

NLWJC - Kagan

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**Budget Materials - Appropriations
Letters [1]**



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

October 15, 1997

Budget materials -
Appropriations letters

THE DIRECTOR

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

Dear Mr. Chairman:

This letter provides the Administration's views on the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

Both the House and Senate versions of the bill provide requested funding for many of the Administration's priorities. For example, we appreciate the funding levels provided by both the House and the Senate for 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 (BBA) and would enable us to achieve the goal of hiring 100,000 additional police officers by the year 2000.

However, the Administration strongly opposes several provisions of the House and Senate versions of bill, including:

- House language that would prohibit the Bureau of the Census from expending any funds on planning, preparing for, or testing the use of sampling techniques for the decennial census, after a civil action has been filed, until the Supreme Court has determined that sampling is constitutional and authorized by statute;
- House language that would require the United States to pay attorneys' fees and litigation costs to "prevailing parties" in Federal criminal cases unless the Government can demonstrate that the case was "substantially justified";
- Senate language that would reorganize the Ninth Circuit by splitting it into two separate circuits;
- Unacceptable funding for the Legal Services Corporation.

If the bill presented to the President were to include any of these provisions, the President's senior advisers would recommend that the President veto the bill.

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

Department of Commerce

The Administration is pleased that the both House and Senate bills would increase funding for the Department of Commerce above the FY 1997 level. However, both the House and Senate versions of the bill would not provide sufficient funding for important Department of Commerce programs. The Administration strongly urges the conferees to support the critical programs detailed below.

Census Sampling. The Administration strongly opposes House language that would effectively ban sampling in the guise of providing for judicial review. The House language would prohibit the Census Bureau from expending any funds on planning, preparing for, or testing the use of sampling after a civil action has been filed until the Supreme Court has determined that sampling is constitutional and authorized by statute.

First, the Administration is concerned that the amendment's requirement for a final Supreme Court endorsement of sampling prior to any planning, testing, or use of sampling in the 2000 census would simply act to ban sampling for the census. For example, the amendment does not satisfy constitutional standards for standing. The Supreme Court has required that a plaintiff must have suffered an injury that is "concrete and particularized." It is unlikely that those defined as "aggrieved parties" will be deemed to have the requisite injury to satisfy Article III. In the recent legislative veto decision, for example, the Court found that members of Congress did not have standing to challenge that statute. This limitation is jurisdictional, cannot be waived, and can be raised by the Court on its own.

Moreover, the Supreme Court held in 1992 that it could not rule on legal challenges to the Census Bureau's actions until after the President sends the census numbers to Congress (Franklin v. Massachusetts, 505 U.S. 788 (1992)). There is thus a serious question as to whether the Court has the power to rule on the merits of a census before the results of that census are finalized. Given these problems, subsection (d)(2)'s requirement of a judicial endorsement of sampling effectively prohibits sampling.

Finally, the House language would likely lead to complicated, lengthy, and complex litigation that would be highly unlikely to be resolved in a time frame to permit planning, testing, and use of sampling. Litigation is not consolidated in any one district, there is no deadline for filing suit, and no limit on the number of suits that may be filed. The Court would, therefore, be required to hear numerous appeals. This problem is magnified because virtually every United States citizen is an "aggrieved party," given a cause of action and an appeal of right to the Supreme Court. Denying funding during this potentially lengthy judicial process would effectively prevent use of sampling in the 2000 census.

For these reasons, if the bill were to contain the House language, the President's senior advisers would recommend that the President veto the bill. While the compromise language included in the Senate-passed bill would be workable, the Administration would strongly object to any prohibition on the use of sampling as part of the 2000 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 traditionally been 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. The Administration is deeply disappointed by the House and Senate's underfunding of two essential programs to protect the environment and foster sustainable development. The President's budget requests \$22 million for the National Oceanic and Atmospheric Association's (NOAA's) Clean Water Initiative. NOAA, as the primary trustee of our Nation's coastal resources, helps communities to improve coastal water quality and control pollution -- like the run-off into the Chesapeake Bay that caused the recent outbreak of *Pfiesteria*. Yet the House bill would provide only \$8 million for this important program, and the Senate bill would provide no funding.

The Administration is also disappointed that neither the House nor the Senate would provide funding for the Global Learning and Observations to Benefit the Environment (GLOBE) program. This program was developed to increase our understanding of the Earth and has already forged partnerships with over 2,500 U.S. schools and 35 other countries, involving thousands of students across the U.S. and worldwide. Both the House and Senate versions of the bill recommend funding in NOAA for activities that were not requested by the Administration. We strongly urge the conferees to redirect these funds to the Clean Water Initiative, GLOBE, and other environmental programs.

National Institute of Standards and Technology. Both the House and Senate funding levels for the National Institute of Standards and Technology (NIST) fail to support the BBA. The Senate mark falls short of the agreed-upon level by \$89 million, and the House mark falls short by \$6 million. The Administration urges the conferees to restore this funding, specifically to the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership

(MEP). Further, the Administration urges the conferees to drop House language that would restrict new ATP awards, and to adopt language that would allow renewals of Federal funding of Manufacturing Extension Centers beyond six years, as passed by the House in H.R. 1274.

National Information Infrastructure. The Administration urges the conferees to reallocate ~~resources between the National Information Infrastructure (NII) grants program and the Public Broadcasting Facilities program.~~ Both the House and the Senate would substantially reduce funding for the former and provide 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.

Economic and Statistical Analysis. The Administration is concerned that both the House and Senate marks for Economic and Statistical Analysis (ESA) are insufficient to make necessary improvements to important economic indicators. Although problems with economic indicators have major consequences for decisions on the Federal budget, monetary policy, and for decisions made in private markets, ESA has not received funding for needed improvements in key indicators such as the GDP.

Reimbursement of Legal Fees

The President's senior advisers would recommend that the President veto the bill if it were to contain the Hyde amendment. The Hyde amendment, adopted by the House, would require the United States to pay attorneys' fees and litigation costs to "prevailing parties" in Federal criminal cases, unless the Government can demonstrate that the case was "substantially justified." This would have a profound and harmful impact on the Federal criminal justice system. It would create a monetary incentive for criminal defense attorneys to generate additional litigation in cases in which prosecutors have in good faith brought sound charges, tying up the scarce time and resources that are vital to bringing criminals to justice.

The Fifth Amendment already requires that, in every Federal felony case, a grand jury of citizens find probable cause to bring charges against a defendant, thereby protecting against unjustified prosecutions. In addition, the Department of Justice and the courts have safeguards to guard against such prosecutions. The Hyde amendment, which would provide for reimbursement from the budget of the Federal agency involved, would have a chilling effect on prosecutorial discretion.

Finally, the litigation generated by this proposal may require disclosure and compromise of confidential sources and law enforcement techniques.

The Judiciary: Ninth Circuit

The Administration opposes the provision of the Senate bill that would reorganize the Ninth Circuit by splitting it into two circuits. 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 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. The President's senior advisers would recommend that the President veto the bill if it contains this provision.

Legal Services Corporation

The Administration appreciates the funding level of \$300 million provided for the Legal Services Corporation (LSC) in the Senate bill, and urges the conferees to fully fund President's request. While the Administration appreciates the House amendment to increase funding above the House Committee level, the resulting House funding level for LSC remains unacceptable. The House version of the bill would fund LSC at \$250 million, \$33 million below the FY 1997 level -- already the lowest level in 20 years, adjusted for inflation -- and \$90 million below the President's request of \$340 million. The House level, 38 percent below the FY 1995 level of \$400 million, would require further cuts in legal assistance to the poor, calling into question the Federal Government's commitment to ensuring that all Americans, regardless of income, have access to the judicial system. The President's senior advisers would recommend that the President veto the bill if it were to contain the House funding for LSC.

While the \$300 million provided by the Senate bill is a six-percent increase over the FY 1997 level, \$17 million is earmarked for *pro se* legal education programs, effectively holding the basic LSC program at the FY 1997 level. To prevent a further decline in the number of clients served, the Administration would prefer that a \$300 million funding level include \$7.4 million for *pro se* programs.

The Burton amendment adopted by the House would require recipients of Legal Services Corporation (LSC) funds to make available to the public, and report to LSC, the names and addresses of both plaintiffs and defendants in actions filed by LSC grantees. The amendment raises serious privacy concerns for plaintiffs represented by LSC grantees, as well as for defendants in LSC cases, and would impose significant administrative and financial burdens on LSC and its recipients. Critics of the program have not identified any problem that would be remedied by such a disclosure requirement.

Finally, the Administration is concerned about section 504(c)(5) of the Senate 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.

Teamsters Election

The Administration strongly objects to the House provision that would prohibit the use of funds in the bill for monitoring a re-run of the Teamsters election. This provision, together with an identical provision in the House version of the Labor, Health and Human Services, and ~~Educator Appropriations bill, could significantly undermine the Government's effort to rid the~~ Teamsters union of the influence of organized crime and corruption. Furthermore, the provision is contrary to the 1989 consent decree that requires the United States to pay for any monitoring ~~of the 1996 Teamsters election.~~

Department of Justice

Community Oriented Policing Services. The Administration opposes the earmarks in the House-passed bill on unobligated balances within the Community Oriented Policing Services (COPS) program. ~~These earmarks will make it more difficult to put 100,000 officers on the~~ street by 2000 within the funding levels for COPS specified in the recent Balanced Budget Agreement.

Drug Courts. The Administration urges the conferees to provide the President's request of \$75 million 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.

Drug Testing. The Administration is concerned that neither the House nor the Senate version of the bill identifies \$30 million from the Byrne Law Enforcement Assistance program to offset the cost of testing State and local arrestees, as proposed by the President. The Administration urges the conferees to authorize States to use Violent Offender Incarceration/Truth-In-Sentencing funding (VOI/TIS), commonly referred to as prison construction grants, to help offset the cost of prisoner and parolee drug testing and intervention programs. As a condition for receiving VOI/TIS funding, States are required to implement drug testing and intervention programs for State and local prisoners and parolees, but may not use VOI/TIS funding to offset the cost of these programs.

Juvenile Justice. The Administration appreciates the funding increase provided by both the House and the Senate for juvenile justice. This funding will help keep schools open during peak youth crime hours, provide grants to prosecutors to break up gang violence and violent juvenile crime, and provide grants to courts to expedite the handling of juvenile offenders. We urge the conferees to provide the Senate funding levels of \$155 million for ongoing programs and \$75 million for after-school crime prevention, and to adopt the House level for research and evaluation. We also urge the conferees to provide \$150 million for enforcement as a discretionary program targeted for prosecutors and violent juvenile courts, as requested in the FY 1998 Budget.

FBI Recruitment. The Senate version of the bill would exempt 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 Senate's action, while well intended, is flawed. There is insufficient evidence of a recruitment problem at the FBI that needs to be solved by an exemption from Title 5 provisions for employee classification, pay, and performance. 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 unnecessarily exempt all FBI employees, including agents and support staff, in response to undocumented recruitment problems related to scientific and technical personnel. The provision would also establish a personnel system not subject to Office of Personnel Management oversight, and would create inequities in the recruitment of scientific and technical employees by other law enforcement agencies. We recommend that the conferees delete this provision.

245(I) Adjustment of Immigration Status Extension. The Senate bill would provide a permanent extension of the 245(I) adjustment of status penalty provision of the Immigration and Naturalization Act. This provision permits an immigrant who is eligible for legal permanent residency to remain in the United States, after paying a one thousand dollar penalty, until his or her application is approved by the Immigration and Naturalization Service (INS). We urge the conferees to approve the Senate language and extend this provision permanently. Were the provision not extended, State Department overseas operations would face a sizeable, unfunded ~~workload requirement.~~

Prison Funding/INS Political Appointees. The Administration objects to language in the Senate Report that would mandate that unless a certain minimum funding level were included in the President's FY 1999 Budget for prison facilities, funding for INS political appointees would be restricted in FY 1998. This directive 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 of Prison's needs in favor of a pre-determined level set by Congress. It also ties funding for prisons to an unrelated sanction in the INS appropriation. We recommend that this provision be deleted.

The Administration also urges the conferees to strike House and Senate language that 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.

Department of State

The Administration appreciates the support by the House and especially by the Senate for the several State Department operating accounts that support domestic and overseas diplomatic and consular activities. We urge the conferees to provide the full request for these accounts, which would help reverse the erosion of the Department's worldwide operations. We are also pleased that both the House and Senate versions of the bill provide the transfers requested to

support the International Cooperative Administrative Support Services (ICASS) program. Likewise, we appreciate the support for the Department's Border Security and consular efforts through the continuation of the Machine Readable Visa Fees, and support the language in the Senate version of the bill.

The Administration welcomes the House and Senate's inclusion of first-year funding of \$100 million for arrears payments for international organizations. Discussions between Congress and the Administration are near completion on a reform and arrears funding package. It is essential that a final package pays all acknowledged arrears and contains achievable reforms that make the U.N. more effective. At the same time, the Administration is engaged in an extensive diplomatic effort with the more than 185 members of the United Nations to build majority support for reform measures within the U.N. system. Fortunately, the Balanced Budget Act makes arrears payments for the next three years possible via advance appropriations. We strongly urge the conferees to include these advance appropriations in the final bill in order to bolster further the chances for timely reform at the U.N.

We are deeply concerned that the conference bill provide sufficient funding for the FY 1998 annual costs of the Contributions to International Organizations (CIO) and Contributions for International Peacekeeping Activities (CIPA) accounts. The Administration supports the total funding level in the House bill for CIO and CIPA combined. This level would be adequate to address total needs. It is important that this level be provided so that the Administration can pay annual costs, avoid new arrears, and have some flexibility to address evolving and unforeseen needs relating to peace and security around the world.

