NLWJC - Kagan

DPC - Box 003 - Folder 004

Budget Materials - Appropriations Letters [3]

Budget materials - approps letters

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

September 11, 1997
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

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

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, which would also conflict with the Balanced Budget Agreement by restricting the use of Interior's Tribal Priority Allocation (TPA) funding. 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 provisions that violate the Bipartisan Budget Agreement (BBA), such as a provision to require additional, unnecessary authorizing language for key land acquisition in Montana and California. 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 and, therefore, violate the intent of the BBA. If this restriction is removed, the Committee's action would provide 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 conflict with 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.

Ban on Export of Unprocessed Timber from Federal Land. The Committee bill includes 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.

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 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 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.

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

Budget materials - appropriations letters

July 24, 1997

THE DIRECTOR

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter provides the Administration's views on the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill, FY 1998, as reported by the Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated. These views are based on incomplete information and are, therefore, necessarily preliminary.

The Subcommittee has developed a bill that provides requested funding for many of the Administration's priorities. We are pleased that the Subcommittee has fully funded Bilingual and Immigrant Education, School to Work, Head Start, and Education Technology Programs. The Administration is also pleased that the Subcommittee has limited the number of appropriations riders, consistent with the terms of the Bipartisan Budget Agreement. The Committee is urged to continue this practice. As discussed below, the Administration will seek restoration of certain of the Subcommittee's reductions.

The Administration is committed to working with the Committee to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. For example, the Subcommittee bill provides nearly $1.5 billion more than the President has requested for three dozen authorities in the Department of Education, while cutting the President's request by almost $2 billion. Similar reallocations are made in other sections of the bill. We strongly urge the Committee 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, particularly those specified in the Bipartisan Budget Agreement, as noted below.

Department of Education

The Administration appreciates the Subcommittee's efforts to provide substantial new funding for education activities. Unfortunately, the Subcommittee has failed to provide the $260 million necessary for the President's America Reads Challenge in the Department of Education, and the bill provides only $16 million of the $42 million requested for America Reads in the portion of the Corporation for National and Community Service budget funded by this bill. The Subcommittee has provided advance appropriations for America Reads to the Department of

Education for FY 1999, pending new authorization, which would produce a full year's delay in getting needed reading assistance to millions of children. The Bipartisan Budget Agreement specifically calls for funding a literacy program, "with the goals and concepts of the President's America Reads program" at the levels proposed in the President's FY 1998 Budget. America Reads is one of the Administration's highest funding priorities. The Administration believes that the full funding should be restored to both the Department of Education and the Corporation for National and Community Service for FY 1998.

The Administration is working closely with the authorizing committees to develop legislation effective for FY 1998. There is ample time to enact legislation, as needed, by April 1st for a program that would begin on July 1st, in time for summer activities and the 1998-1999 school year.

The Bipartisan Budget Agreement assumes a $1.7 billion increase over FY 1997 for Pell grants, to support both a $3,000 maximum award and expanded eligibility for independent students. The Subcommittee bill cuts the Pell request by over $700 million and thus does not fund the Administration's proposed independent student policy. The Administration is proposing to aid independent students in the Higher Education Act reauthorization proposal, but based on information from the authorizing committees, the Administration cannot expect the Act to be reauthorized in time to effect FY 1998 awards. Rather than withhold this benefit from independent students, the Administration proposes that the appropriation act include one year of authority while the reauthorization process is completed. This authorization is no different from the Committee's annual procedure of authorizing the maximum Pell grant award. In accordance with the terms of the Bipartisan Budget Agreement, we urge the Committee to fully fund Pell grants and to authorize both the maximum award and the independent student change.

The Subcommittee bill funds Education Reform at $1.13 billion, $110 million below the level assumed under the Bipartisan Budget Agreement. Within the total, GOALS 2000 State and local grants are funded at only $500 million, $105 million below the request. GOALS 2000 funds provide essential support to virtually every State's education improvement strategy. We strongly urge the Committee to restore full funding for GOALS 2000.

A number of other high priority Education programs are funded significantly below the President's request. These include Adult Education, College Work-Study, Title I Targeted grants, Safe and Drug-Free Schools, Eisenhower Professional Development, Charter Schools, 21st Century Learning Centers, and educational research, statistics, and assessment. We urge the Committee to fully fund these activities at the levels requested in the President's FY 1998 Budget.

Department of Health and Human Services

The Administration is deeply concerned that the Subcommittee has failed to provide $21 million for the Administration's new Adoption Initiative. The goal of this program is to double the number of children adopted or permanently placed outside of child welfare systems by FY 2002. The additional investment is small compared to the potential rewards of placing children in supportive and loving homes. The Administration strongly urges the Committee to fully fund this urgently-needed program at the President's requested level.

The Administration is pleased that the Subcommittee has provided the requested $40 million increase over FY 1997 for Ryan White AIDS Treatment Grants, and an additional $41 million that could be used by grantees for the purchase of AIDS drugs. The Administration is also pleased to see that the Subcommittee has allocated these funds roughly as requested in the President's budget, with an additional $38 million in Title II grants to States which spend a large proportion of the Ryan White grants on primary care and drugs for people with HIV and AIDS.

The Administration is concerned that the Subcommittee bill does not appropriate a specific amount for AIDS research through a single appropriation as requested in the President's budget for the National Institutes of Health's (NIH's) Office of AIDS Research. The single appropriation helps NIH target research funds effectively, minimizing duplication and inefficiencies across the 21 institutes and centers that carry out HIV/AIDS research.

The Administration is concerned that the Subcommittee has not provided the requested $28 million expansion of funding for the Substance Abuse and Mental Health Services Administration (SAMHSA) for the National Household Survey on Drug Abuse. This survey provides national estimates on substance abuse in the population, age 12 and older. The Administration believes that both national and State-level data will assist in monitoring the progress toward achieving the objectives of the President's National Drug Control Strategy. The Administration encourages the Committee to fund the President's request for this activity.

The Subcommittee has funded the Health Care Financing Administration (HCFA) program management activities at $1,739 million, $35 million below the President's request. The Subcommittee's level could hinder efforts to achieve year 2000 systems compliance and to implement the Medicare Transaction System. To the extent possible, we urge the Committee to fund HCFA program management at the requested level.

The Subcommittee has rescinded $21 million in mandatory research funds. The President's request assumes $18 million in discretionary and $21 million in mandatory welfare research funds, for a total of $39 million. The Subcommittee has provided only $26 million in the Administration for Children and Families and Assistant Secretary for Planning and Evaluation. In order to gauge the effects of welfare reform, research is needed now more than ever. The Administration urges the Committee to drop the rescission and to fund welfare research at the President's requested level.

