

The Act provides a total of \$11.6 billion in discretionary budget authority for various programs in the Department of the Treasury, the U.S. Postal Service, the General Services Administration, the Office of Personnel Management, the Executive Office of the President, and several smaller agencies.

I am pleased that the Act appropriates \$39 million from the Violent Crime Reduction Trust Fund to several Treasury agencies to fight crime and promote gang resistance programs.

The Act also provides important funding for the United States Customs Service to support the commitments made to enhance the enforcement of trade laws and regulations related to NAFTA. This initiative remains an Administration priority.

This Act funds the IRS tax compliance initiative, which is essential in ensuring that everyone pays his or her fair share of their Federal taxes. This initiative is expected to have deficit-reducing potential by strengthening audit and debt collection activities, thereby generating additional revenue without raising taxes.

Several other provisions in H.R. 4539 condition the President's authority -- and the authority of certain agency officials -- to use funds appropriated by this Act on the approval of congressional committees. The Administration will interpret such provisions to require notification only, since any other interpretation of such provisions would contradict the Supreme Court ruling in INS vs. Chadha.

Regrettably, the Congress has continued its past practice of including personnel floors and other restrictions in several of the Treasury agencies funded by the enrolled bill. Such measures run counter to our efforts to reduce the number of Federal employees, as recommended by the National Performance Review and mandated in the Federal Workforce Restructuring Act of 1994. These restrictions would exclude over 20,000 Treasury employees from reduction, thereby imposing a greater burden on other agencies. While we have made a start on deficit reduction, we cannot fully achieve our goals without making reductions in the Federal workforce, fairly apportioned among all departments and agencies.

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 30, 1994.

#

File:
FTEs

Today I have signed into law H.R. 4554, the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995."

The Act provides \$13.4 billion in discretionary budget authority for programs of the Department of Agriculture, including the special supplemental feeding program for women, infants, and children (WIC); food safety programs; and various programs to protect and support rural communities.

The Act also provides a total of \$39.2 billion for the Food Stamp program, the Commodity Credit Corporation, and other mandatory programs.

The Act includes authority for providing disaster assistance for losses to 1994 crops due to natural disasters. The Administration is currently reviewing estimates of the need for this assistance. I will be transmitting to the Congress requests for the release of these emergency funds in the near future.

The Act also includes the following appropriations that I hereby designate as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

Emergency community water assistance grants, \$10,000,000;

Very low-income housing repair grants, \$15,000,000;

Agricultural credit insurance fund program account: For the cost of emergency loans, \$7,670,000; and

Emergency conservation program: Transfer from Watershed and flood prevention operations, \$23,000,000

These funds will be used to provide needed assistance to victims of natural disasters, including flooding victims of Tropical Storm Alberto in south Alabama, south Georgia, and north Florida.

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 30, 1994.

#

Today I have signed into law H.R. 4650, the "Department of Defense Appropriations Act, 1995." H.R. 4650 supports the Administration's major defense priorities and reflects a spirit of cooperation between the Administration and the Congress to provide for a strong national defense. My number one defense priority remains the training and readiness of our military forces. I am very pleased that the Congress has resolved difficult budget issues in such a manner that supports this priority. I also appreciate the support the Congress has given to key defense investment and modernization proposals.

The Act provides \$299 million in urgently needed supplemental FY 1994 funding for emergency relief for Rwanda and for emergency migrant processing and safe haven costs in and around Cuba. I designate the \$229 million provided as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1995, as amended. I am concerned, however, with the inflexibility of the provisions concerning the U.S. mission and military participation in Rwanda. I will interpret this legislation consistent with my constitutional authority to conduct the foreign relations of the United States and my responsibility as Commander in Chief and as Chief Executive.

I am also concerned about section 8118 of this Act, which limits the Administration's flexibility to make reductions in certain personnel categories. This provision runs counter to the recommendations of the National Performance Review and this Administration's efforts to streamline Federal activities. It will hamper DOD's ability to manage its civilian personnel efforts efficiently.

I would point out that section 8136, which relates to changes in obligations under the Treaty on Conventional Forces in Europe (CFE Treaty), cannot restrict the constitutional options for congressional approval of substantive modifications of treaties, and I sign this bill with that understanding.

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 30, 1994.

#

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 1, 1994

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 4556, the "Department of Transportation and Related Agencies Appropriations Act, 1995."

The Act provides funding for the Department of Transportation and several smaller agencies, including the Interstate Commerce Commission and the National Transportation Safety Board.

This Act provides funding for a number of my high-priority investment proposals within the Department of Transportation. These include the core highway programs of the Intermodal Surface Transportation Efficiency Act, the Intelligent Vehicle Highway System research program, Mass Transit Formula Capital Grants, Next Generation High-Speed Rail, and the Penn Station Redevelopment Project.

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 30, 1994.

#

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 1, 1994

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 4602, the "Department of the Interior and Related Agencies Appropriations Act, 1995."

H.R. 4602 provides funds for various programs of the Departments of the Interior and Energy, the Forest Service (Department of Agriculture), and the Indian Health Services (Department of Health and Human Services). Funding for various independent agencies such as the Smithsonian Institution and the National Foundation on the Arts and the Humanities is also included.

The Act provides important funding to further the protection and rehabilitation of America's inventory of natural and cultural assets, including our national parks and forests.

I am pleased that the Act includes funding to support a number of my energy conservation initiatives. These investments are important for our Nation's energy and environmental future.

The Act also provides \$200 million in additional emergency funding for Forest Service firefighting activities and \$250 million in additional contingent emergency firefighting funds, reflecting the severe 1994 fire season affecting national forests in many western States.

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

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 30, 1994.

#

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

October 1, 1994

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The Act provides funding for the Department of Transportation and several smaller agencies, including the Interstate Commerce Commission and the National Transportation Safety Board.

This Act provides funding for a number of my high-priority investment proposals within the Department of Transportation. These include the core highway programs of the Intermodal Surface Transportation Efficiency Act, the Intelligent Vehicle Highway System research program, Mass Transit Formula Capital Grants, Next Generation High-Speed Rail, and the Penn Station Redevelopment Project.

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 30, 1994.

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 1, 1994

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

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 30, 1994.

To Lee Ann B. From Jane M Farland

WORKFORCE RESTRUCTURING ACT

(2 pages)

PUBLIC LAW 103-226—MAR. 30, 1994

108 STAT. 115--

and Disability Fund an amount equal to 9 percent of the final basic pay of each employee of the agency—

(A) who, on or after the date of the enactment of this Act and before October 1, 1995, retires under section 8336(d)(2) of such title; and

(B) to whom a voluntary separation incentive payment has been or is to be paid by such agency based on that retirement.

(2) DEFINITIONS.—For the purpose of this subsection—

(A) the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor; and

(B) the term "voluntary separation incentive payment" means—

(i) a voluntary separation incentive payment under section 3 (including under any program established under section 3(f)); and

(ii) any separation pay under section 5597 of title 5, United States Code, or section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103-36; 107 Stat. 104).

(b) RELATING TO FISCAL YEARS 1995 THROUGH 1998.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, in fiscal years 1995, 1996, 1997, and 1998 (and in addition to any amounts required under subsection (a)), each agency shall, before the end of each such fiscal year, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to the product of—

(A) the number of employees of such agency who, as of March 31st of such fiscal year, are subject to subchapter III of chapter 83 or chapter 84 of such title; multiplied by

(B) \$80.

(2) DEFINITION.—For the purpose of this subsection, the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), but does not include the General Accounting Office.

(c) REGULATIONS.—The Director of the Office of Personnel Management may prescribe any regulations necessary to carry out this section.

SEC. 5. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

5 USC 5103 note.

(a) DEFINITION.—For the purpose of this section, the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure

President.

FILE:
FTEs

108 STAT. 116

PUBLIC LAW 103-226—MAR. 30, 1994

that the total number of full-time equivalent positions in all agencies shall not exceed—

- (1) 2,084,600 during fiscal year 1994;
- (2) 2,049,300 during fiscal year 1995;
- (3) 2,003,300 during fiscal year 1996;
- (4) 1,963,300 during fiscal year 1997;
- (5) 1,922,300 during fiscal year 1998; and
- (6) 1,882,300 during fiscal year 1999.