The Administration urges the conferees to strike the following provisions, all of which raise serious Constitutional concerns and are being dealt with in the pending State Department authorization bill. Section 406 of the Senate version and section 609 of the House version concern Vietnam. The Senate version in particular would mandate additional POW/MIA-related requirements that we fear would undermine the progress that has already been made by the Defense Department, in cooperation with the Government of Vietnam, and put at risk the effective functioning of the U.S. Embassy in Hanoi and new consulate in Ho Chi Minh City. Furthermore, there are concerns related to privacy and other issues of MIA cases. Another provision, section 610 of the House bill, relates to command and control of United Nations peacekeeping efforts, which have been extensively negotiated as part of the U.N. reform package in the authorization bill.

In addition, Section 613 of the Senate version of the bill would prohibit appropriated funds from being used to issue visas to any person who may have been involved in certain "political killings" and other similar activities in Haiti. This provision would limit the President's unfettered constitutional authority to "receive Ambassadors and other public Ministers."

Arms Control and Disarmament Agency

The Administration is greatly concerned that the funding shortfalls in both the House and Senate versions of the bill for the Arms Control and Disarmament Agency (ACDA) would undercut the U.S. Government's efforts to reduce the threat of nuclear and other weapons to the security of the American people. The Administration strongly urges the conferees to provide no less than the House level of \$41.5 million, which is about 10 percent lower than the original requested level.

In addition to the \$2.8 million requested in the FY 1998 Budget, a \$13 million budget amendment for Comprehensive Nuclear Test Ban Treaty (CTBT) requirements was transmitted by the President on July 17th. The Administration strongly urges the conferees to provide funding at the requested level to address this important national security matter and to ensure continued U.S. participation in the CTBT preparatory Commission's activities.

U.S. Information Agency Programs

The Administration urges the conferees to provide funding at the President's requested level for core public diplomacy programs. However, the Administration supports the House funding level of \$391.5 million for international broadcasting operations. The House level includes funding for increased broadcasting to China in FY 1998, an initiative supported by both the Congress and the Administration that was developed after the President's budget was submitted. In addition, the Administration urges the conferees to reject language in the Senate-passed bill that would tie the availability of direct appropriations for international broadcasting programs to the collection of revenues from advertising. We believe it is unwise to link ongoing broadcasting services to an estimate of revenue that may never materialize.

Ounce of Prevention Council

The Administration strongly opposes the termination of the Ounce of Prevention Council. Elimination of this program would hinder the Federal Government's ability to help neighborhoods implement strategies to reduce crime through enforcement, prevention, and intervention activities. 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 conferees to provide funding for the Council and has identified an appropriate offset.

Equal Employment Opportunity Commission

Given the importance of its work in addressing unlawful discrimination, the Administration urges the conferees to fully fund the President's request of \$246 million for the Equal Employment Opportunity Commission.

The Judiciary: Pay Raise for Federal Judges

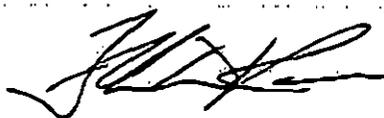
The Administration strongly supports the annual salary adjustment for justices and judges of the United States, as provided in section 306 of the Senate bill. There is always a danger that a judicial cost of living adjustment will be held hostage to the political process -- all to the detriment of attracting and retaining the most qualified individuals to serve on the federal bench. It is time to seriously consider "delinking" the annual salary adjustment of the judiciary from that of Congress -- or from any other unrelated issue -- so that the independence and integrity of the judiciary is maintained.

Office of the United States Trade Representative

The Administration appreciates the increase in funding for the Office of the United States Trade Representative (USTR) that both the House and Senate versions of the bill would provide. USTR has had to manage a seven-fold increase in the number of World Trade Organization dispute settlement cases since 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. Given these circumstances, the Administration has transmitted a fully-offset \$1.7 million budget amendment. We urge the conferees to fully fund the revised request.

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

Sincerely,



Franklin D. Raines
Director

Enclosure

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Harold Rogers,
The Honorable Alan Mollohan, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Judd Gregg,
and The Honorable Ernest F. Hollings

Enclosure
(Conference)

ADDITIONAL CONCERNS
HR. 2267 – DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE,
THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998
(AS PASSED BY THE HOUSE AND BY THE SENATE)

Department of Commerce

- Economic Development Administration. The Administration strongly supports the restoration of funding for the Economic Development Administration (EDA) in the conference agreement to the level of the President's request, for both Economic Development Assistance Programs and for Salaries and Expenses. Unfortunately, the Senate bill significantly cuts well-established and proven EDA programs -- in public works, defense economic adjustment, local planning and technical assistance, and program evaluation -- below the FY 1997 level. These cuts would seriously impact EDA's ability to assist local communities.
- General Administration. The Administration is deeply concerned about the impact of the House mark. Funds provided for this account have been reduced from \$36.5 million in FY 1995 to \$28.5 million in FY 1997, a 22 percent decrease. This has resulted in the reduction of 103 positions within the Office of the Secretary. The House-proposed \$2 million reduction from the FY 1997 enacted level would compromise the Secretary's ability to provide direction and oversight on important national issues, including the Year 2000 Census, promotion of economic growth, and improvement of government statistics.
- National Oceanic and Atmospheric Administration. The Administration is concerned about the \$22 million reduction to the Geostationary Satellite program in the House bill and urges the conferees to provide funding at the Senate level. The Administration also objects to additional cuts to the National Polar Orbiting Environmental Satellite Program and requests that, at a minimum, Commerce funding for this inter-agency effort be restored to the \$34 million level that would be provided in the FY 1998 Defense Conference Report. The Administration is opposed to the House proposal to specify the amount available for each of NOAA's line offices, which would unnecessarily limit resource management flexibility. Finally, the Administration urges that funding be restored for conversion of the El Nino observing system to operational status.

- Bureau of Export Administration. The Administration urges the conferees to provide the requested level, \$2.3 million, for the newly-ratified Chemical Weapons Convention Treaty, as provided by the Senate. In addition, we urge that the conference agreement include seizure and forfeiture authority language to allow the Bureau of Export Administration to join the Department of Justice's Assets Forfeiture Fund, as proposed in the Commerce Department's General Provisions in the FY 1998 budget.
- Patent and Trademark Office. The Administration favors the Senate funding level of \$27 million for the Patent and Trademark Office, but prefers the less restrictive language in the House bill.
- Congressional Earmarking. The Administration remains 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

- Mandatory Immigration Funding for Discretionary Programs. The Administration is very concerned that the Senate bill underfunds authorized discretionary programs and uses mandatory funds from immigration examination and user fees for certain unauthorized discretionary activities. The Senate bill would commit balances necessary for providing services or processing and adjudicating applications for other unauthorized discretionary purposes. The result of this action would be that sufficient resources would not be available to complete naturalization processing and other services and benefits for which these fees are collected. We recommend that House language that funds mandatory fee programs from the immigration user and exams fees be retained.
- Executive Support. The Administration opposes the House and Senate action to freeze legislative and public affairs activities at FY 1997 levels for the Department and to reduce funding and staff for the Immigration and Naturalization Service (INS) and the United States Marshals Service. Freezing or reducing these activities would inhibit the Department's ability to clear legislation in a timely and responsive manner and would constrain its capacity to serve Congress. The Administration urges the Congress to increase funding for the Executive Support offices and to delete restrictions on the use of detailees. The Administration also objects to the House action that would reduce the number of non-career appointments at the INS. Limiting non-career appointments to four would adversely affect INS' ability to provide executive leadership.

- United States Attorneys. The Senate bill's 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 the prosecutors. This provision is an unacceptable restriction on defendants' right to legal representation, raising the prospect that 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.

Department of State

- Designation of Foreign Terrorist Organizations. The Administration urges the conferees to delete the provision in the House version of the bill that would withhold about \$7.25 million of State Department Salaries and Expenses funds until one or more designations are made. As the sponsors of the House amendment have been informed, the bulk of the relevant designations were submitted (in classified form) to Congress on October 1st. Moreover, putting essential State Department funding at risk because of delays in a complex interagency process would accomplish no useful purpose.
- Passport Information. The State Department has recognized legitimate concerns voiced by the American public and has implemented reforms that have dramatically improved the provision of detailed passport information to individuals with special needs. Unfortunately, the House version of the bill includes a provision that would prohibit the expenditure of funds to continue this service. This provision would cause taxpayers who do not require these services to fund the program, while likely leading to a deterioration in service. The House provision should be deleted.
- American Sections. The Administration supports funding for these programs at the House level. The funding level provided by the Senate for the Border Environment Cooperation Commission (BECC) is substantially below the level necessary to maintain adequate operations.

Department of Transportation

- Maritime Administration. The Administration urges the conferees to support the Senate marks of \$69 million for Maritime Administration (MARAD) Operations and Training and \$4 million for MARAD Title XI Administrative Expenses. The levels that the House version of the bill would provide for these programs would

require personnel reductions that would prevent MARAD from carrying out its statutory responsibilities. The Administration also opposes Senate earmarking that would force similar personnel reductions.

Federal Communications Commission

- Relocation. Neither the House nor the Senate versions of the bill would provide 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.

Limitations on Research Activities

- The House-passed bill includes a provision that would prohibit the use of any of the funds appropriated in the bill for any study of the medicinal use of marijuana. Although this amendment has no practical effect in this legislation, the Administration is concerned in general about limitations on research activities. While the Administration remains opposed to drug legalization efforts, we work to base drug policy on scientific findings. As such, the Administration is opposed to the inclusion of such additional legislated limitations on research activities.



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

Budget materials -
appropriations letters

STATEMENT OF ADMINISTRATION POLICY

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

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield *AS*

DATE: October 9, 1997

SUBJECT: FOR YOUR CLEARANCE -
Letter to Conferees on Commerce/Justice/State Appropriations

Attached is the draft letter to Conferees regarding H.R. 2267, Commerce / Justice / State Appropriations Conference Report. Though the Conferees do not officially meet until after the Columbus Day Recess, much of the pre-conferencing has already taken place. We need to send our letter as soon as possible in order to effect the remaining negotiations.

Position: Senior Advisors Veto Threat -- Our letter names five provisions that would cause the President's Senior Advisors to recommend veto: (1) Census sampling; (2) attorneys' fees; (3) Ninth Circuit; (4) Teamsters; and (5) Legal Service Corporation. In your response, please advise regarding our "bottom line" position on each of these provisions.

Timing: We intend to send the letter to the Hill on Friday, October 10th.

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

DRAFT

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

Dear Mr. Chairman:

This letter provides the Administration's views on the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

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However, the Administration strongly opposes several provisions of the House and Senate versions of bill, including:

[Please advise: Do we want to issue a veto threat on each of these items? If not, should we move the reference down in the letter and state "strong opposition" to the provision?]



- House language that would prohibit the Bureau of the Census from expending any funds on planning, preparing for, or testing the use of sampling techniques for the decennial census, after a civil action has been filed, until the Supreme Court has determined that sampling is constitutional and authorized by statute;
- House language that would require the United States to pay attorneys' fees and litigation costs to "prevailing parties" in Federal criminal cases unless the Government can demonstrate that the case was "substantially justified;"
- Senate language that would reorganize the Ninth Circuit by splitting it into two separate circuits;
- House language that would prevent the use of funds in the bill for supervising the

Teamsters election; and,

- House funding for the Legal Services Corporation of \$250 million, \$90 million below the President's request and \$33 million below the FY 1997 level.

If the bill presented to the President were to include [any of] these provisions, the President's senior advisers would recommend that the President veto the bill.



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

Department of Commerce

The Administration is pleased that the both House and Senate bills would increase funding for the Department of Commerce above the FY 1997 level. However, both the House and Senate versions of the bill would not provide sufficient funding for important Department of Commerce programs. The Administration strongly urges the conferees to support the critical programs detailed below.

Census Sampling. The Administration strongly opposes House language that would effectively ban sampling in the guise of providing for judicial review. The House language would prohibit the Census Bureau from expending any funds on planning, preparing for, or testing the use of sampling after a civil action has been filed until the Supreme Court has determined that sampling is constitutional and authorized by statute.

First, the Administration is concerned that the amendment's requirement for a final Supreme Court endorsement of sampling prior to any planning, testing, or use of sampling in the 2000 census would simply act to ban sampling for the census. For example, the amendment does not satisfy constitutional standards for standing. The Supreme Court has required that a plaintiff must have suffered an injury that is "concrete and particularized." It is unlikely that those defined as "aggrieved parties" will be deemed to have the requisite injury to satisfy Article III. In the recent legislative veto decision, for example, the Court found that members of Congress did not have standing to challenge that statute. This limitation is jurisdictional, cannot be waived, and can be raised by the Court on its own.

Moreover, the Supreme Court held in 1992 that it could not rule on legal challenges to the Census Bureau's actions until after the President sends the census numbers to Congress (Franklin v. Massachusetts, 505 U.S. 788 (1992)). There is thus a serious question as to whether the Court has the power to rule on the merits of a census before the results of that census are finalized. Given these problems, subsection (d)(2)'s requirement of a judicial endorsement of sampling effectively prohibits sampling.

Finally, the House language would likely lead to complicated, lengthy, and complex litigation that would be highly unlikely to be resolved in a time frame to permit planning, testing, and use of sampling. Litigation is not consolidated in any one district, there is no deadline for filing suit, and no limit on the number of suits that may be filed. The Court would, therefore, be required to hear numerous appeals. This problem is magnified because virtually every United States citizen is an "aggrieved party," given a cause of action and an appeal of right to the Supreme Court. Denying funding during this potentially lengthy judicial process would effectively prevent use of sampling in the 2000 census.

