.R. 11347) to convey the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On the first page, line 3, after "Services" strike out "shall, subject to section 2 of this Act," and insert in lieu thereof "is authorized, subject to section 2 of this Act, to".

On page 2, line 17, redesignate subsection (a) as subsection (b), and after "Sec. 2." insert the following:

(a) The conveyance to be made under this Act shall be subject to the condition that the transferee, the Shriners' Hospitals for Crippled Children, shall reconvey or dedicate the lands specifically described in the first section of this Act to Salt Lake County, Utah, for street construction purposes.

Amend the title so as to read: "A bill to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation."

PURPOSE

The purpose of H.R. 11347 is to authorize the Administrator of General Services to convey without reimbursement to the Shriners' Hospitals for Crippled Children, a Colorado corporation, the Fed-

eral Government's reversionary interest in 0.48 acre of land, part of a 7.8-acre tract in Salt Lake City, Utah, transferred to the corporation in 1946 for hospital use. The original conveyance was made subject to a reverter to the United States in the event of nonuse of the property for hospital purposes. Release of that reversionary interest with respect to the 0.48 acre is needed so that this small part of the tract can be conveyed to Salt Lake County for street construction purposes.

COMMITTEE VOTE

At a meeting of the Full Committee on Government Operations on May 20, 1976, H.R. 11347, as amended, was approved unanimously.

HEARING

On May 13, 1976, the Committee, through its Government Activities and Transportation Subcommittee, held a hearing on H.R. 12339. The witness was Mr. James J. Buckley, Acting Assistant Commissioner for the Office of Real Property, General Services Administration. A prepared statement in support of the bill was submitted by the General Services Administration. After the hearing, the subcommittee met and adopted three proposed amendments to H.R. 11347 and voted unanimously to report the bill to the Full Committee.

The effect of the first amendment is to authorize, instead of to direct, the Administrator to convey the Federal interest to the hospital corporation. The language of the original bill would have required the Administrator to do this. The arrangements whereby the 0.48 acre is to be conveyed to Salt Lake County are not yet final, depending as they do on release of the reverter. The amendment gives the Administrator flexibility in dealing with the timing and execution of the conveyance.

The effect of the second amendment is to make clear the purpose for which the Government's interest is to be released (i.e. county street construction) and assure its realization.

The third amendment is technical and conforms the title to the language change made by the first amendment. The purpose and effect of amendments along the lines of the foregoing were discussed with the GSA witness, who indicated concurrence.

BACKGROUND

On March 14, 1946, the Congress authorized and directed the Secretary of War to convey to the Shriners' Hospitals for Crippled Children approximately 7.8 acres of land near Salt Lake City, Utah. The land was then part of the Fort Douglas Military Reservation northeast of the city. The Secretary was authorized to impose such terms and conditions as he might prescribe. The quitclaim deed executed July 12, 1946, indicates a payment of \$8,500 to the United States. The statute provided that with nonuse for hospital purposes the land would revert to the United States (Public Law 324, 79th Congress; 60 Stat. 55). Under the terms of the deed, the reverter would take effect "without notice, demand or action brought." The hospital was built and is still in operation.

DISCUSSION

Over the years, other parts of the military reservation were disposed of. Public streets were built and improved in the area. In order to complete certain street work and incidental work for an underground storm drain system there is now a need that the county obtain a small part—0.48 acre—of the 7.8-acre tract. (A sketch of the tract is in the appendix.) However, the perpetual reversionary right of the United States acts as an encumbrance on the land. H.R. 11347 would release that reversionary right and lift the encumbrance with respect to the 0.48 acre only, leaving the hospital corporation free to make appropriate arrangements with the county.

The 0.48 acre parcel is open and is now used for the parking lot. The Committee is informed that use of the parcel for the street construction purpose contemplated would not materially hamper operation of the hospital, which supports the proposal. It is expected that the hospital will obtain through the county other land to be used for parking.

Under current law enacted in 1949 as part of the Federal Property Act (40 U.S.C. 484(k)), the Administrator is authorized to assign surplus real property to the Secretary of HEW for transfer to non-profit, tax-exempt hospitals at a public benefit discount usually computed at 100 percent. It is policy and practice to do this with a restriction that the property be utilized for the public health purpose intended for 30 years. At the end of that period, the transferees gets full fee title.

The 7.8-acre tract has been used by the grantee as a hospital site now for some 30 years. According to the original deed, the Government received \$8,500 as one of the terms of conveyance. It is appropriate, therefore, to regard the release of the reverter with respect to just five percent of the total tract area as consistent with current policy and practice under the Federal Property Act.

In a letter dated May 14, 1976, the Deputy Administrator of General Services discussed the bill and advised that there would be no objection to its passage. The letter follows:

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., May 14, 1976.

HON. JACK BROOKS,
Chairman, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of January 7, 1976, requested our comments on H.R. 11347, a bill "To convey the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation."

H.R. 11347 directs the Administrator of General Services (GSA) to convey, without consideration, all right, title, and interests remaining in the United States in and to a 0.48-acre portion of a tract of land conveyed to the Shriners' Hospitals for Crippled Children by deed dated July 12, 1946. The original tract of land, consisting of 7.8854 acres, was a portion of the Fort Douglas Military Reservation

and the conveyance to the Shriners' Hospitals for Crippled Children was made by the Secretary of War pursuant to Public Law 324 dated March 14, 1946. Section 2 of that Public Law provided a reversionary interest in the United States in the event the grantee shall fail or cease to use the subject lands as a location for a hospital for crippled children, or shall alienate or attempt to alienate such lands.

The purpose of the bill is to eliminate the reversionary interest as it pertains to the 0.48 acres.

We have been informed that since conveyance of the 7.8854 acres in 1946, the land has been improved by the construction of a hospital and related facilities, including a parking area. We have also been informed that the County of Salt Lake wishes to acquire a portion of the parking area for the construction of a road through the property to serve traffic to the University of Utah.

The road is not interstate in character nor is it being constructed under any Federal aid program.

The county and hospital authorities have negotiated an arrangement whereby the county will reimburse the hospital for the land involved by relocating and reconstructing an enlarged parking area elsewhere on the 7.8854 acres. However, the conveyance cannot be made unless the hospital is released from the condition which requires the land to revert to the United States.

GSA opposes, as a matter of policy, legislation which provides for the conveyance or release of valuable rights in property to grantees without the payment of adequate consideration except as provided in laws of general application.

