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APPROVED
OCT 19 1976

810/19/76

THE WHITE HOUSE

ACTION

WASHINGTON

October 19, 1976

Last Day: October 20

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON *Jim Cannon*

SUBJECT: H.R. 10133 - Department of Agriculture Positions

posted 10/20/76
archive 10/20/76

Attached for your consideration is H.R. 10133, sponsored by Representative Foley.

H.R. 10133 incorporates the provisions of an Administration proposal to upgrade top staff positions of USDA. Specifically, the bill:

- upgrades the position of Under Secretary of Agriculture from Executive Level III to Level II and changes the title to Deputy Secretary;
- establishes an additional position of Assistant Secretary of Agriculture at Executive Level IV;
- raises the position of the Administrator, Animal and Plant Health Inspection Service from GS-18 to Executive Level V;
- increases the membership of the Board of Directors of the Commodity Credit Corporation from six to seven;
- removes from Executive Level V the position of Director of Agricultural Economics.

The bill also contains a nongermane rider, added by the Senate Committee on Agriculture and Forestry, to exempt custom poultry operations from the requirements of the Farm Labor Contractor Registration Act of 1963, provided the employees of the operations are not regularly required to be away from their homes other than during their normal working hours.

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



Agency Recommendations

The Department of Labor recommends veto of the bill unless the need for executive level changes in USDA outweighs the Department's concerns about the exemption of poultry workers from FLCRA.

The Department of Agriculture recommends approval of the bill and has no objection to the FLCRA exemption amendment.

OMB recommends approval of the bill.

Staff Recommendations

Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 10133 at Tab B.



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

OCT 14 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10133 - Department of
Agriculture Executive Positions
Sponsor - Rep. Foley (D) Washington

Last Day for Action

October 20, 1976 - Wednesday

Purpose

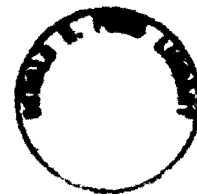
Upgrades the top-level policy positions of the U.S. Department of Agriculture (USDA) and exempts certain custom poultry operations from the provisions of the Farm Labor Contractor Registration Act (FLCRA).

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of Labor	Disapproval

Discussion

H.R. 10133 incorporates the provisions of an Administration proposal to upgrade top staff positions of USDA. Specifically, the bill upgrades the position of Under Secretary of Agriculture from Executive Level III to Level II and changes the title to Deputy Secretary; establishes an additional position of Assistant Secretary of Agriculture at Executive Level IV; raises the position of the Administrator, Animal and Plant Health Inspection Service from GS-18 to Executive Level V; increases the membership of the Board of Directors of the Commodity Credit Corporation from six to seven; and removes from Executive Level V the position of Director of Agricultural Economics.



H.R. 10133 also contains a nongermane rider, added by Senate Committee on Agriculture and Forestry, to exempt custom poultry operations (i.e., harvesting, breeding, debeaking, sexing, and health service) from the requirements of the Farm Labor Contractor Registration Act of 1963, provided the employees of the operations are not regularly required to be away from their homes other than during their normal working hours. The FLCRA was amended in 1974 to cover all types of agricultural contract labor, regardless of the number of workers involved or whether the workers were recruited for interstate or intrastate agricultural employment. As a result, contractors performing poultry service operations, who are not in interstate commerce and who typically operate with small crews, must meet certain working and living standards requirements, maintain records and comply with other provisions of the act.

In recommending the exemption of poultry service operations, the Senate Agriculture and Labor Committee stated in its report, "The poultry service operations, now being subjected to the Farm Labor Contractor Registration Act requirements, are not within the general ambit of 'migrant' labor, but are subject to the Act because of the technical scope of the statutory definitions after the 1974 amendments... The Committee believes that such custom poultry service operations--where the workers are clearly not migrant workers--should not be subject to the provisions of the Farm Labor Contractor Registration Act."

This would be the second time since the 1974 amendments that Congress has exempted a group from FLCRA coverage. P.L. 94-259, which you approved on April 15, 1976, exempted custom combine operators, hay harvesters and sheep shearers. That exemption, sponsored by Senator Robert Dole (Kansas), was approved on the grounds that the class of workers exempted did not fall within the general ambit of unskilled migrant farm workers that the FLCRA is intended to protect. The Administration did not have an opportunity to comment on the exemption amendment in the enrolled bill.

Agency Recommendations

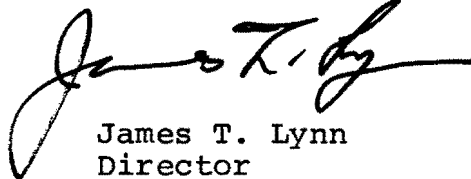
Labor recommends a veto of the bill unless the need for executive level changes in USDA outweighs the Department's concerns about the exemption of poultry workers from FLCRA.

In its views letter, Labor states that it is not convinced that the poultry workers affected do not need the protections which the FLCRA affords them and is concerned that this provision might be viewed as a precedent for further erosion of FLCRA coverage.

Agriculture recommends approval of H.R. 10133 and has no objection to the FLCRA exemption amendment.

* * * * *

The Department of Labor has no evidence that there have been, in poultry service operations, the farm labor contractor abuses that FLCRA is designed to prevent. In the absence of such evidence, we see no justification for overturning the Congressional determination that the proposed exemption is warranted. While Labor's concern about the possible precedential effect of the FLCRA exemption is not without merit, we do not believe it warrants disapproval of H.R. 10133. Accordingly, we concur in Agriculture's recommendation that you approve H.R. 10133.



James T. Lynn
Director

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: 200pm

FOR ACTION:

Paul Leach *pk* cc (for information):
Max Friedersdorf *MS*
Bobbie Kilberg *ak*
David Lissy *ak*

Jack Marsh
Ed Schmults
Steve McConahey *SM*

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: 200pm

SUBJECT:

H.R.10133-Department of Agriculture Executive Positions

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

x

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

K. R. COLE, JR.
For the President



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

October 12, 1976

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

Dear Mr. Lynn:

This is in reply to your request for our report on the enrolled enactment of H.R. 10133.

This Department recommends that the President approve the Act.

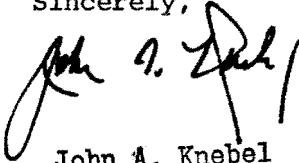
This enactment upgrades the position of Under Secretary of Agriculture (Executive Level III) to a Level II Deputy Secretary, establishes a new position of Assistant Secretary of Agriculture at Executive Level IV, raises the position of Administrator of the Animal and Plant Health Inspection Service from GS-18 to Executive Level V, increases the membership of the Board of the Commodity Credit Corporation from six to seven, and removes from Executive Level V the position of Director of Agricultural Economics (whose duties will be assumed by the new Assistant Secretary). The Act also excludes from the requirements of the Farm Labor Contractor Registration Act custom poultry harvesting, breeding, debeaking, sexing, and health service operations provided the employees of such operations are not regularly required to be away from their homes other than during normal working hours.

This legislation will bring the top-level staff of this Department in line with other departments and recognize the tremendous growth in USDA programs since 1953, the last time such adjustment occurred. The scope, magnitude, and complexity of the Department's operations have increased substantially since 1953, while the only additional top-level policy position approved since that time has been the additional Assistant Secretary position which was included in the Rural Development Act of 1972.

We have no objection to the amendment to the Farm Labor Contractor Registration Act.

We estimate the cost of H.R. 10133 to be about \$5,000 for fiscal year 1977. However, no additional appropriations would be required since this cost could be absorbed within current appropriations.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Knebel". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

John A. Knebel
Acting Secretary

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

OCT 7 1976

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

Dear Mr. Lynn:

This is in response to your request for our views on H.R. 10133, an enrolled enactment "To upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes."

With respect to most of the provisions of this Act, we defer to the views of the Department of Agriculture, which would be primarily affected. However, we do oppose the provision which would amend the Farm Labor Contractor Registration Act (FLCRA), as amended, which is administered by this Department.

The proposed amendment to the Farm Labor Contractor Registration Act provides that the term "farm labor contractor," as defined in section 3(b) of the Act, shall not include custom poultry harvesting, breeding, debeaking, sexing, and health service operations, provided that employees engaged in these operations are not regularly required to be away from their homes other than during normal working hours. The effect of this provision will be to exempt these poultry service operations from the requirements of the Act.

Available data indicates that over 4,000 employee-years are devoted annually to activities involved in poultry service operations. However, since individuals employed for these activities are almost always part-time workers, considerably more individuals than the employee-years figure indicates would be affected by the loss of FLCRA protections.

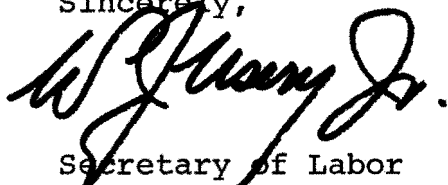
We are not convinced that this group of workers is not in need of the protections which the Act affords them. For example, the vehicle insurance and safety requirements are important to these workers in view of the fact that many poultry service contractors do transport workers. We believe the protection of the Act is needed and we are not aware of any justification for denying these workers this protection. Moreover, while the protections for workers under the Act are substantial, the requirements of the Act are no different for poultry contractors than for any other farm labor contractor. There is no charge for registration although there may be some cost implication. Section 5 of the Act requires applicants for certificates to obtain minimum amounts of liability insurance on vehicles which will be used to transport workers. Proof must also be provided that each vehicle meets applicable safety and health standards. If the insurance coverage specified exceeds the amount the contractor would ordinarily carry, or if the vehicle does not meet safety and health standards, there would be added costs involved.