While the Administration supports the Subcommittee's funding of Violence Against Women Act programs, the Subcommittee has not provided the $12.8 million requested for the Community Schools program within the Violent Crime Reduction Programs account. We urge the Committee to restore funding for this program.

Department of Labor

The Bipartisan Budget Agreement specifies funding at the levels proposed in the President's budget for Training and Employment Services (TES), including Job Corps. The Subcommittee mark provides the Administration's request for low-income youth training programs, dislocated workers, and the Job Corps. However, in order to be consistent with the

Agreement, we urge the Committee to provide an additional $285 million to fully fund the request for new adult training grants and new TES programs in FY 1998. The Subcommittee has provided $250 million in FY 1999 for the Youth Opportunity Area proposal, subject to passage of authorizing legislation. This program may be carried out under existing legislation, and a separate authorization is not necessary. The Committee is urged to provide resources for this initiative in FY 1998, without the restriction provided by the Subcommittee.

The Administration appreciates the Subcommittee's allocation of $150 million to help finance the year 2000 conversion of State Unemployment Insurance (UI) systems. However, that amount is $50 million below the level needed to ensure that the year 2000 costs are met. In addition, the Subcommittee has failed to provide $89 million for spending on UI "integrity" initiatives (e.g., increased eligibility reviews, tax audits). This spending is explicitly assumed in the Bipartisan Budget Agreement and would, over five years, achieve $763 million in mandatory savings assumed in the Agreement. The Committee is urged to provide this increase and the increase for year 2000 conversion costs.

The Subcommittee has provided $990 million, an increase of $41 million over the FY 1997 enacted level, for the Department of Labor workplace protection programs, about 60 percent of the proposed increase. Funding for the independent National Labor Relations Board has been frozen, a cut of $11 million below the request. The Administration urges the Committee to enact the Administration's request for these programs. Without the requested increases, the Department would not be able to carry out a balanced program of targeted enforcement, with expanded partnerships and compliance assistance in the regulated community. Nor would the Department be able to streamline its operations to provide assistance to small businesses in complying with various workplace laws and related executive orders, such as the systems and technical assistance improvements requested for the Office of Federal Contract Compliance. In addition, the Committee is urged to provide the requested level for the Bureau of Labor Statistics to ensure the continued accuracy and reliability of all of the Bureau's statistical programs.

Social Security Administration

The Subcommittee has provided $245 million for additional Continuing Disability Review (CDR) funding and SSI reforms implementation, $45 million less than the President's request. The pending reconciliation bill contains a provision that would provide authority for a $290 million upward cap adjustment ($45 million more than current law) to the non-defense discretionary spending caps for funding provided by the Subcommittee for additional CDRs. This is consistent with the President's request. Failure to provide the additional funds would mean that some 15 percent fewer individuals would have their status reviewed in FY 1998, potentially costing hundreds of millions of dollars in benefits to individuals who would have been found no longer eligible. We urge the Committee to provide the additional $45 million.

The Subcommittee increases the fees States pay SSA for administering State payments that are supplemental to SSI benefits, and has provided for such funds to be available, subject to appropriations action, upon collection for SSA administrative expenses. This provision is consistent with the Bipartisan Budget Agreement, and the Administration commends the Subcommittee's actions.

The Subcommittee has reduced funding for the Office of the Inspector General by $7 million from the President's request of $44 million and for research and demonstration projects by $9.7 million from the President's request of $16.7 million. The reduction to the IG request would hamper the IG's ability to perform audits and investigations needed to prevent fraud, waste, and abuse and to assure program integrity. The reduction in research and demonstration funding would reduce SSA's ability to understand the reasons for growth in the disability programs and implement initiatives intended to improve SSA's record in returning disabled beneficiaries to work. The Administration urges the Committee to restore funding to the maximum extent possible in these two key areas.

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

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Arlen Specter,
and The Honorable Tom Harkin

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

July 24, 1997
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

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

S. 1022 – DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998

(Sponsors: Stevens (R), Alaska; Gregg (R), New Hampshire)

This Statement of Administration Policy provides the Administration's views on S. 1022, the Commerce, Justice, and State, the Judiciary, 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. For example, we appreciate the Senate'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 will enable us to achieve the goal of hiring 100,000 additional police officers by the year 2000. While below the request, the Administration also appreciates the funding level provided for the Legal Services Corporation. We strongly urge full funding of the President's request.

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 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. For example, funding could be reduced for the Local Law Enforcement Block Grant and the new Juvenile Justice Block Grant. We urge the Senate 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 Commerce

- National Institute of Standards and Technology. The Administration urges the Senate to restore funding for the National Institute of Standards and Technology (NIST) to the level agreed upon in the Bipartisan Budget Agreement. The Committee mark of $604 million falls short of the agreed upon level by $89 million. The reduction is targeted to the Advanced Technology Program (ATP) and Manufacturing Extension Partnership (MEP), which work in partnership with industry to advance U.S. competitiveness. ATP is funded at $200 million,

$76 million below the President's request. This funding level would reduce the number of innovative technology development grants that NIST could award. MEP is funded at $111 million, $12 million below the request. The Committee's reduction would prevent funding for new initiatives designed to increase the synergy of our national network of centers. We strongly urge full funding of the President's Budget.

- National Oceanic and Atmospheric Administration. The Administration is disappointed that no funds have been provided for the President's Clean Water Initiative, which would help 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 $100 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.

- Census Sampling. While the compromise language that passed the Senate in the FY 1997 Emergency Supplemental Appropriations and Rescissions Bill would be workable, the Administration would strongly object to any prohibition on the use of sampling as part of the 2000 Decennial Census. 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 Information Infrastructure Grants Program. The Administration urges the Senate to reallocate resources between the National Information Infrastructure (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.

Department of Justice

- Drug Courts and Drug Testing. The Administration opposes the Committee's $40 million funding level for the drug courts program. 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. Also, the President's budget provides a total of $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. The drug courts and drug testing programs could be restored to the requested levels by reducing the Committee's funding level for the Local Law Enforcement Block Grant program.

- Juvenile Justice Block Grant. The Administration appreciates the Committee's desire to provide additional support for juvenile justice programs. However, we are concerned that the block grant program may authorize a broad and unfocused range of activities. We urge the Senate 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 Senate to target $50 million for the violent youth court program, which is designed to develop initiatives that courts and court-related entities, such as probation and parole offices and victim/witness centers, may use to enhance and expedite the handling of youth violence cases.

