108th Congress (2003-2004)

Veto Threats of Legislation in House of Representatives

H.J. RES. 2 – Making Further Continuing Appropriations for the Fiscal Year 2003, and for Other Purposes [January 17, 2003]*

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H.R. 2115 - Flight 100 - Century of Aviation Reauthorization Act [June 11, 2003]

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H.R. 3550 – Transportation Equity Act: A Legacy for Users [March 30, 2004]

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H.R. 4275 – Permanent Extension of 10 Percent Individual Income Tax Rate Bracket [May 13, 2004]

H.R. 4567 – Department of Homeland Security Appropriations Bill, FY 2005 [June 17, 2004]

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H.R. 4766 – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 2005 [July 13, 2004]

H.R. 4818 – Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 2005 [June 15, 2004]

H.R. 5006 – Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, FY 2005 [September 8, 2004]

H.R. 5025 – Departments of Transportation and Treasury and Independent Agencies Appropriations Bill [September 14, 2004]

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S. J. Res. 17 – Disapproving the Rule of the Federal Communications Commission on Broadcast Media Ownership [September 11, 2003] *

S. 824 – Aviation Investment and Revitalization Vision Act [June 12, 2003]

S. 925 – Foreign Relations Authorization Act, Fiscal Year 2004 [July 9, 2003]

S. 1050 – National Defense Authorization Act for Fiscal Year 2004 [May 20, 2003]

S. 1356 – Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, FY 2004 [September 2, 2003]

S. 1391 – Department of the Interior and Related Agencies, Appropriations Bill FY 2004 [September 17, 2003]

S. 1426 – Foreign Operations, Export Financing, and Related Programs Appropriations Act, FY 2004 [October 24, 2003]

S. 1427 – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, FY 2004 [November 5, 5, 2003]

S. 1585 – Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 2004 [November 10, 2003]

S. 1589 – The Department of Transportation, Treasury and Related Agencies Appropriations Bill, FY 2004 [October 23, 2003]

S. 1072 – Safe, Accountable, Flexible, and Efficient Transportation Equity Act [February 11, 2004]

S. 2400 – National Defense Authorization Act for Fiscal Year 2005 [May 19, 2004]

S. 2537 – Department of Homeland Security Appropriations Bill, FY 2005 [September 8, 2004

* Indicates the President's message to one chamber refers to legislation from the other.

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

January 17, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

H.J. RES. 2, MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2003, AND FOR OTHER PURPOSES

(Sponsors: Stevens (R), Alaska; Byrd (D), West Virginia)

The Federal government has been operating under a series of Continuing Resolutions for over one fourth of FY 2003. Completion of the nation's budget for the current year is long overdue, and we appreciate the new Senate leadership making this one of the first priorities of the 108th Congress.

The Administration applauds the commitment of the House and Senate Appropriations Committee Chairmen to the top line agreement with the President. The current version of the Omnibus Bill aims to meet the agreed upon discretionary spending limit of $385.9 billion, the amount remaining after enactment of the Defense and Military Construction Appropriations Acts. Spending restraint is critical to encouraging continued economic growth, and the Senate has made great progress in moving toward enactment of bills that meet the needs of the country.

The Administration strongly supports the inclusion of $1.5 billion to support reform and improvement of election administration systems. However, a few significant problems remain to be dealt with before the bill would be acceptable to the President. The current version of the Omnibus Bill underfunds major areas of responsibility and diverts these funds to lesser needs. The bill contains increases in advance appropriations of $2.2 billion for education programs. This is a misleading practice that Congress and the Administration agreed to curtail last year to ensure critical education programs are fully financed up front. The bill also raises the Pell Grant maximum award to students without providing sufficient funding, significantly underfunding the program. In addition, the Federal Emergency Management Agency's Disaster Assistance account is underfunded by $1 billion, which could affect the Federal government's ability to respond quickly to future natural disaster situations.

The bill also contains an unacceptable provision in the Housing and Urban Development's Housing Certificate Fund that, as currently drafted, could result in considerable additional costs. The Administration will work with the Senate to address the unintended consequences of this provision. In addition, the Mother-to-Child AIDS Prevention Initiative is reduced by $150 million and funding for the State Department is reduced by over $300 million. The Congress is urged to restore funding for these high-priority programs within the acceptable top line. Further, the legislation does not include language requested by the Administration that would allow use of $200 million in the Economic Support Fund requested for Pakistan and $15 million already provided in FY 2002 for Jordan for debt reduction.

Equally troubling, the Senate bills, as currently written, include numerous unacceptable statutory restrictions and provisions. For example, certain provisions restrict the newly-created Department of Homeland Security (DHS), including language preventing the transfer of Customs aircraft to the new Department. The bill also contains overly broad language that could impede the orderly transfer of the Office for Domestic Preparedness to DHS as required in the Homeland Security Act. In addition, while funds are provided for the INS Chimera IT system, they are not provided within INS, which could complicate consolidation of IT systems within DHS. The Administration also objects to a number of provisions, which, inconsistent with the Supreme Court ruling in INS vs. Chadha, purport to require Committee approval before Executive Branch execution.

The bill also proposes an unsustainable level of spending for highways, which breaks dramatically with the traditional linkage of highway spending and trust fund revenues. This would put the program on a path to an inevitable gas tax increase, which the Administration strongly opposes. The Administration is also very concerned that the new prohibition against funding assistance for Farm Bill conservation programs out of the conservation operations account will result in only about 10 percent of this year's authorized conservation activities being implemented. The Administration's proposal – which is not part of the current version of the bill – would provide appropriate funding to ensure the farm conservation programs are properly implemented. Further, the current version of the Omnibus Bill omits several current law provisions relating to abortion. If the final version of the bill did not include all current law provisions prohibiting the use of federal funds for abortions, the President's senior advisers would recommend he veto the bill.

The Administration strongly opposes amendments to add new extraneous spending to the package. Specifically, the Administration opposes the Byrd amendments which purport to provide additional "homeland security" spending. The base bill contains, as the Administration requested, an unprecedented increase in the fiscal commitment to defending the homeland. The funds requested are sufficient to address homeland security requirements and, in many cases, are the most that can be absorbed responsibly in the remaining months of this fiscal year.

The Administration believes that the bill before the Senate is a substantial step forward and supports Senate passage of the bill, but a number of changes are still needed as noted above. The final Omnibus Bill must be within the agreed upon top line and meet national priorities to be acceptable to the Administration. We are committed to working with the Congress as the process moves forward to enact the remaining eleven appropriations bills as expeditiously as possible.

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

May 22, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 1588 - National Defense Authorization Act for Fiscal Year 2004

(Rep. Hunter (R) California)

The Administration commends the House Armed Services Committee (HASC) for its continued support of our national defense. The Committee-reported bill includes a number of authorities consistent with the President's request, including a substantial military pay raise and other benefits critical to sustaining the high quality and morale of America's armed forces.

The Administration appreciates the hard work and support of the HASC and the House Committees on Government Reform and Resources for including vital provisions of the "Defense Transformation for the 21st Century Act." The security challenges facing the United States have changed dramatically, and our military must be changed to meet those new challenges. To adapt to a changing world, maximize our ability to defend America, strengthen readiness, and improve the quality of life for our troops and civilian employees, the Department of Defense must transform the way it manages personnel, acquires equipment, and trains military forces to ensure readiness. Provisions in the National Security Personnel System will allow the Department of Defense (DoD) to manage civilian employees more flexibly and fairly. Provisions of the Readiness and Range Preservation Initiative (RRPI) will allow our troops to have realistic training experiences to be ready to defend this Nation. Inclusion of these and other transformation provisions in the final bill that is presented to the President will help DoD be prepared to meet current and future threats to the Nation's security.

The Administration strongly opposes any change to the base realignment and closure (BRAC) authority passed by the Congress two years ago – especially changes that would impede a comprehensive rationalization of our military base infrastructure. If the President is presented a bill to repeal or delay BRAC, the Defense Secretary, joining with other senior advisors, would recommend that the President veto the bill. The exclusion of an arbitrary number of installations from consideration for closure or realignment would undermine a comprehensive review of the Department's infrastructure. To be comprehensive, a BRAC review also should not be artificially based on force levels that are over a decade old and that do not address adequately the Nation's ability to meet current and future threats.

The Administration has a number of other concerns with the bill, including those described below. The Administration looks forward to working with the Congress on these and other issues as the bill moves through the legislative process.

- Missile Defense. The Administration appreciates the Committee's support for the deployment of near-term ballistic missile defenses to protect the homeland, allies, and deployed forces. In examining the management of the Patriot Advanced Capability-3 and Medium Extended Air Defense System programs, DoD determined that these programs would be managed best together by the Army. Splitting them between the Army and the Missile Defense Agency would duplicate effort, add cost, and impede program progress, particularly development of the air defense mission. The Administration also is concerned about several changes to the budget request.

- Low-Yield Nuclear Weapons. The Administration appreciates the support for research of low yield nuclear weapons in section 3111. However, maintaining the prohibition on development will hinder the ability of our scientists and engineers to explore technical options to deter national security threats of the 21st century. A complete repeal of section 3136 of the FY 1994 National Defense Authorization Act is needed. This in no way would usurp Congress's right to authorize and appropriate the funds necessary to develop and build new or modified nuclear weapons should this or a future President determine that such weapons were in the supreme interest of the United States.

- Defense Industrial Base Provisions. The Administration objects strongly to the Title VIII Subtitle B provisions because they are burdensome, counterproductive, and have the potential to degrade U.S. military capabilities. These provisions: (1) undermine our efforts to promote cooperation and interoperability with our allies and the use of commercial items when appropriate; (2) establish rigorous restrictions against using non-U.S. sources that will unnecessarily restrict the Department of Defense's ability to access non-U.S. state-of-the-art technologies and industrial capabilities; and (3) require that international cooperative programs, such as the Joint Strike Fighter, be modified or terminated drastically. Certain provisions require DoD assign significantly greater resources to collect industrial information, perform industrial analyses, and report results to Congress, the sole purpose of which seems to be to identify and eliminate non-U.S. suppliers from U.S. defense applications. Other provisions are duplicative of those in the Defense Production Act. Adequate means are already available in law and regulations to protect the U.S. industrial base.

- Assistance and Support for Other Nations. The Administration notes that H.R. 1588 does not include Support of Foreign Nations Committed to Combating Global Terrorism (Section 441 of the Defense Transformation Act). This authority would allow the Department of Defense flexibility to provide time-sensitive military support to key cooperating nations that are assisting in the global war on terrorism. It would allow DoD to provide training and equipment expeditiously and efficiently in response to unanticipated, no-notice requirements that the Global War on Terrorism may generate.

- Expanded Counter-Narcotics Authority. The Administration urges House support for enhanced counter-narcotics authority in the Andes and Central Asia, that would permit DoD to provide additional types of equipment and supplies to Colombia and Peru and include Bolivia, Ecuador, Afghanistan, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan. Enhancing the counterdrug capabilities for these nations is critical to our combined efforts to stem the flow of illicit drugs, to attack this source of terrorist funding, and to reduce the threat to struggling democracies.

- Nonproliferation and Cooperative Threat Reduction. The Administration appreciates full funding of the CTR budget request, but is very concerned about requirements imposed by the Committee that will hinder DoD's and DoE's ability to implement more rigorously and effectively Cooperative Threat Reduction (CTR) and Nuclear Nonproliferation activities. Furthermore, H.R. 1588 would limit the President's flexibility to apply CTR resources to the most pressing non-proliferation challenges in support of the Global War on Terrorism and would not clarify that DoE has authority to carry-out such activities outside states of the former Soviet Union.

- Force Structure. The Administration strongly opposes section 911, which would constrain the President's ability to align military force structure with the US National Security Strategy and the Defense Strategy. Moreover, the provision runs directly counter to the Department's capabilities-based planning approach, which focuses less on the size of service combat structures and more on the capabilities needed to execute the U.S. Defense Strategy.

- Military End Strength. The Administration opposes the bill's increase in military end strength as unnecessary. Current law gives DoD adequate flexibility to accommodate the shortfalls that the Committee perceives, by allowing DoD to exceed authorized end strength by three percent or up to two percent if the Secretary of Defense or a Secretary of a military department respectively determines it is in the national interest. Further, DoD has been actively engaged in the validation of military and civilian manpower; military positions are being identified as possible candidates for conversion to civilian or private sector performance.

- Civilian Pay. The Administration opposes language in section 1111, which states that civilian and military pay raises shall be adjusted at the same rate, to the maximum extent practicable. Civilian and military pay linkage is not necessary. The Administration proposed a 2% pay raise for all civilian employees, which is very generous at this time when many in the private sector are unemployed or facing shrinking paychecks. The Administration has proposed a Human Capital Performance Fund to finance higher pay raises for high-performing federal employees. DoD has different recruiting and retention needs for each group, and recent civilian pay raises have exceeded the rate of inflation. The Administration is particularly concerned that these additional civilian pay increases are

unfunded (costing DoD about $660 million, and Government-wide about $2.1 billion if so applied).

- Human Capital Performance Fund. The Administration understands that an amendment will be offered to support the President's Human Capital Performance Fund, which is performance driven and will allow the Federal Government to attract and maintain a quality workforce that will deliver results. The Administration strongly supports enactment of this proposal, which was included in the President's FY 2004 Budget.

- Clarification to Hatch Act. The Administration opposes section 1109, which would prohibit enforcement of penalties under the Hatch Act for employees who "voluntarily separate" from the civil service, including employees who transfer to international organizations and still enjoy certain Federal employee coverage, rights, and benefits. Section 1109 would also prohibit the U.S. Office of Special Counsel from publicizing formal enforcement actions or informal settlements of cases arising under the Whistleblower Protection Act and the Hatch Act. These changes would undermine the deterrent effect of the Hatch Act's penalties as well as public confidence in the Government's ability to encourage and protect whistleblowers.

- Special Pay and Benefits. The Administration is concerned that a number of unsought special pay and benefit authorities, including sections 615, 619, 620, 622, and 651, divert resources unnecessarily. These mandatory authorities would undermine each military department's determination of whether such additional benefits are warranted and appropriate.

- Payment of Special Compensation. The Administration opposes section 641, which moves the funding for the payment of special compensation for certain combat-related disabled military retirees and for certain severely disabled military retirees from the Military Personnel appropriations to the Military Retirement Fund. This section fails to reflect the full cost of providing this benefit, and encourages unnecessary further expansion of these benefits. It also contravenes long-standing policy by shifting the accrual cost for these benefits from DoD to the Treasury.

- Defense Acquisition Workforce Reductions. The Administration opposes Section 910, which reduces DoD's military and civilian defense acquisition and support personnel -- other than assigned civilian maintenance depot personnel -- by 25 percent over five years. DoD is continuing its transformation process in determining its civilian and military requirements; such legislated reductions hurt both efficiency and effectiveness in accomplishing the acquisition mission.

- F/A-22. The Administration opposes the bill's $161 million reduction from the request, which would undermine DoD's buy-to-budget strategy, as well as the limitation of funds obligation. This measure would reduce one aircraft from Lot 4 and possibly two to five

aircraft for FYs 2004-2009, and would establish an inflexible and arbitrary measure relating to software that impedes the start of operational testing.

- Acquisition Increases. The Administration is concerned that unsought acquisition authorizations above the FY 2004 budget request, including $727 million for legacy force programs, such as upgrades to Abrams tanks and Bradley Fighting Vehicles, would divert resources away from higher transformational military priorities.

- Procurement of Defense Biomedical Countermeasures. The Administration appreciates the Committee's support for encouraging more rapid development of safe and effective countermeasures, and for assuring the availability of promising treatments under accelerated development in the event of an emergency, if no other potentially beneficial treatments exist. The Administration, however, has concerns about sections 1031 - 1033, and would like to continue to work with Congress to enact the "Project BioShield" proposal submitted to Congress by the President.

- Information Technology. The Administration strongly opposes the bill's $1.7 billion reduction for Information Technology (IT) programs, including the $1.4 billion across-the-board reduction spread across several titles. At a time when IT investment is becoming even more critical to success on the battlefield and in business, the Committee has proposed cutting the Department's IT budget by over seven percent, reducing the allocation to below FY 03 levels. While the Administration is committed to improving Government-wide IT management, these reductions to the IT budget request would seriously impair the Department's ability to continue the Global War on Terrorism and Defense Transformation.

- Acquisition of Non-Commercial Items. The Administration strongly opposes section 1444, which would require an agency to accept a company's price for a non-commercial item based on the pricing of unrelated goods and services. This requirement fails to provide adequate protection to agencies for ensuring that the prices they pay for their goods and services are fair and reasonable.

- Competitive Sourcing. The Administration strongly objects to section 1454, which would prohibit the use of goals for competitive sourcing. These goals take into account agencies' workforce and mission needs, and are institutionalizing the use of competition to improve the performance of agency commercial activities. This section severely impedes the efforts of the Office of Management and Budget (OMB) as envisioned in the President's Management Agenda. Section 323 needlessly delays implementation of the soon-to-be-released revised OMB Circular A-76, until DoD prepares a prescribed report. The revised A-76 Circular reflects close consultation with DoD, and includes a careful balance of simplified processes and a fair and level playing field for conducting competition between public and private sources. Section 322 should be modified to make clear that

waivers from the A-76 Circular for high-performing organizations must be approved by OMB.

- Defense Working Capital Funds. The Administration is concerned by the magnitude of the bill's reductions for fuel prices and cash balances in Defense Working Capital Fund activities. Fuel prices continue to exceed the budget assumptions. The cash reductions, especially for the Transportation Working Capital Fund and the Air Force Working Capital Fund, would push cash levels below prudent levels. These reductions would translate to general reductions to the Operation and Maintenance accounts, undermining force readiness.

- Sealift Ship Construction Pilot Program. The Administration is concerned that the bill authorizes $40 million that would permit the Navy to establish a loan guarantee pilot program to construct two sealift vessels for commercial use. This pilot program would be very similar to an existing loan guarantee program in the Maritime Administration (Title XI), which has been plagued by significant defaults in recent years. The Administration believes it would be ill-advised to duplicate such a program. Further, in an effort to reduce corporate subsidies, the FY 2004 Budget proposes no subsidy funding for the Maritime Administration's Title XI program.

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

July 15, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 1950 - Foreign Relations Authorization Act, Fiscal Years 2004 and 2005

(Hyde (R) IL and 2 cosponsors)

The Administration strongly opposes H.R. 1950, as reported. This bill authorizes appropriations for FYs 2004 and 2005 primarily for the State Department and the Broadcasting Board of Governors (BBG), and contains other foreign relations provisions. Many of the bill's provisions are consistent with and support the Administration's request. However, there are a significant number of provisions that restrict the President's flexibility to conduct foreign affairs, authorize appropriations that exceed the President's FY 2004 budget request, or raise managerial, constitutional, or other concerns, which are outlined below. The Administration looks forward to working with the Congress to address these and other concerns.

The Administration strongly opposes section 116(e), which would earmark $50 million for unrequested funding for the United Nations Population Fund (UNFPA) in each of FYs 2004 and 2005. This section includes a certification that could imply that UNFPA funds may be used for indirect financial or material support to programs supporting coercive abortion. It is inconsistent with the Administration's family planning policy, and the President will veto the bill if it is presented to him with such a provision.

Title XVII, the Israeli-Palestinian Peace Enhancement Act of 2003, would condition assistance to a Palestinian state on achievement of certain benchmarks in contravention of the balanced Roadmap approach. This title contains troubling provisions that would impose conditions that go beyond the Roadmap and would unnecessarily require either frequent Presidential certifications or a national security waiver.

The Administration supports strengthening measures against missile proliferation and is currently engaged in a review of all nonproliferation sanctions to improve their usefulness. However, the Administration strongly opposes Title XIV, Missile Threat Reduction Act, which includes provisions that could unacceptably reduce the President's ability to use sanctions as an effective nonproliferation tool and would affect U.S. missile nonproliferation and security efforts.

The Administration strongly opposes sections 1103(b) and 1107(d) of the bill, which constitute excessive intrusion into the implementation by the executive branch of laws relating to the export of defense goods and services. The aspects of these provisions dealing with internal executive branch

procedures are better handled as specified by the President. The aspects of these provisions dealing with executive-legislative relations are better handled as a matter of comity between the executive and legislative branches.

Several other security assistance provisions would limit the President's authority to make changes regarding export licensing and would micro-manage State Department licensing procedures. Of particular concern are: section 1204, regarding licensing for commercial defense exports to the United Kingdom and Australia; and section 1206, regarding "co-locating" munitions license functions.

A number of appropriation authorizations are in excess of the President's request and others establish unfunded benefits that would place undue pressure on the FY 2004 Budget. These include: section 307 (additional post differentials and allowances); section 229 (establishing refugee response teams), and section 506 (prohibiting elimination of certain foreign language broadcasts).

Provisions raising Constitutional concerns include: section 221, relating to Jerusalem, which would infringe upon the President's constitutional authority to conduct the Nation's foreign affairs and supervise the unitary executive branch, and which is not conducive to a constructive diplomatic outcome in a particularly sensitive and difficult negotiating environment; sections 113(d), 433, 434, 435(a), 438(d), 604, 733(a), and 1412, which purport to direct the Executive branch officials to take certain positions in international bodies, or in communications with foreign countries; section 223(b), which requires a report that could disclose information contained in sensitive and confidential diplomatic communications; and section 1814, establishing a "security policy" for Afghanistan, which would require the President to take certain actions that would impermissibly hinder his Commander-in-Chief powers.

Other provisions of concern include: section 229, which would reduce the Administration's flexibility in developing and implementing the refugee resettlement program; section 504, which would direct the content of international broadcasting for the purpose of promoting travel and tourism in the United States; section 1808 relating to Afghanistan; and various reporting requirements, particularly section 710 relating to Pakistan. The Administration is studying section 1109, regarding concurrent jurisdiction of the Federal Bureau of Investigation with the Department of Homeland Security's Customs Bureaus, to determine whether this provision is necessary.

The Administration is disappointed that H.R. 1950 does not include authorization of the Complex Foreign Contingency Account. With respect to section 227, which concerns the capital cost sharing initiative for the construction of secure embassies overseas, which is currently under development within the Administration, we look forward to working with the Congress on the Administration's proposal.

The Administration understands that an amendment authorizing the creation of the MCA may be offered by Chairman Hyde and Representative Lantos. The Administration strongly supports House passage of this amendment. The Administration supports legislation consistent with the principles outlined in the President's February 5, 2003, transmittal to Congress establishing a Millennium Challenge Corporation that would administer a new assistance program using innovative strategies with an emphasis on economic growth, country ownership and responsibility, and accountability for results. Only an

autonomous corporation, guided by the U.S. foreign policy leadership, will have the flexibility and focus necessary to achieve these goals. We look forward to working with Congress to implement the President's vision on this important initiative.

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

June 11, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2115 -- Flight 100 - Century of Aviation Reauthorization Act

(Rep. Young (R) Alaska and 3 cosponsors)

The Administration supports House passage of H.R. 2115, The Flight 100 - Century of Aviation Reauthorization Act. Like the Administration's proposal, H.R. 2115 would authorize the aviation programs for four years without increasing taxes or fees on an industry that has been severely impacted by the attacks on September 11, 2001.

However, the Administration strongly opposes provisions in H.R. 2115 which would:

-- Restrict the Department of Transportation's ability to manage the air traffic control system by prohibiting the conversion of government-provided air traffic control functions to the private sector. Such restrictions are unnecessary and would hinder the ability of the Federal Aviation Administration (FAA) to manage the air traffic control system. If the final legislation includes provisions that would inappropriately prohibit the conversion of FAA facilities or functions from the Federal Government to the private sector, the President's senior advisors would recommend that he veto the bill.