For these reasons, the President's senior advisers would recommend that the President veto the bill if it were to contain the House language. While the compromise language included in the Senate-passed bill would be workable, the Administration would strongly object to any prohibition on the use of sampling as part of the 2000 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 traditionally been 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. The Administration is deeply disappointed by the House and Senate's underfunding of two essential programs to protect the environment and foster sustainable development. The President's budget requests \$22 million for the National Oceanic and Atmospheric Association's (NOAA's) Clean Water Initiative. NOAA, as the primary trustee of our Nation's coastal resources, helps communities to improve coastal water quality and control pollution -- like the run-off into the Chesapeake Bay that caused the recent outbreak of *Pfiesteria*. Yet the House bill would provide only \$8 million for this important program, and the Senate bill would provide no funding.

The Administration is also disappointed that neither the House nor the Senate would provide funding for the Global Learning and Observations to Benefit the Environment (GLOBE) program. This program was developed to increase our understanding of the Earth and has already forged partnerships with over 2,500 U.S. schools and 35 other countries, involving thousands of students across the U.S. and worldwide. Both the House and Senate versions of the bill recommend funding in NOAA for activities that were not requested by the Administration. We strongly urge the conferees to redirect these funds to the Clean Water Initiative, GLOBE, and other environmental programs.

National Institute of Standards and Technology. Both the House and Senate funding levels for the National Institute of Standards and Technology (NIST) fail to support the BBA. The Senate mark falls short of the agreed-upon level by \$89 million, and the House mark falls short by \$6 million. The Administration urges the conferees to restore this funding, specifically to the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership (MEP). Further, the Administration urges the conferees to drop House language that would restrict new ATP awards, and to adopt language that would allow renewals of Federal funding of Manufacturing Extension Centers beyond six years, as passed by the House in H.R. 1274.

National Information Infrastructure. The Administration urges the conferees to reallocate resources between the National Information Infrastructure (NII) grants program and the Public Broadcasting Facilities program. Both the House and the Senate would substantially reduce funding for the former and provide 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.

Economic and Statistical Analysis. The Administration is concerned that both the House and Senate marks for Economic and Statistical Analysis (ESA) are insufficient to make necessary improvements to important economic indicators. Although problems with economic indicators have major consequences for decisions on the Federal budget, monetary policy, and for decisions made in private markets, ESA has not received funding for needed improvements in key indicators such as the GDP.

Reimbursement of Legal Fees

The Administration strongly opposes the Hyde amendment, adopted by the House, that would require the United States to pay attorneys' fees and litigation costs to "prevailing parties" in Federal criminal cases, unless the Government can demonstrate that the case was "substantially justified." This would have a profound and harmful impact on the Federal criminal justice system. It would create a monetary incentive for criminal defense attorneys to generate additional litigation in cases in which prosecutors have in good faith brought sound charges, tying up the scarce time and resources that are vital to bringing criminals to justice.

The Fifth Amendment already requires that, in every Federal felony case, a grand jury of citizens find probable cause to bring charges against a defendant, thereby protecting against unjustified prosecutions. In addition, the Department of Justice and the courts have safeguards to guard against such prosecutions. The Hyde amendment, which would provide for reimbursement out of the budget of Federal prosecutors, would have a chilling effect on prosecutorial discretion.

Finally, the litigation generated by this proposal may require disclosure and compromise of confidential sources and law enforcement techniques.

The Judiciary: Ninth Circuit

The Administration opposes the provision of the Senate bill that would reorganize the Ninth Circuit by splitting it into two circuits. 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 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

The Administration appreciates the funding level of \$300 million provided for the Legal Services Corporation (LSC) in the Senate bill, and urges the conferees to fully fund President's request. The House bill's funding level for LSC is unacceptable. The House version of the bill would fund LSC at \$250 million, \$33 million below the FY 1997 level -- already the lowest level in 20 years, adjusted for inflation -- and \$90 million below the President's request of \$340 million. The House level, 38 percent below the FY 1995 level of \$400 million, would require further cuts in legal assistance to the poor, calling into question the Federal Government's commitment to ensuring that all Americans, regardless of income, have access to the judicial system.

While the \$300 million provided by the Senate bill is a six-percent increase over the FY 1997 level, \$17 million is earmarked for *pro se* legal education programs, effectively holding the basic LSC program at the FY 1997 level. To prevent a further decline in the number of clients served, the Administration would prefer that a \$300 million funding level include \$7.4 million for *pro se* programs.

The Burton amendment adopted by the House would require recipients of Legal Services Corporation (LSC) funds to make available to the public, and report to LSC, the names and addresses of both plaintiffs and defendants in actions filed by LSC grantees. The amendment raises serious privacy concerns for plaintiffs represented by LSC grantees, as well as for defendants in LSC cases, and would impose significant administrative and financial burdens on LSC and its recipients. Critics of the program have not identified any problem that would be remedied by such a disclosure requirement.

The Administration is concerned about section 504(c)(5) of the Senate 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.

Teamsters Election

The Administration strongly objects to the House provision that would prohibit the use of funds in the bill for monitoring a re-run of the Teamsters election. This provision, together with an identical provision in the House version of the Labor, Health and Human Services, and Education appropriations bill, could significantly undermine the Government's effort to rid the Teamsters union of the influence of organized crime and corruption. Furthermore, the provision is contrary to the 1989 consent decree that requires the United States to pay for any monitoring of the 1996 Teamsters election.

Department of Justice

Community Oriented Policing Services. The Administration is concerned by earmarks on unobligated balances within the Community Oriented Policing Services (COPS) program included in the House-passed bill. While these earmarks are for meritorious programs, they may, nevertheless, take away from funds available for hiring. We urge the conferees to adopt the Senate-passed language for COPS. The conferees are also encouraged to adopt Senate language authorizing the use of up to 20 percent of COPS funding for the COPS MORE program.

Drug Courts. The Administration urges the conferees to provide the President's request of \$75 million 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.

Drug Testing. The Administration is concerned that neither the House nor the Senate version of the bill identifies \$30 million from the Byrne Law Enforcement Assistance program to offset the cost of testing State and local arrestees, as proposed by the President. The Administration urges the conferees to authorize States to use Violent Offender Incarceration/Truth-In-Sentencing funding (VOI/TIS), commonly referred to as prison construction grants, to help offset the cost of prisoner and parolee drug testing and intervention programs. As a condition for receiving VOI/TIS funding, States are required to implement drug testing and intervention programs for State and local prisoners and parolees, but may not use VOI/TIS funding to offset the cost of these programs.

Juvenile Justice. The Administration appreciates the funding increase provided by both the House and the Senate for juvenile justice. This funding will help keep schools open during peak youth crime hours, provide grants to prosecutors to break up gang violence and violent juvenile crime, and provide grants to courts to expedite the handling of juvenile offenders. We urge the conferees to provide the Senate funding levels of \$155 million for ongoing programs and \$75 million for after-school crime prevention, and to adopt the House level for research and evaluation. We also urge the conferees to provide \$150 million for enforcement as a discretionary program targeted for prosecutors and violent juvenile courts, as requested in the FY 1998 Budget.

FBI Recruitment. The Senate version of the bill would exempt 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 Senate's action, while well intended, is flawed. There is insufficient evidence of a recruitment problem at the FBI that needs to be solved by an exemption from Title 5 provisions for employee classification, pay, and performance. 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 unnecessarily exempt all FBI employees, including agents and support staff, in response to undocumented recruitment problems related to scientific and technical personnel. The provision would also establish a personnel system not subject to Office of Personnel Management oversight, and would create inequities in the recruitment of scientific and technical employees by other law enforcement agencies. We recommend that the conferees delete this provision.

245(I) Adjustment of Immigration Status Extension. The Senate bill would provide a permanent extension of the 245(I) adjustment of status penalty provision of the Immigration and Naturalization Act. This provision permits an immigrant who is eligible for legal permanent residency to remain in the United States, after paying a one thousand dollar penalty, until his or her application is approved by the Immigration and Naturalization Service (INS). We urge the conferees to approve the Senate language and extend this provision permanently. Were the provision not extended, State Department overseas operations would face a sizeable, unfunded workload requirement.

Prison Funding/INS Political Appointees. The Administration objects to language in the Senate Report that would mandate that unless a certain minimum funding level were included in the President's FY 1999 Budget for prison facilities, funding for INS political appointees would be restricted in FY 1998. This directive 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 of Prison's needs in favor of a pre-determined level set by Congress. It also ties funding for prisons to an unrelated sanction in the INS appropriation. We recommend that this provision be deleted.

The Administration also urges the conferees to strike House and Senate language that 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.

Department of State

The Administration appreciates the support by the House and especially by the Senate for the several State Department operating accounts that support domestic and overseas diplomatic and consular activities. We urge the conferees to provide the full request for these accounts,

which would help reverse the erosion of the Department's worldwide operations. We are also pleased that both the House and Senate versions of the bill provide the transfers requested to support the International Cooperative Administrative Support Services (ICASS) program. Likewise, we appreciate the support for the Department's Border Security and consular efforts through the continuation of the Machine Readable Visa Fees and support the language in the Senate version of the bill.

The Administration welcomes the House and Senate's inclusion of first-year funding of \$100 million for arrears payments for international organizations. Discussions between Congress and the Administration are near completion on a reform and arrears funding package. It is essential that a final package pays all acknowledged arrears and contains achievable reforms that make the U.N. more effective. At the same time, the Administration is engaged in an extensive diplomatic effort with the more than 185 members of the United Nations to build majority support for reform measures within the U.N. system. Fortunately, the Balanced Budget Act makes arrears payments for the next three years possible via advance appropriations. We strongly urge the conferees to include these advance appropriations in the final bill in order to bolster further the chances for timely reform at the U.N.

We are deeply concerned that the conference bill provide sufficient funding for the FY 1998 annual costs of the Contributions to International Organizations (CIO) and Contributions for International Peacekeeping Activities (CIPA) accounts. The Administration supports the total funding level in the House bill for CIO and CIPA combined. This level would be adequate to address total needs. It is important that this level be provided so that the Administration can pay annual costs, avoid new arrears, and have some flexibility to address evolving and unforeseen needs relating to peace and security around the world.

The Administration urges the conferees to strike the following provisions, all of which raise serious Constitutional concerns and are being dealt with in the pending State Department authorization bill. Section 406 of the Senate version and section 609 of the House version concern Vietnam. The Senate version in particular would mandate additional POW/MIA-related requirements that we fear would undermine the progress that has already been made by the Defense Department, in cooperation with the Government of Vietnam, and put at risk the effective functioning of the U.S. Embassy in Hanoi and new consulate in Ho Chi Minh City. Furthermore, there are concerns related to privacy and other issues of MIA cases. Another provision, section 610 of the House bill, relates to command and control of United Nations peacekeeping efforts, which have been extensively negotiated as part of the U.N. reform package in the authorization bill.

Arms Control and Disarmament Agency

The Administration is greatly concerned that the funding shortfalls in both the House and Senate versions of the bill for the Arms Control and Disarmament Agency (ACDA) would undercut the U.S. Government's efforts to reduce the threat of nuclear and other weapons to the

security of the American people. The Administration strongly urges the conferees to provide no less than the House level of \$41.5 million, which is about 10 percent lower than the original requested level.

In addition to the \$2.8 million requested in the FY 1998 Budget, a \$13 million budget amendment for Comprehensive Nuclear Test Ban Treaty (CTBT) requirements was transmitted by the President on July 17th. The Administration strongly urges the conferees to provide funding at the requested level to address this important national security matter and to ensure continued U.S. participation in the CTBT preparatory Commission's activities.

U.S. Information Agency Programs

The Administration urges the conferees to provide funding at the President's requested level for core public diplomacy programs. However, the Administration supports the House funding level of \$391.5 million for international broadcasting operations. The House level includes funding for increased broadcasting to China in FY 1998, an initiative supported by both the Congress and the Administration that was developed after the President's budget was submitted. In addition, the Administration urges the conferees to reject language in the Senate-passed bill that would tie the availability of direct appropriations for international broadcasting programs to the collection of revenues from advertising. We believe it is unwise to link ongoing broadcasting services to an estimate of revenue that may never materialize.

Ounce of Prevention Council

The Administration strongly opposes the termination of the Ounce of Prevention Council. Elimination of this program would hinder the Federal Government's ability to help neighborhoods implement strategies to reduce crime through enforcement, prevention, and intervention activities. 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 conferees to provide funding for the Council and has identified an appropriate offset.

Equal Employment Opportunity Commission

Given the importance of its work in addressing unlawful discrimination, the Administration urges the conferees to fully fund the President's request of \$246 million for the Equal Employment Opportunity Commission.

The Judiciary: Pay Raise for Federal Judges

The Administration strongly supports the annual salary adjustment for justices and judges of the United States, as provided in section 306 of the Senate bill. There is always a danger that a

judicial cost of living adjustment will be held hostage to the political process -- all to the detriment of attracting and retaining the most qualified individuals to serve on the federal bench. It is time to seriously consider "delinking" the annual salary adjustment of the judiciary from that of Congress -- or from any other unrelated issue -- so that the independence and integrity of the judiciary is maintained.

Office of the United States Trade Representative

The Administration appreciates the increase in funding for the Office of the United States Trade Representative (USTR) that both the House and Senate versions of the bill would provide. USTR has had to manage a seven-fold increase in the number of World Trade Organization dispute settlement cases since 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. Given these circumstances, the Administration has transmitted a fully-offset \$1.7 million budget amendment. We urge the conferees to fully fund the revised request.