- FBI Recruitment. The Committee bill exempts the FBI from Title 5 personnel laws and regulations on the basis that the FBI is restricted in its ability to recruit and retain individuals with scientific and technical skills, and that pay flexibility under Title 5 is inefficient. We believe the Committee's action, while well intended, is flawed. There is insufficient evidence of a recruitment problem at the FBI that would be solved by exemptions from Title 5 provisions for employee classification, pay, and performance. Such exemptions would not address significant non-pay recruitment problems, such as the large number of applicants that fail drug and/or polygraph tests. The Federal agencies that have documented pay-related recruitment problems have successfully used the pay flexibility provided in Title 5. In addition, the provision would establish a personnel system not subject to Office of Personnel Management oversight; exempt all FBI employees, including support staff, from Title 5 in response to undocumented recruitment problems related to scientific and technical personnel; and, would address the Government-wide needs for scientific and technical employees, including the those of other law enforcement agencies, in an inconsistent manner. We recommend that this provision be deleted from the bill.

- Telecommunications Carrier Compliance. The Committee bill does not provide any FY 1998 funding for the Telecommunications Carrier Compliance program. The Administration has requested $100 million to reimburse communications equipment manufacturers for the cost of modifying equipment to ensure that law enforcement agencies would be able to conduct court-authorized wiretaps. As requested, the FBI has provided the Committee with a detailed implementation plan for the program. Implementation should not be delayed further for the creation of an FBI/industry working group and refinement of the implementation plan as the Committee's Report directs. The Administration strongly requests that funding for this program be provided.

- Bureau of Prisons. The Administration objects to language of the Committee Report concerning the Bureau of Prisons, Buildings and Facilities, appropriation. The Report mandates that unless a certain minimum funding level is included in the President's FY 1999 Budget for prison facilities, funding for INS political appointees will be restricted in FY 1998. This provision inappropriately attempts to encroach on the President's authority to determine the Administration's FY 1999 funding priorities and precludes an assessment of the Bureau's needs in favor of a pre-determined level set by Congress. Finally, this action would tie funding for prisons to a sanction in another, unrelated appropriation (INS).

  The Administration urges the Senate to strike section 103 of the Committee bill, which would prohibit the Bureau of Prisons from funding abortions except in cases of rape or where the life of the mother is endangered. The Department of Justice believes that there is a great likelihood that this provision would be held unconstitutional.

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 Senate to provide funding for the Council and has identified an appropriate offset.

The Judiciary: Ninth Circuit

The Administration opposes the provision in the Committee bill that would reorganize the Ninth Circuit by splitting it into two separate circuits. We understand that other substantive amendments to divide the Ninth Circuit may be offered on the Senate Floor. 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.

Legal Services Corporation

Of the $300 million appropriated for the Legal Services Corporation (LSC), $17 million is earmarked for "pro se" legal education programs. Funding for the provision of legal services remains at the FY 1997 level. The Administration recommends full funding of the President's request.

Equal Employment Opportunity Commission

The Administration appreciates the Committee's desire to provide additional resources over the FY 1997 level for the Equal Employment Opportunity Commission (EEOC). However, we urge the Senate to go further and fully fund the President's request of $246 million, given the importance of the EEOC's work in addressing unlawful discrimination.

Department of State

The Administration appreciates the Committee's strong 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 greatly concerned about 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.

Funding for both accounts is significantly below what is necessary to pay annual costs, avoid new arrears, and provide some flexibility for the President to address unforeseen needs relating to peace and security around the world. We believe it is premature to direct that FY 1997 CIPA funds be reallocated given continuing uncertainties in some regions of the world. Further, we are disappointed that the bill does not provide a commitment for three years of arrears payments, consistent with the Senate-passed authorization bill. These appropriations levels are inconsistent with the extensive negotiations between the Administration and Congress on reform and funding of the U.N. system.

The Administration urges the Senate to strike two provisions that raise serious Constitutional concerns, sections 406 and 408. Section 406 would condition the use of funds for diplomatic relations with Vietnam on Presidential certification that Vietnam has satisfied specific conditions contained in this section. This unworkable requirement would unconstitutionally constrain the President's exercise of his power to recognize foreign governments. Section 408 would mandate that the United States withdraw from an international organization if the President determines that amounts appropriated for payment of all contributions to such organization are less than the actual amount of contributions to such organization. This congressional mandate would infringe on the President's constitutional power to conduct U.S. diplomatic affairs.

Arms Control and Disarmament Agency

The Administration strongly opposes the Committee mark of $32.6 million for the Arms Control and Disarmament Agency (ACDA), which would severely undercut the Administration's efforts to reduce the threat of nuclear and other weapons to the security of the American people. In addition to the $46.2 million request included in the FY 1998 Budget, a fully-offset budget amendment for Comprehensive Nuclear Test Ban Treaty requirements was transmitted on July 17th, bringing ACDA's FY 1998 request to $59.2 million. The full revised request is needed for these important national security activities.

National Endowment for Democracy

The Administration strongly objects to the Committee's elimination of funding for the National Endowment for Democracy (NED), particularly given the Committee's increases above the request for other USIA-funded grants. The President's request of $30 million is needed to support democracy-building programs throughout the world. We urge the Senate to provide funding for NED at the requested level of $30 million.

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

Attachment

Attachment
(Senate Floor)

ADDITIONAL CONCERNS DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998 (AS REPORTED BY THE SENATE COMMITTEE)

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

Department of Commerce

- Economic Development Administration. The Administration supports the restoration of funds for economic development public works grants and defense economic adjustment to levels that would provide sufficient funding for their effective administration. Both are funded at a level significantly below FY 1997 in the Committee bill. These grants foster the establishment or expansion of industrial and commercial businesses supporting the creation and retention of jobs and help rebuild and diversify communities affected by base closures.

- 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.

- Congressional Earmarking. The Administration is concerned about unrequested funds that are earmarked for low priority programs, particularly in the National Oceanic and Atmospheric Administration, the Economic Development Administration, the National Institute of Standards and Technology, and the International Trade Administration.

Department of Justice

- Immigration and Naturalization Service (INS) Fee Accounts. The Administration is very concerned that the Committee bill would underfund certain authorized discretionary programs and use mandatory funds from immigration examination and user fees for certain unauthorized discretionary activities. The bill directs the Department of Justice to use examination and user fee revenue -- classified as mandatory -- for discretionary activities that are not authorized. The bill further commits to unrequested discretionary activities collections and unobligated balances that are necessary for providing services or processing and adjudicating applications. The result of these actions would be that INS would not have sufficient resources available to process pending naturalization applications or properly provide other services and benefits.