(c) **MONITORING AND NOTIFICATION.**—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) **COMPLIANCE.**—If, at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) **WAIVER.**—

(1) **EMERGENCIES.**—Any provision of this section may be waived upon a determination by the President that—

(A) the existence of a state of war or other national security concern so requires; or

(B) the existence of an extraordinary emergency threatening life, health, safety, property, or the environment so requires.

(2) **AGENCY EFFICIENCY OR CRITICAL MISSION.**—

(A) Subsection (d) may be waived, in the case of a particular position or category of positions in an agency, upon a determination of the President that the efficiency of the agency or the performance of a critical agency mission so requires.

(B) Whenever the President grants a waiver pursuant to subparagraph (A), the President shall take all necessary actions to ensure that the overall limitations set forth in subsection (b) are not exceeded.

(f) **EMPLOYMENT BACKFILL PREVENTION.**—

(1) **IN GENERAL.**—The total number of funded employee positions in all agencies (excluding the Department of Defense and the Central Intelligence Agency) shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under section 5 (a)-(e). For purposes of this subsection, positions and vacancies shall be counted on a full-time-equivalent basis.

(2) **RELATED RESTRICTION.**—No funds budgeted for and appropriated by any Act for salaries or expenses of positions eliminated under this subsection may be used for any purpose other than authorized separation costs.

President.

Breakdown of
FTE floors in
pending legislation

EMPLOYMENT RESTRICTIONS IN LEGISLATION

As of August 3, 1994

13
 14
 15

LEGISLATION	AGENCY/BUREAU	LEVEL *
FY 1995		
<u>Bill Language</u>		
H.R. 4539	Treasury/Customs Service/Puerto Rico Trust Fund	326
H.R. 4539	Treasury/Departmental Offices	92
H.R. 4539	Treasury/BATF	4,215
H.R. 4539	Treasury/Customs	17,524
H.R. 4539	Treasury/Tax Law Enforcement	5,002
H.R. 4539	Treasury/Law Enforcement **	17,673
H.R. 3838	HUD/GNMA	70
H.R. 4013	VAVeterans Health Administration	215,000
H.R. 4728	FDA	152
<u>Report Language</u>		
H.R. 4603	Commerce/Patent & Trademark Office	5,075
H.R. 4539	Treasury/Office of Foreign Assets Control	46
H.R. 4539	Treasury/Customs Service	45
H.R. 4539	Treasury/USSS	20
H.R. 4624	VA/Medical Care	205,188
H.R. 4624	VA/Medical and prosthetic research	4,260
 FY 1994		
<u>Bill Language</u>		
P.L. 103-123	Treasury/Law Enforcement **	17,673
P.L. 103-123	EXOP/Office of National Drug Control Policy	40
 FY 1993		
<u>Bill Language</u>		
P.L. 102-393	Treasury/Office of Foreign Assets Control	48
P.L. 102-393	Treasury/Bureau of Alcohol, Tobacco, and Firearms	4,304
P.L. 102-393	Treasury/Customs Service	17,871
P.L. 102-393	Treasury/IRS Tax Law Enforcement	4,756
P.L. 102-341	Agriculture/FmHA, ASCS, REA, SCS; FDA	38,426
P.L. 102-381	Interior/Indian Health Service	13,879
P.L. 102-381	Interior/Energy/Related Agencies	***
P.L. 102-389	Housing and Urban Development/Office of the Secretary	20

* Estimated level of total FTEs affected by the provision.

** Includes FTEs in the Bureau of Alcohol, Tobacco, and Firearms, Customs Service, U.S. Secret Service, and the Federal Law Enforcement Training Center.

*** Provision restricted ceilings on permanent/other than permanent employment rather than FTEs.

Status of Pending Legislation

H.R. 4539, FY 1995 Treasury/Postal Appropriations Bill is awaiting Conference action.

H.R. 4603, FY 1995 Commerce/Justice/State Appropriations Bill is awaiting Conference action.

H.R. 3838, the Housing and Community Development Act of 1994 has passed the House.

H.R. 4013, Veterans Health Programs Improvement Act of 1994 has passed the House.

H.R. 4728, Medical Device User Fee Act, 1994 is in Committee.

H.R. 4624, VA/HUD/Independent Agencies Appropriations Bill, 1995 is awaiting Conference action.

LEE ANN BRACKETT

Bruce -

Elaine asked
me to get you
information on FTE
floors. Enclosed is
the pertinent
information from
our on-going battle
on this issue.

If you need
anything further
just let me know.

LAB

X69009

EMPLOYMENT RESTRICTIONS FY 1995
as of August 3, 1994

Pending FY 1995 Appropriations Bills

1. H.R. 4539, Treasury/Postal Service Appropriations Bill, 1995. "Sec. 111. Notwithstanding any other provision of law, Customs personnel funded through reimbursement from the Puerto Rico Trust Fund shall not be reduced as the result of workforce reductions required under Executive Order or other guidance to Executive Branch agencies in fiscal year 1995 and hereafter." (Senate-passed version)

2. H.R. 4539, Treasury/Postal Service Appropriations Bill, 1995. Department of Treasury, Departmental Offices, Salaries and expenses. "of which not less than \$6,443,000 and 92 full-time equivalent positions shall be available for enforcement activities." (Senate-passed version)

3. H.R. 4539, Treasury/Postal Service Appropriations Bill, 1995. Bureau of Alcohol, Tobacco and Firearms, Salaries and expenses, "...of which not less than \$134,847,000 and 1,140 full-time equivalent positions shall be available for enforcing the Armed Career Criminal Act, ... Provided That funds made available shall be used to achieve a minimum staffing level of 4,215 full-time equivalent positions during fiscal year 1995." (Senate-passed version)

4. H.R. 4539, Treasury/Postal Service Appropriations Bill, 1995. United States Customs Service, Salaries and expenses, "Provided further, That Customs shall achieve a minimum full-time equivalent staffing level of 17,524 during fiscal year 1995." (Senate-passed version)

5. H.R. 4539, Treasury/Postal Service Appropriations Bill, 1995. Internal Revenue Service, Tax law enforcement, "Provided further, That not less than \$442,148,000 and 5,002 full-time equivalent positions shall be available for tax fraud investigations." (Senate-passed version)

6. H.R. 4539, Treasury/Postal Service Appropriations Bill, 1995. "Sec. 527. Law Enforcement Exclusion From Workforce Restructuring. (a) During the five-year period beginning on October 1, 1994, no reductions pursuant to Section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226) may be made in the number of full-time equivalent employees classified as law enforcement and law enforcement support personnel in the Department of the Treasury. (b) During the period specified in subsection (a), no law, regulation, Executive Order, guidance, or other directive imposing a restriction on hiring by executive agencies for the purpose of achieving workforce reductions shall apply to employees classified as law enforcement and law enforcement

EMPLOYMENT RESTRICTIONS FY 1995
as of August 3, 1994

support personnel in the Department of the Treasury." (Senate-passed version)

EMPLOYMENT RESTRICTIONS FY 1995
as of August 3, 1994

Other Pending Bills

1. H.R. 3838, Housing and Community Development Act of 1994. Sec. 707. Exclusion of GNMA from HUD Personnel Ceilings. Section 502(a) of the Housing Act of 1948 (12 U.S.C. 1701c(a)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, employees of the Government National Mortgage Association Department in the Department of Housing and Urban Development shall not be considered employees of the Department for purposes of any limitation on the number of employees of the Department." (House-passed version)

2. H.R. 4013, Veterans Health Programs Improvement Act of 1994. "Sec. 713. (a) During the five-year period beginning on October 1, 1994, no reduction may be made in the number of full-time equivalent employees in the Veterans Health Administration other than as specifically required by a law directing reductions in personnel or positions of the Veterans Health Administration or by the availability of funds." (House-passed version)

3. H.R. 4728, Medical Device User Fee Act, 1994. Waxman amendment to medical device user fee bill states that, "Any employee whose salary is paid for by fees authorized under this section shall not be included in calculating any limit on full-time equivalent positions or the grade levels for such positions." (House Committee print)

EMPLOYMENT RESTRICTIONS FY 1995
as of August 3, 1994

Report Language

1. H.R. 4603, Departments of Commerce, Justice, and State, the Judiciary, and Related agencies Appropriations Bill, FY 1995, House Committee Report, p. 67. Department of Commerce, Patent and Trademark Office.