Under normal procedures, if the Shriners' Hospitals for Crippled Children had acquired the property under the Federal Property and Administrative Services Act of 1949, as amended, for health and educational purposes, at no cost, the United States would have retained a right of reversion in the event the property was not used for the purposes deeded for a period of 30 years. If at any time during the 30 years the hospital requested abrogation of the reversionary provision for the purpose of making a portion of it available to a State or county for the construction or widening of a street or road, GSA would require the hospital to pay the current fair market value of the portion to be released from the reversionary provision less credit for that proportion of the 30 years during which the property was devoted to hospital use. At the end of the 30 years the reversionary right would automatically expire.

As indicated, heretofore, the property which is the subject of this bill was conveyed to the Shriners' Hospitals for Crippled Children almost 30 years ago. The 30 years will expire July 12, 1976. However, since the right of reversion was created by Congress in the 1946 act, it must be removed by Congress.

In view of all the foregoing, we offer no objection to the passage of this legislation.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,

TERRY CHAMBERS, *Deputy Administrator.*

CONCLUSION

Use of this small piece of land for construction of a county street would not detract from the overall purpose served by the tract (operation of the Shriners' Hospital), particularly since substitute land for hospital parking would be made available at another point. Current general law and practice allowing release after 30 years of restrictions on real property transferred for public health purposes are in keeping with the release to be effected under H.R. 11347. Accordingly, the Committee favors enactment of this bill.

ESTIMATED COST OF LEGISLATION

Enactment of this bill would not result in additional cost to the Government other than the minimal, one-time administrative expense that attends the formal transfer.

MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

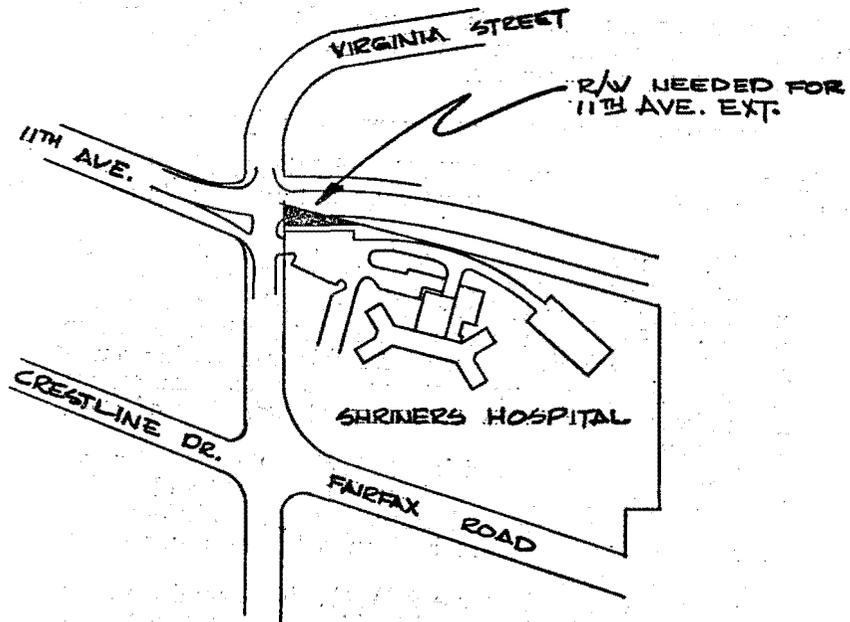
In compliance with clauses 2(1)(3) and 2(1)(4) of rule XI of the Rules of the House of Representatives, the following statements are made:

With respect to subdivision (A) of clause 2(1)(3), the Government Activities and Transportation Subcommittee has reviewed application and administration of the general laws relating to real property disposal. The Committee has determined that the particular need for this bill, arising out of an earlier special enactment and unusual circumstances, does not indicate need for new or additional legislation of a general nature.

With respect to subdivision (C), the Director, Congressional Budget Office, has reviewed H.R. 11347 and advised that on the basis of the review it appears no additional costs to the Government would be incurred as a result of the enactment of the bill.

In compliance with clause 2(1)(4), the Committee states that this legislation in and of itself is not expected to have an inflationary impact on prices and costs in the operation of the National economy.

APPENDIX

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LOCATION: Salt Lake City, Utah - Northeast Sector.
 REFERENCE: H.R. 11347, 94th Cong., a bill to authorize the convey-
 of the interests of the United States in certain lands
 in Salt Lake County, Utah, to Shriners' Hospitals
 for Crippled Children, a Colorado corporation.
 SOURCE: General Services Administration, May 24, 1976

○

HEW OFFICE OF INSPECTOR GENERAL

SEPTEMBER 10.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

together with

SUPPLEMENTAL VIEWS

[Including cost estimate of the Congressional Budget Office]

[To accompany H.R. 15390]

The Committee on Government Operations, to whom was referred the bill (H.R. 15390) to establish an Office of Inspector General within the Department of Health, Education, and Welfare, and for other purposes, having considered the same, report favorably thereon with a technical amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 12, line 17, strike out "Executive" and insert "General".

EXPLANATION OF AMENDMENT

The original language of H.R. 15390 contained an inadvertent reference to the "Executive Schedule" for compensation of Federal officials where a reference to the "General Schedule" for compensation of civil service employees had been intended. The amendment corrects this error.

PURPOSE AND SUMMARY

H.R. 15390 would establish a new office in the Department of Health, Education, and Welfare with no program responsibilities which would conduct and supervise audits and investigations relating to programs and operations of the Department.

The office would also provide leadership and coordination and recommend policies for activities designed to promote economy and efficiency in the administration of, and to prevent and detect fraud and abuse in, such programs and operations.

In addition, the office would provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of the Department's programs and operations and the necessity for and progress of corrective action.

The office would be headed by an Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General would report to and be under the general supervision of the Secretary or the Under Secretary, but would not be under the control of or subject to supervision by any other officer of the Department.

A Deputy Inspector General, appointed in the same manner as the Inspector General, would assist the Inspector General and serve as Inspector General during a vacancy or the absence or temporary incapacity of the Inspector General.

The Inspector General or the Deputy could be removed from office by the President. The President would be required to communicate the reasons for any such removal to both Houses of Congress.

The Inspector General would have responsibility for conducting audits and investigations and for coordinating other activities designed to promote economy and efficiency and to prevent and detect fraud and abuse, including relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to such matters.

The Inspector General would have specific responsibility for recommending corrective action concerning fraud and other serious problems, abuses, and deficiencies and for reporting to the Secretary and the Congress on the progress made in implementing such corrective action.

