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Budget Materials - Appropriations Letters [2]

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

Budget materials - appropriations letters

STATEMENT OF ADMINISTRATION POLICY

TO: JOHN HILLEY
BARBARA CHOW
MARTHA FOLEY
ANDY BLOCKER
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
CHUCK MARR
BRUCE REED
ELENA KAGAN
PAUL WEINSTEIN
JASON GOLDBERG

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield AS

DATE: September 24, 1997

SUBJECT: FOR YOUR CLEARANCE --
Treasury/Postal Appropriations Letter to Conferees

Attached is our draft letter to Conferees on H.R. 2378, the Treasury/Postal Appropriations Bill. The Conferees meet officially next week

Position: Lists concerns regarding FEC restrictions, FEHBP coverage for abortions, the IRS, Winstar funding, and EXOP funds for information technology.

Timing: We aim to send the SAP to the Hill Thursday morning in order to be effective during pre-conferencing.

Please contact Alice Shuffield at 5-4790 with your clearance or concerns.

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2378, the Treasury, Postal Service, and General Government Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

Both the House and the Senate versions of the bill provide requested funding for many of the Administration's priorities. However, as discussed below, the Administration will seek restoration of certain reductions to the President's request. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the conferees toward achieving acceptable funding levels. We urge the conferees to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

Federal Election Commission

The Administration appreciates the House's action to provide the President's amended request of $34 million for the Federal Election Commission (FEC). However, funds have not been provided to support enforcement actions and audits of the 1996 campaign as requested in the President's April 7th budget amendment. Instead, the House has provided funding for accelerating various modernization initiatives. While modernization improvements are welcome, and are part of the FEC's long-term agenda, the immediate need is for staff and resources to address the backlogged workload. While the Senate provides only $29 million of the $34 million requested for the FEC, the Senate version of the bill does not restrict the funds provided.

The Administration strongly objects to the limitations included in the House bill that would condition the availability of $4.2 million of the funding on filling all current Commission vacancies and on enactment of legislation prohibiting the reappointment of Commissioners. Both of these restrictions would place unwarranted and intrusive limitations on the Commission's ability to meet its current workload demands and are unrelated to the Commission's current performance. These provisions would amend underlying law without the benefit of hearings or debate. Therefore, we encourage the conferees to adopt the House funding level and drop these restrictions and amendments to underlying Federal Election Campaign law.

Federal Employees Health Benefits Program

The Administration strongly opposes the provision contained in both versions of the bill that would restrict Federal Employees Health Benefits Program (FEHBP) coverage for abortions except in situations where the life of the mother is endangered or the pregnancy is the result of rape or incest. While the President believes that abortion should be safe, legal, and rare, the Administration does not believe that Federal employees and their families should be precluded from choosing to purchase health insurance that includes broader coverage. The Administration believes that the decision to cover abortion should be left to each health plan participating in the FEHBP. Thus, Federal employees who wish to purchase health coverage that does not include abortion services would have that choice. The provision in the Committee bill does not allow Federal employees and their families to make that choice. Conferees are urged to strike this provision.

Internal Revenue Service

The Balanced Budget Act of 1997 provides authority for an Earned Income Tax Credit (EITC) compliance initiative. Pursuant to the Act, a budget amendment was submitted on September 17, 1997. The Administration urges the conferees to approve funding for this initiative. A provision allowing for an adjustment to the discretionary spending caps to accommodate funding for this proposal was included in the Balanced Budget Act of 1997.

The Administration appreciates the Senate's full funding of the request for the Internal Revenue Service's (IRS's) Processing, Assistance, and Management and Tax Law Enforcement accounts. The House funding level, $73 million below the request, would not provide the funding necessary for the inflationary increases requested in the President's budget. At the House funding level, we project that IRS would have to reduce FTE funded through these two accounts by approximately 1,500. This would lead to reduced taxpayer service assistance and an IRS-projected, five-year revenue loss of $1.1 billion.

The House provides the $258 million requested for Year 2000 conversion costs, including an increase in the Information Systems account of $20 million, and provides $326 million under the Information Technology Investment account for critical modernization investments. The Senate version of the bill rescinds funds from the Tax System Modernization (TSM) account to provide funding for Year 2000 conversion costs, earmarks all of the requested TSM funding ($130 million), and allocates $325 million (provided under the Information Technology Investments account) for Year 2000 conversion costs. The Administration urges the conferees to fund the IRS Year 2000 needs without jeopardizing other critical modernization investments. The absence of funding for these projects would undermine the IRS's ability to improve customer service and compliance.

"Winstar" Funding

The Administration is very concerned that neither version of the bill includes the President's request to authorize the Secretary of Treasury to use $33.7 million from the Federal Deposit Insurance Corporation's FSLIC Resolution Fund to reimburse the Department of Justice for expenses related to the ongoing Winstar litigation. This funding is vital to the Government's defense in this litigation, which involves over 120 cases and potential claims against the Government of about $20 billion. Without sufficient litigation support, the taxpayers are likely to be held liable for much larger damages. We appreciate the Committees' willingness to consider this matter and look forward to working with the conferees to provide this reimbursement authority.

Bureau of Alcohol, Tobacco and Firearms

The Administration requests full funding of the President's request for the Bureau of Alcohol, Tobacco and Firearms (BATF), $552 million, to avoid compromising BATF's ability to combat the Nation's most violent criminals. The reductions made by the House and the Senate, $19 million and $24 million, respectively, would force BATF to make FTE reductions at the same time that the Bureau is responding to recent congressional and Administration initiatives such as the Brady Law, church fires, Youth Crime Gun Interdiction, arson and bombing investigations, criminal firearms trafficking, and other anti-violent crime initiatives. The reductions would also force BATF to curtail its drug-related law enforcement activities, which could result in increased numbers of incidents committed by those involved in drug distribution.

Secret Service

The Administration strongly objects to the House's reduction of $15.5 million and the Senate's reduction of $6.6 million to the request for White House security funding (in the Secret Service Salaries and Expenses account and the Violent Crime Reduction Trust Fund). The requested funding is needed to implement fully all of the security requirements identified in the White House Security Review.

Cooperative Purchasing

The Administration opposes the provision of the Senate version of the bill that would repeal of section 1555 of the Federal Acquisition Streamlining Act (FASA) of 1994. This section of FASA would allow State and local governments, and Indian tribes to buy products off the General Services Administration's Federal supply schedule contracts, often at advantageous prices. If the repeal is not stricken, the Administration urges the conferees to adopt a compromise provision that would permit such purchases for a number of specified product categories in demand by State and local governments and whose affected producers have not objected. We would further urge that this authority include a limited pilot program for pharmaceuticals used to treat life-threatening conditions, beginning with drugs used to treat HIV. We also urge the retention of GSA's authority to make any of the services it provides to Federal agencies available to a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act. GSA's total collection of administrative fees will not increase by more than the incremental increase in the cost of administering the program.

Office of National Drug Control Policy

The Administration appreciates the House's support for the Office of National Drug Control Policy's (ONDCP's) national media campaign to prevent drug abuse among America's youth. The Senate version of the bill underfunds the media campaign by $65 million. We are concerned, however, that the funding level provided by the House is not adequate to accomplish our goals. Prohibiting the obligation during FY 1998 of $46 million of the $195 million appropriated to the media campaign would limit available funding for the campaign to $149 million. The Administration's request for $175 million is based upon recommendations from experts in the field and is the amount necessary to fund four media exposures per week to the 9-17 age group. Funding the campaign at significantly lower levels than requested would limit the number of media exposures or restrict the scope of the campaign, thus hindering its success.

In addition, the Administration is particularly concerned about the provisions in the House bill that seek to condition the obligation of funds provided for the national media campaign upon the approval of a strategy by the Appropriations Committees. Such consultation with Congress can be achieved without this specific language.

Finally, the House bill would create two new High Intensity Drug Trafficking Areas. The designation of High Intensity Drug Trafficking Areas in the appropriations bill would undermine ONDCP's statutory authority to designate such areas based on its review of the larger picture of drug use, availability, and trafficking in specified areas of the country, in consultation with other Federal and State officials. The Administration is also opposed to House language that would require funding for existing High Intensity Drug Trafficking Areas at no less than the FY 1997 level, as funding decisions are based, in part, on annual performance evaluations.

Whistleblower Protection

The Administration objects to the provision of both the House and Senate versions of the bill that would prohibit the use of funds provided in the Act to pay the salary of any official who interferes with communications by other Federal employees with Congress. While the Administration strongly supports the Whistleblowers Protection Act and the protections it affords Federal employees, this provision raises substantial separation of powers concerns in depriving the President and his department and agency heads of their ability to supervise the operations and communications of the Executive Branch, including the dissemination of information affecting Executive Branch confidentiality interests. The conferees are urged to strike this provision.

Executive Office of the President

Both the House and Senate versions of the bill fence funds for information technology for the White House and several other Executive Office of the President accounts pending the submission of an information technology architectural plan and milestone. The Office of Administration has devoted significant personnel and fiscal resources to complying with the Committee's request for such information. A report was submitted in July that we believe should fully satisfy the Appropriations Committees' requirements. Since preparation of another report would require significant resources and delay corrections and improvements, we urge the conferees to delete this provision.

Unanticipated Needs

Neither the House nor the Senate provides the requested $1 million to enable the President to meet unanticipated needs in furtherance of the national interest, security, or defense. The Administration urges the conferees to include this amount to ensure that the President has the same ability to meet such needs as previous Presidents have had.

Government Agency Provision of Commercially Available Goods and Services

The Administration is opposed to a provision in the Senate bill that would prohibit any Federal agency from providing another Federal agency commercially available products or services unless a cost comparison were conducted, in accordance with regulations issued by OMB, that demonstrated such performance to be more cost effective than if the services were provided by the private sector. The Administration fully supports the use of cost comparisons in an agency's decision to obtain commercially available goods and services. We are concerned, however, that in codifying the requirement for OMB to prescribe regulations regarding these cost comparisons, the legislation would result in a new level of litigation, caused by the conversion of management implementation decisions into a statutory obligation subject to judicial review. We believe that the influences of downsizing and an improved competitive environment are rapidly encouraging customer (service requesting) agencies to make economic decisions in their own best interest. Rather than increasing outsourcing, the legislation may result in additional litigation costs and related delays.

Infringement on Executive Authority

There are several provisions in both versions of the bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. The Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

Additional Administration concerns are contained in the Enclosure. We look forward to working with the conferees to address our mutual concerns.

Sincerely,

Franklin D. Raines
Director

Enclosure

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Jim Kolbe,
The Honorable Steny H. Hoyer, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Ben Nighthorse Campbell,
and The Honorable Herb Kohl

Enclosure
(Conference)

ADDITIONAL CONCERNS
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT
APPROPRIATIONS BILL, FY 1998
(AS PASSED BY THE HOUSE AND BY THE SENATE)

The Administration looks forward to working with the conferees to address the following additional concerns:

Department of the Treasury

- Departmental Offices. The Administration is concerned that funding for the Treasury's Departmental Offices, at $3 million below the request of $116 million in the House and $1.5 million below the request in the Senate, would adversely affect the Office of the Secretary's policy and analytical capacity. High priority workload demands include: GSE privatization, law enforcement oversight, international affairs operations, Electronic Funds Transfer, and the preparation of government-wide financial statements. Major policy analysis needs include: entitlement reform, tax simplification, and pension reform and retirement security.

- Treasury Forfeiture Fund. The Administration is concerned about the earmarking in the House version of the bill of $19.8 million in the Treasury Forfeiture Fund. These earmarks would undercut the Administration's ability to direct available funds to critical law enforcement priorities, such as the Youth Crime Gun Interdiction Initiative.

- United States Customs Service. The House's reduction of $18.2 million below the request would impair Customs' ability both to improve the inspection of cargo and passengers and to achieve more effective interdiction. Customs would be unable to deploy 119 additional cargo inspectors along the southern border and may even have to reduce current staffing levels by over 200 positions, many of which are currently located on the borders. The Administration supports the Senate level of funding for Customs and urges the conferees to remove the restriction on the development of the Automated Commercial Environment (ACE).

GSA: Federal Buildings Fund

- Environmental Protection Agency Construction. Neither the House nor the Senate version of the bill provides the $84 million requested for the Federal Buildings Fund for the renovation of the ICC/Connecting Wing Project. The Administration urges the conferees to provide funding for the third and final phase of this modernization project. The first phase was authorized and funded in 1995. Failure to fund this project will delay the Environmental Protection Agency's (EPA's) scheduled move of nearly 1,600 employees (over 25 percent of EPA's new headquarters space) by at least one year. A one-year delay could cost the

Federal Government over $10 million.

General Provision

- Negotiations with Foreign States. The Administration is also concerned that section 632 of the House version of the bill, which directs the U.S. Trade Representative and the Secretary of Treasury, in consultation with the Secretary of Commerce, to initiate discussions with Government officials of Mexico and Canada on certain trade issues, raises constitutional concerns. In purporting to direct Executive Branch officials to undertake negotiations with certain foreign governments, this provision would interfere with the President's executive authority to conduct the Nation's diplomatic relations with foreign states. The conferees are urged to strike this provision.

Objectionable Agriculture/Rural Development Provision

- Office of Management and Budget (OMB) Study of the Northeast Dairy Compact. The Conference report of the FY 1998 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill includes a provision, added on the Senate floor, that would require OMB to complete a study of the Northeast Dairy Compact by December 31, 1997. OMB does not have the resources to perform a study of this magnitude, particularly in the short time period required and given its responsibility for preparing the President's FY 1999 Budget. We urge the conferees to include language in the Treasury/Postal Service bill to eliminate the requirement for this study. If this is not possible, given that the Compact has only been in effect since July, the completion date for the study should be extended to April 1, 1998 and the appropriation for OMB should be increased to accommodate the additional costs of the study, estimated to be $200,000.

Budget materials - approps letters

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

September 25, 1997

THE DIRECTOR

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2158, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

As discussed below, the Administration will seek restoration of certain of the reductions in the House and Senate bills below the President's request. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the conferees toward achieving acceptable funding levels. We also note that in a number of accounts, funding levels exceed requests in the FY 1998 Budget. The Administration is committed to working with the conferees to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. We urge the conferees to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

Both the House- and Senate-passed versions of the bill include requested funding for many of the Administration's priorities. We appreciate congressional efforts to fully fund many of the Administration's high priority requests. Regrettably, there are a number of specific provisions of the Bipartisan Budget Agreement (BBA) that are not reflected in either the House- and Senate-passed version of the bill. In particular, the Administration is deeply concerned about the severe reductions in the House-passed bill for the Corporation for National and Community Service and the Environmental Protection Agency's (EPA) Hazardous Substance Superfund program, which we believe to be inconsistent with the BBA. Furthermore, contrary to the BBA, the Senate-passed bill includes a significant reduction in funding for EPA's operating programs and does not fund the Community Development Financial Institutions Fund (CDFI). We are concerned that several of these and other priority issues discussed below, such as funding and restrictive language for the Council on Environmental Quality, are not being resolved in a satisfactory manner.

To date, the Administration has been working with the Appropriations Committees to include items contained in the Bipartisan Budget Agreement in the FY 1998 appropriations bills, and to resolve other priority issues, in the hope that these issues could be worked out. If these issues are not resolved satisfactorily, the President's senior advisers would recommend that he veto the bill.

Corporation for National and Community Service

The Administration is deeply concerned about the level of funding for the Corporation for National and Community Service provided in the House and Senate versions of the bill. The House bill would severely reduce funding for the Corporation to $202 million, a reduction of $200 million, or 50 percent, from the FY 1997 enacted level and $347 million, or 63 percent, below the request. The Senate bill would reduce funding by $126 million or 23 percent, below the request. While the Administration appreciates the efforts made in the Senate to restore funding, the reductions made by both the House and Senate pose a serious threat to the President's America Reads Challenge, the national literacy campaign to ensure that every child can read well and independently by the third grade. This is one of the Administration's highest priorities. The BBA specifically calls for funding a literacy program "with the goals and the concepts of the President's America Reads program." Without the requested funding, the Corporation would not be able to finance 11,000 Americorps tutor coordinators to help recruit, organize, and manage volunteer tutors for the America Reads Challenge. The Administration strongly urges the conferees to fully fund the Corporation for National and Community Service at the requested level of $549 million and to adopt the appropriation language included in the President's FY 1998 Budget.