The records required to be kept by contractors under the Act are similar to those payroll records kept by a prudent business person. In addition to the usual payroll records, a contractor is required to provide each worker with a statement showing all sums paid to the contractor from monies received on account of the labor of such workers.

Finally, we are very much concerned that this provision, if enacted, might be viewed as a precedent for further erosion of FLCRA coverage.

For these reasons, we recommend that the President veto this legislation unless it is determined that the need for the Act's other provisions relating to the organization of the Agriculture Department outweighs our concerns.

Sincerely,



Secretary of Labor



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

OCT 14 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10133 - Department of
Agriculture Executive Positions
Sponsor - Rep. Foley (D) Washington

Last Day for Action

October 20, 1976 - Wednesday

Purpose

Upgrades the top-level policy positions of the U.S. Department of Agriculture (USDA) and exempts certain custom poultry operations from the provisions of the Farm Labor Contractor Registration Act (FLCRA).

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of Labor	Disapproval

Discussion

H.R. 10133 incorporates the provisions of an Administration proposal to upgrade top staff positions of USDA. Specifically, the bill upgrades the position of Under Secretary of Agriculture from Executive Level III to Level II and changes the title to Deputy Secretary; establishes an additional position of Assistant Secretary of Agriculture at Executive Level IV; raises the position of the Administrator, Animal and Plant Health Inspection Service from GS-18 to Executive Level V; increases the membership of the Board of Directors of the Commodity Credit Corporation from six to seven; and removes from Executive Level V the position of Director of Agricultural Economics.

To
J. Johnson
10-15-76
1:30 p.m.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: (ber 15

Time: 200pm

FOR ACTION: Paul Leach cc (for information): Jack Marsh
 Max Friedersdorf Ed Schmults
 Bobbie Kilberg Steve McConahey
 David Lissy

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: 200pm

SUBJECT:

H.R.10133-Department of Agriculture Executive
 Positions

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

please return to judy johnston,ground floor west wing

No objection -- Ken Lazarus 10/15/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please

K. R. COLE, JR.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: 200pm

FOR ACTION: Paul Leach cc (for information): Jack Marsh
 Max Friedersdorf Ed Schmults
 Bobbie Kilberg Steve McConahey
 David Lissy

FROM THE STAFF SECRETARY

DUE: Date: October 18 Time: 200pm

SUBJECT:

H.R.10133-Department of Agriculture Executive Positions

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

please return to judy johnston, ground floor west wing

Recommend Approval.
[Signature]

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

K. R. COLE, JR.

USDA EXECUTIVE ADJUSTMENTS

MAY 15, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture, submitted the following

REPORT

together with

DISSENTING VIEWS

[Including the Congressional Budget Office cost estimates]

[To accompany H.R. 10133]

The Committee on Agriculture, to whom was referred the bill (H.R. 10133), to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 6, strike "(22)" and insert "(23)".

Page 2, line 19, strike the clause "two additional Assistant Secretaries" and insert in lieu thereof "one additional Assistant Secretary".

Page 3, lines 2 and 3, strike all of the sentence after the words "is amended" and insert in lieu thereof "by striking the number which appears in the parenthesis at the end of paragraph (11) and by inserting in lieu thereof the next higher number."

Page 3, strike lines 5, 11 and 12 inclusive.

Page 3, line 6, strike "(2)" and insert in lieu thereof "(1)".

Page 3, line 7, strike "(3)" and insert in lieu thereof "(2)".

Page 3, immediately after line 10, insert the following: "(3) By inserting a new paragraph (64) as follows: '(64) Administrator, Food and Nutrition Service'."

Page 3, strike lines 22 through 25, and insert in lieu thereof: "(b) Subsections (b) (2) and (3) shall become effective January 21, 1977." Page 4, line 1, strike "(b) (2)" and insert in lieu thereof "(b) (1)". Amend the title to read as follows:

To upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes.

BRIEF EXPLANATION OF THE LEGISLATION

H.R. 10133 was introduced by the Chairman of the Committee on Agriculture, Honorable Thomas S. Foley, at the request of the Secretary of Agriculture. It has been amended by the Committee, with the concurrence of the Secretary. H.R. 10133 would accommodate the tremendous increase in the scope and complexity of the programs administered by the United States Department of Agriculture over the past quarter century by upgrading and augmenting the top-level policy staff of the Department. This legislation:

- Upgrades the position of Under Secretary to Deputy Secretary of Agriculture;

- Establishes a new position of Assistant Secretary of Agriculture at Executive Level IV;

- Raises the positions of Administrator, Animal and Plant Health Inspection Service, and Administrator, Food and Nutrition Service, from GS-18 to Executive Level V;

- Increases the membership of the board of the Commodity Credit Corporation from six to seven; and

- Removes from Executive Level V the position of Director of Agricultural Economics (whose duties will be assumed by the new Assistant Secretary) and the position of Director of Science and Education (which has not been filled for several years).

PURPOSE AND NEED FOR LEGISLATION

The purpose of this legislation is to bring the USDA top-level staff in line with other departments and to recognize the tremendous growth in the scope and complexity of USDA programs since 1953, the last time such legislation was enacted. The scope, magnitude, and complexity of the Department's operations have increased substantially since 1953, while the only additional top-level policy position approved since that time has been the position of Assistant Secretary for Rural Development which was included in the Rural Development Act of 1972.

At present the Secretary of Agriculture has available to assist him in managing and directing the complex and far-reaching programs of the Department of Agriculture a top-level staff consisting of one Under Secretary, four program Assistant Secretaries, an Assistant Secretary for Administration, and the Director of Agricultural Economics. This small group of top policy officials is responsible for developing the policies and directing and managing the operations of a Department

that carries out its many complex programs at over 10,000 locations, in every one of the 50 States, in over 3,000 counties, in every major metropolitan area, and in many foreign countries.

Many new programs have been enacted by the Congress since 1953, such as watershed protection, mandatory poultry inspection, National Wool Act, Food Stamp Program, Child Nutrition Act, Agricultural Fair Trade Practices Act, water and sewer program, cooperative forestry research program, and programs for the disposition of commodities under the Agricultural Trade Development and Assistance Act (Public Law 480), and resource conservation and development program. Existing programs have been expanded in the areas of meat inspection, marketing, food distribution, nutrition, consumer services, research, education, forest land management, timber sales, rural housing, technical assistance by the Soil Conservation Service to farmers and soil conservation districts, and rural area development activities.

The relationships between these programs and other Government programs are becoming more and more complex. This has resulted, for example, in designation of the Secretary of Agriculture as a member of the Council on International Economic Policy, the Cost of Living Council, the Water Resources Council and other groups.

Net budgetary expenditures for all activities of the Department increased from about \$4.7 billion in 1953 to an estimate of about \$10.7 billion in 1977. During this same period the man-years (average annual employment increased from 62,479 to 105,752.

The need for adequate staffing of the several Departments at the Deputy Secretary and Assistant Secretary level has been recognized in most of the other cabinet-level agencies of the Government. The Committee believes the magnitude and scope of the activities which the Congress has authorized and directed the Department of Agriculture to carry out are as great as, or greater than, those of most other civilian cabinet-level agencies.

Four Departments of Government now have Deputy or Under Secretaries at the Executive Level II, including the Departments of State, Treasury, Defense (2), and Transportation. The Department of Agriculture, in terms of budget, numbers of employees, breadth of program, and general responsibility is sufficiently important to merit a Deputy Secretary at the Executive Level II. In addition, changing the classification of this position from Under Secretary to Deputy Secretary will give the incumbent additional influence as he deals with other Departments of Government and with agencies outside Government.

USDA, with but four Assistant Secretaries at Executive Level IV ranks low among the Executive Departments. By comparison, the Defense Department and its service departments have a total of 22; the Department of Housing and Urban Development has 8; the Department of State has 12; the Department of Justice has 9; the Department of the Treasury has 5; the Department of the Interior has 6; and the Department of Labor has 6.

The position of Director of Agricultural Economics was established in the Office of the Secretary of Agriculture on October 13, 1961. This position has as high a level of responsibility as have Assistant Secretaries of Agriculture and, therefore, should be accorded the same rank. The positions of Administrator, Animal and Plant Health Inspection Service (APHIS) and of Administrator, Food and Nutrition Service (FNS) should be upgraded to Executive Level V.

APHIS is one of the largest and most complex agencies in the Department of Agriculture. It has overall responsibility for the meat and poultry inspection programs as well as the many programs in the areas of plant and animal disease and pest control. The agency employs over 15,000 people and administers a budget of over \$400 million. With the exception of the Forest Service, no agency in the Department employs more people, and none has a greater diversity of responsibilities. However, seven agencies that are smaller than this one have Level V administrators. It should be noted that the Food and Drug Administration, which has comparable responsibilities, has a Level V commissioner even though its employment (6,763) and budget (\$252 million) are less than half of those of the Animal and Plant Health Inspection Service.

The main functions of the Commodity Credit Corporation have been in those areas pertaining to the production of commodities, and the stabilization of prices thereof in line, with the objective of improving net farm income. Of recent years, greater public and governmental attention has been focused on the stabilization of the rural population and toward this end, major emphasis has been directed to those programs which enhance rural development. In this regard the basic economic decisions of the CCC Board need to be further correlated with the administration of Rural Development programs. We believe this proposal to provide an additional member to the CCC Board of Directors will strengthen this relationship.