In addition to an annual report to the Secretary and the Congress on activities of the office, the Inspector General would make quarterly reports identifying recommended corrective actions on which adequate progress is not being made. The Inspector General would report immediately to the Secretary and appropriate Congressional committees whenever the office became aware of particularly serious or flagrant problems, abuses, or deficiencies.

In order to prevent lengthy delays resulting from HEW "clearance" procedures, reports or information would be submitted by the Inspector General to the Secretary and the Congress without further clearance or approval. Copies of annual and quarterly reports would, insofar as practicable, be submitted by the Inspector General to the Secretary sufficiently in advance of the due date for submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

In carrying out provisions of H.R. 15390, the Inspector General is specifically authorized to obtain necessary information by subpoena and to request necessary information or assistance from any Federal, State, or local governmental agency or unit thereof.

H.R. 15390 further provides for the Inspector General to have direct and prompt access to the Secretary when necessary for the performance of the duties of the office.

Two existing HEW units—the Audit Agency and the Office of Investigations—would become component parts of the Office of Inspec-

tor General. Additional HEW units or functions related to the duties of the Office of Inspector General could be transferred to the Office with the consent of the Inspector General, but no program operating responsibilities could be so transferred.

COMMITTEE INVESTIGATION

H.R. 15390, a bill to establish an Office of Inspector General for the Department of Health, Education, and Welfare, is based upon information obtained during more than eighteen months of study and investigation by the committee's Intergovernmental Relations and Human Resources Subcommittee.

After preliminary work beginning in late 1974, the subcommittee held hearings on HEW procedures and resources for prevention and detection of fraud and program abuse in April, May and June 1975.¹ A comprehensive report on the subcommittee's continuing investigation was approved by the full committee in January 1976.²

Hearings relating directly to establishment of an HEW Office of Inspector General were held during May 1976.³ During the hearings, consideration was given to the overall concept of an Office of Inspector General, as well as to specific provisions of pending bills.

MAGNITUDE OF HEW FRAUD AND ABUSE PROBLEM

HEW's operations present, in the words of one of its Assistant Secretaries, "a vast potential for fraud and program abuse."⁴

HEW administers around 300 separate programs, with expenditures estimated to total about \$145 billion during fiscal year 1977—more than one-third of the entire Federal budget.⁵ A substantial percentage of the huge amount is not under the direct control of HEW, but is disbursed by non-Federal entities such as States, localities, educational institutions, fiscal agents, intermediaries, carriers and grantees.⁶

Although evidence presented at the subcommittee's 1975 hearings made it abundantly clear that tremendous losses are being incurred through fraud and abuse in HEW programs, witnesses from the Department were unable to provide reliable information on which a specific estimate of losses could be based.⁷

Since that time, the Secretary has estimated that losses totaling \$750 million annually from fraud and abuse are being incurred under the Medicaid program alone.⁸ Other estimates are substantially higher; for example, the New York State Welfare Inspector General has estimated Medicaid losses in that single State at more than \$500 million per year.⁹

¹ Hearings before a subcommittee of the Committee on Government Operations, HEW Procedures and Resources for Prevention and Detection of Fraud and Program Abuse, April 22, 30; May 15, 22; June 24, 1975; hereafter cited as "1975 hearings."

² House Report 94-786, hereafter cited as "report."

³ Hearings before a subcommittee of the Committee on Government Operations, Establishment of an Office of Inspector General in the Department of Health, Education, and Welfare, May 25 and 27, 1976; hereafter cited as "1976 hearings."

⁴ 1975 Hearings, p. 7.

⁵ Report, p. 13; 1977 expenditure estimate obtained from HEW.

⁶ 1975 Hearings, pp. 14-15.

⁷ Report, pp. 8, 15-17.

⁸ Statement at March 26, 1976, news conference, based on data supplied by the Medical Services Administration.

⁹ Testimony before the Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce, February 13, 1976, pp. 85-86.

DEFICIENCIES DISCLOSED BY SUBCOMMITTEE INVESTIGATION

As outlined below, the subcommittee investigation disclosed serious deficiencies in the organizational structure, procedures and resources being used by HEW to combat fraud and abuse and promote economy and efficiency in its programs:

Fragmented organizational structure.—The subcommittee found that units responsible for combating fraud and abuses and for promoting economy and efficiency were scattered throughout HEW in a haphazard, fragmented and confusing pattern, with no single unit having the overall responsibility and authority necessary to provide effective leadership. Personnel of most such units lacked independence because they reported to and were hired and fired by officials directly responsible for the programs involved.¹⁰

The subcommittee also found that HEW Audit Agency and the central Office of Investigations reported to different Assistant Secretaries, with no high-level departmental official having overall responsibility for coordination and leadership of audit and investigative activities.¹¹

Until recently, HEW officials did not even know how many different units within the Department were engaged in activities specifically related to the promotion of economy and efficiency. A study performed at the request of the subcommittee indicated there are 63 such units, with a total of 3,642 employees directly engaged in such activities.¹²

Lack of information.—The subcommittee found that information needed by both HEW and Congress for effective action against fraud and abuse was simply not available. There was no central source of data concerning fraud and abuse nor, evidently, had any meaningful attempt been made to evaluate the overall fraud and abuse problem.¹³

Even when information was—or should have been—readily available, it was sometimes subject to lengthy delay in being provided to Congressional committees requesting it because of HEW's "clearance" processes. For example, a four-page report repeatedly requested by the subcommittee was not provided for more than 11 months, for reasons even the Under Secretary could not explain.¹⁴ Moreover, on at least one occasion, admittedly inaccurate information was provided to a Congressional committee concerning the adequacy of HEW's investigative resources.¹⁵

Inadequate resources.—The subcommittee found that HEW's investigative resources were ridiculously inadequate. Although HEW had more than 129,000 full-time employees, its central investigative unit had only 10 investigators, with a 10-year backlog of uninvestigated cases. Only one individual was assigned to guard against fraud and abuse in the Medicaid program, which accounted for nearly \$7 billion in Federal expenditures alone during fiscal year 1975.¹⁶

¹⁰ Report, pp. 8-9, 27-30.

¹¹ Report, pp. 8-9, 21-22.

¹² 1976 Hearings, pp. 47-48, 81-99.

¹³ Report, pp. 8, 15-16.

¹⁴ 1975 Hearings, pp. 2-3, 379; 1976 hearings, pp. 24-25, 115.

¹⁵ Report, p. 36; 1976 hearings, p. 88.

¹⁶ Report, pp. 9-10, 34-35.