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

Sincerely,

Franklin D. Raines
Director

Enclosure

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Harold Rogers,

**The Honorable Alan Mollohan, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Judd Gregg,
and The Honorable Ernest F. Hollings**

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

Department of Commerce

- **Economic Development Administration.** The Administration strongly supports the restoration of funding for the Economic Development Administration (EDA) in the conference agreement to the level of the President's request, for both Economic Development Assistance Programs and for Salaries and Expenses. Unfortunately, the Senate bill significantly cuts well-established and proven EDA programs -- in public works, defense economic adjustment, local planning and technical assistance, and program evaluation -- below the FY 1997 level. These cuts would seriously impact EDA's ability to assist local communities.
- **General Administration.** The Administration is deeply concerned about the impact of the House mark. Funds provided for this account have been reduced from \$36.5 million in FY 1995 to \$28.5 million in FY 1997, a 22 percent decrease. This has resulted in the reduction of 103 positions within the Office of the Secretary. The House-proposed \$2 million reduction from the FY 1997 enacted level would compromise the Secretary's ability to provide direction and oversight on important national issues, including the Year 2000 Census, promotion of economic growth, and improvement of government statistics.
- **National Oceanic and Atmospheric Administration.** The Administration is concerned about the \$22 million reduction to the Geostationary Satellite program in the House bill and urges the conferees to provide funding at the Senate level. The Administration also objects to additional cuts to the National Polar Orbiting Environmental Satellite Program and requests that, at a minimum, Commerce funding for this inter-agency effort be restored to the \$34 million level that would be provided in the FY 1998 Defense Conference Report. The Administration is opposed to the House proposal to specify the amount available for each of NOAA's line offices, which would unnecessarily limit resource management flexibility. Finally, the Administration urges that funding be restored for conversion of the El Nino observing system to operational status.

- **Bureau of Export Administration.** The Administration urges the conferees to provide the requested level, \$2.3 million, for the newly-ratified Chemical Weapons Convention Treaty, as provided by the Senate. In addition, we urge that the conference agreement include seizure and forfeiture authority language to allow the Bureau of Export Administration to join the Department of Justice's Assets Forfeiture Fund, as proposed in the Commerce Department's General Provisions in the FY 1998 budget.
- **Patent and Trademark Office.** The Administration favors the Senate funding level of \$27 million for the Patent and Trademark Office, but prefers the less restrictive language in the House bill.
- **Congressional Earmarking.** The Administration remains 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

- **Mandatory Immigration Funding for Discretionary Programs.** The Administration is very concerned that the Senate bill underfunds authorized discretionary programs and uses mandatory funds from immigration examination and user fees for certain unauthorized discretionary activities. The Senate bill would commit balances necessary for providing services or processing and adjudicating applications for other unauthorized discretionary purposes. The result of this action would be that sufficient resources would not be available to complete naturalization processing and other services and benefits for which these fees are collected. We recommend that House language that funds mandatory fee programs from the immigration user and exams fees be retained.
- **Executive Support.** The Administration opposes the House and Senate action to freeze legislative and public affairs activities at FY 1997 levels for the Department and to reduce funding and staff for the Immigration and Naturalization Service (INS) and the United States Marshals Service. Freezing or reducing these activities would inhibit the Department's ability to clear legislation in a timely and responsive manner and would constrain its capacity to serve Congress. The Administration urges the Congress to increase funding for the Executive Support offices and to delete restrictions on the use of detailees. The Administration also objects to the House action that would reduce the number of non-career appointments at the INS. Limiting non-career appointments to four would adversely affect INS' ability to provide executive leadership.

- **United States Attorneys.** The Senate bill's 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 the prosecutors. This provision is an unacceptable restriction on defendants' right to legal representation, raising the prospect that 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.

Department of State

- **Designation of Foreign Terrorist Organizations.** The Administration urges the conferees to delete the provision in the House version of the bill that would withhold about \$7.25 million of State Department Salaries and Expenses funds until one or more designations are made. As the sponsors of the House amendment have been informed, the bulk of the relevant designations were submitted (in classified form) to Congress on October 1st. Moreover, putting essential State Department funding at risk because of delays in a complex interagency process would accomplish no useful purpose.
- **Passport Information.** The State Department has recognized legitimate concerns voiced by the American public and has implemented reforms that have dramatically improved the provision of detailed passport information to individuals with special needs. Unfortunately, the House version of the bill includes a provision that would prohibit the expenditure of funds to continue this service. This provision would cause taxpayers who do not require these services to fund the program, while likely leading to a deterioration in service. The House provision should be deleted.
- **American Sections.** The Administration supports funding for these programs at the House level. The funding level provided by the Senate for the Border Environment Cooperation Commission (BECC) is substantially below the level necessary to maintain adequate operations.

Department of Transportation

- **Maritime Administration.** The Administration urges the conferees to support the Senate marks of \$69 million for Maritime Administration (MARAD) Operations and Training and \$4 million for MARAD Title XI Administrative Expenses. The levels that the House version of the bill would provide for these programs would require personnel reductions that would prevent MARAD from carrying out its statutory responsibilities. The Administration also opposes Senate earmarking that would force similar personnel reductions.

Federal Communications Commission

- **Relocation.** Neither the House nor the Senate versions of the bill would provide 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.

Limitations on Research Activities

- The House-passed bill includes a provision that would prohibit the use of any of the funds appropriated in the bill for any study of the medicinal use of marijuana. Although this amendment has no practical effect in this legislation, the Administration is concerned in general about limitations on research activities. While the Administration remains opposed to drug legalization efforts, we work to base drug policy on scientific findings. As such, the Administration is opposed to the inclusion of such additional legislated limitations on research activities.



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

*Budget materials -
appropr letters*

October 8, 1997
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2607 -- DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FY 1998

(Sponsors: Livingston (R), Louisiana; Taylor (R), North Carolina)

This Statement of Administration Policy provides the Administration's views on H.R. 2607, the District of Columbia Appropriations Bill, FY 1998, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration strongly opposes section 342 of the Committee bill, which would provide for the use of \$7 million in Federal taxpayer funds for private school vouchers. Instead of investing additional resources in public schools, vouchers would allow a few selected students to attend private schools, and would draw attention away from the hard work of reforming public schools that serve the overwhelming majority of D.C. students. Establishing a private school voucher system in the Nation's Capital would set a dangerous precedent for using Federal taxpayer funds for schools that are not accountable to the public. If this language were included in the bill presented to the President, the President's senior advisers would recommend that the President veto the bill.

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

Pennsylvania Avenue

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

Public Assistance Payments

The Administration opposes section 149 of the bill, which would prohibit the District from increasing public assistance payments under the Temporary Assistance for Needy Families Program beyond the level provided under the District of Columbia Public Assistance Act of 1982. This restriction is inconsistent with the broad flexibility provided under Federal welfare reform and could hinder the District's efforts to invest resources in areas necessary to move individuals off welfare and into work.

Davis-Bacon Act

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

Abortion

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

Micromanagement

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

Specifically, the Administration opposes provisions of the bill that would require the District to direct surplus FY 1998 revenues to a taxpayer relief fund and earmark \$200 million in local funds for deficit reduction. These provisions do not reflect the consensus agreement reached by the Authority, the Council, and the Executive Branch on the FY 1998 budget for the District. Moreover, Congress has given to the Authority the responsibility for guiding the District toward long-term financial health, and that role should not be undercut by unnecessary micromanagement.

The Administration also opposes a provision that would amend the District's tort laws and impose a cap on punitive damages at an arbitrary level. The Administration believes that these

limits undermine the very purpose of punitive damages, which is to punish and deter misconduct. Furthermore, the Administration strongly opposes any differentiation between so-called "economic" and "non-economic" damages. "Non-economic" damages are just as real as economic damages, and limiting them imposes a hardship on the most vulnerable members of our society.

In addition, we oppose House language that would restrict the District's authority to improve its financial management systems. The District has been told by Congress, by the General Accounting Office, and by the Administration for some time that it needs to improve its financial management systems. The DC Chief Financial Officer and the Authority have taken steps to implement the necessary improvements. The Congress should not use this appropriations bill to block those efforts.

Treasury Borrowing Authority

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

D.C. Courts and Offender Services Funding

The Administration strongly opposes language in the Committee bill that provides for funding the District of Columbia Courts and Offender Services through the Office of Management and Budget. The Administration urges the Committee to consider passing funding through stand-alone accounts. The Administration's original proposal called for funding to be passed through the State Justice Institute.

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

The Administration is committed to working with the House to produce a bill that will assist the District in its continued efforts toward financial recovery.

October 8, 1997
(House Rules)

H.R. 2607 – DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FY 1998

(Sponsors: Livingston (R), Louisiana; Taylor (R), North Carolina)

This Statement of Administration Policy provides the Administration's views on H.R. 2607, the District of Columbia Appropriations Bill, FY 1998, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration strongly opposes section 342 of the Committee bill, which would provide for the use of \$7 million in Federal taxpayer funds for private school vouchers. Instead of investing additional resources in public schools, vouchers would allow a few selected students to attend private schools, and would draw attention away from the hard work of reforming public schools that serve the overwhelming majority of D.C. students. Establishing a private school voucher system in the Nation's Capital would set a dangerous precedent for using Federal taxpayer funds for schools that are not accountable to the public. If this language were included in the bill presented to the President, the President's senior advisers would recommend that the President veto the bill.

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

Abortion

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

Davis-Bacon Act

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

Public Assistance Payments

The Administration opposes section 149 of the bill, which would prohibit the District from increasing public assistance payments under the Temporary Assistance for Needy Families Program beyond the level provided under the District of Columbia Public Assistance Act of 1982. This restriction is inconsistent with the broad flexibility provided under Federal welfare reform and could hinder the District's efforts to invest resources in areas necessary to move individuals off welfare and into work.

Pennsylvania Avenue

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

Micromanagement

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

Specifically, the Administration opposes provisions of the bill that would require the District to direct surplus FY 1998 revenues to a taxpayer relief fund and earmark \$200 million in local funds for deficit reduction. These provisions do not reflect the consensus agreement reached by the Authority, the Council, and the Executive Branch on the FY 1998 budget for the District. Moreover, Congress has given to the Authority the responsibility for guiding the District toward long-term financial health, and that role should not be undercut by unnecessary micromanagement.

In addition, we oppose House language that would restrict the District's authority to

improve its financial management systems. For years, the District has been told it needs to improve its financial management systems. The DC Chief Financial Officer and the Authority have determined that improvements are necessary and taken steps to implement those improvements. The Congress should not use this appropriations bill to block those efforts.

Treasury Borrowing Authority

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

D.C. Courts and Offender Services Funding

The Administration strongly opposes language in the Committee bill that provides for funding the District of Columbia Courts and Offender Services through the Office of Management and Budget. The Administration urges the Committee to consider passing funding through stand-alone accounts. The Administration's original proposal called for funding to be passed through the State Justice Institute.

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

The Administration is committed to working with the House to produce a bill that will assist the District in its continued efforts toward financial recovery.



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

Budget materials -
appropriations letters

STATEMENT OF ADMINISTRATION POLICY

TO: JOHN HILLEY
BRUCE REED
GENE SPERLING
JOHN PODESTA
SYLVIA MATHEWS
MARTHA FOLEY
BARBARA CHOW
ANDY BLOCKER
JASON GOLDBERG
CHUCK MARR
BOB SHIREMAN
ELENA KAGAN
CYNTHIA RICE
JENNIFER KLEIN
PAUL WEINSTEIN
TODD SUMMERS

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield

DATE: October 3, 1997

SUBJECT: FOR YOUR CLEARANCE --
Letter to Conferees regarding Labor/HHS/Ed Appropriations

Attached is our draft letter to Conferees regarding H.R. 2264, Labor / HHS / Education Appropriations Bill. The Conferees met briefly on Wednesday, September 30th, and will meet again on Tuesday, October 7th.

Position: Senior Advisors Veto Threat (page 1), specifically referring to education block grants, the Teamsters reelection, National Testing, America Reads, Pell grants, and "other concerns raised in this letter." Please also notice the paragraph on page 5 regarding the abortion provision.

Timing: We plan to send the letter to the Hill before noon on Monday in order to effect on the negotiations.

Please contact Alice Shuffield at 5-4790 by 10:00am on Monday, October 6th, with your comments or your clearance.

DRAFT

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20503

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 2264, the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

Both the House and Senate versions of the bill provide requested funding for many of the Administration's priorities. The Administration is also pleased that both the House and the Senate have limited the number of appropriations riders, consistent with the terms of the Bipartisan Budget Agreement (BBA). The conferees are urged to continue this practice. As discussed below, the Administration will seek restoration of certain of the reductions to the President's request. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the conferees toward achieving acceptable funding levels.

The House and Senate have included \$1 billion and \$2 billion more, respectively, than the President has requested for dozens of authorities in the Department of Education, while cutting the President's request in a broad array of important programs. We urge the conferees to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority, particularly those specified in the BBA, as noted below.

Unfortunately, a number of controversial amendments were passed on the House and/or Senate floor, such as an amendment that would create education block grants from Administration priorities such as Goals 2000 and Title I (Education for the Disadvantaged), amendments to prohibit or prevent the use of funds in the Act for supervising the Teamsters reelection, and an amendment to prohibit the use of funds in the Act for the President's National Testing initiative. In addition, certain provisions of the House and Senate bills, such as the lack of funding for the President's America Reads Challenge and insufficient funding for Pell grants, are contrary to the BBA. If such policies were adopted, particularly in light of other concerns raised in this letter, the President's senior advisers would recommend that the President veto the bill.

VETO

Department of Education

The Administration appreciates efforts of the Congress to provide substantial new funding for education activities. Unfortunately, the Senate-passed education block grant would undo all of these gains. The Senate's education block grant provisions would effectively terminate most elementary and secondary education programs, including Title I, Goals 2000, School-to-Work, Charter Schools, Safe and Drug-Free Schools and Communities, and Bilingual and Immigrant Education. The block grant proposal would not ensure that funds are directed to educational problems of greatest concern, and would provide virtually no targeting toward the neediest school districts and students. The administration strongly opposes the block grant proposal.