Environmental Protection Agency

The Administration appreciates the continued efforts of both the House and the Senate to keep the bill relatively free from contentious legislative riders. However, the Administration strongly objects to the overall reduction to the President's request for the Environmental Protection Agency (EPA) of $413 million in the House-passed bill and $669 million, in the Senate-passed bill. Reductions of this magnitude would significantly limit key activities and fail to meet the funding levels assumed in the BBA.

The Administration strongly objects to reductions made by the House and Senate to the President's request for Superfund. It is especially troubling that the House and the Senate have failed to fund this program at the level anticipated in the BBA. These funds are urgently needed to eliminate the backlog of Superfund cleanups and to double the pace of cleanups over the next four years. These initiatives will improve the quality of life for more than 27 million Americans, including over four million children, who live within four miles of a Superfund site. We urge the conferees to fully fund the President's request for Superfund, consistent with the BBA.

In addition, the Senate's reduction of $213 million to the President's $3.4 billion request for EPA's operating programs is a violation of the BBA that could severely impair the Agency's ability to protect the environment adequately. The Administration is troubled that both the House and the Senate have reduced funding for key Administration priorities while funding numerous unrequested and unauthorized projects. In particular, the Administration strongly opposes the roughly 40 percent reduction to the President's request for the Climate Change Action Plan. These voluntary programs represent a cost-effective method of achieving reductions in greenhouse gases that are needed to fulfill current U.S. treaty commitments. The Administration also urges the conferees to restore funding for the President's commitment to the public's right-to-know made in Kalamazoo, Michigan, which will make more environmental data available to the public in 75 major cities; the Montreal Protocol program, which works to prevent depletion of the ozone layer; finishing construction of the Research Triangle Park laboratory, which will replace several antiquated facilities; and, the innovative Global Learning and Observations to Benefit the Environment (GLOBE) program.

In addition, the Administration urges the conferees to restore the President's request of $100 million for Boston Harbor to help improve water quality and reduce the number of beach closings. This funding would continue to fulfill a bipartisan Federal commitment to Boston Harbor because of its special needs and high user charges.

The Administration strongly opposes the Senate's $4 million reduction to EPA's budget to fund the Chemical Safety and Hazard Investigation Board, and continues to support the EPA/OSHA Joint Accident Investigation Program to investigate chemical accidents and to recommend action for their further prevention. The EPA/OSHA program has successfully investigated numerous accidents, disseminated alerts to industry, and prompted OSHA to consider changing its process safety rule. The EPA/OSHA program has also produced an independently reviewed accident report and has more reports pending release. Rather than creating a duplicative agency, the Administration supports the EPA/OSHA program, which combines and improves upon existing agency efforts, as the most effective strategy to prevent accidents.

Community Development Financial Institutions Fund (CDFI)

The Administration objects to the Senate's decision not to fund the CDFI Fund. The BBA clearly indicates that funding for CDFI will be at the level projected in the President's FY 1998 Budget. The CDFI Fund has a demonstrated record of success. In the first round of the CDFI Program, the Fund awarded $37.2 million in loans, equity investments, grants, and technical assistance to 31 CDFIs serving 46 States and the District of Columbia. These investments have already leveraged more than $50 million in non-Federal matches and, over the long term, are estimated to leverage 10 to 20 times the amount awarded. Furthermore, under the Bank Enterprise Award Program, the CDFI Fund has awarded $13.1 million to 38 banks and thrifts. These awards have encouraged $126 million in support for CDFIs and direct lending and financial services in distressed neighborhoods. We strongly urge the conferees to fund CDFI at the requested level of $125 million, as agreed upon in the BBA, and as funded by the House-passed bill.

Council on Environmental Quality

The Administration strongly urges the Congress to restore the House and Senate reductions to the request for the Council on Environmental Quality (CEQ) and to remove objectionable Senate language that is unduly restrictive and contrary to historical practice. These actions would severely affect CEQ's ability to perform its statutory obligations under the National Environmental Policy Act (NEPA) and, consequently, would cripple its ongoing effort to reinvent NEPA, a project designed to improve decision-making and raise efficiency in the performance of NEPA reviews. The results of the NEPA reinvention will reduce costs, time delays, and paperwork, to the benefit of the general public. We also urge the Congress to include the requested bill language concerning the number of CEQ council members.

Department of Housing and Urban Development

The overall level of funding provided by both the House and Senate versions of the bill for the Department of Housing and Urban Development (HUD) is generally consistent with the Administration's request. However, both the House and the Senate have failed to provide adequate funding for a number of Presidential initiatives, including Brownfields Redevelopment, Empowerment Zones, Bridges to Work reverse commuting, housing certificates, and regional opportunity counseling to help families make the transition from welfare to work. Neither the House nor the Senate bill fully funds the Administration's request for the Fair Housing Initiatives Program (FHIP) (the Senate bill would reduce program funding below the FY 1997 level); FHIP is essential to ensuring that Americans are free from discrimination in the rental and sales markets. The Administration urges the conferees to provide funding for these initiatives at the President's requested levels.

The Administration understands that language may be added to the Statement of Managers directing the Department of Housing and Urban Development to provide the Committee with information related to the Department's Management 2020 reform plan. We are seriously concerned, however, that the language not be crafted in a way that delays or hinders the prompt implementation of a management reform plan that will improve the Department's ability to deliver services and reduce the cost of HUD programs. The Administration is committed to providing requested information in a timely fashion.

Funding for both Empowerment Zones and for Brownfields Redevelopment is necessary to complement recent tax legislation supporting these initiatives. The Taxpayer Relief Act of 1997, creates 22 additional Empowerment Zones and provides several tax incentives to promote job creation and economic opportunities in these areas. The Administration strongly urges the Congress to provide the full amount requested to promote job creation, economic opportunities, and revitalization of these distressed neighborhoods in America's urban centers. The Brownfields Tax Incentive was also enacted in the recent tax legislation. The requested appropriation of $25 million is essential to complete this initiative to clean up and rehabilitate these urban areas. Finally, the Senate-passed bill substantially underfunds, and the House-passed bill provides no funding, for the new second round of Empowerment Zones enacted in the Taxpayer Relief Act of 1997.

The Administration believes that it is vital to include language – mark-to-market provisions – to address comprehensively the problems of the over-subsidized, but Federally insured housing portfolio. At the same time, however, the Administration remains concerned about provisions in the Senate-passed bill. These concerns include the form of the subsidy after contracts are restructured and the flexibility for HUD to designate appropriate entities to restructure these contracts. We want to work with the conferees to satisfy these concerns. By addressing mark-to-market now, Congress can produce savings that will allow funding of other priority initiatives. Failing to act this year would mean continuing excessive landlord subsidies for another year and sacrificing an opportunity to achieve savings that will never be recouped.

The Administration urges the conferees to strike the three-month delay in reissuing housing vouchers included in both versions of the bill. This provision would reduce the number of families assisted. The Administration objects to the list of specific, local earmarked projects in the Senate-passed bill for the Economic Development Initiative (EDI) program. We believe that this list betrays the fundamental intention of EDI to support economic transitions and job creation. We look forward to working with the conferees to maximize the level of funds awarded to projects based on a consideration of merits.

The Administration also seeks restoration of requested funding for HUD Salaries and Expenses. The proposed Senate reduction of $51 million would significantly hinder HUD's ability to implement critical phases of its management reform and restructuring plan.

The Administration strongly supports the provisions in the Senate-passed bill to extend temporary reform in the public housing and tenant-based Section 8 programs beyond their September 30, 1997, expiration. The Administration will continue to work with Congress to enact comprehensive public housing and Section 8 reform legislation as promptly as possible However, extension of these provisions is needed to avoid substantial disruption while Congress completes its legislative action.

The Administration objects to the Senate's reduction to the request for the Office of Federal Housing Oversight (OFHEO). OFHEO provides crucial taxpayer protection through its financial supervision of Fannie Mae and Freddie Mac. We urge the conferees to adopt the requested funding level, as provided in the House-passed bill.

Department of Veterans Affairs

The Administration appreciates the responsiveness of the House and Senate to several of the President's key initiatives for the Department of Veterans Affairs (VA), especially the requested user fee proposal. Still, three key areas of concern remain:

- Construction in northern California. The Administration prefers the language of the Senate bill with regard to construction projects in northern California. The Senate version provides the flexibility necessary to establish the best array of health care facilities needed to serve veterans throughout this area. Further, the Senate language would allow VA to use recommendations from the congressionally-mandated report to plan projects that comprise the most comprehensive and appropriate network of health care delivery in northern California.

- Veterans Equitable Resource Allocation (VERA). The Administration appreciates the Senate's strong support of VERA. We recommend, therefore, eliminating House Report language that would direct VA to shift funds among its 22 health care networks. Under VERA, VA allocates funds based upon the relative needs of each health care network in order to address funding inequities and fulfill the congressional mandate set forth in Public Law 104-204.

- Medical Exam Reimbursements. The Administration urges the conferees to adopt the House language with regard to medical exam reimbursements. The House language would grant authority and provide related funding for the Veterans Benefits Administration to reimburse the Veterans Health Administration for medical examinations conducted in support of veterans' disability compensation claims. We believe that the establishment of a customer and service provider relationship between the two bureaus will improve the quality of medical exams, speed claims processing, reduce appeals and remands, and enhance service to veterans.

National Aeronautics and Space Administration

We appreciate congressional efforts to fully fund the President's request for the National Aeronautics and Space Administration (NASA). The Administration suggests that the conferees adopt House language concerning the $150 million in transfer authority for the International Space Station. The Administration will oversee the implementation of this transfer authority to ensure that it does not have adverse effects on other priority NASA programs. We also support the House funding for Russian Program Assurance, provided that such funding can be accomplished while also funding other Administration priorities identified in this letter.

The Administration supports funding for the National Science Foundation's participation in the Next Generation Internet (NGI) initiative, with the understanding that the additional funding is to be applied to university participation in the NGI, and to provide for connection of schools in rural areas where costs are relatively high.

Federal Emergency Management Agency

The Administration appreciates congressional efforts to support the President's proposal for a new pre-disaster mitigation program. However, we are concerned about the $45 million, or 90-percent, reduction to the request in the Senate version of the bill and urge the conferees to provide the House level of funding, to the extent possible. Pre-disaster mitigation is important in reducing disaster damage, saving disaster relief expenditures, and preventing loss of life.

Consumer Product Safety Commission

The House funding level for the Consumer Product Safety Commission is $1 million below the President's request of $45 million. The Administration urges the conferees to accept the Senate funding level and fully fund the agency's efforts to protect the public against unreasonable risk of injury or death from unsafe consumer products.

Office of Consumer Affairs

The Administration opposes the termination of the Office of Consumer Affairs (OCA) proposed by both the House and the Senate. This agency represents consumer needs and viewpoints across the Federal Government by coordinating Federal consumer policy and providing information to consumers through a help-line and educational materials. The Administration recommends that the conferees restore requested funding for OCA and OCA's authority to accept and expend donated funds.

We look forward to working with the Committee to address our mutual concerns.

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Jerry Lewis,
The Honorable Louis Stokes, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Christopher S. Bond,
and The Honorable Barbara Mikulski

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

Budget materials - approps letters

September 29, 1997

THE DIRECTOR

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the District of Columbia Appropriations Bill, FY 1998, as reported by the Subcommittee. As you develop the Committee version of the bill, your consideration of the Administration's views would be appreciated.

The Administration strongly opposes a provision of the Subcommittee bill that would provide for the use of Federal taxpayer funds for private school vouchers. Instead of investing additional resources in public schools, vouchers would allow a few selected students to attend private schools, and would draw attention away from the hard work of reforming public schools that serve the overwhelming majority of D.C. students. Establishing a private school voucher system in the Nation's Capital would set a dangerous precedent for using Federal taxpayer funds for schools that are not accountable to the public. If this language is included in the bill presented to the President, the President's senior advisers would recommend that the President veto the bill.

While the Administration appreciates the support of the Subcommittee in developing a bill that provides sufficient Federal funding to implement the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act), we strongly oppose a number of the provisions of the Subcommittee bill, as described below. Even if the provision concerning school vouchers were to be stricken, the Subcommittee bill would remain unacceptable. Unless the Administration's concerns are satisfactorily resolved, the President's senior advisers would recommend that the President veto the bill.

<u>Abortion</u>

The Administration strongly opposes the abortion language of the Subcommittee bill, which would prohibit the use of both Federal and District funds to pay for abortions except in those cases where the life of the mother is endangered or in situations involving rape or incest. Further, the Department of Justice has advised that the language would be unconstitutional regarding funds provided to the District of Columbia Corrections Trustee, to the extent the language places an undue burden on a woman's right to obtain an abortion. The Administration continues to view the prohibition on the use of local funds as an unwarranted intrusion into the affairs of the District and would support an amendment, if offered, to strike this prohibition.

Davis-Bacon Act

The Administration strongly opposes section 363 of the Subcommittee bill. As drafted, this provision would permit waiver of the application of the Davis-Bacon Act to construction and repair work for the District of Columbia schools. Waiving these protections would deny payment of locally prevailing wages to workers on Federally funded construction sites. The language must be revised to eliminate the waiver of the Davis-Bacon Act.

Pennsylvania Avenue

The Administration strongly opposes section 159 of the bill, which would require that Pennsylvania Avenue in front of the White House be opened on January 1, 1998. On May 20, 1995, the Department of the Treasury implemented the security action to prohibit vehicular traffic on Pennsylvania Avenue between 15th and 17th Streets. A White House Security Review concluded that there was no alternative to prohibiting vehicular traffic on Pennsylvania Avenue that would ensure the protection of the President of the United States, the first family, and those working in or visiting the White House Complex from explosive devices carried in vehicles near the perimeter. The Subcommittee's action would jeopardize the safety of those inside the White House Complex.

Micromanagement

The Administration opposes the provisions of the Subcommittee bill that would further restrict or otherwise condition management of the District Government, thereby undercutting the Financial Responsibility and Management Assistance Authority's (the Authority's) oversight role and responsibility for the District's annual budget.

Specifically, the Administration opposes provisions of the bill that would require the District to place a ceiling on FY 1998 full-time equivalents (FTEs) at ninety percent of the level as of September 30, 1997, and language placing a cap on general fund expenditures in order to provide $500 million for debt reduction and a taxpayer relief fund. Congress has given to the Authority the responsibility to guide the District toward long-term financial health and that role should not be undercut by unnecessary micromanagement.

Other provisions of the bill that undermine functions of the Authority and the District Council include: a provision requiring District Government employees to reside in the District; a provision to close the University of the District of Columbia Law School; and, the prohibition of helicopter tours over the District.

Treasury Borrowing Authority

The Subcommittee bill includes language that would prohibit the District from borrowing to finance its accumulated general fund deficit. It is not uncommon for cities recovering from severe cash flow problems to finance accumulated deficits through long-term borrowing. The Revitalization Act allows the District to borrow up to $300 million from Treasury for deficit financing if the District can show that it does not have private market access. The District needs the flexibility to use the Treasury window for long-term borrowing in case the private markets are not accessible.

D.C. Courts and Offender Services Funding

The Administration strongly opposes language in the Subcommittee bill that provides for funding the District of Columbia Courts and Offender Services through the Office of Management and Budget. The Administration urges the Committee to consider passing funding through the Authority or through stand-alone accounts. The original proposal was to pass funding through the State Justice Institute and not require the Institute to review these expenditures.

Additionally, the Administration would recommend that the House include language that would make available funds collected by the District of Columbia Courts for necessary expenses, including the funding of pension costs.

The Administration is committed to working with the House to produce a bill that will assist the District in its continued efforts toward financial recovery. We look forward to working with the House to address our mutual concerns.