Testimony on the HEW appropriation for 1977 indicates that the Department's audit manpower falls about 500 man-years short of meeting its workload requirements.¹⁷

The subcommittee found that HEW, at least partially because of its fragmented organizational structure, had failed to make effective use of the limited resources it had.¹⁸

Failure to take prompt corrective action.—The subcommittee found that even when serious deficiencies did become known to responsible HEW officials, corrective action was sometimes not taken until literally years later, if taken at all. For example, although HEW officials testified that such program abuse comes back because of badly designed legislation, the Department was unable to find a single instance in which it had clearly taken the initiative to call such a situation to the attention of the appropriate Congressional committees.¹⁹

The subcommittee found evidence of inexcusable delays in taking clearly needed administrative remedial action. During May 1975, for example, its investigation disclosed that two separate sets of investigators looking into fraud and abuse in the Medicare and Medicaid programs were not allowed to tell each other which providers they were investigating, even though the same providers might be suspected of fraud under both programs. Despite assurances of prompt corrective action, hearings in May 1976—more than a year later—disclosed that HEW regulations still did not permit such exchange of information.²⁰

The HEW Audit Agency, as a result of its audits, makes many recommendations for badly needed improvements in HEW procedures. However, program officials often fail to take timely action to implement such recommendations. At the end of 1975, according to testimony at subcommittee hearings, there were 490 outstanding audit reports on which timely action had not been taken.²¹

EFFECT OF H.R. 15390.

In its January 1976 report, the Committee on Government Operations unanimously recommended that action be taken to place overall responsibility for coordination and leadership of HEW auditing and investigative activities in a single individual with no program responsibilities who would report directly to the Secretary. The committee further recommended that this official should be held directly responsible for informing the Secretary of serious problems disclosed by audits and investigations and of the progress or lack of progress in correcting such problems.²²

H.R. 15390 would accomplish this objective by providing for a high-level official with no program responsibilities, reporting directly to the Secretary, who would be responsible for giving undivided attention to the prevention and detection of fraud and abuse and the promotion of economy and efficiency in HEW's programs and operations.

¹⁷ Hearings before a subcommittee of the Committee on Appropriations, House of Representatives, Departments of Labor, Health, Education, and Welfare Appropriations for 1977, Part 6, p. 854.

¹⁸ Report, pp. 9, 36-37.

¹⁹ Report, pp. 10, 40; 1976 Hearings, pp. 49-50, 63.

²⁰ 1975 Hearings, pp. 113-116, 175-177; 1976 Hearings, pp. 50-51.

²¹ 1976 Hearings, p. 71.

²² Report, p. 11.

H.R. 15390 would significantly improve HEW's organizational structure by establishing a central unit to provide leadership for and coordinate activities relating to the prevention and detection of fraud and program abuse and the promotion of economy and efficiency. While only the Audit Agency and the Office of Investigations would initially be transferred to the new Office of Inspector General, additional units and functions could be transferred by the Secretary where appropriate. In order to promote objectivity and prevent possible conflicts of interest, no program operating responsibilities could be assigned to the Office.

H.R. 15390 would substantially increase the likelihood that information needed by both the Secretary and Congress for effective action against fraud and abuse will be available to them on a timely basis. The new Office of Inspector General would serve as a central source of data concerning fraud and abuse. Immediate reports to the Secretary and Congress would be required whenever the Office of Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies. The Inspector General would also be required to inform the Secretary and appropriate congressional committees when adequate progress is not being made on significant recommendations for corrective action. Lengthy delays in furnishing information due to HEW "clearance" procedures would be eliminated by requiring that reports of the Inspector General be submitted without such clearance.

While H.R. 15390 would have no direct effect on the level of resources available to promote economy and efficiency and prevent and detect fraud and program abuse, it would help to achieve more effective use of such resources through better coordination and the elimination of duplication. It also provides for Congress to be informed without delay in the event resources being requested are considered by the Inspector General to be seriously inadequate.

H.R. 15390 would help secure more effective and timely corrective action by requiring that the Inspector General not only make recommendations for such action, but also keep the Secretary and the Congress informed about progress or lack of progress in implementing them. Moreover, through direct access to the Secretary and other means, the Inspector General would be in a position to help expedite the implementation of urgently needed corrective action.

COMMITTEE VOTE

H.R. 15390 was reported by the Committee on Government Operations by a unanimous vote, with a quorum present.

SECTION-BY-SECTION ANALYSIS OF H.R. 15390, AS AMENDED

Section 1 of the bill establishes an Office of Inspector General and describes its broad purpose as the creation of an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health, Education, and Welfare;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the

administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

Section 2(a) provides for the appointment of an Inspector General by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General is to report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

Section 2(b) provides for a Deputy Inspector General, appointed in the same manner as the Inspector General, who is to assist the Inspector General in the administration of the Office and serve as Inspector General during a vacancy or the absence or temporary incapacity of the Inspector General.

Section 2(c) provides that the Inspector General or the Deputy may be removed from office by the President; in the event of any such removal, the President shall communicate the reasons to both Houses of the Congress.

Section 2(d) makes clear that the Inspector General and the Deputy are subject to restrictions against partisan political activity applicable to civil service employees, even though not actually civil service employees.

Section 2(e) provides for appointment of Assistant Inspectors General for Auditing and for Investigations. These officials would be civil service employees and would be responsible for supervising performance of the duties currently being carried out by the Audit Agency and the Office of Investigations. These units would be transferred to the new Office of Inspector General, and it is likely that the persons now serving as directors of the units would become Assistant Inspectors General.

Section 3(a) assigns to the Inspector General primary responsibility for auditing and investigative activities relating to programs and operations of the Department and for other activities carried out or financed by the Department for the purpose of promoting economy and efficiency or preventing and detecting fraud and abuse.

In addition to establishing policies for and conducting activities of this type which are under the direct control of the Office of Inspector General, the Inspector General would have responsibility for recommending policies for and coordinating activities of this type being carried out by other Departmental units.

The Inspector General would have similar direct or indirect responsibilities regarding relationships between HEW and other Federal, State or local governmental agencies, and nongovernmental entities involving promotion of economy and efficiency, prevention and detection of fraud and abuse, and the identification and prosecution of participants in fraud and abuse. The Inspector General would not conduct prosecutions or decide whether prosecutions should or should not

be conducted, but would undoubtedly provide assistance to officials charged with responsibility for prosecuting such cases.

The Inspector General is further charged with responsibility for keeping the Secretary and the Congress fully and currently informed concerning serious problems, abuses and deficiencies relating to programs and operations of the Department, for recommending corrective action, and for reporting on progress made in implementing such corrective action.