- Executive Support. The Administration opposes the Committee's action to freeze legislative and public affairs activities at FY 1997 levels throughout 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 Senate to increase funding for the Executive Support offices and to delete the Committee bill's restrictions on the use of detailees.

- United States Attorneys. The Judiciary appropriation contains a provision capping the amount that Federal Public Defenders may spend on representation of defendants in capital cases. It stipulates that any costs over this cap must be borne by the courts and prosecutors. This provision is an unacceptable restriction on defendants' right to legal representation, raising the prospect that the decisions of judges and prosecutors could be affected by monetary pressures. The Administration opposes any suggestion that the cost of defending a citizen should be a consideration in the litigation of any matter, especially in capital cases.

Legal Services Corporation

- Debarment of Grantees. The Administration is concerned about section 504(c)(5) of the bill, which would permit LSC to debar any grantee that files a lawsuit against the Corporation or any government agency. While existing law prevents LSC grantees from using LSC funds to sue the Corporation, the Administration opposes restricting grantees from using non-Federal funds to exercise their right to protect themselves from improper government actions.

Federal Communications Commission

- Relocation. The Committee bill provides 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 Senate to provide the $30 million required for the FCC move in FY 1998.

U.S. Information Agency

- International Broadcasting. The Administration urges the Senate to restore funding for the International Broadcasting Operations account to the President's requested level of $367 million, including funding for Radio and TV Marti. The restoration of the Committee's $5 million reduction is of particular concern given the Administration's agreement to support a congressional initiative to increase broadcasting to China significantly in FY 1998, an initiative proposed after the budget request was developed. In addition, the Administration objects to language in the bill that would tie the availability of direct appropriations for international broadcasting programs to the collection of revenues from advertising. We believe that it is unwise to link ongoing broadcasting services to an estimate of revenue that may not materialize.

Budget materials - appropriations letters

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
LEGISLATIVE AFFAIRS

PHONE: 395-4790 / FAX: 395-3729

TO: EOP Internal Distribution List

DATE: 7/22

SUBJECT: FY 1998 Appropriations Letter from Franklin D. Raines, Director

PAGES: 16

1. Senate Transportation FY98 Approps Letter
2. Senate Military Construction FY98 Approps. SAP
3. Senate Interior FY98 Approps. Letter
4. House Treasury/Postal FY98 Approps. Letter

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

THE DIRECTOR

July 22, 1997

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Department of Transportation and Related Agencies Appropriations Bill, FY 1998, as reported by the Senate Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The Administration is pleased with many aspects of the Subcommittee bill, particularly funding support provided for transportation safety and transportation infrastructure programs. As discussed below, the Administration will seek restoration of certain of the Subcommittee's reductions from 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 Committee toward achieving acceptable funding levels.

The Administration is committed to working with the Committee to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. The Administration suggests that virtually all of its priorities could be funded through limited reductions in infrastructure programs, which the Subcommittee has funded at levels in excess of the Administration's requests. We urge the Committee 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.

<u>NEXTEA</u>

The Administration realizes that the Subcommittee has not funded several requested programs because they have not yet been authorized as part of the National Economic Crossroads Transportation Efficiency Act (NEXTEA). The Administration reiterates its support for State Infrastructure Banks, the Transportation Credit Enhancement program, and the Access to Jobs and Training program. These 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 Subcommittee.

Amtrak

The Administration strongly objects to the Subcommittee's proposed funding level for the National Railroad Passenger Corporation. The provision of $283 million in operating assistance falls $61 million short of the level requested in the President's budget. The Federal operating subsidy supports Amtrak's day-to-day operations. Even at the funding levels proposed by the President, Amtrak will be able to remain solvent only by further increasing revenues and reducing costs. If Congress appropriates an amount for operating grants that is less than the $344 million requested by the President, it is questionable whether Amtrak would have cash reserves or short term credit sufficient to meet its obligations. In light of these considerations, we strongly urge the Committee to provide Amtrak with operating grants of $344 million in FY 1998.

The Administration supports the request for $222 million in general capital funding and objects to the Subcommittee's decision to provide no funding. The Subcommittee did not provide Amtrak with general capital funding assuming that a proposal for an Intercity Passenger Rail Fund, currently in the Senate version of the Reconciliation bill, would provide Amtrak with over $600 million in general capital funding in FY 1998. The Intercity Passenger Rail Fund may not be enacted.

Federal Aviation Administration

The Committee is encouraged to provide additional funding for the deployment of security enhancement equipment, with offsets from other infrastructure spending. The Administration also urges the Committee 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.

Earmarking

The Administration commends the Subcommittee for not funding highway demonstration projects. However, the Administration objects to the Subcommittee's earmarking of 25 transit projects for which Full Funding Grant Agreements (FFGAs) have neither been signed nor are expected to be signed. Many of these projects have yet to complete required planning and engineering studies to determine their costs and benefits. Any future funding for these projects would be in addition to the $3.7 billion outstanding Federal share of projects with existing FFGAs. Such earmarking risks creating expectations that may be difficult to meet under a balanced budget. The Committee is urged to redirect theses funds to higher priority items.

The Subcommittee has provided substantial funding to conduct several earmarked operational tests within the Intelligent Transportation Systems (ITS) program. The Administration has requested funding in NEXTEA to support operational tests and would prefer that, rather than setting aside funds for specific projects, these projects compete on an equal basis with other potential proposals. Furthermore, the ITS program's focus is shifting from operational testing to integrated deployment. NEXTEA provides $100 million for a new Deployment Incentives program to encourage integrated deployment. The operational tests funded by the Subcommittee could be duplicative of previous tests.

Language Provisions

The Subcommittee bill would direct the Department of Transportation to interpret section 29 of Public Law 96-192 (the Wright Amendment) so that it would not preclude operations with any aircraft configured or reconfigured with 56 passengers or less. This provision is intended to reverse an interpretation made by the Department after thorough analysis. That issue is currently in litigation. The Administration is concerned that this provision would interfere with this litigation.

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

Sincerely,

Franklin D. Raines
Director

Enclosure

Identical Letter Sent to The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Richard C. Shelby,
and The Honorable Frank R. Lautenberg

Enclosure
(Senate Committee)

ADDITIONAL CONCERNS
DEPARTMENT OF TRANSPORTATION
APPROPRIATIONS BILL, FY 1998
(AS REPORTED BY THE SENATE SUBCOMMITTEE)

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

Coast Guard

- NEXTEA. The Subcommittee has not supported 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 appropriated to 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.