PROVISION: The Committee continues to be concerned about FTE reductions for agencies or programs funded through the collection of fees. In the case of [the Patent and Trademark Office] PTO, staffing requirements are generated by changes in the number of patent and trademark applications filed. ... The Committee therefore expects that PTO should not be subject to any government-wide FTE targets. The Committee further expects PTO to be allowed to hire as many staff as can be supported by the fees collected. In this way, the staffing level can keep pace with the need and demand for the staff's services.

2. H.R. 4539, Treasury, Postal Service, and General Government Appropriations Bill, FY 1995, Senate Report No. 103-286, p. 8. Department of Treasury, Office of the Secretary, Salaries and expenses, Office of Foreign Assets Control.

PROVISION: The Committee has earmarked \$3,040,000 and not less than 46 full-time equivalent positions for this Office in fiscal year 1995 out of the funds provided for the Office of Enforcement.

3. H.R. 4539, Treasury, Postal Service, and General Government Appropriations Bill, FY 1995, Senate Report No. 103-286, p. 23. Customs Service, Salaries and expenses.

PROVISION: The Government of Puerto Rico has identified a need for 25 additional inspectors and 20 additional agents. The Committee directs the Commissioner of Customs to make available these additional 45 personnel to Puerto Rico to be funded through the trust fund.

4. H.R. 4539, Treasury, Postal Service, and General Government Appropriations Bill, FY 1995, Senate Report No. 103-286, p. 44. United States Secret Service, Salaries and expenses.

PROVISION: The Committee instructs the Service to allocate a minimum of 20 positions with the requisite funding to enhancing counterfeiting investigations in overseas offices.

5. H.R. 4624, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 1995, House Report No. 103-555, p. 12. Veterans Affairs, Medical care.

PROVISION: It is the Committee's intention that the Secretary have the discretion to determine whether the FTE level is 201,508 as proposed in the budget, 205,188 as provided in 1994, or some level in between. Any reduction below the 1994 FTE level is to be offset with increases in contract employment.

**EMPLOYMENT RESTRICTIONS FY 1995
as of August 3, 1994**

6. H.R. 4624, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 1995, House Report No. 103-555, p. 13. Veterans Affairs, Medical and prosthetic research.

PROVISION: As in the medical care account, it is the Committee's intention that the Secretary have the discretion to determine whether the FTE level is 3,430 as proposed in the budget, 4,260 as provided in 1994, or some level in between. Any reduction below the 1994 FTE level is to be offset with increases in contract employment.

**EMPLOYMENT RESTRICTIONS FY 1994
as of August 3, 1994**

Enacted FY 1994 Appropriations

1. P.L. 103-123, Treasury, Postal Service, and General Government Appropriations Act, 1994. "Sec. 106. (a) Notwithstanding any other provision of law, hereafter, for purposes of complying with Executive Order No. 12839 and guidance issued thereunder, the number of civilian personnel positions that the Department of Treasury may be required to eliminate in fiscal year 1994 and in fiscal year 1995 shall not exceed a number determined for each year by multiplying a fiscal year 1993 base which excludes all exempt positions by the applicable percentages in Executive Order No. 12839.

(b) For the purposes of this section, "exempt position" means a personnel position in the Department of the Treasury which the Secretary of the Treasury determines to be primarily employed in law enforcement."

2. P.L. 103-123, Treasury, Postal Service, and General Government Appropriations Act, 1994. Office of National Drug Control Policy. "Provided, That the Office of National Drug Control Policy shall hire and maintain not less than 40 full-time equivalent positions in fiscal year 1994."

EMPLOYMENT RESTRICTIONS FY 1993

Enacted FY 1993 Appropriations

1. P.L. 102-393, Treasury, Postal Service, and General Government Appropriations Act, 1993. Department of the Treasury, Departmental Offices, Salaries and Expenses, "...not less than \$3,064,000 and 48 full-time equivalent positions for the Office of Foreign Assets Control."

2. P.L. 102-393, Treasury, Postal Service, and General Government Appropriations Act, 1993. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, Salaries and Expenses. "...Provided further, That funds made available under this Act shall be used to achieve a minimum level of 4,304 full-time equivalent positions for fiscal year 1993, of which no fewer than 1,440 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program."

3. P.L. 102-393, Treasury, Postal Service, and General Government Appropriations Act, 1993. Department of the Treasury, United States Customs Service, Salaries and Expenses. "Provided further, That the United States Customs Service shall hire and maintain an average of not less than 17,871 full-time equivalent positions in fiscal year 1993, of which a minimum level of 960 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service, and of which a minimum level of 11,018 full-time equivalent positions shall be allocated to commercial activities."

4. P.L. 102-393, Treasury, Postal Service, and General Government Appropriations Act, 1993. Department of the Treasury, Internal Revenue Service, Tax Law Enforcement. "...\$3,835,347,000, of which no less than \$334,989,000 and 4,756 full-time equivalent positions shall be available for tax fraud investigations."

5. P.L. 102-341, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993. "Sec. 718. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 8,924; Farmers Home Administration, 12,225; Agriculture Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177."

6. P.L. 102-381, Department of Interior and Related Agencies Appropriations Act, 1993. Department of the Interior, Indian Health Facilities, Administrative Provisions, Indian Health Service. "...Provided further, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the

elimination of temporary employees by reduction in force, hiring freeze, or any other means without the review and approval of the Committees on Appropriations."

7. P.L. 102-381, Department of Interior and Related Agencies Appropriations Act, 1993.

"Sec. 308. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law."

8. P.L. 102-389, Department of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Act, 1993. Department of Housing and Urban Development, Management and Administration, Salaries and Expenses. "...Provided further, That of the total amount, \$1,000,000 and 20 staff years shall be for the Office of Lead-Based Paint Abatement and Poisoning Prevention, which shall be located within the Office of the Secretary."

Sample VP

letter to Treasury-
Postal Conf. Committee
Dems. on FTE
floors for law
enforcement



THE VICE PRESIDENT
WASHINGTON

August 17, 1994

The Honorable Steny Hoyer
U.S. House of Representatives
Washington, D.C. 20515

Dear Steny:

I am writing concerning the Treasury Postal Appropriations bill conference and the proposed five-year FTE floor for the U.S. Customs and other law enforcement bureaus in the Treasury Department.

As you know, in March, the House of Representatives voted 391-17 that the Executive branch eliminate 272,900 positions by 1999. The Administration strongly supports this mandate and intends to implement it fairly. The Administration is committed to strong law enforcement bureaus in the Treasury Department and to their vital role in enforcing our laws at the border and addressing the nation's anti-crime agenda. However, special earmarks for any agency will set a dangerous precedent for other departments and agencies. This is a zero-sum game. If floors are established for one agency, they will cause additional, potentially damaging personnel cuts for other agencies.

I urge your support and that of the conference committee for the elimination of FTE floors in this legislation. This action would be in keeping with the mandate established by Congress and would allow the Administration the flexibility it needs to implement this mandate responsibly.

As always, I appreciate your dedication to "reinventing government" and to honoring our commitment to the American people to create a government that works better and costs less.

Sincerely,

Al Gore

AG/lab

Panetta letter
on Treasury -
Postal Bill



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

THE DIRECTOR

JUL 08 1994

Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 4539, the Treasury, Postal Service, and General Government Appropriations Bill, FY 1995, as passed by the House and by the Senate. As you develop the conference version of the bill, your consideration of these views would be appreciated.

Tax System Modernization

NPR
The Administration commends the Senate for increasing the funding for Tax System Modernization (TSM) from the level contained in the House-passed bill. However, the funding level established by the Senate is still substantially below the Administration's request. Modernizing the IRS is an Administration priority -- it is critically important that we maintain an effective tax collection system. TSM enhancements are necessary to address major tax compliance issues, increase productivity, and improve service to taxpayers. The Administration urges the conferees to use any allocation that may be available and to shift resources from lower-priority items in order to provide additional resources for TSM.