The growth in importance and in budgetary impact of the programs of FNS since it came into existence in 1969 probably has no peacetime parallel among federal agencies. In fiscal year 1970, FNS had a staff of 1,747 to administer programs with outlays of approximately \$1 billion. By fiscal year 1976, the FNS staff had grown to 2,534 and its budget, due in large measure to the tremendous expansion in the numbers of people served by the Food Stamp Program, had jumped to \$7.9 billion. The heroic mission of this agency to bring to as yet uncounted millions of impoverished and malnourished Americans a nutritious and adequate diet, demands that the prestige and compensation of its chief executive officer be such as to attract able men and women.

SECTION-BY-SECTION ANALYSIS

Section 1. This section elevates the position of the officer who is second in command at the United States Department of Agriculture from Under Secretary, at pay level III on the Executive Schedule (\$42,000 per annum), to Deputy Secretary, at pay level II on that Schedule (\$44,600). The section also provides that the incumbent on the date of enactment of this legislation, who was appointed by the President with the advice and consent of the Senate, may assume the duties of the new position and shall not be required to be reappointed.

Section 2. This section adds one new position of Assistant Secretary of Agriculture, to be appointed by the President with the advice and consent of the Senate, who shall perform such duties as the Secretary of Agriculture shall prescribe. The Department of Agriculture presently has four Assistant Secretaries.

Section 3. This section adds the new Assistant Secretary of Agriculture to the category of persons who by law are compensated at Executive Level IV (\$39,900 per annum). This section would also delete from the list of positions compensated at level V of the Execu-

tive Schedule (\$37,800 per annum) the positions of Director of Agricultural Economics and Director of Science and Education, but would add to that list the positions of Administrator, Animal and Plant Health Inspection Service, and of Administrator, Food and Nutrition Service, both of which presently call for the salary of a GS-18 (\$37,800 per annum).

Section 4. This section amends section 9(a) of the Commodity Credit Corporation Charter Act, as amended, to increase the number of positions on the Board of Directors of the Commodity Credit Corporation from six to seven.

Section 5. This section provides that this legislation shall take effect upon its date of enactment, except that (1) the removal of the position of Director of Agricultural Economics from level V of the Executive Schedule shall not take effect until the new Assistant Secretary is appointed; and (2) the upgrading of the positions of Administrator, Animal and Plant Health Inspection Service, and Administrator, Food and Nutrition Service, becomes effective January 21, 1977.

COMMITTEE CONSIDERATION

The Subcommittee on Department Operations, Investigations and Oversight held a public hearing on March 29, 1976, at which James D. Keast, General Counsel of the Department of Agriculture, testified and presented a letter dated March 23, 1976, from the Secretary of Agriculture. In that letter (which is set forth below under "Administration Position"), the Secretary requested two changes in the bill. First, the Secretary requested that, due to provision in H.R. 11743 for a new position of Assistant Secretary whose duties would include supervision and coordination of agricultural research, this bill should be amended to provide for one new Assistant Secretary rather than two. Secondly, the Secretary requested deletion of the provisions in this bill which would have up-graded the position of Assistant Secretary for Administration from level V of the Executive Schedule to level IV. With these changes, the Secretary strongly urged approval of the bill by the Subcommittee.

Upon completion of the General Counsel's testimony, the Subcommittee discussed the provision of H.R. 11743 providing for a new Assistant Secretary and agreed to adopt the amendment suggested by the Department to provide only one new Assistant Secretary in H.R. 10133. Congressman Richmond focused the Subcommittee's attention on the provision of this bill which upgrades the Administrator of the Animal and Plant Health Inspection Service from GS-18 to level V of the Executive Schedule. He urged that the bill be amended to similarly upgrade from GS-18 to level V the Administrator of the Food and Nutrition Service, who administers the multi-billion dollar Food Stamp Program. Congressman Thone objected to Mr. Richmond's proposal unless the Department of Agriculture was accorded an opportunity to consider Mr. Richmond's suggestion and to present its views thereon to the Subcommittee. The Subcommittee agreed with Congressman Thone and, accordingly, adjourned to permit USDA time to consider Congressman Richmond's amendment.

By letter dated April 1, 1976 (which is also set forth below under "Administration Position"), the Department responded that it considered upgrading the position of the Administrator of the Food and

Nutrition Service to be justified and offered no objection to Mr. Richmond's amendment. Accordingly, on May 6, 1976, the Subcommittee met in a business session and, after a brief discussion, agreed to the amendments proposed by the Secretary in his letter of March 23, 1976, and also to the amendment proposed by Mr. Richmond. Upon motion of the Subcommittee Chairman, Mr. de la Garza, the Subcommittee agreed to make the upgrading of the positions of Administrator of both APHIS and FNS effective January 1, 1977. By a roll call vote of 6 yeas to 1 nay the Subcommittee ordered H.R. 10133, as amended, reported favorably to the full Committee.

The Committee on Agriculture met in a business session on May 11, 1976. After the Subcommittee amendments had been properly placed before the Committee, Mr. Moore of Louisiana offered an amendment to strike from those amendments the provision upgrading the Office of Administrator of the Food and Nutrition Service. Mr. Moore urged that, in his view, the incumbent in that office had performed poorly, particularly in connection with the Food Stamp Program, and that it would be improper to reward such performance with a promotion. Mr. Moore's amendment was supported by Congressman Kelly of Florida. However, it was opposed by Committee Chairman Foley and by Congressmen McHugh and Richmond of New York on the grounds that the question should be decided on the basis of the merit of the proposal to upgrade the position rather than on the basis of the performance of any particular incumbent. In an effort to avoid clouding the issue with any question of personalities, the Subcommittee Chairman, Mr. de la Garza, requested and received unanimous consent to amend the effective date of the upgrading of the Administrators of both APHIS and FNS to January 21, 1977. Thereupon, the full Committee proceeded to vote on the Moore amendment and it was rejected by a roll call vote of 9 yeas-16 nays. The Committee then in the presence of a quorum by voice vote ordered the bill H.R. 10133, as amended by the Subcommittee, reported to the House with a recommendation that it do pass.

ADMINISTRATION POSITION

The Administration position is set forth in the following letters submitted prior to and after the public hearings:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 1, 1976.

HON. E DE LA GARZA,
Chairman, Subcommittee on Department Operations, Investigation and Oversight, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the hearing before your Subcommittee on March 29 concerning H.R. 10133 you requested that we provide the Department's views on the proposal of Mr. Richmond to raise the position of Administrator of the Food and Nutrition Service from GS-18 to Executive Level V.

We recognize that there has been an increase in the scope and magnitude of the various food programs administered by the Food and Nutrition Service of this Department. Since the Food and Nutrition Service came into existence on August 8, 1969, its total program outlays have risen from \$1.0 billion in Fiscal Year 1970 to \$7.9 billion

in Fiscal Year 1976. And, in this period employment has increased from 1,747 to 2,534. Thus, we would agree that there is justification for upgrading the position of Administrator of the Food and Nutrition Service.

While we would prefer that any change with regard to this matter be delayed until all questions concerning proposed food stamp legislation are resolved, we would not object to including a provision in H.R. 10133 to establish this position of Administrator of the Food and Nutrition Service at Executive Level V.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN A. KNEBEL,
Under Secretary.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 23, 1976.

HON. E DE LA GARZA,
Chairman, Subcommittee on Department Operations, Investigations and Oversight, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR KIKI: In view of the hearing scheduled by your subcommittee for March 29 on H.R. 10133, I would like to take this opportunity to set forth our latest thinking on this bill. As you know the Department of Agriculture transmitted this proposal to the Congress on May 30, 1975. We recommend that your Committee approve H.R. 10133 with the changes noted below.

The purpose of this legislation is to bring the top-level staff of the Department of Agriculture in line with other departments and to recognize the tremendous growth in USDA programs since 1953, the last time such adjustments occurred. The scope, magnitude, and complexity of the Department's operations have increased substantially since 1953, while the only additional top-level policy position approved since that time has been the additional Assistant Secretary position which was included in the Rural Development Act of 1972.

Thus, the bill

- Upgrades the position of Under Secretary to Deputy Secretary of Agriculture;
- Establishes two new positions as Assistant Secretary of Agriculture at Executive Level IV;
- Raises the position of Administrator, Animal and Plant Health Inspection Service, from GS-18 to Executive Level V; and
- Increases the membership of the Board of the Commodity Credit Corporation from six to seven.

The reasons for these changes are adequately set forth in our transmittal letter so I will not repeat them. We would, however, like to recommend the following changes.

We requested two additional Assistant Secretaries of Agriculture at Executive Level IV. However, if the intent of the Committee on Agriculture is to include one additional Assistant Secretary position in H.R. 11743, the bill dealing with agricultural research, only one

is needed in H.R. 10133. Furthermore, in any event, we recommend that the provisions in H.R. 10133 relating to the Assistant Secretary for Administration be deleted from the bill. As you may recall, the bill as submitted contemplates upgrading the positions of Director of Agricultural Economics and Assistant Secretary for Administration to Executive Level IV Assistant Secretary positions. The Department no longer feels that any change is necessary with respect to the position of the Assistant Secretary for Administration.

With these changes I strongly urge your approval of H.R. 10133.
Sincerely,

EARL L. BUTZ,
Secretary of Agriculture.

CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATE

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee estimates the cost to be incurred by the Federal Government during the current and the five subsequent fiscal years as a result of the enactment of this legislation would be no more than \$5,000 in each of the five subsequent fiscal years; and one-quarter of that amount for the transition quarter.

