



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

October 17, 2007
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 1710 – Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008

(Sponsor: Sen. Byrd (D), West Virginia)

The Administration strongly opposes S. 1710 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. Finally, the bill circumvents spending limits by increasing advance appropriations by \$2 billion, which would bring the total discretionary spending increase to \$24 billion above the President's request.

S. 1710 exceeds the President's request for programs funded in this bill by nearly \$9 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, while ensuring the Department of Defense has the resources necessary to accomplish its mission. Because Congress has failed to demonstrate such a path, if S. 1710 were presented to the President, he would veto the bill.

The Administration strongly opposes provisions in this bill that overturn the President's policy regarding human embryonic stem cell research. On June 20, the President issued an Executive Order that strengthens research using pluripotent stem cells – cells that have the potential to develop into nearly all the cell types and tissues in the body – without endangering human life in the process. The President believes that by enacting appropriate policy safeguards while encouraging the development of novel scientific techniques, it is possible to advance scientific and medical frontiers without violating moral principles. The bill language is a transparent attempt to reverse the clear policy the President has implemented on the ethical conduct of stem cell research. As a result, and consistent with the President's May 3rd letter, if any such provisions were included in the final version of the bill 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, to 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.

Department of Education

While the Administration is pleased that the bill supports increased investments for several of the President's education priorities, it is disappointing that the Committee fails to adopt many of the program terminations and spending reductions proposed in the President's Budget and exceeds the Budget's request for the Department of Education by \$4.1 billion or 7 percent. In particular, the President's Budget proposed to terminate funding for 43 Department of Education programs that are duplicative, narrowly focused, or unable to demonstrate effectiveness. The Budget then redirects savings from these terminations and other spending reductions to provide significant increases for priority education programs that have a record of success or hold significant promise for improving student achievement and increasing accountability. The Administration urges the Senate to adopt the terminations and reductions proposed in the Budget in order to restrain spending and redirect funding to high-priority education initiatives.

Reading First. The Administration is very concerned about the \$229 million reduction in the Reading First program. While the Administration recognizes the significant issues outlined in several Inspector General (IG) reports, the Department has addressed these problems and implemented all the IG recommendations. Moreover, as a result of Reading First, reading proficiency, on a measure of reading fluency in 26 States with a few years of data, has increased for third graders by 15 percent and for economically disadvantaged first graders by 28 percent. Outstanding results such as these, particularly among at-risk students, call for sustaining investments in this effective program.

American Competitiveness Initiative. The Administration appreciates the Committee's support for the Advanced Placement program as part of this initiative but urges the Senate to fully fund the President's request under the authority provided in the new America COMPETES Act. The Administration also seeks funding for the Math Now program, also included in the America COMPETES Act, to help school districts implement research-based instructional practices to prepare at-risk students for more rigorous math courses in high school and beyond. Finally, the Senate is urged to provide \$25 million requested for the Adjunct Teacher Corps, to encourage professionals to bring their needed expertise to our middle and high schools by becoming adjunct teachers in math and science.

Title I – Education for the Disadvantaged. The Administration agrees with the Committee on the importance of the Title I program and commends it for providing the President's full request. This increase, together with the adoption of the Administration's NCLB reauthorization

proposals, would help improve achievement at the high school level.

School Improvement Grants. The Administration supports the bill's funding of School Improvement Grants at the requested level.

Striving Readers. While the Administration appreciates the small increase provided for this program, it is disappointed that the bill provides \$64 million less than the President's request. Secondary school students who read below grade level are at risk of dropping out of school and performing poorly in all subject areas. This program helps address this core issue by supporting research-based reading interventions.

Teacher Incentive Fund. The Administration commends the bill's support for the Teacher Incentive Fund but seeks the \$199 million requested in the President's Budget.

Promise and Opportunity Scholarships. The Administration is extremely disappointed that the bill fails to support these crucial new initiatives to offer much needed educational choices to low-income students trapped in persistently low-performing schools, and to provide competitive grants to help communities expand education options for low-income families. The Administration urges the Senate to fully fund the \$300 million requested in the President's Budget.

National Security Language Initiative (NSLI). The Administration appreciates the bill's support for this initiative but seeks the Budget's entire request for all the education elements of this initiative, in order to significantly increase the number of U.S. students learning foreign languages critical for the Nation's security and global competitiveness.

Institute for Education Sciences. The Administration seeks the \$25 million requested for a voluntary post-secondary student-level data system pilot, which would help increase transparency about institutional outcomes and costs to help parents and policy makers make better decisions.

Accreditation Regulations. The Administration strongly opposes language included in the bill that would prohibit the Department of Education from revising existing Higher Education Act regulations on accrediting agency recognition, until legislation specifically requiring such revision is enacted.