-- Require that an impasse in labor negotiations between the FAA and National Association of Air Traffic Specialists be referred to the Federal Service Impasses Panel to be resolved by binding arbitration. The original reasons for deciding how such impasses should be resolved have not changed, and there is no reasonable basis for modifying this procedure for a single instance of collective bargaining.

-- Grant to certain Federal employees who have ceased to be air traffic controllers the same preferred retirement benefits that air traffic controllers receive.

The Administration will work with Congress to ensure, in the version of the bill presented to the President, that: (1) spending during the authorization period conforms to the amounts requested by the Administration; (2) environmental streamlining provisions include safety projects and are optimized to promote their intended goals; (3) the ability of the Transportation Security Administration to take action against security threats is not hindered by excessive layers of review; (4) the Aviation War Risk Insurance program remains focused on aircraft used to support U.S. military and foreign policy objectives; (5) no provisions could be perceived as contrary to the trade policy or obligations of the United States; (6) the ability of airports to use Airport Improvement Program grants for security-related replacements of baggage conveyors or

reconfigurations of baggage areas is not curtailed; (7) entities are not made eligible for grants or other compensation solely because they incurred costs to comply with Federal security requirements; (8) the appointment of members and the operation of any committees or commissions created by the bill are consistent with the appointments clause of the Constitution and the President's constitutional authority to supervise the unitary executive branch and make recommendations to Congress; (9) provisions regarding the use of space by the FAA at airports do not impose costs which preclude the continued provision of essential services by FAA; (10) any provision for airline collaboration or coordinated capacity reduction preserves competition to the maximum extent possible; (11) the existing program protecting airline employees who provide safety information is not encumbered with unnecessary provisions that permit complainants to pursue duplicative litigation before an administrative tribunal and then a second time before a federal court; and (12) mandates which might interfere with the FAA's ability to optimize its organization are minimized.

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

July 8, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2660– Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, FY 2004

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2004 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, as reported by the House Committee. The Administration is pleased that the Committee bill supports increased investments for many of the President's education priorities and fully funds the request for the National Institutes of Health while terminating a number of lower-priority programs which have failed to demonstrate results. The bill, however, continues to fund many other lower-priority programs, which are duplicative or have a track record of little or no success. The House is urged to reassess priorities and redirect this spending, as the President has done.

The Administration applauds the Committee for reporting this important bill in a timely manner and looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $784.7 billion, along with advance appropriations of $23.2 billion for FY 2005 – in accordance with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage continued economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Select Initiatives

Pell Grant Program. The bill provides $12.25 billion for Pell Grants, $465 million less than the President's request for this high priority program. Under the Department of Education's most recent estimates of Pell Grant costs, the House level may be insufficient to cover costs in 2004. The Administration strongly urges Congress to fund the Pell Grant program at the President's request. The Administration also urges Congress to restore the Secretary's traditional authority to adjust program priorities when funding is insufficient.

Low Income Home Energy Assistance Program (LIHEAP). The Administration is disappointed that the Committee funded LIHEAP at $1.8 billion, $200 million less than the request. This could limit the ability to address the heating and cooling needs of low-income families. The Administration urges the Congress to ensure that programs such as LIHEAP, with essentially unavoidable obligations, are adequately funded.

Education Initiatives. The Administration appreciates the House's support of the Mentoring of Middle School Students program but urges the House to provide the full request for this initiative to target at-risk youth in middle school and assist them in the successful transition from elementary to secondary school. The Administration also urges the House to provide the full request for Teaching of Traditional American History, a component of the President's initiative to enhance civic education.

Drug Treatment Initiative. The Administration appreciates that the Committee recognizes the importance of this initiative, however, we are disappointed that the Committee provided only $100 million of the $200 million requested for the President's Access to Recovery treatment voucher program in the Substance Abuse and Mental Health Services Administration. This program would expand substance abuse treatment capacity by providing approximately 100,000 individuals who need and want treatment with additional options for services, including through faith-based and community organizations. The Administration is working aggressively with state and local partners to resolve implementation issues and is confident States are prepared to successfully implement this program at the full $200 million level. The Administration urges the House to fully fund this initiative.

HIV/AIDS Initiative. The Committee bill also underfunds, by $50 million, an important component of the President's Emergency Plan on HIV/AIDS – programs in the Centers for Disease Control and Prevention (CDC) to prevent the transmission of HIV/AIDS from mothers to infants – leaving many mothers and infants in Africa and the Caribbean without preventive care and treatment. In order to reach one million women annually and reduce transmission between mother and child by 40 percent, the Administration urges the full funding of the President's request.

Compassionate Care programs. The Administration appreciates that the Committee increased funding for two Administration initiatives, Mentoring Children of Prisoners and the Compassion Capital Fund, but is very disappointed that the overall funding is still at half the level requested in the President's Budget. In addition, the Committee failed to provide any funds for the Administration's initiatives related to fatherhood and maternity group homes.

Corporation for National and Community Service (CNCS). While the Administration appreciates the Committee's support for national service, the Administration is concerned that the Committee reduced the request for Special Volunteers for Homeland Security to $5 million (a 75-percent reduction) and failed to finance the $5 million request for Parent Drug Corps. The Committee's action would deny thousands of Americans the opportunity to participate in national service. The Administration urges the House to fully fund the request for CNCS.

Other Issues

Other programs in the Department of Health and Human Services (HHS). The Administration is disappointed that the Committee did not fully fund the President's requests for proven, effective, and high priority health programs, including Abstinence Education, the National Health Service Corps, Steps to a Healthier US at CDC, and HHS' efforts to ensure the nation has an adequate supply of vaccine in the event of an influenza pandemic.

Medicare. The Administration is pleased that the Committee included $129 million for Medicare appeals. We encourage the Congress to also include the Administration's proposal to give the Secretary flexibility to enhance and streamline the Medicare appeals process.

The Administration is pleased that the Committee included a provision to assess a $2.50 fee to providers who submit duplicate or unprocessable Medicare claims. The bill, however, omits a second proposal to charge a fee to providers filing appeals with qualified independent contractors (QICs). Further, the Administration's proposal would offset $195 million in estimated collections rather than $98 million as in the House bill. The Administration believes that including these latter proposals would improve the efficiency of both the appeals process and operations of the Centers for Medicare and Medicaid Services.

Social Security Administration. The Committee reduced the Administration's request for the Social Security Administration (SSA) by $168 million. Without these resources, SSA may not be able to reverse the steady increase in the backlog of disability claims or sustain program integrity efforts. In addition, the bill does not provide language to protect program integrity funding.

Potential Amendments

Faith-Based Organizations - The Administration understands that an amendment may be offered on the House floor that would prohibit faith-based organizations receiving Federal funds from taking into account faith when they make their employment decisions. Regardless of whether government funds are involved, faith-based groups should retain their civil rights, including their right under Title VII of the 1964 Civil Rights Act, to take faith into account when making employment decisions. The Administration would strongly oppose any provision restricting this right, as it would effectively inhibit faith-based organizations – those organizations that provide housing for the homeless, treatment programs for the addicted, and job training for those on welfare – from achieving their mission. The full involvement of the faith community is essential to mobilize America's "armies of compassion" and the House is urged to defeat any such amendment. The President's senior advisors would recommend that he veto the bill if it included such a provision.

Labor Department – Labor Management Regulations and Overtime Protection - The Administration understands that an amendment may be offered that would prohibit the Labor Department from moving forward on regulations that would revise reporting and disclosure requirements under the Labor-Management Reporting and Disclosure Act (LMRDA). These requirements have not

been updated since LMRDA was passed in 1959. In requiring timely and more detailed financial information from labor organizations, this revised regulation would provide both union members and the Labor Department with the information they need to properly ensure union democracy, fiscal integrity and transparency in a manner consistent with the intent of Congress in enacting the LMRDA. The Administration also understands that an amendment may be offered that would prohibit the Labor Department from implementing and enforcing the proposed rulemaking regarding changes to outdated overtime laws. The revised rule would provide overtime to 1.3 million additional low wage workers by simplifying complex eligibility tests and raising salary thresholds that have not been changed in almost 30 years. If either one of these provisions were included in the final version of the bill, the President's senior advisors would recommend that he veto the bill.

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

July 16, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2691 – Department of the Interior and Related Agencies Appropriations Bill, FY 2004

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2004 Interior and Related Agencies Appropriations Bill. The Administration is pleased that the bill provides critical resources needed to address the maintenance backlog in the national parks.

The Administration applauds the Committee for reporting this bill in a timely manner and looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $784.7 billion, along with advance appropriations of $23.2 billion for FY 2005 – in accordance with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage increased economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Select Initiatives

The Administration is concerned that the bill fails to fully support the President's request for key Administration initiatives. In particular, the bill underfunds the President's Hydrogen Fuel Initiative, which seeks to make our air cleaner and our country less dependant on foreign sources of energy; and the "We the People" initiative, which is designed to promote understanding of the ideas and events that have shaped our Nation. The Administration strongly objects to these gaps and urges the Congress to provide the full request for these important Presidential initiatives.

Competitive Sourcing

The Administration strongly opposes Section 335 of the bill, which would restrict the ability of entities funded under this bill to seek improvements in management and delivery of services through competitive sourcing. Now is the wrong time to short-circuit implementation of the common-sense principle of competition -- a proven way of protecting taxpayers' dollars while providing better service and

performance enhancements, especially since numerous agencies are starting to make real progress. Prohibiting funding for public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill were to contain such a provision, the President's senior advisors would recommend that he veto the bill.

Wildland Fire Suppression

The Administration strongly opposes the Committee's reduction to the President's request for critically needed wildland fire suppression funding in both the Forest Service and the Bureau of Land Management. The Administration's request, which includes full funding for the 10-year average of suppression costs, should be restored in both agencies**.**

Department of the Interior (DOI)

The Administration commends the Committee for extending the Recreation Fee Demonstration authority and for providing the requested increases in National Wildlife Refuge System operations. The Administration also appreciates that high priority programs such as Landowner Incentive, Private Stewardship Grants, and the Cooperative Conservation Initiative, are funded. However, the Administration objects to reductions that would prevent the Department from utilizing effective management tools to get the best return on the taxpayer dollar. In particular, the House is urged to restore the $14 million reduction from the President's request for a new DOI financial management system. We are also concerned about the failure to fully fund the request for Indian trust reform and related activities.

The Administration is disappointed that the bill provides for programs funded from the Land and Water Conservation Fund at levels significantly below the Administration's request. These programs provide vital assistance to State and local agencies and partnership groups. In addition, the bill fails to include $40 million requested to buy mineral rights in Big Cypress National Preserve, Florida, which would prevent future development of oil and gas in the Preserve and thereby contribute to the Nation's significant investment in Everglades restoration. The Administration encourages the House to fully fund these important programs.

The Administration commends the Committee for its effort to provide a prompt and fair resolution for the individual Indian money claims. Recently, the House Resources Committee and the Senate Select Committee on Indian Affairs also expressed interest in finding a fair and equitable resolution to these issues. We look forward to working with Congress and Indian Country to resolve these claims.

Department of Agriculture

The Administration encourages the House to provide the requested levels for the Forest Legacy and Forest Stewardship programs, which protect critically important private forest lands for a variety of conservation purposes.

Department of Energy (DOE)

The Administration opposes the $63 million reduction from the President's $288 million request for the Weatherization Assistance Program, that assists low-income families with their energy bills while conserving energy for the Nation. The President is committed to increasing funding for this program by $1.4 billion over 10 years. The House could restore funds for this program from the lower priority unrequested fossil energy research and development activities discussed below.

While the Administration appreciates the full funding of the President's Clean Coal Power initiative, the Administration urges the House to consolidate all coal research within the Office of Fossil Energy, as requested. The $86 million deferral of Clean Coal Technology funds highlights the need for reform. In addition, the Administration objects to the $90 million increase over the President's request for fossil energy research and development activities. Of particular concern is the $10 million increase for natural gas technologies, and the $17 million increase for petroleum technologies. The Administration's evaluation of these programs using the Program Assessment Rating Tool and the Research and Development Investment Criteria found that these programs do not clearly link annual activities and products to long-term benefits, had generally poor performance and results, and often duplicated industry work. The President's request refocuses these programs on long-term, high-risk research, and we urge the House to adopt this approach.

The Administration also urges the House to restore funding for the National Climate Change Technology Initiative Competitive Solicitation program, a key component of the President's strategy to fund innovative technologies that can significantly reduce greenhouse gas emissions.

Indian Health Service (IHS)

The Administration is concerned that the bill fails to fund the requested $21 million increase for the construction of IHS sanitation facilities. Safe water and waste disposal is critical to improving the health of Indian people, specifically by reducing infant mortality and gastrointestinal disease.

The Administration also notes the Committee's desire to be apprised of actions taken by the Department of Health and Human Services (HHS) to improve the management of human resources across the Department. HHS is committed to providing information to the Committee on a timely basis as it moves ahead with these efforts as part of the Administration's broader initiative to strengthen the management of the Federal Government.

Potential Amendments – Roadless Rule and RS 2477

The Administration understands that amendments may be offered on the House Floor that would prohibit the Forest Service from funding modifications to the pending Roadless Area Conservation Rule (RACR), undertake management activities within lands affected by the RACR, or

both. The Administration strongly opposes either approach. Litigation on the RACR is ongoing in the courts of several circuits. Recently the Federal District Court for the District of Wyoming permanently enjoined implementation of the rule. In view of this decision, a legislative prohibition at this time would likely lead to serious unintended adverse effects, including the absence of any rule protecting roadless areas. The amendments also would disallow the adjustment of approximately 2.8 million acres that have existing roads but nonetheless were included in the roadless area inventory. Such an approach would weaken our ability to deal with catastrophic wildfires while also compromising the continued maintenance of many existing facilities, such as dams, utility corridors, and water transportation systems. The Administration strongly opposes any action that would jeopardize these critical resources. The Administration would also strongly oppose any amendment which would contradict the 1997 final land and resource management plan for the Tongass National Forest. This plan has been upheld by the courts and assures protection of 95% of the roadless areas in Tongass.

We also understand that an amendment may be offered to limit the ability of the Department of the Interior to process county road – "R.S. 2477" -- rights of way claims. The Department has reached an agreement with the State of Utah to use a public and collaborative process to consider claims made by the state and county officials for valid existing rights of way to publicly traveled and regularly maintain roads and the Administration would strongly oppose such an amendment. This process is an alternative to federal court litigation and does not apply to county roads rights of way within National Parks, Wildlife Refuges, Wilderness or Wilderness Study Areas.

Constitutional Concerns

The Administration urges the Congress to revise the more than a dozen unconstitutional provisions in the Act that purport to require the executive branch to obtain approval or consent of congressional committees for the execution of a law. The provisions should call for notification to Congress rather than for committee approval or consent, so that the provisions are consistent with the constitutional principles set forth by the U.S. Supreme Court in 1983 in *INS v. Chadha*. Also, the provisions that purport to require executive branch submission of requests for supplemental appropriations should be revised to provide for such submission only when the President judges it necessary and expedient, as the Recommendations Clause of the Constitution provides.

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

July 22, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2799 – Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 2004

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2004 Commerce, Justice, and State Appropriations Bill. The Administration appreciates the Committee's support for the programs and initiatives of the Department of Justice, including the requested increases for Federal law enforcement and the President's DNA initiative. However, the Administration has several specific concerns with the House bill and will work with the Congress on these and other issues as the bill moves through the legislative process.

Specifically, the bill contains a provision blocking implementation of a Federal Communications Commission (FCC) rule establishing a new national television ownership cap. The Administration believes that the new FCC media ownership rules more accurately reflect the changing media landscape and the current state of network station ownership, while still guarding against undue concentration in the marketplace. If this provision or a provision like it with respect to any one of the other FCC Rules is contained in the final legislation presented to the President, his Senior Advisors would recommend that he veto the bill.

The Administration applauds the Committee for reporting this bill in a timely manner and looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $784.7 billion, along with advance appropriations of $23.2 billion for FY 2005 – in accordance with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage increased economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

Additional Administration views regarding the Committee's version of the bill are:

Citizen Corps

The Administration urges the House to provide full funding for the Citizen Corps initiative, a

Presidential priority and component of the USA Freedom Corps. This important initiative will make communities safer, stronger, and better prepared to respond to the threats of terrorism, crime, public health issues, and disasters of all kinds.

Department of Commerce (DOC)

The Administration appreciates the full funding of Census Bureau programs, the Administration urges the House to restore the $10 million reduction from the President's request of $85 million for the Economic and Statistics Administration. The requested funding will support initiatives of the Bureau of Economic Analysis to accelerate the release and improve the accuracy of key economic indicators, including the Gross Domestic Product. The Administration is also concerned that the reduced funding for the National Oceanic and Atmospheric Administration (NOAA) will impair NOAA's ability to manage the Nation's commercial fisheries.

The Administration is disappointed that the bill does not provide sufficient funds for the Patent and Trademark Office to adequately improve patent and trademark quality, reduce pendency, and make operations fully electronic. The Administration urges the Congress to support the associated fee reform legislation, which will provide the additional fee revenue needed to support these operational improvements. The Administration also encourages the House to restore the reduction from the President's request for Commerce's Departmental Management, in order to fund E-Government initiatives, information technology security and critical infrastructure protection, and renovation planning for the Herbert Hoover building.

The Administration appreciates the Committee's efforts to reduce spending that is no longer warranted or is of an insufficiently high priority. Additional savings could be realized through adoption of the Administration's proposed rescission of unobligated steel loan guarantee funds and termination of the Technology Opportunities Program.

Department of Justice (DOJ)

The Administration urges the House to fully fund the President's request for the drug court program, which diverts non-violent drug offenders into treatment and brings nearly half of them to successful completion of treatment.

The Administration appreciates the Committee's full funding for the Organized Crime Drug Enforcement Task Force (OCDETF). However, the Administration opposes the merger of the OCDETF program into the Drug Enforcement Administration (DEA). The Administration believes that OCDETF management should continue under the direction of the Office of the Deputy Attorney General to ensure that program management and resource allocation decisions are objective and not made by one stakeholder. The Administration also appreciates the Committee's support for the efforts to enhance drug intelligence capabilities. However, the Administration believes that placing this capability under OCDETF, rather than DEA, will help to ensure objectivity and multi-agency participation in decision-making.

The Committee bill did not include the Administration's budget restructuring efforts. This restructuring would provide the Administration and the Congress a more performance-based budget that is linked to mission and outcomes.

The Administration also encourages the House to adopt the proposed rescission of $188 million from the Bureau of Prisons prior-year construction funds, which is intended to encourage the consideration of alternatives to prison construction, including the use of available private, State, and local prison bed-space and facilities.

Department of State

The Administration appreciates that the bill funds many programs at the requested levels and consolidates educational and cultural exchange programs. The Administration opposes the following reductions from the request: $63 million from the Diplomatic and Consular Programs account, which would reduce the resources and personnel necessary to carry out its mission and funding for the G-8 summit to be held in the United States during 2004; $120 million from Embassy Security, Construction and Maintenance account for the new embassy building in Berlin that has been in planning for over a decade; and reductions to a number of smaller organizations and commissions. In addition, the bill contains several problematic earmarks within the Diplomatic and Consular Programs account. The Administration is also concerned about a provision that delays the obligation of $84 million in the Capital Investment Fund until September 2004, prohibiting the State Department from purchasing basic information technology infrastructure for a year.

Equal Employment Opportunity Commission (EEOC)

The Administration is disappointed that the Committee provided only $328 million for EEOC, $6 million below the President's request. At this level, it will be difficult for EEOC to maintain reductions in its private-sector complaints inventory, and the agency may have to postpone key management reforms that will allow it to serve citizens more efficiently. The Administration urges the House to provide the full request.

United States Trade Representative (USTR)

The Administration is concerned with the additional funding provided to USTR, $5 million more than the request. The unrequested earmark of $2 million for enforcement and monitoring of China's trade commitments is unnecessary.

Infringements on Executive Authority

The Administration objects to Section 609 in the bill, which would restrict the use of funds for U.N. peacekeeping missions that involve U.S. Armed Forces under the command or control of a foreign national, places unconstitutional conditions on the President's authority to command the armed

forces. In addition, Section 610, which would preclude the use of funds to maintain diplomatic relations with Vietnam unless the President certifies to Congress that Vietnam has satisfied specific conditions mandated by Congress, is an unconstitutional condition on the exercise of the President's power to control the recognition and non-recognition of foreign governments.

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

July 22, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2800 – Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 2004

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2004 Foreign Operations, Export Financing, and Related Programs Appropriations Bill, as reported by the Appropriations Committee.

The Administration applauds the Committee for reporting this bill in a timely manner and looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $784.7 billion, along with advance appropriations of $23.2 billion for FY 2005 – in accordance with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage increased economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

Additional Administration views regarding the Committee's version of the bill are:

Millennium Challenge Account (MCA)

The Administration opposes the $500 million reduction from the President's request of $1.3 billion for MCA. The request level represents the first step in the ramp-up to the President's commitment of $5 billion in annual funding by FY 2006. Such a significant reduction would limit the number of countries that could initially participate and the ability of the Millennium Challenge Corporation to begin operations. This initiative represents a significant new departure in the provision of foreign assistance. Reductions would compromise our potential for supporting growth and opportunity in countries committed to investing in their people, ruling justly, and sound economic policies.

Emergency Plan for AIDS Relief

The Administration is pleased with the Committee's strong support of the President's Emergency Plan for AIDS Relief. However, the Administration is concerned that the bill severely limits the authorities of the new Coordinator to assure a coherent government-wide approach by not establishing

a separate role and account at the Department of State, limiting his ability to transfer and allocate funds to the relevant government agencies, and providing limited contracting authority. The Administration strongly supports maintaining the flexibility for the Coordinator that was fundamental to the President's plan, provided in H.R. 1298, and essential to effective coherent management of HIV/AIDS programs across the U.S. Government. In addition, in light of the lack of pledges from other donors at the recent Global Fund meeting, the Administration strongly encourages the release of Global Fund contributions for use by the Coordinator as of January 1, 2004, as a mechanism to leverage funding from other donors.

U.S. Emergency Fund for Complex Foreign Crises

The Administration is concerned that the bill fails to fund the President's request for a new $100 million U.S. Emergency Fund for Complex Foreign Crises. This initiative is needed to provide the President with additional flexibility to respond swiftly and effectively to emerging crises worldwide.

Peace Corps

The Administration is concerned that the reduction to the Peace Corps will imperil the President's initiative to double the number of Peace Corps volunteers to 14,000 by FY 2007. The bill provides only $314 million, a reduction of $45 million below the President's request of $359 million.

Famine Fund

The Administration urges the House to fund the $200 million request for a new, flexible contingency fund to meet unexpected famine needs. While we acknowledge that the bill adds $80 million to the request level for International Disaster Assistance for famine prevention and mitigation, the Administration must have the ability to provide adequate resources to prevent and address famine quickly.

Additional Funding Issues

The Administration also urges the House to fund the President's request for the Economic Support Fund (ESF). Including the International Fund for Ireland, the bill provides $2.3 billion or $0.2 billion less than the President's request of $2.5 billion for ESF. When combined with the Middle East and various other earmarks, especially the $67 million for U.S. Agency for International Development (USAID) facilities/buildings, this cut would have an adverse impact upon all regional programs, particularly in Africa.