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Charles H. Taylor,
and The Honorable James P. Moran

Budget materials –
approp. letters

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

STATEMENT OF ADMINISTRATION POLICY

TO: **JOHN HILLEY**
BARBARA CHOW
ANDY BLOCKER
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
CHUCK MARR
KATIE MCGINTY
MICHAEL IBARRA
LYNN CUTLER
BRUCE REED
ELENA KAGAN
PAUL WEINSTEIN
JASON GOLDBERG

CC: **JACK LEW**
CHARLES KIEFFER

FROM: **Alice Shuffield** AS

DATE: **September 29, 1997**

SUBJECT: **FOR YOUR CLEARANCE --**
Interior Appropriations Letter to Conferees

Attached is our draft letter to Conferees regarding H.R. 2107, the Department of the Interior and Related Agencies Appropriations Bill. The conferees are meeting today to negotiate the language in the bill.

Position: **Senior Advisors veto threat (Veto threats and new language are highlighted)**

Timing: We aim to send the letter to the Hill by 5pm today

Please contact Alice Shuffield at 5-4790 as soon as possible with your clearance or concerns.

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2107, the Department of the Interior and Related Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

While the House and Senate have provided requested funding for many of the Administration's priorities, we continue to have serious concerns with both the House- and Senate-passed versions of the bill. For example, the Administration strongly objects to the House's drastic reduction in funding for the National Endowment for the Arts (NEA). In addition, the House has failed to provide $700 million in FY 1998 budget authority from the Land and Water Conservation Fund as agreed to in the Bipartisan Budget Agreement (BBA). While the Senate-passed bill includes the $700 million, the bill includes an unnecessary provision for key Yellowstone (MT) and Headwaters (CA) acquisitions, making funding contingent upon enactment of specific authorizing legislation, which could indefinitely delay expenditures, thereby, violating the BBA.

Both bills also include objectionable environmental riders such as section 332 of the Senate-passed bill, which would prohibit the Forest Service from revising any national forest land management plans until the Administration publishes new final rules on forest land management planning. Other examples are section 342 in the Senate bill, which would prohibit use of funds for grizzly bear introduction into the Selway-Bitterroot area (ID, MT), and section 327 in the House bill, which would prohibit the use of funds for the World Heritage Program and the Man and the Biosphere Program. new

If these issues, and other concerns raised in this letter, are not resolved satisfactorily, the President's senior advisers would recommend that he veto the bill.

The Administration will also seek restoration of certain of the reductions to the President's requests. The Administration is committed to working with the conferees to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. For example, unrequested funds in the House-passed bill have been provided to reimburse the Forest Service's Knutson-Vandenberg Trust Fund (in excess of anticipated needs), and neither bill would rescind Clean Coal Technology funds at the level proposed in the FY 1998 Budget. We urge the conferees to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

National Foundation on the Arts and Humanities

The Administration strongly objects to the House's termination of funding for the National Endowment for the Arts (NEA) and appreciates the Senate's provision of some funding. The Administration urges the Conferees to increase funding for both the NEA and the National Endowment for the Humanities to the President's requested level.

The President's senior advisers would recommend that the President veto the bill if the funding level for NEA is not at or above the Senate level or if language were added to block grant funding for the arts, significantly increase the percentage of State grants, or make it administratively impossible for NEA to carry out its function.

Veto

Department of the Interior

Native American Program Funding. The Administration commends the House and Senate for funding essential, reservation-level Bureau of Indian Affairs (BIA) Tribal Priority Allocation programs at the President's requested level, the level included in the BBA.

Native American Program Riders. The Administration is pleased that the Senate Committee provision related to sovereign immunity of Indian Tribes has been withdrawn. In addition, the BBA specifies that the BIA Tribal Priority Allocation funds (TPA), used to support basic services on Indian reservations across the Nation, are protected. The revised section 118 of the Senate-passed bill, which would require a task force to determine the distribution of approximately one-third of new FY 1998 funds, is an improvement over the earlier version. However, we prefer the House TPA bill language.

The Senate-passed bill contains an amendment (section 129) concerning approval of Tribal-State compacts for gaming. As described by the proponents of the amendment, it is intended to prohibit the Secretary of the Interior from conducting a rulemaking process on the approval process for Indian gaming in light of the Supreme Court's Seminole decision and from implementing any regulations that result from that process. The Department of the Interior construes the amendment, as written, to do only the latter. The Secretary of the Interior would recommend that the President veto the bill if it contained a provision that would bar the Secretary from soliciting public input and from working with Tribes, States, and other interested parties to fashion a rule that both implements the Indian Gaming Regulatory Act and satisfies the concerns of interested parties.

Veto

The Administration also opposes language in the House version of the bill that would prohibit the development and implementation of any final rules regarding jurisdictional issues pursuant to Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). This moratorium would, in effect, for a third consecutive year override ANILCA. It would prevent the Departments of the Interior and Agriculture from managing subsistence fishing programs on behalf of Alaska Natives, as required by a 1995 decision by the 9th Circuit Court of Appeals (the Katie John case). It is, in essence, a backdoor way of repealing an important provision of Federal law. While substantial work on this issue has been accomplished by the Alaska Governor's subsistence task force, and the State legislature is holding hearings on the issue, these efforts do not show enough progress to warrant extension of the moratorium. If a simple extension of the moratorium, whether for part of or the entire fiscal year, were included in the final bill, the Secretary of the Interior would recommend a veto. The Administration supports efforts to allow the State to resume subsistence management, but any such resumption must take care to respect the interests of Alaskan Natives in this matter.

veto (new)

The Administration will work with the conferees to arrive at acceptable Native American provisions in the bill.

Endangered Species Act (ESA). The Administration strongly opposes section 342 of the Senate bill, which would stop the completion of the public evaluation of the Fish and Wildlife Service's (FWS's) innovative approach for grizzly bear introduction in the Selway-Bitterroot area of Idaho and Montana. After years of study and unparalleled citizen involvement, the FWS preferred alternative calls for the introduction of three to five bears annually into the Selway-Bitterroot area as a "non-essential" experimental population under section 10(j) of the ESA. Local concerns will be addressed through a 15-member Citizen Management Committee to be appointed by the Secretary of the Interior in consultation with the governors of Idaho and Montana and the Nez Perce Tribe. Public hearings on the FWS alternative will be held in October. We urge the conferees to drop this provision from the conference bill.

World Heritage and Man in the Biosphere Programs. The House-passed bill would prohibit the Department of the Interior from providing funding in FY 1998 to the World Heritage and Man in the Biosphere programs. The Administration strongly objects to these provisions and supports the Senate's decision to delete them.

Interior Columbia Basin Ecosystem Management Project (WA/OR/ID/MT). The Administration objects to language in the House-passed bill that would require additional economic and social analyses for the Interior Columbia Basin Ecosystem Management Project being completed by the Forest Service and the Bureau of Land Management. We support the Senate position and urge that this provision be deleted from the conference bill.

Pennsylvania Avenue (D.C.) redesign. The Administration understands that an amendment may be offered in conference pertaining to the Department of the Interior's ability through the National Park Service (NPS) to continue working on redesign of Pennsylvania Avenue. We strongly oppose such language because it would unnecessarily delay completion of this important project. In FY 1998, NPS would complete planning and design work for Avenue

new

redesign, and prior to taking further action in FY 1998 will consult fully with Congress. Planned construction is currently undergoing Administration review with the expectation that only critical aspects of the plan will be funded in the first phase, and that costs will likely be substantially lower than initial planning estimates.

Department of Agriculture

Forest Land Management Plans. Section 332 of the Senate-passed bill would prohibit the Forest Service from revising any national forest land management plans until the Administration publishes new final rules for forest land management planning. This highly objectionable provision would prevent forest plans and resource uses from being revised to reflect updated scientific information and would risk litigation over the more than 60 forest plans that are expected to be undergoing revision in FY 1998. A top priority of the Forest Service is revising land management planning regulations, and the Forest Service is moving forward expeditiously with a process to finalize them. However, it is unlikely that this process can be finalized by the end of FY 1998. Therefore, this provision could lead to major difficulties in managing the National Forest System and should be deleted.

Timber Roads. The Administration strongly supports elimination of the Purchaser Road Credit program, while holding States and counties harmless for any change in receipt sharing, and continuation of the Purchaser-Elect program for small businesses. The Senate Committee Report contains objectionable language that would require the Secretary of Agriculture to continue the Purchaser Road Credit program, which allows timber purchasers to pay partially for timber sales by constructing roads on National Forests. This program presents unnecessary administrative difficulties, and has been criticized as a subsidy to the timber industry. We urge the conferees to adopt the Administration's position.

Ban on Export of Unprocessed Timber from Federal Land. The Senate-passed bill contains a new Title VI, the "Forest Resources Conservation and Shortage Relief Act of 1997," which would amend restrictions on exports of raw logs harvested from Federal and State lands that were enacted in 1990 to protect American timber industry workers. The Administration has concerns that this complicated 15-page rider has not undergone public or congressional hearings and that the requirements may inadvertently weaken, rather than improve, program implementation. We urge that the provision be deleted from the bill and undergo hearings.

Department of Agriculture and Forest Service Micromanagement

The Administration objects to the micromanagement of Executive Branch authorities that the House- and Senate-passed bill would impose upon the Forest Service and the Office of the Secretary. The Administration believes that this inordinate level of micromanagement is inappropriate and would impede the ability of the Department to operate effectively. For example, both versions of the bill include highly objectionable language that would terminate the Secretary of Agriculture's authority to have a Western Director and a special assistant in the West, who facilitate the resolution of complex issues and provide important feedback to the Secretary about concerns of Western States and citizens.

The bills would further micromanage the Forest Service with specific provisions prohibiting any reorganization, office closure, or other cost saving proposals without prior approval of the Committees. The Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha. The Senate-passed bill includes highly objectionable language that would restrict funding available to Region 10. In addition, the House Committee Report would require the Forest Service to complete -- most by January 1998 -- over 15 different reports to the Congress.

Department of Energy

Energy Conservation. The Administration strongly objects to the Senate's reduction of $80 million and the House's reduction of $71 million to the request for Energy Conservation. This reduction postpones potential savings and is especially untimely, as the Federal Government is negotiating a new international protocol on climate change for signature in Kyoto, Japan, this December. This program provides positive benefits for the economy by achieving savings far greater than the program's cost, increases the Nation's technological competitiveness, and supports major climate change and environmental initiatives such as the Partnership for a New Generation of Vehicles.

Strategic Petroleum Reserve. The Administration objects to the House's proposed non-emergency sale of oil from the Strategic Petroleum Reserve in FY 1998 in order to fund routine operations and maintenance at the Reserve. The Strategic Petroleum Reserve is the cornerstone of the Nation's energy security. The Administration is conducting a study of policy issues related to the Reserve, which will be completed later this year. The study will include analysis of the appropriate use of the Reserve in emergency and non-emergency situations and will be used to guide Strategic Petroleum Reserve policies in future years.

Clean Coal Technology. The Administration recommends that the conferees rescind $136 million in balances within the Clean Coal Technology program. (The FY 1998 Budget requested that $153 million be rescinded, and P.L. 105-18 included a rescission of $17 million of that amount). The Administration objects to the House and Senate decision not to advance appropriate $50 million in FY 1999 funds for a demonstration project in China. This project would demonstrate a coal-based technology that can greatly reduce CO_2 and other pollutants, thereby limiting the environmental impacts of industrialization in developing countries with large coal reserves.

Health and Human Services

Indian Health Service. The Administration objects to sections 325 and 326 of the General Provisions in the Senate bill because they would limit the ability of tribes to exercise their self-determination rights under the Indian Self-Determination and Education Act (P.L. 93-638). Section 325 would alter the current health care structure of the Alaska Native Medical Center (ANMC) in Anchorage by separating primary care and in-patient services and by designating specific contractors for the provision of these services. The Administration is concerned that such designations would infringe upon the choice of sovereign tribal governments to participate in self-determination contracts and compacts. Furthermore, this bifurcation of ANMC services could jeopardize the provision of quality health care to Alaskan Natives. By restricting tribes from leaving the regional health delivery structure that currently exists in Alaska, section 326 would also prevent tribes from exercising their self-determination rights. The House-passed bill also contains a similar provision related to the regional health delivery structure in Alaska. These provisions contradict the Administration's long-standing support of self-determination for tribal governments. Given that the Senate bill requires GAO to study contracting and compacting in Alaska, it would be prudent to delay further action on this issue until the Administration and Congress review the results of the GAO study.

To the extent possible, the Administration requests full funding of both Indian health facility construction proposals contained in the Budget.

Woodrow Wilson Center. The Administration strongly supports the Senate in providing $5.8 million for the Woodrow Wilson Center, and opposes the reduction made to Center in the House-passed bill, which would decrease funding to $1 million. The Center was established by Public Law 90-637 as the Nation's memorial to the twenty-eighth President. The law created a Board of Trustees to maintain and administer the Center, including the provision of facilities, staffing, and appointment of scholars, and where appropriate, to provide stipends, grants, and fellowships to such scholars, from the United States and aboard. The Administration and the Congress have supported the Center since 1968.

Deficit Reduction Lockbox. The House-passed bill establishes a "Deficit Reduction Lockbox" to ensure that spending reductions made are used for deficit reduction and not to fund other programs. The Administration supports the Senate's decision to delete this language.

We look forward to working with the conferees to address our mutual concerns.

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Ralph Regula,
The Honorable Sidney R. Yates, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, and The Honorable Slade Gorton

Budget materials - appropriation letters

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

STATEMENT OF ADMINISTRATION POLICY CLEARANCE

TO: JOHN HILLEY
BARBARA CHOW
ANDY BLOCKER
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
CHUCK MARR
TOM KALIL
BRUCE REED
ELENA KAGAN
PAUL WEINSTEIN
JASON GOLDBERG

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield

DATE: September 5, 1997

SUBJECT: FOR YOUR CLEARANCE --
Energy and Water Appropriations Letter to Conferees

Attached is our draft conferees letter regarding H.R. 2203, the Energy and Water Appropriations Bill. Conference action is expected the week of September 8th.

Position: **Strongly object to reallocation of national defense funds requested for DOE programs to DOD programs, an "unacceptable deviation from our understanding of the Bipartisan Budget Agreement." Strongly object to large cuts to DOE staffing levels and management activities.**

Timing: We aim to send the letter up as soon as possible by Tuesday, September 9, in order to effect pre-conferencing on the bill.

Please contact Alice Shuffield at 5-4790 by the end of the day on Monday with your clearance or concerns.

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2203, the Energy and Water Development Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

While both the House and Senate have provided requested funding for many of the Administration's priorities, we continue to have serious concerns with both the House- and Senate-passed versions of the bill. In particular, the Administration strongly objects to the reallocation of national defense funds requested for Department of Energy programs to Department of Defense programs. These funds are needed for key defense-related environmental cleanup projects and to provide full funding for Atomic Energy Defense Activities, as requested, which is consistent with fixed asset funding practices in the Government's other defense programs. We believe that this action is an unacceptable deviation from our understanding of the Bipartisan Budget Agreement. The Administration also strongly objects to large cuts, in both versions of the bill, to staffing levels and management activities throughout the Department of Energy, and particularly to the reductions contained in the House-passed version of the bill.

As discussed below, the Administration is seeking restoration of funding for several of the President's priorities that would be reduced in the House- and Senate-passed versions of the bill. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the conferees toward achieving acceptable funding levels. We urge the conferees to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

Department of Energy

The reductions to the President's request for the Department of Energy's (DOE's) Atomic Energy Defense activities, \$2.6 billion in the House and \$1.8 billion in the Senate, would severely restrict needed investment in construction supporting nuclear weapons programs and environmental cleanup. In particular, the House has provided only \$102 million, and the Senate only $343 million, of the $1.006 billion requested for environmental management privatization projects. Based on these funding levels, several environmental privatization projects would not be funded at all, and it is questionable whether the expected out-year funding would allow support for higher priority privatization cleanup projects. Failure to invest in competitive privatization contracts for cleanup activities would force DOE to continue using more costly, traditional contracting approaches. This would result in a substantial increase to DOE's cleanup costs in future years, and could jeopardize the Department's ability to conform with legally enforceable compliance agreements. The conferees are urged to fully fund this important cost-saving environmental initiative.