Section 3(b) provides specific authority for the Inspector General to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

Section 3(c) directs the Inspector General to give particular regard to activities of the Comptroller General in order to avoid duplication and insure effective coordination and cooperation.

Section 4(a) provides for an annual report to the Secretary and the Congress describing significant problems, abuses and deficiencies in HEW operations and programs disclosed by activities of the Office, together with recommendations made for corrective action, and an evaluation of the progress made in implementing such recommendations.

Section 4(b) provides for a quarterly report to the Secretary and appropriate committees or subcommittees of the Congress identifying significant recommendations for corrective action on which adequate progress is not being made.

It is intended that this report be limited to recommendations which the Inspector General regards as particularly important, rather than constituting a listing of all outstanding recommendations on which timely action has not been taken.

Section 4(c) provides for an immediate report to the Secretary and the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies in Department programs and operations. The Deputy and Assistant Inspectors General are charged with particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

This subsection would not require the Inspector General to report on every investigation, but is designed to insure that the Secretary and the Congress are promptly informed of developing problem areas.

Section 4(d) provides that the Inspector General may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable. The purpose of this language is to insure that no restrictions are placed upon the Inspector General's freedom to investigate fraud, program abuse and other problems relating to HEW activities.

Section 4(d) also provides for the Inspector General to provide information or documents requested by Congress or congressional committees. The purpose of this language is merely to emphasize that information or documents available to the Inspector General are to be provided on request; it is not intended to imply that the Inspector Gen-

eral is required to conduct studies or investigations at the request of congressional committees. The Inspector General would not, of course, be prohibited from making requested studies or investigations on a voluntary basis.

Section 4(e) provides for required reports or information to be transmitted to the Secretary and Congress or its committees without further clearance or approval. The purpose of this section is to eliminate lengthy delays in furnishing information due to HEW "clearance" procedures. Copies of annual and quarterly reports would, insofar as practicable, be submitted by the Inspector General to the Secretary sufficiently in advance of the due date for submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

Section 5(a) (1) makes clear that the Inspector General is to have access to all records, documents, etc., available to HEW which relate to programs and operations with respect to which the Office has responsibilities.

Section 5(a) (2) authorizes the Inspector General to request necessary information or assistance from any Federal, State, or local governmental agency or unit thereof.

Section 5(a) (3) provides subpoena authority for the Inspector General when necessary to carry out provisions of H.R. 15390.

Section 5(a) (4) makes clear that the Inspector General is to have direct and prompt access to the Secretary when necessary in carrying out the duties of the Office.

Section 5(a) (5) requires the Inspector General to inform the Congress without delay in the event the budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent considered seriously detrimental to the adequate performance of the responsibilities of the Office.

Section 5(a) (6) authorizes employment of personnel.

Section 5(a) (7) authorizes employment of experts and consultants.

Section 5(a) (8) authorizes contractual arrangements for audits, studies and other services necessary to carry out the provisions of H.R. 15390.

Section 5(b) provides for Federal agencies to furnish information or assistance requested by the Inspector General, insofar as is practicable and not in contravention of any existing statutory restriction or applicable regulations of the agency concerned.

This section also provides for the Inspector General to report the circumstances to the Secretary and appropriate congressional committees in the event requested assistance, is in the judgment of the Inspector General, unreasonably refused.

The section provides further for the Inspector General to receive the same treatment under the Privacy Act as the Comptroller General, in the event any requested information is not already available under existing provisions of that Act.

Section 5(c) provides for the Secretary to furnish the Office of Inspector General with suitable office space and supporting services.

Section 5(d) provides that the Inspector General is to be compensated at the rate provided for level IV of the Executive Schedule

(which is the rate applicable to HEW Assistant Secretaries) and for the Deputy to be compensated at the rate applicable to Level V.

Section 6(a) transfers the functions, powers and duties of the present Audit Agency and Office of Investigations to the Office of Inspector General. It also provides that the Secretary may transfer additional offices or agencies, or functions, powers or duties thereof, where appropriate and with the consent of the Inspector General. In order to insure that the independence and objectivity of the Office is not compromised, transfer of program operating responsibilities to the Office would be prohibited.

Subsections (b) through (d) of Section 6 contain technical provisions relating to the transfer of the Audit Agency and the Office of Investigations, including provisions designed to prevent unintended adverse effects on the personnel involved.

Section 7 contains definitions of terms used in H.R. 15390.

COST ESTIMATE

H.R. 15390 does not provide any new budget authority; its costs would be financed from existing and future appropriations for the Department of Health, Education, and Welfare. Most costs of the Office of Inspector General in the immediate future will be attributable to auditing and investigative activities which would be carried out whether or not the Office of Inspector General is established. H.R. 15390 does create two new positions and additional personnel will undoubtedly be required in the future. However, it is anticipated that any expenditures for these purposes will be offset many times over through savings and recoveries attributable to establishment of the Office.

The committee's cost estimate is consistent with that of the Congressional Budget Office, which appears below. No other cost estimates were received from any Federal agency.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 10, 1976

The cost estimate from the Congressional Budget Office follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 10, 1976.

HON. JACK BROOKS,
Chairman, Committee on Government Operations,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 15390, a bill to establish an Office of Inspector General within the Department of Health, Education, and Welfare, and for other purposes.

The intent of the legislation is to utilize existing departmental resources for the Office of Inspector General. To that end, the functions, powers, and duties of the HEW Audit Agency and Office of Investi-

gations within HEW are to be transferred to the Office of Inspector General. Finally, the existing and future departmental management appropriations are to be used for the salary of the Inspector General and his deputy.

Because of the utilization of existing resources, it appears that no additional costs to the government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

INFLATIONARY IMPACT

Since the enactment of H.R. 15390 would be expected to result in a reduction in expenditures, rather than additional net costs, it would have no inflationary impact on prices and costs in the operation of the national economy.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Findings, Conclusions and Recommendations from the committee's oversight report (House Report 94-786, January 26, 1976) follow:

FINDINGS AND CONCLUSIONS

The findings and conclusions in this report are based on an comprehensive review by the subcommittee of procedures and resources used by the Department of Health, Education, and Welfare to prevent and detect fraud and abuse in its programs. This inquiry is continuing and is expected to include consideration, early this year, of legislation to establish an Office of Inspector General for the Department.

On August 6, 1975, after completion of the hearings which provided the documentary base for this report, the subcommittee chairman wrote HEW Secretary Mathews to alert him to the serious problem being disclosed by the subcommittee investigation and to urge that corrective action be initiated as soon as possible.