Both the House and Senate have failed to provide the \$260 million necessary for the President's America Reads Challenge in the Department of Education. Both the House and the Senate have 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 House has provided only \$10 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 Senate has provided only \$16 million for the same program. The BBA 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 full FY 1998 funding for this initiative should be restored to both the Department of Education and the Corporation for National and Community Service activities funded in this bill and the VA/HUD Appropriations bill.

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 Administration also strongly urges the Congress to make the funds available on April 1, 1998 under existing authorities, in the event that final action on the authorization bill is not completed in a timely manner.

The Administration is strongly opposed to House provisions that would bring a halt to the President's National Testing initiative. The national tests proposed by the President are critical because they will, for the first time, provide students, parents, and teachers the opportunity to measure how well students are performing in comparison to other students, nationally and internationally. As a result, national tests will help hold schools accountable to parents and communities for the performance of all students. The Department of Education has the authority to develop these tests under the Fund for the Improvement of Education (FIE). We support requirements that the Department of Education contract with the National Academy of Science to conduct a study and report on the testing initiative. In addition, we support the Senate provision that places overall responsibility for the testing initiative with the independent, bipartisan National Assessment Government Board. The Administration urges the conferees to provide adequate

(Gortaw amendment)

New

funding for the FIE program that finances this testing initiative, so that sufficient funding will also be available for continuation grants, new awards, and congressional directives.

The Administration urges the conferees to fund the Office for Civil Rights (OCR) at the President's request of \$61.5 million, \$6 million above the House bill and \$4 million above the Senate bill. OCR plays a vital role in ensuring equal access to education for all students through enforcement of civil rights laws and regulations. America continues to pursue the elusive goal of harmonious race relations, as evidenced by the President's Initiative on Race. Because OCR enforcement efforts are a fundamental bridge to achieving this goal, OCR must be funded accordingly.

|| New

The BBA specifies funding at the levels proposed in the President's request for Pell grants, which supports both a \$3,000 maximum award and expanded eligibility for independent students. While the FY 1998 maximum award level is set at \$3,000, both the House and Senate have cut the Pell request significantly. Further, neither the House nor the Senate authorize the Administration's proposed independent student policy. This authorization is no different from the Committee's annual procedure of authorizing the maximum Pell grant award. We urge the conferees to fully fund Pell grants and to authorize the independent student change

We are concerned about three Senate amendments that could transfer almost \$100 million from unobligated balances in the Pell grant program to other Department of Education programs. Because neither the House nor the Senate authorizes and funds the President's proposal to expand eligibility for low-income independent students, taking away funds from the Pell grant program's unobligated balances would exacerbate the scarcity of resources. Therefore, the Administration opposes these amendments.

|| New
- Pell surplus

The House has provided only \$387 million for Goals 2000, \$233 million below the request, while the entire Education Reform account is \$223 million below the request. This violates the BBA, which stipulates that the Education Reform account be funded at the President's request. The Senate has provided \$530 million for Goals 2000, \$90 million below the request. The Administration urges the conferees to fund Goals 2000 at the President's request to support education reform and challenging academic standards in all 50 States.

The Administration urges the conferees to fund Safe and Drug-Free Schools and Communities (SDFSC) at the President's request of \$620 million, \$64 million above the level recommended by the House and Senate. SDFSC, the largest Federal school-based drug and violence prevention program, serves more than 40 million students in over 97 percent of the Nation's school districts and is an essential component of a comprehensive effort to reduce teen drug use.

The Administration urges the conferees to fund the Adult Education State Grant program at the President's request of \$382 million, \$42 million above both the House and Senate funding levels. The President's request would meet increased demand for literacy training created by new welfare reform and immigration legislation. At the President's requested funding level, this program would help over 4.2 million adult learners complete high school, start on the path to postsecondary education and better jobs, and become more effective parents. At the House or Senate funding level, about 107,000 adult learners would be denied services.

The House has included language amending the definition of an eligible lender in the Federal Family Education Loan Program. The language would provide a broad exception to the current limitation on how much of a bank's portfolio can comprise guaranteed student loans, including loans that a bank holds as a trustee for a third party. It would also permit finance companies, the financial solvency of which, --unlike banks-- is not regulated by a public entity, to be eligible lenders. These provisions would increase the Federal exposure to financial risk and weaken parts of the statute enacted specifically in response to prior abuses. The provision should not be included in the conference bill.

The Administration strongly opposes a House provision that would prohibit the investigation of violations by, and imposition of penalties upon, States that do not comply with the statutory requirement of the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 to serve eligible individuals with disabilities age 18 or older in adult State prisons. The 1997 Amendments reduced State burdens by reducing the number of eligible individuals and by limiting the types of services that must be provided. Since prison education programs have a positive effect on reducing recidivism and on post-release employment success, the requirement to serve this population should be properly enforced.

The Administration is concerned about the Senate's \$52 million funding level for the Statistics program, \$14 million less than the President's request. With this funding level, the Department of Education would not be able to move forward on a number of studies, including those providing key data on early childhood, student achievement, teachers, and adult literacy. The Administration urges the conferees to provide the requested funding level.

We also urge the conferees to fund other high priority Education programs at the President's requested level, including Eisenhower Professional Development, After School Learning Centers, and Charter Schools.

Department of Health and Human Services

The Administration is deeply concerned that both the House and Senate have 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 conferees to fully

fund this urgently-needed program at the President's requested level.

Both the House and the Senate have 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. In order to gauge the effects of welfare reform, research is needed now more than ever. The Administration strongly urges the conferees to drop the rescission and to fund this critical welfare research at the President's requested level.

The Administration opposes the House-passed amendment that takes away the authority of the Secretary of Health and Human Services to certify that Federal funds may be used for needle-exchange programs. Under current law, the Secretary may authorize such funding only after a formal determination that a needle-exchange program would both prevent the spread of disease and not encourage the use of illegal drugs. The Department of Health and Human Services is currently engaged in research to answer these questions. It is premature to foreclose possible public health benefits by legislative mandate before the scientific evidence has even been considered.

The Administration urges the conferees to fund the Health Care Financing Administration (HCFA) program management account at the requested level of \$1,775 million. The House has funded HCFA program management at \$1,679 million, \$96 million below the President's request, and the Senate has provided \$1,719 million, \$56 million below the President's request. The President's request would ensure that HCFA is able to comply with Year 2000 systems requirements and perform the CFO audit. The President's request for the Medicare Transaction System would fund consolidation of HCFA's current contractor systems, which needs to occur prior to, and independent of, final resolution of any Medicare modernization issues. The House has not provided any funding for contractor consolidation, and the Senate has provided \$35 million less than the request for this program. HCFA also faces implementation challenges as a result of the BBA. The Administration urges the conferees to appropriate the \$200 million in managed care user fees authorized in the BBA. We are committed to working with the Congress to determine the appropriate level of additional funding for BBA implementation.

The Administration prefers the Senate funding level of \$208 million for the Title X Family Planning program. This level will serve an additional 80,000 clients in FY 1998 and will enable the Family Planning program to continue its priorities, including outreach to women not likely to seek services and emphasis on comprehensiveness of reproductive health services. The Administration also supports efforts to encourage minors to discuss their health care needs with their families.

Both the House and Senate have included a provision that prohibits the purchase of managed care coverage that includes abortion. The President believes that abortion should be safe, legal, and rare. However, the provision would not only maintain, but would further limit the range of conditions under which a woman's health would permit access to abortion. Furthermore, it would require a physician to make a legal determination that these

New

attention

conditions have been met. The Administration opposes this attempt to constrain further the availability of abortion services and strongly urges the conferees to drop this objectionable provision. Nonetheless, it is helpful that the provision is clear that limitations on the use of Federal funds to provide abortion services under managed care plans do not affect in any way the ability of States to provide such coverage using their own funds, nor the ability of managed care providers to participate in Federally-funded programs while also offering other coverage paid for by State or private funds

The Administration is pleased that both the House and Senate have provided increased funding for many of the Ryan White AIDS CARE Act programs, including the AIDS Drug Assistance Program (ADAP). The Administration urges the conferees to provide as large an increase as possible for all Ryan White AIDS CARE Act programs, including ADAP, consistent with the President's other priorities in the bill. We also urge the conferees to allocate funds in a way that maximizes the provision of primary care.

The Administration is concerned that neither the House nor the Senate has provided a specific amount for AIDS research through a single appropriation for the National Institutes of Health's (NIH's) Office of AIDS Research, as requested in the President's budget. The single appropriation would help NIH plan and target NIH 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 House has funded HIV prevention activities at the Centers for Disease Control and Prevention at \$12 million below the President's request. The FY 1998 Budget proposes a \$17 million increase for this activity to target HIV prevention for intravenous drug users at risk of developing the virus. The conferees are encouraged to fully fund the President's request of \$634 million.

Department of Labor

The BBA specifies funding at the levels proposed in the President's budget for Training and Employment Services, including Job Corps. The FY 1998 request included \$250 million for the Youth Opportunity Area proposal. The House bill provides \$100 million in FY 1999 for this program, while the Senate bill provides \$250 million in FY 1999, contingent upon enactment of authorizing legislation by April 1, 1998. We urge the conferees to adopt the Senate approach, provided that the date for enactment of authorizing legislation is changed to July 1, 1998. The House and Senate bills reduce requested funding for the adult training grant program by \$21 and \$109 million, respectively. We urge the conferees to restore funding for this program, to the extent possible.

The Administration appreciates the House's allocation of \$183 million to help finance the

year 2000 conversion of State Unemployment Insurance (UI) systems and the Senate's allocation of \$150 million for the same purpose. However, both amounts are below the level needed to provide adequate funding to meet the year 2000 costs. The conferees are urged to provide the \$200 million request for year 2000 conversion costs. The House and the Senate have failed to provide \$89 million for spending on UI "integrity" initiatives (e.g., increased eligibility reviews, tax audits). The spending is explicitly assumed in the Balanced Budget Act of 1997, and would, over five years, achieve \$763 million in mandatory savings assumed in the Act.

On July 17, 1997, the President sent to Congress a budget amendment for \$6.2 million for the Labor Department to administer the \$3 billion Welfare-to-Work program. The House-passed bill includes no funds for Welfare-to-Work administration, while the Senate-passed bill provides \$4 million. We urge the conferees to include \$6.2 million to administer the Welfare-to-Work program, which was agreed to by Congress in the Balanced Budget Act of 1997.

The Senate has provided \$990 million, and the House \$981 million, for the Department of Labor workplace protection programs. Both levels are about half of the President's proposed increase. Without the requested level, the Department will not be able to carry out a balanced program of targeted enforcement with expanded partnerships and compliance assistance in the regulated community, or 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. The conferees are urged to provide the requested level for the Bureau of Labor Statistics to ensure the continued accuracy and reliability of all the Bureau's programs. Funding for the independent National Labor Relations Board has been frozen, a cut of \$11 million below the request. The Administration urges the conferees to enact the Administration's request for these programs.

Social Security Administration

The House has provided \$245 million for additional Continuing Disability Review (CDR) funding and SSI reforms implementation, \$45 million less than the President's request. The Balanced Budget Act of 1997 contains a provision that provides authority for a \$290 million upward cap adjustment (\$45 million more than prior law) to the non-defense discretionary spending caps for funding provided for additional CDRs. This is consistent with Senate action and 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 conferees to provide the additional \$45 million, consistent with Senate action.

The Senate has reduced funding for the Office of the Inspector General (IG) by \$7 million from the President's request of \$44 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 Administration urges the conferees to restore funding to the

maximum extent possible in this key area.

The Senate has reduced funding for research and demonstration projects by \$7.4 million from the President's request of \$16.7 million. 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. At the same time, the Senate specified that not less than \$2.25 million shall be available to establish a demonstration project to assist persons with disabilities due to the loss of a limb to return to work. The Administration urges the conferees to restore funding to the maximum extent possible in this key area, but to do so without identifying specific projects and funding levels. The Administration believes that SSA staff are in the best position to establish a research and demonstration projects agenda that gives full consideration to assisting all persons with disabilities, without special regard to the specific impairments that are the cause of the disabilities.

new

Additional Administration concerns are contained in the enclosure.

Sincerely,

Franklin D. Raines
Director

Enclosure

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, and The Honorable John E. Porter,
The Honorable Ted Stevens, The Honorable Robert C. Byrd,
The Honorable Arlen Specter and The Honorable Tom Harkin

ADDITIONAL CONCERNS
H.R. 2264 -- DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES,
EDUCATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998

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

All Agencies Covered by the Bill

- Across-the-Board Administrative Cut. The Senate bill calls for a \$76 million administrative cut, spread across all agencies covered by the bill. Such a cut would have a serious impact on the operation of important programs throughout these agencies.
- Operating Plans. The House Committee report calls for all agencies covered by the bill to provide to the Committee "operating plans" for appropriations. The administration is prepared to work with the conferees to discuss the purpose of this request and determine how to address it.

Department of Education

- Program Administration. Adequate funding for the Program Administration account is essential to maintain program integrity across the full range of new and existing programs. We urge the Conference to adopt the Senate level of \$340.1 million.

Department of Health and Human Services

- Community Schools: Violent Crime Reduction. While the Administration supports the House and Senate funding of Violence Against Women Act programs, neither the House nor the Senate has provided funding for the Community Schools program within the Violent Crime Reduction Programs account. The House has provided no funding for Developmental Disabilities Special Projects activities. We urge the conferees to restore funding for these programs.
- Medicare Survey and Certification User Fees. The President's budget proposes total funding of \$158 million for the surveys and certification program, \$148 million in budget authority and \$10 million in user fees. The House has provided \$148 million in budget authority, \$10 million below the President's request. The

Senate has provided \$158 million in budget authority but has not enacted the \$10 million in user fees. The Administration believes that health care providers who derive considerable benefit from the Medicare program should fund the cost of conducting initial surveys required for entry into the program. We urge the conferees to enact the Administration's survey and certification user fee proposal and to fully fund the President's request for this activity.