Both versions of the bill include significant reductions to the President's request for DOE's staffing levels and management activities throughout the Department. The reductions in the House-passed bill are particularly severe and would require DOE to reduce its staff by about 10 percent, excluding the Federal Energy Regulatory Commission and the Power Marketing Administrations. To reach that level, DOE would have to separate almost 1,000 people through Reductions-in-force. Such reductions would undermine DOE's ability to provide oversight to its contractors and would make it nearly impossible for the Department to develop, award, and manage more competitive fixed-price contracts. The Administration is strongly opposed to these reductions and urges the conferees to fully fund the President's request for these activities. The Administration notes that the Senate-passed bill would permit the Department to downsize more rationally, with fewer disruptions in service than would be the case under the House proposal.

The Administration opposes a provision in the House-passed version of the bill that would transfer the Formerly Used Sites Remedial Action program from DOE to the Corps of Engineers. In recent years, the Department has placed nearly half of this program under competitive, fixed-price contracts and has developed a plan to accelerate cleanup by 12 years. DOE has established an open, interactive dialogue with communities and regulators, through which the Department has developed cleanup standards commensurate with land use plans, and has proceeded with the early removal of contamination at many sites. DOE has completed cleanup activities at 52 percent of the main sites and at 56 percent of the vicinity properties. Between FYs 1996 and 1997, DOE has reduced support costs for this program by 23 percent. Transferring this well-managed and nearly completed program to another agency would be disruptive and would most likely delay completion and increase costs. The Administration urges the conferees to drop this unnecessary transfer of authority.

The House would reduce by $29 million, and the Senate by $19 million, the President's $249 million request for the Decontamination and Decommissioning (D&D) program. The Department has just signed a large contract for D&D and re-industrialization of the large gaseous diffusion plant in Oak Ridge, Tennessee, using an approach that will expedite cleanup, reduce costs, and create new jobs. The reductions made by the House and Senate to the D&D program would make it difficult to proceed with this effort, comply with environmental requirements, and provide reimbursements to radium and thorium licensees. The conferees are urged to restore funding for this important environmental program.

The Administration objects to the reductions to the request for Solar and Renewable

Energy Research and Development, which -- on a comparable basis -- total $60 million in the House-passed bill and $43 million in the Senate-passed bill. Such an overall reduction, particularly in biofuels and solar thermal energy programs, would be a serious setback to research on environmentally promising and increasingly economic sources of energy. Research programs such as these are the least burdensome way for the Nation to respond to global climate change, and the Administration urges the conferees to restore full funding for these programs.

The Administration is opposed to the elimination of $25 million requested for the Next Generation Internet in both the House and Senate versions of the bill. While the Administration acknowledges that the private sector has shown the capability and willingness to fund considerable technology development for the Internet, the Next Generation Internet funds requested in the President's budget are necessary to assist universities and national laboratories in implementing advanced, high-speed connections that will not be financed by industry, and to accelerate research in areas where DOE laboratories have particular expertise.

The Administration is opposed to the efforts of both the House and Senate to micromanage the Department, limit its ability to exercise good business judgment, overly restrict its ability to implement sound innovative contracting practices, and limit its ability to participate in procurement reinvention. Provisions of both the House and Senate versions of the bill would do this by: (1) requiring special reports and notification prior to the start of any FY 1998 approved construction, and special congressional permission to make procurement decisions currently authorized by other statutes; (2) inhibiting market research; (3) further restricting the Department's ability to out-source beyond the requirements of OMB Circular No. A-76; (4) unnecessarily restricting the Department's ability to deviate from the Federal Acquisition Regulation; and, (5) inappropriately limiting the Department's ability to use current statutory exemptions from competition. Additional reporting requirements, combined with the proposed staffing reductions, would erode DOE's ability to gain better control over its operations and improve management of its complex mission. The Administration urges the conferees to drop these provisions.

The House-passed bill would cut $7.5 million in Cooperative Research and Development Agreements (CRADAs) for the Partnership for a New Generation of Vehicles (PNGV) within the Defense program's technology transfer accounts. These CRADAs support stockpile stewardship in the areas of advanced manufacturing, modeling, and component recertification, as well as supporting PNGV. The Administration urges the conferees to fund this program at the requested level.

The Administration objects to the program cuts made by the House to the President's request for nuclear nonproliferation programs. For example, the House's reductions in verification research and development would delay the completion of next generation land-based and satellite-borne sensors for the detection of nuclear, chemical, and biological weapons. The Administration urges the conferees to adopt the funding levels provided in the Senate-passed bill for these important programs.

Both the House and Senate would reduce the President's request for the civilian radioactive waste management program by $30 million, thereby threatening satisfactory completion of the Department of Energy's viability assessment of Yucca Mountain. Both the Nuclear Waste Technical Review Board and independent expert advisers have urged DOE to build and study an "east-west tunnel" or "drift" through the repository block at Yucca Mountain. The commensurate reduction in support services and personnel costs contained in the House-passed bill would severely constrain an independent review of critical elements of the viability assessment, including a validation of repository design concepts and operating strategies, as well as refined cost estimates of these designs. In addition to the funding reductions, provisions in the Senate-passed bill for the Nuclear Energy Security initiative would eliminate Departmental funding for any nuclear energy research, including university-based research efforts in nuclear engineering departments. The conferees are urged to fully fund the President's request for these important programs.

Army Corps of Engineers

The Administration urges the conferees to redirect unrequested funding added by both the House and Senate, $540 million and $290 million respectively, for unrequested Corps of Engineers projects and programs to priority Corps activities, including restoration of salmon runs in the Columbia and Snake Rivers, and priority programs in DOE. The Administration also urges the conferees to adopt the funding provided in the Senate-passed bill for the construction of an emergency outlet for Devils Lake, North Dakota, that is urgently needed to reduce flood damage being suffered by local residents. The conferees are also urged to provide funding included in the House-passed bill for the Corps' regulatory program, which would allow the Corps to implement its administrative appeals process fully and continue to process wetlands permits in a timely manner.

Congressional action that would fund the construction of numerous unrequested and low-priority projects, particularly in the House-passed bill, would inevitably delay the completion of ongoing projects and limit opportunities over the next few years to begin construction of new, high-priority projects, such as improvements to the Nation's inland waterways and harbors. The Administration urges the conferees to adopt a moderate level of investment in new infrastructure development and environmental restoration projects. In this way, a responsible level of annual new investment that could help alleviate budget and appropriation allocation constraints in the coming years could be agreed upon.

In addition, the Administration urges the conferees to drop language in the Senate-passed bill that would provide the Corps with continuing authority to undertake so-called "environmental infrastructure" projects. The Water Resources Development Act of 1996 already provides the Corps with the authority to undertake appropriate environmental protection and restoration projects. The Senate version of the bill would include new authority, which has not been subject to the normal congressional hearing and authorization process, that would allow the Corps to plan and construct projects that are more appropriately undertaken by non-Federal interests, such as single-purpose municipal and industrial water supply and distribution projects.

The Senate bill would also expand the Corps' mission into areas where other Federal programs already exist, such as EPA's program to help finance construction of wastewater and treatment facilities. Further, the non-Federal cost sharing proposed for this new program would undermine cost-sharing reforms enacted just last year as part of the Water Resources Development Act.

Bureau of Reclamation

While the Administration appreciates the level of funding provided in the House-passed bill for restoration of the California Bay-Delta ecosystem, we urge the conferees to provide the full $143 million requested by the President and authorized by the Congress. This important program will play a central role in resolving long-standing water conflicts that have plagued the State of California. In addition, we urge the conferees to provide the full $39 million authorized for the Central Valley Project Restoration Fund, as well as funding requested in the Water and Related Resources account for related activities. This program is an important component of the effort to restore this critical ecosystem.

The Administration objects to the $37 million increase to the request for Water and Related Resources activities provided in the Senate-passed bill, and the increase provided in the House-passed bill for a number of unrequested Bureau of Reclamation projects and activities, some of which could result in demands for additional funding in the out-years. The Administration urges the conferees to use this unrequested funding to restore reductions made in other priority Reclamation programs.

The Administration supports the House's decision to provide funds to cover the estimated authorized Federal share of costs for the purchase of water associated with variable flood control operations at Folsom Dam during FY 1997.

Tennessee Valley Authority

The Administration objects to the House's elimination of all appropriations for the Tennessee Valley Authority (TVA) in FY 1998. We believe that it is important to have an orderly transition to potential lower appropriations levels, rather than an abrupt and total elimination of appropriated funding for the agency in FY 1998. The Administration has proposed continued funding in FY 1998 at the FY 1997 level of $106 million, while TVA completes its consultations on potential alternative funding arrangements for future years for its appropriated program. We urge the conferees to provide, at a minimum, the $86 million recommended by the Senate.

Nuclear Regulatory Commission

The Administration urges the conferees to adopt the funding provided in the Senate-passed bill for the Nuclear Regulatory Commission's (NRC's) High-level Waste Program. The 24-percent reduction in the House-passed bill would adversely affect NRC's ability to maintain a strong scientific capability, independent of DOE, and to review high-level waste activities. This reduction could jeopardize NRC's ability to complete timely reviews of DOE's viability assessment, which is an important issue to the nuclear industry as well as to the Nation.

We look forward to working with the conferees to address our mutual concerns.

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Joseph M. McDade,
The Honorable Vic Fazio, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Pete V. Domenici,
and The Honorable Harry M. Reid

Budget materials - appropriations letters

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

STATEMENT OF ADMINISTRATION POLICY

TO: **JOHN HILLEY**
BARBARA CHOW
ANDY BLOCKER
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
CHUCK MARR
LYNN CUTLER
BRUCE REED
ELENA KAGAN
PAUL WEINSTEIN
JASON GOLDBERG

CC: **JACK LEW**
CHARLES KIEFFER

FROM: **Alice Shuffield**

DATE: **September 5, 1997**

SUBJECT: **FOR YOUR CLEARANCE --**
Interior Appropriations Senate SAP

Attached is our draft Senate SAP regarding H.R. 2107, the Department of the Interior and Related Agencies Appropriations Bill. The bill may go to the Senate floor on Tuesday.

Position: Senior Advisors veto threat **regarding Native American sovereignty, hardrock mining, Forest Service plans, grizzly bear reintroduction, NEA amendments, and two provisions that violate the Bipartisan Budget Agreement -- land acquisition and Tribal Priority.**

Timing: We aim to send the letter up as soon as possible on Monday, September 8.

Please contact Alice Shuffield at 5-4790 by noon with your clearance or concerns.

Draft

September 8, 1997
(Senate Floor)

Veto Statements
pg 1
pg 4 (NEA)

H.R. 2107 -- DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998

(Sponsors: Stevens (R), Alaska; Gorton (R), Washington)

This Statement of Administration Policy provides the Administration's views on H.R. 2107, the Department of the Interior and Related Agencies Appropriations Bill, FY 1998, as reported by the Senate Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Committee has developed a bill that provides requested funding for many of the Administration's priorities. The Administration recognizes and appreciates that the Senate Committee bill eliminates some of the more objectionable provisions included in the bill as passed by the House. Unfortunately, a number of new objectionable provisions have been added by the Committee. These include provisions that would infringe on Native American sovereignty and potentially have severe consequences for other tribal programs. Other objectionable provisions of the Committee bill would interfere with the conduct of various natural resources programs and activities. For example, certain provisions would prohibit funding for an ongoing rulemaking on hardrock mining, limit the ability of the Forest Service to revise forest plans, and prohibit funding for grizzly bear reintroduction into Idaho and Montana.

In addition, the Committee bill contains two provisions that violate the Bipartisan Budget Agreement (BBA). These provisions include requiring additional, unnecessary authorizing language for key land acquisition in Montana and California and restricting the use of Interior's Tribal Priority Allocation (TPA) funding, a protected program under the BBA. The Administration urges the Senate to strike these provisions from the bill.

* If such policies were adopted, particularly in light of other concerns raised in this Statement of Administration Policy, the President's senior advisers would recommend that he veto the bill.

The Administration will also seek restoration of certain of the Committee's reductions to the President's requests. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the Senate toward achieving acceptable funding levels. The Administration is committed to working with the Senate to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks.

Department of the Interior

Land Acquisition. The Administration commends the Committee for providing the $700 million in FY 1998 budget authority from the Land and Water Conservation Fund as agreed to in the Bipartisan Budget Agreement (BBA). However, the Administration does not believe that additional authorizing language is required for Yellowstone and Headwaters and strongly objects to making the funding of these acquisitions contingent upon enactment of specific authorizing legislation, which could indefinitely delay expenditures to complete these critical projects, which would violate the intent of the BBA. If this restriction is removed, the Committee's action provides the funding mechanism for acquisition of the Crown Butte Mining property (MT) on the border of Yellowstone National Park and the purchase of Headwaters Forest, the last great stand of ancient redwoods in private hands in California. It will also allow the Federal land managing agencies to address other critical land acquisition needs.

The Administration also objects to the $21 million, or 30 percent, reduction in requested funding for regular National Park Service Land Acquisition and State Assistance, an account protected in the BBA. This reduction was accomplished primarily by providing only $3 million of the $22 million requested as part of efforts to restore the Elwha River in Olympic National Park in Washington.

Native American Program Riders. The BBA specifies that the Bureau of Indian Affairs (BIA) Tribal Priority Allocation funds (TPA), used to support basic services on Indian reservations across the Nation, are protected. Section 118 of the Committee bill would require a means-test distribution formula of TPA funds, and section 120 would require tribes to waive sovereign immunity in order to accept TPA funds. The Administration strongly objects to both sections, which would violate the BBA by restricting the use of TPA funds.

Bill language requiring a needs-based distribution of TPA funds beginning in FY 1999 is contrary to U.S. trust and treaty obligations and tribal sovereignty. In addition, the $76.5 million TPA increase in FY 1998 would be withheld until BIA develops a means-test distribution formula. Some programs in TPA are already allocated based on need, and the Department is willing to continue to examine the basis for allocating other program funds. However, the proposal to means test all TPA funding is based on the false premise that many tribes have sizable independent revenues.

Equally objectionable is the section providing that tribal acceptance of TPA funding shall "waive any claim of immunity by that Indian tribe" and subject the tribe to Federal court jurisdiction. Sovereign immunity protects governments from involuntary depletion of their treasuries, and waivers of sovereign immunity are ordinarily fashioned in a manner that protects government operations. The proposed categorical waiver of tribal sovereign immunity would undermine the ability of tribes to perform government functions and jeopardize their solvency.

Surface Impacts of Hardrock Mining. The Administration strongly objects to section 339 of the Committee bill, which would prohibit the use of funds for an ongoing Department of the

Interior (DOI) rulemaking to update rules on surface management of hardrock mines until the Secretary of the Interior establishes a Federal-State advisory committee that would prepare a "consensus" report for Congress on the relationship of State and Federal surface management policies. This rulemaking was initiated in the Bush Administration and addresses regulatory shortcomings that were identified as far back as the Reagan Administration. DOI is developing the rule under the Secretary's statutory authority to prevent "unnecessary or undue degradation" of public land in order to protect the environment and avoid the need for future expensive, taxpayer-funded cleanups. The process has included extensive consultation with Western State governments and the Western Governors Association on many issues, including current State regulatory efforts. If general agreement is required on this complex subject, on which the States themselves do not agree, one or more States could have the ability to block necessary environmental improvements from going forward.