The Administration opposes the $100 million reduction in the Foreign Military Financing (FMF) account. With over 80 percent of the request committed to Israel, Egypt, and Jordan, this reduction would have a serious impact on our global efforts to combat terrorism. In addition, the Administration strongly encourages the House to include requested language to permit the deobligation and reobligation of prior year FMF funds. This authority is necessary to help meet increasing requirements for funds to

fight the war on terror. Also, the proposed reduction of $50 million in the Nonproliferation, Antiterrorism, Demining and Related Programs account would slow initiatives in the request to expand anti-terrorism assistance training programs and address the proliferation of weapons of mass destruction.

The Administration is disappointed that the bill fails to provide $300 million to pay for the cost of Heavily Indebted Poor Countries (HIPC) debt reduction for the Democratic Republic of the Congo (DRC). This action will preclude the U.S.'s ability to participate in debt reduction in the Paris Club of Creditors, may cause other creditors to withhold debt relief for the DRC, and could harm the U.S. commitment to the overall HIPC program. At a time when the Congolese people are forming a new Government of National Unity, debt reduction will support their efforts to rebuild the country.

The Administration urges the Congress to restore the $97 million reduction from the President's request for the USAID Capital Investment Fund.

The Administration appreciates that the current version of the House bill is consistent with the Administration's family planning policy. The Administration would oppose any legislation that would infringe upon the President's ability to enforce current Administration policy regarding international family planning assistance. If a provision were to be added to the bill on the House Floor that would change this policy, the President would veto the bill.

While the Administration encourages competition in contracting, the general provision on competition in contracting in the bill would limit the flexibility of the Administration to enter into contracts relating to the provision of assistance for Iraq in an unforeseen emergency or circumstance.

Potential Amendment

The Administration appreciates the committee's support to date for one of the Administration's highest priority initiatives – the President's Global AIDS Initiative. Funding provided for Global AIDS will move many nations forward in the global fight against HIV and AIDS. The Administration understands, however, that an amendment may be offered on the Floor that would shift $500 million from the current level of funding provided in the bill for the President's Millennium Challenge Account Initiative to the President's Global AIDS Initiative. As noted above, the Administration opposes the $500 million reduction from the President's request of $1.3 billion for MCA already contained in the bill. If such an additional reduction were included in the final legislation presented to the President, his senior advisors would recommend that he veto the bill.

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

September 4, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2989 – Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, FY 2004

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2004 Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, as reported by the Appropriations Committee.

The Administration looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $784.7 billion, along with advance appropriations of $23.2 billion for FY 2005 – in accordance with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage increased economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

Additional Administration views regarding the Committee's version of the bill are:

Civilian Pay and the Human Capital Performance Fund

The Administration urges the House to adopt the President's proposal for pay. The 4.1 percent increase proposed by the Committee exceeds the President's request by $2.1 billion, provides a percentage increase that exceeds inflation, the statutory base pay increase, and even exceeds the average increase in private-sector pay, measured by the Employment Cost Index. The higher pay raise included in the House version of the bill does not address any particular issue related to Federal employee turnover. According to a recent survey of Federal employees, a majority are satisfied with their pay rate and the "quit rate" (the rate at which Federal employees leave the government voluntarily) among Federal employees is at an all-time low of 1.7 percent per year, well below the overall average quit rate in private enterprise. In addition, a higher across-the-board pay raise would not allow the Federal government to target pay raises to attract employees with critical skills.

In addition, the Administration opposes the provision specifying a 4.1 percent increase for DHS and DoD civilian employees. This provision would limit flexibility as DHS and DoD attempt to design a

personnel and pay system that best meets their needs.

The Administration is also extremely disappointed that the bill does not fund the President's request for a $500 million Human Capital Performance Fund. The Fund is a more targeted approach to move the Federal pay system into one that would promote high performance. The Fund would allow agency managers to provide additional pay raises to high performing employees and employees with the most valuable skills.

Department of Transportation

The Administration is concerned with the level of funding provided for the Federal highway program. The Committee's bill includes $33.8 billion for Federal-aid highways, which is $4.5 billion more than the President's request of $29.3 billion. This level of spending breaks dramatically with the tradition of tying highway spending with Highway Trust Fund revenue. Further, this funding level cannot be sustained in the long term by current revenues to the Highway Trust Fund and likely would lead to a gas tax increase, which the Administration strongly opposes.

Additionally, the Administration is very concerned about provisions in current law that would shut down or significantly curtail the Department of Transportation's (DOT) largest programs on October 1, 2003. Unless Congress takes action before September 30, 2003, the Federal Highway Administration, the Federal Aviation Administration, the Federal Transit Administration, and all other programs supported by the Highway and Airport and Airway Trust Funds may not be able to approve new projects or allow States to incur new obligations using trust fund resources. Further, these agencies may not be able to reimburse States or other entities for expenses incurred because of limits on the use of trust funds for administrative expenses. It is critical that Congress amend these provisions to allow these programs to continue to function beyond September 30, 2003.

The Administration is pleased that the House bill provides the request of $900 million for Amtrak operations, capital, and infrastructure maintenance. The Administration urges the House to institute operational and structural reforms, pursuant to the Administration's recently-proposed Amtrak reauthorization bill. The Administration opposes additional funding that would perpetuate the status quo and interfere with these needed reforms.

The Administration is concerned with the unrequested $63 million provided for the Payments to Air Carriers program from the Airport and Airway Trust Fund that is in addition to the $50 million permanently authorized for this program. The Administration wants to work with the Committee to help address the growing subsidy costs of the program.

The Administration is pleased that the bill would provide $45 million to support the new DOT headquarters building project. The funding for this project will ensure that the Department has a headquarters building in a superior and less costly facility than would be available to DOT when the current lease expires.

Executive Office of the President (EXOP)

The Administration strongly urges the House to provide the requested funding for the many EXOP offices, projects and programs cut by the bill, including the Council of Economic Advisers, the Homeland Security Council, the National Security Council, the Office of Management and Budget, and the Office of Administration's Capital Investment Plan programs. The funding levels in the bill would result in staffing reductions and other measures that would severely impair the ability of the President to fulfill his responsibilities to the detriment of the Government as a whole. In addition, the Administration continues to support the proposed consolidated appropriation for EXOP and regrets that the Committee failed to adopt it.

The Administration is concerned that the Committee continues the common services (core enterprises) pilot project within the Office of Administration for a second year in a row and does not support the transfer authority requested by the Administration. While some economies of scale may be met under the common services pilot project, the transfer authority requested by the Administration would allow EXOP agencies the flexibility to address unexpected requirements and needs that may be outside the program.

General Services Administration, Electronic Government Fund, Federal Enterprise Architecture

The Administration appreciates the Congress' interest in Electronic Government (E-Gov) and urges the Congress to support the President's $45 million request for this important component of the President's Management Agenda. As has been demonstrated by successes from the modest $5 million invested in each of the last two years (including e-rulemaking, recreation.gov, e-authentication, geodata.gov, e-training, and Firstgov.gov), the E-Gov Fund can bring significant improvements across agencies while reducing the need for each agency to "reinvent the IT wheel."

The Administration strongly urges the Congress to restore the $2.5 million needed to support the Federal Enterprise Architecture which will allow the government to document, analyze, and find redundancies in its IT systems and business processes. For the first time, through this funding, the Federal government will be able to identify redundant IT investments across all agencies, thereby preventing new and eliminating existing wasteful spending. As a result, the Federal government will obtain a higher return on its investments, recoup the cost of this investment, and ultimately save the taxpayers billions of dollars.

Other Issues

The Administration is concerned about the level of funding provided to the Internal Revenue Service (IRS), particularly the proposed reductions in Tax Law Enforcement and Information Systems investments, which will make it more difficult for the IRS to improve the fair enforcement of the tax code. The Administration will continue to work toward the proposed consolidation of the two Treasury offices of Inspector General in the final bill. This consolidation will help ensure that the Inspector General at Treasury can function in a flexible, effective and efficient manner.

The Administration urges the House to adopt the proposed repeal of the Continued Dumping and Subsidy Offset Act of 2000 that provides payments to private entities from antidumping and countervailing duty collections. This repeal could provide savings to the taxpayer of over $300 million per year. In addition, the Act provides an unwarranted subsidy to entities that already benefit from higher import prices due to the duties.

The Administration is concerned about Sec. 629 of the bill, which would impose a threshold for congressional notification of reprogramming actions which augment an existing program, project, or activity by $5,000,000 or 10 percent, whichever is less. Under this standard, even the most minor adjustments in resources would have to be brought to Congressional attention 15 days in advance. We strongly urge the adoption of a "$5,000,000 or 10 percent, whichever is greater" standard. This standard would ensure that agencies notify the Congress of significant deviations from appropriations, without unnecessarily prohibiting minor, but often critical, adjustments in a timely way.

The Administration appreciates that the Committee has continued current law provisions that prohibit the use of Federal funds for abortions in the Federal Employees Health Benefits Program (FEHBP), except in cases where the life of the mother is endangered or the pregnancy is the result of an act of rape or incest.

Potential Amendments – Weakening Cuba Travel Sanctions and Competitive Sourcing

The Administration understands that an amendment may be offered on the House Floor that would weaken current sanctions against Cuba. The Administration believes that it is essential to maintain sanctions and travel restrictions to deny economic resources to the brutal Castro regime. The licensing process helps to ensure that humanitarian and cultural travel facilitates genuine exchanges between U.S. travelers and ordinary Cuban citizens and that any sales to Cuba are done within the boundary of the law. Lifting the sanctions now, or limiting our ability to enforce them, would provide a helping hand to a desperate and repressive regime at the expense of the Cuban people. If the final version of the bill contained such a provision, the President's senior advisors would recommend that he veto the bill.

The Administration understands that an amendment may be offered on the House Floor that would effectively shut down the Administration's Competitive Sourcing initiative to fundamentally improve the performance of the government's many commercial activities. The Administration seeks to improve the performance of government services based on the common sense principle of competition -- a proven way of protecting taxpayers' dollars while providing better service and performance enhancements. Now is the wrong time to short-circuit implementation of this principle, especially since numerous agencies are starting to make real progress in this area. Prohibiting funding for public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill contained such a provision, the President's senior advisers would recommend that he veto the bill.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. The Administration will interpret these provisions to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS vs. Chadha*.

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

February 4, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3030 - Improving the Community Services Block Grant Act

(Rep. Osborne (R) NE and 4 cosponsors)

The Administration supports House passage of H.R. 3030, the "Improving the Community Services Block Grant Act" and will work to amend and strengthen certain provisions of the bill as it moves through the legislative process. The Community Services Block Grant (CSBG) program provides Federal funds through States to local Community Action Agencies (CAAs) that operate a wide variety of programs to help lessen the effects of poverty and help families in becoming self-sufficient. This legislation would reauthorize and amend the CSBG Act to provide for quality improvements, including changes that are intended to ensure quality and accountability by grantees. In particular, the Administration will work to further strengthen the bill by requiring a set of national performance measures and opening competition for underperforming CAAs' funding to community and faith-based groups.

The Administration is pleased that the bill would retain current law provisions that protect the hiring autonomy of religious organizations under Title VII of the Civil Rights Act of 1964. This exemption from Title VII liability has been in place for over 30 years, and has been expressly preserved in a series of laws that Congress has enacted since 1996. These laws permit faith-based groups to hire according to their beliefs as they administer federally-funded welfare-to-work, community service, and drug treatment programs without running afoul of Title VII. This bill would preserve this important exemption for such groups providing federally-funded services under this bill.

The Administration understands that an amendment may be offered on the House floor that would remove the current hiring autonomy of religious organizations. The full involvement of the faith community is essential to mobilize America's "armies of compassion" and the House is urged to defeat any such amendment. If such an amendment is part of the bill presented to the President, the President's senior advisors would recommend that he veto the bill.

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

March 30, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3550 - Transportation Equity Act: A Legacy for Users

(Rep. Young (R) Alaska and 145 cosponsors)

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the amounts provided in the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint**,** provide long-term funding certainty for States and localities, and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending. The Administration's proposed authorization level of $256 billion over six years is consistent with these three principles.

The House of Representatives has made welcome progress towards meeting the Administration's requirements regarding spending levels. However, as approved by the Committee, H.R. 3550 would authorize $232 billion for highways and highway safety, which is $20 billion above the President's request, and $52 billion for mass transit, which is $8 billion above the President's request. In total, the House bill authorizes $284 billion in spending on highways, highway safety, and mass transit over the next six years, a full $28 billion above the President's request for the same period. Accordingly, if this legislation were presented to the President in its current form, his senior advisors would recommend that he veto the bill.

In addition, the Administration notes that section 1124 of the bill would prohibit States from receiving most of their highway program funds after September 30, 2005 (approximately 18 months from now), unless a subsequent law is enacted addressing guaranteed rates of return. This provision is an attempt to obtain significantly higher funding levels by threatening a shutdown of the highway program next year. These levels cannot be supported by current and proposed revenues to the Highway Trust Fund, almost certainly necessitating either an increase in taxes or additional spending financed from the General Fund, violating the principles set forth above. Additionally, the uncertainty created by this provision, which effectively transforms the legislation into a two-year bill, negates the stability and planning benefits of a six-year bill. Accordingly, if legislation were presented to the President that includes a provision such as Section 1124, his senior advisors would recommend that he veto the bill.

The Administration supports the House's efforts to advance a surface transportation bill through the legislative process and hopes to work closely with Congress to achieve an acceptable bill. In addition to the foregoing concerns, the Administration recommends attention to the following areas.

State and Local Flexibility. The Administration opposes the proliferation of new categorical programs, set-asides, and thousands of special projects in H.R. 3550 that would deprive State and local officials of the capacity to make transportation decisions affecting their communities and to establish priorities in addressing State and local problems. State and local flexibility and discretion are fundamental principles of the Administration's proposal. Under the Administration's proposal, approximately 92 percent of Federal Aid Highway funds would be distributed to States via formula versus approximately 83 percent in H.R. 3550.

Safety. H.R. 3550 does not treat safety as a "core" highway program as the Administration proposed. The Administration believes that both the relative size of the program and its structure are insufficient to make significant progress in reducing highway fatalities. The Administration is disappointed that this bill obstructs a positive agenda for increased flexibility in State funding, and does not reward and encourage States to take a more aggressive stand against non-safety belt users through safety incentive and performance grants. The bill does nothing to encourage States to enact primary safety belt laws or to achieve safety belt use rates of 90 percent and fails to provide a sufficient focus on those States that have the greatest need to make progress against impaired driving. The failure to provide appropriate incentives in these areas could result in a reversal in the current trend of lowered fatality rates nationwide. In addition, the Administration opposes requiring States to spend safety funds on programs that may or may not be consistent with State and local needs, and believes that States should be encouraged to develop strategic highway safety plans to guide highway safety investments of all types.

Environmental Provisions. The Administration believes that the bill should improve project delivery while protecting our environment. H.R. 3550 would not align the transportation and air quality planning horizons and update cycles for purposes of transportation conformity as proposed by the Administration. The bill also includes no provisions to include nonattainment areas that are newly designated under the fine particulate matter and eight-hour ozone standards in the apportionment formula for the Congestion Mitigation and Air Quality Improvement (CMAQ) Program. Without such provisions, the States' CMAQ funding will not adequately reflect the extent of their air quality problems that could negatively influence their ability to meet their responsibilities under the Clean Air Act. Furthermore, the Administration opposes substantially broadening the list of eligible projects for CMAQ funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase.

With respect to project review under the National Environmental Policy Act (NEPA), the Administration is pleased that H.R. 3550 would establish a time limitation on environmental lawsuits. However, the Administration notes that the rigid process contained in Section 6002 could actually have the unintended consequence of penalizing the States that have been most progressive in implementing efficient environmental review processes. In addition, the bill would give the lead agency authority for a more detailed level of analysis of the preferred alternative to facilitate the development of mitigation measures or concurrent compliance with other applicable laws, if such development would not prevent the lead agency from making an impartial decision as to whether to accept another alternative. A better approach to focusing on

alternatives with broad support would be to provide that the results of studies developed as part of the metropolitan and State planning processes establish the basis for NEPA analysis (per Section 5201(n) of the Administration's proposal).

The Administration also believes that the bill should clarify standards pertaining to public park and recreation lands, wildlife and waterfowl refuges, and historic sites -- commonly referred to as "Section 4(f)" standards. A clarification of the Section 4(f) definition of "prudent" is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill inadequately addresses the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act.

Park Roads. The Administration objects to reductions in the Administration's proposal for park roads by 35 percent, or $670 million, over six years. These funds are an essential part of the President's commitment to provide $4.9 billion over five years to reduce the maintenance backlog in national parks. The increased funds could be offset with reductions in other components of the Federal Lands Highway Program that are funded at levels above the Administration's request.

Financing and Freight Mobility. The Administration supports giving States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls; however, the bill's confusing array of overly restrictive pricing pilot programs would not give States needed flexibility to implement variable tolls on existing Interstate System routes to manage congestion or improve air quality.

In addition, the bill does not adopt the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of "private activity bonds" for highways and surface freight transfer facilities. This amendment would stimulate significant private sector investment and innovation in surface transportation infrastructure. The Administration appreciates the bill's lower project threshold under the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program, but believes that the list of eligible projects should be expanded to better address freight needs.

Finally, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan.

Motor Carrier Safety Issues. The Administration is pleased that H.R. 3550 puts an emphasis on reducing trucking fatalities and injuries and adopts the grant and administrative structure included in the Administration's reauthorization proposal. The Administration strongly opposes mandated rulemakings. These requirements pre-determine timetables and outcomes without adequate grounding in science and engineering or adequate evidence of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also opposes any statutory, categorical exemptions to Federal Motor Carrier Safety Administration (FMCSA) hours-of-service regulations. Such exemptions adversely impact highway safety, as well as complicate regulatory enforcement.

Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration opposes the continued authorization of funding for MAGLEV. The Administration's proposal did

not seek funding for MAGLEV and funds can be better spent investing in the Nation's public transportation systems.

Innovation and Research. The Administration is pleased that Section 1504 of the bill includes a provision to foster greater highway construction innovation. The Administration opposes research provisions that unduly restrict flexibility for research managers to administer an effective program. The Administration is disappointed that the bill does not include a hydrogen infrastructure safety research and development program. The bill also does not provide for full and open competition for University Transportation Centers, as the Administration proposed.

Public Transportation Programs. The Administration objects to the bill's failure to require evaluations for New Starts projects below $25 million. The Administration opposes the bill's requirement that the majority of "small starts" projects be fixed guideway. This requirement will increase the costs of Bus Rapid Transit projects, as well as discourage innovation. The Administration also believes the bill should include a meaningful ridership incentive grant program.

Sanitary Food Transportation. The Administration is disappointed that the bill does not reallocate responsibilities for sanitary food transportation among the Departments of Health and Human Services, Transportation, and Agriculture to ensure that each aspect of the food transportation safety mission is made the responsibility of the most qualified agency, as proposed by the Administration.

Accountability and Oversight. The Administration does not believe the bill's emphasis on improved "Stewardship and Oversight" of Federal funds is sufficient. Specifically, the bill does not require annual reviews of State financial management and project delivery systems, does not develop minimum standards for estimating project costs, does not require project management plans for projects over $1 billion, and does not require recipients of $100 million or more in Federal project funds to prepare financing plans.

Appalachian Regional Commission. The Administration opposes section 1805, which would expand the geographic jurisdiction of the Appalachian Regional Commission (ARC) by 12 non-distressed counties and thus weaken ARC's ability to target rural communities with the greatest needs.

Funding Firewalls and Guarantees. The Administration supports a separate category or "firewall" for spending from the Highway Trust Fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creation of "firewalls" for general fund spending on such critical areas as homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

Constitutional Concerns. The Administration looks forward to working with Congress to resolve constitutional issues involving the Recommendations Clause.

Budget Estimates and Enforcement

This bill would affect direct spending. It is critical to exercise responsible restraint over Federal

spending and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go rule that would require spending offsets for direct spending increases, and a new mechanism to control the expansion of long-term unfunded obligations.

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

May 19, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4200 - National Defense Authorization Act for Fiscal Year 2005

(Reps. Hunter (R) CA and Skelton (D) MO)

The Administration commends the House Armed Services Committee for its continued support of our national defense and for including in its bill a number of authorities consistent with the President's request, including a military pay raise and other benefits critical to sustaining the high quality and morale of America's armed forces. We look forward to working with the Congress to address our concerns as the bill moves through the legislative process.

The Administration's most significant concerns are described below.

Base Realignment and Closure (BRAC). The Administration strongly opposes any provision to weaken, delay, or repeal the BRAC authority passed by Congress three years ago. If the President is presented a bill that weakens, delays, or repeals the BRAC authority, the Secretary of Defense, joining with other senior advisors, will recommend that the President veto the bill.

The Administration would strongly support an amendment to preserve current law by deleting a provision currently in the bill that delays BRAC authority for two years.

Competitive Sourcing. The Administration strongly opposes sections 323, 324, and 326, which significantly limit DOD's flexibility on competitive sourcing, such as by mandating that the Department's employees compete for a certain percentage of work currently performed by contractors. Arbitrary quotas concerning commercial work to be performed by Federal employees would undermine the Department's ability to redirect its manpower to military activities, likely require the redeployment of uniformed personnel from critical in-theatre operations to non-core support activities, increase operating costs, and sacrifice billions of dollars in potential cost savings. If the final version of the bill contains such provisions, the President's senior advisors will recommend that he veto the bill.

Export Controls. The Administration strongly opposes the changes to defense trade and export control regulations contained in section 1214 and in Title XIV of the bill. These sections include provisions that would bar exemptions from regulatory requirements (section 1402), provide a process for congressional disapproval of cooperative agreements (section 1403), require export licenses for all technologies covered by the Militarily Critical Technologies List (section 1404), and restrict U.S. exports to countries making certain shipments to China (section 1405). These requirements are contrary to the President's policy to refine U.S. export controls to protect truly critical technologies while facilitating legitimate trade. Further, the elimination of the President's ability to authorize International Traffic in Arms Regulations exemptions would impose a costly additional administrative burden without any corresponding improvement in U.S. export control of sensitive technology. If enacted, these provisions would directly undermine the Administration's work to increase interoperability with the military forces of our friends and allies in traditional military conflicts as well as the global war on terrorism. They

also would damage severely our ability to administer export control programs for munitions and dual-use goods and technologies in a manner that protects U.S. national security interests while allowing U.S. companies to effectively compete in the international market. The Administration also has concerns with section 1412, which would authorize the Secretary of Defense to establish a fellowship program that duplicates the Department of State's International Military Education and Training (IMET) program and provides authorities to DOD that are within the purview of the Department of State.

Train and Equip. The Administration is very concerned that H.R. 4200 does not grant DOD the authority to provide assistance to Iraq and Afghanistan military and security forces, and does not extend this authority to other friendly in the region. This authority is necessary to provide indigenous security capabilities to Iraq and Afghanistan that will ease the operational demands on American forces and to give DOD the flexibility to provide training and equipment to key countries in response to time-sensitive requirements that may emerge in the global war on terrorism.

Global Peace Operations Initiative. The Administration strongly urges inclusion of the President's proposal to authorize DOD, subject to the concurrence of the Secretary of State, to conduct (or transfer funds for the Department of State to conduct) train and equip activities for the purpose of increasing the capacity of other countries to conduct peace operations. At a time of increasing instability in many parts of the world, the global capacity to conduct peace operations, particularly peace enforcement, is not keeping pace with demand. The Administration's proposal would address this shortfall by permitting the United States to improve both the quality and quantity of other nations' peacekeepers. This initiative also would ensure that there is a reliable cadre of global peacekeepers that will lessen the peacekeeping burden on U.S. personnel.

