



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

October 4, 2007  
(Senate)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 3093 – Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2008

(Sponsor: Byrd (D), West Virginia)

The Administration strongly opposes S. 1745 because, in combination with the other FY 2008 appropriations bills, it includes an irresponsible and excessive level of spending and includes other objectionable provisions.

The President has proposed a responsible plan for a balanced budget by 2012 through spending restraint and without raising taxes. To achieve this important goal, the Administration supports a responsible discretionary spending total of not more than \$933 billion in FY 2008, which is a \$60 billion increase over the FY 2007 enacted level. The Democratic Budget Resolution and subsequent spending allocations adopted by the Senate Appropriations Committee exceed the President's discretionary spending topline by \$22 billion causing a 9 percent increase in FY 2008 discretionary spending. In addition, the Administration opposes the Senate Appropriations Committee's plan to shift \$3.5 billion from the Defense appropriations bill to non-defense spending, which is inconsistent with the Democrats' Budget Resolution and risks diminishing America's war fighting capacity.

S. 1745 exceeds the President's request for programs funded in this bill by \$3.2 billion, part of the \$22 billion increase above the President's request for FY 2008 appropriations. The Administration has asked that Congress demonstrate a path to live within the President's topline and cover the excess spending in this bill through reductions elsewhere. Because Congress has failed to demonstrate such a path, if S. 1745 were presented to the President, he would veto the bill.

The President has called on Congress to reform the earmarking process that has led to wasteful and unnecessary spending. Specifically, he called on Congress to provide greater transparency and full disclosure of earmarks, to put them in the language of the bill itself, and to cut the cost and number by at least half. The Administration opposes any efforts to shield earmarks from public scrutiny and urges Congress to bring full transparency to the earmarking process, eliminate wasteful earmarks, and to cut the cost and number of earmarks by at least half.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

## American Competitiveness Initiative (ACI)

The Administration commends the Committee's implementation of ACI with its strong support for the National Science Foundation (NSF) and the standards and research activities of the National Institute of Standards and Technology (NIST). However, the Administration does not support the additional \$100 million above the request allocated to education programs in NSF nor the use of the NIST construction account to fund substantial earmarks for non-Federal facilities, which are not competitively selected or targeted to national needs, and are generally unrelated to NIST's primary mission.

## Department of Commerce

The Administration appreciates the strong support shown for Commerce programs, particularly in the areas of science, environmental stewardship, and the 2010 decennial census. However, the Senate has included nearly \$800 million of unrequested funding for the Department.

The Administration also appreciates the support shown for requested National Oceanic and Atmospheric Administration (NOAA) programs and the Oceans Initiative. However, the overall funding provided is more than \$400 million above the request and the Senate is urged to reduce lower priority items, including extensive earmarks to support higher priority programs. For example, the Administration is concerned that reductions for core geo-stationary satellite program and bureau-wide management services, as well as limitations on the length of availability of certain funds, would seriously impair the agency's ability to carry out its missions.

The Administration strongly opposes the provision purporting to require NOAA to submit its 2009 and subsequent budgets to the Committee simultaneously with submission to OMB. The Department of Justice advises that this provision violates the Recommendations Clause of the Constitution and is inconsistent with the separation of powers. Budget requests are legislative recommendations from the President, and the Constitution expressly reserves to the President the authority to determine when and whether such requests are submitted to Congress.

While the Administration supports the funding for the Patent and Trademark Office (PTO), the sum of the funding floors specified in the bill exceeds the estimated total fee collections, and the bill could preclude funding for other essential PTO activities, such as central PTO administrative functions and intellectual property protection activities.

The Administration does not support the \$80 million increase for the Economic Development Administration. The Administration also opposes the additional \$154 million (net of rescission) provided for the Hollings Manufacturing Extension Partnership (MEP) Program and the Advanced Technology Program (ATP). MEP centers can be sustained with reduced Federal funding by reducing costs such as excessive marketing activities and through increased contributions from clients for MEP consulting services that most firms secure through the private sector. The Administration believes that ATP, which was headed for termination in FY 2007, subsidizes commercial research and development activities that are inappropriate for Federal funding and should be supported by private investment. The Administration also believes that the Technology Innovation Program, the recently authorized follow-on program to ATP, does not warrant funding given the competing budgetary needs.