- Aging Services Programs. Within the Administration on Aging, the House and the Senate have provided no funding for the Alzheimer's Initiative. This important program would provide critical resources for the elderly.
- Head Start. The Administration is concerned that the Senate, while providing the full request for Head Start, would make the funds available in a manner that is inconsistent with the Head Start Act. It appears that the Senate intends to double the amount of funding for the Early Head Start program out of the overall increase provided for Head Start over the FY 1997 appropriation. We urge the conferees to provide these funds in accordance with the bipartisan authorizing statute in order to support the President's goal of serving one million children by FY 2002.
- Hansen's Disease. The House bill includes language that would transfer HHS' Hansen Disease treatment facility at Carville, Louisiana, to the State of Louisiana. The Administration supports this transfer, but objects to how the language transfers property to the State of Louisiana and how it handles personnel issues. We believe that the General Services Administration, the Federal Government's property asset manager, should handle the transfer as authorized in the Federal Property and Administrative Services Act of 1949. In addition, the Administration strongly opposes those provisions pertaining to the computation of employee annuities and disability retirement benefits. The Administration urges the conferees to delete these provisions. There are a variety of ways to ensure the well-being of and retirement benefits for these employees, and the Administration wants to work with the conferees to draft language that is consistent with current law.
- Additional Health Concerns. The Administration is concerned that: the Senate has not provided the full request for the Agency for Health Care Policy and Research; the House has not provided the full request for the Office of Emergency Preparedness; and neither the House nor the Senate have provided the full request for the Office for Civil Rights and the HRSA Organ Transplantation program. To the extent possible, we urge that the requested funding levels be provided.

Social Security Administration

- **Official Time.** Language in the House bill would bar the expenditure of trust fund money for employees who conduct union activities on official time. Paying for such expenses is consistent with both Federal law and SSA's collective bargaining agreements. Restricting certain funding sources from paying for this activity would unfairly shift costs to the general fund and not reduce the amount of Federal funds expended on this legitimate activity. This limitation should be stricken from the bill.
- **SSI User Fee.** Both the House and the Senate have included language to authorize increases to the fee States pay SSA for administering State payments that are supplemental to SSI benefits, and provide for such funds to be available, subject to appropriations action, upon collection for SSA administrative expenses. This provision is identical to language in the Balanced Budget Act of 1997, which also includes a provision directing that these additional fees shall be credited as a discretionary offset to discretionary spending to the extent that the amounts are made available for expenditure in appropriations acts. The Administration commends the actions of both the House and the Senate and urges the conferees to delete the authorization language that is now duplicative of the Balanced Budget Act.

Railroad Retirement Board

- **Inspector General.** The House has included language prohibiting the use of any funds other than those in the Inspector General (IG) account for the provision of supplies, space, and services by other offices of the Railroad Retirement Board (RRB) to the IG. The language should be stricken from the bill. The Administration believes that the current means of financing centralized services provided to the IG is consistent with the provisions of the IG Act and that the RRB should not be singled out in this respect. The Administration also notes that, once the amount specified in report language related to these support services is factored into the total for the IG, the Committee would effectively reduce the IG budget by 17 percent from the FY 1997 enacted level. The President's request is for level funding; the reduction in the House bill is excessive.
- **Inspector General.** The House has included language prohibiting the RRB IG from using funds for any audit, investigation, or review of the Medicare program. RRB has statutory authority to administer a separate contract for RRB, Part B Medicare claims. The Administration believes that this language should be dropped. As long as RRB has authority to negotiate and administer a separate Medicare contract, the RRB IG ought not be prohibited from using funds to review, audit, or investigate activity related to that contract.

Armed Forces Retirement Home

- **The House bill would reduce the \$25 million capital program by one-third. The Senate bill would reduce the capital program by three-fifths. This program includes the renovation of the Sheridan dormitory in Washington and design of the medical facility in Mississippi. The Administration strongly supports full funding of these renovations, which are badly needed to serve these elderly veterans.**

Printer materials -
appropr letters

FY 1998 Appropriations Funding Issues
(CBO scoring, in millions of dollars)

23-Sep-97
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FY 1997		FY 1998		Latest		Latest		Difference:			
Enacted (OMB)		Request		House Action		Senate Action		House less		Senate less	
BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL

COMMERCE/JUSTICE/STATE:

Deal Items:

Commerce Department:

National Institute of Standards
and Technology (NIST).....

ATP (non-add).....
MEP (non-add).....

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(218)	(199)	(276)	(230)	(185)	(154)	(200)	(166)	(-91)	(-76)	(-76)	(-64)
(95)	(85)	(123)	(102)	(114)	(94)	(111)	(92)	(-10)	(-8)	(-12)	(-10)

State Department:

FY 1999 Arrears: (non-add)
(FY 1999 Advance Appropriation).....

(--)	(--)	(921)	(921)	(--)	(--)	(--)	(--)	(-921)	(-921)	(-921)	(-921)
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Priority Items:

Commerce Department:

National Information and Infrastructure.....
NOAA/GLOBE.....
NOAA/Clean Water Initiative.....

21	31	36	28	21	26	21	26	-15	-2	-15	-2
6	4	7	5	--	2	--	2	-7	-3	-7	-3
--	--	22	12	8	5	--	--	-14	-7	-22	-12

Justice Department:

Drug Courts.....
Juvenile Crime/Prosecutors.....
Juvenile Crime/Courts.....
CALEA.....
Drug Testing (Earmark of Byrne).....

30	7	75	17	45	10	40	9	-30	-7	-35	-8
--	--	100	22	--	--	--	--	-100	-22	-100	-22
--	--	50	11	--	--	--	--	-50	-11	-50	-11
60	30	100	70	50	35	--	--	-50	-35	-100	-70
--	--	(30)	(7)	(--)	(--)	(--)	(--)	(-30)	(-7)	(-30)	(-7)

FY 1998 Appropriations Funding Issues
(CBO scoring, in millions of dollars)

23-Sep-97

09:36 AM

BRB:ELR

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	FY 1997		FY 1998		Latest		Latest		Difference:			
	Enacted (OMB)		Request		House Action		Senate Action		House less		Senate less	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
COMMERCE/JUSTICE/STATE (cont'd):												
Priority Items (cont'd):												
State Department:												
Contributions to International Organizations/Peacekeeping (non-arrears).....	1,184	1,350	1,196	1,195	1,140	1,139	1,057	1,059	-56	-56	-139	-136
Other Independent Agencies												
Legal Services Corporation.....	283	257	340	333	141	158	300	298	-199	-175	-40	-35
Ounce of Prevention Council.....	1	1	9	4	—	—	—	—	-9	-4	-9	-4
Equal Employment Opportunity Commission.....	240	256	246	245	240	240	242	242	-6	-5	-4	-3
Arms Control and Disarmament Agency.....	42	42	60	59	42	42	33	35	-18	-17	-27	-24

¹ Both House and Senate have provided the requested \$100 million for arrears repayment in FY 1998.

FY 1998 APPROPRIATIONS BILLS: LANGUAGE ISSUES

AGRICULTURE/RURAL DEVELOPMENT

Research Function Transfer: The Conference report contains the objectionable House provision that would transfer the Food Stamps and child nutrition research and policy analysis function from the Food and Consumer Service (FCS) to the Economic Research Service (ERS). The FCS function deals with analysis of poverty programs and issues and plays a vital role in maintaining and improving the operation of these programs. The ERS function deals with farm issues.

Dairy Study: The Conference report requires OMB to undertake a comprehensive study of the Northeast Dairy Compact by December 31, 1997. The provision does not take into account OMB's workload associated with preparing the President's FY 1999 Budget, lack of funding for such a study, and incompatible parameters for the study given by competing factions in Congress.

Agriculture Questions/Responses: The Conference report prohibits use of funds made available to the Department of Agriculture to transmit or otherwise make available to any non-Agriculture employee questions or responses to questions that are a result of information requested for appropriations hearings process.

COMMERCE/JUSTICE/STATE

Decennial Census - Sampling/Fencing Resources: House prohibits sampling and fences resources pending authorization.

Reimbursement of Legal Fees: Hyde amendment expected striking Murtha language requiring payment for Members and staff upon acquittal or dismissal and substituting language requiring Justice to pay legal fees (up to a reasonable level) in certain Federally litigated criminal cases of any defendant who is not convicted, unless the judge determines that case was "substantially justified."

Judiciary - Ninth Circuit: Senate bill requires the split of the Ninth Circuit.

FBI Personnel Requirements: Senate bill exempts FBI from Title 5 personnel laws and regulations and from OPM oversight.

INS Political Appointees and Legislative Affairs/Public Affairs Offices: Both the House and Senate versions of the bills lower permissible INS political appointees. Also, the House and Senate reports accompanying the bill reduce INS' Legislative Affairs/Public Affairs offices.

Restrictions on ATP Awards/Manufacturing Centers: House language caps new awards; House language does not allow Federal funding for six manufacturing centers.

DEFENSE

Bosnia: House bill contains objectionable language (section 8102) including requirement to withdraw from Bosnia by a date certain. Senate has no limitation.

DISTRICT OF COLUMBIA

Abortion: Both the House and Senate prohibit the use of both Federal and District funds for abortions except in cases of rape, incest, or endangerment to the life of the mother.

School Vouchers: The House authorizes the use of Federal funds to pay for private school (and other) vouchers and provides \$7 million for this purpose. A similar Senate amendment is expected.

Restrictions on D.C. Funding: (House bill and report language not yet available.) The House Subcommittee bill contains a number of provisions that condition or restrict the use of District funds. Specifically, the House Subcommittee bill contains language that would require a 10-percent cut from the FY 1997 FTE level and cap expenditures to provide \$300 million for deficit financing and a taxpayer relief fund. The House Subcommittee bill would also waive the application of the Davis-Bacon Act to construction and repair work for District of Columbia schools.

Repeal Closure of Pennsylvania Avenue: The House Subcommittee bill would repeal the May 1995 Treasury decision to close Pennsylvania Avenue between 15th and 17th Streets, N.W.

D.C. Courts and Offender Services: The House Subcommittee bill includes language funding courts and offender services as a pass-through using OMB's budget, rather than either the State Justice Institute or the Administrative Office of the U.S. Courts.

D.C. Court Fines and Fees: Neither House nor Senate provides for the use of fines/fees collected by D.C. Courts to supplement appropriations for operating expenses (estimated at \$7-8 million).

ENERGY/WATER DEVELOPMENT

New Generation Internet: There is a House and Senate prohibition on Department of Energy participation.

FOREIGN OPERATIONS

"Mexico City" Population Planning Restrictions: House bill includes prohibition on U.S. funds from going to any family planning organization conducting or promoting abortions even if it uses its own funds and effectively terminates assistance to the UN family planning program.

Earmarks: The Senate bill has numerous funding earmarks and sub-earmarks, particularly for programs in the New Independent States and for development assistance.

Restrictions on Aid to Russia: Both House and Senate bills condition obligating aid for Russia on its not transferring nuclear and missile technology to Iran, with the House bill allowing a national security interest waiver for 50% of the assistance. The Senate bill also conditions aid to the Russian government on there being no law discriminating against religious minorities.

Restrictions on Assistance to the Palestinian Authority: Both House and Senate place restrictions on obligating aid to the Authority. Secretary Albright is preparing a position on this issue.

Restrictions on aid to Ukraine: Both House and Senate bills condition obligating aid to Ukraine on steps to reduce corruption, privatize agribusiness and settle commercial disputes with U.S. firms.

Restrictions on Aid to Cambodia: House bill bans all aid to Cambodia, and Senate bill sets numerous conditions on non-humanitarian aid (e.g. must have freely elected government).

Bosnia-Related War Crimes Restrictions: Both bills deny aid to governments that harbor persons indicted by the Bosnia war crimes tribunal.

Diversion of Narcotics Aid: House report language diverts \$25 million in narcotics and crime funds for use in Bosnia.

NIS funding transfer to Eximbank: The Senate bill provides the requested authority to transfer NIS funds to Eximbank for lending to those countries but undesirably caps the amount at \$22 million.

INTERIOR

Native American Riders: In Tuesday, 9/16, Floor action, Senate removed two riders: requiring means-test distribution for Tribal Priority Allocation funds and waiving sovereign immunity. The Senate replaced means-testing with a task force to make the distribution of TPA funds over the FY 1997 level (an improvement, but Interior is still reviewing for potential problems). Language remains that would limit the ability of sovereign Alaskan tribes to exercise their self-determination rights as to how health services are provided.

Land Acquisition (BBA issue): Budget agreement included \$700 million; House does not fund; Senate funds fully with two authorization requirements (Headwaters/New World Mine).

Environmental Riders: House includes a rider requiring additional analyses on Columbia Basin project. Senate bill includes prohibition on Forest Service land management plan updates, and a prohibition on reintroduction of grizzly bears. The Senate replaced a prohibition on an ongoing rule-making on hardrock mining with a requirement that Interior consult with governors of potentially-affected States prior to amending the rule (an acceptable alternative).

Timber Roads: Administration proposed to eliminate "Purchaser Road Credit Program;" House reduces obligation limitation to \$25 million (\$50 million in FY 1997); Senate contains report language requiring program to continue "without change."

Deficit Reduction Lockbox: House bill includes provision establishing a lockbox ledger, resulting in discretionary cap reductions based on CBO scoring of savings.

LABOR/HHS/EDUCATION

Education Block Grant: A Senate Floor amendment (Gorton) creates two block grants, the effect of which is to eliminate most elementary and secondary programs, including Title I, Goals 2000, Charter Schools, and Safe and Drug-free Schools. The block grants weaken targeting and accountability. A similar amendment was withdrawn in the House.