Mandatory End Strength Increases. The Administration opposes the mandatory end strength increases contained in the bill. We continue to believe that current law provides sufficient flexibility to increase end strength temporarily when needed. A mandatory increase would lack flexibility and could leave troop levels higher than needed, especially after several DOD initiatives to reduce demand on the force have had time to work. Mandatory increases require more time and money to recruit, train, and equip those troops compared to current, more responsive practices.

Contingent Emergency Reserve. The Administration requested $25 billion in a contingent reserve which the President could activate upon determination that the resources were essential to Iraq and Afghanistan and the funds were designated as an emergency. The request provided flexibility to assure the availability of resources if needed. While the overall amount has been authorized, the Administration is opposed to the specific limitations by account the Committee has directed. The Administration will work with the Congress to ensure sufficient flexibility in the use of the funds.

Restrictions on Transfer of Funds. The Administration is concerned about restrictions on DOD's ability to transfer a limited amount of money to respond to unanticipated events or to address changes in program execution. Further, the bill does not fully support the Administration's request for $4 billion in general transfer authority. Instead it provides only $3 billion and further hurts flexibility by restricting $500 million of that authority to transfers only between active and

reserve accounts.

Colombia. While noting that any numerical limit on military personnel deployments is inconsistent with the authority committed by the Constitution to the President to conduct the Nation's foreign affairs and command the armed forces, the Administration is concerned that section 1032 does not provide fully the requested increase in the number of U.S. military and civilian personnel deployable in support of Plan Colombia at one time. The Administration needs the flexibility to employ up to 800 military members and 600 contractors if it is to accelerate its support to President Uribe's campaign to defeat the narcoterrorists in Colombia. We are also concerned that the provision interferes with the President's powers and responsibilities as Commander-in-Chief by specifying that the exception to the 500 service member cap for specified rescue-or-retrieve operations may not exceed 30 days unless expressly authorized by law. This restriction could prevent the President from completing needed military operations. The Administration is pleased, however, that the bill extends through FY 2006 the expanded authorities which eliminated artificial distinctions between narcotics traffickers and terrorists in Colombia.

Survivor Benefit Plan. The Administration shares your concerns about the welfare of survivors of military retirees, but is concerned about the phase out over four years of the current age 62 reduction in the Survivor Benefit Plan annuities. The current program provides the survivor with a constant 55 percent of the retiree's retired pay, and these provisions that would enhance these benefits would cost nearly $5 billion over the next 10 years. We are concerned that these resources are otherwise needed to maintain and enhance the readiness of the armed forces.

Expanded Personnel Benefits for Reservists. The Administration is concerned about several provisions that blur the line between active and reserve service members and which could result in significant unintended consequences for both active and reserve component recruiting and retention. For example, section 605 requires the Secretary of Defense to pay certain involuntarily mobilized reservists the amount necessary, on a monthly basis, to replace the income differential between their military compensation and their average civilian income. The Administration has significant equity concerns with paying this type of income replacement. The Administration has similar concerns about section 615, which provides DOD with new authority to offer enlistment and reenlistment bonuses to reservists that were formerly reserved for active component members.

Information Systems. The Administration has concerns with the bill's $750 million reduction to the Information Technology (IT) budget. While this is a small fraction of DOD's IT budget, it will directly hurt warfighting capabilities. Over 80 percent of the Department's IT budget is spent in direct or indirect support of the warfighter -- through investments in national security systems, telecommunications systems, and information assurance activities to protect those systems. Each of these investments is critical to combat operations, navigation and geo-positioning, surveillance, weapons support, force protection and application, information operations, and logistics support. The Administration is also concerned about changes to defense business system management contained in section 332. These changes would impede ongoing efforts to transform business processes and systems by establishing impractical and unduly burdensome acquisition, operation, and oversight mechanisms.

Transformation Programs. The Administration urges restoration of cuts of $221 million for the

initial DD(X) destroyer and $107 million for the Littoral Combat Ship so that each of these ships can start construction in FY 2005 as planned. We are also concerned about the $245 million reduction to the Future Combat Systems programs, which will result in schedule delays and shift the initial operation capability from 2010 to 2011, as well as the $75 million cut of the Kinetic Energy Inceptors, a key element of the Ballistic Missile Defense System. These programs are critical elements of the Administration's effort to prepare the military for future threats.

Presidential Helicopters. The Administration is concerned about the $220 million reduction to the VXX program, which would delay Initial Operational Capability for the critical Presidential helicopter one year from FY 2009 to FY 2010.

Trade Provision. The Administration opposes section 811, which would prohibit DOD from entering into contracts or subcontracts to procure defense items or services from a foreign firm, if the nation within which that firm is located requires offsets when procuring defense material from U.S. suppliers. Precluding DOD contracts or subcontracts to European firms and denying U.S. forces access to many "best value" products would negatively impact U.S. and coalition warfighting capabilities. It also would negatively impact sales of U.S. military equipment to friends and allies and seriously undermine the foreign policy and national security objectives of the Foreign Military Sales program. Moreover, concerns over the use of offsets are best addressed within the framework of our existing international government procurement agreements, which already impose discipline on the use of offsets. Finally, by imposing an independent set of rules governing the use of offsets, section 811 could prompt U.S. trading partners to question U.S. compliance with these international agreements.

Amendment to Domestic Source Requirements. The Administration opposes section 812(a), which applies a notification requirement to subsection (e) of 10 U.S.C. 2533a. Delaying purchases of chemical warfare protective clothing for such notification would severely impact the warfighter in situations of unusual and compelling urgency. The notification would create the appearance that an opportunity exists to unduly influence the contract award. Instead of having a special waiting period, the Administration strongly recommends allowing notifications to be done in conjunction with the synopses for contract award required by Federal Acquisition Regulation section 5.301. This notification would let us retain the integrity of the competitive source selection process, and would help mitigate any delay on suppliers and their workers. The Administration also opposes language in section 812(b) that expands the broad statutory domestic preference for textile products already provided under subsection (b)(1)(D) of 10 U.S.C. 2533a to non-textile materials and components that may be incidentally incorporated into clothing. The provision would create confusion as to the scope of the domestic preference coverage for clothing.

Defense Acquisition Workforce Limitation and Reports. The Administration strongly opposes any reduction in the defense acquisition workforce, such as that proposed by section 823(a)(1). The acquisition workload has been increasing as the workforce has been declining for several years. Reducing personnel or constraining employment would lead to insufficient staff to manage requirements, an increased backlog in closing out completed contracts, reduced scrutiny and timeliness in reviewing acquisition actions, and skill imbalances. Especially now with our troops in Afghanistan, Iraq, and elsewhere in the world, any reduction in DOD's acquisition workforce would jeopardize DOD's ability to support our fighting force.

Transfer of Nebraska Avenue Complex. The Administration strongly urges expedited passage of free-standing legislation to transfer ownership of the Nebraska Avenue Complex (NAC) from the Navy to the General Services Administration to allow for the consolidation of the Department of Homeland Security (DHS) headquarters operations at the NAC. We are concerned that delaying the transfer would hamper DHS' mission to ensure our Nation's security, and we will continue to work with the Committee to resolve any outstanding concerns with pending transfer language.

Constitutional Concerns. Provisions contravening the President's authority to supervise the unitary executive branch and act as the Commander-in-Chief should be deleted or modified. These provisions include section 907, which would establish strict time requirements for Federal officials to respond to questions from Congress. If these requirements were construed to apply to military officials, including officials deployed in combat operations, the strict and unqualified written response requirements could impose excessive burdens on military officials in the field, and thus interfere with, or undermine, the President's powers and responsibilities as Commander-in-Chief. Section 3131, which would vest an inferior officer within DOE with "sole jurisdiction" to submit notices and requests to Congress for transfer or reprogramming of funds, would likewise interfere with the Executive's ability to supervise the Executive branch. Provisions that would inject congressional officials into the operations and functioning of the Executive branch and thus violate constitutional separation of powers principles also should be deleted. Such provisions include section 1074, which would require the Secretary of Defense to consult with specified congressional members in appointing members of a specified commission, and section 2841, which would require the President to consult with specified members of Congress in executing his responsibilities under the law. Further, provisions requiring the President or members of the Executive branch to submit legislative recommendations (e.g., sections 571, 1002, and 1531(c)) are inconsistent with the Recommendations Clause and should be modified or removed. Finally, to the extent that section 2823(a)(5) would assert a right for Congress to modify or invalidate the Secretary of Defense's final BRAC selection criteria without complying with the bicameral passage and presentment requirements of Article I, Section 7 of the Constitution, it would be constitutionally objectionable.

Inclusion of Additional Administration Proposals. We will work with Congress to secure enactment of other Administration proposals, such as the Readiness and Range Preservation Initiative and transfer authority for the U.S. Air Force to upgrade the air traffic control systems through the Caucasus and Central Asia into the Operation Enduring Freedom theater of operations. We also will work to enact the authority requested in the President's budget for $200 million to train and equip forces solely in Afghanistan as part of the Afghan Freedom Support Act. Other Administration proposals we would like to see included in the bill would allow the Secretary of Energy to consolidate the counterintelligence programs within the Department of Energy (DOE) into one program that reports directly to the Secretary of Energy, as well as our proposal to clarify DOE's authority to address the management and disposal of high-level radioactive wastes safely and cost-effectively.

The Administration appreciates inclusion of the following provisions:

Requested Authorities for Global War on Terrorism. The Administration appreciates the Committee's support of military operations to combat terrorism in section 1202 of the bill, and the Commander's Emergency Response Program (CERP) in section 1203. By providing

resources to our field commanders, CERP is critical to Iraq's future and the safety of our troops. We urge the inclusion of CERP and the support of military operations to combat terrorism in the final bill in the form requested by the Administration, including the requirement for the concurrence of the Secretary of State with respect to section 1202.

Civilian Personnel. The Administration appreciates the Committee's support for many of its personnel-related legislative proposals that help provide further support in the global war on terrorism. These provisions include the request for paying up to two years of Federal Employee Health Benefit premiums for Federal employees who are called up to active duty in the armed forces. Although we proposed a March 1, 2003, retroactive date for this proposal, the Administration will work with Congress to ensure adequate funding is provided to pay for this benefit from September 14th, 2001.

Military Housing Privatization. The Administration appreciates the Committee's support in providing relief from the cap on budget authority for Military Housing Privatization Initiative projects. The Department expects to reach the current $850 million cap on family housing in November 2004. Thus, the Administration would recommend that the provision take effect in FY 2005 rather than FY 2006.

Expanded Health and Personnel Benefits/TRICARE. The Administration supports the provision of a demonstration program to determine the interest in and impact of expanding health care benefits to non-mobilized Reservists who are unemployed or uninsured. In addition, the Administration will work with Congress to ensure the continuing availability through FY 2005 of important benefits provided before and after mobilization.

Budget Estimates and Enforcement

This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

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

May 13, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4275 - Permanent Extension of
10 Percent Individual Income Tax Rate Bracket
(Rep. Sessions (R) Texas and 49 cosponsors)

The Administration strongly supports H.R. 4275, which would make permanent a higher level of tax relief through the 10 percent individual income tax rate. The Administration is pleased that the House is acting now to make this important part of the President's tax relief plan permanent.

The President has called on Congress to make the provisions of the 2001 and 2003 tax relief bills permanent to prevent tax increases from hitting America's families, small businesses, investors, farmers, and seniors. Tax relief has greatly helped the economy weather the storms of recent years and fueled the economic recovery underway today. Making this tax relief permanent will lay the foundation for sustained economic growth and job creation over the long term and enable taxpayers to plan for their future with more confidence.

Unless Congress acts by the end of this year, the 10 percent tax rate will be repealed for many families and replaced with the 15 percent tax rate. This will result because the level of income subject to the new 10 percent tax rate will increase by $1,000 for a single filer, and by $2,000 for married filers. At the same time, two other provisions of the President's tax relief program will expire – the increase in the child tax credit to $1,000, and the full extent of marriage tax penalty relief. In addition, relief from the individual Alternative Minimum Tax also will expire at the end of this year unless Congress acts.

The new 10 percent tax rate has ensured that every income taxpayer in America has benefited from tax relief. The new, lower rate has also meant that the lowest income taxpayers have seen a one-third reduction in their marginal income tax rate from 15 percent to 10 percent. If the new 10 percent tax rate were allowed to expire for many families and replaced with the 15 percent tax rate, then taxes would increase for 73 million taxpayers. Making the 10 percent rate bracket permanent will help the economy continue to grow and create jobs.

While the President is committed to extending his entire tax relief plan permanently, it is particularly important that the Congress take quick action to extend the expansion of the 10 percent rate bracket, the increase in the child credit, the marriage penalty relief, and the Alternative Minimum Tax relief before they expire at the end of this year.

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

June 17, 2004
(House/Corrected)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4567 – Department of Homeland Security Appropriations Bill, FY 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Department of Homeland Security Appropriations Bill, as reported by the House Committee.

The President supports a discretionary spending total of not more than $819 billion, in addition to $2.5 billion in advance appropriations for Project Bioshield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery.

Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration.

The Administration is pleased that the level of funding in the Committee-reported bill is consistent with the $819 billion discretionary total and that the Committee has produced a bill that funds many of the Department's highest priorities. We believe that on the whole the bill provides for a robust level of funding for homeland security. In particular, the Administration applauds the Committee's support of critical homeland security programs like the Container Security Initiative (CSI), the Customs-Trade Partnership Against Terrorism (C-TPAT), funding for improved radiation detection technology and the biosurveillance initiative, as well as other priorities such as immigration backlog reduction, and expedited disposal of excess Coast Guard housing. While we have several concerns with the bill, we appreciate the speed with which the House has started to address the budgetary needs of the Department, and look forward to working with the Congress to expedite passage of the legislation while addressing the following concerns.

State and Local Programs

The Committee provides $4.0 billion for State and local programs, including firefighter assistance, which is more than $500 million above the request. While we appreciate the

Committee's support for the first responder community, the Administration believes that the programs funded through the Department of Homeland Security (DHS) should be better targeted toward terrorism preparedness. The bill does not provide the request to double funding for the risk-based Urban Area Security Initiative (UASI) program, but instead provides funding above the requested level for the basic State and local formula grant program. We urge the Congress to focus these grant funds on the areas of highest threat by fully funding the President's request for UASI and we look forward to working with the Congress to restore funds to the requested level.

The Administration is also concerned that both the Emergency Management Performance Grants program and the Firefighter Assistance Grants program fail to focus on homeland security preparedness, and critical reforms proposed in the budget were not accepted. In order to meet the President's goal of increasing Federal resources devoted to protecting the homeland and using those funds most effectively, we encourage the House to adopt language that would eliminate arbitrary funding formulas and maximum grant awards, and allow greater targeting of funds based on threats and vulnerabilities.

The bill also proposes to cut the Citizen Corps program by $20 million below the FY 2004 level and $30 million below the FY 2005 request. The Administration urges the House to provide the full $50 million request for this important terrorism preparedness priority.

Management Structure

There are a number of sections of the Committee bill that alter the management structure at DHS and are inconsistent with the law that established the Department (P.L. 107-296). For example, section 515 revises the Homeland Security Act to require the Chief Financial Officer, Chief Information Officer, and Chief Procurement Officer to report directly to the Secretary of Homeland Security rather than the Undersecretary for Management at DHS. The fragmentation of senior DHS management disregards the President's vision of a consolidated management structure at DHS and the need for integrated oversight of management to ensure mission needs are met. The Administration urges the House to remove section 515 and revise the bill to provide a consolidated appropriation for DHS departmental management, as requested in the President's Budget. The bill fails to fund the Office of Legislative Affairs at the Departmental level. The Administration believes this office fulfills a significant role facilitating interaction with Congress and should be funded.

Contract Policy

An amendment adopted during the Committee markup would retroactively prohibit the Department from contracting with subsidiaries of foreign-incorporated firms that are treated as domestically-inverted entities. The Administration appreciates the intent of this amendment to clarify the original prohibition on contracting with domestically-inverted firms in the Homeland Security Act, but is concerned that the pending legislation is overly broad and may have unintended negative consequences. Moreover, this amendment could prompt U.S. trading partners to question U.S. compliance with its international obligations under various government procurement agreements, including the World Trade Organization Agreement on Government

Procurement. The provision needs to be modified in a way that ensures the best value for American taxpayers without exposing the Government to significant contract termination costs or interruption of critical homeland security projects.

Disaster Relief

The Administration's request for disaster relief funding is underfunded by more than $100 million. The requested funding level is based on the five-year average of total disaster costs excluding large, one-time events. Full funding of the request for the disaster relief program is initially important to ensure that the Department is able to respond appropriately to the Nation's unforeseen emergencies and natural disasters.

Coast Guard

The Administration has serious concerns about proposals to require the Coast Guard to review foreign vessel security plans. Such a requirement would detract from, rather than enhance, maritime security by diverting resources from verifying security measures on board foreign vessels to administratively reviewing vessel security plans. The Coast Guard would also be required to deny entry of any foreign flag vessels without an approved plan, which could severely disrupt the flow of trade into and out of U.S. ports.

The Administration also opposes the inclusion of $16 million in unrequested funding for alteration or removal of obstructive bridges. Alteration of obstructive highway bridges is eligible for funding from the Federal-Aid Highways program. Funds provided for these purposes in this bill could be more effectively dedicated to homeland security activities.

Transportation Security Administration (TSA)

The Administration appreciates the bill's strong commitment to improve the security of the air cargo system through a strategic approach that combines enhancements to the known shipper system, targeted physical inspection, additional inspector manpower, and improvements in technology. Given this strategic approach, we encourage the House to continue to provide the Department the flexibility it needs to set the appropriate physical inspection protocol standards and goals.

The bill does not include language proposed by the Administration that the Congressional Budget Office would score as providing the full $750 million in air carrier security fee collections authorized by law and determined by TSA to be appropriate. We urge the House to include this language as a partial offset to TSA aviation security spending, as proposed in the budget.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. These provisions should be changed to require only notification of Congress, since any other interpretation would contradict

the Supreme Court ruling in *INS v. Chadha*.

Section 516 requires that the Commandant of the Coast Guard submit annually to the Congress "a list of approved but unfunded Coast Guard priorities and the funds needed for each priority." To the extent that this provision is viewed as requiring the Commandant to make a legislative recommendation, it violates the Constitution's Recommendation Clause, which vests that authority in the President, and it should be deleted. The Administration is willing to work with the Committee on alternative ways to provide a better understanding of Coast Guard capital planning.

In addition, section 525 prevents OMB and several offices at the Department from reviewing DHS agencies' reports to the Congress. This provision raises constitutional concerns, since it might infringe on the President's power to oversee his subordinates in the Executive Branch. The Administration urges the House to remove this provision.

Other Objectionable Provisions

Section 520 transfers authority to perform Departmental background checks from OPM to DHS. The Administration is concerned that this provision would require the Department to take responsibility for additional work that it cannot currently support and for which it has no current expertise. We encourage the House to remove this provision.

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

July 7, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4754 – Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, as reported by the House Committee.

The President supports a discretionary spending total of not more than $819 billion, in addition to $2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery. Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration. The Administration urges the House to fully fund Presidential initiatives, such as the Greater Middle East Leadership and Democracy Initiative, now known as the Broader Middle East and North Africa (BMENA) Initiative, and the USA Freedom Corps Citizen Corps Initiative.

The Administration is pleased that the level of resources provided in the Committee-reported bill is consistent with the $819 billion discretionary total and looks forward to working with the House to address the following concerns.

Department of Commerce

The Administration appreciates that the Committee provides funding for many important elements of the Department of Commerce consistent with the Administration's request. The Administration will work with the Committee as the bill moves toward conference to address areas of concern.

Department of Justice (DOJ)

The Administration appreciates that the Committee provides funding for the many law enforcement and counter-terrorism priorities within the DOJ -- especially for the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Attorneys, and Bureau of Prisons. The Administration also appreciates that the Committee has provided the requested level of funding for the Office of the Federal Detention Trustee. However, new information suggests that FY 2005 requirements for this account will be higher than initially projected. The Administration

will continue to work with the Congress to address these requirements.

The Administration is disappointed that the Committee provides $805 million more than requested for certain State and local grant programs, while reducing requested funding for key higher-priority Presidential programs, including Residential Substance Abuse Treatment grants, Project ChildSafe, Drug Courts, State and Local Gun Prosecutors, Project Sentry, and USA Freedom Corps. The Administration urges the House to fund these priority programs.

In addition, funds provided for prisoner re-entry require additional flexibility to foster participation by faith and community-based organizations. The Administration will work with the Congress to address this issue.

The Administration urges the House to maintain the resources for the Internal Revenue Service and the Bureau of Immigration and Customs Enforcement to participate in the Organized Crime and Drug Enforcement Task Force program. We also urge the House to fund the $14 million requested for the Environment and Natural Resources Division to adequately represent the Government's interests regarding $200 billion in tribal claims. The Administration supports the amendment adopted in Committee that would clarify existing appropriations language that protects sensitive law enforcement information from inappropriate public release and will continue to assist the important law enforcement objective of maintaining adequate information regarding Federal Firearms Licensees (FFLs).

The Committee-reported bill would provide the FBI with new, expanded personnel management flexibilities. To address these issues for the FBI, but not other law enforcement agencies, would likely lead to inequities among law enforcement personnel. Several of the requested authorities -- exempting certain reemployed annuitants from prohibitions against "double dipping," allowing the FBI to seek critical pay authority, and extending authority to waive the mandatory retirement age for FBI law enforcement officers beyond age 60 until age 65 -- are already administratively available to the FBI. In addition, these provisions are premature in light of the imminent release of an Office of Personnel Management report to the Congress on law enforcement pay and benefits and anticipated congressional action on S. 129, the Federal Workforce Flexibility Act. We urge the deletion of the provisions in the Committee bill in favor of these broader efforts.

Department of State

The Administration appreciates the consideration given to the Department of State funding levels and the Capital Security Cost Sharing Program and looks forward to working with the Congress to ensure the National Endowment for Democracy, part of the Broader Middle East and North Africa (BMENA) Initiative, are funded at the request**.** The BMENA Initiative is important because political, economic and social reform in the region is a priority and a challenge of equal concern to the United States and the G-8. The BMENA efforts agreed to at Sea Island are based on genuine cooperation with the region's governments and reformers in business and civil society, and provide the opportunity for the G-8 to launch new joint efforts and marshal additional resources to advance these urgent reform priorities.

The Administration appreciates full funding of the President's FY 2005 Budget for Contributions to International Organizations and for International Peacekeeping Activities and

the Committee's continued support of critical Diplomatic and Consular Programs funding for the Department's worldwide operations.

Small Business Administration (SBA)

The Administration appreciates the Committee's support for the Administration's proposals for SBA, including the provision of $12.5 billion of 7(a) loan guarantees using a zero-subsidy approach. Zero-subsidy operation puts the 7(a) program on a more sound and stable financial footing.

Federal Communications Commission (FCC)

The Administration appreciates the Committee's support for the FCC and urges the House to include the Administration's proposed budget amendment, transmitted after Committee action, which would ensure the availability of funds to audit and improve financial management practices for E-rate and other universal service funds. The FCC Inspector General has testified that waste, fraud and abuse is a particular concern for the E-rate program.

