HCR 117
REQUESTING THE DEVELOPMENT OF A
PROGRAM PLAN AND ORGANIZATIONAL STRUCTURE
FOR A DEPARTMENT OF ENVIRONMENTAL AFFAIRS

Statement for
House Committee on
Planning, Energy, and Environmental Protection
Public Hearing - 10 April 1985

By
Doak C. Cox, Director

HCR 117 calls for the establishment of a planning committee to develop a program plan and an organizational structure for a proposed department of environmental affairs. Because the resolution calls for the Director of the Environmental Center of the University of Hawaii to serve as one of the ten members, it is one on which the University may have an official position. However, there has not been time since the resolution came to our attention for its review on behalf of the University. This review of HCR 117, indeed, is single-authored, unlike most of the Environmental Center's reviews of proposed legislation that are authored by a number of specialists with competence in various disciplines.

In this review I wish to comment on:

1) The membership proposed for the planning committee;
2) The concerns indicated in the resolution—those leading to the proposal for the establishment of the planning committee and the formulation of its charge;
3) The concept implied in the presentation that these concerns will best be responded to by the establishment of a Department of Environmental Affairs.

1. The proposed planning committee

My first comment on the membership of the proposed planning committee relates to the proposed service on it of the Director of the Environmental Center. I would regard service on the proposed planning committee an appropriate and important function for the Center's Director. I will not hold the Director's position after June of this year, and there is at present some uncertainty as to the future placement of the Center in the University's organizational structure. It appears, however, that the functions of the Center will be continued, and I believe your committee can be confident that the future Director of the Center or his equivalent or designee will be available for service on the planning committee.

AN EQUAL OPPORTUNITY EMPLOYER
The only other comment I wish to make on the proposed membership of the planning committee is that, although for efficiency it should not be expanded much, the importance of environmental affairs in planning is such as to suggest that it might usefully include a representative of the Department of Planning and Economic Development.

2. Motivating concerns

Little comment is needed on the concerns that motivated the preparation of HCR 117. Evidence of need for better coordination of environmental management led to the request to the Legislative Reference Bureau (LRB) that they investigate the desirability of establishing a state equivalent of the federal Environmental Protection Agency. The LRB concluded, as recognized in the resolution, that if the State "is serious about having a strong environmental program, a separate environmental department should eventually be established" (although not immediately). The concerns are increased by the additional evidence of inadequacies in management of pesticides that has recently come to attention.

That an effort in improvement is needed in State-level environmental management seems clear. It is also clear that, no matter through what channels the effort is made, thorough planning is needed so that the direction of the effort, the authority on which it is based, and the personnel and budgetary support provided it will allow the effort to be effective.

3. The concept of the Department of Environmental Affairs

What is not so clear is that the improvement needed will best be achieved by the establishment of a department of environmental affairs, particularly one with the scope proposed in the resolution. As is recognized, existing governmental entities already have responsibilities and authority for environmental management. Clarification of responsibilities and increases in authority ("clout") are needed. However, with the best of planning, clarification of responsibilities cannot be enhanced by reorganization, and reorganization alone will not increase "clout". I suggest, indeed, that, although an agency or department newly created to deal with environmental problems might be given not only the pertinent "clout" that preexisting agencies now have and additional "clout" as well, this would not be the best way of providing the improvement needed.

It is not my purpose here to discuss in detail the alternative mechanisms available or to compare them with the mechanism of creating a new department. All I will try to do is to present in outline form some reasons for believing that the charge to the committee charged with planning for whatever will most effectively respond to the concerns should not be restricted to considering the single mechanism proposed.

1. The intended scope of authority for the proposed department seems restricted essentially to pollution control. Pollution control functions are of great importance at any time and, as related to pesticide usage, of particular importance at present. However, the variety of pollution control functions is not as great as the variety of functions exercised by present State departments, and it does not seem great enough to warrant establishment of a department with no other functions.
2. Pollution control problems are not by any means the sole environmental quality problems we face; there are other environmental problems in addition to environmental quality control problems; and pollution control functions (or even environmental quality control functions more generally) would not justify designating, as an Environmental Affairs Department, one with responsibility for such functions alone.

3. Creating a new department to exercise pollution control functions would have the advantage of eliminating the present split between the authority of the DOA to regulate pesticide usage and the authority of the DOH to deal with pollution generally. However, this advantage would be offset by the disadvantage associated with the introduction of two new splits:

a) A split between the guidance of pesticide usage with respect to the needs of agricultural industries (with which DOA must be concerned) and the control of that usage (which would be the responsibility of the new department);

b) A split between the concerns with what we call environmental health (which would be the responsibility of the new department) and other health concerns (that must remain the responsibility of the DOH).

4. There is need to distinguish among: i) the regulatory responsibilities of agencies; ii) the monitoring responsibilities of agencies; and iii) responsibilities for interagency planning, coordination, and oversight. With respect to the needs for improvement in pesticide usage control, the principal inadequacy relates to the coordination and oversight of the legitimate concerns of the DOA with respect to the agricultural industries and the legitimate concerns of the DOH with the impacts of the usage on health. To achieve the needed coordination and oversight, it is not necessary to transfer the authority to regulate pesticide usage from the DOA to either the DOH or the proposed new department.

5. Responsibility for coordinating regulatory activities so that they are carried out in the light of interdepartmental concerns is much more effectively placed in an agency with interdepartmental coordinating functions than in an agency with regulatory responsibility.

6. The OEQC was established with the intent that it provide interdepartmental coordination in environmental matters. The OEQC's coordinating authority has, however, been limited, since its establishment, to authority provided it by the Governor. Furthermore, although the need for interdepartmental coordination in environmental matters has increased with time since the OEQC's establishment, its staff capabilities have decreased with time. The effectiveness of the OEQC's interdisciplinary coordination may have been further lessened with its transfer from the Office of the Governor to the DOH. Inadequacies in the OEQC interdepartmental coordination are, therefore, not attributable to deficiencies in the concept that led to its establishment, but to constraints on it that could be removed.

Summary
The concerns that led to the introduction of HR 117 are legitimate and very important ones. The Environmental Center may be counted on to provide a member of the committee charged with developing a plan to respond to these concerns. It would, however, be preferable to allow the committee to consider, not only the plan to establish the proposed new department, but alternative means to respond to the concerns.
SCR 115
REQUESTING THE DEVELOPMENT OF A
PROGRAM PLAN AND ORGANIZATIONAL STRUCTURE
FOR A DEPARTMENT OF ENVIRONMENTAL AFFAIRS

Statement for
Senate Committee on
Health
Public Hearing - 15 April 1985

The attached statement on HCR 117 to the House Committee on Planning, Energy, and Environmental Protection remains applicable.

Attachment