Endangered Species Act (ESA). The Administration strongly opposes section 342 of the Committee bill, which would prohibit use of funds for grizzly bear introduction into the Selway-Bitterroot area (ID, MT). This provision would shut down the Fish and Wildlife Service's (FWS's) innovative approach to reintroducing this endangered species. After years of study and unparalleled citizen involvement, the FWS preferred alternative calls for the introduction of three to five bears annually into the Selway-Bitterroot area as a non-essential experimental population under section 10(j) of the ESA. Local concerns will be addressed through a 15-member Citizen Management Committee to be appointed by the Secretary of the Interior in consultation with the governors of Idaho and Montana and the Nez Perce Tribe. Public hearings on the FWS alternative will be held in October. The Senate is urged to drop this provision from the bill.

National Foundation on the Arts and the Humanities

The Administration appreciates the Committee's commitment to providing funding for the National Endowment for the Arts (NEA). The Administration would like to work with the Congress to increase funding for both the NEA and the National Endowment for the Humanities up to the President's requested level as the bill moves through the process.

The Administration understands that an amendment may be offered to increase significantly block grants to the States, thus severely diminishing the Federal leadership role of the NEA. In addition, the Administration understands that an amendment may be offered making it administratively impossible for NEA to carry out its function. If such amendments were adopted, the President's senior advisers would recommend that the President veto the bill.

Department of Agriculture

Forest Land Management Plans. Section 332 of the Committee bill would prohibit the Forest Service from revising any national forest land management plans until the Administration publishes new final rules for forest land management planning. This highly objectionable provision would prevent forest plans and resource uses from being revised to reflect updated scientific information, and would risk litigation over the more than 60 forest plans that are expected to be undergoing revision in FY 1998. A top priority of the Forest Service is revising land management planning regulations, and the Forest Service is moving forward expeditiously with a process to finalize them. However, it is unlikely that this process can be finalized by the end of FY 1998. Therefore, this provision could lead to major difficulties in managing the National Forest System.

Purchaser Road Credit. The Committee Report contains objectionable language that would require the Secretary of Agriculture to continue the Purchaser Road Credit Program. The Purchaser Road Credit Program, which allows timber purchasers to pay partially for timber sales by constructing roads on National Forests, presents unnecessary administrative difficulties and has been criticized as a subsidy to the timber industry. The Administration has proposed the elimination of the Purchaser Road Credit Program and, contrary to concerns cited in the language of the Committee Report, would compensate States and counties for any change in receipt-sharing. Therefore, the report language is unwarranted.

Forest Service Micromanagement. The Administration objects to the inordinate level of micromanagement imposed on Executive Branch authorities by the Committee bill, which would impede the ability of the Forest Service to operate effectively and efficiently. For example, the bill includes highly objectionable language that would require the relocation of the Region 10 office from Juneau to Ketchikan, Alaska. The bill also includes objectionable language that would require reprogramming approval to fund the Secretary of Agriculture's Western Director and special assistant. The Western office has worked to resolve complex issues and provide important feedback to the Secretary about the concerns of the Western States and their citizens. The bill would also prohibit any reprogramming, reorganization, office closure, or other cost saving proposals without prior approval of the Appropriations Committees. The Administration would interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS v. Chadha.

Department of Energy

Energy Conservation. The Administration strongly objects to the Committee's reduction of $80 million to the request for Energy Conservation. This reduction postpones potential savings and is especially untimely, as the federal government is negotiating a new inter-national protocol on climate change for signature in Kyoto, Japan this December. This program provides positive benefits for the economy by achieving savings far greater than the program's cost, increases the Nation's technological competitiveness, and supports major climate change and environmental initiatives such as the Partnership for a New Generation of Vehicles.

Strategic Petroleum Reserve. The Administration objects to the Committee's proposed non-emergency sale of oil from the Strategic Petroleum Reserve in FY 1998 in order to fund routine operations and maintenance at the Reserve. The Strategic Petroleum Reserve is the cornerstone of the Nation's energy security. The Administration is conducting a study of policy issues related to the Reserve, which will be completed later this year. The study will include analysis of the appropriate use of the Reserve in emergency and non-emergency situations and will be used to guide Strategic Petroleum Reserve policies in future years.

Clean Coal Technology. The Administration recommends that the Senate rescind $136 million in balances within the Clean Coal Technology program. (The FY 1998 Budget requested that $153 million be rescinded, and P.L. 105-18 included a rescission of $17 million of that amount.) The Administration objects to the Committee's decision not to advance appropriate $50 million in FY 1999 funds for a demonstration project in China. This project would demonstrate a coal-based technology that can greatly reduce CO2 and other pollutants, thereby limiting the environmental impacts of industrialization in developing countries with large coal reserves.

Health and Human Services

Indian Health Service. The Administration objects to sections 325 and 326 of the General Provisions in the Committee bill because they would limit the ability of tribes to exercise their self-determination rights under the Indian Self-Determination and Education Act (P.L. 93-638). Section 325 would alter the current health care structure of the Alaska Native Medical Center (ANMC) in Anchorage by separating primary care and in-patient services and by designating specific contractors for the provision of these services. The Administration is concerned that such designations would infringe upon the choice of sovereign tribal governments to participate in self-determination contracts and compacts. Furthermore, this bifurcation of ANMC services could jeopardize the provision of quality health care to Alaskan Natives. By restricting tribes from leaving the regional health delivery structure that currently exists in Alaska, section 326 would also prevent tribes from exercising their self-determination rights. These provisions contradict the Administration's long-standing support of self-determination for tribal governments. Given that the bill requires GAO to study contracting and compacting in Alaska, it would be prudent to delay further action on this issue until the Administration and Congress review the results of the GAO study.

Department of the Interior

Land Acquisition. The Administration commends the Committee for providing the $700 million in FY 1998 budget authority from the Land and Water Conservation Fund as agreed to in the Bipartisan Budget Agreement (BBA). However, the Administration does not believe that additional authorizing language is required for Yellowstone and Headwaters and strongly objects to making the funding of these acquisitions contingent upon enactment of specific authorizing legislation, which could indefinitely delay expenditures and, therefore, violate the intent of the BBA. If this restriction is removed, the Committee's action provides the funding mechanism for acquisition of the Crown Butte Mining property (MT) on the border of Yellowstone National Park and the purchase of Headwaters Forest, the last great stand of ancient redwoods in private hands in California. It will also allow the Federal land managing agencies to address other critical land acquisition needs.

The Administration also objects to the $21 million, or 30 percent, reduction in requested funding for regular National Park Service Land Acquisition and State Assistance, an account protected in the BBA. This reduction was accomplished primarily by providing only $3 million of the $22 million requested as part of efforts to restore the Elwha River in Olympic National Park in Washington.

Native American Program Riders. The BBA specifies that the Bureau of Indian Affairs (BIA) Tribal Priority Allocation funds (TPA), used to support basic services on Indian reservations across the Nation, are protected. Section 118 of the Committee bill would require a means-test distribution formula of TPA funds, and section 120 would require tribes to waive sovereign immunity in order to accept TPA funds. The Administration strongly objects to both sections, which would violate the BBA by restricting the use of TPA funds.

Bill language requiring a needs-based distribution of TPA funds beginning in FY 1999 is contrary to U.S. trust and treaty obligations and tribal sovereignty. In addition, the $76.5 million TPA increase in FY 1998 would be withheld until BIA develops a means-test distribution formula. Some programs in TPA are already allocated based on need, and the Department is willing to continue to examine the basis for allocating other program funds. However, the proposal to means test all TPA funding is based on the false premise that many tribes have sizable independent revenues.

Equally objectionable is the section providing that tribal acceptance of TPA funding shall "waive any claim of immunity by that Indian tribe" and subject the tribe to Federal court jurisdiction. Sovereign immunity protects governments from involuntary depletion of their treasuries, and waivers of sovereign immunity are ordinarily fashioned in a manner that protects government operations. The proposed categorical waiver of tribal sovereign immunity would undermine the ability of tribes to perform government functions and jeopardize their solvency.

Surface Impacts of Hardrock Mining. The Administration strongly objects to section 339 of the Committee bill, which would prohibit the use of funds for an ongoing Department of the

Budget materials - approps letters

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

September 18, 1997
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

S. 1156 -- DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FY 1998

(Sponsors: Stevens (R), Alaska; Faircloth (R), North Carolina)

This Statement of Administration Policy provides the Administration's views on S. 1156, the District of Columbia Appropriations Bill, FY 1998, as reported by the Senate Appropriations Committee.

The Administration commends the Committee for developing a bill that provides sufficient funding to implement the National Capital Revitalization and Self-Government Improvement Act of 1997 successfully. The Senate is urged to approve a bill that is free of extraneous provisions.

The Administration strongly supports charter schools which provide parents and students more choice within the public education system. However, the Administration understands that an amendment may be offered that would provide for the use of school vouchers in the District. The Administration would strongly oppose any legislation allowing the use of Federal taxpayer funds for private school vouchers. Instead of investing additional resources in public schools, vouchers would allow a few selected students to attend private schools, and would draw attention away from the hard work of reforming public schools that serve the overwhelming majority of D.C. students. Establishing a private school voucher system in the Nation's Capital would set a dangerous precedent for using Federal taxpayer funds for schools that are not accountable to the public. If such an amendment were adopted and included in the bill presented to the President, his senior advisers would recommend that the President veto the bill.

The Administration strongly opposes the abortion language of the Committee bill, which would prohibit the use of both Federal and District funds to pay for abortions except in those cases where the life of the mother is endangered or in situations of rape or incest. The Administration continues to view this prohibition on the use of local funds as an unwarranted intrusion into the affairs of the District and would support an amendment, if offered, to strike this prohibition.

The Administration understands that an amendment may be offered that would limit the use of a portion of the D.C. prison construction funds for housing inmates in private contract facilities. The Administration strongly opposes such a restriction on the use of these funds as it would hinder the Bureau of Prisons' ability to house serious violent offenders in a timely and cost effective manner. The amendment is not needed since the Revitalization Act already requires that fifty percent of D.C. inmates be housed in private contract facilities.

The Administration urges the Senate to consider an amendment that would make funds collected by the D.C. Courts available to the Courts for necessary expenses, including the funding of pension costs.

Budget materials -
appropriations letter

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

STATEMENT OF ADMINISTRATION POLICY

TO: RAHM EMANUEL
CHARLES RUFF
JOHN HILLEY
BARBARA CHOW
ANDY BLOCKER
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
CHUCK MARR
BRUCE REED
ELENA KAGAN
PAUL WEINSTEIN
WILL DAVIS
JASON GOLDBERG

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield

DATE: September 3, 1997

SUBJECT: FOR YOUR CLEARANCE --
HOUSE RULES Commerce/Justice/State Appropriations SAP

Attached is the draft of our House Rules SAP regarding H.R. 2267, Commerce / Justice / State Appropriations Bill. The Rules Committee meets on Friday at 11:00am.

Position: Senior Advisors Veto Threat for the funding level the Legal Services Corporation or for the restrictions on Census activities.

Timing: We aim to send the SAP to the Committee by 10am.

Please contact Alice Shuffield at 5-4790 as soon as possible with your comments or your clearance.

September 5, 1997
(House Rules)

H.R. 2267 -- DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998

(Sponsors: Livingston (R), Louisiana; Rogers (R), Kentucky)

This Statement of Administration Policy provides the Administration's views on H.R. 2267, the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Bill, FY 1998, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Committee has developed a bill that provides requested funding for many of the Administration's priorities. For example, we appreciate the Committee's funding of law enforcement programs in general and the COPS program in particular. Funding COPS at the requested level of $1.4 billion is consistent with the Bipartisan Budget Agreement and would enable us to achieve the goal of hiring 100,000 additional police officers by the year 2000.

As discussed below, the Administration will seek restoration of certain of the Committee's reductions. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the House toward achieving acceptable funding levels. The Administration is committed to working with the House to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. For example, funding could be reduced for the Local Law Enforcement Block Grant and the new Juvenile Justice Block Grant. We urge the House to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

The Administration is particularly concerned about the objectionable funding level provided for the Legal Services Corporation and language that would prohibit any funds from being used for activities related to the design, planning, testing, or implementation of sampling in the 2000 Census, and would further require the passage of an authorization bill prior to the expenditure of more than $100 million for any 2000 decennial planning operations. As discussed below, if the bill presented to the President were to contain the funding level provided in the Committee bill for the Legal Services Corporation or the aforementioned restrictions on Census activities, his senior advisers would recommend that the President veto the bill.

Department of Commerce

- Census Sampling. The Administration strongly opposes the Committee's language that would prohibit any funds from being used for activities related to the design, planning, testing, or implementation of sampling in the 2000 Census, and would further require the passage of an authorization bill prior to the expenditure of more than $100 million for any 2000 decennial planning operations. This represents an unprecedented and unacceptable attempt to micromanage the decennial census. Such restrictions would seriously undermine decennial census planning operations, especially with regard to address list development, procurement, and the 1998 Decennial Dress Rehearsal. The President's senior advisers have indicated that they would recommend that the President veto the bill if it were to contain this provision.

  While the Administration will continue to consult with Congress on this important issue, we also remain committed to the use of sampling to ensure the most accurate decennial census possible. Without the limited use of sampling, the accuracy of the census would decrease significantly, especially with regard to children and minority groups that have been traditionally undercounted. The National Academy of Sciences, the General Accounting Office, the Commerce Department Inspector General, and the vast majority of the professional statistical community support the use of sampling in the decennial census.

- National Oceanic and Atmospheric Administration. We are disappointed that the Committee bill would provide only $8 million of the $22 million requested for the President's Clean Water Initiative, which helps protect coastal communities from pollutants. The National Oceanic and Atmospheric Administration (NOAA) is the primary trustee of our Nation's coastal resources and, as such, plays an important role in this initiative. The $22 million initiative builds from NOAA's unique coastal responsibilities and partnerships with States and other Federal Trustee agencies. In addition, we are disappointed that the Committee has not included any funding for the Global Learning and Observations to Benefit the Environment Program (GLOBE). This program was developed to increase understanding of the Earth and has already formed partnerships with over 2,500 U.S. schools and 35 other countries, involving thousands of students across the U.S. and worldwide. The Committee is recommending over $30 million in funding for NOAA activities not requested by the Administration. We strongly urge that a portion of these funds should be redirected to continue the Clean Water Initiative, GLOBE, and other priorities such as fisheries conservation and management.

- National Institute of Standards and Technology (NIST). The Administration greatly appreciates the overall funding level for NIST and the Committee's support of the Bipartisan Budget Agreement. However, we strongly urge the House to drop language restricting new Advanced Technology Program awards and to adopt language allowing continued Federal funding for Manufacturing Extension Centers beyond six years, as was passed by the House in H.R. 1274.

- National Information Infrastructure (NII). The Administration urges the House to reallocate resources between the NII grants program and the Public Broadcasting Facilities program. The Committee mark substantially reduces funding for the former and provides a large, unrequested increase for the latter. The NII program is meritorious, providing seed money for innovative projects that deploy, use, and evaluate advanced telecommunications and information technology.

Legal Services Corporation

The Administration finds the Committee bill's funding level for the Legal Services Corporation (LSC) unacceptable. The bill would fund the LSC at $141 million, $142 million below the FY 1997 enacted level and $199 million below the President's request of $340 million. The amount that the Committee bill would provide, 65 percent below the FY 1995 level of $400 million, would cripple the program and call into question the Federal Government's commitment to ensuring that all Americans, regardless of income, have access to the judicial system. The Administration strongly urges the House to fully fund the President's request. The President's senior advisers would recommend that he veto the bill if it contained the funding level in the Committee bill.