Constitutional Concerns

The Administration objects to certain provisions of the bill on the sole basis that they infringe on the President's constitutional powers. For instance, section 609 would prohibit the use of funds relating to U.S. participation in UN peacekeeping missions; section 611 would prohibit the use of funds relating to maintaining diplomatic relations with Vietnam; and section 625 would prohibit the use of appropriated funds to send a delegation to the UN Human Rights Commission under certain circumstances. By interfering with the President's exercise of military and diplomatic functions, these provisions infringe upon the President's authority to act as the Commander-in-Chief and to conduct diplomacy on behalf of the United States.

Potential Amendments

If legislation were presented to the President that includes any provision that forces the courts to allow notice to criminal suspects before a search warrant is executed, the President's senior advisors would recommend that the President veto the bill. If any other amendment that would weaken the USA PATRIOT Act were adopted and presented to the President for his signature, the President's senior advisors would recommend a veto.

The Administration also understands that an amendment may be offered that would restrict the Justice Department's enforcement of the Controlled Substances Act. The Administration would oppose amendments that would weaken law enforcement's ability to thwart illegal drug traffickers and enforce the Federal criminal drug laws.

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

July 13, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4766 – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Department of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill. However, the Administration has several concerns with the Committee bill and looks forward to working with the Congress as the bill moves through the legislative process.

The President supports a discretionary spending total of not more than $819 billion, in addition to $2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery. Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration.

The Administration applauds the Committee's support of critical agricultural programs like those to protect the Nation from Bovine Spongiform Encephalopathy (BSE) and the Food and Agriculture Defense Initiative, including construction of the animal research and diagnostic facility in Ames, Iowa.

Drug Importation

The Administration strongly opposes Section 757 of the Committee version of the bill, which addresses the importing of prescription drugs. While this provision theoretically limits the importation of prescription drugs to drugs approved by the Food and Drug Administration (FDA), it would be virtually impossible for the FDA to verify that drugs being imported are indeed FDA approved and not counterfeit. Also, the provision does not include any protections to ensure that imported drugs are safe and effective. For example, this provision would not require individuals to obtain a prescription from a licensed physician prior to the purchase of foreign drugs. Prohibiting the FDA from enforcing current laws designed to protect the health and safety of American consumers is not the best way to address the issue of drug affordability. An HHS task force is currently studying the health, safety, and economic issues associated with prescription drug importation as directed under the Medicare Modernization Act. We urge the Congress to refrain from taking action until this issue has been fully studied, as Congress directed.

Food and Agriculture Defense and Biosurveillance Initiatives

The Administration appreciates that the Committee provided some of the requested increases for the Food and Agriculture Defense Initiative. In particular, the funding for the facility in Ames, Iowa, will allow the Department of Agriculture (USDA) to complete construction of the state-of-the-art national animal disease research and diagnostic facility in a timely and cost-efficient manner. The Administration urges the Congress to provide the remaining funding requested for the Food and Agriculture Defense Initiative, as well as to fully fund the Biosurveillance Initiative. The Initiatives are critical to improving the Nation's ability to rapidly identify, characterize, and defend against potential bioterrorist attacks. Among the programs for which additional funding is needed are the Federal Emergency Response Network, National Plant Disease Recovery System, Regional Laboratory Diagnostic Network, National Wildlife Surveillance System, and the veterinary diagnostic program.

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

The Committee provides $4.9 billion, an increase of $120 million above the Budget request for WIC. We support the Committee's efforts to address the impact of rising food prices on the cost of WIC and will work with the Congress to ensure that WIC is adequately funded within the discretionary spending totals. We also support the Committee's efforts to restrain the growth of high-cost vendors that cater exclusively to WIC participants but believe that in order for this policy to be effective, it needs to be applicable to all States. The rapid growth of "WIC-only" stores, which have significantly higher average costs than other WIC vendors, is driving up the cost of serving all eligible persons seeking services and should be effectively addressed.

Medical Devices

The Administration appreciates the funding increase provided for FDA's medical device review. The stability of the medical device review user-fee program is critical to achieving performance improvement. The Administration looks forward to working with the Congress to fully fund the FY 2005 request for these reviews to ensure the continuation of the program beyond FY 2005.

Competitive Sourcing

The Administration strongly opposes Section 749 of the bill, which prevents the Department from improving the management of rural development or farm loan programs through competitive sourcing. The Administration has adopted a reasoned and responsible approach for applying public-private competition to commercial activities, including measures to take prompt corrective action where results fall short of expectations. On a Government-wide basis, competitions completed in FY 2003 are estimated to produce savings, or cost avoidances, of more than $1 billion over the next three to five years. The Administration urges the House to eliminate this provision.

Reprogramming and Transfer Authority Restriction

The Administration strongly opposes Section 718 of the House bill that would severely

limit USDA's ability to manage and most effectively use its resources. It is critical for USDA to have the flexibility to respond quickly to changing conditions, including changes in science, pest and disease concerns, trade issues, and other events. Section 718 would impede the Department's ability to most effectively provide services by preventing almost any changes in allocation of funds and staffing, modifications to organizational structures, or contracting of functions.

Information Technology

The Administration urges the House to allocate more funding to increase the security of USDA's existing and planned information systems and to procure technology to more effectively deliver the Department's programs. Specifically, the House Committee bill rejects funding increases needed to meet the Federal Information Security Management Act of 2002 (FISMA) information security requirements and to modernize the Risk Management Agency's systems. In addition, funding for the Common Computing Environment should be restored in order not to slow USDA's progress on implementing a geographical information system. The significant increase over the requested level for research projects could be used to support these important information technology projects.

In addition, the Administration strongly opposes Section 717 that would remove the ability of bureaus to transfer funding to the Office of the Chief Information Officer, and opposes the deletion of the proposed general provision that would allow the transfer of unobligated balances to the Working Capital Fund to be used for financial, information technology, and administrative purposes. The Department should continue to have the ability to centrally fund E-Government Initiatives that will reduce duplication and wasteful spending and increase leveraging.

International Food Assistance

While the Administration appreciates that the Committee provided most of the request for the Public Law 480 Title II international food aid program, with emerging crises such as the situation in Darfur, Sudan, we urge the House to provide the full request of $1.2 billion to meet critical food aid needs next year.

Constitutional Concerns

Section 716 would prohibit the use of funds to transmit to any non-USDA employee "questions or responses to questions that are a result of information requested for the appropriations hearing process." This section could impede communications within the Executive Branch, and could undercut the President's constitutional duty to "take care that the Laws be faithfully executed." The Administration urges the House to delete the provision.

Section 720 purports to limit Executive Branch appropriations proposals to preclude those which assume revenues or reflect a reduction from the previous year due to user-fee proposals that have not been enacted into law. This provision would violate the Recommendations Clause in that it purports to limit the President's constitutional authority to make such recommendations as he deems "necessary and expedient," and the Administration urges the House to delete the provision.

Potential Amendment

The Administration understands that an amendment may be offered that would weaken existing sanctions against the Cuban government, possibly by directing Treasury to permit general licenses for travel to Cuba related to commercial exports of agricultural and medical goods. Under existing regulations, Treasury can provide specific licenses for travel to engage in activities directly related to the marketing and sale of agricultural and medical products which may be considered for authorization by the Department of Commerce and meet requirements for cash payment or third-country financing. The Administration strongly opposes legislative efforts to undermine current U.S. policy with regard to Cuba, which is designed to deny resources to a brutal, repressive regime. The licensing process for travelers helps to ensure that travel to Cuba serves appropriate purposes and that sales to Cuba are done within the boundaries of the law. Cuba's trade with other nations has brought no change to Fidel Castro's despotic practices, because the benefits accrue not to the Cuban people but to the dictator who represses them. If a provision designed to weaken existing sanctions against Cuba is included in the final version of the bill presented to the President, he would veto the bill.

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

June 15, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4818 – Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Foreign Operations, Export Financing, and Related Agencies Appropriations Bill, as reported by the House Committee.

The President supports a discretionary spending total of not more than $819 billion, in addition to $2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the war on terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery. Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration.

The Administration has several concerns with the Committee bill and looks forward to working with the Congress as the process moves forward.

Emergency Plan for AIDS Relief

The Administration commends the Committee for fully funding the $2.2 billion request for the President's Emergency Plan for AIDS Relief. The Administration is concerned, however, about the consequences of the $190 million reduction in funding for the Office of the Global AIDS Coordinator, and a transfer of responsibility of the U.S. Agency for International Development's (USAID) focus country programs to the Coordinator without a commensurate transfer in funds. These actions could reduce the number of patients and orphans receiving life-extending medical treatment, palliative care, and prevention by as many as 2.9 million for FY 2005. The Administration strongly urges the House to fully fund the President's request for the Office of the Coordinator.

Millennium Challenge Account (MCA)

The Administration appreciates the Committee's support of MCA, a key Presidential initiative, but is disappointed that the Committee-reported bill funds only half of the President's $2.5 billion request. At this level of funding, MCA may not be able to commit to multi-year support to the 16 countries that have already qualified to compete for MCA assistance or those that may qualify in FY 2005. The Administration strongly urges the House to restore the President's request for this important initiative.

Peace Corps

The Administration strongly urges the House to restore the $71 million it reduced from the President's Budget request for the Peace Corps. Without this additional funding, the Peace Corps will be unable to grow the program to respond to the many requests for Peace Corps members in emerging countries while assuring a quality volunteer experience by its members.

Foreign Military Financing

The Administration strongly urges the House to restore the $180 million reduction to the President's request for the Foreign Military Financing Program. While full funding of the request for assistance to Afghanistan will greatly benefit the efforts to establish the Afghan National Army and help improve security in that country, the $150 million reduction to the request for Pakistan will limit progress in the war on terror.

U.S. Emergency Fund for Complex Foreign Crises

The Administration is disappointed that the Committee did not support the request for an emergency fund to deal with complex foreign crises, such as stabilization and reconstruction of a country or region that is in transition from conflict or civil strife. The Administration will work with the Congress to support this necessary Fund, which will enable identification of resources for immediate response to emerging crises.

International Development Association (IDA)

The Administration appreciates the Committee's funding of the $850 million basic annual contribution for IDA, but strongly urges the House to fully fund the $200 million incentive contribution included in the President's request. This incentive is important to improving the accountability of IDA's program and ensuring that IDA meets concrete and measurable goals. As verified by an independent examination urged by the Congress, IDA met the required performance targets specified in the IDA-13 Agreement in education, health, and private-sector development. Funding of this incentive contribution is essential both to the effectiveness of IDA and to the continuation of U.S.-led reform efforts in such key areas as results measurement, grants, and private-sector development.

Additional Funding Issues

The Administration is concerned about reductions by the Committee to other key programs by the Committee. The Administration urges the House to: (1) provide the full $50 million requested for famine relief included in the International Disaster and Famine Assistance account, which prevents or mitigates famine and addresses critical food aid needs; and (2) fully fund the Administration's request for debt reduction for the Democratic Republic of the Congo under the Heavily Indebted Poor Country (HIPC) program.

Language Issues

The Administration urges the House to provide the authority requested to allow greater flexibility in the use of Iraq Relief and Reconstruction Fund (IRRF) assistance resources, so that the Secretary of State can adjust the reconstruction program to meet evolving needs on the ground. The Administration opposes language placing current Coalition Provisional Authority (CPA) Inspector General responsibilities under the direction of the Secretary of State. An agreement has been reached among the Department of State, Department of Defense, USAID,

and CPA IG that assures robust oversight, audits, and prevention of fraud, waste, and abuse of funds available under the IRRF. Finally, the Administration encourages restoration of language, which was proposed in sections 544 and 545 of the President's Budget that would allow USAID to implement administrative cost rate pilots which would allow USAID to charge overhead rates for programs implemented at overseas missions and convert up to 50 program-funded personal service contractors to permanent positions to fill urgent skill-gaps.

Potential Amendments

The President's senior advisors would recommend that the President veto any legislation that would infringe upon his ability to enforce current Administration policy regarding international family planning assistance. The Administration would also strongly oppose any amendments that would modify the United States' financial commitment to Egypt.

The Administration understands that an amendment may be offered that would add the Kingdom of Saudi Arabia to Section 507, the list of countries prohibited from receiving direct assistance from the United States, or limit funds that would be available to Saudi Arabia through this bill. The Administration would strongly oppose any such amendment that would severely undermine our counter-terrorism cooperation with Saudi Arabia, as well as our pursuit of a Palestinian-Israeli peace.

Constitutional Concerns

The Administration objects to several provisions of the bill that raise concerns regarding the President's constitutional authority to conduct the foreign relations of the United States. Under the heading, "Other Bilateral Economic Assistance, Economic Support Fund," a provision appears to require the President to negotiate a particular agreement with another nation and to ensure that that nation enter into the agreement. Further, several provisions require that the Secretary of the Treasury instruct U.S. executive directors at various financial institutions use their voice and vote to oppose particular loans or assistance grants at those institutions. See sections 514, 561(a)(1), and 562. Finally, section 547 could be construed to direct the President to take a particular position on the question of Israel's capital and the status of Jerusalem. In each of these instances, the provision would intrude on the President's constitutional authority to formulate the position of the United States and speak for the Nation in international affairs. Such provisions should be revised in a manner to make each precatory.

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

September 8, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5006 – Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, FY 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill.

The President supports a discretionary spending total of not more than $819 billion, in addition to $2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery. Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration.

The Administration appreciates that the House has supported many of the President's priorities; however the Administration has several concerns with the Committee bill and looks forward to working with the Congress as the process moves forward.

Jobs for the 21st Century

The Administration proposed a number of initiatives in agencies funded in this bill to help prepare workers for the 21st Century by strengthening postsecondary job training and improving high school preparation. The Administration appreciates that within the Department of Education, the Committee provided full funding for the President's Striving Readers initiative and Math and Science Partnerships. However, the bill provides no funding for Enhanced Pell Grants for State Scholars, which will provide up to $1,000 in additional Pell grant aid to low-income students entering college who complete a rigorous high school curriculum or the funding needed to make the State Scholars program available across the Nation. Additionally, it provides only $30 million, $21 million below the request, for the Advanced Placement programs and fails to provide the $40 million requested for Adjunct Teacher Corps to bring qualified professionals into secondary school classrooms to teach core subjects such as math and science. The Administration urges the House to redirect resources from the $800 million provided for lower-priority education programs to fund these important Presidential initiatives. The Administration strongly urges the House to fully fund the $250 million requested for the Department of Labor (DOL) to help community colleges partner with employers and the workforce investment system to train workers for growing industries.

Department of Labor

Prisoner Re-entry Initiative. The Administration is disappointed that the Committee did not fund the request for prisoner re-entry and related activities. Working through faith-based and community organizations, this initiative will reduce recidivism by helping tens of thousands of ex-offenders make a successful transition to community life and long-term employment.

Personal Reemployment Accounts. The Administration urges the House to fund the Administration's $50 million request for a pilot program to help certain unemployed workers choose the services they need to return to work quickly.

Department of Education

The Administration is pleased that the Committee bill supports increased investments for many of the President's education priorities, such as NCLB, Striving Readers, IDEA, and Pell Grants while terminating a number of lower-priority programs that have failed to demonstrate results. However, the Committee continues to invest over $800 million in low-priority education initiatives that should be redirected to more effective programs. We are disappointed that the current version of the bill does not include $10 million for military families. Children of military families move frequently as part of their parent's service to the country. These funds will support grants to States for programs that help children of military families make the transition from one school to another.

*School Drug Testing***.** The Administration appreciates the Committee's support of $10 million for the School Drug Testing Initiative, but urges the House to fully support the President's request of $25 million. Student drug testing programs both deter students from using drugs, and detect those who are using so that they may receive the appropriate assessment, referral, and intervention before their use becomes addiction.

Department of Health and Human Services

The Administration is pleased that the House bill fully supports increased investments for the President's Health Centers Initiative and important components of the President's Emergency Plan for AIDS Relief. The Administration appreciates the Committee's funding support for the Strategic National Stockpile. The Administration also appreciates the Committee's funding for the Ryan White AIDS Drug Assistance Program. The Committee is encouraged to adopt language that would provide the flexibility to enable these programs, respectively, to meet urgent homeland security needs and to get lifesaving HIV/AIDS medications to those most in need. However, the Administration is concerned that the bill does not provide the requested levels for other important initiatives, such as a Head Start pilot project to improve school readiness, the Steps to a Healthier-US initiative, and the National Health Service Corps. The Administration would urge the House to redirect resources from the $800 million provided for lower-priority programs noted above to fund these other higher-priority Presidential initiatives. Additional concerns are noted below.

Marriage and Healthy Family Development. While the Administration appreciates that the Committee increased funding for Abstinence-only Education, it is disappointed that the

Committee provided $77 million less than the requested levels for Community-Based abstinence education and $23 million less for Adolescent Family Life grants and the education campaign.

Compassion Capital Fund. The Administration appreciates the $7 million increase above the 2004 level to $55 million provided by the Committee for the Administration's commitment to support America's families through faith-based and community organizations, but urges the House to fully fund this initiative at the President's request level of $100 million.

Access to Recovery (ATR). The Administration is disappointed that the House provided only $100 million of the $200 million requested for the innovative Access to Recovery treatment voucher program in the Substance Abuse and Mental Health Services Administration (SAMHSA). This program will provide access to substance abuse treatment for approximately 100,000 individuals seeking but unable to obtain the appropriate services. Additionally, it offers individuals the opportunity to choose a provider, including faith-based and community organizations. SAMHSA recently awarded grants to 14 states out of 68 applications. Full funding is needed to expand access to more States and to more individuals in need of treatment.

Health Care Information Technology (IT). The Committee bill provides $25 million in new funding for Health Care IT, half of the $50 million requested. These funds are needed for State-level and regional health data exchange demonstration programs, key to advancing the President's goal to give most Americans Electronic Health Records (EHRs) within 10 years. The Congress is urged to fully fund this initiative.

Pandemic Influenza. While the Administration appreciates the Committee's support for the Department of Health and Human Services' (HHS') efforts to improve our preparedness for an influenza pandemic, the Administration is concerned that the bill reduced the Administration's request of $100 million by $40 million. While the Administration has been working aggressively to develop and implement a program to reduce the risk to the Nation that global influenza pandemic could pose, a significant risk to the country remains, and the Congress is urged to fully fund this request.

Biosurveillance Initiative. The Administration is pleased that the bill includes $100 million to support the Centers for Disease Control and Prevention's (CDC) contribution to the President's Biosurveillance Initiative. The Congress is urged to fully fund the Administration's proposal of $130 million. Early detection and characterization capability is vital to effectively target a response and limit the impact of a bioterrorist attack or other public health emergency.

HIV Vaccine Research and Development Center/Stem Cell Research. The Administration appreciates the House's support of the National Institutes of Health (NIH) at the requested level, including the request to establish an HIV Vaccine Research and Development Center. The Administration urges the House to further support the exploration of stem cell research by reallocating funding within NIH to establish translational stem cell research centers as recently proposed.

Inpatient Rehabilitation Facilities 75% Rule. The Administration is concerned that the bill would delay implementation of the 75% rule for Medicare payment to inpatient rehabilitation facilities. Delaying this rule would result in payments to hospitals that are inappropriate and not based on current clinical practices. This reform is estimated to save $10

million in 2005 and $1.8 billion over 2005-2014.

Social Security Administration (SSA)

The Committee did not provide $100 million for the Medicare Reform Contingency Fund, which was a separate request from SSA's base administrative expenses. Without this contingency fund, SSA and the Centers for Medicare and Medicaid Services may have difficulty meeting their start-up responsibilities under the Medicare Modernization Act, which include enrolling beneficiaries in the permanent drug benefit that begins January 2006. Further, the Committee reduced the Administration's request for the SSA's limitation on administrative expenses by $83 million, which would mean over 100,000 fewer disability claims will be processed.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. These provisions should be changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.

Potential Amendments

The Administration would strongly oppose the adoption of any amendment that would restrict the Department of Labor's ability to enforce vigorously the laws and regulations within its jurisdiction. In particular, the President's senior advisors would recommend that he veto the final version of the bill if it contained any provision prohibiting or altering the Labor Department's enforcement of the final overtime security rule. This rule provides a new guarantee of overtime protection for 6.7 million workers making less than $23,660, strengthens overtime protections for many workers making more than $23,660 because of updates to the duties tests, and, for the first time ever, provides explicit protection to numerous workers, including licensed practical nurses, police officers, firefighters, paramedics, and emergency medical technicians. A funding limitation would be devastating to workers because it would prevent the Department from fully enforcing the overtime laws on behalf of workers.

The Administration understands there may be an attempt to strike the conscience clause protections that prevent any level of government from discriminating against a health care provider merely because the provider declines to "provide, pay for, provide coverage of, or refer for abortions." The Administration would strongly oppose such an amendment.

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

September 14, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5025 – Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Departments of Transportation and Treasury and Independent Agencies Appropriations Bill.

The President supports a discretionary spending total of not more than $819 billion, in addition to $2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery. Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration.

The Administration has several concerns with the Committee bill and looks forward to working with the Congress as the process moves forward.

Competitive Sourcing

The Administration strongly objects to section 645, which would effectively require that public-private competitions involving work performed by more than 10 employees be decided strictly on the basis of lowest cost; this provision would effectively prohibit the consideration of quality in evaluating these competitions. This requirement represents a step backwards in the Administration's efforts to make competitive sourcing a viable management tool not only for reducing costs but also for improving the quality of service in order to achieve the best overall value for our citizens. If the final version of the bill contains this provision, the President's senior advisors would recommend that he veto the bill.

Matricula Consular Card

The Administration objects to the provision that would prevent the Treasury Department from spending any funds to issue or enforce regulations that do not preclude acceptance by financial institutions of the Matricula Consular card as a form of identification. This provision would prevent the Treasury from enforcing regulations issued under section 326 of the USA PATRIOT Act. The Administration, including the Department of Justice and the FBI, believe that it is appropriate that these regulations provide a flexible standard that accommodates local conditions as well as innovation in verification techniques, not a list of documents or methods

that must or must not be used. The Administration strongly opposes this provision and supports efforts to remove it from the bill during Floor consideration.

Civilian Pay and the Human Capital Performance Fund

The Administration urges the House to adopt the President's proposal for Federal employee pay. The 3.5 percent increase proposed by the Committee exceeds the President's request by $2.2 billion, and provides a percentage increase that exceeds inflation, the statutory base pay increase, and the average increase in private-sector pay, measured by the Employment Cost Index. A higher across-the-board pay raise would not allow the Federal Government to target pay raises to attract employees with critical skills. The Administration also opposes the provision that would restrict the Administration's flexibility to adjust locality pay areas to meet changing needs and conditions.

The Administration opposes the provision specifying a 3.5 percent across-the-board increase for Department of Homeland Security (DHS) and Department of Defense (DOD) civilian employees. This provision would limit flexibility as DHS and DOD use the new authorities conferred upon them by the Congress to design and implement a modern personnel and pay system that best meets their needs. In addition, the Administration opposes the provision relating to pay adjustments for blue-collar employees, which would disregard the results of local blue-collar wage surveys and provide a pay increase identical to local General Schedule employees. These provisions could result in paying blue-collar employees at rates higher than local labor markets and would create a host of technical and equity problems.

The Administration also is very concerned that the bill does not fully fund the President's request for a $300 million Human Capital Performance Fund. The Fund is a more targeted approach to move the Federal pay system into one that would promote high performance.

Department of Transportation (DOT)

The Administration supports an extension of the war risk insurance program for domestic carriers for one year provided that the Committee works with the Administration to modify its language to ensure that air carriers more equitably share in the risks associated with this program. Also, the Administration is strongly opposed to the requirement that war risk insurance be provided to manufacturers. This expansion is unwarranted and would subject taxpayers to significant additional liabilities.