In addition, the Administration opposes the \$20 million in unrequested grant funding provided for the Public Telecommunications Facilities, Planning, and Construction grants program, which overlaps with funding available through the Corporation for Public Broadcasting, and the \$10 million provided for the Technology Opportunities Program, which is not required to address the Nation's broadband priorities and has not been funded for several years. The Administration also believes that the extension of the Emergency Steel Loan Guarantee Program is unnecessary.

The Administration strongly opposes the bill's direction to the International Trade Administration (ITA) and the U.S. Trade Representative to seek changes in international trade laws to facilitate re-introduction of taxpayer-financed subsidies for firms that benefit from antidumping tariffs. The Administration also opposes language exempting ITA from OMB circular A-25 that promotes cost-recovery for services that provide special benefits to recipients beyond those received by the general public. In addition, the Administration opposes the \$14 million in earmarks that are a burdensome carve-out of ITA base resources and distract from the bureau's mission of removing trade barriers and promoting American exports.

### Department of Justice

The Administration appreciates the Committee's support for the Federal Bureau of Investigation (FBI), other Federal law enforcement activities, and other criminal justice efforts. However, the Administration request for these activities, including State and local grants and prison construction, is sufficient and the Senate is urged to fund these programs at the proposed level.

The bill includes an unrequested \$53 million for the FBI to construct a Terrorist Explosives Device Analytical Center, as well as an unrequested \$90 million to construct a Biometrics Technology Center. The critical need for these initiatives is unclear, especially since these centers will have long-term costs and the funding could instead be directed to higher priority national security and counterterrorism activities.

The Administration is disappointed that funding for State and local law enforcement assistance exceeds the request by \$1.6 billion. By continuing to fund numerous small, ineffective, and formula-based grant programs, the Committee has not targeted funds where they are most needed and for the purposes for which they are most needed. The Administration has proposed to consolidate over 70 programs into four flexible and competitive grants, which would allow resources to be targeted effectively and efficiently to address critical criminal justice priorities across the Nation. Furthermore, many of these small grant programs are earmarked -- specifically, most of the 500 Justice earmarks, which total \$750 million, are in these programs. The Administration is further disappointed by the Committee's failure to provide \$200 million requested for the Violent Crime Reduction Partnership Initiative, which would competitively deploy funds to facilitate Federal, State, and local law enforcement partnerships to address violent crime, drugs and gangs where assistance is most needed. The Administration is concerned that the bill provides only \$10 million for the Bureau of Justice Statistics, which will significantly impair efforts to collect, analyze, and publish data on rates of victimization and other crime statistics.

The Administration also is concerned that the bill would require the Department to reimburse the District of Columbia up to \$8 million for newly sentenced Superior Court felons and parole and

probation violators, which imposes an unnecessary cost on the Department and provides no incentive for the District to improve prisoner processing.

#### National Aeronautics and Space Administration (NASA)

The Administration supports the Senate's full funding for NASA's Exploration Systems, Space Shuttle, International Space Station, and Aeronautics, but does not endorse funding in excess of the request for Science. In addition, the micromanaging of funding allocations specified in the Committee report would inhibit program managers' ability to make effective and efficient decisions in support of ongoing mission activities.

#### National Science Foundation (NSF)

The Administration opposes language that eliminates funding for the Science and Technology Policy Institute (STPI). Although STPI primarily supports the Office of Science and Technology Policy (OSTP), Congress originally funded STPI through NSF because OSTP does not possess the contract management oversight structure that would be needed for them to manage the STPI contract. This situation continues, and thus funding for STPI should remain in NSF

#### President's Management Agenda

Section 515 requiring reprogramming notification for E-Government initiative funds should be deleted, as it would delay funding for systems supporting agency core missions and operations.

#### Constitutional Concerns

Provisions of the bill that purport to direct or burden the conduct of foreign relations, and of negotiations with international organizations, should be amended to make the provisions consistent with the constitutional authority of the President to conduct the Nation's foreign relations and his constitutional authority as Commander in Chief. These provisions are under the headings "Operations and Administration," International Trade Administration, Department of Commerce; and "Salaries and Expenses," Office of the United States Trade Representative.

As noted above, to ensure consistency with the constitutional authority of the President to supervise the unitary Executive Branch, language under the heading, "Operations, Research, and Facilities," National Oceanic and Atmospheric Administration, Department of Commerce, that purports to grant concurrent budget submission authority should be deleted.

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