National Testing Initiative: House Floor amendment (Goodling) adopted Tuesday, 9/16, prohibits the use of funds for the National Testing Initiative.

Pell Grants: Neither the House nor the Senate bills authorizes the Administration's proposed independent student policy. Authorizing the independent student policy is no different from the annual procedure of authorizing a maximum grant award.

Teamsters Reelection: Senate (Nickles) amendment adopted requiring Presidential certification that Teamsters had insufficient funds to pay for reelection and Teamsters must repay Government any funds used for reelection. House approved Hoekstra amendment prohibiting use of funds in Act for Teamsters reelection supervision.

Abortion: House and Senate expand existing "Hyde" language limiting abortion services under managed care plans.

Needle Exchange: House language modifies current law; Senate maintains current law.

America Reads: House language shifts FY 1999 America Reads funds to Special Education if America Reads is not authorized by April 1, 1998. House and Senate also include language that conditions the funds on a separate authorization. This language should be modified to make funds available under current law on April 1, 1998, if separate authorization is not approved.

Youth Opportunity Areas: The Senate contingency date for enactment of a separate authorization should be changed from April 1, 1998, to June 1, 1998.

TRANSPORTATION

FAA User Fees: House prohibits use of FY 1998 appropriations to plan, finalize, or implement any regulation to promulgate new fees, thereby preventing fee collection in FY 1999.

TREASURY/POSTAL SERVICE

Abortion/FEHBP: House and Senate include current law language prohibiting FEHBP participating plans from covering abortions except in cases of rape, incest, or when the life of the mother is endangered.

Cooperative Purchasing: The Senate bill would repeal section 1555 of the Federal Acquisition Streamlining Act (FASA) of 1994.

FEC: House includes objectionable language conditioning the availability of \$4.2 million on filling current Commission vacancies and on enactment of legislation prohibiting the reappointment of Commissioners.

Commercially-Available Goods and Services: Senate bill includes language prohibiting any Federal agency from providing another agency commercially available products or services, unless a cost comparison is conducted.

EOP/Information Technology (IT): Both House and Senate include language for WHO, VP's office, OPD, and OA fencing nearly \$3 million of FY 1998 funds, pending receipt of an acceptable five-year IT architectural blueprint. Plan submitted 7/18/97.

Reprogramming Guidelines: The House Report contains new, more restrictive reprogramming guidelines that would involve the Appropriations Committees in a much higher level of micromanagement of EXOP operations as well as the operations of other agencies funded through the Treasury/Postal Service appropriations bill.

Congressional Review Act: The House bill earmarks \$200,000 of the OMB budget for implementation of Congressional Review Act.

VA/HUD/INDEPENDENT AGENCIES

Council on Environmental Quality: Senate bill includes restrictions on use of funds outside of CEQ's appropriation. House language, as requested, would change size of Council (from three to one).

FY 1998 Appropriations Funding Issues
(CBO scoring, in millions of dollars)

23-Sep-97

09:38 AM

BRB:ELR

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	FY 1997		FY 1998		Latest		Latest		Difference:			
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	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL

VA/HUD AND INDEPENDENT AGENCIES:

Deal Items:

Environmental Protection Agency:

Operating Program (Includes Climate

Change Action Plan)	3,109	3,102	3,402	3,251	3,368	3,199	3,189	3,175	-34	-52	-213	-76
Climate Change Action Plan (non-add).....	(86)	(86)	(149)	(127)	(89)	(88)	(92)	(90)	(-60)	(-39)	(-57)	(-37)
Superfund 1.....	1,394	1,376	2,042	1,480	1,454	1,332	1,353	1,282	-588	-148	-689	-198

Community Dev. Financial Institutions..... 50 63 125 63 125 63 -- 39 -- -- -125 -24

Corp. for National and Comm. Service..... 402 297 549 419 203 393 424 408 -346 -26 -125 -11

Priority Items:

Council on Environmental Quality..... 2 2 3 3 2.5 2.5 2.4 2.4 -0.5 -0.5 -0.6 -0.6

Environmental Protection Agency

Boston Harbor..... 75 89 100 77 23 73 -- 72 -77 -4 -100 -5

Department of Housing and Urban Development

Empowerment Zones.....	--	--	100	3	--	--	25	1	-100	-3	-75	-2
Bridges-to-Work.....	--	--	10	--	--	--	--	--	-10	--	-10	--
Brownfields.....	--	--	25	1	--	--	--	--	-25	-1	-25	-1
Homeownership Zones.....	--	--	50	2	--	--	--	--	-50	-2	-50	-2
Housing Incremental Vouchers	240	19 ²	594	253	343	238	343	238	-251	-15	-251	-15

Rebuilt what's appropriated letters

FY 1998 Appropriations Funding Issues
(CBO scoring, in millions of dollars)

23-Sep-97

09:38 AM

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FY 1997		FY 1998		Latest		Latest		Difference:			
Enacted (OMB)		Request		House Action		Senate Action		House less		Senate less	
BA	OL	BA	OL	BA	OL	BA	OL	FY 1998 Request	FY 1998 Request	BA	OL

VA/HUD AND INDEPENDENT AGENCIES (cont'd):

Priority Items (cont'd):

Department of Housing and Urban Development (cont'd)

Housing Certificate Fund: Regional

Opportunity Counseling (non-add, included

"Housing Incremental Vouchers" total above).... -- -- (20) (14) -- -- -- -- (-20) (-14) (-20) (-14)

Other Independent Agencies:

Office of Consumer Affairs..... 2 2 2 2 -- -- -- -- -2 -2 -2 -2

1 Reflects CBO scoring of Superfund BA which excludes funding in the request that are transferred to other accounts. OMB BA scoring is higher than CBO by \$52 M in the FY 1998 Budget; \$47 M in the House; and \$47 M in the Senate.

2 Includes \$50 million that was reprogrammed to this account.

9-23-97 Appropriations Meeting

Clear CR prior to Oct 1
2 Cas Pius point)

1. Labor - HHS

More \$ than we wanted.

Goals 2000 - we asked for h, T.

Senate: freeze or slight ↑

prob best we will do - shouldn't fight

Veto list:

- a. Pull events - indep student provisions
 ^{higher}
 go for authorization; outlaws rest than level plus
 ↳ lifting prohibition

b. American Reads

c. Testing - need \$ or will as long?

if not sep approp, ~~assessments~~

have to demand every earmark

Ask for money.

Leaving behind:

small charter schools ↑

civil vts out freeze

organic veto on inadequacy of funding.

DO THIS.

2. VA - HUD -

Superfund is hardest issue. Pius end up with Program minus
Kalamazoo. (→) (gets us 2/3 of sites cleaned up)

~~Budget~~ Budget ag - "subject to Policy agreement"

COF - funded way under but ag
Senior - tied to Am Reads
CEO underfunded

HUD - no initiatives funded

Klasko: need EZs/Brownfields - tax side alone gets nothing

Raines: can't ask for more in Superfund & and housing programs.
consistent w/ what we agreed to in BBA.

(They kept ~~up~~ our but requests on VA - That's
what is creating the squeeze)

Jay will veto the SF?

Where will \$ come from? Veto??

↳ Fallbach strategy - begin funding in 99 (can get as
much as you can & put rest in 99)

EB: Has to do veto threat on this bill -
include all programs that people think we got
in this bill.

3. Foreign Ops.

Reaction to veto threat: go ahead / make my day

EB has to get involved: talk to leadership.

4. Commerce / Justice -

Commerce language is feasible

Also: legal fees

Also: 9th Circuit

Youth shift??

How do you stage



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

Budget materials -
approps letters

STATEMENT OF ADMINISTRATION POLICY

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

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield *AS*

DATE: September 25, 1997

SUBJECT: FOR YOUR CLEARANCE --
DC Appropriations House Full Committee Letter

Attached is our draft letter to the House Appropriations Committee regarding the District of Columbia Appropriations Bill, as reported by the DC Subcommittee. The Committee will meet the week of September 29th.

Position: Senior Advisors veto threat for school voucher provision; Strongly oppose abortion language; "Even if the school vouchers were to be stricken, the Subcommittee bill would remain unacceptable. Unless the Administration's concerns are satisfactorily resolved, the President's senior advisers would recommend that the President veto the bill."

Timing: We aim to send the SAP to the Hill on Friday, September 26th, in order to be effective in pre-conferencing.

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

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 the District of Columbia Appropriations Bill, FY 1998, as reported by the Subcommittee. As you develop the Committee version of the bill, your consideration of the Administration's views would be appreciated.

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

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

Abortion

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

Davis-Bacon Act

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

Pennsylvania Avenue

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

Micromanagement

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

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

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

Treasury Borrowing Authority

The Subcommittee bill includes language that would prohibit the District from borrowing to finance its accumulated general fund deficit. It is not uncommon for cities recovering from severe cash flow problems to finance accumulated deficits through long-term borrowing. The Revitalization Act allows the District to borrow up to \$300 million from Treasury for deficit

financing if the District can show that it does not have private market access. The District needs the flexibility to use the Treasury window for long-term borrowing in case the private markets are not accessible.

D.C. Courts and Offender Services Funding

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

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

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

Sincerely,

Franklin D. Raines
Director

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



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

Budget materials -
appropriations letters

STATEMENT OF ADMINISTRATION POLICY

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

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield

DATE: September 24, 1997

SUBJECT: FOR YOUR CLEARANCE --
VA/HUD Appropriations letter to Conferees

Attached is our draft letter to the Conferees on H.R. 2267, the VA/HUD Appropriations Bill.

Position: Senior Advisors veto threat (See bottom of page 1)

Timing: We aim to send the letter up as soon as possible today.

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

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

Dear Mr. Chairman:

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

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

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

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

Corporation for National and Community Service

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

Environmental Protection Agency

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

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

In addition, the Senate's reduction of \$213 million to the President's \$3.4 billion request for EPA's operating programs is a violation of the BBA that could severely impair the Agency's ability to protect the environment adequately. The Administration is troubled that both the House and the Senate have reduced funding for key Administration priorities while funding numerous unrequested and unauthorized projects. In particular, the Administration strongly opposes the roughly 40 percent reduction to the President's request for the Climate Change Action Plan. These voluntary programs represent a cost-effective method of achieving reductions in

greenhouse gases that are needed to fulfill current U.S. treaty commitments. The Administration also urges the conferees to restore funding for the President's commitment to the public's right-to-know made in Kalamazoo, Michigan, which will make more environmental data available to the public in 75 major cities; the Montreal Protocol program, which works to prevent depletion of the ozone layer; finishing construction of the Research Triangle Park laboratory, which will replace several antiquated facilities; and, the innovative Global Learning and Observations to Benefit the Environment (GLOBE) program.

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

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

Community Development Financial Institutions Fund (CDFI)

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

Council on Environmental Quality

The Administration strongly urges the Congress to restore the House and Senate reductions to the request for the Council on Environmental Quality (CEQ) and to remove

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

Department of Housing and Urban Development

The overall level of funding provided by both the House and Senate versions of the bill for the Department of Housing and Urban Development (HUD) is generally consistent with the Administration's request. However, both the House and the Senate have failed to provide adequate funding for a number of Presidential initiatives, including Brownfields Redevelopment, Empowerment Zones, Bridges to Work reverse commuting, housing certificates, and regional opportunity counseling to help families make the transition from welfare to work. The Administration urges the conferees to provide funding for these initiatives at the President's requested levels.

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

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

The Administration believes that it is vital to include language -- mark-to-market provisions -- to address comprehensively the problems of the over-subsidized, but Federally insured housing portfolio. At the same time, however, the Administration remains concerned about provisions in the Senate-passed bill. These concerns include the form of the subsidy

after contracts are restructured and the flexibility for HUD to designate appropriate entities to restructure these contracts. We want to work with the conferees to satisfy these concerns. By addressing mark-to-market now, Congress can produce savings that will allow funding of other priority initiatives. Failing to act this year would mean continuing excessive landlord subsidies for another year and sacrificing an opportunity to achieve savings that will never be recouped.

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

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

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

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

Department of Veterans Affairs

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

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

- Veterans Equitable Resource Allocation (VERA). The Administration appreciates the Senate's strong support of VERA. We recommend, therefore, eliminating House Report language that would direct VA to shift funds among its 22 health care networks. Under VERA, VA allocates funds based upon the relative needs of each health care network in order to address funding inequities and fulfill the congressional mandate set forth in Public Law 104-204.
- Medical Exam Reimbursements. The Administration urges the conferees to adopt the House language with regard to medical exam reimbursements. The House language would grant authority and provide related funding for the Veterans Benefits Administration to reimburse the Veterans Health Administration for medical examinations conducted in support of veterans' disability compensation claims. We believe that the establishment of a customer and service provider relationship between the two bureaus will improve the quality of medical exams, speed claims processing, reduce appeals and remands, and enhance service to veterans.

National Aeronautics and Space Administration

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

Federal Emergency Management Agency

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

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

Office of Consumer Affairs

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

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

Sincerely,

Franklin D. Raines
Director

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



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

*Budget materials -
appropriations letters*

STATEMENT OF ADMINISTRATION POLICY

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

CC: JACK LEW
CHARLES KIEFFER

FROM: Alice Shuffield *AS*

DATE: September 24, 1997

SUBJECT: FOR YOUR CLEARANCE --
Foreign Operations Appropriations letter to Conferees

Attached is our draft letter on H.R. 2159, the Foreign Operations Appropriations Bill.
The Conferees meet at 4:00pm on Thursday afternoon.

Position: Presidential Veto Threat on the Mexico City language;
Secretary of State, Secretary of the Treasury, and National
Security Advisor recommend veto for funding reductions of the
magnitude in the House bill; List other concerns.

Timing: We need to send the SAP to the Hill early Thursday morning in
order to be effective.

Please contact Alice Shuffield at 395-4790 with your clearance or your concerns.