The Administration is concerned that the Committee did not provide the $160 million requested for the new DOT headquarters project. The building has been leased at Congressional direction and built to DOT's specifications. If it is not completed, due to the inability of DOT to fulfill its build out obligations, lease payments will still need to be made on a vacant building.

The Administration objects to sections 142 and 143 of the bill, which prohibit the use of funds to implement or enforce the hours-of-service final rule as it applies to operators of utility service vehicles. The Administration is opposed to the bill's expansion of hours-of-service exemptions for utility service vehicle operators.

The Administration is pleased that the Committee provides the request of $900 million for Amtrak operations, capital, and infrastructure maintenance. The Administration urges the Congress to institute operational and structural reforms, consistent with the Administration's proposed Amtrak reauthorization bill. The Administration opposes additional funding that would perpetuate the status quo and interfere with these needed reforms.

The Administration is concerned the Committee reduced the Federal Aviation Administration's (FAA) operating account by $125 million from the request. This funding level will affect FAA's ability to implement its new Air Traffic Organization which is aimed at streamlining agency operations. It may also result in an inability by the FAA to replace retiring controllers and technicians.

Department of the Treasury

The Administration is concerned about the level of funding provided to the Internal Revenue Service (IRS) and Departmental Offices. The proposed level for the IRS is $382 million below the request and would eliminate increases in tax enforcement, leading to reduced revenue and poorer tax compliance. The Committee level for Departmental Offices is $8 million below the request and reinstates the statutory funding floor for the Office of Foreign Assets Control (OFAC). The Report also declares that "the Committee assumes that no new office [referring to the Office of Terrorism and Financial Intelligence] has been created."

The Administration supports removing the OFAC floor to give the Secretary flexibility as he deploys resources across the Department in the financial war on terror, and requests that the funding levels for the Departmental Offices be provided at the requested level so critical efforts of the Department, especially the Office of Terrorism and Financial Intelligence, can be carried out. This new office is a critical component in the Administration's efforts in the financial war on terror.

Executive Office of the President (EXOP)

The Administration strongly urges the House to provide the requested funding for the many EXOP offices, projects, and programs reduced in the bill, including funding for the Homeland Security Council, the Office of Administration, the Office of Management and Budget, and the Office of Policy Development. The funding levels in the bill would result in staffing reductions and other measures that would severely impair the ability of the President to fulfill his responsibilities to the detriment of the Government as a whole. The Administration urges that the Homeland Security Council remain part of the White House Office and urges the House to continue to fund the homeland council consistent with the way it is funded in the current fiscal year. In addition, the Administration continues to support the proposed consolidated appropriation for EXOP and is disappointed that the Committee failed to adopt it.

The Administration is concerned that the Committee continues the common services (core enterprises) pilot project within the Office of Administration and does not support the transfer authority requested by the Administration. While some economies of scale may be met under the common services pilot project, the transfer authority requested by the Administration would allow EXOP agencies the flexibility to address unexpected requirements and needs that may be outside the program.

The Administration urges the House to fully fund the President's request for the National Youth Anti-Drug Media Campaign, the Drug-Free Communities Support Program, and the World Anti-Doping Agency dues, and to reduce the amount provided for the High Intensity Drug Trafficking Areas Program to the level of funding requested, with no restrictive language.

General Services Administration (GSA) and Electronic Government Fund

The Administration is pleased that the Committee provided the funding requested for GSA's appropriated accounts, as well as the requested authority to retain $1 million in the Presidential Transition account to train incoming appointees for the second term of an incumbent President. The Administration is deeply concerned, however, that the Committee did not provide the requested authority to retain up to $40 million in excess revenues collected by the General Supply Fund for electronic government projects. Many electronic government projects benefit multiple agencies and do not easily lend themselves to funding from the budgets of individual agencies. The Administration strongly urges restoration of the requested authority.

Other Issues

The Administration urges the Committee to adopt the proposed repeal of the Continued Dumping and Subsidy Offset Act of 2000, which would enable the United States to comply with its international trade commitments, eliminate the possibility that other nations will impose retaliatory tariffs on American exporters, remove an unwarranted subsidy, and provide hundreds of millions of dollars of useful savings to the taxpayer annually.

Potential Amendments

Weakening Cuba Travel Sanctions: The Administration understands that an amendment may be offered on the House Floor that would weaken current sanctions against Cuba. The Administration believes that it is essential to maintain sanctions and travel restrictions to deny economic resources to the brutal Castro regime. The licensing process helps to ensure that humanitarian and cultural travel facilitates genuine exchanges between U.S. travelers and ordinary Cuban citizens and that any sales to Cuba are done within the boundary of the law. Lifting the sanctions now, or limiting our ability to enforce them, would provide a helping hand to a desperate and repressive regime at the expense of the Cuban people. If the final version of the bill contained such a provision, the President would veto the bill.

Mexico-Domiciled Motor Carriers: Section 350 of the FY 2002 Department of Transportation and Related Agencies Appropriations Act (Public Law 107-87) set forth 22 safety-related requirements that the Department of Transportation was to satisfy prior to granting operating authority to long-haul Mexican carriers. The Department of Transportation met all 22 of these safety-related requirements, and on November 27, 2002, the President signed a Memorandum to the Secretary of Transportation authorizing the Department to act on applications submitted by Mexico-domiciled motor carriers seeking operating authority for cross-border truck and cross-border scheduled bus services.

The Administration understands an amendment may be offered that would impose new requirements beyond the 22 imposed in Public Law 107-87. The Administration would strongly

object to any provision that imposes any new or additional requirements for Mexican carriers. If the final version of this bill contains any language that would effectively prevent the Administration from fulfilling its NAFTA obligations, the President's senior advisors would recommend that he veto the bill.

Competitive Sourcing: The Administration understands that an amendment may be offered on the House Floor that would effectively shut down the Administration's Competitive Sourcing initiative to fundamentally improve the performance of the government's many commercial activities. The Administration seeks to improve the performance of government services based on the common sense principle of competition -- a proven way of protecting taxpayers' dollars while providing better service and performance enhancements. Now is the wrong time to short-circuit implementation of this principle, especially since numerous agencies are starting to make real progress in this area. Prohibiting funding for public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill contained such a provision, the President's senior advisors would recommend that he veto the bill.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. These provisions should be changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.

Section 618 would prohibit the use of funds to pay the salary of any Federal officer or employee who takes certain actions interfering with the communications between other Federal employees and members of Congress or subcommittees of Congress in connection with agency matters. This provision raises constitutional concerns in that it would limit the ability of the President and his appointees to supervise and control the work of subordinate officers and employees, and to supervise the dissemination of privileged or sensitive Government information. The provision could only be implemented in a manner consistent with the President's constitutional authorities.

The Administration also objects to section 641 of the bill, relating to assignment of executive branch employees to perform functions in the legislative branch. The executive branch could implement the provision only to the extent consistent with the President's constitutional authority to supervise the unitary executive branch and as Commander in Chief, and recognizing that the President cannot be compelled to give up the authority of his office as a condition of receiving the funds necessary to carrying out the duties of his office.

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

September 11, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

S. J. Res. 17 – Disapproving the Rule of the Federal Communications Commission on Broadcast Media Ownership

(Sen. Dorgan (D) North Dakota and 20 cosponsors)

The Administration strongly opposes Senate passage of S. J. Res. 17, a resolution disapproving the rule submitted by the Federal Communications Commission (FCC) with respect to broadcast media ownership. The Administration believes that the new FCC local and national media ownership rules more accurately reflect the changing media landscape and the current state of network station ownership, while guarding against undue concentration in the marketplace. S.J. Res. 17 overturns all of the FCC's new media ownership rules – negating almost two years of careful study, detailed analysis, and thorough review; creating significant regulatory uncertainty; and preventing the implementation of important new rules which will improve the quality of local news and support free over-the-air broadcast television. If S. J. Res. 17 were presented to the President, his senior advisors would recommend that he veto it.

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

June 12, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

S. 824 -- Aviation Investment and Revitalization Vision Act

(Sen. McCain (R) Arizona and 3 cosponsors)

The Administration strongly supports Senate passage of S. 824. Like the Administration's proposal, S. 824 would authorize federal aviation programs without increasing taxes or fees on an industry that has been severely impacted since the attacks on September 11th. The bill contains important environmental provisions including voluntary air quality initiatives; environmental streamlining elements for safety and airport capacity projects, and a more flexible use of the Airport Improvement Program (AIP) noise set-aside. The bill also adopts structural changes to the Federal Aviation Administration (FAA) that were included in the Administration's bill, as well as important clarifications in the area of judicial review of both airport environmental and agency acquisition decisions.

The Administration will work with Congress to ensure, in the version of the bill presented to the President, that: (1) spending during the authorization period conforms to the amounts requested by the Administration; (2) environmental streamlining provisions include safety projects and are optimized to promote their intended goals; (3) the Aviation War Risk Insurance program remains focused on aircraft used to support U.S. military and foreign policy objectives; (4) responsibility for transportation security expenditures is consolidated in the Department of Homeland Security and fees collected for security activities are not diverted to purposes other than the provision of direct security services; (5) the appointment of members and the operation of any committees or commissions created by the bill are consistent with the appointments clause of the Constitution and the President's constitutional authority to supervise the unitary executive branch and make recommendations to Congress; (6) any provision for airline collaboration or coordinated capacity reduction preserves competition to the maximum extent possible; (7) maximum flexibility is provided in the use of AIP funds for security costs, noise set-aside and emissions research and mitigation; (8) provisions regarding the use of space by the FAA at airports do not impose costs which preclude the continued provision of essential services by FAA; and (9) mandates which might interfere with the FAA's ability to optimize its organization or research programs are minimized.

The Administration is aware that an amendment may be offered to S. 824 that would inappropriately prohibit the conversion of any FAA facilities or functions from the Federal Government to the private sector. Such restrictions are unnecessary and would hinder the FAA's ability to manage the air traffic control system. If such an amendment were included in the final legislation presented to the President,

his senior advisors would recommend that he veto the bill.

Pay-As-You-Go-Scoring

The Budget Enforcement Act's Pay-As-You-Go requirements and discretionary spending caps expired on September 30, 2002. The Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's Budget. OMB scoring of the bill is under development.

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

July 9, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

S. 925 - Foreign Relations Authorization Act, Fiscal Year 2004

(Senator Lugar (R) Indiana)

The Administration supports Senate passage of S. 925, which authorizes appropriations for the Department of State, the Broadcasting Board of Governors (BBG), and the Peace Corps, and contains other foreign relations provisions, many of which are consistent with the Administration's request. The Administration would further support Senate passage of an amendment which incorporates S. 1161, the Foreign Assistance Authorization Act, fiscal year 2004, and would strongly support authorization of the Millennium Challenge Account based on the President's proposal. The Administration presents its views and concerns on each component, and looks forward to working with the Congress to address these and other concerns.

Amendment on S. 1161 - Foreign Assistance Authorization Act

The Administration commends the Senate Foreign Relations Committee for including a broad range of flexible foreign assistance and important defense export control authorities. This bill would authorize appropriations for bilateral economic and security assistance programs for fiscal year 2004, and U.S. contributions for several multilateral development banks. S. 1161 also includes a number of changes that the Administration sought to improve security assistance programs, as well as authorization for a Complex Foreign Contingency Account and creation of a Famine fund.

The Administration welcomes the Sense of Congress support expressed for the bilateral exemption from defense export licensing requirements for the United Kingdom and would urge an amendment to codify the exemption. The Administration intends to work with the Congress on legislative language to provide for debt relief for Pakistan - a partner in the War on Terrorism.

Provisions that concern the Administration include section 519, which is highly objectionable because it almost doubles the number of countries included in the Emergency Plan for AIDS Relief, which focuses resources on the most afflicted countries in Africa and the Caribbean. This increase will dilute the Plan's effectiveness, and the effort (in the 14 targeted countries) to develop programs and activities that would be successful models to then replicate elsewhere. Other provisions of concern include: (1) program authorizations in Title III (Radiological Terrorism Threat Reduction) that are duplicative of existing activities; (2) parts of Title IV that could inappropriately restrict global pathogen surveillance activities;

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

May 20, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

S. 1050 - National Defense Authorization Act for Fiscal Year 2004

(Senator Warner (R) VA)

The Administration appreciates the Senate Armed Services Committee's continued support of our national defense. The Committee-reported bill includes, for example, endorsement of the President's requested military pay raise and other benefits critical to maintaining the high quality and morale of America's armed forces, continuance with needed flexibility of the Cooperative Threat Reduction program, and support for critical research and development for low-yield nuclear weapons. It is essential to undertake the research needed to evaluate a range of U.S. options that may prove essential in deterring or neutralizing future threats. The Administration welcomes section 322, which addresses readiness issues associated with the Endangered Species Act, but urges support for the remaining provisions in the Readiness and Range Preservation Initiative, which are intended to ensure that the men and women of our Armed Forces receive the training they need to succeed when put in harms way. The Administration looks forward to working with the Congress to address the priorities set forth in the "Defense Transformation for the 21st Century Act" in the final defense authorization bill that is presented to the President.

The Administration would oppose any amendments to change the base realignment and closures (BRAC) authority passed by the Congress two years ago and if any such amendment should be included in the final legislation, the Secretary of Defense, joining with other senior advisors, would recommend that the President veto the bill.

The Administration has a number of other concerns with the bill, including those described below. The Administration looks forward to working with the Congress on these and other issues as the bill moves through the legislative process.

- Missile Defense. The Administration appreciates the bill's full funding of missile defense programs and sections 221-223, which eliminate statutory restrictions to the program element structure and authorize the use of Research, Development, Testing, and Evaluation (RDT&E) funding to support development and fielding of initial ballistic missile defense capabilities. The Administration believes, however, that giving responsibility for RDT&E for the Patriot Advanced Capability – 3 (PAC-3) and Medium Extended Air Defense System (MEADS) programs to the Missile Defense Agency (MDA) would detract from MDA's primary

responsibility of ballistic missile defense and would impede progress in PAC-3 and MEADS, particularly for their roles in air defense. That latter responsibility should go to the Department of the Army.

- Train and Equip. The bill does not include section 441, Support of Foreign Nations Committed to Combating Global Terrorism, of the Administration's proposed Defense Transformation Act. This authority would allow the Department of Defense (DoD) flexibility to provide time-sensitive military support to key cooperating nations that are assisting in the global war on terrorism. It would allow DOD to provide training and equipment expeditiously and efficiently in response to unanticipated, no-notice requirements that the global war on terrorism may generate.

- Continuity of Operations. The Administration urges the inclusion of the requested authority to facilitate the relocation of DoD's command and control leadership. This authority would enable the Secretary of Defense to: (1) designate other facilities as part of the Pentagon Reservation, and (2) manage and maintain relocation facilities, particularly the primary alternate relocation facility, as turn-key alternatives ready as fully operational alternatives without warning.

- Overseas Basing Commission. The Administration opposes the provision to establish a commission to review DoD's overseas presence. Establishing this commission is not necessary. The Department has accelerated its ongoing review to adjust the global positioning of forces and supporting infrastructure and plans to inform Congress of its recommendations.

- F-22. The Administration opposes the bill's production cut of two F-22 aircraft. Restrictions on production quantities would undermine the program's buy-to-budget strategy, through which the Air Force will acquire as many aircraft as it can within the program's cap on total funding.

- Space Launch Capability. The Administration strongly objects to language in Section 913 that would require two space launch vehicles or families of space launch vehicles for all national security payloads. The requirement to make every national security payload dual compatible with two families of launch vehicles would be problematic and could seriously delay or curtail many critical national security payloads at high taxpayer costs. The Secretary of Defense and Director of Central Intelligence should have the ability, consistent with National Space Policy, to waive the dual compatibility requirement on selected national security payloads, based on unique or extenuating requirements.

- Limitations, Restriction, Flexibility Issues. The bill includes provisions that would add more complexity and impose limitations on DoD's management structure, including sections 231-234 and section 211, which would prohibit the transfer of several programs outside the Office of the Secretary of Defense (OSD). Transfer of these programs would improve management

efficiency and allow OSD to focus on providing oversight and strategic guidance to the entire Department.

- Indemnification - Counterterrorism Technology. The Administration strongly opposes section 851, which would authorize the Federal government to provide unlimited indemnification to companies that sell counterterrorism technology to State and local government agencies and could make the government liable for excessive costs that cannot be reasonably estimated or controlled. The Support Anti-terrorism by Fostering Effective Technologies Act of 2002 already provides critical incentives for the development and deployment of anti-terrorism technologies to State and local governments by providing liability protections for sellers of qualified anti-terrorism technologies.

- Perchlorate Study. While Administration supports the intent of section 331(b), which requires a review of the effects of perchlorate on the endocrine system, we are concerned that this section would unnecessarily duplicate an ongoing National Academy of Sciences study (initiated in March 2003) being undertaken pursuant to the request of the Federal Interagency Working Group on Perchlorate.

- Special Pay and Benefits. The Administration is concerned that a number of unsought special pay and benefit authorities, including sections 604, 606, 615, 616, and 643, divert resources unnecessarily. These mandatory authorities would undermine each Service's determination of whether such additional benefits are warranted and appropriate. Specifically, section 616 (Assignment Incentive Pay for Service in Korea), Assignment Incentive Pay authority enacted in last year's Defense Authorization bill, already authorizes Service Secretaries discretion to award such pay as necessary, thus obviating the need for any additional authority.

- Berry Amendment. The Administration is concerned that section 831, dealing with exceptions to the Berry Amendment, should be modified to ensure that textile products are appropriately covered consistent with the Administration's request.

- Public-private competitions. The Administration strongly supports clear statutory authority for the Department's use of best value source selections in public-private competitions, but opposes caveats in section 812 that would sunset the authority, preclude its application to needs other than information technology, or sanction timeframes for conducting competitions that conflict with those established in OMB Circular A-76.

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and (3) several authorizations of appropriations in excess of the President's request, and a reduction in the authorization for the Andean Counterdrug Initiative.

Provisions raising constitutional concerns include sections 308 and 413(c), requiring the Secretary of State to submit reports including budget recommendations. These provisions should be amended to provide for submissions only to the extent the President judges necessary and expedient, as provided by the Recommendations Clause of the Constitution. Sections 512 and 515(b) require reports that could disclose information relating to diplomatic activities and negotiations. These provisions would impermissibly infringe on the President's authority to conduct foreign affairs and international negotiations.

Amendment on "Mexico City" Policy

The Administration would strongly oppose any amendment that would overturn the Administration's family planning policy (commonly known as the "Mexico City" policy) and allow U.S. taxpayer funds to go to international organizations which perform abortions and engage in abortion advocacy. The President would veto the bill if it were presented to him with such a provision.

Amendment on Millennium Challenge Account (MCA)

The Administration understands that an amendment authorizing the creation of the MCA may be offered by Chairman Lugar and Senator Hagel. The Administration supports Senate passage of this amendment. The Administration supports legislation consistent with the principles outlined in the President's February 5, 2003, transmittal to Congress establishing a Millennium Challenge Corporation that would administer a new assistance program using innovative strategies with an emphasis on economic growth, country ownership and responsibility, and accountability for results. Only an autonomous corporation, guided by the U.S. foreign policy leadership, will have the flexibility and focus necessary to achieve these goals. We look forward to working with Congress to implement the President's vision on this important initiative.

Amendment on Iran Democracy

The Administration understands that an amendment on Iran democracy may be considered. The Administration supports full democracy for Iran, but we believe the focus of the bill on a referendum as the only tool for change in Iran is too narrow and advocate a broader range of activities to support democracy and human rights in Iran. We are concerned that funding private broadcasters operating in the United States would violate prohibitions regarding government subsidized dissemination within the United States of programming designed to shape public opinion, as well as divert critical funding for U.S. funded broadcasting, such as VOA and RFE/RL. It would be difficult to monitor private stations to ensure their programming reflects U.S. policy. We support the substitute to this amendment proposed by Chairman Lugar which addresses the Administration's concerns.

Amendment on Armenia

The Administration understands that an amendment on Armenia may be considered. We would oppose a specific reference to Armenia in amendment SA 541, which concerns the UN Genocide Convention. While we view the mass killings and forced exile of countless Armenians at the end of the Ottoman Empire as a horrible tragedy, the Administration instead favors reconciliation between Turkey and Armenia, coupled with frank discussion regarding these horrific events among Turks and Armenians around the world.

S. 925 - Foreign Relations Authorization Act

S. 925 for the most part contains authorities and appropriations authorizations that support and enhance the Administration's ability to carry out the Nation's foreign policy. Nonetheless, the bill contains a number of provisions that restrict the President's flexibility to conduct foreign policy; exceed the President's FY 2004 Budget request; or raise managerial or constitutional concerns.

Significant provisions that restrict the President's ability to conduct and manage foreign policy include: (1) section 401, which permanently raises the peacekeeping cap to 27.4 percent, and (2) section 803, which prohibits the elimination of U.S. international broadcasting in specified languages in Central and Eastern Europe that were proposed for elimination or reduction in the FY 2004 Budget building on a process that has been ongoing for as many as the last 8 years. The Administration seeks to shift our broadcasting reach from former Cold War countries with a growing free press, many of which are now joining NATO and the European Union, to new audiences in areas like the Middle East. The Administration objects to Section 813, a Sense of the Congress provision that seeks to narrow the United States' participation in international negotiations on global climate change to securing a "future binding climate change Treaty," which is based upon unbalanced and selective scientific findings and fails to consider the Administration's comprehensive domestic and international strategy to address potential long term global climate change.

Seven appropriation authorizations are in excess of the President's request. As well, certain provisions establish new unfunded benefits and would place pressure on the FY 2004 Budget, including sections 305 (additional post differentials and allowances) and 312 (certain additional housing benefits).

The Administration objects to section 203, which authorizes police powers to State Department contract guards, because its objective can be accomplished through administratively delegated protective authorities. The Administration has reservations concerning and will work with Congress on section 301, relating to assignments with foreign countries or entities, and has additional concerns, including section 303, which expands a proposed pilot program providing for a waiver of annuity limitations for re-employed Foreign Service annuitants into a permanent program. With respect to section 206, which concerns the capital cost sharing initiative for the construction of secure embassies overseas, which is currently under development within the Administration, we look forward to working with the Congress on the Administration's proposal.

Provisions raising constitutional concerns include: section 807, relating to Jerusalem, which would

infringe upon the President's constitutional authority to conduct the Nation's foreign affairs and supervise the unitary executive branch, and which is not conducive to a constructive diplomatic outcome in a particularly sensitive and difficult negotiating environment; section 403, which purports to direct Executive branch officials to use the U.S. voice and vote to oppose membership on UN Councils and Commissions for certain member nations; and provisions, such as section 808, which could be construed to be inconsistent with the President's constitutional authority with respect to foreign relations, national security, or deliberative processes of the Executive. Finally, sections 806 (requiring the Secretary of State to make proposals regarding compensation for victims of international violent crimes), and 905 and 906 (requiring certain Peace Corps reports) should be amended to provide for submissions only to the extent the President judges necessary and expedient, as provided by the Recommendations Clause of the Constitution.

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

September 2, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

S. 1356 – Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, FY 2004

(Sponsors: Stevens (R), Alaska; Byrd (D), West Virginia)

The Administration supports Senate passage of the FY 2004 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, as reported by the Senate Committee. The Administration is pleased that the Committee bill supports increased funding for many of the President's education priorities while terminating a number of lower-priority programs that have failed to demonstrate results. The bill, however, continues to fund many programs, which are duplicative or have no track record of success. The Senate is urged to reassess priorities and redirect this spending to higher priority activities, as the President has done.