The Administration urges the conferees to approve the Senate provisions that would permit the Secretary of the Treasury to use certain increases in authorized fees in support of the Internal Revenue Service.

Law Enforcement Exclusion From Workforce Restructuring

*** NPR*
The Administration strongly objects to the provision of the Senate-passed bill that would exclude Department of Treasury law enforcement personnel from the Federal Workforce Restructuring Act of 1994. This provision strikes at the core of the Act, which aims to reduce the Executive Branch by 272,900 full-time equivalent (FTE) employees. It is this Act that provided the savings to finance the crime bill that is now in conference.

Other Independent Agencies:

★★NPR
Administrative Conference of the United States (ACUS). The House has not provided any funding for the Administrative Conference of the United States (ACUS). The Administration urges the conferees to adopt the Senate's decision to fund ACUS at \$1.8 million. ACUS continues to provide invaluable assistance in streamlining regulatory bureaucracy and improving the fairness of administrative procedures.

★★NPR
Advisory Commission on Intergovernmental Relations (ACIR). The House-passed bill would eliminate all funding for the ACIR, while the Senate's version would provide \$1 million. However, the Senate's funding level is below the President's \$1.39 million request. Through its analysis of intergovernmental behavior and recommendations on how Federal, State, and local governments may together serve the public more effectively, ACIR continues to provide a valuable service. While the Administration would prefer the requested level of funding, the conferees are urged to accept the Senate level.

John F. Kennedy Assassination Records Review Board. On May 16, 1994, the Administration transmitted a budget amendment to the Congress requesting \$2.4 million in funding for the newly established John F. Kennedy Assassination Records Review Board. While the House has provided the requested \$2.4 million, the Senate has not provided funding for the Board. The Administration urges the conferees to support funding for the Board at the requested level.

Federal Election Commission. The Administration urges the conferees to adopt the Senate position on funding for the Federal Election Commission (FEC), which is consistent with the Administration's requested level of funding.

Other Concerns:

Government-wide General Provisions. The Administration is concerned with Section 631 of the Senate-passed bill, which protects special salary rates provided to uniformed Secret Service personnel from being offset by locality pay adjustments. Administration of special salary rates for uniformed Secret Service personnel should be consistent with the administration of the special salary program for all other Federal civilian personnel. The Administration urges the conferees to eliminate this provision.

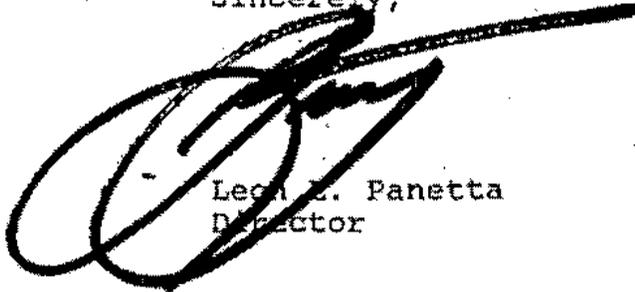
The Administration is also concerned with Section 634 of the Senate-passed bill, which would: (1) eliminate Administratively Uncontrollable Overtime (AUO) for criminal investigators and substitute mandatory 25-percent premium pay as of the beginning of FY 1995; and (2) formally exempt investigators from Fair Labor Standards Act (FLSA) requirements.

Although enactment of this provision may result in an overall savings to the Government, it represents significant added costs for law enforcement agencies not currently paying AUO at the maximum 25-percent rate. Some of these agencies cannot absorb premium pay within their FY 1995 budget, and could be forced to RIF employees. To give these agencies more time to plan for this expense, the Administration recommends that this provision be modified so as to allow agencies not currently paying AUO at the 25-percent rate to implement premium pay at anytime during FY 1995.

Infringements on Executive Authority. There are several provisions in the House- and Senate-passed bill that require Congressional approval before Executive Branch execution of aspects of the bill. The Administration will interpret such provisos to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

Additional Administration concerns with the House and Senate versions of the bill are contained in the enclosure. The enclosed table provides OMB's preliminary scoring of the House- and Senate-passed bill. We look forward to working closely with the conferees to address our mutual concerns.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Leon E. Panetta', is written over the typed name and title.

Leon E. Panetta
Director

Enclosures

Identical Letters Sent to Honorable David R. Obey,
Honorable Joseph M. McDade, Honorable Steny H. Hoyer,
Honorable Jim Lightfoot, Honorable Robert C. Byrd,
Honorable Mark O. Hatfield, Honorable Dennis DeConcini,
and Honorable Christopher S. Bond

ADDITIONAL CONCERNS
H.R. 4539 -- TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT
APPROPRIATIONS BILL, FY 1995

(AS PASSED BY THE HOUSE AND BY THE SENATE)

Department of the Treasury:

Unnecessary Earmarking. The Administration is concerned about appropriations and report language of both the House and Senate versions of the bill for the Bureau of Alcohol, Tobacco and Firearms; the U.S. Customs Service; and the U.S. Secret Service that would earmark funds for specific activities. This language would unnecessarily limit the Administration's ability to use constrained discretionary resources effectively to meet critical and changing needs.

Customs Air & Marine Interdiction Program Funding Level. The Administration is concerned about the increase in funding provided in the Senate-passed bill for the Customs Service air and marine interdiction programs. The level of funding proposed by the President and adopted by the House is adequate to support the Administration's programs. The emphasis on counter-drug operations in host countries and marine interdiction efforts in the Caribbean area will maintain, with little diminution, the current program's deterrent value. The Administration urges the conferees to eliminate this funding increase.

Treasury Law Enforcement Funding. The Administration is concerned that the Senate has added \$10 million to the President's request for Federal Law Enforcement Training Center construction and has deleted a proposal that would have produced \$15 million in savings from the Treasury Forfeiture Fund. The Administration urges the conferees to eliminate the \$10 million addition for construction funding and to adopt the Administration's savings proposal for the Forfeiture Fund.

Executive Office of the President:

National Security Council (NSC). The Administration is concerned that the Senate has proposed transferring the Information Security Oversight Office (ISOO) from the General Services Administration to the NSC. The NSC advises the President on the integration of domestic, foreign, and military policies relating to national security, while the ISOO is primarily concerned with monitoring and oversight of Executive Branch administrative security programs. Transfer of the ISOO to the NSC would be inconsistent with the President's prerogative to establish the organization of the White House staff. The Administration urges the conferees to eliminate this provision.

Enactment of this provision would bar the reduction of personnel levels over the next five years at a number of Treasury bureaus and would establish an undesirable precedent for other departments and agencies. Granting an exemption to Treasury law enforcement personnel would spur supporters of other agencies to establish further exemptions. If such a trend were established, our commitment to reducing the size of government would be endangered.

In addition, the Senate-passed bill sets FTE floors for the United States Customs Service; the Bureau of Alcohol, Tobacco and Firearms; Departmental Offices; and parts of the Internal Revenue Service. Taken together, enactment of these provisions would seriously undermine Executive Branch capability to execute its management responsibilities. The Administration strongly urges the conferees to eliminate these provisions.

Special Retirement Benefits for Customs Personnel

The Administration strongly objects to the provision in the Senate-passed bill that would provide law enforcement officer retirement benefits under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) to inspectors and canine enforcement officers of the U.S. Customs Service. Enactment of this provision would increase retirement benefits by 40 to 70 percent for employees in occupations in which there have been no recruitment or retention difficulties.

For several reasons, the Administration is convinced that enactment of this provision would prove to be cost prohibitive. First, in FY 1995 this provision would result in an additional \$2 million in discretionary spending for retirement benefits, a cost that would rise substantially each year. Second, the Administration estimates that on an annual basis the employees covered by this provision would accrue an additional \$50 million in retirement benefits. Finally, inclusion of the past service of the employees covered under this provision would increase the Civil Service Retirement and Disability Fund's unfunded liability for retirement benefits by up to \$540 million. Both CBO and OMB would score the Treasury/Postal Service appropriations bill if this provision were approved (\$71 million over five years, by CBO scoring).