- Governors Island. The Subcommittee has not provided $8.3 million requested in the Operating Expenses account for the FY 1998 protection and maintenance of Governors Island, New York, which the Coast Guard will excess in late FY 1997. Also, the Subcommittee has included bill language that would relieve the Coast Guard of responsibility for maintenance of the property under caretaker status. Pursuant to Section 483(b) of the Federal Property and Administrative Services Act of 1949, the Administrator of GSA has established that disposing agencies will fund protection and maintenance of excessed property for the quarter in which the property is reported as excessed and for not more than 12 months thereafter. During this period, GSA requests funding for follow-on protection and maintenance costs. The Administration has not requested funding in the GSA appropriation for the protection and maintenance of Governors Island in FY 1998. Therefore, this language would force GSA to absorb Governors Island protection and maintenance costs within a budget that is already stretched thin.

Federal Highway Administration

- National Motor Carrier Safety Program. The Subcommittee has provided $84.3 million for the National Motor Carrier Safety Program, $15.7 million below the Administration's request. This funding shortfall would delay the progress DOT continues to make in reducing commercial motor vehicle crashes and fatalities and would hobble efforts to move the program towards performance-based criteria.

National Highway Traffic Safety Administration

- Airbag Regulation. The Administration objects to the 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 of the Committee to issue such a notice. While we commit to thoroughly reviewing 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 objects to the failure to fund 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 Subcommittee's decision is unfortunate, and the Administration would like to work with the Committee to restore this program.

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

July 22, 1997
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2016 – MILITARY CONSTRUCTION APPROPRIATIONS BILL, FY 1998
(Sponsors: Stevens (R), Alaska; Burns (R), Montana)

This Statement of Administration Policy provides the Administration's views on H.R. 2016, the Military Construction Appropriations Bill, FY 1998, as reported by the Senate Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration objects to the reallocation of national defense funds from Department of Energy programs to Department of Defense programs, including military construction programs, an action that we believe is an unacceptable deviation from our understanding of the Bipartisan Budget Agreement.

Unrequested Programs Added by the Committee

The Committee has added $955 million to the President's request, for 103 specific unrequested projects and other programs, partially offset by $155 million in reductions to requested programs and other adjustments. Although much of the unrequested funding is for items that are consistent with DOD's long-range military construction plans, $116 million would be used for low priority items that are not in DOD's long-range plans. It is particularly unfortunate that funding for the projects that are not in DOD's long-range plans has been added at the expense of higher priority programs in the President's request. The Administration believes that unrequested funding should be deleted, and funding for requested programs should be restored.

Other Objectionable Features

The Administration objects to the Committee's:

- Appropriation of only $36 million of the $63 million requested for construction of the U.S. Disciplinary Barracks at Ft. Leavenworth, Kansas. The Administration opposes incremental funding of this project and urges the Senate to provide the full amount of the request.

- Failure to include requested authority that would enable the Secretary of Defense to transfer appropriations within the appropriation accounts in the Military

Construction Appropriations Act. Similar transfer authority in Defense Appropriations Acts has been used with great success to meet unplanned requirements, without reducing the opportunity for congressional oversight.

- Reduction of $11 million from the $30 million request for Defense-wide planning and design. This reduction would delay construction of many of the strategic fuel storage projects that are required to meet operating plans.

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

THE DIRECTOR

July 22, 1997

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2107, the Interior and Related Agencies Appropriations Bill, FY 1998, as reported by the Senate Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated. These views are based on incomplete information and are, therefore, necessarily preliminary.

The Subcommittee has developed a bill that provides requested funding for many of the Administration's priorities. The Administration recognizes and appreciates that the Senate Subcommittee bill eliminates some of the more objectionable provisions included in the bill as passed by the House. Unfortunately, some new objectionable provisions have been added by the Subcommittee that would infringe on Native American sovereignty and potentially have severe consequences for other tribal programs. Should these provisions remain in the bill presented to the President, the Secretary of the Interior would recommend that he veto the bill.

The Administration will seek restoration of certain of the Subcommittee'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 Committee toward achieving acceptable funding levels. The Administration is committed to working with the Committee 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 Subcommittee 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). The Subcommittee'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. A list of proposed acquisitions will be provided to the Committee shortly. The Administration does not believe that additional authorizing language is required for Yellowstone and Headwaters, and strongly objects to the fact that the funding of these acquisitions is made contingent on the enactment of specific authorizing legislation. The Subcommittee's authorization requirement is unnecessary and could indefinitely delay the completion of these critical projects.

Native American Program Riders. The Bipartisan Budget Agreement 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. The Administration, therefore, strongly objects to section 118, which would require a means-test distribution formula of TPA, and section 120, which would require tribes to waive sovereign immunity in order to accept TPA funds. The Administration objects to both sections, which would restrict 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.

As noted above, if these two provisions were contained in the bill presented to the President, the Secretary of the Interior would recommend that he veto the bill.

National Foundation on the Arts and the Humanities

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

Department of Energy

Energy Conservation. The Administration strongly objects to the Subcommittee's reduction of $80 million to the request for Energy Conservation. 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 Subcommittee'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 this Fall. 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 Committee 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 Subcommittee'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 CO_2 and other pollutants, thereby limiting the environmental impacts of industrialization in developing countries with large coal reserves.

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

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Ted Stevens,
The Honorable Robert C. Byrd, and The Honorable Slade Gorton

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

July 22, 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 S. 1023, the Treasury, Postal Service, and General Government Appropriations Bill, FY 1998, now pending in the Senate. As the House Subcommittee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The Senate Committee bill, as modified on July 17th, provides requested funding for many of the Administration's priorities. However, as discussed below, the Administration will seek restoration of certain of the Senate'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 Subcommittee to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. We urge the Subcommittee to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding for programs of higher priority.

Federal Election Commission

The Administration urges the House Subcommittee to provide the President's request of $34.2 million for the Federal Election Commission. The Administration further urges the House to adopt the appropriations language proposed in the President's budget.

Year 2000 Compliance

The Administration is extremely concerned about the need for all departments and agencies to bring their information systems to a state of Year 2000 compliance during calendar year 1998, in order to assure adequate time for testing and making needed final modifications. We urge the Subcommittee to address fully the needs of the Internal Revenue Service and other agencies in meeting Year 2000 compliance requirements.

Internal Revenue Service

The Administration is concerned that the Senate bill would delay projects that will immediately affect important taxpayer service. In addition, the Senate bill would jeopardize the completion of key compliance projects already underway, such as the Integrated Collection System (ICS), which has already improved revenue collection by 15-20 percent where it has been implemented.