The Administration applauds the Committee for reporting this important bill in a timely manner and looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $784.7 billion, along with advance appropriations of $23.2 billion for FY 2005 – in accordance with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage increased economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

Additional Administration views regarding the Committee's version of the bill are:

Select Initiatives

Pell Grant Program. The bill provides $12.2 billion for Pell Grants, $538 million less than the President's request for this high-priority program. Under the Department of Education's most recent estimates of Pell Grant costs, the Senate level may be insufficient to cover costs for student awards in 2004. The Administration strongly urges the Congress to restore funding to the Pell Grant program at the President's request. The Administration also urges the Senate to restore the Secretary's authority to adjust the program parameters when funding is insufficient.

Education Initiatives. The Administration is pleased that the Senate bill supports increased funding for

many of the President's education priorities, including Title I Grants to Local Educational Agencies, Special Education Grants to States, Teaching of Traditional American History, and grants to strengthen Historically Black Colleges and Universities. The Administration is extremely disappointed, however, that the Senate Committee bill fails to provide the requested funding levels for a number of important Presidential initiatives, including the Mentoring of Middle School Students Initiative, which will target at-risk youth in middle school and assist them in the successful transition from elementary to secondary school. The Administration also urges the Senate to provide the full request for Reading First, Early Reading First, Literacy Through School Libraries, and Troops to Teachers.

Drug Treatment Initiative. The Administration is extremely disappointed that the Committee has failed to fund the President's Access to Recovery treatment voucher program in the Substance Abuse and Mental Health Services Administration, and strongly urges the Senate to provide the $200 million requested for this critical activity. This program would provide approximately 100,000 individuals who need and want substance abuse treatment with expanded options for services, including through faith-based and community organizations. The Administration is working aggressively with State and local partners to address implementation issues and is confident States are prepared to successfully implement this program. We look forward to working with the Senate on this issue.

HIV/AIDS Initiative. The Senate bill also underfunds, by $60 million, an important component of the President's Emergency Plan on HIV/AIDS – programs in the Centers for Disease Control and Prevention to prevent the transmission of HIV/AIDS from mothers to infants – leaving many mothers and infants in Africa and the Caribbean without preventive care and treatment. To reach one million women annually and reduce transmission between mother and child by 40 percent, the Administration urges full funding of the President's request.

Compassion Programs. The Administration urges the Senate to fully fund two priority Administration initiatives -- Mentoring Children of Prisoners and the Compassion Capital Fund. The Senate provided only $10 million of the $50 million request for the Mentoring Children of Prisoners program, which helps children through the traumatic time when parents are imprisoned – including efforts to keep children connected to a parent in prison and increase the chances that the family can come together successfully when the parent is released. Further, the Senate provided only $35 million of the $100 million request for the Compassion Capital Fund, which provides funds to public/private partnerships to support charitable organizations in expanding or emulating model social service programs. Additionally, the Senate is urged to provide the requested first-year funding for initiatives related to fatherhood and maternity group homes.

Corporation for National and Community Service (CNCS). The Administration appreciates the Committee's support for national service, however, the Administration is concerned that the Committee reduced the request for Special Volunteers for Homeland Security to $5 million (a 75-percent reduction) and failed to finance the $5 million request for Parent Drug Corps. In addition, the Committee's $4 million reduction to the Corporation's management operations would jeopardize CNCS's ability to continue improving financial management. The Administration urges the Senate to fully fund the request for CNCS.

Other Issues

Other programs in the Department of Health and Human Services (HHS). The Administration objects to reductions in the President's requests for proven, effective, and high-priority health programs, including National Health Service Corps activities at the Health Resources and Services Administration and a disease prevention initiative – Steps to a Healthier United States -- at the Centers for Disease Control and Prevention.

Medicare. The Administration is disappointed that the Committee includes only $30 million of the $65 million requested for the Systems Revitalization Plan in the Centers for Medicare and Medicaid Services (CMS), and includes neither the $129 million in requested funding nor additional flexibility for the Secretary to implement Medicare appeals reform. We encourage the Committee to include these items as requested.

The Administration also encourages the Committee to include proposed user fees for: (1) providers who submit duplicate or unprocessable Medicare claims, and (2) providers filing appeals with qualified independent contractors, which would offset CMS' appropriation. The Administration believes that including these proposals would improve the efficiency of both the appeals process and CMS' operations.

HHS Management issues. The Administration urges the Senate to delete a new provision that prohibits the Department from carrying out or administering a human resources consolidation. Such consolidations are important in increasing the Secretary's ability to operate the Department efficiently and effectively, and will help create a more cohesive, responsive operation.

The Administration appreciates the Committee's decision to apply the Secretary's one-percent transfer authority to all of HHS. This expanded authority will better enable HHS to respond to emergency needs or unforeseen events that could adversely affect a program or agency.

Department of Labor. The Administration commends the Committee for supporting the Administration's priorities for the Department of Labor. However, the Administration is disappointed that the Committee provided $96 million in unrequested funding for the Bureau of International Labor Affairs. The Administration urges the Senate to redirect these unrequested funds to higher-priority programs, including critical management reform efforts.

The Administration objects to the Committee's $7 million, or six percent, reduction to the President's request to strengthen the Employee Benefits Security Administration, thereby hampering the Administration's efforts to protect Americans' retirement security. The Committee also does not support the Department's efforts to reform union financial reporting by reducing the request for the Office of Labor Management Standards by nine percent. The Administration's proposals would help provide critical protection to union members against fraud and abuse.

Social Security Administration. The Administration appreciates that the Committee fully funded the request for the Social Security Administration but regrets that additional funds were not provided for the Office of the Inspector General or that language is not included to protect program integrity funding.

Constitutional Concerns. The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. The Administration will interpret these provisions to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*. The executive branch shall implement two sections of the bill, which would authorize the provision of benefits to Native Hawaiians, in a manner consistent with the requirement to afford equal protection of the laws under the Due Process Clause of the Fifth Amendment to the Constitution.

Potential Amendments - Labor Department – Labor Management Regulations and Overtime Protection – The Administration understands that an amendment may be offered that would prohibit the Labor Department from moving forward on regulations that would revise reporting and disclosure requirements under the Labor-Management Reporting and Disclosure Act (LMRDA). These requirements have not been updated since LMRDA was passed in 1959. In requiring timely and more detailed financial information from labor organizations, this revised regulation would provide both union members and the Labor Department with the information they need to properly ensure union democracy, fiscal integrity and transparency in a manner consistent with the intent of Congress in enacting the LMRDA. The Administration also understands that an amendment may be offered that would prohibit the Labor Department from implementing and enforcing the proposed rulemaking regarding changes to outdated overtime laws. The revised rule would provide overtime to 1.3 million additional low wage workers by
simplifying complex eligibility tests and raising salary thresholds that have not been changed in almost 30 years. If either one of these provisions were included in the final version of the bill, the President's senior advisors would recommend that he veto the bill.

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

September 17, 2003
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

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

S. 1391 -- DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES, APPROPRIATIONS BILL FY 2004

(Sponsors: Stevens (R), Alaska; Byrd (D), West Virginia)

The Administration supports Senate passage of the FY 2004 Interior and Related Agencies Appropriations Bill. The Administration is pleased that the bill provides critical resources for high priority conservation programs.

The Administration applauds the Committee for reporting this bill in a timely manner and looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $785.6 billion, along with advance appropriations for FY 2005 – consistent with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage increased economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

Additional Administration views regarding the Committee's version of the bill are:

Select Initiatives

The Administration is concerned that the bill fails to fully support the President's request for key Administration initiatives. In particular, the bill falls $16 million short of the request for the President's Hydrogen Fuel Initiative, which seeks to make our air cleaner and our country less dependant on foreign sources of energy. The bill provides $15 million of the $25 million requested for "an American history and civics" initiative within the National Endowment for the Humanities. The Administration urges the Congress to fully fund the President's "We the People" initiative, which would promote understanding of the ideas and events that have shaped our Nation. The Administration strongly objects to these reductions and urges the Congress to provide the full request for these Presidential initiatives.

Wildland Firefighting

The Administration strongly opposes the Senate's reduction in the President's request for

critically needed wildland fire suppression funding in the Forest Service. The Administration's request, which includes full funding for the 10-year average of suppression costs in both the Agriculture and Interior Departments, should be restored for the Forest Service.

Department of the Interior

The Administration commends the Senate for funding high priority programs such as Landowner Incentive, Private Stewardship Grants, and the Cooperative Conservation Initiative. The Administration encourages the Senate to extend the Recreation Fee Demonstration authority, and to provide the requested increases in the National Wildlife Refuge System operations. The Administration is also concerned about the Senate's failure to fully fund the request for Indian trust reform and related activities.

The Administration is disappointed that the bill funds programs from the Land and Water Conservation Fund at levels significantly below the Administration's request. In addition, the bill fails to include $40 million requested to buy mineral rights in Big Cypress National Preserve, Florida. This investment would prevent future development of oil and gas in the Preserve and thereby contribute to Everglades restoration. The Administration encourages the Senate to fully fund these important programs.

The Administration strongly opposes section 134, which would exempt Tribes operating Indian trust programs under Self-Governance compacts from any newly adopted fiduciary trust standards, processes, or systems. The Secretary of the Interior cannot be accountable for the results of tribal trust administration, but unable to ensure tribal compliance with trust standards.
The Senate is urged to delete this provision.

Department of Agriculture

The Administration urges the Senate to provide the requested level for the Forest Stewardship program, which protects critically important private forest lands for a variety of conservation purposes. The Senate bill includes increases for the Economic Action Program and Infrastructure Improvement initiative that were not included in the President's request – these increases come at the expense of high priority programs included in the President's Budget, including wildland fire suppression.

Department of Energy

The Administration opposes the $58 million reduction from the President's $288 million request for the Weatherization Assistance Program, which assists low-income families with their energy bills while conserving energy for the Nation. The President is committed to increasing funding for this program by $1.4 billion over 10 years. The Senate could restore funds for this program from the lower priority unrequested fossil energy research and development activities discussed below.

The Administration objects to the $74 million increase over the President's request for fossil energy research and development activities. Of particular concern are the $15 million increase for natural gas technologies and the $19.5 million increase for petroleum technologies. The Administration's evaluation of these programs using the Program Assessment Rating Tool and the Research and Development Investment Criteria found that these programs do not clearly link annual activities and products to long-term benefits, had generally poor performance and results, and often duplicated industry funded work. The President's request refocuses these programs on long-term, high-risk research, and we urge the Senate to adopt this approach. While the Administration appreciates the full funding of the President's Clean Coal Power initiative, the Administration urges the Senate to consolidate all coal research within the Office of Fossil Energy, as requested. The $97 million deferral of idle Clean Coal Technology funds highlights the need for reform. At minimum, the Administration strongly encourages the Senate to make available prior year Clean Coal Technology funds for the Administration's "FutureGen" program to create the world's first zero-emissions fossil fuel plant.

The Administration also urges the Senate to restore funding for the National Climate Change Technology Initiative Competitive Solicitation program, a key component of the President's strategy to fund innovative technologies that can significantly reduce greenhouse gas emissions.

Indian Health Service

The Administration is concerned that the Senate bill fails to fund the requested $21 million increase for the construction of sanitation facilities. Safe water and waste disposal is critical to improving the health of Indian people, specifically by reducing infant mortality and gastrointestinal disease.

The Report accompanying this bill expresses support for the provision in the Senate version of the FY 2004 Labor, Health and Human Services, Education and Related Agencies Appropriations Bill that would effectively prohibit Indian Health Service funds from being used to help the Department of Health and Human Services carry out or administer a human resources consolidation plan. Such consolidations are important in increasing the Secretary's ability to operate the Department efficiently and effectively, and will help create a more cohesive, responsive operation. The Administration urges the Senate to delete the prohibition in its version of the Labor, Health and Human Services, Education and Related Agencies Appropriations Bill, since it will prevent the Indian Health Service from using funds provided in this bill for the consolidation plan.

Competitive Sourcing

The Administration understands that amendments may be offered on the Senate Floor that would effectively shut down the Administration's Competitive Sourcing initiative to fundamentally improve the performance of the government's many commercial activities. The Administration seeks to improve the performance of government services based on the common sense principle of competition -- a proven way of protecting taxpayers' dollars while providing better service and performance

enhancements. Now is the wrong time to short-circuit implementation of this principle, especially since numerous agencies are starting to make real progress in this area. Prohibiting public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill contained such a provision, the President's senior advisers would recommend that he veto the bill.

Constitutional Concerns

The Administration urges Congress to revise the several unconstitutional provisions in the Act that purport to require the executive branch to obtain approval or consent of congressional committees for the execution of a law. The provisions should call for notification to Congress rather than for committee approval or consent, so that the provisions are consistent with the constitutional principles set forth by the U.S. Supreme Court in 1983 in *INS V. Chadha*. Also, the provisions that purport to require executive branch submission of requests for supplemental appropriations should be revised to provide for such submission only when the President judges it necessary and expedient, as the Recommendations Clause of the Constitution provides.

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

October 24, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

S. 1426, Foreign Operations, Export Financing, and Related Programs Appropriations Act, FY 2004

(Sponsors: Stevens (R); Alaska; Byrd (D); West Virginia)

The Administration supports Senate passage of S. 1426, the FY 2004 Foreign Operations, Export Financing, and Related Programs Appropriations Bill, as reported by the Committee, to the extent consistent with the discussion of Section 691 below.

The Administration will work with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $786.0 billion, along with advance appropriations for FY 2005 -- in accordance with his Budget, the FY 2004 Budget Resolution, and the agreement between the Administration and the Congress. Constraining the overall growth of government spending is critical to the Nation's ability to provide needed resources for national priorities while encouraging continued economic growth. The Administration is committed to working with the Congress to ensure that its priorities are met within that overall total.

The Administration strongly opposes Section 691 of the Committee bill that would overturn the Administration's family planning policy (commonly known as the "Mexico City" policy) and would allow U.S. taxpayer funds to be provided to international organizations that perform abortions and engage in abortion advocacy. The President would veto the bill if it were presented to him with such a provision.

Additional Administration views regarding the Committee's version of the bill are:

Millennium Challenge Account (MCA)

The Administration is concerned that the Committee has provided $300 million less than the $1.3 billion requested for the Millennium Challenge account, an important Presidential initiative. This initiative will target the provision of foreign assistance to countries committed to ruling justly, investing in their people, and employing sound economic policies. The request represents the first installment to reach the President’s commitment of $5 billion in annual funding by FY 2006. The Senate is strongly urged to provide the full funding requested.

Emergency Plan for AIDS Relief

The Administration appreciates the Committee's strong support of the President's Emergency Plan for AIDS Relief. The bill fully funds the President's initiative and retains the flexibility for the Coordinator at the Department of State provided in H.R. 1298, which is essential for effective management of HIV/AIDS programs across the U.S. Government. However, the Administration is concerned that the regular "notwithstanding" language that is provided for implementation of HIV/AIDS programs not have the effect of overturning the provisions of P.L. 108-25, the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, and encourages the Committee to clarify this language so that it is consistent with full implementation of the provisions of P.L. 108-25.

U.S. Emergency Fund for Complex Foreign Crises

The Administration is concerned that the bill fails to fund the President's request for a new $100 million U.S. Emergency Fund for Complex Foreign Crises. This initiative is needed to provide the President with additional flexibility to respond swiftly and effectively to emerging crises worldwide.

Peace Corps

The Administration is concerned that the Senate Committee reduction to the Peace Corps will compromise the President's initiative to double the number of Peace Corps volunteers to 14,000 by FY 2007. The bill provides only $310 million, $49 million below the President's request of $359 million. The Administration urges the Senate to fully fund this important initiative.

Famine

The Administration appreciates the Committee's support for a new, flexible fund to prevent and respond to famines. The Administration will work with the Senate to ensure an adequate level of resources is provided to respond to the needs of the world's most hungry and poor.

Additional Funding and Language Issues

The Administration also urges the Senate to fund the President's request for the Economic Support Fund (ESF). The bill provides $2.4 billion, $100 million less than the President's request of $2.5 billion for ESF. When combined with the other earmarks and directives, this reduction would have an adverse impact upon all regional programs, particularly in Africa.

The Administration appreciates the Committee's fully funding the International Narcotics Control and Law Enforcement account. However, the funding level of $660 million provided to the Andean Counterdrug Initiative – $71 million less than the request, with the amount heavily earmarked – will put at risk the counter-drug and counterterrorism gains made by the Uribe Administration in Colombia over the past year and could result in a spillover of narcotics-related activity and terrorism into neighboring countries.

The Administration objects to the Committee's proposed reduction of $30 million from the Administration's request for Foreign Military Financing (FMF) and the further $32 million in underfunding resulting from the directed transfer to other accounts. With over 80 percent of FMF earmarked for Israel, Egypt, and Jordan, and with other directives in the Committee Report, this $62 million reduction would have a serious impact on our global efforts to combat terrorism.

The Administration requested "notwithstanding any other provision of law" authority for assistance to Pakistan under all titles of the bill. Section 634(a) of the Senate bill only provides this authority for funds appropriated under Titles I and II of the Act. However, this provision would not allow the Administration to provide FMF to Pakistan, which is appropriated under Title IV. Therefore, we strongly urge the Senate to include Title IV “notwithstanding” authority for Pakistan as part of Section 634(a).

The Administration is disappointed that the bill provides only $100 million of the $300 million requested to pay for the cost of Heavily Indebted Poor Countries (HIPC) debt reduction for the Democratic Republic of the Congo (DRC).

The Administration urges the Congress to restore the $26 million reduction from the President’s request for the Agency for International Development's Capital Investment Fund.

The Administration is concerned about a number of problematic earmarks above the President's request level that will require reductions to other high priority human rights, humanitarian assistance, and development assistance programs.

The Administration objects to Section 680 that would require the United States to cooperate with the Government of Cuba on counter-narcotics matters.

The Administration will continue to work with Congress to eliminate provisions concerning the location and content of meetings between U.S. and foreign diplomats, and provisions that purport to direct executive branch officials to vote particular ways in international financial institutions, because such provisions are inconsistent with the constitutional authority of the President to conduct the Nation’s foreign affairs.

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

November 5, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S.1427, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, FY 2004

(Sponsors: Stevens (R), Alaska; Byrd (D), West Virginia)

The Administration supports Senate passage of the FY 2004 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, but the Administration has numerous concerns with the Committee bill and does not support its enactment in its current form. We will work with the Congress on these concerns as the bill moves through the legislative process.

The Administration will work with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $786.0 billion, along with advance appropriations for FY 2005 -- in accordance with his Budget, the FY 2004 Budget Resolution, and the agreement between the Administration and the Congress. Constraining the overall growth of government spending is critical to the Nation's ability to provide needed resources for national priorities while encouraging continued economic growth. The Administration is committed to working with the Congress to ensure that its priorities are met within that overall total.

The Administration strongly opposes Section 760 of the bill which would weaken existing sanctions against the Cuban government. The Administration believes it is vitally important to maintain these sanctions and that travel to Cuba should be further policed to ensure that those traveling to Cuba are doing so for legal purposes and not simply using legal categories to disguise travel for other purposes. Current U.S. law allows Cuba to purchase agricultural commodities from the United States on a cash basis (or with financing by a third country's financial institutions). The bill directs Treasury to permit general licenses for travel to Cuba related to commercial exports of agricultural and medical goods. Some argue that expanding trade might bring change to Cuba. However, Cuba's trade with other nations has brought no change to Fidel Castro's despotic practices, and it is clear that it is the dictator and not the Cuban people that have benefited from this trade. As a result, if this provision were included in the final version of the bill presented to the President, the President's senior advisors would recommend that he veto the bill.

The Administration also strongly opposes any amendment or provision to the bill that may be added regarding the importation of prescription drugs. We share the Congress' concerns for senior citizens and other patients who have difficulty affording prescription drugs. The Administration is working with the Congress to address drug affordability, including landmark legislation to create a Medicare prescription drug benefit and regulatory and legislative changes to speed access to more affordable generic drugs. However, the Administration believes that allowing importation of drugs outside the current safety system established by the Food and

Drug Administration would threaten public health and result in unsafe, unapproved, and counterfeit drugs being imported into the United States.

Additional Administration views regarding the Committee's version of the bill are:

Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The Administration notes the Committee did not provide the requested additional $25 million for the Contingency Fund. This provides less security to States if the base WIC program funding is insufficient. The Administration also continues to believe that it is more appropriate to fund the Farmers' Market Nutrition Program through the Commodity Assistance Program, rather than through WIC as the bill provides.

Conservation Technical Assistance. The Administration recognizes that the approach to funding conservation technical assistance enacted in P.L. 108-7, the Consolidated Appropriations Resolution of 2003, has clear drawbacks. However, the Administration would strongly oppose any revisions to this approach that would have the effect of cutting off technical assistance funding for the Conservation Reserve Program and the Wetlands Reserve Program. The Administration believes that the method to fund technical assistance contained in the President's Budget is an improvement because it increases the total amount of financial assistance for agricultural producers to install conservation projects. It is also more equitable in that the cost is spread more evenly across farm bill programs, while increasing the level of accountability and transparency of the cost of delivery.

Food Safety. The Administration appreciates that the Committee provided the majority of the requested increases for the Food Safety and Inspection Service (FSIS). In particular, the increased funding for microbiological testing will help improve the safety of America's food supply. However, the Committee did not accept the President's proposal for FSIS overtime inspection user fees. The Administration urges the Senate to reexamine these fees as a source of funding for other high priority programs.

Information Technology. The Administration strongly urges the Senate to allocate more funding to increase the security of the U.S. Department of Agriculture's (USDA's) existing and planned information systems and to fix deficiencies in financial management systems. Specifically, the bill rejects funding needed to meet the Government Information Security Reform Act of 2000 information security requirements, to resolve a Federal Financial Management Improvement Act deficiency with the Rural Utilities Loan Servicing System, and to modernize the Risk Management Agency's systems. In addition, funding for the Common Computing Environment was reduced by $58 million from the request, which will slow USDA's progress on implementing a geographical information system that would improve USDA's ability to effectively administer commodity and conservation programs, as well as to track natural disasters, animal and plant disease outbreaks, and bio-terrorism events.

Rural Development. The bill includes increases far exceeding the President's request in a number of Rural Development programs, including an additional $231 million for water and wastewater grants. The additional water and wastewater funding is unnecessary because the current very low interest rate environment mitigates the need for higher grant amounts. The majority of rural communities can meet the bulk of their needs with low interest loans at the levels proposed in the President's Budget.

Research Programs. The Committee is congratulated for providing $180 million for competitive research grants through the National Research Initiative, which, while less than the Administration's request of $200 million, is still $14 million above the current funding level. However, the Committee also provided significant increases above the request for non-competitive earmarks in both intramural research and research and extension grants, while reducing funding for homeland security related to USDA facility security and regional laboratories.

Homeland Security Lab Networks. The Senate has zeroed out funding under CSREES for a Regional Diagnostic Network. The President's budget requested $16 million for this regional network composed of the National Animal Health Laboratory Network and the National Plant Diagnostic Network. These existing networks of agriculture laboratories, established with FY 2002 Supplemental funds, should be fully funded to maintain the capability to identify and respond to high risk pathogens in agriculture systems. Without funding, University and State partner labs may not continue to participate in the network and weaken Homeland Security needs.