On the basis of an assumed effective date of June 1, 1976, the Department of Agriculture estimated the total cost, including the period to October 1, 1976, and five full fiscal years thereafter, at \$26,667.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 10133, as amended, will have no inflationary impact on the national economy.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 had not been received by the Committee prior to the filing of this report. The Committee was advised that it is anticipated that such an estimate and comparison will be available prior to consideration of the bill on the Floor of the House.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 10133, as amended.

No specific oversight activities, other than the hearing accompanying the Committee's consideration of H.R. 10133, as amended, were

conducted by the Committee within the definition of clause 2(b)(1) of rule X of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW

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

TITLE 5, UNITED STATES CODE

*	*	*	*	*	*	*
SEC. 5313. Positions at level II.						
*	*	*	*	*	*	*
(23) <i>Deputy Secretary of Agriculture.</i>						
SEC. 5314. Positions at level III.						
*	*	*	*	*	*	*
[(3) Under Secretary of Agriculture.]						
*	*	*	*	*	*	*
SEC. 5315. Positions at level V.						
*	*	*	*	*	*	*
(11) Assistant Secretaries of Agriculture [(4)] (5). ¹						
*	*	*	*	*	*	*
SEC. 5316. Positions at level V.						
*	*	*	*	*	*	*
[(55) Director of Agricultural Economics, Department of Agriculture.]						
*	*	*	*	*	*	*
[(63) Director of Science and Education, Department of Agriculture.]						
(63) <i>Administrator, Animal and Plant Health Inspection Service.</i>						
(64) <i>Administrator, Food and Nutrition Service.</i>						
*	*	*	*	*	*	*

ACT OF MARCH 26, 1934

[CHAPTER 89.]

AN ACT Making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1935, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Agriculture and for the

¹ The text of H.R. 10133, as amended, provides that this number be the "next higher number" in order to accommodate the possibility that H.R. 11743, which also adds an additional Assistant Secretary may become law prior to the enactment of this bill.

Farm Credit Administration for the fiscal year ending June 30, 1935, namely:

TITLE I—DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

SALARIES

For the Secretary of Agriculture, [Under Secretary of Agriculture] *Deputy Secretary of Agriculture*, \$10,000, and there is hereby established in the Department of Agriculture the position of [Under Secretary of Agriculture] *Deputy Secretary of Agriculture*, to be appointed by the President, by and with the advice and consent of the Senate, and whose compensation shall be at the rate of \$10,000 per annum, Assistant Secretary, and for other personal services in the District of Columbia, and elsewhere, \$548,560: *Provided*, That in expending appropriations or portions of appropriations contained in this Act for the payment for personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the Assistant Secretary, the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation until shall not at any time exceed the average of the compensation rates specified for the grade by such Act as amended: *Provided further*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed as of July 1, 1924, in accordance with the rules of section 6 of such Act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade, in the same or different bureau, office, or other appropriation unit, (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923 as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated: *Provided further*, That the Secretary of Agriculture is authorized to contract for stenographic reporting services, and the appropriations made in this Act shall be available for such purposes: *Provided further*, That the Secretary of Agriculture is authorized to expend from appropriations available for the purchase of lands not to exceed \$1 for each option to purchase any particular tract or tracts of land: *Provided further*, That not to exceed \$22,990 of the appropriations available for salaries and expenses of officers and employees of the Department of Agriculture permanently stationed in foreign countries may be used for payment of allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U.S.C. Supp. VI, title 5, sec. 118a), but the amount so used for any one person shall not exceed the amount permitted by law to be so used, during the fiscal year 1935, for any one person in the foreign service of the Department of Commerce: *Provided further*, That no part of the funds appropriated by This Act shall be used for the payment of any officer or employee of the Department of Agriculture who, as such officer or employee, or on

behalf of the Department or any division, commission, or bureau thereof, issues, or causes to be issued, any prediction, oral or written, or forecast with respect to future prices of cotton or the trend of same.

ACT OF JUNE 5, 1939

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the [Under Secretary of Agriculture] *Deputy Secretary of Agriculture* is authorized to exercise the functions and perform the duties of the first assistant of the Secretary of Agriculture within the meaning of section 177 of the Revised Statutes of the United States (U.S.C. title 5, sec. 4) and shall perform such other duties as may be required by law or prescribed by the Secretary of Agriculture.

Approved, June 5, 1939.

COMMODITY CREDIT CORPORATION CHARTER ACT

SEC. 9. DIRECTORS, ADVISORY BOARD: (a) The management of the Corporation shall be vested in a board of directors (hereinafter referred to as the "Board"), subject to the general supervision and direction of the Secretary. The Secretary shall be an ex officio director and shall serve as Chairman of the Board. [The Board shall consist of six members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate.] *The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate.* In addition to their duties as members of the Board such appointed members shall perform such other duties as may be prescribed by the Secretary. Each appointed member of the Board shall receive compensation at such rate not in excess of the maximum then payable under the Classification Act of 1923, as amended, as may be fixed by the Secretary, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this section. A majority of the directors shall constitute a quorum of the Board and action shall be taken only by a majority votes of those present.

DISSENTING VIEWS OF HON. FLOYD J. FITHIAN, JOHN W. JENRETTE, JR., KEITH G. SEBELIUS, STEVEN D. SYMMS, RICHARD KELLY, CHARLES E. GRASSLEY, TOM HAGEDORN, AND W. HENSON MOORE

The undersigned respectfully dissent from the passage of H.R. 10133 for one specific reason. In Section 3 of the bill, there exists in Paragraph (64) a provision providing for the promotion of the Administrator of the Food and Nutrition Service (FNS) of USDA from his current level of GS-18 to Executive Level V, a more prestigious position.

It is strongly believed for the following reasons that such a provision is unjustified and premature at the present time.

First, according to the latest USDA Quality Control Report for the Food Stamp Program dated February 1976, there was found to be a 46.6% error rate in almost 37,000 food stamp cases reviewed for the time period of January through June, 1975. This is certainly an intolerable error factor.

Second, Assistant Secretary Richard L. Feltner of USDA testified before the Senate Agriculture Committee on January 21, 1976, that a review of FNS service records from July 1, 1974, to September 1975, showed that there were delayed or late deposits of funds of approximately \$11,000,000.00 and unconfirmed or missing deposits of funds of \$6,000,000.00, totaling in excess of \$17,000,000.00 in funds due USDA for the food stamp program which were not in hand for unexplained or unsatisfactory reasons. Again, this is certainly an unacceptable fund accountability performance by FNS.

Third, Assistant Secretary Feltner testified before the House Agriculture Committee on February 11, 1976, that FNS did not have any reliable figures as to the extent of the recipient fraud rate and that FNS had no overall coordinated data collection system on illegal activities in the food stamp program. FNS is charged with the administration of the food stamp program which in FY 1976 will cost the taxpayers \$5.75 billion and is the largest item in the USDA budget (39% of it).

Fourth, the problems of the administration of the food stamp program by FNS has caused the General Accounting Office to currently have underway *four* separate investigations of FNS, including the recovery of losses procedures, implementation and enforcement of the work registration requirement, vendor accountability, and supervision of state and local food stamp activities. Several of these reports should be available in the near future, although none are available at the present time. All four of these investigations are serious and point towards significant failures of FNS.

Fifth, Mr. Gene Senat, formerly Louisiana manager for FNS for eleven years, testified before the House Agriculture Committee on March 23, 1976, concerning numerous failures by FNS to investigate violations of the food stamp law and regulations, delaying investiga-

tions undertaken for as long as three years and generally a lack of enforcement resulting in fraud and errors. Mr. Senat testified that he believed the federal government was losing about \$46,000,000.00 per year in Louisiana alone based on a USDA audit dated June 25, 1975, showing the error rate within that state.

Sixth, the existing evidence of poor job performance by FNS and specific investigations of GAO into aspects of it have caused a number of Members of the Committee to request on May 13, 1976, a full and complete investigation by GAO of the overall administration of the food stamp program by FNS.

Seventh, there were no hearings held before the Subcommittee on Department Operations, Investigations and Oversight of the Agriculture Committee concerning the advisability of promoting the Administrator of FNS. The request from USDA for this legislation did not include this promotion. At the hearings before the Subcommittee held on March 29, 1976, Mr. Jim Keast, General Counsel of USDA, testified in response to a question from a Member concerning the possible promotion of the Administrator of FNS that USDA did not feel at the present time that there should be an upgrading. Subsequently, in a letter dated April 1, 1976, Mr. John A. Knebel, Under Secretary of USDA, replied to a request from the Chairman of the Subcommittee that the Department would not object to the promotion of the Administrator of FNS, but would prefer that it be delayed until after all questions concerning proposed food stamp legislation be resolved. The point is that USDA did not ask for this promotion, believes it to be premature at the present time, and there was *no evidence* taken before the Subcommittee or the full Committee justifying the change or showing that either the Administrator or FNS have performed in such a fashion as to merit this promotion. The provision for this promotion came in Subcommittee markup *after* the hearings had been held and with no evidence before the Subcommittee to warrant it.

Eighth, it is premature and illogical to call for a promotion or upgrading before the House and Senate complete work on food stamp legislation which is presently actively being considered by each and before the existing four GAO investigations underway are complete with the possibility of a fifth in the offing. This legislation and these investigations may well recommend the abolition or restructuring of FNS or that drastic changes be made in the operations of FNS and may well provide additional evidence establishing the failure of FNS to satisfactorily perform its function. Any promotion or upgrading of the Administrator under those circumstances is indeed premature.