While no formal reply to the August 6 letter has yet been received, it is known that HEW is taking actions related to matters discussed in the letter. A copy of the letter is in the Appendix to this report.

On the basis of the subcommittee investigation to this date, the Committee reached the following specific findings and conclusions:

1. The Department of Health, Education, and Welfare currently is responsible for about 300 separate programs involving expenditures in excess of \$118 billion annually—more than one-third of the entire Federal budget. Because of the magnitude and complexity of its activities, aggravated in many instances by lack of direct control over expenditures, HEW's operations present an unparalleled danger of enormous loss through fraud and program abuse.

2. HEW officials responsible for prevention and detection of fraud and abuse have little reliable information concerning the extent of losses from such activities.

There is no central source of data concerning fraud and abuse nor, evidently, has any meaningful attempt been made to evaluate the overall extent of the fraud and abuse problem. Statistics which are available are often incomplete and unreliable.

HEW officials were unable to provide such basic information as an accurate count of the number of HEW programs until more than five months after the information was initially requested. During this period, at least four different figures on the number of HEW programs were supplied to Congressional committees, ranging from a low of 250 to as many as 320.

Without adequate information, neither HEW officials nor Congress can accurately measure either the need for or the effectiveness of action to prevent and detect fraud and program abuse, nor can priorities for use of available resources be determined on a rational basis.

3. Fraud and abuse in HEW programs are undoubtedly responsible for the loss of many millions of dollars each year. The committee has not attempted to name a specific figure at this time because HEW officials could not provide information on which a reliable estimate of such losses could be based.

4. HEW units charged with responsibility for prevention and detec-

tion of fraud and program abuse are not organized in a coherent pattern designed to meet the overall needs of the Department.

There is no central unit with the overall authority, responsibility and resources necessary to insure effective action against fraud and abuse. Under its charter, the Office of Investigations and Security has departmentwide responsibility for leadership, policy direction, planning, coordination and management of investigations. However, its authority over operations of the Social Security Administration has been effectively nullified as the result of agreement made by non-OIS officials; moreover, OIS could not possibly carry out its assigned responsibilities with the hopelessly inadequate resources it now has.

Fraud and abuse units other than OIS and the Audit Agencies are scattered throughout HEW in a haphazard, fragmented and often confusing pattern. Some major programs have no fraud and abuse unit, while other units exist mostly on paper. Some units have no personnel in field offices; in other instances, field personnel are not subject to the direction and control of the unit's headquarters. Personnel of most units work exclusively and continuously on a single program, and are not available to help correct more serious problems elsewhere.

5. Personnel of most HEW fraud and abuse units lack independence and are subject to potential conflicts of interest because they report to officials who are directly responsible for managing the programs the unit is investigating. Under these circumstances, employees may be inhibited in making an honest and thorough report that could embarrass their superiors.

The independence of the Office of Investigations is restricted in another way. Under current arrangements, OIS may not initiate any investigation without specific approval of the Secretary or Under Secretary. In addition to the obvious restriction on the independence of OIS, this procedure creates an unnecessary burden for the Secretary or Under Secretary and places them in the undesirable position of having to decide personally whether or not suspected irregularities are to be investigated. Any safeguards necessary to insure that inappropriate investigations are not conducted should be imposed through carefully adopted procedures and guidelines, rather than individual decisions by the Secretary or Under Secretary.

6. Under current organizational arrangements, there is little assurance that the Secretary will be kept informed of serious fraud and abuse problems, or that action necessary to correct such problems will be taken. The OIS charter does not provide for guaranteed access to the Secretary or Under Secretary. Most other fraud and abuse units report to program officials, usually at a relatively low level. Since those receiving reports of fraud and abuse problems are likely to be responsible for the programs involved, there may be little incentive for such officials either to call problems to the attention of the Secretary or to initiate prompt and aggressive corrective action which could result in public laundering of their own dirty linen.

7. Resources devoted by HEW to prevention and detection of fraud and program abuse are ridiculously inadequate. Although HEW has more than 129,000 full-time employees, the Office of Investigations and Security has had only ten investigators.

At least partially because of its fragmented organizational structure, HEW has failed to make effective use of the resources it has. As a

result, OIS has a ten-year backlog of uninvestigated cases; at the same time, the 11 investigators in the SSA Investigations Branch have been so underutilized that the unit has no significant backlog and has left 8 investigative positions unfilled.

Although the total number of persons reported assigned to fraud and abuse units is about 300, more than 180 of them work exclusively on the Medicare program, and most of the remainder are assigned to other programs of the Social Security Administration. Individuals working in OIS and the SSA Investigations Branch are qualified investigators, but personnel assigned to other units may have no substantial investigative training or experience.

8. There are serious deficiencies in the procedures used by HEW for the prevention and detection of fraud and program abuse. Until recently, HEW had not advised employees of the Department that they had an obligation to call information indicating possible fraud or abuse to the attention of appropriate officials. Moreover, there is no departmentwide policy for or centralized supervision of the referral of possible fraud cases for prosecution.

The subcommittee's investigation disclosed instances in which it took as long as five years or more for HEW to take corrective action after deficiencies in its regulations became known. Part of the blame can be attributed to cumbersome procedures for changing regulations; however, some delays were so lengthy as to indicate the almost total lack of any sense of urgency.

RECOMMENDATIONS

The committee recommends that the Secretary of Health, Education, and Welfare carefully review this report with a view to taking corrective action concerning the deficiencies disclosed herein. Specific recommendations follow:

1. It is expected that the subcommittee will give further attention to deficiencies in the organizational structure of HEW fraud and abuse units early next year in connection with its consideration of legislation to establish an Office of Inspector General for the Department of Health, Education, and Welfare. In the meantime, the committee recommends that the Secretary take appropriate steps to place the HEW Audit Agency, the Office of Investigations and Security, and the SSA Investigations Branch under the overall direction of a single official who reports directly to the Secretary and has no program responsibilities. To the extent feasible, other HEW investigative personnel should be included in this organizational arrangement.

Such action could be taken without affecting the status of OIS and the Audit Agency as separate units, nor would it require reassignment of personnel to work on different programs. However, it would place overall responsibility for coordination and leadership of auditing and investigative activities in a single individual reporting directly to the Secretary. This official should be held directly responsible for informing the Secretary of serious problems disclosed by audits and investigations and of the progress or lack of progress in correcting such problems.