In addition to these costs, the Administration believes that providing these enhanced benefits would likely result in increased pressure to extend equivalent benefits to other classes of Federal personnel. If applied to all employees in occupations similar to Customs inspectors and canine enforcement officers, the costs outlined above could be

expected to triple. The Administration believes that the spending of such sums cannot be justified in the current climate of budgetary restraint and urges the conferees to eliminate this provision.

Federal Employee Pay Raise

The President's budget includes sufficient funds to provide a pay raise averaging 1.6 percent for both military personnel and Federal civilian employees. The Administration commends the Senate for providing the President with the flexibility to use his alternative pay plan authority to establish the FY 1995 pay raise for Federal civilian employees. While the Administration prefers the Senate version, if the 2.6 percent pay raise for military personnel currently provided for in both the House and Senate DOD authorization bills is to be approved, then the Administration does not object to a pay raise averaging 2.6 percent for civilian personnel.

Office of National Drug Control Policy (ONDCP)

The House-passed bill would eliminate funding for drug treatment through the Special Forfeiture Fund. The Administration commends the Senate for providing a portion of the President's request for this program. Treatment for hard-core drug users is the President's highest priority as part of an integrated strategy to control drug abuse in America. The Administration urges the conferees to allocate additional resources to the Special Forfeiture Fund.

Funding for NAFTA-related Initiatives

The Senate-passed bill does not provide funding for the hiring of additional personnel for the enforcement of trade laws and regulations. This \$18 million component of the Customs budget is vital to the support of commitments made to enhance NAFTA enforcement. This initiative remains a high Administration priority, and we urge the conferees to adopt the House version and provide funding for this purpose.

FTS 2000

The Administration objects to Senate action that would eliminate language from the bill concerning the mandatory use of FTS 2000. The Administration supports the continued mandatory use of FTS 2000 as long as the program provides Federal agencies with long-distance service in the most cost-effective manner.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1995

(In millions of dollars)

Major Programs	FY 1994 Enacted		FY 1995 Proposed		House Floor ¹		Senate Floor ¹		Senate Difference From House	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
Domestic Discretionary:										
Executive Office of the President (EXOP):										
Office of Administration.....	25	23	28	27	25	24	25	25	1	1
Office of Management and Budget.....	57	56	56	56	56	56	55	55	-1	-1
Office of National Drug Control Policy ²	12	18	10	10	10	10	10	10	---	---
Other EXOP.....	79	71	68	74	65	71	68	73	3	3
Total, EXOP.....	173	169	163	167	156	162	159	164	9	3
Funds Appropriated to the President:										
Federal Drug Control Programs ²	64	56	106	79	113	82	163	108	50	24
Department of the Treasury:										
Bureau of Alcohol, Tobacco & Firearms (BATF).....	372	371	365	365	376	375	385	384	9	10
United States Customs Service.....	1,462	1,453	1,477	1,478	1,472	1,475	1,473	1,475	2	2
Internal Revenue Service (IRS):										
Tax law enforcement ³	3,974	3,968	3,744	3,750	4,225	4,207	4,170	4,155	-54	-52
Information systems.....	1,479	1,463	1,758	1,672	1,240	1,310	1,388	1,414	148	103
Other, IRS.....	1,892	1,883	1,757	1,772	1,842	1,849	1,749	1,762	-92	-87
United States Secret Service.....	462	458	470	469	477	475	475	473	-2	-2
Treasury -- procurement savings.....	---	---	-33	-27	-33	-27	-33	-27	---	---
Other, Treasury.....	697	708	538	538	644	641	654	644	10	2
Total, Treasury ⁴	10,339	10,303	10,076	10,017	10,242	10,304	10,262	10,280	20	-24
U.S. Postal Service, Forgone Revenue:	91	91	92	82	86	86	102	102	17	17
General Services Administration (GSA):										
Federal Buildings Fund.....	340	819	-70	638	358	654	463	623	105	-31
Construction and acquisition ⁵	N/A	N/A	1,479	172	---	---	---	---	---	---
GSA -- procurement savings.....	---	---	-9	-6	-9	-6	-9	-6	---	---
Other, GSA.....	174	238	167	179	157	169	179	179	23	10
Total, GSA.....	514	1,057	1,567	892	505	817	633	786	128	-21
Office of Personnel Management, Agency total.....	123	214	114	211	117	214	115	210	-2	-4
Other.....	316	406	338	329	323	314	340	330	17	16
Total, Domestic Discretionary.....	11,620	12,296	12,455	11,776	11,543	11,978	11,774	11,989	232	11

MEMORANDUM:

Emergency Appropriations/Emergency Releases...	House 602(b)		Senate 602(b)		Change: House Floor to House 602(b)		Change: Senate Floor to Senate 602(b)	
	BA	OL	BA	OL	BA	OL	BA	OL
602(b) allocation.....	12,049	12,260	12,049	12,260	-506	-282	-275	-271

¹ \$500 thousand or less.
² Detail may not add to totals due to rounding.
³ OMB scoring is preliminary.
⁴ FY 1994 EXOP-ONDCP figures reflect a reduction in staff and a shift of grant funds to FAP-Federal Drug Control Programs.
⁵ FY 1995 Proposed, House Floor, and Senate Floor do not include \$188 million in BA and \$184 million in OL for the 1990 IRS Compliance Initiative. House Floor and Senate Floor scoring includes \$426 million in BA and \$405 million in OL for the 1993 IRS Tax Compliance Initiative. For Congressional scoring purposes, the House and Senate 602(b) allocations have increased by \$495 million, as permitted by the FY 1995 Budget Resolution. This will not affect OMB's scoring under the BEA caps. The budget resolution does not change the BEA caps or the legal adjustments to the caps.
⁶ FY 1995 Proposed includes offset of \$94 million in BA and OL from U.S. Customs Service merchandise processing fees.
⁷ New account proposed in FY 1995 Budget, activity previously funded through the Federal Buildings Fund.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
April 26, 1994

*Panetta letter
and statement
on VA FTE floors*

THE DIRECTOR

The Honorable Thomas S. Foley
Speaker
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I am writing to express, in the strongest possible terms, the Administration's opposition to H.R. 4013, which would bar the Department of Veterans Affairs (VA) from reducing FTE's in the Veterans Health Administration (VHA) during the next five years. This legislation would make it impossible for the Administration to carry out the downsizing of the Executive Branch required under Public Law 103-226, the Federal Workforce Restructuring Act of 1994.

VA has already testified in opposition to a floor on FTEs. As the Department stated at that time, it has already identified a number of ways to improve services while using fewer resources. VHA must continue to seek ways of improving efficiency in order to compete effectively when the Congress enacts health care reform.

The 1995 budget and the President's health care plan clearly demonstrate our commitment to veterans. The 1995 budget would provide VA with the resources necessary to maintain the 1994 level of effort and open several new facilities, including five new nursing homes and one new hospital. The President's health care reform bill would open the VA system to virtually all veterans, increase the sources of funding to the VA system, and expand benefits offered to veterans. In addition, the President's plan for VA includes a \$3.3 billion, three-year investment fund to help VA compete effectively under health reform.

Clearly, the issue is not whether we intend to provide strong support for VA and for our Nation's veterans. The issue is the precedent this action would set for other departments and agencies. Public Law 103-226 mandates a Government-wide FTE reduction of 272,900 by Fiscal Year 1999. The original bill to establish the mandate passed the House on a vote of 391-17. The Administration strongly supports this mandate and intends to implement it sensibly and fairly.

However, this is a zero-sum game. If floors are established for specific agencies, they will shrink the pool from which the Government-wide reductions can be made, causing additional, unnecessary, and potentially damaging personnel cuts for other agencies.

With more than 212,000 full-time equivalent employees, VHA is by far the largest non-Defense agency -- larger than the Departments of Health and Human Services, the Treasury, and Justice individually, and larger than six additional cabinet agencies combined. VHA

The Honorable Thomas S. Foley
Speaker
U.S. House of Representatives
Page 2

accounts for 17 percent of all non-Defense, non-Postal employment; thus, H.R. 4013 would exempt more than one out of six non-Defense, non-Postal employees from P.L. 103-226. VHA has over 90 percent of VA's FTEs. If any VA reductions had to come from the remaining areas of VA, this would mean severe cuts in other VA activities, particularly the processing of compensation, pension, home loan, and GI Bill benefits, as well as the National Cemetery System.