Considering the foregoing points, it would appear to be ludicrous to reward an individual who has been Administrator since September, 1969 (six and one-half years), for having done a poor job or reward the Department he heads. This would be evidence to the public that poor administration is the way to get ahead in the bureaucracy and would be a slap in the face of those administrators who are trying to do a good job. There is no evidence establishing that a promotion or a reward should be in the offing and ample evidence present and more possibly forthcoming to establish the contrary. Many of the problems with the food stamp program are directly due to its poor administration. Those problems will not be solved until the adminis-

trators do better. After a sufficient period of time, and if the food stamp program is being administered far better than presently, we could then consider the elevation of the position of Administrator from General Schedule 18 to the more prestigious Executive Schedule V.

An effort will be made on the floor to strike this provision from the bill. You are urged to support it.

FLOYD J. FITHIAN.
JOHN W. JENNETTE, Jr.

KEITH G. SEBELIUS.
STEVEN D. SYMMS.
RICHARD KELLY.
CHARLES E. GRASSLEY.
TOM HAGEDORN.
W. HENSON MOORE.

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USDA EXECUTIVE ADJUSTMENTS

JUNE 3, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Foley, from the Committee on Agriculture,
submits the following

SUPPLEMENTAL REPORT

(Including the Congressional Budget Office cost estimate and comparison)

[To accompany H.R. 10133]

The Committee on Agriculture, to whom was referred the bill (H.R. 10133), to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes, hereby submits a supplemental report to its report, No. 94-1156, filed May 15, 1976. This supplemental report contains the estimate and comparison prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 which were submitted to the Committee subsequent to the filing of its report.

The estimate and comparison are set forth below:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 26, 1976.

HON. THOMAS S. FOLEY,
*Chairman, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 10133, a bill concerning adjustments in USDA executive staff.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

Attachment.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 10133.
 2. Bill title: Adjustments in USDA Executive Staff.
 3. Purpose of bill: H.R. 10133 would upgrade certain executive positions within the Department of Agriculture. The position of Under Secretary would be upgraded to Deputy Secretary, which would raise the level of compensation for the number two position from Executive Level III (\$42,000 per year) to Level II (\$44,600 per year). The legislation would also create a position for an additional Assistant Secretary who would be paid at Level IV (\$39,900 per year). Two Level V positions, the Director of Agricultural Economics and the Director of Science and Education, would be eliminated. Persons holding these posts receive \$37,800 per year. Two other positions would be upgraded. The Administrator of the Animal and Plant Inspection Service and the Director of the Food and Nutrition Service would be raised from GS-18 to Level V. This adjustment does not involve a salary increase because positions at both levels receive \$37,800. The bill would also increase the size of the Commodity Credit Corporation Board by one.

According to the Secretary of Agriculture, these changes are needed to make the executive positions of the Department comparable to those of other agencies.

4. Cost estimate: Upgrading the position of Under Secretary and establishing a new Assistant Secretary would result in additional costs. These increases, however, would be more than offset after the transition quarter by the savings associated with the elimination of the two Level V positions. Estimates of the net impact on costs are shown in the table below.

	Fiscal year—					1981
	Transition quarter	1977	1978	1979	1980	
Upgrade Under Secretary.....	\$709	\$3,013	\$3,284	\$3,557	\$3,802	\$4,063
Create new Assistant Secretary.....	10,873	46,318	50,394	54,576	58,342	62,368
Eliminate 2 level IV positions.....	-10,301	-75,790	-83,549	-90,483	-96,727	-103,401
Upgrade 2 GS-18 positions to level V.....						
Total.....	+1,281	-27,454	-29,871	-32,350	-34,583	-36,970

5. Basis for estimate: The estimates reflect changes in expenditures for salaries and benefits. The impact of upgrading the position of Under Secretary was estimated by projecting the future salary and benefits costs of a Level II and Level III position and by calculating the net increases in expenditures. Estimates of future costs were based on the current salary levels and CBO projections of future increases in federal salaries. A sum equivalent to 9 percent of the salary base was added to the annual earnings to reflect the associated benefits. It was

assumed further that the pay increase would become effective during the transition quarter.

A similar procedure was employed in calculating the cost of the new Assistant Secretary. The current salary base for Level IV positions was inflated to show expected increases in salaries during the five-year period and then augmented by the benefit factor. The estimates in the table represent the compensation cost only. Nothing was added for supporting staff and overhead because it was assumed that the new position would be filled by the current Director for Agricultural Economics. His present staff and office expenses would not be affected by the promotion.

These increases in costs would be more than offset, at least after the transition quarter, by the cost-savings arising from the elimination of the two Level V jobs. These savings were estimated by simply calculating the future costs of two Level V positions.

The upgrading of the two GS-18 positions to the Level V rank would have no impact on costs because the salary levels are the same (\$37,800 per year). The addition of one seat to the Commodity Credit Corporation Board would also have no cost effects. This provision simply adds one more assignment to an existing position.

6. Estimate comparison: None available.
7. Previous CBO estimate: None.
8. Estimate prepared by: Robert M. Gordon.
9. Estimate approved by:

C. G. NUCKOLS,
Deputy Assistant Director for Budget Estimates.

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PROVIDING FOR THE CONSIDERATION OF H.R. 10133

JUNE 2, 1976.—Referred to the House Calendar and ordered to be printed

Mr. SISK, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 1243]

The Committee on Rules, having had under consideration House Resolution 1243, by a nonrecord vote, report the same to the House with the recommendation that the resolution do pass.



USDA EXECUTIVE ADJUSTMENTS

SEPTEMBER 30, 1976.—Ordered to be printed

Mr. ALLEN, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany H.R. 10133]

The Committee on Agriculture and Forestry, to which was referred the bill (H.R. 10133) to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SHORT EXPLANATION

H.R. 10133 would—

- (1) upgrade the position of Under Secretary to Deputy Secretary of Agriculture;
- (2) establish a new position of Assistant Secretary of Agriculture at Executive Level IV;
- (3) remove from Executive Level V the position of Director of Agricultural Economics (whose duties will be assumed by the new Assistant Secretary);
- (4) change the positions of Administrator, Animal and Plant Health Inspection Service, and Administrator, Food and Nutrition Service, from GS-18 to Executive Level V;
- (5) increase the membership of the Board of Directors of the Commodity Credit Corporation from six to seven; and
- (6) exempt custom poultry harvesting, breeding, debeaking, sexing, and health service operations from the provisions of the Farm Labor Contractor Registration Act of 1963 where the employees are not migrant workers.

COMMITTEE AMENDMENTS

On page 2, beginning with line 23, strike out all down through line 6 on page 3, and insert in lieu thereof the following:

SEC. 3. (a) Section 5315 of title 5 of the United States Code is amended by striking out "(4)" at the end of paragraph (11) and by inserting in lieu thereof "(5)".

(b) Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (55); and

(2) by adding at the end thereof new paragraphs (137) and (138) as follows:

"(137) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

"(138) Administrator, Food and Nutrition Service, Department of Agriculture."

The Committee amendment retains at the Executive Level V the Director of Science and Education, Department of Agriculture, and changes the Administrator, Food and Nutrition Service, Department of Agriculture, to an Executive Level V position from a position which presently calls for the salary of a GS-18. In addition, the Committee amendment makes a technical change in the language which provides that the new Assistant Secretary shall be compensated at Executive Level IV.

On page 3, after line 18, add a new section 6 as follows:

SEC. 6. Section 3(b) of the Farm Labor Contractor Registration Act of 1963, as amended (78 Stat. 920, as amended; 7 U.S.C. 2042), is amended—

(a) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word 'or'; and

(b) by adding at the end thereof a new paragraph (9) as follows:

"(9) any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours."

The Committee amendment amends the Farm Labor Contractor Act of 1963 to exempt custom poultry harvesting, breeding, debeaking, sexing, and health service operations from the provisions of that Act where the employees are clearly not migrant workers.

BACKGROUND AND NEED FOR LEGISLATION

I

The major purpose of this legislation is to upgrade the top-level staff of the United States Department of Agriculture. The scope, magnitude, and complexity of the Department's operations have increased substantially since 1953. However, the only additional top-level policy position established since that time has been the position of Assistant Secretary for Rural Development.

Many new agricultural programs affecting both farmers and consumers have been authorized by Congress since 1953. Other programs have been greatly expanded. The duties of the Department relate to a wide variety of programs—regulatory and nonregulatory. They include major programs with respect to poultry and meat inspection, agricultural credit, conservation, price support, surplus removal, crop insurance, research, family feeding, child nutrition, and numerous other regulatory measures designed to effectuate production adjustment, parity prices, orderly marketing, or other statutory goals.

Net budgetary expenditures for all activities of the Department increased from about \$4.7 billion in 1953 to an estimated \$10.7 billion in 1977. During this same period, the man-years (average annual employment) increased from 62,479 to 105,752.

At present, the Secretary of Agriculture has available to assist him in managing and directing the programs of the Department a top-level staff consisting of one Under Secretary, four program Assistant Secretaries, one Assistant Secretary for Administration, and the Director of Agricultural Economics. This group of officials is responsible for developing the policies and directing and managing the operations of a Department that carries out programs at over 10,000 locations, in every one of the 50 States, in over 3,000 counties, in every major metropolitan area, and in many foreign countries.

II

The need for adequate staffing of the several departments at the Deputy Secretary and Assistant Secretary level has been recognized in most of the other cabinet level agencies. Four Departments of Government now have Deputy or Under Secretaries at Executive Level II, including the Departments of State, Treasury, Defense (which has two), and Transportation. The magnitude and scope of the activities which Congress has authorized and directed the Department to carry out are as great as, or greater than, the activities of most other cabinet level agencies.