2. The committee recommends that the Secretary immediately discontinue the requirement that OIS obtain prior clearance from the Secretary or Under Secretary before initiating investigations.

3. The committee recommends that the Secretary initiate an immediate review of HEW fraud and abuse problems and the personnel and resources being used to combat such problems. This review should include an effort to determine:

(a) The nature and magnitude of fraud and abuse problems confronting HEW and the extent, to which prompt and effective action is or is not being taken to correct them;

(b) The extent and nature of resources presently available to HEW which might be effectively used for the prevention and detection of fraud and program abuse;

(c) The extent to which additional resources are needed, taking into account any improvements which can be made through more efficient use, organization or reassignment of available personnel; and

(d) The manner in which responsibility for combating fraud and abuse is presently allocated between HEW and State governments and the effectiveness of such arrangements.

The committee requests that the Secretary provide it with a report on the results of this review as soon as feasible.

4. The committee recommends that the Secretary take prompt action to correct procedural deficiencies discussed in this report. In particular, the committee recommends that the strongest possible action be taken to insure that serious deficiencies known to exist in program regulations are corrected promptly.

LETTER FROM HON. L. H. FOUNTAIN TO HON. F. DAVID MATHEWS

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 6, 1975.

HON. F. DAVID MATHEWS,
*Secretary-Designate, Department of Health, Education, and Welfare,
Washington, D.C.*

DEAR MR. SECRETARY: As I indicated in my letter of August 5, I am writing to call to your attention some specific problems in HEW's operations which appear to me to call for urgent remedial action.

As you may know, the Intergovernmental Relations and Human Resources Subcommittee is reviewing the resources and procedures utilized by the Department of Health, Education, and Welfare to prevent and detect fraud and abuse in its programs. In connection with this inquiry, the subcommittee requested background information in March of this year and held public hearings in April, May and June.

A formal report on the subcommittee's continuing investigation is now being prepared and is expected to be ready in the near future. It is also my expectation that the subcommittee will give consideration in the near future to the establishment of a statutory Office of Inspector General for the Department of Health, Education, and Welfare.

The report now being prepared will contain a detailed account of the subcommittee's findings, conclusions and recommendations. However, in view of very serious deficiencies disclosed by the subcommittee's investigation, I thought it advisable to write to you in advance of the report to urge that corrective action be initiated as soon as possible.

Since the subcommittee's report has not yet been completed, it would be inappropriate for me to try to speak for other members of the subcommittee at this time. However, in my judgment, the subcommittee's investigation clearly disclosed that:

1. Fraud and abuse in HEW programs are causing enormous losses and greatly reducing the effectiveness of HEW programs. Resources used to combat fraud and abuse are so inadequate and disorganized that HEW officials have little or no reliable information concerning the actual amount of such losses.

2. According to its charter, as published in the Federal Register, the Office of Investigations and Security has departmentwide responsibility and authority for policy direction, planning, coordination and management of investigations. However, HEW has not complied with this stated policy. Instead, there evidently is an unwritten agreement that OIS shall take no part in investigative matters involving the Social Security Administration, even though SSA programs account for more than 80% of all HEW expenditures.

3. The Office of Investigations and Security is responsible for reporting directly to the Secretary on fraud and abuse in HEW programs. However, even though HEW programs involve more than 129,000 employees and expenditure of \$118 billion annually, OIS has only 10 investigators to investigate allegations of fraud. Five of HEW's ten regional offices do not have a single professional investigator assigned. When the subcommittee began its hearings in April, OIS had a four-year backlog of uninvestigated cases; that backlog has now grown to approximately ten years.

4. There are thirteen additional professional investigators working for HEW, who do not report to the Secretary. These investigators are assigned to the Investigations Branch of the Social Security Administration's Office of Administration, and work only on cases referred to them by SSA program units. These investigators currently have no backlog—primarily because very few cases are being referred to them.

5. There are also a number of quasi-investigative units which report to the administrators of some HEW programs. These units do not report to the Secretary, and apparently were established on an individual basis rather than as part of a coherent and coordinated overall plan to help provide the Secretary with information needed to combat fraud and abuse in HEW programs. There has been little or no coordination between units working on such closely related programs as Medicare and Medicaid.

The subcommittee's report will undoubtedly go into considerably more detail, but I am sure the above points are more than sufficient to illustrate the basis for my concern.

Pending issuance of the subcommittee's report, I want to urge that you give immediate personal attention to strengthening the procedures and resources used by HEW to prevent and detect fraud and program abuse, and to suggest specifically that:

1. Immediate action be taken to make the SSA Investigations Branch a part of OIS, thereby bringing HEW's investigative operations into compliance with the Department's stated policy. This would also make presently underutilized investigative resources available to meet the pressing needs of the Department.

2. An immediate review be made of personnel and resources being utilized for the prevention and detection of fraud and program abuse with a view to evaluating Departmental needs and available resources, and taking appropriate action to insure a high degree of cooperation and coordination among auditors, investigators and program managers.

3. Immediate action be taken to assign at least one qualified investigator to each regional office; if necessary, this could be accomplished by transferring qualified investigators from program units to OIS.

I hope these comments and suggestions will be helpful to you. If you would like any additional information concerning any of the matters discussed above, please feel free to have the appropriate member of your staff contact the subcommittee Counsel, Mr. Naughton.

Best personal regards.

Sincerely,

L. H. FOUNTAIN, *Chairman.*

SUPPLEMENTAL VIEWS OF HON. BENJAMIN S. ROSENTHAL

I applaud the actions of the committee in reporting out this bill. In the 18 months which have elapsed since I introduced the original measure, evidence of mismanagement, fraud and abuse in HEW has swelled. In some programs, improper or illegal expenditures may now account for half of the total dollars consumed.

The root of the problem is the federal government's deferral of its investigatory and oversight responsibilities to the states.

The federal student loan program is an example of activity crippled by fraud, mismanagement and/or abuse. The HEW Office of Guaranteed Student Loans, with a total of \$3.3 billion in federally insured loans, experienced an 18% default rate in fiscal year 1975, a figure which is expected to have grown to 20% in fiscal 1976.

It is not surprising that HEW cannot monitor effectively its multi-billion dollar budget. The Office of Investigations and Security (OIS), HEW's principal oversight agency, has 24 investigators and a 10-year backlog of cases to monitor HEW's \$140 billion budget. This small staff must police the performance of 129,000 HEW employees in their management of over 300 complex government programs that directly or indirectly affect the daily lives of tens of millions of Americans.