Department of Justice

- Drug Courts and Drug Testing. The Administration is disappointed by the failure of the Committee to provide any of the $45 million requested increase for drug courts. The drug courts program is a proven, cost-effective means of using the coercive power of the courts to move non-violent offenders into drug treatment programs. Also, the President's budget would provide $30 million to offset the costs associated with drug testing State and local arrestees. The Administration is concerned that the Committee does not identify $30 million from the Byrne Grant program for the State and local portion of the drug testing program, as proposed by the President. The drug courts and drug testing programs could be restored to the requested levels by reducing the Committee's funding for the Local Law Enforcement Block Grant program. Finally, last year the Congress enacted legislation that requires States to implement drug testing and intervention programs as a condition for receiving Violent Offender Incarceration and Truth-In-Sentencing (VOI/TIS) grants. The Administration now urges the Committee to provide funding for the prisoner and parolee drug testing and intervention mandate by allowing States to offset the cost with VOI/TIS funding.
- Juvenile Justice Block Grant. The Administration appreciates the Committee's

desire to provide additional support for juvenile justice programs. However, the Administration is concerned that the $300 million block grant program may authorize a broad and unfocused range of spending and urges the House to target $100 million for the prosecutorial grant program, which is designed to facilitate the cooperation and coordination of prosecutors and police with school officials, probation officers, youth social service professionals, and community members in an effort to reduce the incidence of gang activity and violent juvenile crime. The Administration also urges the House to target $50 million for the violent youth court program, which is designed to develop initiatives for use by the courts and court-related entities, such as probation and parole offices and victim/witness centers, to enhance and expedite the handling of youth violence cases.

The Judiciary: Ninth Circuit

The Administration understands that one or more amendments to divide the Ninth Circuit may be proposed. The Administration strongly objects to using the appropriations process to legislate on this important matter. The division of the Ninth Circuit is an important issue not just for the bench and the bar of the affected region, but also for the citizens of the Ninth Circuit. The Administration believes that a much better approach would be passage of legislation, H.R. 908 -- already passed by the House and currently pending at the desk in the Senate -- that would create a bipartisan commission to study this difficult and complex question and make recommendations to the Congress within a date certain. This would allow for substantive resolution of the issue in a deliberative manner, allowing all affected parties to voice their views.

Department of State

The Administration appreciates the Committee's support for the State Department's accounts that fund diplomatic and consular activities, which would help reverse the erosion of the Department's worldwide operations. We are also pleased that the Committee provided the transfers as requested to support the International Cooperative Administrative Support Services (ICASS) program.

While the Administration welcomes the first-year funding of $100 million for arrears payments, we are deeply concerned about reductions in the funding levels for the FY 1998 annual assessments provided in Contributions to International Organizations and Contributions for International Peacekeeping Activities (CIPA). United States leadership in these organizations on a host of issues of importance to the American people will be compromised if we fail to meet our binding obligations to them. It is important that funding for these activities be protected so that the Administration can pay annual costs, avoid new arrears, and be given some flexibility to address unforeseen needs relating to peace and security around the world. While we appreciate report language that underscores the importance of funding for arrears as part of long-term reform efforts, we are disappointed that the bill does not provide a commitment for three years of arrears funding as anticipated by the Bipartisan Budget Agreement, allowed by the Budget Resolution and as consistent with the pending authorization bill. The Administration is committed to working with the Congress to resolve these important issues relating to the future of international organizations.

The Administration urges the House to strike two provisions that raise Constitutional concerns: section 609, which concerns diplomatic relations with Vietnam, and section 610, which relates to command and control of United Nations peacekeeping efforts. In addition to Constitutional concerns, we believe that the issues raised by these provisions are being addressed in the pending authorization bill in more workable and appropriate ways.

Ounce of Prevention Council

The Administration opposes the Committee's termination of the Ounce of Prevention Council. Elimination of this program would hinder the Federal Government's ability to help neighborhoods implement balanced strategies to reduce crime through enforcement, prevention, and intervention. The Council awards discretionary grants for promising community collaborative crime prevention programs, publishes a catalog of crime prevention grants and programs, and provides information and technical assistance. It plays a critical role in helping communities gain access to information on crime prevention best practices. The Administration strongly urges the House to provide funding for the Council and has identified an appropriate offset for that purpose.

Arms Control and Disarmament Agency

The Administration opposes the Committee mark of $41.5 million for the Arms Control and Disarmament Agency (ACDA), which would undercut the Administration's efforts to reduce the threat of nuclear and other weapons to the security of the American people.

Comprehensive Nuclear Test Ban Treaty

In addition to the $2.8 million requested in the FY 1998 Budget, a $13 million budget amendment for Comprehensive Nuclear Test Ban Treaty requirements was transmitted on July 17th. The Administration urges the House to provide the full revised request for these important national security activities.

Equal Employment Opportunity Commission

The Administration strongly urges the House to fully fund the President's request of $246 million for the Equal Employment Opportunity Commission (EEOC) given the importance of its work in addressing unlawful discrimination.

Office of the United States Trade Representative

The Administration appreciates the Committee's increase in funding for, and its past support of, the Office of the United States Trade Representative (USTR). USTR has had to manage a seven-fold increase in the number of World Trade Organization dispute settlement cases since the the signing of the Uruguay Round Agreement. Despite its substantially increased workload, USTR has virtually the same number of attorneys working in this area as it did in 1990. USTR's work will be even more important in FY 1998 and in future years as the United States seeks to capitalize on new market-opening opportunities and to improve access to existing markets through enforcement actions. USTR requires bill funding in order to accomplish the Administration's trade policy objectives and to vigorously embrace our rights under trade agreements. In fact, the Administration is currently reviewing whether the FY 1998 budget levels need to be increased in order to accomplish this agenda.

Additional Administration concerns with the Committee bill are contained in the attachment.

Attachment

Attachment
(House Rules)

ADDITIONAL CONCERNS
H.R. 2267 -- DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998
(AS REPORTED BY THE HOUSE COMMITTEE)

The Administration looks forward to working with the Congress to address the following additional concerns:

Department of Commerce

- Geostationary Satellites. The Administration is deeply concerned about the Committee's $22 million reduction to the Geostationary Satellites (GOES) program. GOES provide critical data for warnings and forecasts of severe weather events. In order to maintain satellite continuity, particularly given recent technical malfunctions on existing spacecraft, it is imperative that NOAA have sufficient funding to award the contract for the follow-on series of GOES satellites.

- Economic and Statistical Analysis. The Committee mark for Economic and Statistical Analysis (ESA) is insufficient to make necessary improvements to important economic indicators. For the past four years, ESA has been denied funding for improvements to GDP and related regional, national, and international accounts data. In the past, ESA has dealt with funding constraints by eliminating important but non-core activities such as the Pollution Abatement Survey and Regional Economic Projections. ESA cannot sustain the quality of the Nation's basic economic indicators under continued funding constraints.

- Bureau of Export Administration. The Senate has recently passed the Chemical Weapons Convention implementing language, and the House is expected to do so shortly. Therefore, the Administration urges the House to provide the full requested level, $2.3 million, to the Bureau of Export Administration (BXA) for this activity. In addition, we urge the House to include seizure and forfeiture authority language for the BXA. This language would allow the BXA to become part of the Department of Justice's Assets Forfeiture Fund and is proposed in the Commerce Department's General Provisions in the FY 1998 Budget.

- National Oceanic and Atmospheric Administration. We are concerned about language in the Committee bill detailing the National Oceanic and Atmospheric Administration's (NOAA's) appropriation at the line office level. Many of NOAA's programs involve multiple line offices, and this language would inhibit current synergies among line offices. The Administration requests elimination of this bill language. Also, the Committee Report earmarks NOAA funding on a project-by-project basis. We respectfully request the deletion of these excessive earmarks.

Department of Justice

- Reimbursement of Legal Fees. The Administration is concerned about the amendment adopted by the Committee that would require the reimbursement of legal fees incurred in connection with criminal prosecutions of certain employees of the Legislative Branch, including Members of Congress. If such assistance is provided for one branch of government, it should be available to all branches.

- Executive Support. The Administration opposes the Committee's action to freeze legislative and public affairs activities at FY 1995 levels for the Department. Freezing these activities would inhibit the Department's ability to clear legislation in a timely and responsive manner and constrain its capacity to serve Congress. The Administration urges the House to increase funding for the Executive Support offices and to delete restrictions on the use of detailees.

- Telecommunications Carrier Compliance. The Committee bill would provide only $50 million for the Telecommunications Carrier Compliance program. The Administration has requested $100 million to reimburse telecommunications equipment manufacturers and carriers for the cost of modifying equipment to ensure that law enforcement agencies will be able to conduct court-authorized wiretaps. The Administration strongly requests that full funding for this program be provided.

Department of Transportation

- Maritime Administration (MARAD). The $65 million that the Committee bill would provide for MARAD Operations and Training would be insufficient to continue MARAD's current operations into FY 1998. The House is urged to provide no less than the $69 million contained in the Senate bill. In addition, the $3.45 million that would be provided for Title XI administrative expenses might result in a reduction in personnel that would jeopardize the effective oversight and management of Title XI projects. The House is urged to restore funding for this activity.

Federal Communications Commission

- Relocation. The Committee bill would provide no funds in support of the Federal Communications Commission's (FCC's) scheduled move to the Portals complex. Failure to provide these funds would delay the move, which could result in the Government unnecessarily paying for rent on an unoccupied building. The

Administration urges the House to provide the $30 million required for the FCC move in FY 1998.

Budget materials - appropriations letters

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

STATEMENT OF ADMINISTRATION POLICY

TO: JOHN HILLEY
MARTHA FOLEY
BARBARA CHOW
ANDY BLOCKER
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
CHUCK MARR
BRUCE REED
ELENA KAGAN
PAUL WEINSTEIN
JASON GOLDBERG

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield AS

DATE: September 15, 1997

SUBJECT: FOR YOUR CLEARANCE --
House Treasury/Postal Appropriations SAP

Attached is our draft SAP on the House Committee on the Senate bill H.R. 2378, the Treasury/Postal Appropriations Bill. If the House Rules Committee considers the bill, they could do so as early as Wednesday, September 15.

Position: **Lists concerns regarding FEC restrictions, antique firearms provision, FEHBP coverage for abortions, and cooperative purchasing.**

Timing: We aim to send the SAP to the Hill Tuesday evening or Wednesday morning.

Please contact Alice Shuffield at 5-4790 with your clearance or concerns.

September __, 1997
(House Rules)

H.R. 2378 -- TREASURY, POSTAL SERVICE, AND
GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1998
(Sponsors: Livingston (R), Louisiana; Kolbe (R), Arizona)

This Statement of Administration Policy provides the Administration's view on H.R. 2378, the Treasury, Postal Service, and General Government Appropriations Bill, FY 1998, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Committee has developed a bill that provides requested funding for many of the Administration's priorities. However, as discussed below, the Administration will seek restoration of certain of the Committee's reductions to the President's request. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the House toward achieving acceptable funding levels. The Administration is committed to working with the House to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. We urge the House to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

Federal Election Commission

The Administration appreciates the Committee's action to provide the President's request of $34 million for the Federal Election Commission (FEC). However, funds have not been provided to support enforcement actions and audits of the 1996 campaign as requested in the President's April 7th budget amendment. Instead, the Committee has provided funding for accelerating various modernization initiatives. While modernization improvements are welcome, and are part of the FEC's long-term agenda, the immediate need is for staff and resources to address the backlogged workload.

The Administration strongly objects to the limitations included in appropriations language that would condition the availability of $4.2 million of the funding on filling all current Commission vacancies and on enactment of legislation prohibiting the reappointment of Commissioners. Both of these restrictions would place unwarranted and intrusive limitations on the Commission's ability to meet its current workload demands and are unrelated to the Commission's current performance. These provisions would amend underlying law without the benefit of hearings or debate. Therefore, we urge the House to drop these restrictions and amendments to underlying Federal Election Campaign law.

Importation of Lethal Firearms

The Administration strongly opposes section 518 of the Committee bill. The practical result of this section would be to deny the Federal Government an effective mechanism to control the importation of hundreds of thousands of inexpensive firearms such as M-1 carbines and M1911 45 caliber semi-automatic pistols. These are weapons provided to foreign governments by military assistance programs, and were not intended to become low cost firearms available for civilian use. Low-cost firearms that are concealable, and/or capable of accepting large capacity magazines, and/or capable of being easily converted to fully automatic fire frequently wind up in the hands of criminals. Such weapons are particularly attractive to criminals. In short, the net effect of the proposal would be to thwart the Administration's efforts to deny criminals the availability of inexpensive, but highly-lethal, imported firearms.

Federal Employees Health Benefits Program

The Administration strongly opposes the provision contained in the Committee bill that would restrict Federal Employees Health Benefits Program (FEHBP) coverage for abortions except in situations where the life of the mother is endangered or the pregnancy is the result of rape or incest. While the President believes that abortion should be safe, legal, and rare, the Administration does not believe that Federal employees and their families should be precluded from choosing to purchase health insurance that includes broader coverage. The Administration believes that the decision to cover abortion should be left to each health plan participating in the FEHBP. Thus, Federal employees who wish to purchase health coverage that does not include abortion services would have that choice. The provision in the Committee bill does not allow Federal employees and their families to make that choice.

Internal Revenue Service

The recently enacted Balanced Budget Act of 1997 provides authority for an Earned Income Tax Credit (EITC) compliance initiative. The Administration urges the House to appropriate $107,105 thousand for this initiative. (A budget amendment requesting this amount for the EITC compliance initiative is being prepared and will be transmitted shortly.) A provision allowing for an adjustment to the discretionary spending caps was included in the Balanced Budget Act of 1997 to accommodate funding for this proposal.

The Administration requests restoration of the Committee's $73 million reduction to the requests for the Internal Revenue Service's (IRS's) Processing, Assistance, and Management and Tax Law Enforcement accounts. The Committee bill would not provide the funding necessary for the inflationary increases requested in the President's budget. At this reduced level, we project that IRS would have to reduce FTE funded through these two accounts by approximately 1,500. This would lead to reduced taxpayer service assistance and an IRS-projected, five-year revenue loss of $1.1 billion.

The Administration urges the House to fund the IRS Year 2000 needs without jeopardizing other critical information technology projects. The absence of funding for these projects would undermine the IRS's ability to improve customer service and compliance.

"Winstar" Funding

The Administration is very concerned that the Committee bill does not include the President's request to authorize the Secretary of Treasury to transfer $33.7 million from the Federal Deposit Insurance Corporation's FSLIC Resolution Fund to the Department of Justice for expenses related to the ongoing Winstar litigation. This funding is vital to the Government's defense in this litigation, which involves over 120 cases and potential claims against the Government of about $20 billion. Without sufficient litigation support, the taxpayers are likely to be held liable for much larger damages.

Bureau of Alcohol, Tobacco and Firearms

The Administration requests restoration of $19 million to avoid compromising the Bureau of Alcohol, Tobacco and Firearms' (ATF's) ability to combat the Nation's most violent criminals. The reductions made by the Committee would force ATF to make FTE reductions at the same time that it is responding to recent congressional and Administration initiatives such as the Brady Law, church fires, Youth Crime Gun Interdiction, arson and bombing investigations, criminal firearms trafficking, and other anti-violent crime initiatives. The reductions would also force ATF to curtail its drug-related law enforcement activities, which could result in increased numbers of incidents committed by those involved in drug distribution.

Secret Service

The Administration strongly objects to the Committees's $15.5 million reduction to the request for White House security funding (in the Secret Service Salaries and Expenses account and the Violent Crime Reduction Trust Fund). This funding is needed to implement fully all of the security requirements identified in the White House Security Review. We also request restoration of the $12 million reduction to the President's request for funds to ensure the ability of the U.S. Secret Service to continue providing adequate Presidential and dignitary protection, as well as maintain financial crime enforcement efforts.

Cooperative Purchasing

The Administration opposes the repeal of section 1555 of the Federal Acquisition Streamlining Act (FASA) of 1994 and would support an amendment to strike the repeal. This section would allow State and local governments, and Indian tribes to buy products off the General Services Administration's Federal supply schedule contracts, zoften at advantageous prices. If the repeal is not stricken, the Administration is willing to work with the Congress on a compromise provision that would permit such purchases for a limited number of specified product categories in demand by State and local governments and whose affected producers have not objected. We would further urge that this authority include a limited pilot program for pharmaceuticals used to treat life-threatening conditions, beginning with drugs used to treat HIV.

We also urge the retention of GSA's authority to make any of the services it provides to Federal agencies available to a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act. GSA's total collection of administrative fees will not increase by more than the incremental increase in the cost of administering the program.