The Department of Agriculture has but four Assistant Secretaries at Executive Level IV. These four positions rank low compared to other executive departments. The Defense Department and its service departments have a total of 22; the Department of Housing and Urban Development has eight; the Department of State has 12; the Department of Justice has nine; the Department of Treasury has five; the Department of the Interior has six; and the Department of Labor has six. In terms of its budget, number of employees, programs, and general responsibilities, the Department merits a Deputy Secretary at Executive Level II.

In addition, the Department should have an additional Assistant Secretary of Agriculture at Executive Level IV. The position of Director of Agricultural Economics was established in the Office of the Secretary of Agriculture on October 13, 1961. This position has as high a level of responsibility as have Assistant Secretaries of Agriculture and, therefore, should be accorded the same rank.

III

The positions of Administrator of the Animal and Plant Health Inspection Service and the Food and Nutrition Service should be upgraded to Executive Level V.

The Animal and Plant Health Inspection Service is one of the largest agencies in the Department of Agriculture. It has overall responsibility for the meat and poultry inspection programs as well as the many programs in the areas of plant and animal disease and pest control. The agency employs over 15,000 people and administers a budget of over \$400 million. With the exception of the Forest Service, no agency in the Department employs more people, and none has a greater diversity of responsibilities. However, seven agencies that are smaller than this one have Level V administrators. The Food and Drug Administration, which has comparable responsibilities, has a Level V commissioner even though its employment (6,763) and budget (\$252 million) are less than half of those of the Animal and Plant Health Inspection Service.

The growth in importance and in budgetary impact of the programs of the Food and Nutrition Service probably has no peacetime parallel among Federal agencies. In fiscal year 1970, the agency had a staff of 1,747 to administer programs with outlays of approximately \$1 billion. By fiscal year 1976, the staff had grown to 2,534 and its budget had increased to \$7.9 billion, due in large measure to the scope and magnitude of the various food programs administered by the Food and Nutrition Service.

IV

The main functions of the Commodity Credit Corporation have been in areas pertaining to the production of commodities and the stabilization of prices thereof in line with the objective of improving net farm income. In recent years, greater public and Governmental attention has been focused on the stabilization of the rural population and programs which enhance rural development. The basic economic decisions of the CCC Board of Directors need to be further correlated with the administration of rural development programs. An additional member on the CCC Board of Directors will strengthen this relationship.

V

The Farm Labor Contractor Registration Act was amended in 1974 to cover all types of agricultural contract labor, regardless of the number of workers involved or whether the workers were recruited for interstate or intrastate agricultural employment. As a result of the 1974 amendments, contractors performing certain poultry service operations, who are not in interstate commerce and who typically operate with small crews, are not subject to the requirements of the Act. These poultry service operations are poultry harvesting; breeding services, such as artificial insemination; poultry sexing; debeaking; and health services such as vaccination.

The 1974 amendments require these contractors to compile and retain extensive personnel records. Poultry producers and processors contracting for these services would be required to ascertain that their

contractors not only keep such records, but also the producers and processors would be required to obtain and retain copies of the contractors' records in their own files. The poultry service operations, now being subjected to the Farm Labor Contractor Registration Act requirements, are not within the general ambit of "migrant" labor, but are subject to the Act because of the technical scope of the statutory definitions after the 1974 amendments.

Poultry catching is performed on a contract basis, typically by the company which hauls the poultry from growing house to processing plant. The workers who catch poultry are residents in the area where they work and have stable employment ties with their contractor. The workers are not migrant, and the work is not seasonal.

There are many different patterns of contract poultry catching—a single contractor may serve only one large poultry producer/processor or a catching contractor may serve several smaller producer/processors.

Poultry breeding is performed on a contract basis similar to poultry catching. The contractor brings his crew to the poultry breeding farm and performs artificial insemination services at that location. The same situation exists with respect to poultry sexing, debeaking, and health service operations.

The Committee believes that such custom poultry service operations—where the workers are clearly not migrant workers—should not be subject to the provisions of the Farm Labor Contractor Registration Act.

The Committee recognizes that the Senate Committee on Labor and Public Welfare has legislative jurisdiction of the Farm Labor Contractor Registration Act, and the Committee amendment to that Act is in no way meant to infringe on the jurisdiction of that Committee. The Committee believes, however, the amendment is meritorious and should be enacted in order to provide necessary relief to the poultry industry.

COMMITTEE CONSIDERATION

The provisions of H.R. 10133 which upgrade the top-level staff of the Department of Agriculture are similar to the provisions contained in S. 3031, a bill which was reported by the Committee and passed by the Senate during the 93rd Congress.

When the Committee met on September 1, 1976, to consider H.R. 10133, it agreed to strike from the bill a provision which would eliminate the position of the Director of Science and Education from the list of Executive Level V positions. The members were informed by a Departmental representative that the functions of the Director of Science and Education are presently being performed by the Assistant Secretary for Conservation, Research, and Education. However, the Committee believes that these functions are so important that the position should remain available for a possible future appointment.

The Committee also agreed to change the position of the Administrator, Food and Nutrition Service from a GS-18 to Executive Level V. This change was included in the version of the bill reported by the House Committee on Agriculture. The functions of the Administrator, Food and Nutrition Service are significant. The programs

he is responsible for administering represent a substantial portion of the Department's appropriations.

The Committee also agreed to amend the Farm Labor Contractor Registration Act to exempt from the provisions of that Act custom poultry harvesting, breeding, debeaking, sexing, and health service operations, provided the employees are not regularly required to be away from their domicile other than during their normal working hours. The Committee, while recognizing that the Senate Labor Committee has legislative jurisdiction of the Farm Labor Contractor Registration Act, believes that such exemptions would be in accord with the basic purpose of that Act.

SECTION-BY-SECTION ANALYSIS

Section 1. Under Secretary to Deputy Secretary

Section 1 elevates the position of the officer who is second in command at the United States Department of Agriculture from Under Secretary, at pay level III of the Executive Schedule (\$42,000 per annum), to Deputy Secretary, at pay level II of that schedule (\$44,600). Section 1 also provides that the incumbent Under Secretary on the date of enactment of the bill, who was appointed by the President with the advice and consent of the Senate, may assume the duties of the new position and shall not be required to be reappointed.

Section 2. New Assistant Secretary

Section 2 adds one new position of Assistant Secretary of Agriculture, to be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of Agriculture shall prescribe. The Department of Agriculture presently has four program Assistant Secretaries and an Assistant Secretary for Administration.

Section 3. Pay Schedule

Section 3 adds the new Assistant Secretary of Agriculture to the category of persons who are compensated at Executive Level IV (\$39,900 per annum). Section 3 also deletes from the list of positions compensated at Executive Level V (\$37,800 per annum) the position of Director of Agricultural Economics, and adds to that list the positions of Administrator, Animal and Plant Health Inspection Service, and Administrator, Food and Nutrition Service, which presently calls for the salary of a GS-18 (\$37,800 per annum).

Section 4. CCC Board of Directors

Section 4 amends section 9(a) of the Commodity Credit Corporation Charter Act, as amended, to increase the number of positions on the Board of Directors of the Commodity Credit Corporation from six to seven.

Section 5. Effective date of the bill

Section 5 provides that the provisions of the bill shall take effect upon the date of enactment, except that the removal of the position of Director of Agricultural Economics from level V of the Executive Schedule shall not take effect until the new Assistant Secretary is appointed.

Section 6. Farm Labor Contractor Registration Act

Section 6 amends subsection 3(b) of the Farm Labor Contractor Registration Act of 1963, as amended, to exempt from the provisions of that Act, custom poultry harvesting, breeding, debeaking, sexing, and health service operations, provided the employees of the operations are not regularly required to be away from their domicile other than during their normal working hours.

DEPARTMENTAL VIEWS

I

In a letter to the President of the Senate dated May 30, 1975, the Secretary of Agriculture requested enactment of legislation upgrading the top-level staff of the Department of Agriculture. The Secretary's letter reads as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 30, 1975.

HON. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill to provide the following adjustments in the top-level policy staff of the Department of Agriculture:

- Upgrade the position of Under Secretary to Deputy Secretary of Agriculture;
- Establish two new positions as Assistant Secretary of Agriculture at Executive Level IV;
- Raise the position of Administrator, Animal and Plant Health Inspection Service, from GS-18 to Executive Level V; and
- Increase the membership of the board of the Commodity Credit Corporation from six to seven.

The purpose of this legislation is to bring the USDA top-level staff in line with other departments and to recognize the tremendous growth in the scope and complexity of USDA programs since 1953, the last time such legislation was enacted.

The scope, magnitude, and complexity of the Department's operations have increased substantially since 1953, while the only additional top-level policy position approved since that time has been the position of Assistant Secretary for Rural Development which was included in the Rural Development Act of 1972.

At present the Secretary of Agriculture has available to assist him in managing and directing the complex and far-reaching programs of the Department of Agriculture a top-level staff consisting of one Under Secretary, four program Assistant Secretaries, an Assistant Secretary for Administration, and the Director of Agricultural Economics. This small group of top policy officials is responsible for developing the policies and directing and managing the operations of a Department that carries out its many complex programs at over 10,000 locations, in every one of the 50 states, in over 3,000 counties, in every major metropolitan area, and in many foreign countries.

Many new programs have been enacted by the Congress since 1953, such as watershed protection, mandatory poultry inspection, National Wool Act, Food Stamp Program, Child Nutrition Act, Agricultural Fair Trade Practices Act, water and sewer program, cooperative forestry research program, and programs for the disposition of commodities under the Agricultural Trade Development and Assistance Act (Public Law 480), and resource conservation and development program.