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

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on HR 2159, the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

Both the House and Senate versions of the bill represent sincere efforts by the respective houses of Congress to provide support for U.S. foreign policy. We particularly appreciate the Senate action to provide nearly the full amount of funding requested by the Administration, and we commend the House for restraint in adding provisions that would limit or frustrate the achievement of international affairs objectives.

Nevertheless, there are two major flaws in the House-passed bill, along with a number of other provisions in both bills, that are of grave concern to the Administration because they put at risk critically important initiatives. As indicated in our Statement of Administration Policy for House Floor action, the President would veto a bill that contains the House language reinstating the so-called "Mexico City policy" that limits U.S. assistance for family planning abroad. Also, the Secretary of State, the Secretary of the Treasury, and the National Security Adviser would recommend that the President veto a Conference bill that contains funding reductions of the magnitude in the House bill. It is our earnest intent, however, to work with the conferees, in the bipartisan spirit that has characterized so much of the action to date, to achieve a bill that will avoid a veto.

Family Planning [UNDER REVIEW]

The Administration strongly opposes the "Mexico City policy" provision in the House-passed bill, which would prohibit a foreign non-governmental organization from receiving U.S. international family planning funds if the organization uses any of its own funding from non-U.S. Government sources for abortion-related services and which could cancel support for U.N. family planning efforts. The Administration continues to oppose these restrictions, which would deny funding to the most experienced and qualified family planning and maternal-child health care providers. The President would veto the final version of this bill if this language is included.

Support for Needed Flexibility

The Administration strongly objects to the numerous earmarks and sub-earmarks contained in the Senate bill, particularly those affecting funds for the New Independent States and development assistance. In recent years in particular, the increasing use of such earmarks has interfered with the President's ability to conduct foreign policy. The Administration must have the flexibility to address the rapidly changing political, economic, and human rights circumstances in countries receiving assistance and to ensure that our aid dollars go to nations that are seriously undertaking reform. The Administration highly commends the House for continuing its responsible policy of exercising great restraint in imposing funding earmarks. The House's recognition that flexibility is needed for the conduct of effective diplomacy in situations of rapid political and economic change is most welcome.

Funding Issues

The Administration strongly supports its requested \$13 billion in funding for regular international affairs programs, plus funding for multilateral development bank arrears and a \$3.5 billion contribution to the New Arrangements to Borrow. The Bipartisan Budget Agreement (BBA) specifically lists these levels as part of the agreement. The much-needed increases requested for important programs will significantly advance U.S. foreign policy. The Senate bill provides nearly all of the overall amount that the Administration seeks. The Administration notes that if, in conference, the \$221 million that the Senate has provided in excess of the President's request for six accounts were redistributed to increase the Senate's reductions to the President's requests, the bill would endorse active American leadership in international affairs, in support of the interests of the American people.

The Administration strongly opposes the insufficient overall funding level provided by the House-passed bill. Assuming funding at requested levels for International Affairs (function 150) programs outside the jurisdiction of the Foreign Operations Subcommittee, the House bill is more than \$700 million below the amount that is consistent with the total for function 150 programs provided by the BBA (excluding multilateral development bank arrears payments and the New Arrangements to Borrow). This reduction would seriously undercut U.S. leadership abroad. The House bill clearly fails to comply with the BBA, making it unacceptable to the Administration.

Multilateral Programs

The House bill falls unacceptably short in funding the Administration's requests for the International Financial Institutions. It provides no funding for U.S. participation in the International Monetary Fund's New Arrangements to Borrow, depriving the United States and the global economy of critical new crisis management resources. The \$575 million (38 percent) cut from the \$1.5 billion request for the multilateral development banks would seriously aggravate our already severe \$862 million arrears crisis, disrupting U.S. participation in several institutions. If enacted, the amounts provided by the House bill would undermine U.S. credibility, policy

influence, and international economic leadership. The Senate version of the bill, while far more responsive to the need for leadership, does not provide for \$90 million in planned FY 1998 contributions to two institutions.

New Arrangements to Borrow. The House bill contains no budget authority for U.S. participation in the New Arrangements to Borrow (NAB), a set of emergency credit lines for use by the International Monetary Fund (IMF) in the event of serious threats to global financial stability. The NAB was conceived after the Mexican peso crisis, which demonstrated to many -- including Members of Congress -- the need for greater multilateral resources to combat dangerous systemic shocks. Recent events in southeast Asia only underscore the risk of such shocks and the need for a strong and responsive IMF. Building on the existing General Arrangements to Borrow, the NAB increases burden-sharing substantially while materially enhancing U.S. operational control. The requested U.S. participation of \$3.5 billion has no outlay impact and, therefore, would not increase the deficit, and the BBA provides the necessary spending-cap adjustment. The NAB would serve vital national interests and simply will not be established without U.S. participation. As such, it represents a clear test of American leadership in the global economy.

International Development Association. Nearly three-quarters of the House bill's total reduction in scheduled contributions to the multilateral development banks comes from the cut in the scheduled FY 1998 payment to the International Development Association (IDA) and the failure to provide for IDA arrears. IDA is the leading provider of development lending to the world's poorest countries, supporting market-oriented economic reform in Africa and elsewhere and funding programs that promote child survival. In addition to undermining our influence over IDA's policy direction, the House reduction could cause a collapse in the current IDA 11 funding arrangement agreed upon with other donor countries. It also would completely undercut progress made in allowing U.S. firms to participate in roughly \$1 billion of projects financed by a special IDA fund, a goal urged by the Congress.

Global Environment Facility. The Administration's \$100 million request for the Global Environment Facility (GEF) has been cut by two-thirds by the House bill and 40 percent in the Senate bill. These cuts would impair the GEF's ability to support developing country efforts to increase energy efficiency, reduce air and water pollution, and protect endangered plants, animals, and oceans. Progress on these global environmental issues has direct implications for our own health and economy, and all are areas in which U.S. commercial interests are highly competitive. The reductions also threaten U.S. efforts to require developing countries to commit to appropriate action on emissions at the upcoming Kyoto conference.

African Development Fund. The Administration supports the House decision to provide the full \$50 million requested for the African Development Fund, which the Senate bill does not provide. Last year, Congress authorized but failed to fund the President's request for the first installment of a new replenishment for the Fund. Failure to provide funds again this year, when other donors are making their second payment, would raise serious questions about our

commitment to this agreement. We are looking to the reforming African Bank to play an important role in implementing our bipartisan Africa Trade and Investment Initiative.

Bilateral Economic Assistance

Assistance for the New Independent States of the Former Soviet Union. The \$625 million provided for the New Independent States (NIS) in the House bill, nearly one-third below the \$900 million request, would cripple the President's Partnership for Freedom initiative. The initiative is intended to promote democratic and market reform at the regional and grassroots level, where it has the greatest impact. Cutting aid in this fashion would, in particular, damage our national interest in supporting economic reform in Russia at a time when reform is moving ahead. The initiative would also make available increased resources for two key areas, Central Asia and the Caucasus, that are of great geopolitical and commercial importance to the United States. For all NIS countries, the initiative supports economic growth and private enterprise, building on the macroeconomic progress that most of these countries have achieved. The Senate bill, while providing \$800 million, is still well below the President's request and would lead to some of the same consequences.

Economic Support Fund (ESF). The Administration is seriously concerned that the House bill reduces the President's request for the Economic Support Fund (ESF) by \$103 million. The House has recommended that Egypt and Israel receive full funding and has established a separate ESF account for Ireland, leaving only \$360 million to meet requests totaling \$463 million. Important country and regional programs such as Cyprus, Haiti, Jordan, Lebanon, the Human Rights and Democracy Fund, and the Middle East Development Bank would have to be reduced, thereby undermining U.S. economic and political foreign policy interests. In addition, the House bill limits ESF for Turkey to a level below the President's request.

Development Assistance. The Administration strongly supports Senate language to allow up to \$10 million in available development assistance funds to be used for a new development credit authority. This authority will contribute to the President's climate change initiative in developing countries and will allow USAID to promote U.S. environmental technology abroad. Also, the Administration strongly supports the Senate provision authorizing the inclusion of China in the U.S.-Asia Environmental Partnership program (USAEP). Environmental cooperation with China is critical to address both regional and global environmental problems, including climate change, that affect human health.

International Narcotics and Crime. The Administration strongly supports provision by the House of the requested \$230 million in funding for International Narcotics and Crime but without language that would divert \$25 million of these funds to Bosnia. The Administration urges the conferees not to tie funding availability to the extensive reporting requirement in the Senate bill.

Export and Investment Assistance

Overseas Private Investment Corporation. The Administration strongly supports the reauthorization of the Overseas Private Investment Corporation (OPIC) and the full appropriations request. We urge the conferees to adopt the Senate recommendation, which provides the Administration's request of \$60 million for OPIC's credit programs. The Senate bill also contains essential language to reauthorize OPIC programs for two years and adjust its liability limitation.

Other Reductions

Both the House and Senate versions of the bill cut requested amounts for other important programs. The House bill cuts funds for the Trade and Development Agency, debt restructuring, AID operating expenses, foreign military financing loans, peacekeeping operations, and voluntary contributions to international organizations and programs. The Senate bill cuts funds for the Peace Corps, the development foundations, international military education and training, and international narcotics control and also makes reductions in peacekeeping operations and international organizations and programs in different amounts than the House. The Administration seeks restoration of the House and Senate reductions to the requests for these programs in conference.

Other Issues

Restrictions on Aid to Russia. The Administration strongly opposes restrictions on assistance to Russia, in particular, those related to cooperation with Iran and legislation on religious freedom. The vast majority of our aid to that country does not go to its government, but instead supports reformers at the grassroots level and is critical to Russia's democratic transformation. It would be a mistake to suspend this aid, which is demonstrably in the U.S. national security interest. Meanwhile, the limited technical assistance we provide to the Russian Government is targeted to key areas, such as tax reform, that are of great concern to U.S. investors in Russia. Suspension of these programs would undercut our efforts to support the American business community there. The Administration has been taking steps to address congressional concerns regarding developments in Russia. Undermining reform by cutting assistance, however, will not achieve the desired results.

Restrictions on Aid to Ukraine. The Administration recognizes and shares the serious concerns Congress has about Ukraine's lack of progress in developing the necessary economic and legal institutions required to enable U.S. investors to overcome the serious problems they confront and the pervasive corruption that exists there. We have repeatedly raised these issues with senior Ukrainian government officials and have suspended some aid to the Ukraine due to lack of progress in implementing reforms. However, the Administration also opposes the

restrictions on assistance to Ukraine contained in both the House and Senate versions of the bill. Ukraine is a country of great geopolitical importance whose continued independence the U.S. strongly supports. New restrictions on aid to Ukraine would remove the flexibility the Administration needs to respond quickly when conditions improve.

Provisions Affecting the Middle East. The Administration strongly opposes the new restrictions on assistance to the PLO and the Palestine Authority contained in both the House and Senate versions of the bill. Assistance that benefits the Palestinian people supports the peace process. Cutting off all aid, as these provisions would do, would prevent the Administration from providing Palestinians a stake in their future, would create an environment where terrorism can flourish, and would prevent the creation of a constituency dedicated to peace and reconciliation. The Administration will work with the conferees on language that will address congressional concerns while permitting the Administration to pursue its role as honest broker in the region.

Jordan Earmarks. The Administration is committed to providing additional assistance to Jordan as an acknowledgment of King Hussein's courageous leadership in the Middle East peace process. To this end, the President and the Congress have worked together to provide an additional \$100 million in FY 1997 resources from other programs in the Middle East region. For this reason, we cannot support earmarks that would increase Middle East funding at the expense of other programs but prefer, instead, to pursue with the conferees a transfer mechanism along the lines of the actions taken earlier this year.

War Criminals. The Administration is deeply committed to the goals of section 573 of the Senate bill, bringing Bosnian war criminals to justice at the international tribunal in The Hague. However, we must oppose this provision as it is currently drafted. Section 573 would undermine the leverage and flexibility needed to continue to build upon the success we have achieved in recent months to move the Bosnians, Croatians, and Serbians toward implementation of key aspects of the Dayton agreement and the creation of a single Bosnian state.

Restrictions on Aid to Haiti. The Administration has strongly encouraged economic and public sector reform in Haiti. However, the Administration opposes new House bill restrictions on assistance, which would condition its provision on privatization of three public enterprises. Such an approach puts at risk American interests in Haiti by conditioning assistance on a process that neither the Haitian Government nor the U.S. entirely control.

Restrictions on Aid to Cambodia. The Administration joins Congress in strongly opposing the violent ouster of Cambodia's elected Prime Minister Ranariddh and has suspended indefinitely all direct assistance to the Government of Cambodia. However, the Administration opposes restrictions that would prevent the continuation of important humanitarian programs and that would preclude future direct assistance to the Cambodian government to conduct free and fair elections. Free and fair elections in 1998 are essential to the restoration of democratic institutions.

Democracy Building in Pakistan. The Administration strongly supports the section in the Senate bill that would restore democracy building programs for Pakistan through OPIC, the Trade and Development Agency, and International Military Education and Training. We believe that allowing these programs to operate in Pakistan is in the U.S. interest and that, once restored, they will be a key factor in strengthening our relationship with an important and friendly country. Pakistan has adopted significant political, constitutional, and economic reforms. The restoration of this U.S. assistance at this time will help to further develop Pakistan's democracy and to increase bilateral trade and development.

Infringement on Executive Authority. Several sections of both the House and Senate versions of the bill would require the United States to take specified positions on the activities of international organizations. The Constitution, however, commits to the President the responsibility for formulating the position of the United States in international fora. Therefore, these sections would, if enacted, be construed as advisory.

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

Sincerely,

Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Sonny Callahan,
The Honorable Nancy Pelosi, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Mitch McConnell,
and The Honorable Patrick J. Leahy