If VA were exempted from FTE reductions, the overall reduction required of other agencies from 1993 through 1999 would increase from 12 percent to 14 percent. Moreover, this would create incentives for supporters of those agencies to establish further FTE floors. If special protection is provided for veterans' health care, why should the same protection not be provided for law enforcement, the National Institutes of Health, education, defense, Head Start, the Food and Drug Administration, and countless other agencies and programs? The precedent set by this legislation would provide supporters of additional FTE floors with their strongest argument. If such a trend were established, we would have little hope of maintaining a fair and rational process. Indeed, it would be impossible to meet the goal established by Congress to reduce FTEs by 272,900.

The question posed by this legislation is: Does Congress take seriously the mandate it established just five weeks ago? If it does, then it should not take away from the Administration the flexibility needed to implement this mandate responsibly.

Again, I urge the House to reject H.R. 4013.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leon E. Panetta', with a long horizontal flourish extending to the right.

Leon E. Panetta
Director

IDENTICAL LETTER SENT TO THE HONORABLE ROBERT H. MICHEL



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

FOR IMMEDIATE RELEASE
April 28, 1994

Contact: Barry Toiv
(202) 395-7254

STATEMENT BY OFFICE OF MANAGEMENT AND BUDGET
DIRECTOR LEON E. PANETTA ON HOUSE VOTE ON H.R. 4013

If H.R. 4013 were enacted into law, it would make the already difficult task of reducing personnel levels in the Federal government by 272,900 virtually impossible. Congress mandated that FTE reduction just a few weeks ago. The Administration is serious about implementing it; the question now is whether Congress is serious as well.

Today's vote was actually a respectable vote, given that most legislation regarding veterans passes unanimously, and given that most House Members were out of town yesterday and unaware of our concerns about the bill. I believe that it lays the groundwork for the bill's ultimate defeat.

What Members need to realize is the impact this exemption would have on other agencies. The agencies with the largest numbers of FTEs (Federal employment), and therefore the most vulnerable to additional cuts, are the Defense Department, the Social Security Agency, the Internal Revenue Service and the Justice Department. This is a zero-sum game. If one agency is exempted, others will suffer the consequences.

It is my hope and belief that in the end, Congress will see the potential impact of this legislation and reject it.

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Relevant POTUS
signing statement &
Justice Dept. letter
on GPO

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 22, 1994

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 4454, the Legislative Branch Appropriations Act, 1995. H.R. 4454 provides fiscal year 1995 appropriations to fund the Congress, the Congressional Budget Office, the Office of Technology Assessment, the Architect of the Capitol, the General Accounting Office, the Government Printing Office, and the Library of Congress.

In signing the bill into law, I note that this Act, the purpose of which is to provide appropriations for the legislative branch, also contains provisions affecting the operations of the executive branch. As a matter of comity, legislative branch appropriations acts historically have not contained provisions affecting the executive branch, and the executive branch has not commented on provisions of these acts. Since this Act contains provisions that depart from that standard, it is appropriate to express my views on these provisions. These provisions concern the involvement of the Public Printer and the Government Printing Office in executive branch printing related to the production of Government publications. Specifically, the Act includes amendments to existing law that expand the involvement of the Public Printer and the Government Printing Office in executive branch functions.

The Act raises serious constitutional concerns by requiring that executive branch agencies receive a certification from the Public Printer before procuring the production of certain Government documents outside of the Government Printing Office. In addition, the Act expands the types of material that are to be produced by the Government Printing Office beyond that commonly recognized as "printing." In light of these concerns, I will interpret the amendments to the public printing provisions in a manner that minimizes the potential constitutional deficiencies in the Act.

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In this regard, the exclusive authority of the Government Printing Office over "the procurement of any printing related to the production of Government publications" will be restricted to procurement of documents intended primarily for distribution to and use by the general public. Additionally, in light of the substantial expansion of the role of the Government Printing Office that would be occasioned by a broad reading of the term, "duplicating," that term will be read to encompass only the reproduction inherent in traditional printing processes, such as composition and presswork, and not reproduced by other means, such as laser printers or photocopying machines.

The concerns raised by this Act reinforce my eagerness and resolve to accomplish a comprehensive reform of Federal printing in accordance with constitutional principles, an effort that began last year with the Vice President's National Performance Review. Reform legislation can improve the efficiency and cost-effectiveness of Government printing by maximizing the use of private sector printing capability through open competitive procedures and by limiting Government-owned printing resources to only those necessary to maintain a minimum core capacity. Reform of Federal printing practices can also serve to enhance public access to public information, through a diversity of sources and in a variety of forms and formats, by improving the printing and information dissemination practices of the Federal Government. I look forward to pursuing this effort in the next Congress.

WILLIAM J. CLINTON

THE WHITE HOUSE,
July 22, 1994.

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U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 8, 1994

Honorable Wendell H. Ford
Chairman
Committee on Rules and Administration
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This presents the views of the Department of Justice on provisions included in title XIV (Reinventing Support Services) of H.R. 3400, the "Government Reform and Savings Act of 1993," as ordered reported by the Committee on Governmental Affairs, and sections 375 and 377 of S. 1824, the "Legislative Reorganization Act of 1994," which is pending before your Committee.

-- Constitutional Concerns

As we have previously observed, congressional regulation of Executive Branch printing operations amounts to an unconstitutional encroachment upon executive authority. Constitutionality of Proposed Regulations of Joint Committee on Printing, 8 Op. O.L.C. 42, 48-50 (1984) (congressional Joint Committee on Printing may not involve itself "in the printing operations of the Executive Branch"). More specifically, we have previously found unconstitutional under INS v. Chadha, 462 U.S. 919 (1983), a legislative veto provision in existing law that subjects certain Executive Branch printing decisions to the approval of a congressional Joint Committee on Printing (JCP). Memorandum for William H. Taft, IV, Deputy Secretary of Defense, from Theodore B. Olson, Assistant Attorney General, Office of Legal Counsel, Re: Effect of INS v. Chadha on 44 U.S.C. § 501, "Public Printing and Documents" (Mar. 2, 1984) (Olson Memorandum). Thus, the current government printing statute contravenes separation of powers principles. Regrettably, as discussed below, provisions in the pending bills that would vest control of the printing operations of the Executive and Judicial Branches in the Public Printer and the Superintendent of Documents are likewise unconstitutional under Chadha and Rowsher v. Sinar, 478 U.S. 714 (1986).

Both H.R. 3400 and S. 1824 would give broad authority to the Public Printer and the Superintendent of Documents to regulate the printing operations of the Executive and Judicial Branches.

Because the Public Printer, who is the head of the Government Printing Office (GPO), and the Superintendent of Documents, who is a subordinate of the Public Printer, are both "obvious congressional agents," Bowsher v. Synar, 478 U.S. 714, 758 n.25 (1986) (Stevens, J., concurring); Doe v. McMillan, 412 U.S. 306, 322 (1973) (Superintendent of Documents is subordinate to Public Printer); Thompson v. Sawyer, 678 F.2d 257, 264 (D.C. Cir. 1982),¹ the assignment to these two Legislative Branch officials of the responsibility to oversee and regulate Executive and Judicial Branch printing contravenes separation of powers principles and would be unconstitutional. Indeed, even if the Public Printer or the Superintendent of Documents simply served in an ex officio capacity on a committee overseeing the printing of the Executive and Judicial Branches, the role of such a congressional agent might well render the scheme unconstitutional. E.g., FEC v. NRA Political Victory Fund, 6 F.3d 821, 826-27 (D.C. Cir. 1993) (FEC composition is unconstitutional because of ex officio congressional agents).

In Chadha the Supreme Court explained that, in nearly all instances, Congress can exercise its power only through "passage [of a law] by a majority of both Houses and presentment to the President." Id. at 958 (footnote omitted). To be sure, each House of Congress "has the power to act alone in determining specified internal matters," id. at 956 n.21, but this exception to the requirements of bicameralism and presentment "only empowers Congress to bind itself and is noteworthy only insofar as it further indicates the Framers' intent that Congress not act in any legally binding manner outside a closely circumscribed legislative arena." Id.