Existing programs have been expanded in the areas of meat inspection, marketing, food distribution, nutrition, consumer services, research, education, forest land management, timber sales, rural housing, technical assistance by the Soil Conservation Service to farmers and soil conservation districts, and rural area development activities.

The relationship between these programs and other Government programs are becoming more and more complex. This has resulted, for example, in designation of the Secretary of Agriculture as a member of the Council on International Economic Policy, the Cost of Living Council, the Water Resources Council and other groups.

Net budgetary expenditures for all activities of the Department increased from about \$4.7 billion in 1953 to an estimate of about \$8.9 billion in 1975. During this same period the man-years (average annual employment) increased from 62,479 to 100,497.

The need for adequate staffing of the several Departments at the Deputy Secretary and Assistant Secretary level has been recognized in most of the other cabinet-level agencies of the Government. We believe the magnitude and scope of the activities which the Congress has authorized and directed this Department to carry out are as great as, or greater than, those of most other civilian cabinet-level agencies.

Four Departments of Government now have Deputy or Under Secretaries at the Executive Level II, including the Departments of State, Treasury, Defense (2), and Transportation. The Department of Agriculture, in terms of budget, numbers of employees, breadth of program, and general responsibility is sufficiently important to merit a Deputy Secretary at the Executive Level II. In addition, changing the classification of this position from Under Secretary to Deputy Secretary will give the incumbent additional influence as he deals with other Departments of Government and with agencies outside Government.

This Department with four Executive Level IV Assistant Secretaries ranks low among the Executive Departments. Compared with four such positions in this Department, the Defense Department and its service departments have 22; the Department of Housing and Urban Development has eight; the Department of State has 12; the Department of Justice has nine; the Department of Treasury has five; the Department of the Interior has six; and the Department of Labor has six. The position of Director of Agricultural Economics was established in the Office of the Secretary of Agriculture on October 13, 1961. The position of Assistant Secretary for Administration was established in the Office of the Secretary of Agriculture by the Reorganization Plan of 1953. Both of these positions have as high a level of responsibility as Assistant Secretaries of Agriculture have, and, therefore, should be accorded the same rank.

We are also proposing that the position of Administrator, Animal and Plant Health Inspection Service, be established at Executive Level V. This agency is one of the largest and most complex in this Department. It has overall responsibility for the meat and poultry inspection programs as well as the many programs in the areas of plant and animal disease and pest control. The agency employs over 15,000 people and administers a budget of over \$400 million. With the exception of the Forest Service, no agency in the Department employs more people, and none has a greater diversity of responsibilities. However, seven agencies that are smaller than this one have Level V administrators. It should also be noted that the Food and Drug Administration, which has comparable responsibilities, has a Level V commissioner even though its employment (6,200) and budget (\$160 million) are less than half of those administered by the Animal and Plant Health Inspection Service.

The main functions of the Commodity Credit Corporation have been in those areas pertaining to the production of commodities, and the stabilization of prices thereof in line with the objective of improving net farm income. Of recent years, greater public and governmental attention has been focused on the stabilization of the rural population and toward this end, major emphasis has been directed to those programs which enhance rural development. In this regard the basic economic decisions of the CCC Board need to be further correlated with the administration of Rural Development programs. We believe this proposal to provide an additional member to the CCC Board of Directors will strengthen this relationship.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

EARL L. BUTZ, *Secretary*.

Enclosure.

A BILL To upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(22) Deputy Secretary of Agriculture."

(b) Section 5314 of such title 5 is amended by striking out paragraph (3).

(c) The Acts listed in paragraphs (1) and (2) of this subsection are amended by striking out the words "Under Secretary of Agriculture" wherever they appear and by inserting in lieu thereof the words "Deputy Secretary of Agriculture":

(1) The Act of March 26, 1934 (48 Stat. 467; 7 U.S.C. 2210).

(2) The Act of June 5, 1939 (53 Stat. 809; 7 U.S.C. 2211).

(d) The officer occupying the position of Under Secretary of Agriculture, on the date of enactment of this Act, may assume the duties of the Deputy Secretary of Agriculture. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this Act.

SEC. 2. There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, two additional Assistant Secretaries of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, shall be responsible for such duties as the Secretary of Agriculture shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

SEC. 3. (a) Section 5315 of title 5 of the United States Code is amended by striking out "(4)" at the end of paragraph (11) and by inserting in lieu thereof "(6)".

(b) Section 5316 of such title 5 is amended as follows:

(1) By striking out paragraph (23).

(2) By striking out paragraph (55).

(3) By striking out paragraph (63) and inserting in lieu thereof:

"(63) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."

(c) Section 3 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 633) is hereby repealed.

SEC. 4. Section 9(a) of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1072, as amended, 15 U.S.C. 714g (a)), is amended by striking out the third sentence and inserting in lieu thereof: "The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate."

SEC. 5. (a) Except as otherwise provided in this section, this Act shall take effect on its date of enactment.

(b) Subsection (b)(1) and subsection (c) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act.

(c) Subsection (b)(2) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act.

II

In letters to the Honorable E. de la Garza, Chairman, Subcommittee on Department Operations, Investigations and Oversight, Committee on Agriculture, House of Representatives, dated March 23, 1976, and April 1, 1976, the Secretary of Agriculture and the Under Secretary of Agriculture recommended that H.R. 10133 be enacted with changes. The letters read as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 23, 1976.

HON. E DE LA GARZA,
Chairman, Subcommittee on Department Operations, Investigations and Oversight, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR KIKI: In view of the hearing scheduled by your subcommittee for March 29 on H.R. 10133, I would like to take this opportunity to set forth our latest thinking on this bill. As you know the Department of Agriculture transmitted this proposal to the Congress on May 30, 1975. We recommend that your Committee approve H.R. 10133 with the changes noted below.

The purpose of this legislation is to bring the top-level staff of the Department of Agriculture in line with other departments and to recognize the tremendous growth in USDA programs since 1953, the last time such adjustments occurred. The scope, magnitude, and complexity of the Department's operations have increased substantially since 1953, while the only additional top-level policy position approved since that time has been the additional Assistant Secretary position which was included in the Rural Development Act of 1972.

Thus, the bill

Upgrades the position of Under Secretary to Deputy Secretary of Agriculture;

Establishes two new positions as Assistant Secretary of Agriculture at Executive Level IV;

Raises the position of Administrator, Animal and Plant Health Inspection Service, from GS-18 to Executive Level V; and

Increases the membership of the Board of the Commodity Credit Corporation from six to seven.

The reasons for these changes are adequately set forth in our transmittal letter so I will not repeat them. We would, however, like to recommend the following changes.

We requested two additional Assistant Secretaries of Agriculture at Executive Level IV. However, if the intent of the Committee on Agriculture is to include one additional Assistant Secretary position in H.R. 11743, the bill dealing with agricultural research, only one is needed in H.R. 10133. Furthermore, in any event, we recommend that the provisions in H.R. 10133 relating to the Assistant Secretary for Administration be deleted from the bill. As you may recall, the bill as submitted contemplates upgrading the positions of Director of Agricultural Economics and Assistant Secretary for Administration to Executive Level IV Assistant Secretary positions. The Department no longer feels that any change is necessary with respect to the position of the Assistant Secretary for Administration.

With these changes I strongly urge your approval of H.R. 10133.

Sincerely,

EARL L. BUTZ,
Secretary of Agriculture.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 1, 1976.

HON. E DE LA GARZA,
Chairman, Subcommittee on Department Operations, Investigation and Oversight, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the hearing before your Subcommittee on March 29 concerning H.R. 10133 you requested that we provide the Department's views on the proposal of Mr. Richmond to raise the position of Administrator of the Food and Nutrition Service from GS-18 to Executive Level V.

We recognize that there has been an increase in the scope and magnitude of the various food programs administered by the Food and Nutrition Service of this Department. Since the Food and Nutrition Service came into existence on August 8, 1969, its total program outlays have risen from \$1.0 billion in Fiscal Year 1970 to \$7.9 billion in Fiscal Year 1976. And, in this period employment has increased from 1,747 to 2,534. Thus, we would agree that there is justification for upgrading the position of Administrator of the Food and Nutrition Service.

While we would prefer that any change with regard to this matter be delayed until all questions concerning proposed food stamp legislation are resolved, we would not object to including a provision in H.R. 10133 to establish this position of Administrator of the Food and Nutrition Service at Executive Level V.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN A. KNEBEL,
Under Secretary.

COST ESTIMATE

I

In accordance with section 252 of the Legislative Reorganization Act of 1970, the following is the Committee's estimate of the increased costs which would be incurred in carrying out the provisions of H.R. 10133.

	Fiscal year—				
	1977	1978	1979	1980	1981
Upgrade Under Secretary.....	\$2,600	\$3,284	\$3,557	\$3,802	\$4,063
Create new Assistant Secretary.....	39,900	50,384	54,576	58,342	62,368
Eliminate 1 level V position.....	-37,800	-41,774	-45,241	-48,363	-51,700
Upgrade 2 GS-18 positions to level V.....					
Total increase.....	+4,700	+11,904	+12,892	+13,781	+14,731

The Committee's estimate is based on the cost estimate of H.R. 10133 prepared by the Congressional Budget Office pursuant to the Congressional Budget Act of 1974. The principal difference between the Committee's estimate and the estimate prepared by the Congressional Budget Office arises from the fact that H.R. 10133, as amended by the Committee, only eliminates one level V position.