Department of Health and Human Services (HHS)

Low Priority Activities. The Budget proposes to eliminate or reduce funding for a number of HHS activities that have not been proven to be effective, have already achieved their intended purpose, or are duplicative of other activities. The Committee has provided increases over FY 2007 levels for many of these activities, which has contributed to the overall excessive totals in the bill with little to no impact on improving the Nation's health.

Pandemic Influenza. The Administration supports the bill's full funding of the request for pandemic influenza preparedness activities at the Centers for Disease Control and Prevention (CDC). However, the Administration is very concerned that funding has been reduced within the Public Health and Social Services Emergency Fund for the third installment of the

President's \$7.1 billion supplemental plan submitted to Congress in November 2005. Funding at a level below the request will slow down critical vaccine research and development and the procurement of antiviral medicines.

Domestic HIV/AIDS Initiative. The Administration requests that this activity be funded at the level included in the President's Budget. One in four Americans living with HIV are unaware of their infection. Increased testing supported by this funding of those at high-risk of infection will improve early diagnosis, enabling individuals to alter their behavior to prevent the spread of new infections.

Bioterrorism. The Administration strongly supports full funding of \$189 million for the Office of the Biomedical Advanced Research and Development Authority (BARDA) within the Office of the Assistant Secretary for Preparedness and Response (ASPR). This funding level is critical for advanced research and development activities and the acceleration of procurements for biodefense medical countermeasures.

Hospital Preparedness Grants. The Administration objects to the \$87 million increase over the request for hospital preparedness grants within ASPR and State and local grants at CDC. These increases would divert resources from more urgent and effective bioterrorism activities within ASPR which are necessary to prepare the Nation to respond to a bioterrorism attack.

Office of the National Coordinator for Health Information Technology. The Senate is urged to fully fund the request in order to capitalize on the progress and momentum needed to achieve the President's goal of most Americans having electronic health records by 2014.

Medicare Contracting Reform. The Committee is commended for fully funding Medicare contracting reform, which will enable the Centers for Medicare and Medicaid Services to sustain its expedited timeline for converting claims processing contracts to competitive contracts and will result in savings of roughly \$2.1 billion over five years. The Senate is encouraged to include language that ensures that no fewer than 15 Medicare administrative contractors begin operations by December 15, 2008.

Health Care Fraud Abuse and Control Account. The Administration supports the bill's funding for enhanced program integrity efforts to curtail waste, fraud and abuse in Medicare and Medicaid, and believes that the \$183 million requested in the 2008 President's Budget and included in the House Subcommittee bill is sufficient to protect beneficiaries and the Federal Government from waste, fraud, and abuse.

Adolescent Health. The bill does not provide requested funding for the Secretary's Adolescent Health Promotion initiative. Full funding would enable thousands of schools to take advantage of HHS's science-based resources to establish a culture of wellness that begins to halt the epidemic of childhood obesity, reaching more than three million young people and their families.

Public Access to Research Information. Provisions in the bill would require that manuscripts based on NIH-funded research be made available to the public within 12 months of publication. The Administration notes that NIH's current policy requesting the voluntary submission of manuscripts has only been in effect for 2 years, and the Administration believes there is opportunity to work with Congress to study the current policy and consider ways to encourage

better participation. The Administration believes that any policy should balance the benefit of public access to taxpayer supported research against the possible impact that grant conditions could have on scientific research publishing, scientific peer review and on the United States' longstanding leadership in upholding strong standards of protection for intellectual property.

Federal Interest in Assets. The Administration objects to language in the Health Resources and Services Administration facilities grant activity and section 222 of the General Provisions that would terminate the Federal interest in assets purchased with grant funds. These provisions would result in transfers of taxpayer assets to the grantees, leading to unwarranted windfalls.

Substance Abuse and Mental Health Services Administration. The Senate is strongly encouraged to include language proposed in the Budget that would substantially improve accountability and results over current collection through the incomplete National Outcome Measures data.

Nonrecurring Expenses Fund. The Administration urges the Senate to reconsider this Fund, which would provide HHS the ability to address large, nonrecurring expenses, similar to other agencies including the Department of Justice and the General Services Administration.

Compassion Capital Fund. The Administration is concerned that the bill reduces this Fund by 17 percent from FY 2007. The \$75 million requested would improve the ability of additional faith and community based organizations to provide needed social services.

Abstinence Education. The Administration strongly opposes the 26 percent funding cut proposed by the Committee and strongly opposes the elimination of the longstanding definition of abstinence education that keeps these programs focused solely on abstinence to prevent out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems.

Mentoring Children of Prisoners (MCP). The Administration commends the Committee for providing \$49.5 million for MCP.