The limitation upon the exercise of legislative power applies with equal force to all officials in the Legislative Branch. The Supreme Court expressly ruled in Bowsher v. Synar, 478 U.S. 714 (1986), that "[t]he structure of the Constitution does not permit Congress to execute the laws; it follows that Congress cannot grant to an officer under its control what it does not possess." Id. at 726. Accordingly, neither Congress nor its officers may undertake executive or judicial functions. Id. at 732 ("[B]ecause Congress has retained removal authority over the Comptroller General, he may not be entrusted with executive powers."); see also Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 74 (1982) (plurality) (noting the "potential for encroachment upon powers reserved to the Judicial Branch through the device of 'specialized' legislative courts").

¹ One of the bills expressly recognizes that the Government Printing Office is an "instrumentality of Congress." See S. 1824, § 333(b)(4).

The pending bills, which would arrogate to the Legislative Branch substantial control of Executive and Judicial Branch printing, both run afoul of the cardinal rules of constitutional law set forth in Chadha and Bowsher.

H.R. 3400

Section 14005 of H.R. 3400 instructs the Public Printer, "with respect to the executive branch of the Government and the judicial branch of the Government," to "prescribe Government publishing standards," § 14005(a)(2), to "prescribe Government procurement and manufacturing requirements for printing paper and writing paper," § 14005(a)(3), to authorize the acquisition, transfer, and disposal of all "equipment requisitioned by publishing facilities," § 14005(a)(4)-(5), and to "establish policy for the acquisition of printing," § 14005(a)(6). These directives to the Public Printer founder upon the Legislative Branch's lack of authority to regulate the Executive and Judicial Branches by any means incompatible with bicameralism and presentment. Chadha, 462 U.S. at 956-57.

Section 14005 also invests the Public Printer with the authority to impose his will upon the Executive and Judicial Branches. Specifically, section 14005(a)(1) declares that the Public Printer "shall . . . use all necessary measures to remedy neglect, delay, duplication, and waste in the public printing and binding of Government publications, including the reduction and elimination of internal printing and high-speed duplicating capacities of departments, agencies, and entities." Section 14005(a)(1) could be read to place the Public Printer in control of all printing and duplicating operations in the Executive and Judicial Branches. Such power to compel Executive and Judicial Branch compliance with the policies of a Legislative Branch official would contravene the command of Bowsher that Legislative Branch officials cannot exercise executive powers. See 478 U.S. at 732.

Section 14006(a) requires department and agency heads to furnish their "Government publication(s) to the Superintendent of Documents not later than the date of release of the material to the public." This requirement, standing alone, is minimally intrusive. But section 14006(b) further empowers the Superintendent of Documents to "disseminate or republish Government publications, if, as determined by the Superintendent, the dissemination by the department, agency, or entity of the Government is inadequate," and to charge "the cost of dissemination or republication" to the "department, agency, or entity involved." Section 14007 similarly instructs the Superintendent of Documents to "make Government publications available to designated depository libraries and State libraries," and to charge "the cost of dissemination and republication" to "the department, agency, or entity involved." Vesting such authority

in a congressional officer to impose financial obligations on Executive Branch agencies, whether viewed as legislative action under Chadha or executive action under Rowser, would be unconstitutional.

The constitutional defects in section 14005 can be corrected by vesting in an Executive Branch official the authority given the Public Printer. The constitutional flaws in sections 14006 and 14007 can be remedied simply by eliminating the charge-back provisions that allow the Superintendent of Documents to impose printing costs upon departments and agencies.

S. 1824

Section 375 of S. 1824 reenacts the congressional approval provision in existing law that we have previously opined is unconstitutional under Chadha, and simply transfers the approval authority from the JCP to the Public Printer. In the Olson Memorandum, we determined that 44 U.S.C. § 501(2), which authorizes Executive Branch agencies to conduct field printing operations only with the approval of the JCP, is unconstitutional because it purports to empower a committee of Congress to take legislative action without meeting the Constitution's requirements of bicameral passage and presentment to the President. (We also opined that the JCP approval provision is severable from the grant of authority to conduct field printing and therefore agencies could engage in such printing.) The bill's reenactment of section 501(2), new 44 U.S.C. § 501(a)(1)(E), does not correct the constitutional defect, but simply transfers the congressional approval authority from one congressional entity to another. The defect can be corrected by deleting the approval requirement.

Section 375 of the Senate bill also reenacts -- as new 44 U.S.C. § 501(a)(1)(A) -- existing 44 U.S.C. § 501(1), which authorizes the JCP to exempt from the statutory requirement that the Executive and Judicial Branches do their printing at GPO "classes of work the JCP considers to be urgent or necessary to have done elsewhere" -- except that the authority is transferred from the JCP to the Public Printer. The Olson Memorandum did not address the constitutionality of this provision, but we believe that it too is unconstitutional on the basis of Chadha. Action by the Public Printer to exempt certain categories of printing would amount to legislative action regulating the Executive and Judicial Branches in the same way that the provisions addressed in the first paragraph of our discussion of H.R. 3400 would authorize the Public Printer to prescribe publishing standards and procurement and manufacturing requirements and to establish printing acquisition policy. The constitutional defect in this provision can be corrected by substituting an Executive Branch official for the Public Printer.

Finally, we note that section 377 of the bill would reenact various provisions in existing law that violate Chadha or Bowsher and simply transfer the congressional approval authority from the JCP to the Public Printer or vest the JCP's authority to regulate in the Public Printer. See §§ 377(6), (9), (17), (20), (48), (53). The constitutional defects in these provisions can be corrected by deleting the approval requirements and vesting in an Executive Branch official the regulatory authority given to the Public Printer.

-- Other Policy Concerns

Quite apart from the serious constitutional concerns, discussed above, we share the concerns about title XIV of H.R. 3400 that were conveyed to the Committee by the Deputy Director of the Office of Management and Budget on February 2, 1994. Title XIV appears to move away from, not toward, the goals of the Administration's National Performance Review. Beyond that general concern, we are especially troubled by sections 14002 and 14005 of H.R. 3400. Section 14002(b) provides that "[a]ll printing plant charters authorized under section 501 of title 44, United States Code, are revoked."² Section 14005(a)(1) requires the Public Printer to take steps to reduce and eliminate "internal printing and high-speed duplicating capacities of departments, agencies, and entities." We are also troubled, for similar reasons, by section 375 of S. 1824, which would require, in part, that all printing for Executive Branch agencies "be done at the Government Printing Office," with certain exceptions.³ Consequently, we are opposed to these provisions and urge, if they are adopted (with appropriate corrections to address our constitutional concerns), that the Department's printing programs be exempted from them.

-- Impact on Federal Prison Industries

Federal Prison Industries (FPI) is one of the most important correctional programs operated by the Bureau of Prisons, a bureau within this Department. FPI's purpose is to employ and train inmates. Employment of inmates reduces idleness, which we believe is one of the primary causes of disturbances in overcrowded correctional facilities. The vocational and on-the-job training that is available through FPI enhances the

² Both the Bureau of Prisons and the Federal Bureau of Investigation have been awarded charters under 44 U.S.C. § 501.

³ One exception, set out as proposed 44 U.S.C. § 501(a)(1)(B), would permit "printing in field printing plants operated by an executive department . . . if approved by the Public Printer."

likelihood of an inmate's success when he or she is released from confinement.

Elimination of FPI's printing program, as is apparently intended by the pending legislation, would needlessly idle inmates at two high-security correctional institutions: the United States Penitentiaries at Leavenworth, Kansas, and Lompoc, California. In addition, other Federal facilities in Kentucky, Minnesota, New York, Texas, and Virginia would be adversely affected. Elimination of the single most important FPI work program at these institutions would have serious -- indeed, potentially disastrous -- consequences for security, inmate safety, and good order at these facilities.

A recent study by the Bureau of Prisons confirmed that inmates who participate in FPI work programs behave better while incarcerated and have lower recidivism rates upon release than inmates who do not participate in FPI programs. Further, all FPI work programs, including its printing program, are self-sustaining and require no appropriated funds.