Representatives of the Department of Agriculture have informally advised the Committee that the increased costs for fiscal year 1977 would be absorbed within existing appropriations.

II

The cost estimate prepared by the Congressional Budget Office reads as follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 26, 1976.

HON. THOMAS S. FOLEY,
Chairman, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 10133, a bill concerning adjustments in USDA executive staff.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 10133.
2. Bill title: Adjustments in USDA Executive Staff.
3. Purpose of bill: H.R. 10133 would upgrade certain executive positions within the Department of Agriculture. The position of Under Secretary would be upgraded to Deputy Secretary, which would raise the level of compensation for the number two position from Executive Level III (\$42,000 per year) to Level II (\$44,600 per year). The legislation would also create a position for an additional Assistant Secretary who would be paid at Level IV (\$39,900 per year). Two Level V positions, the Director of Agricultural Economics and the Director of Science and Education, would be eliminated. Persons holding these posts receive \$37,800 per year. Two other positions would be upgraded. The Administrator of the Animal and Plant Inspection Service and the Director of the Food and Nutrition Service would be raised from GS-18 to Level V. This adjustment does not involve a salary increase because positions at both levels receive \$37,800. The bill would also increase the size of the Commodity Credit Corporation Board by one.

According to the Secretary of Agriculture, these changes are needed to make the executive positions of the Department comparable to those of other agencies.

4. Cost estimate: Upgrading the position of Under Secretary and establishing a new Assistant Secretary would result in additional costs. These increases, however, would be more than offset after the transition quarter by the savings associated with the elimination of the two Level V positions. Estimates of the net impact on costs are shown in the table below.

	Fiscal year--					
	Transition quarter	1977	1978	1979	1980	1981
Upgrade Under Secretary.....	\$709	\$3,018	\$3,284	\$3,557	\$3,802	\$4,063
Create new Assistant Secretary.....	10,873	46,318	5,0394	54,576	58,342	62,368
Eliminate 2 level IV positions.....	-10,301	-76,790	-83,549	-90,483	-96,727	-103,401
Upgrade 2 GS-18 positions to level V.....						
Total.....	+1,281	-27,454	-29,871	-32,350	-34,583	-36,970

5. Basis for estimate: The estimates reflect changes in expenditures for salaries and benefits. The impact of upgrading the position of Under Secretary was estimated by projecting the future salary and benefits costs of a Level II and Level III position and by calculating the net increases in expenditures. Estimates of future costs were based on the current salary levels and CBO projections of future increases in federal salaries. A sum equivalent to 9 percent of the salary base was added to the annual earnings to reflect the associated benefits. It was assumed further that the pay increase would become effective during the transition quarter.

A similar procedure was employed in calculating the cost of the new Assistant Secretary. The current salary base for Level IV positions was inflated to show expected increases in salaries during the five-year period and then augmented by the benefit factor. The estimates in the table represent the compensation cost only. Nothing was added for supporting staff and overhead because it was assumed that the new position would be filled by the current Director for Agricultural Economics. His present staff and office expenses would not be affected by the promotion.

These increases in costs would be more than offset, at least after the transition quarter, by the cost-savings arising from the elimination of the two Level V jobs. These savings were estimated by simply calculating the future costs of two Level V positions.

The upgrading of the two GS-18 positions to the Level V rank would have no impact on costs because the salary levels are the same (\$37,800 per year). The addition of one seat to the Commodity Credit Corporation Board would also have no cost effects. This provision simply adds one more assignment to an existing position.

- 6. Estimate comparison: None available.
- 7. Previous CBO estimate: None.
- 8. Estimate prepared by: Robert M. Gordon.
- 9. Estimate approved by:

C. G. NUCKOLS,
Deputy Assistant Director for Budget Estimates.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, existing law in which no change is proposed is shown in *roman*):

TITLE 5, UNITED STATES CODE

* * * * *

§ 5313. Positions at level II.

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

(23) *Deputy Secretary of Agriculture.*

§ 5314. Positions at level III.

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[(3) Under Secretary of Agriculture.]

* * * * *

§ 5315. Positions at level IV.

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

(11) Assistant Secretaries of Agriculture [(4)] (5):

* * * * *

§ 5316. Positions at level V.

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[(55) Director of Agricultural Economics, Department of Agriculture.]

* * * * *

(137) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

(138) Administrator, Food and Nutrition Service, Department of Agriculture.

* * * * *

ACT OF MARCH 26, 1934

AN ACT Making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1935, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1935, namely:

* * * * *

TITLE I—DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY

SALARIES

For the Secretary of Agriculture, [Under Secretary of Agriculture] Deputy Secretary of Agriculture, \$10,000, and there is hereby established in the Department of Agriculture the position of [Under Secretary of Agriculture] Deputy Secretary of Agriculture, to be appointed by the President, by and with the advice and consent of the Senate * * *.

* * * * *

ACT OF JUNE 5, 1939

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the [Under Secretary of Agriculture] Deputy Secretary of Agriculture is authorized to exercise the functions and perform the duties of the first assistant of the Secretary of Agriculture within the meaning of section 177 of the Revised Statutes of the United States (U.S.C., title 5, sec. 4)¹

¹ Section 177 of the Revised Statutes was repealed by Public Law 89-554. The provisions were replaced with 5 U.S.C. 3345.

and shall perform such other duties as may be required by law or prescribed by the Secretary of Agriculture.

* * * * *

COMMODITY CREDIT CORPORATION CHARTER ACT

* * * * *

SEC. 9. DIRECTORS, ADVISORY BOARD: (a) The management of the Corporation shall be vested in a board of directors (hereinafter referred to as the "Board"), subject to the general supervision and direction of the Secretary. The Secretary shall be an ex officio director and shall serve as Chairman of the Board. [The Board shall consist of six members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate.] The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate. In addition to their duties as members of the Board such appointed members shall perform such other duties as may be prescribed by the Secretary. Each appointed member of the Board shall receive compensation at such rate not in excess of the maximum then payable under the Classification Act of 1923, as amended, as may be fixed by the Secretary, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this section. A majority of the directors shall constitute a quorum of the Board and action shall be taken only by a majority votes of those present.

* * * * *

FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963, AS AMENDED

AN ACT To provide for the registration of contractors of migrant agricultural workers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Registration Act of 1963".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the channels and instrumentalities of interstate commerce are being used by certain irresponsible contractors for the services of the migrant agricultural laborers who exploit producers of agricultural products, migrant agricultural laborers, and the public generally, and that, as a result of the use of the channels and instrumentalities of interstate commerce by such irresponsible contractors, the flow of interstate commerce has been impeded, obstructed, and restrained.

(b) It is therefore the policy of this Act to remove the impediments, obstructions, and restraints occasioned to the flow of interstate commerce by the activities of such irresponsible contractors by requiring that all persons engaged in the activity of contracting for the services of workers for interstate agricultural employment comply with the

provisions of this Act and all regulations prescribed hereunder by the Secretary of Labor:

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" includes any individual, partnership, association, joint stock company, trust, or corporation.

(b) The term "farm labor contractor" means any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers (excluding members of his immediate family) for agricultural employment. Such term shall not include—

(1) any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization;

(2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

(3) any full-time or regular employee of any entity referred to in (1) or (2) above who engages in such activity solely for his employer on no more than an incidental basis;

(4) any person who engages in any such activity (A) solely within a twenty-five mile intrastate radius of his permanent place of residence and (B) for not more than thirteen weeks per year;

(5) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States if the employment is subject to—

(A) an agreement between the United States and such foreign nation; or

(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for through the United States by an instrumentality of such foreign nation;

(6) any full-time or regular employee of any person holding a certificate of registration under this Act;

(7) any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers;

(8) any custom combine, hay harvesting, or sheep shearing operation[.]; or

(9) any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours.

* * * * *

H. R. 10133

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 upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

“(23) Deputy Secretary of Agriculture.”.

(b) Section 5314 of such title 5 is amended by striking out paragraph (3).

(c) The Acts listed in paragraphs (1) and (2) of this subsection are amended by striking out the words “Under Secretary of Agriculture” wherever they appear and by inserting in lieu thereof the words “Deputy Secretary of Agriculture”:

(1) The Act of March 26, 1934 (48 Stat. 467; 7 U.S.C. 2210).

(2) The Act of June 5, 1939 (53 Stat. 809; 7 U.S.C. 2211).

(d) The officer occupying the position of Under Secretary of Agriculture, on the date of enactment of this Act, may assume the duties of the Deputy Secretary of Agriculture. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this Act.

SEC. 2. There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, shall be responsible for such duties as the Secretary of Agriculture shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

SEC. 3. (a) Section 5315 of title 5 of the United States Code is amended by striking out “(4)” at the end of paragraph (11) and by inserting in lieu thereof “(5)”.

(b) Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (55); and

(2) by adding at the end thereof a new paragraph (137) as follows:

“(137) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.”.

SEC. 4. Section 9(a) of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1072, as amended, 15 U.S.C. 714g(a)), is amended by striking out the third sentence and inserting in lieu thereof: “The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate.”.

SEC. 5. (a) Except as otherwise provided in this section, this Act shall take effect on its date of enactment.

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(b) Subsection (b)(1) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act.

SEC. 6. Section 3(b) of the Farm Labor Contractor Registration Act of 1963, as amended (78 Stat. 920, as amended; 7 U.S.C. 2042), is amended—

(a) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "or"; and

(b) by adding at the end thereof a new paragraph (9) as follows:

"(9) any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours."

Speaker of the House of Representatives.

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