Congress clearly shares the Administration's desire to bring IRS service up to the level expected by the American people and to ensure that the Federal Government maximizes revenue collection. We hope that the House will continue to support these crucial priorities, as well as committing the necessary resources to meet IRS' Year 2000 requirements.

"Winstar" Funding

The Administration is very concerned that the Senate 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 larger damages.

Bureau of Alcohol, Tobacco and Firearms

The Senate bill leaves unfunded $19.0 million in mandatory labor costs and equipment expenses, while providing an unrequested earmark of $4 million for additional CEASEFIRE/IBIS systems. ATF intends to use these funds to support efforts to reconcile competing technologies and to expand the acquisition of ballistics technology consistent with inter-operability standards.

Government Agency Provision of Commercially Available Goods and Services

The Administration strongly opposes the Thomas amendment adopted during Senate Floor consideration of S. 1023. The Administration fully supports cost comparison requirements in an agency's decision to obtain commercially available goods and services. This support is amply demonstrated in the recently issued Revised Supplemental Handbook to OMB Circular No. A-76, which requires cost comparisons for the conversion of work to or from in-house or contract (private sector) performance. In addition, inter-service support agreements (ISSAs) between agencies are also subject to cost comparison requirements, except for consolidations of work prior to October 1, 1997. Over 40,000 FTE are currently under OMB Circular No. A-76 review in the Department of Defense alone. As a result of constrained discretionary budget resources, we expect this effort to expand in the near future.

By codifying a requirement for OMB to prescribe regulations stipulating cost comparison requirements (and cost and performance benchmarks) in the provision of property or services by one Government agency to another, this amendment, as adopted, could very well result in a significant new level of litigation. Such litigation would be caused by the conversion of what are currently management implementation decisions (already guided by the cost comparison requirement of OMB Circular No. A-76) into a statutory obligation that could be subject to judicial review. Rather than increasing contracting out to the private sector, the potential litigation resulting from this unnecessary codification could well impede both the current large-scale cost-comparison efforts in the Department of Defense and the anticipated increase in cost-comparison competitions throughout the Federal Government.

We urge the Subcommittee not to include this provision in its version of the bill.

Cooperative Purchasing

The Administration opposes section 410 of the Senate bill, which would repeal section 1555 of the Federal Acquisition Streamlining Act (FASA) of 1994. This section of FASA would allow State and local governments, non-profit organizations, and Indian tribes to buy products off of the General Services Administration's Federal supply schedule contracts, often at advantageous prices. We urge the House to support 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, beginning with drugs used to treat HIV and HIV-related conditions and, following a study on the impact of this pilot, possible expansion to drugs used to treat other life- threatening conditions. 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 (ONDCP)

The Administration appreciates the Senate's support for 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. The Administration has requested $175 million for ONDCP's Special Forfeiture Fund (SFF), which could be applied, in full, to this program. Full funding of the requested level is required to impact youth attitudes about drug abuse significantly. The request is based upon four media exposures per week to the 9-17 age group. The Administration developed this figure in consultation with experts in the field, particularly the Partnership for a Drug-Free America. Funding the SFF at significantly lower levels than requested would limit the number of media exposures to youth and hinder the success of the national media campaign.

Unites States Secret Service

The Administration believes that the requests for White House security improvements should be fully funded. The Senate's recommended funding level falls short of providing for all security requirements. Full funding of the request is necessary to implement all of the recommendations of the White House Security Review.

Executive Office of the President

The Senate bill fences funds for information technology in the Executive Office of the President 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 in this regard. A plan has been submitted that we believe will fully satisfy the Appropriation Committees' requirements.

Unanticipated Needs

The Senate 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. We urge 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 Senate 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 with the Senate bill are contained in the enclosure. We look forward to working with the House 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,
and The Honorable Steny H. Hoyer

Enclosure
(House Subcommittee)

ADDITIONAL CONCERNS
S. 1023 – TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1998
(AS PASSED BY THE SENATE)

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

Office of National Drug Control Policy

- National Media Campaign. The Administration strongly supports the Drug-Free Communities Act of 1997. However, funding for this program should not come from within the $175 million requested for ONDCP's Special Forfeiture Fund as it would reduce the amount available for the national media campaign. The Administration intends to keep Congress fully informed on progress made in implementing this campaign and steps taken to measure the effectiveness of this critical drug abuse prevention effort.

Department of the Treasury

- Office of Foreign Asset Control. The Administration opposes the Senate earmark of $6.7 million for the Office of Foreign Assets Control. The Administration would prefer that the House bill include neither the earmark, nor the 60 FTE floor, nor the restriction on hiring.

- Departmental Offices. The Departmental Offices component accounts for only one percent of Treasury's total budget, yet it plays a critical management and policy-making role. At present, Treasury's policy responsibilities have stretched the Departmental Offices to their limits. The $1.5 million reduction to the request included in the Senate bill would disproportionately inhibit Treasury's ability to serve the Administration and the Congress.

- United States Customs Service. The Administration is concerned that it be able to move ahead on the Automated Commercial Environment (ACE) in FY 1998. Senate restrictions could jeopardize this effort.

To go by 3pm

Budget materials – appropriations letters

DRAFT

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 S. 1023, the Treasury, Postal Service, and General Government Appropriations Bill, FY 1998, now pending in the Senate. As the House Subcommittee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The Senate Committee bill, as modified on July 17th, provides requested funding for many of the Administration's priorities. However, as discussed below, the Administration will seek restoration of certain of the Senate'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 Subcommittee to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. We urge the Subcommittee to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding for programs of higher priority.

"Winstar" Funding

The Administration is very concerned that the Senate 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 larger damages.

Year 2000 Compliance

The Administration is extremely concerned about the need for all departments and agencies to bring their information systems to a state of Year 2000 compliance during calendar year 1998, in order to assure adequate time for testing and making needed final modifications. We urge the Subcommittee to address fully the needs of the Internal Revenue Service and other agencies in meeting Year 2000 compliance requirements.

Government Agency Provision of Commercially Available Goods and Services

The Administration strongly opposes the Thomas amendment adopted during Senate Floor consideration of S. 1023. The Administration fully supports cost comparison requirements in an agency's decision to obtain commercially available goods and services. This support is amply demonstrated in the recently issued Revised Supplemental Handbook to OMB Circular No. A-76, which requires cost comparisons for the conversion of work to or from in-house or contract (private sector) performance. In addition, inter-service support agreements (ISSAs) between agencies are also subject to cost comparison requirements, except for consolidations of work prior to October 1, 1997. Over 40,000 FTE are currently under OMB Circular No. A-76 review in the Department of Defense alone. As a result of constrained discretionary budget resources, we expect this effort to expand in the near future.