Office of National Drug Control Policy

The Administration appreciates the Committee's support for the Office of National Drug Control Policy's (ONDCP's) national media campaign to prevent drug abuse among America's youth. However, we are concerned that the funding level provided is not adequate to accomplish our goals. Prohibiting the obligation during FY 1998 of $46 million of the $195 million appropriated to the media campaign would limit available funding for the campaign to $149 million. The Administration's request for $175 million is based upon recommendations from experts in the field and is the amount necessary to fund four media exposures per week to the 9-17 age group. Funding the campaign at significantly lower levels than requested would limit the number of media exposures or restrict the scope of the campaign, thus hindering its success.

In addition, the Administration is particularly concerned about the legislative veto provisions in the bill that seek to condition the obligation of funds provided for the national media campaign upon the approval of a strategy by the Appropriations Committees. Such consultation with Congress can be achieved without this specific language.

Finally, the Committee bill would create two new High Intensity Drug Trafficking Areas. The designation of High Intensity Drug Trafficking Areas in the appropriations bill would undermine ONDCP's statutory authority to designate such areas based on its review of the larger picture of drug use, availability, and trafficking in specified areas of the country, in consultation with other Federal and State officials. The Administration is also opposed to the language that would require funding for existing High Intensity Drug Trafficking Areas at no less than the FY 1997 level, as funding decisions are based, in part, on annual performance evaluations.

Executive Office of the President

The Committee bill fences funds for information technology for the White House and several other Executive Office of the President accounts pending the submission of an information technology architectural blueprint. The Office of Administration has devoted significant personnel and fiscal resources to complying with the wishes of the Congress. A plan was submitted on July 18, 1997, that we believe fully satisfies the Appropriations Committees' requirements, and, on September 3, 1997, the Office of Administration provided additional information in response to the Committee's request. It is regrettable that a lapse in funding would occur should there be an absence of FY 1998 funds.

Whistleblower Protection.

The Administration objects to section 505 of the bill, which would prohibit the use of funds provided in the Act to pay the salary of any official who interferes with communications by other Federal employees with Congress. While the Administration strongly supports the Whistleblowers Protection Act and the protections it affords Federal employees, this section raises substantial separation of powers concerns in depriving the President and his department and agency heads of their ability to supervise the operations and communications of the Executive Branch, including the dissemination of information affecting Executive Branch confidentiality interests. The House is urged to strike this provision.

Unanticipated Needs

The Committee bill fails to provide the requested $1 million to enable the President to meet unanticipated needs in furtherance of the national interest, security, or defense. The Administration urges the House to include this amount to ensure that the President has the same ability to meet such needs as previous Presidents have had.

Infringement on Executive Authority

There are several provisions in the Committee bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. These include provisions that purport to require congressional approval for certain transfers between appropriations within the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service, the U.S. Secret Service. The Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

Additional Administration concerns with the Committee bill are contained in the Attachment. We look forward to working with the House to address our mutual concerns.

Attachment

Attachment
(House Rules)

**ADDITIONAL CONCERNS
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT
APPROPRIATIONS BILL, FY 1998
(AS REPORTED BY THE HOUSE COMMITTEE)**

The Administration looks forward to working with the House to address the following additional concerns:

Department of the Treasury

- Departmental Offices. The Administration is concerned that funding for the Treasury's Departmental Offices, at $3 million below the request of $116 million, would adversely affect the Secretary's policy and analytical capacity. High priority workload demands include: GSE privatization, law enforcement oversight, international affairs operations, Electronic Funds Transfer, and the preparation of government-wide financial statements. Major policy analysis needs include: entitlement reform, tax simplification, and pension reform and retirement security.

- Treasury Forfeiture Fund. The Administration is concerned about the earmarking of $19.8 million in the Treasury Forfeiture Fund. These earmarks would undercut the Administration's ability to direct available funds to critical law enforcement priorities, such as the Youth Crime Gun Interdiction Initiative.

- United States Custom Service. The reduction of $18.2 million to the Presidents' request for Customs drug interdiction resources would impair Customs' ability to improve the inspection of cargo and passengers and achieve more effective interdiction. Customs would be unable to deploy 119 additional cargo inspectors along the southern border, would have to delay installation of reliable data terminals for flagging suspicious passengers, and would have to leave 115 positions, mostly at the borders, unfilled.

United States Postal Service

- Global Postal Link. The Administration opposes section 519 of the Committee bill, which would place a one-year limitation on the expansion of the Postal Service Global Package Link Service. The Administration believes that it is inappropriate to use an appropriations bill to legislate such a limitation on United States Postal Service (USPS) operations. Enactment of this provision could have a significant detrimental effect on USPS customer service and revenues.

GSA: Federal Buildings Fund

- Environmental Protection Agency Construction. The Administration urges the House to appropriate $84 million to the Federal Buildings Fund for the renovation of the ICC/Connecting Wing Project, as requested in the FY 1998 Budget. Failure to fund this project will delay the Environmental Protection Agency's (EPA's) scheduled move of nearly 1,600 employees (over 25 percent of EPA's new headquarters space) by at least one year. A one-year delay could cost the Federal Government over $10 million.

General Provision

- Negotiations with Foreign States. The Administration is also concerned that section 632 of the bill, which directs the U.S. Trade Representative and the Secretary of Treasury, in consultation with the Secretary of Commerce, to initiate discussions with Government officials of Mexico and Canada on certain trade issues, raises constitutional concerns. In purporting to direct Executive Branch officials to undertake negotiations with certain foreign governments, this provision would interfere with the President's executive authority to conduct the Nation's diplomatic relations with foreign states. The House is urged to strike this provision.

Budget materials — appropriations letters

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

Ask Mike. I vote for

STATEMENT OF ADMINISTRATION POLICY

TO: JOHN HILLEY
BARBARA CHOW
ANDY BLOCKER
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
CHUCK MARR
BRUCE REED
ELENA KAGAN
PAUL WEINSTEIN
JASON GOLDBERG

Mike Cohen

Call Sylvia on this. 61960

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield AS

DATE: September 15, 1997

SUBJECT: FOR YOUR CLEARANCE -- DC Appropriations Senate SAP

Attached is our draft Senate floor SAP regarding S. 1156, the District of Columbia Appropriations Bill. The bill will likely go to the floor on Tuesday.

Position: We need to resolve ~~the level of~~ objection ~~for school~~ vouchers: strongly oppose, Secretary of Education veto threat, or Senior Advisors veto threat. ~~In the 1996 DC~~ SAPs (the last time the issue was debated on the DC bill), the voucher provision fell under a blanket senior advisors veto threat. In this SAP, the voucher provision is not in the Committee bill, so we are commenting on a potential stand-alone Coats/Lieberman amendment. Director Raines prefers language strongly opposing the provision, but just short of a veto threat.

Timing: We aim to send the letter up by the end of the day on Monday.

Please contact Alice Shuffield at 5-4790 by 5:00pm on Monday with your comments.

SENT BY:Xerox Telecopier 7020 : 9-15-97 : 2:55PM : 2024565542→ 65581:# 1

September __, 1997
(Senate Floor)

S. 1156 -- DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FY 1998
(Sponsors: Stevens (R), Alaska; Faircloth (R), North Carolina)

This Statement of Administration Policy provides the Administration's views on S. 1156, the District of Columbia Appropriations Bill, FY 1998, as reported by the Senate Appropriations Committee.

The Administration commends the Committee for developing a bill that provides sufficient funding to implement the National Capital Revitalization and Self-Government Improvement Act of 1997 successfully. The Senate is urged to approve a bill that is free of extraneous provisions.

The Administration strongly opposes the abortion language of the Committee bill, which would prohibit the use of both Federal and District funds to pay for abortions except in those cases where the life of the mother is endangered or in situations of rape or incest. The Administration continues to view this prohibition on the use of local funds as an unwarranted intrusion into the affairs of the District and would support an amendment, if offered, to strike this prohibition.

DECISION NEEDED -- LEVEL OF OBJECTION TO VOUCHER PROVISION:

(1) Strongly oppose
(2) Secretary of Education recommends veto
(3) Senior Advisors recommend veto

The Administration understands that an amendment may be offered that would provide for the use of school vouchers in the District. **The Administration would strongly oppose any legislation allowing the use of Federal taxpayer funds for private school vouchers.** The use of public funds for private schools undermines one of the foundations of the public school system -- to build a strong and diverse democracy. Establishing a private school voucher system in the Nation's Capital would set a dangerous precedent for using Federal taxpayer funds for schools that are not accountable to the public. **[If such an amendment were adopted and included in the bill presented to the President, [the Secretary of Education / his senior advisers] would recommend that the President veto the bill.]**

The Administration understands that an amendment may be offered that would limit the use of a portion of the D.C. prison construction funds for housing inmates in private contract facilities. The Administration strongly opposes such a restriction on the use of these funds as it would hinder the Bureau of Prisons' ability to house serious violent offenders in a timely and cost effective manner. The amendment is not needed since the Revitalization Act already requires that fifty percent of D.C. inmates be housed in private contract facilities.

The Administration urges the Senate to consider an amendment that would make funds collected by the D.C. Courts available to the Courts for necessary expenses, including the funding of pension costs.

Budget - approps
Letters

DRAFT

The Honorable Bob Livingston
Chairman
Committee of Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2160, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

Both the House and Senate versions of the bill provide requested funding for many of the Administration's priorities. As discussed below, the Administration will seek restoration of certain of the reductions to the President's requests. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the conferees toward achieving acceptable funding levels.

The Administration is committed to working with the conferees to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. For example, unrequested funds have been provided to the P.L. 480 Title I account in both the House and Senate versions of the bill and for additional and unneeded livestock indemnity payments and Crop Insurance administrative funds in the Senate bill. The Administration's proposed user fees for meat and poultry inspection and new user fees for the Food and Drug Administration have not been adopted by either the House or Senate. We urge the conferees to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

Women, Infants, and Children Program

Both the House and Senate versions of the bill would fund the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) at $3.9 billion. The House funding level is $184 million below the President's request, and the Senate funding level is $180 million below the request. The mark is intended to support a participation level of 7.4 million women, infants, and children -- the anticipated FY 1997 end-of-year caseload level. The President's FY

1998 request would allow program participation to grow modestly -- to 7.5 million by September 1998 -- and fulfills the commitment to fully fund WIC. The request also includes a $100 million contingency reserve to ensure that unanticipated food price increases do not cause participation decreases.

The Administration appreciates that both the House and Senate have provided needed flexibility in allocating WIC funding to States. However, we are disappointed that neither House provides funding for the contingency reserve and for the modest increase in participation proposed in the President's budget. These two provisions would allow WIC to reach and maintain the bipartisan commitment to full program participation.

Food Stamps

Unlike other major Federal entitlement programs such as Supplemental Security Income and Medicaid, the Food Stamp appropriation does not include an indefinite authority that would provide funding in the event of an economic recession or estimating errors. Instead, the Congress has traditionally provided a benefit reserve, or "cushion." While providing less than the requested level, the Administration appreciates that the Senate has recognized the need for a benefit reserve by recommending $1 billion for this purpose. We urge the conferees to provide the requested level of $2.5 billion, to the extent possible.

Food and Drug Administration

Proposals included in the Senate bill would result in a total program level for the Food and Drug Administration (FDA) of $1.1 billion: $942 million in budget authority and $113 million in user fees, including $91 million in prescription drug user fees. This level of funding for fees is, in total, a net $132 million below the President's request. The House's proposals would result in a total program level of $0.9 billion: $920 million in budget authority and $21 million in user fees. This level of funding for fees is, in total, a net $223 million below the President's request. The Administration is very concerned that the House, unlike the Senate, does not authorize the collection of $91 million in prescription drug user fees. The prescription drug user fee program, which has been working well since 1992, is regarded as a success by industry, the Congress, and the public. The Administration strongly supports the continued collection of these fees. It is appropriate that regulated industries that derive valuable benefits from some FDA activities contribute an appropriate share of FDA's cost of ensuring the safety and effectiveness of their products. The Administration urges the conferees to fund FDA at the requested program level of $1.1 billion, offset by the proposed user fees.

The Administration is very concerned that the House bill includes only $24.3 million of the $34 million requested to enforce FDA's rule intended to reduce children's access to tobacco products and make the public aware of the requirements. The Administration commends the Senate action to fully fund the request. The Federal Government should move as quickly as possible to reduce children's access to tobacco, and not make enforcement contingent upon approval of a national settlement with the tobacco industry. Full funding of the requested $34 million is essential to meet the Administration's goal of significantly reducing under-age tobacco use.

Rural Housing Programs

We commend the Senate for increasing funding above the House bill's level for the Rental Assistance Program (RAP). However, we ask the conferees to fund, to the extent possible, the $52 million requested for RAP, which neither the House nor Senate has provided, to convert expiring HUD Section 8 rental assistance in USDA-financed rental properties to RAP assistance. While Section 8 assistance is renewed annually, RAP generally provides five-year contracts for rental assistance. On an annualized basis, RAP assistance costs less than Section 8 assistance, and, over five years, the conversion of these units in FY 1998 would save taxpayers $46 million.

In addition to not providing the requested funding for converting expiring Section 8 rental assistance to RAP assistance, the House has reduced requested funding for RAP by an additional $47 million. These funds are needed to subsidize rents for new or rehabilitated units constructed through the Rural housing insurance fund Section 515 multi-family housing loan program. Without these rental subsidies, more than 3,500 low and very-low income rural households would be unable to afford the rents in new Section 515 projects, and the projects themselves might not be viable.

We commend the Senate for including the Administration's proposed reforms to the Section 515 multi-family housing loan program, which would require a "balloon payment" on the loan after 30 years. This provision would reduce the subsidy rate for the loans, thereby increasing supportable loans in FY 1998 by $21 million. We urge the conferees to adopt the Senate provision.

The Administration appreciates the increase in single-family housing loans over the FY 1997 level, and the conferees are urged to adopt the funding level in the Senate bill, which would provide the full $1 billion in direct loans requested. This program has experienced a significant reduction in recent years, and additional funds are required to meet some of the backlogged demand for homeownership assistance to low-income rural Americans. The $50 million reduction made by the House bill would deny over 1,000 rural families the opportunity to become homeowners.

We urge the conferees to reject language in the House bill that would prohibit any USDA low-income rural housing assistance in the City of Galt, California. Pending projects in the area include a backlog of about 400 low and very-low income housing applicants. Eliminating housing assistance for a specific community would exclude low and very-low income residents from the community and is counter to the Administration's -- and, we believe, the Congress' -- goal of expanding opportunities for equal access to quality housing for all Americans.

Rural Development Programs

The Administration strongly supports and commends the Senate action that would adopt the Administration's request to implement the Rural Community Advancement Program (RCAP), as authorized in the 1996 Farm Bill, and we urge that this authority be agreed to by the conferees. This flexible delivery mechanism would allow States and localities to tailor rural development assistance more effectively to meet unique local conditions and needs. However, we urge the conferees to include funds for grants to States, as authorized, in order to give States and localities the opportunity to tailor a portion of this assistance to their particular priorities more effectively.

Conservation Programs

The Senate version of the bill includes $15 million of the $18 million requested for the Resource Conservation and Development Program for local coordinators to assist communities in preparing watershed and rangeland plans, while the House bill does not fund this initiative. The goal of the new funding is to implement successful, locally-led rangeland and watershed planning efforts, such as efforts undertaken by the Malpais Borderland Group in the Southwest, the Quincy Library Group in California, and the Big Darby Watershed in Ohio, in environmental-priority areas, including the salmon recovery area of the Pacific Northwest. The House bill would also reduce funds for Conservation Operations, which could seriously impair USDA's ability to carry out critical conservation programs, including those enacted in the 1996 Farm Bill. The House level would also constrain improvements in conservation program implementation such as improvements accomplished through the Geographic Information Systems and the digitizing of soils maps. We urge the conferees to adopt the conservation programs provisions contained in the Senate bill.