HEW has sought to cope with the huge potential for abuse by enlisting the aid of the states. This cooperation must continue but the evidence is overwhelming that it is no substitute for vigorous federal oversight. Many states do not have the resources or the experience to cope with the multitude of sophisticated schemes and devices used to evade the law. Moreover, there are many investigatory techniques, such as wider use of computer audits, which can only be undertaken economically at the federal level. Many fraudulent operations cross state lines or duplicate themselves in many areas of the country. A nationwide approach and perspective in meeting these challenges is essential.

There is a direct correlation between increased federal enforcement efforts and the detection of fraud. The 100 cases pending before the OIS offer a potential savings or recovery of \$20 million. In addition, 70% of the state prosecutions for Medicaid fraud have been conducted by California, which has a staff of 74, the largest Medicaid investigatory staff in the country. California's achievements in this area are in sharp contrast with those of the twenty-one states which have no investigations staff, and consequently, are totally inactive in fraud and abuse detection.

I am an ardent supporter of our nation's social service programs. For this reason I feel even more strongly that every effort must be made to rid these programs of the waste and fraud which deprives the needy and deserving of billions of dollars a year in intended support.

As a member of this committee, I have recognized that governmental structure plays a critical role in the formulation of policy. I am afraid

that the investigatory framework at HEW is timeworn, rusty and inadequate and is inappropriate to the function it is asked to perform.

The legislation approved by this committee would provide HEW with the tools essential to the exercise of its oversight responsibilities. The Inspector General would be appointed for a 10-year term by the President with the advice and consent of the Senate. He would have the power to subpoena persons, records and documents. This authority, which is indispensable for an adequate investigatory agency, is not presently enjoyed by HEW investigators.

The usefulness of inspectors general has been confirmed by the GAO. A recent GAO report found that inspectors general are integral to the economic efficiency of the agencies which they serve.

Some question has been raised about vesting the HEW Inspector General with subpoena power. This is the only way to insure complete access to information. Many federal regulatory agencies, including the SEC, FTC and FCC, have this right. Without it, an inspector general's office is forced to rely on the information which those being investigated want him to have. This precludes any effective evidence-gathering and undermines the office from its inception.

The organizational placement of the Inspector General's Office is also important. As recognized by a GAO review of the activities of the Agriculture Department Office of Inspector General, an effective inspector general must be independent of the officials directly responsible for the operations he reviews. This insures the inspector general maximum independence and permits objectivity and impartiality in his oversight of departmental activities.

The credibility of the federal government is severely threatened by the gross mismanagement of our social welfare programs. This bill provides HEW with the tools necessary to restore some of this lost confidence.

BENJAMIN S. ROSENTHAL.

○

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

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

An Act

To authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is authorized, subject to section 2 of this Act, to convey to the Shriners' Hospitals for Crippled Children, a Colorado corporation, without consideration, all right, title, and interest remaining in the United States in and to the following described land, being a portion of the tract conveyed to Shriners' Hospitals for Crippled Children by deed of July 12, 1946, pursuant to the Act entitled "An Act to authorize the Secretary of War to convey certain lands situated within the Fort Douglas Military Reservation to the Shriners' Hospitals for Crippled Children", approved March 14, 1946 (60 Stat. 55) :

Beginning at a point north 0 degrees 01 minutes 57 seconds west 42.07 feet and south 75 degrees 09 minutes 12 seconds east 34.14 feet from a Salt Lake City monument at the intersection of Eleventh Avenue and Virginia Street, such point being further described as north 529.37 feet and east 268.85 feet from the southwest corner of the northwest quarter of section 33, township 1 north, range 1 east, Salt Lake base and meridian; running thence south 0 degrees 01 minutes 57 seconds east 30.76 feet; thence south 87 degrees 50 minutes 03 seconds east 135.45 feet; thence north 75 degrees 09 minutes 12 seconds west 140.04 feet to the point of beginning.

SEC. 2. (a) The conveyance to be made under this Act shall be subject to the condition that the transferee, the Shriners' Hospitals for Crippled Children, shall reconvey or dedicate the land specifically described in the first section of this Act to Salt Lake County, Utah, for street construction purposes.

(b) The costs of any surveys necessary as an incident to the conveyance authorized by this Act shall be borne by the Shriners' Hospitals for Crippled Children.

TITLE II—OFFICE OF INSPECTOR GENERAL

SEC. 201. In order to create an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health, Education, and Welfare;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action; there is hereby established in the Department of Health, Education, and Welfare an Office of Inspector General.

OFFICERS

SEC. 202. (a) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(b) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(c) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(d) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(e) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 6(a)(1), and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 6(a)(2).

DUTIES AND RESPONSIBILITIES

SEC. 203. (a) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and non-governmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by section 4 and other-

wise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a) (1), the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

(c) In carrying out the duties and responsibilities provided by this Act, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(d) The Inspector General shall establish within his office an appropriate and adequate staff with specific responsibility for devoting their full time and attention to antifraud and antiabuse activities relating to the medicaid, medicare, renal disease, and maternal and child health programs. Such staff shall report to the Deputy.

REPORTS

SEC. 204. (a) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(b) The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

(c) The Inspector General shall report immediately to the Secretary, and within seven calendar days thereafter to the appropriate committees or subcommittees of the Congress, whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(d) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of

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Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(e) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (a) and (b) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 205. (a) In addition to the authority otherwise provided by this Act, the Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this Act;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this Act, the Inspector General shall so inform the Congress without delay;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such

payments as may be necessary to carry out the provisions of this Act.

(b) (1) Upon request of the Inspector General for information or assistance under subsection (a) (2), the head of any Federal agency involved shall, insofar as is practicable, and not in contravention of any existing statutory restriction, or regulation of the Federal agency from which the information is requested, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a) (1) or (a) (2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

(3) In the event any record or other information requested by the Inspector General under subsection (a) (1) or (a) (2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(c) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d) (1) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

TRANSFER OF FUNCTIONS

SEC. 206. (a) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of—

(1) the agency of the Department referred to as the "HEW Audit Agency";

(2) the office of the Department referred to as the "Office of Investigations"; and

(3) such other offices or agencies, or functions, powers, or duties thereof, as the Secretary may, with the consent of the Inspector General, determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act.

except that there shall not be transferred to the Inspector General under clause (3) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

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(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

DEFINITIONS

SEC. 207. As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) the term "Department" means the Department of Health, Education, and Welfare;

(3) the term "Inspector General" means the Inspector General of the Department;

(4) the term "Deputy" means the Deputy Inspector General of the Department; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

Speaker of the House of Representatives.

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