In short, we believe that FPI's printing programs represent a vital and essential component of the Department's efforts to operate and manage the Federal Prison System. Enactment of the pending legislation would, in our view, needlessly put at risk the success that we have achieved to date and will continue to achieve in the future.

-- Impact on Federal Bureau of Investigation

The Federal Bureau of Investigation (FBI) is the principal investigative arm of this Department. Its primary mission is to investigate violations of Federal law. The FBI's in-house print shop directly supports FBI's mandated mission. If enacted, title XIV of H.R. 3400 or section 375 of S. 1824 would virtually eliminate the FBI's in-house printing operation, its capacity to support investigative and administrative functions, and its overall ability to meet mission requirements in a timely manner.

Much of the FBI's printing and duplicating work performed in-house consists of materials needed in investigations or in court-related matters that must be produced very quickly. To eliminate this much-needed service by requiring that work be performed, instead, by GPO could adversely affect sensitive FBI investigations. The quick printing of casework is paramount in ensuring the successful outcome of investigations. More importantly, the lives of the men and women of the FBI who investigate these cases could be put in jeopardy.

Many of the reports, manuals, and memoranda printed by the FBI's in-house print shop are sensitive or classified. Having complete control over these documents during their printing is

essential. To procure the printing of classified or sensitive material through an outside contractor (viz., GPO) could have adverse consequences.

To sum up, the FBI's in-house print shop is an essential component of the FBI's ability to uphold and enforce our Nation's law. The risks inherent in this legislation simply do not merit its adoption.

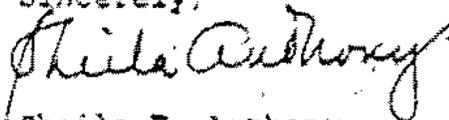
-- Impact on Litigating Divisions

The mission of the Department's litigating divisions is to represent the United States and its citizens in court. To accomplish this, the litigating divisions conduct formal investigations and Federal grand jury proceedings, prepare cases for filing with the courts, and conduct trial proceedings. Attorneys are often under court-imposed deadlines to submit briefs and other legal materials in extremely short time periods. The Department uses high-speed copiers to produce such materials. Actions aimed at reducing and/or eliminating the Department's high-speed duplicating capability will severely impede the ability of the litigating divisions to accomplish their missions. Failure to meet court-imposed deadlines could jeopardize the Department's position in important litigation and possibly result in unnecessary -- and avoidable -- judgments against the Government.

Thank you for the opportunity to present our views on this matter. We would be pleased to discuss these issues, at your convenience, with you or your staff.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,



Sheila F. Anthony
Assistant Attorney General

cc: Honorable Ted Stevens
Ranking Minority Member

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 28, 1994

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 4624, the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 1995."

The Act provides funding for the Departments of Veterans Affairs (VA) and Housing and Urban Development, Environmental Protection Agency, National Aeronautics and Space Administration, and National Science Foundation and various other agencies. This Act will fund important activities in the space program, housing programs, environmental protection, and programs for our Nation's veterans.

I am pleased that the Act provides funding for a number of my high-priority investment proposals, including both the National Service and Community Development Financial Institutions initiatives. The National Service Initiative will provide an opportunity for young people to obtain funding for a college education while serving the country in areas of great need such as education, environment, public safety, and human services. Funding for the Community Development Financial Institutions fund will increase the flow of capital to distressed neighborhoods and their currently underserved low-income residents, and provide financing for neighborhood redevelopment and revitalization efforts.

The Act also provides funding for the redesigned Space Station and other programs that will set a new direction for the Nation in space exploration, science, and technology. The Act includes about \$260 million for cooperative activities with Russia, with about half of that going directly for joint space station, human space flight, and scientific cooperation.

The Act includes \$7.2 billion in funding for the Environmental Protection Agency (EPA). The Act provides funds for EPA programs that protect our environment through enforcement of our environmental laws, cleanup of hazardous waste sites, and construction of needed water and waste water treatment facilities.

The Act meets the needs of our Nation's veterans by providing \$16.2 billion in funding for the VA medical care program, an increase of \$0.6 billion over the FY 1994 enacted level.

The Act includes \$25.7 billion in funding for the Department of Housing and Urban Development, including funding for programs such as the HOME block grants for housing, Community Development Grants, and Severely Distressed Public Housing. These programs will assist communities and individuals in revitalizing neighborhoods and increasing opportunities for home ownership.

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The Act provides \$3.4 billion in funding for the National Science Foundation (NSF), a \$143 million increase over the FY 1994 enacted level. NSF programs will promote basic research that is vital to enabling our Nation to compete in world markets.

The Act includes a requested FY 1994 emergency supplemental appropriation of \$225 million to finance housing repairs in areas affected by the Northridge earthquake ("ghost towns") to be derived by transfers of previously appropriated emergency funds from the Departments of Education and Transportation.

Concurrently with signing this bill, I am transmitting to the Congress a request to make available \$14.5 million for FEMA, which I am designating as an emergency requirement. These funds will provide additional resources to address consequences of the Northridge earthquake. The funds, which were appropriated in Public Law 103-211, the Emergency Supplemental Appropriations Act of 1994, will be transferred from the Unanticipated Needs account within Funds Appropriated to the President. These funds will provide \$150 million in additional emergency disaster loans to the victims of the Northridge earthquake.

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 28, 1994.

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in California and the recent flooding in the Southeast, the Disaster Loan Program of the Small Business Administration (SBA) is out of funds. This Act provides \$470 million for SBA's Disaster Loan Program. Concurrently with signing H.R. 4603 into law, I am informing the Congress of my designation of these funds as an emergency requirement, thereby making them available.

Finally, this Act provides important funding for our contribution to United Nations international peacekeeping efforts around the world. These efforts are essential to reducing regional tensions and preventing or stopping the horror of war.

Unfortunately, the Act does not provide sufficient funding for the Securities and Exchange Commission (SEC) for fiscal year 1995. If the Congress does not provide additional funds for the SEC before adjourning in October, the SEC will have to shut down before the Congress returns next year. To avoid this, I urge the Congress to enact legislation providing the necessary budgetary resources for the SEC prior to the start of the new fiscal year.

WILLIAM J. CLINTON

THE WHITE HOUSE,
August 26, 1994.

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THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

August 26, 1994

STATEMENT BY THE PRESIDENT

Today I have signed into law, H.R. 4603, the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY 1995, and Supplemental Appropriations for FY 1994."

This Act provides funding for the Departments of Commerce, Justice, and State; the Judiciary; and several smaller agencies.

This Act marks a bold first step in our effort to combat violent crime in America. In this Act, the Congress has provided \$2.3 billion in funding to support the key new programs in the newly-passed Crime Bill. Foremost, the bill makes good on the promise of the Crime Bill by providing \$1.3 billion to begin putting 100,000 new police officers on the street over the next 6 years.

The Act will enable the Justice Department to escalate its efforts to secure the border and to control illegal immigration. Resources are provided to expand the number of agents at high-risk crossing points to deter illegal immigration, improve the equipment available to agents to increase their effectiveness, expedite deportations of criminal illegal aliens, and increase asylum adjudications. The Act also provides, for the first time, a funding source to help States that are burdened by large numbers of criminal illegal aliens in their prisons. This \$130 million initiative highlights the Federal Government's commitment to share the responsibility for reducing the fiscal impact of illegal immigration with affected States.

A total of \$100 million is provided to States to upgrade their criminal records databases, continuing implementation of the Brady Bill to ensure that handguns stay out of the hands of criminals. Innovative programs such as boot camps and drug courts are supported to promote cost-effective methods of dealing with young nonviolent offenders. Finally, funds are provided to stop or penalize those criminals who prey, intentionally, on women.

This Act, coupled with the Crime Bill, will provide the foundation for our bold new strategy of fighting crime in the United States.

The Act also provides important funding for some of my investment priorities, including development of the information highway, the defense conversion projects of the Economic Development Administration, and projects to foster high technology at the National Institute of Standards and Technology.

In addition to providing important funding for fiscal year 1995, the Act provides urgently needed emergency funding for fiscal year 1994. Due to an increased need for disaster assistance, stemming primarily from the Northridge earthquake

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