Department of Labor (DOL)

The Administration is disappointed that the Committee blocks many of the Administration's efforts to reform and better manage the Department's programs by rejecting proposed reductions in narrow-purpose, duplicative, and ineffective programs and preventing the use of competitive sourcing. The bill exceeds the request by nearly \$1.3 billion, yet underfunds critical management needs like the Information Technology crosscut and core accounting system. We urge the Senate to reallocate funds to fully finance the President's Community-Based Job Training Grants, Reintegration of Ex-offenders, and other critical programs.

Community-Based Job Training Grants. The bill provides \$25 million less than the \$150 million requested for Community Based Job Training Grants and funds this program within the Dislocated Worker National Reserve. This would severely limit the Department's ability to help workers in the wake of unanticipated events like natural disasters and mass layoffs.

Reintegration of Ex-offenders. The bill provides only one-third of the requested funding for this program, which would provide job training, mentoring, and other assistance to ex-offenders. The Administration urges the Senate to fully fund this program and adopt its proposal to bring

together the Prisoner Re-entry Initiative and Responsible Reintegration of Ex-offenders program.

Unemployment Insurance (UI) Program Integrity. The Administration is pleased that the bill includes the proposed funding for reemployment and eligibility assessments to reduce UI improper payments, which will result in annual savings of as much as \$205 million.

Job Training. The bill misses an opportunity to improve the cost-effectiveness of Workforce Investment Act programs, funds job training programs more than \$1 billion above the request, and includes numerous earmarks. The Administration also strongly opposes the provision that prevents the completion of Workforce Investment Act and Trade Adjustment Assistance (TAA) regulations. The proposed changes would reduce bureaucracy, give workers more flexible training options, and better integrate TAA with the One-Stop Career Center network.

Union Financial Integrity. The Administration opposes the 20 percent reduction for the Office of Labor-Management Standards, which would seriously weaken the agency's ability to improve union transparency and strengthen financial integrity.

Mine Safety Regulatory Mandates. The Administration is concerned about the bill's regulatory mandates. The MINER Act, which was passed with bipartisan support and signed into law last year, set a clear timetable and process for the evaluation of the use of belt air and the feasibility of refuge chambers in underground mines. The Senate is urged to allow for the completion of the analysis called for in the Act.

Job Corps. The Administration is disappointed that the bill rejects the Budget's proposal to return Job Corps to the Employment and Training Administration – a shift that would ensure the program's coordination with the Federal workforce investment system and improve administrative efficiency. The Administration is also concerned about the bill's slot mandate, which would hamstring management of the program.

Social Security Administration (SSA)

The Administration appreciates the Committee's full funding of the \$477 million requested for program integrity activities, which will allow SSA to process more continuing disability reviews and redeterminations of SSI eligibility. These activities will save an estimated \$3.6 billion over 10 years in mandatory program outlays.

Corporation for National and Community Service

Reduction in Innovation, Assistance, and Other Activities. The Senate is urged to restore funding for merit-based grants to national organizations, such as the Points of Light Foundation and America's Promise, that help to build the ethic of service among Americans of all ages and backgrounds.

AmeriCorps National Civilian Community Corps (NCCC). The Administration opposes the bill's mandate for two expensive new NCCC campuses. The Administration continues to believe that its proposal to improve cost effectiveness and focus on disaster preparedness and response is the best way forward for the NCCC program.

Corporation for Public Broadcasting (CPB)

Digital transition and radio interconnection system initiatives can be accommodated from within CPB's already-enacted FY 2008 appropriation, rather than by providing additional funds for those purposes. In addition, CPB should be funded like other programs that receive Federal assistance, rather than through advance appropriations.

Procurement

Section 519. The Administration objects to section 519, which requires that the Secretaries of Labor, HHS, and Education report to Congress on a quarterly basis all contracts and grants over \$100,000 that are noncompetitively awarded. The Federal Financial Accountability and Transparency Act already requires the collection and posting on a public website of this information. The Administration is developing an automated system to implement this law by January 2008. We urge the Senate to strike this unnecessary provision.

Competitive Sourcing. The Administration strongly opposes section 109 of the bill, which would impose an indefinite moratorium on public-private competition at the Department of Labor while the Government Accountability Office conducts a review with an unspecified deadline. The Department has conducted competitions in a fair and reasoned manner to improve the efficiency of its programs. On a Government-wide basis, competitions conducted over the last four years are expected to produce nearly \$7 billion in savings, with the majority of savings to be achieved in the next five to seven years.

Constitutional Concerns

Language under the heading, "School Improvement Programs," Department of Education, authorizing the provision of benefits to Native Hawaiians, should be amended to provide for implementation of such programs to the extent consistent with the requirement of the Due Process Clause of the Fifth Amendment to afford all persons equal protection of the laws.

Sections 102 and 208 of the bill purport to require approval of the Committees prior to the obligation of funds or other Executive Branch action to implement the law. These provisions should be changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court's ruling in *INS v. Chadha*.

* * * * *