Agricultural Research Programs

The Administration commends the Senate for including $1.25 million of the $2 million requested for important Everglades restoration research. However, the Administration is concerned that a number of important agricultural research activities are under-funded in both the House and Senate versions of the bill. Only $5 million is included in the House bill, and $8 million in the Senate bill, of the $12 million requested for the Administration's Human Nutrition Research Initiative, a multi-year initiative to improve the understanding of the nutrition needs of diverse populations, notably children, but also including the elderly, pregnant women, and healthy adults. The House bill provides $106.7 million and the Senate bill $100 million for the National Research Initiative (NRI) competitive grants program, compared with the $130 million requested. The House bill also includes inappropriate programmatic earmarks within the NRI, a program from which grants are to be awarded based on scientific merit and a peer-review process. We urge the conferees to allow the NRI to remain a competitive grant program and to increase funding for the NRI, to the extent possible. In order to provide funding for these important activities, the Administration urges the conferees to reduce funds included for unrequested, earmarked research grants.

Food Safety Initiative

While we commend the House and Senate action to fully fund the Food and Drug

Administration portion of the request for the President's Food Safety Initiative that is within the Subcommittee's jurisdiction, the House has funded only $3 million, and the Senate has funded only $5 million, of the $9 million requested through the Department of Agriculture (USDA). In May, the Administration announced a detailed plan to strengthen America's food safety through this initiative, including establishing a national early warning system for outbreaks of food-borne illnesses; improving meat, poultry, and seafood inspections; increasing research to develop new tests to detect food-borne pathogens and to assess risks in the food supply; and, establishing public-private partnerships to improve the public's understanding of safe food practices. We urge the conferees to fully fund this important initiative.

Food and Consumer Service Studies and Evaluations

The House has transferred all funding ($18.5 million in FY 1998) for studies and evaluations from the Food Stamp, Child Nutrition, and WIC programs to the Economic Research Service (ERS). ERS is directed to manage all studies and evaluations in consultation with the Food and Consumer Service. The Administration strongly opposes this proposed transfer of functions and funding.

The Administration appreciates the Senate's action to provide the requested level for Food Stamp, Child Nutrition, and WIC program research. The challenge of ensuring the success of welfare reform has increased the importance of practical, applied, and timely research. The Senate's action would ensure that the Food and Consumer Service research function maintains its close connection to all facets of program operation and to its core of highly-skilled professional career researchers with a well-recognized track record of conducting and managing effective, objective program evaluations.

Outreach for Socially Disadvantaged Farmers and Ranchers

The House bill would significantly limit USDA's initiative to improve efforts to ensure equal access for all clientele to training, technical assistance, and other agriculture-related services and programs intended to assist low-income farm families in becoming successful producers. The Secretary of Agriculture has stated his commitment to improving the Department's outreach to and relations with its minority and socially disadvantaged clientele. The House has provided only $2 million, and the Senate $3 million, of the requested $4 million increase for this important component of USDA's Civil Rights initiative. We urge the conferees to increase funds for this priority program to the level requested by the President.

Micromanagement

The Administration objects to the inappropriate micromanagement of Executive Branch authorities that the House and Senate versions of the bill would impose, which would impede the ability of the Department to operate effectively.

The House bill would terminate the authority of the Secretary of Agriculture to have a Western Director and a special assistant in the West, who facilitate the resolution of complex issues and provide important feedback to the Secretary about concerns of Western States and citizens. The House bill would further micromanage by blocking facility closings of the Agricultural Research Service (ARS) and transferring research functions from the Food and Consumer Service to the Economic Research Service.

Like the House, the Senate bill would block facility closings of the ARS, which are needed in order to channel resources effectively to improve the overall impact and quality of ARS research. The Senate bill would also prohibit FDA from consolidating two laboratories: St. Louis and Baltimore. These consolidations are part of FDA's overall streamlining efforts and are consistent with FDA's goal to consolidate its field laboratory operations. The provision would force FDA to spend funds on infrastructure that could otherwise be used more directly to protect public health. The Administration urges the conferees to delete this provision.

Both the House and Senate versions of the bill would limit funds for advisory committees, task forces, panels, and commissions to $1 million, which is insufficient to support ongoing and new committees, including those required by the 1996 Farm Bill. We recommend that the limitation on expenditures for these purposes be lifted.

Packer Concentration

The FY 1998 Budget proposes a $1.6 million increase for monitoring and analyzing meat packer market competition and the implications of structural changes and behavioral practices in the meat-packing industry. The House bill includes $800 thousand and the Senate bill includes $700 thousand for these activities. We urge the conferees to increase funds to the maximum extent possible so that USDA can maintain continuous, systematic collection and analysis of data along with aggressive investigative activities to address these issues effectively.

Nutrition Education and Training

The FY 1998 Budget proposes $10 million for the Nutrition Education and Training program. The Welfare Reform bill enacted last year replaced mandatory funding for this program with an authorization for discretionary appropriations. The Administration is disappointed that the House has provided only $5 million and that the Senate has provided nothing for this valuable resource to the child nutrition programs. We urge the conferees to fund this important program to the maximum extent possible.

OMB Study of Northeast Dairy Compact

The Administration objects to language added on the Senate Floor that would require OMB to perform a study on the Northeast Dairy Compact by December 31, 1997. The requirements of the study, particularly as described in Floor statements, are extensive and involve information that would take substantial effort to gather. Further, it is not clear whether all of the requested data could be obtained. OMB does not have the resources to carry out such a study and simultaneously perform its statutory responsibilities, including preparing the President's FY 1999 Budget this Fall and Winter. We suggest that, if such a study is desired, it be performed by one of the Legislative Branch agencies, such as the Congressional Research Service, or the National Academy of Sciences.

We look forward to working with the conferees to address our mutual concerns.

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Joseph Skeen,
The Honorable Marcy Kaptur, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Thad Cochran,
and The Honorable Dale Bumpers

Budget materials - approps letters

The Honorable Robert Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2169, the Department of Transportation and Related Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

The Administration is pleased with many aspects of the House- and Senate-passed versions of the bill, particularly with respect to funding support provided for transportation safety and transportation infrastructure programs. However, as discussed below, we have concerns with certain aspects of both versions of the bill.

Amtrak

The Administration strongly supports the Senate funding level for Amtrak operations: $344 million, the President's requested level. In addition, Amtrak requires a total of $445 million, the President's FY1998 request, for its capital funding and Northeast Corridor Improvement Program. The House provided a total of $510 million for Amtrak capital and Northeast Corridor improvements while the Senate provided $273 million, all for the Northeast Corridor. The President's requested capital funding level for Amtrak is necessary to achieve operating cost savings that will improve its financial health.

Essential Safety Operations

Ensuring the safety of the traveling public continues to be a primary goal for the Administration. The conferees are strongly urged to restore funding for Federal Aviation Administration (FAA) Operations and Coast Guard Operating Expenses to requested levels so as not to have an adverse impact on safety.

The House has funded FAA Operations at $36 million below the requested level. The Senate level, $5.326 billion, will better enable the FAA to continue to ensure the safe and efficient operation of the Nation's airspace system.

The House's $32 million reduction to the request for Coast Guard Operating Expenses comes primarily from Coast Guard staffing levels. These reductions could undermine the Coast Guard's ability to ensure maritime safety as well as to fulfill its law enforcement and national security obligations. The Coast Guard is implementing a recruiting and retention plan to meet its staffing requirements fully.

Aviation Security

The Administration urges the conferees to fund FAA Research, Engineering, and Development at the President's requested level of $200 million, midway between the House and Senate marks. The House's $15 million reduction to the President's request could delay deployment of explosive detection and anti-terrorism technology needed to assure the security of the traveling public at airports nationwide.

In addition, the conferees are encouraged to provide additional funding within the Facilities and Equipment account to accelerate the deployment of security enhancement equipment, with offsets from other infrastructure spending. We also urge the conferees to provide the $100 million in advance appropriations requested for this equipment in FY 1999 so that continuity can be assured in the procurement process.

NEXTEA

The Administration strongly encourages the conferees to fund subject to ~~authority~~ authorization several important National Economic Crossroads Transportation Efficiency Act (NEXTEA) programs, specifically, State Infrastructure Banks, the Transportation Credit Enhancement program, and the Access to Jobs and Training program. These programs should be authorized when Congress considers the surface transportation reauthorization. These NEXTEA programs will significantly increase the impact of Federal transportation investment and help to make "welfare to work" a reality. They can be accommodated within the overall funding levels agreed to by the House and Senate.

Coast Guard

The Administration requests the conferees to provide the $8.3 million requested in the Coast Guard's Operating Expenses account for the FY 1998 protection and maintenance of Governors Island, New York, which the Coast Guard excessed in July 1997. The General Services Administration (GSA) will not have the funds in FY 1998 to assume immediate responsibility for the property. Failure to maintain Governors Island adequately would violate a court-supervised agreement among GSA, the Coast Guard, and the City and State of New York, and would allow the island to be overrun and its historical buildings to deteriorate, possibly reducing revenues that would be realized from sale of the Island in 2002, as called for in the Bipartisan Budget Agreement. Consistent with current property disposal regulations, GSA will budget for the protection and maintenance of the property starting in FY 1999.

Earmarks

The Administration objects to the House and Senate's earmarking of transit projects (68 earmarks in all) for which Full Funding Grant Agreements (FFGAs) have neither been signed nor are expected before the beginning of FY 1998. Neither cost effectiveness nor engineering analyses have yet been completed for many of these projects. Such earmarking would dilute funding for FFGA projects that are either under construction or ready to go. Further, these earmarks create expectations in terms of future funding that may be difficult to meet under the Balanced Budget Act.

Both the House and Senate have provided substantial funding to conduct several earmarked operational tests within the Intelligent Transportation Systems (ITS) program. The Administration believes that these projects should compete on an equal basis with other potential proposals. Furthermore, the ITS program's focus is shifting from operational testing to encouraging integrated deployment. The increase in operational testing funds is, therefore, unnecessary and should be shifted to deployment incentives.

Language Provisions

The Administration opposes the language in the House-passed bill that would prohibit any funds from being used by the FAA to plan, finalize, or implement any regulation that would promulgate new aviation user fees not specifically authorized by law. The Administration considers cost-based user fees to be a viable and appropriate means of financing the FAA. Restricting the FAA from developing new user fee proposals is a threat to responsible planning for the future financing of the agency.

The Administration opposes the House provision that would prevent the use of funds by the FAA for the Flight 2000 demonstration program. The Flight 2000 program was recommended by the White House Commission on Aviation Safety and Security and has been endorsed by the airlines to demonstrate the efficiencies and expanded aviation capacity that can result from the use of new technologies to manage air traffic.

The Administration opposes the provision of the House-passed bill that would prohibit any funds from being used for changes in the Corporate Average Fuel Economy (CAFE) standards. The Administration believes that any rulemaking related to CAFE standards should be addressed in an open proceeding in which relevant issues are considered and in which all interested persons and parties are able to participate in fashioning the appropriate outcomes.

Finally, a provision in Title I of the House bill purports to require congressional approval before Executive Branch execution of the Transportation Administrative Service Center provisions in the bill. The Administration will interpret this provision to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

Additional Administration concerns with the House and Senate versions of the bill are contained in the enclosure.

Sincerely,

Franklin D. Raines
Director

Enclosure

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Frank R. Wolf,
The Honorable Martin O. Sabo, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Richard C. Shelby,
and The Honorable Frank R. Lautenberg

Enclosure
(Conference)

ADDITIONAL CONCERNS
H.R. 2169 -- DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998

(AS PASSED BY THE HOUSE AND BY THE SENATE)

The Administration looks forward to working with the conferees to address the following additional concerns:

Coast Guard

- NEXTEA. Neither the House nor Senate version of the bill supports the Administration's NEXTEA proposals for fully mandatory funding for the Boating Safety program and for funding the Alteration of Bridges program from the Highway Trust Fund. The Administration reiterates its support for these proposals.

  Mandatory funding for Boating Safety would put it on equal footing with the Sport Fish Restoration program, which is also funded from the Aquatic Resources Trust Fund and is entitled to funds not spent by Boating Safety. Under the Alteration of Bridges proposal, $17 million from the Highway Bridge Replacement and Rehabilitation Program (HBRRP) would be set aside annually for the purpose of repairing bridges deemed hazardous to navigation. The funding would be administered in accordance with the Truman-Hobbs Bridge Act, rather than the HBRRP. The Coast Guard would continue to select the projects and determine their funding levels.

Federal Railroad Administration (FRA)

- Pennsylvania Station. The Administration supports the Senate's full funding of the $23 million request for the Pennsylvania Station Redevelopment Project. The House bill provides no funding for this project. These funds are needed to proceed with the expeditious redevelopment of this vital rail terminal.

- Amtrak capital expenditures. The Administration opposes the provision in the House-passed bill that would prohibit Amtrak from using capital funds to pay debt service. As noted in the Administration's NEXTEA proposal, funds for capital investments are appropriately used to pay expenses related to debt service (i.e., principal and interest).

- FRA Headquarters. The Administration opposes a provision in the House-passed bill that would require FRA to move back into the Nassif Building. This move would not save any rental costs and would entail added expenses for the Department.

Federal Highway Administration

- Motor Carrier Safety Program. The conferees are encouraged to fully fund the Administration's requested $100 million for the National Motor Carrier Safety Program. The reductions made by the House and Senate, $14.7 million and $15.7 million, respectively, would delay the progress the Department of Transportation continues to make in reducing commercial motor vehicle crashes and fatalities. Such reductions would also hobble efforts to improve the program by adopting performance-based criteria to target funds.

- Right-of-Way Revolving Fund. The Administration objects to the funding provided in the Senate bill for the Right-of-Way Revolving Fund. States can already purchase right-of-way under the Federal-aid highway program, which is slated for a significant increase in FY 1998. Further, this program can only be made consistent with the Federal Credit Reform Act through an authorization, which would be more properly considered during the upcoming reauthorization of the surface transportation programs.

Washington Metropolitan Area Transit Authority

- Overall Funding. The Senate-passed bill would reduce the President's request for the Washington Metropolitan Area Transit Authority (WMATA) by $40 million. The Administration urges the conferees to fund WMATA at $200 million, the President's requested level and the level provided by the House. The Federal commitment to WMATA ends in 1999, and WMATA is on schedule to complete the 103-mile system. Failure to provide the Administration's request would delay completion of the project and increase costs.

National Highway Traffic Safety Administration

- Airbag Regulation. The Administration objects to the Senate's requirement, as part of report language, to issue a notice of proposed rulemaking on the deactivation of airbags or the installation of an on/off switch for airbags. A notice of proposed rulemaking has already been issued on this subject. Additional proposed rules may be necessary, but the Administration objects to the mandate to issue such a notice. While we commit to reviewing thoroughly the difficult issues surrounding airbag deactivation, a direction to submit a notice by a date certain is unrealistic and may be unnecessary.

- Youth, Drugs, and Driving Initiative. The Administration supports the House level of funding for the Youth, Drugs, and Driving Initiative. This demonstration program will develop and implement effective pre-licensure drug testing to deter drug use, reduce drug-impaired driving, and promote public safety. The Senate's decision not to fund this program is unfortunate, and the Administration would like to work with the conferees to ensure funding for this program.

Essential Air Service.

- Rescission of Contract Authority. The Administration supports Senate provisions that would rescind $38.6 million in existing FY 1998 contract authority for the Essential Air Services (EAS) program. The Federal Aviation Administration Authorization Act of 1996 funds EAS through $50 million per year in mandatory spending. Failure to rescind or limit the existing contract authority would permit this contract authority to be spent. The resulting additional outlays would be scored against the Appropriations Committees.

National Transportation Safety Board.

- TWA 800. To assist the National Transportation Safety Board (NTSB) in its ongoing effort to determine probable cause in the TWA 800 accident, the Administration urges the conferees to ensure that any excess FY 1997 funds are available for FY 1998 expenses related to the TWA investigation. The current limitation on reimbursements to the Navy may prevent the NTSB from making full use of excess FY 1997 funds to further the investigation.