By codifying a requirement for OMB to prescribe regulations stipulating cost comparison requirements (and cost and performance benchmarks) in the provision of property or services by one Government agency to another, this amendment, as adopted, could very well result in a significant new level of litigation. Such litigation would be caused by the conversion of what are currently management implementation decisions (already guided by the cost comparison requirement of OMB Circular No. A-76) into a statutory obligation that could be subject to judicial review. Rather than increasing contracting out to the private sector, the potential litigation resulting from this unnecessary codification could well impede both the current large-scale cost-comparison efforts in the Department of Defense and the anticipated increase in cost-comparison competitions throughout the Federal Government.

We urge the Subcommittee not to include this provision in its version of the bill.

Cooperative Purchasing

The Administration opposes section 410 of the Senate bill, which would repeal section 1555 of the Federal Acquisition Streamlining Act (FASA) of 1994. This section of FASA would allow State and local governments, non-profit organizations, and Indian tribes to buy products off of the General Services Administration's Federal supply schedule contracts, often at advantageous prices. We urge the House to support 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, beginning with drugs used to treat HIV and HIV-related conditions and, following a study on the impact of this pilot, possible expansion to drugs used to treat other life- threatening conditions. 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 (ONDCP)

The Administration appreciates the Senate's support for 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. The Administration has requested $175 million for ONDCP's Special Forfeiture Fund (SFF), which could be applied, in full, to this program. Full funding of the requested level is required to impact youth attitudes about drug abuse significantly. The request is based upon four media exposures per week to the 9-17 age group. The Administration developed this figure in consultation with experts in the field, particularly the Partnership for a Drug-Free America. Funding the SFF at significantly lower levels than requested would limit the number of media exposures to youth and hinder the success of the national media campaign.

Federal Election Commission

The Administration urges the House Subcommittee to provide the President's request of $34.2 million for the Federal Election Commission. The Administration further urges the House to adopt the appropriations language proposed in the President's budget.

Unites States Secret Service

The Administration believes that the requests for White House security improvements should be fully funded. The Senate's recommended funding level falls short of providing for all security requirements. Full funding of the request is necessary to implement all of the recommendations of the White House Security Review.

Executive Office of the President

The Senate bill fences funds for information technology in the Executive Office of the President 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 in this regard. A plan has been submitted that we believe will fully satisfy the Appropriation Committees' requirements.

Unanticipated Needs

The Senate 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. We urge 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 Senate 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 with the Senate bill are contained in the enclosure. 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 Jim Kolbe,
and The Honorable Steny H. Hoyer

Enclosure
(House Subcommittee)

ADDITIONAL CONCERNS
S. 1023 -- TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1998
(AS PASSED BY THE SENATE)

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

Office of National Drug Control Policy

- National Media Campaign. The Administration strongly supports the Drug-Free Communities Act of 1997. However, funding for this program should not come from within the $175 million requested for ONDCP's Special Forfeiture Fund as it would reduce the amount available for the national media campaign. The Administration intends to keep Congress fully informed on progress made in implementing this campaign and steps taken to measure the effectiveness of this critical drug abuse prevention effort.

Department of the Treasury

move to body of ltr

7,

- Internal Revenue Service. The Administration is concerned that the Senate bill would delay projects that will immediately affect important taxpayer service. They include: the call routing system, the interactive phone system, TeleTax, Telefile, and Automated Tax Law, all of which will provide immediate improvements in taxpayer access and the accuracy of information.

  In addition, the Senate bill would jeopardize the completion of key compliance projects already underway, such as the Integrated Collection System (ICS), which has already improved revenue collection by 15-20 percent where it has been implemented.

  Congress clearly shares the Administration's desire to bring IRS service up to the level expected by the American people and to ensure that the Federal Government maximizes revenue collection. We hope that the House will continue to support these crucial priorities, as well as committing the necessary resources to meet IRS' Year 2000 requirements.

- Bureau of Alcohol, Tobacco and Firearms. The Senate bill leaves unfunded $19.0 million in mandatory labor costs and equipment expenses, while providing an unrequested earmark of $4 million for additional CEASEFIRE/IBIS systems.

ATF intends to use these funds to support efforts to reconcile competing technologies and to expand the acquisition of ballistics technology consistent with inter-operability standards.

- Office of Foreign Asset Control. The Administration opposes the Senate earmark of $6.7 million for the Office of Foreign Assets Control. The Administration would prefer that the House bill include neither the earmark, nor the 60 FTE floor, nor the restriction on hiring.

- Departmental Offices. The Departmental Offices component accounts for only one percent of Treasury's total budget, yet it plays a critical management and policy-making role. At present, Treasury's policy responsibilities have stretched the Departmental Offices to their limits. The $1.5 million reduction to the request included in the Senate bill would disproportionately inhibit Treasury's ability to serve the Administration and the Congress.

- United States Customs Service. The Administration is concerned that it be able to move ahead on the Automated Commercial Environment (ACE) in FY 1998. Senate restrictions could jeopardize this effort.

To go by 2:30 pm

Budget materials - appropriations letters

DRAFT

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2107, the Interior and Related Agencies Appropriations Bill, FY 1998, as reported by the Senate Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated. These views are based on incomplete information and are, therefore, necessarily preliminary.

The Subcommittee has developed a bill that provides requested funding for many of the Administration's priorities. The Administration recognizes and appreciates that the Senate Subcommittee bill eliminates some of the more objectionable provisions included in the bill as passed by the House. Unfortunately, some new objectionable provisions have been added by the Subcommittee that would infringe on Native American sovereignty and potentially have severe consequences for other tribal programs. Should these provisions remain in the bill presented to the President, the Secretary of the Interior would recommend that he veto the bill.

The Administration will seek restoration of certain of the Subcommittee'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 Committee toward achieving acceptable funding levels. The Administration is committed to working with the Committee 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 Subcommittee 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). The Subcommittee'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. A list of proposed acquisitions will be provided to the Committee shortly. The Administration does not believe that additional authorizing language is required for Yellowstone and Headwaters, and strongly objects to the fact that the funding of these acquisitions is made contingent on the enactment of specific authorizing legislation. The Subcommittee's authorization requirement is unnecessary and could indefinitely delay the completion of these critical projects.

Native American Program Riders. The Bipartisan Budget Agreement 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. The Administration, therefore, strongly objects to section 118, which would require a means-test distribution formula of TPA, and section 120, which would require tribes to waive sovereign immunity in order to accept TPA funds. The Administration objects to both sections, which would restrict 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.

As noted above, if these two provisions were contained in the bill presented to the President, the Secretary of the Interior would recommend that he veto the bill.

National Foundation on the Arts and the Humanities

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

Department of Energy

Energy Conservation. The Administration strongly objects to the Subcommittee's reduction of $80 million to the request for Energy Conservation. 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 Subcommittee'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 this Fall. 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 Committee 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 Subcommittee'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 CO_2 and other pollutants, thereby limiting the environmental impacts of industrialization in developing countries with large coal reserves.

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

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Ted Stevens,
The Honorable Robert C. Byrd, and The Honorable Slade Gorton

Budget materials - approps letters DRAFT

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

July 23, 1997
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2203 -- ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FY 1998

(Sponsors: Livingston (R), Louisiana; McDade (R), Pennsylvania)

This Statement of Administration Policy provides the Administration's views on H.R. 2203, the Energy and Water Development 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, the Administration strongly objects to the Committee's reallocation of national defense funds from Department of Energy programs to Department of Defense programs. These funds are needed for key environmental privatization 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.

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. 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.

Department of Energy

The Administration objects to the Committee's providing only $102 million of the $1.006 billion requested for environmental management privatization projects. Based on this mark, 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 cleanup privatization projects at this funding level. Failure to invest in competitive privatization contracts for cleanup activities would force the Department of Energy (DOE) to continue using more costly, traditional contracting approaches, which the Committee Report has strongly criticized. This would result in a substantial increase to DOE's cleanup costs in future years and could jeopardize the Department's ability to comply with cleanup agreements.

The Administration strongly opposes the cuts to DOE's Federal staff and management accounts, including Departmental Administration and the Office of the Inspector General. Cuts in Federal staff and support service contractors of this magnitude would make it nearly impossible for the Department to improve contractor oversight or to develop, award, and manage more competitive fixed-price contracts, which are some of the Committee's own recommendations in the accompanying report.

The Administration also opposes the Committee's attempt 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. It 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 outsource beyond that required in 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 also strongly opposes the transfer of the Formerly Used Sites Remedial Action Program (FUSRAP) 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 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 proceeded with early removal of contamination at many sites. DOE has completed cleanup at 52 percent of the main sites and 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 program that is nearly complete to another agency would be disruptive and would most likely delay completion and increase costs.

The Administration objects to the program cuts in the requests for nuclear nonproliferation programs. For example, the 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 programs.

The Administration also opposes the $29 million reduction to the Uranium Enrichment Decontamination and Decommissioning (D&D) program. DOE is about to enter into 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 Committee's funding cuts in this program would make it difficult to proceed with this effort, comply with environmental requirements, and provide reimbursements to radium and thorium licensees.

The Administration opposes the Committee's elimination of $25 million requested for the Next Generation Internet. 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 Committee's overall reduction of $30 million from the request for the civilian radioactive waste management program would threaten 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 in order to reduce uncertainty about water moving downward through the site. The $14 million (16 percent) reduction to the request for the core science program would virtually eliminate any scientific input from this important research to the viability assessment. Additionally, the $16 million reduction in support services and personnel costs would severely constrain, if not eliminate, 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.

The Administration strongly objects to the Committee's $60 million reduction to the Solar and Renewable Energy R&D request (calculated on a comparable basis). The overall funding cuts, particularly in biofuels and solar thermal energy, would seriously set back environmentally promising and increasingly economic sources of energy. Research programs such as these are also the least burdensome way for the Nation to respond to global climate change.

Army Corps of Engineers

The Administration urges the House to reduce the number of unrequested Corps of Engineers' projects and programs and to restore funds that the Administration has requested for priority Corps projects, including the Columbia and Snake Rivers Juvenile Fish Mitigation Program for salmon run restoration and for construction of an emergency outlet for Devils Lake, North Dakota. The Administration urges the House to use the $540 million in unrequested funds that the Committee has provided for the Corps of Engineers construction, studies, and operation and maintenance programs to restore reductions made in other priority Corps and DOE programs.

The Administration appreciates the Committee's full funding of the Administration's request for the Corps' regulatory program. This will allow the Corps to implement its administrative appeals process fully and to continue to process wetlands permits in a timely manner. The Administration urges the House to include the Administration's requested regulatory permit fee, which would allow the Corps to recover its costs for processing permit applications for commercial uses.

Bureau of Reclamation

The Administration appreciates the Committee's support for funding to restore the California Bay-Delta ecosystem. However, we urge the House to provide the full $143 million that Congress authorized for this program and that was requested by the President in the FY 1998 Budget. This important program plays a central role in resolving long-standing water conflicts that have plagued the State of California. In addition, we oppose the reduction of $14 million in requested Central Valley Project funding, which is an important component of the effort to restore this critical ecosystem.

The Administration objects to the Committee's decision to fund a number of Reclamation projects and activities not requested in the FY 1998 Budget, some of which could result in demands for additional funding in the out-years. The Administration supports the Committee'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 Committee's elimination of all appropriations for the Tennessee Valley Authority in FY 1998. We believe that an abrupt and total elimination of funding for the agency in FY 1998 is premature. The Administration has proposed continued funding in FY 1998 while TVA completes its consultations on potential alternate funding arrangements for future years for its appropriated program.

Nuclear Regulatory Commission

The Administration urges restoration of the Committee's $4 million reduction to the request for the Nuclear Regulatory Commission's (NRC's) High-level Waste Program. This 24-percent reduction would adversely affect the NRC's ability to maintain a strong scientific capability, independent of DOE, to review high-level waste activities. This reduction could jeopardize the NRC's ability to complete timely reviews of DOE's viability assessment. Timely resolution of the high-level waste issue is important to the Nation as well as to the nuclear industry.

Budget materials - appropriations letters

DRAFT

July __, 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 inadequate funding levels provided for the Legal Services Corporation. As is discussed further below, if the bill presented to the President were to contain the levels provided in the Committee bill, his senior advisers would recommend that he 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 Secretary of Commerce has indicated that he would recommend that the President veto the bill if it were to contain this provision.

  While the Administration will continue to seek congressional input 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.

- 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.

position taken in Senate SAP but new to House SAP/letter

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 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 severely 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). However, USTR requires full funding in order to accomplish the Administration's trade-policy objectives. 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. We urge the House to provide funding for USTR at the requested level of $22.1 million.

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.

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.