Plant and Animal Disease Eradication Programs. The FY 2004 Budget requested full funding for a number of important pest eradication programs, such as the Asian Longhorned Beetle, Citrus Canker, and tropical bont tick. Because the Committee's failure to provide the requested funding will result in a need to transfer mandatory funding from the Commodity Credit Corporation, the Administration has included these additional costs in its scoring of the Committee bill.

The Administration would strongly oppose any attempts to restrict the ability of USDA to issue a regulation to clarify cost share requirements for animal and plant pest and disease eradication programs. The regulation will establish transparent and consistent criteria for funding that would assist the Federal Government and cooperators in planning these important programs, while allowing needed flexibility to respond to individual circumstances.

McGovern-Dole International Food for Education and Child Nutrition Program. The Senate bill fails to fund the new McGovern-Dole International Food for Education and Child Nutrition Program at a level adequate to achieve its objectives. At the Senate funding level, the program will be limited in the number of countries where it can be offered and fewer children, most notably girls, will receive its nutritional and educational benefits. Limiting the program will make it more difficult to attract other donor countries to this global effort and reverse recent progress in making the program more multilateral in scope. The Administration urges the Senate to provide the requested level of $50 million for this program.

Civil Rights. The Administration appreciates the action of the Senate committee to provide a separate account for the Office of Civil Rights as requested, but urges the Senate to provide the requested level of funding to allow more timely processing of civil rights complaints.

Constitutional Concerns. The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. The Administration will interpret these provisions to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in INS v. Chadha.

Section 717, relating to questions and answers for Congress, is objectionable to the extent it purports to interfere with the exercise of the President's constitutional authority to supervise the unitary executive branch. Section 722 purports to preclude proposing user fees in certain circumstances in the annual executive branch budget submission for agriculture-related programs. The provision should be amended to recognize the President's constitutional authority to recommend for the consideration of Congress any measure he judges necessary and expedient.

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

November 10, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 1585, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 2004

(Sponsors: Stevens (R), Alaska; Byrd (D), West Virginia)

While the Administration supports Senate passage of the FY 2004 Commerce, Justice, and State Appropriations Bill, the Administration has numerous concerns with the bill and does not support it in its current form.

The Administration will work with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $786.0 billion, along with advance appropriations for FY 2005 -- in accordance with his Budget, the FY 2004 Budget Resolution, and the agreement between the Administration and the Congress. Constraining the overall growth of government spending is critical to the Nation's ability to provide needed resources for national priorities while encouraging continued economic growth. The Administration is committed to working with the Congress to ensure that its priorities are met within that overall total.

Federal Communications Commission (FCC)

The Committee bill contains a provision blocking implementation of a Federal Communications Commission (FCC) rule establishing a new national television ownership cap. The Administration believes that the new FCC media ownership rules more accurately reflect the changing media landscape and the current state of network station ownership, while guarding against undue concentration in the marketplace. If this provision or a provision like it with respect to any one of the other FCC rules is contained in the final legislation presented to the President, his senior advisors would recommend that he veto the bill.

Protection of Children

The Administration strongly opposes Section 412 of the bill, which prohibits the Secretary of State from carrying out the President's directive of August 29, 2003 that protects unborn children in the granting of U.S. foreign aid for voluntary population planning. If the bill presented to the President contains such a prohibition, the President's senior advisors will recommend that he veto the bill.

Competitive Sourcing

The Administration strongly opposes section 108 of the bill that would restrict the ability of the Office of Justice Programs or its components from seeking improvements in management and delivery of various services through competitive sourcing for the benefit of the American

public. The Administration seeks to improve the performance of government services based on the commonsense principle of competition – a proven way of protecting taxpayers' dollars while providing better service and performance enhancements. Now is the wrong time to short-circuit implementation of this principle, especially since numerous agencies are starting to make real progress. Prohibiting funding for public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill were to contain such a provision, the President's senior advisors would recommend that he veto the bill.

Additional Administration views regarding the Committee's version of the bill are:

Department of Commerce (DOC)

The Administration objects to the bill's inclusion of more than $450 million above the Administration's request for the National Oceanic and Atmospheric Administration (NOAA), largely for unrequested projects, while it cuts priority operational activities, such as the Climate Change Research Initiative and World Weather Building construction. In addition, the Administration encourages the Senate to fully fund NOAA's all-hazards warning network, a necessary element of a comprehensive nationwide homeland security warning system currently under development. The bill also provides objectionable funding for new awards under the Advanced Technology Program, and technology, broadcasting, and economic development grants. The priority should be full funding of the fundamental research as requested in the core programs and construction at the National Institute of Standards and Technology. The Administration also opposes the extension of the Emergency Steel Loan Guarantee Program. The Administration is also concerned with several fisheries management provisions in the bill, which address issues not contained in the Administration's proposals.

The Administration appreciates the full funding for the Bureau of Economic Analysis. However, the Administration urges the Senate to restore the $111 million reduction in requested funding for the Census Bureau. This reduction would severely impact the Economic Census, the 2010 Census reengineering effort, and other important activities to improve the availability and quality of our Nation's key economic, social, and demographic statistics.

The Administration also encourages the Senate to fund adequately E-government initiatives, information technology security and critical infrastructure protection, and renovation planning for the Herbert Hoover building. In addition, the Senate is urged to restore funding for the Office of the Under Secretary/Office of Technology Policy. The Administration is also disappointed that the bill does not provide sufficient funds for the Patent and Trademark Office to adequately improve patent and trademark quality, reduce pendency, and make operations fully electronic. The Administration urges the Senate to support the associated fee reform legislation, which will provide the additional fee revenue needed to support these operational improvements.

Trade Negotiations

The Administration opposes the provisos on trade negotiation in the Office of the United States Trade Representative (USTR) and Department of Commerce/International Trade Administration sections of the bill, which could produce counterproductive results including promotion of unwarranted subsidies abroad.

The Administration strongly objects to section 214, which would prohibit USTR and other agencies from using FY 2004 funds to negotiate or enter into any trade agreement that includes immigration provisions or that amends current immigration law. The Administration is committed to appropriate consultation on such matters, but does not support prohibiting discussion on this entire topic prior to the initiation of a negotiation. In any event the two provisos in section 214 would impermissibly interfere with the President's constitutional authorities to conduct the nation's foreign affairs, participate in international negotiations, and supervise the unitary executive branch.

Department of Justice (DOJ)

The Senate is urged to provide full funding of Presidential priority initiatives, including: the DNA initiative, the Volunteers in Police Service program (VIPS) and Neighborhood Watch (both part of the President's USA Freedom Corps initiative), Project Safe Neighborhoods, corporate fraud investigations, Drug Courts, Residential Substance Abuse Treatment Program, and Southwest Border prosecutions.

The Administration objects to the diversion of the FY 2003 supplemental appropriation to fund FY 2004 Federal Bureau of Investigation (FBI) base programs. This action would have a significant negative impact on the FBI's counterterrorism operations, including the new Terrorist Threat Integration Center. In addition, the Administration urges the Senate to remove the requirements on the FBI personnel assignments to the Counterterrorism Division, which restrict the FBI's flexibility to address critical threats.

The Administration is disappointed in the $50 million rescission from the Counterterrorism Fund, which would eliminate key flexibility in the Administration's terrorism response capabilities.

The Administration objects to the Committee's plan to remove the Foreign Terrorist Tracking Task Force (FTTTF) from the FBI. The FTTTF coordinates and draws upon all components of the FBI including the National Joint Terrorism Task Force, and greatly increases the Nation's capability to track foreign terrorists and their supporters. Transferring the FTTTF would fracture program management, disintegrate established relationships, and hinder efforts to share information with Federal, State, and local officials.

The Committee bill reduces the requested funding for drug control initiatives by $300 million. In particular, the Interagency Crime and Drug Enforcement account is funded $127 million below the President's request and does not include the requested funding for the Internal Revenue Service or components of the Department of Homeland Security. Failure to include funding for these agencies would halt sensitive, comprehensive drug investigations.

The Administration is concerned that the bill has significantly underfunded the Federal Prison System and the Marshals Service. Given the growing Federal inmate population, a substantial reduction in funding would have a dramatic adverse impact on the staff and inmate safety at existing facilities. The Administration strongly urges the Senate to restore funding for prisons at the level and in the manner included in the President's budget request. In addition, the Committee provides additional responsibility to the Marshals Service for fugitive investigations

and cases without providing associated resources.

The Administration appreciates the Committee's support for interoperable communications grants. However, unified responsibility for first responder programs is essential to accomplishing the Nation's preparedness goals. Therefore, the Administration urges the Senate to provide funding for such first responder programs within the Department of Homeland Security.

The bill does not include the Administration's budget restructuring proposals. This restructuring would provide the Administration and the Congress a performance-based budget linked to mission and outcomes, consistent with the President's Management Agenda and the Government Performance Results Act. Failure to implement the proposal in the FBI, for example, will preclude the use of a budget structure that mirrors the FBI's strategic plan and could hinder their flexibility in executing their counterterrorism and national security strategy.

Department of State

The Administration strongly objects to the more than $600 million reduction to the President's request for the Department of State including reductions to: Diplomatic and Consular Programs; Educational and Cultural Exchange Activities; Embassy Security, Construction, and Maintenance; Contributions to International Organizations; and other programs. The funding levels proposed would seriously harm the Department of State's ability to conduct diplomacy, carry out effective student and professional exchange programs, and address vital security and overseas facility needs. The Department would be unable to maintain its current level of operations including overseas guard programs, and would not have the resources to fund the third year of the Diplomatic Readiness Initiative. Funding levels fail to fully meet our current international obligations to the United Nations (UN), affiliated organizations, and peacekeeping, and do not provide the initial assessment associated with rejoining the UN Educational, Scientific, and Cultural Organization.

The bill also contains numerous objectionable provisions, including section 407, which permanently prohibits the use of the Department of State funds to construct secure facilities that protect employees of the U.S. Agency for International Development; section 410 which mandates the transfer of funds to consular activities from other diplomatic programs in the event of a drop off in fee collections; section 621 which mandates the transfer of international oceans and environmental programs, as well as other action taken in the bill that transfers the international fisheries commissions to the Department of Commerce; section 406 which arbitrarily caps the personnel assigned to Paris and Berlin; section 411 that would deny visas based on administrative processing delays; and section 403 that restricts reprogramming requests. In addition, the Administration notes several other unacceptable and untenable provisions in the bill and Senate report, including elimination of funding for the Department's Legal Adviser and Office of Legislative Affairs, direction that expands the scope of reprogramming procedures, as well as numerous unrequested earmarks that would further magnify the impact of the bill's funding reductions.

The Administration supports retention of the contracting authority in section 2502 of Public Law 108-11 for the Centers for Disease Control and Prevention in its international health activities, such as fighting HIV/AIDS. Section 409 of the bill would repeal that authority. The

Administration recommends striking Section 409, or revising it to provide only that section 2502(b) is amended to make section 2502(a) subject to section 207 of the Foreign Service Act (22 U.S.C. 3927), preserving ambassadorial authority.

Federal Communications Commission (FCC)

In addition to the concerns expressed above, the Administration strongly opposes any amendment that restricts the FCC's ability to assign, via competitive bidding, spectrum licenses that could be used by terrestrial (i.e., non-satellite) services. In particular, the Administration objects to Section 626 of the Senate-reported bill.

This provision would preempt a FCC-sponsored spectrum auction that is scheduled to take place in January 2004, provide an undeserved windfall projected by the Congressional Budget Office to be as much as $100 million to one company, which would be the sole beneficiary of this provision, and deprive other companies that intend to compete in the January auction of access to the spectrum in question. Auction-based spectrum policy has been a mainstay of wireless services for a decade. Interfering with the efficient allocation of Federal spectrum licenses by directing the award of licenses to a particular company would undermine the Federal auction system and establish a damaging precedent.

The Administration strongly urges the Committee to restore the FCC's authority to fund its spectrum auctions program from auction receipts. The Committee's proposal reduces the FCC's available funding by 25 percent. Absorbing the costs of the auctions program into the proposed appropriated funding level could require the FCC to furlough large numbers of staff for several months in FY 2004 and would essentially bring the auctions program to a halt for a year or more through cancellation of contracts critical to auctions operations, resulting in the loss of hundreds of millions of dollars in auction receipts, and the delay of auctions of spectrum valued in the billions of dollars.

International Broadcasting Operations

The bill would reduce requested funding for the Broadcasting Board of Governors International Broadcasting Operations account by $7 million. The report requires the continuation of Voice of America and Radio Free Europe/Radio Liberty European language services that were not included in the FY 2004 request in order to fund high-priority broadcasting in the Middle East. This, combined with other report language earmarks, would require reductions in high-priority broadcasts.

Small Business Administration (SBA)

The Administration is concerned that the reductions in SBA's administrative funding levels will negatively impact management of the agency's programs and impede progress on much needed financial management reforms. The Committee bill provides $49 million less than the President's request while containing $22 million in unrequested earmarks.

Equal Employment Opportunity Commission (EEOC)

The Administration appreciates that the Committee provided the President's overall

request of $335 million for the EEOC.

The Judiciary

The Administration supports the Committee's provision (Sec. 305) that increases Judicial pay. This provision would assist efforts to attract and retain high quality judges.

Infringements on Executive Authority

The Administration objects to section 607 in the bill, which purports to restrict the use of funds for U.N. peacekeeping missions that involve U.S. Armed Forces under the command or control of a foreign national, and places unconstitutional conditions on the President's authority to command the armed forces. In addition, section 405, which would require the President to take a particular position on the status of Jerusalem, is an unconstitutional condition on the exercise of the President's power to control the recognition of foreign governments and to formulate the position of the United States.

The Administration opposes section 208 of the bill, which purports to prohibit the Secretary of Commerce from making certain funding requests. The Executive Branch would construe the provision in a manner consistent with the President's constitutional authority to obtain opinions from the heads of departments and to make such recommendations for the consideration of Congress as the President judges necessary and expedient.

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. The Administration will interpret these provisions to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.

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

October 23, 2003
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

S. 1589, The Department of Transportation, Treasury and Related Agencies Appropriations Bill, FY 2004

(Sponsors: Stevens (R), Alaska; Byrd (D), West Virginia)

The Administration supports Senate passage of the FY 2004 Departments of Transportation and Treasury and Independent Agencies Appropriations Bill. However, the Administration has several specific concerns and looks forward to working with the Congress as the bill moves through the legislative process.

The Administration will work with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of $786.0 billion, along with advance appropriations for FY 2005 -- in accordance with his Budget, the FY 2004 Budget Resolution, and the agreement between the Administration and the Congress. Constraining the overall growth of government spending is critical to the Nation's ability to provide needed resources for national priorities while encouraging continued economic growth. The Administration is committed to working with the Congress to ensure that its priorities are met within that overall total.

The Administration is very concerned that the Committee has not included the current law provisions that prohibit the use of Federal funds for abortions in the Federal Employees Health Benefits Program (FEHBP), except in cases where the life of the mother is endangered or the pregnancy is the result of an act of rape or incest. If the final version of the bill does not contain such a provision, the President's senior advisors would recommend that he veto the bill.

Additional Administration views regarding the Committee's version of the bill are:

Civilian Pay and the Human Capital Performance Fund

The Senate is urged to adopt the President's proposal for pay. The 4.1 percent increase proposed by the Committee exceeds the President's request by $2.1 billion, provides a percentage increase that exceeds inflation, the statutory base pay increase, and even exceeds the average increase in private-sector pay, measured by the Employment Cost Index. In addition, the rate at which Federal employees are leaving the government voluntarily is at an all-time low of 1.7 percent per year, well below the overall average rate in private enterprise. A higher across-the-board pay raise would also not allow the Federal Government to target pay raises to attract employees with critical skills and to reward excellent performance.

The Administration is also extremely disappointed that the bill does not fund the President's request for a $500 million Human Capital Performance Fund. The Fund allows a more targeted approach for promoting high performance, which would allow agency managers to provide additional pay raises to high performing employees and employees with the most valuable skills.

Competitive Sourcing

The House version of the bill contains a provision that would effectively shut down the Administration's Competitive Sourcing initiative to fundamentally improve the performance of the government's many commercial activities. The Administration seeks to improve the performance of government services based on the common sense principle of competition -- a proven way of protecting taxpayers' dollars while providing better service and performance enhancements. Now is the wrong time to short-circuit implementation of this principle, especially since numerous agencies are starting to make real progress. Prohibiting the use of the new A-76 Circular to conduct public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill contained such a provision, the President's senior advisers would recommend that he veto the bill.

Department of Transportation (DOT)

The Administration is concerned with the level of funding provided for the Federal highway program. The bill includes $33.8 billion for Federal-aid highways, $4.5 billion more than the President's request. This level of spending would either break dramatically with the tradition of tying highway spending with Highway Trust Fund revenue, or lead to a gas tax increase, which the Administration strongly opposes.

The Administration believes that its request of $900 million is adequate for Amtrak operations, capital, and infrastructure maintenance in FY 2004. The Administration urges the Senate to institute operational and structural reforms, pursuant to the Administration's recently-proposed Amtrak reauthorization bill. The Administration opposes additional funding that would perpetuate the status quo and interfere with these needed reforms.

The Administration is disappointed that the bill does not provide $45 million to support the new DOT headquarters building project. The funding for this project would ensure that the Department has a headquarters building in a superior and less costly facility than would be available to DOT when the current lease expires at the Nassif building. Failure to provide these funds means that DOT may not be able to move into the new facility.

The Senate is urged to follow the House lead and include the $15 million requested by the Administration for the beautification and renewal of Pennsylvania Avenue. This will fund the design and construction of the Pennsylvania Avenue project which enhances security while transforming the area in front of the White House into a public space of which citizens will be proud.

The Administration is opposed to the unrequested $52 million provided for the Payments to Air Carriers program from the Airport and Airway Trust Fund. The Administration will work with the Congress to help address the growing subsidy costs.

Department of the Treasury

The Administration is concerned about the level of funding provided to the Internal Revenue Service (IRS), particularly the proposed reductions in Tax Law Enforcement and Information Systems investments, which will make it more difficult for the IRS to improve the fair enforcement of the tax code. The Administration will continue to work toward the proposed consolidation of the two Treasury offices of Inspector General in the final bill. This consolidation would help ensure that the Inspector General at Treasury can function in a flexible, effective and efficient manner.

Executive Office of the President (EXOP)

The Administration greatly appreciates that the Committee has provided the requested funding for the National Security Council, the Homeland Security Council, the Council of Economic Advisers and many other EXOP offices, projects, and programs. We would appreciate it if the Senate would appropriate these funds in the structure requested.

The Administration continues to support the proposed consolidated appropriation for EXOP. However, the Administration is very concerned that the Committee did not support the transfer authority requested by the Administration. While some economies of scale may be met under the common services pilot project, the transfer authority requested by the Administration would allow EXOP entities the flexibility to address unexpected requirements and needs that may be outside the program.

The Administration urges the Senate to fund the President's request for the National Youth Anti-Drug Media Campaign and the Drug-Free Communities program.

General Services Administration and Electronic Government Fund

The $50 million in unrequested funds provided for construction of the Los Angeles courthouse is not sufficient to pay for any useful segment of this project, which is currently estimated to cost $484 million. The $50 million would only be sufficient to begin construction of this project.

The Administration appreciates the Congress' interest in Electronic Government (E-Gov) and urges the Congress to support the President's $45 million request for this important component of the President's Management Agenda. As has been demonstrated by successes from the modest $5 million invested in each of the last two years (including e-rulemaking, recreation.gov, e-authentication, geodata.gov, e-training, and Firstgov.gov), the E-Gov Fund can bring significant improvements across agencies while reducing the need for each agency to "reinvent the IT wheel."

Other Issues

The Administration urges the Senate to adopt the proposed repeal of the Continued Dumping and Subsidy Offset Act of 2000 that provides payments to private entities from antidumping and countervailing duty collections. This repeal could provide savings to the taxpayer of over $300 million per year. In addition, the Act provides an unwarranted subsidy to entities that already benefit from higher import prices due to the duties.

The Administration is concerned that the Committee did not fund the Electronic Records Archive within the National Archives and Records Administration, which would preserve and provide access to Federal electronic records. The Senate is urged to restore the request of $35.9 million for the systems development phase of this project.

The Administration objects to section 628, which would inappropriately restrict the use of funds to implement Recruitment One-Stop, which provides legally required information on available Federal jobs to millions of Americans every month via the internet. This E-Government initiative is a key component of the President's Management Agenda.

Potential Amendments

The Administration understands that an amendment may be offered on the Senate floor that would weaken current sanctions against the Cuban government. The Administration believes it is vitally important to maintain these sanctions. The function of the travel sanctions is to prevent unlicensed tourism to Cuba that provides economic resources to the Castro regime while doing nothing to help the Cuban people. Sanctions also help ensure that humanitarian and cultural exchanges are genuine, reaching out to the Cuban people and especially to civil society and democracy activists, and not become activities whose main effect is to strengthen the regime. Lifting the sanctions now would provide a helping hand to a desperate and repressive regime, whereas the President's policy calls for reaching out to help the Cuban people. If the final version of the bill were to include such a provision, the President's senior advisors would recommend that he veto the bill.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. The Administration will interpret these provisions to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS vs. Chadha*.

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

February 11, 2004
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 1072 - Safe, Accountable, Flexible, and Efficient Transportation Equity Act
(Senator Inhofe (R) Oklahoma and 3 cosponsors)

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: $262 billion on highways and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill.

The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

Safety. The Administration appreciates the creation of a new Highway Safety Improvement Program (HSIP) and a strong safety belt incentive program, but believes the bill should also require States that have not enacted primary safety belt laws or achieved safety belt use rates of 90 percent to spend no less than 10 percent of core highway safety construction HSIP funds on behavioral safety projects eligible under the Section 402 program. In addition, the Administration opposes limiting a State's flexibility to use HSIP funds by requiring mandatory set-asides for rail-highway grade crossings or safe routes to schools. The Administration believes that several programs of the National Highway Traffic Safety Administration (NHTSA) should be consolidated and a portion of those funds should be used to reward States that aggressively reduce fatalities in the manner proposed by Section 2001(a) of the Administration's proposal. Also, language similar to that included in the Administration's proposal on providing for NHTSA-administered highway safety data grants should be added to help States improve their data to reasonable standards.

Environmental Provisions. The Administration opposes substantially broadening the list of eligible projects for Congestion Mitigation and Air Quality (CMAQ) funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase. The Administration believes that the bill should improve project delivery while protecting our environment. The bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects. This limit is necessary to reduce litigation uncertainty that can impede project development for years. The bill should also avoid adding new requirements to the transportation planning process, and integrate the transportation planning process with other environmental review processes to reduce redundancies.

With respect to project review under the National Environmental Policy Act, the bill should clarify the authority of State and local governments to be joint lead agencies, with the U.S. Department of Transportation, in preparing environmental documents. The Administration also notes that section 1511 is inconsistent with the President's proposal in SAFETEA, and encourages the Senate to adopt the President's proposal.

The Administration also believes that the bill should clarify standards pertaining to public park and recreation lands, wildlife and waterfowl refuges, and historic sites -- commonly referred to as "Section 4(f)." A clarification of the Section 4(f) definition of "prudent" is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill should address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act to decrease project delays and uncertainty.

In addition, the Administration believes that the bill should not include a mandatory two percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

New Regulatory Mandates. The Administration strongly opposes the numerous

mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

Financing and Freight Mobility. The Administration appreciates the bill's expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by lowering the project threshold and broadening the list of eligible projects to include freight projects. However, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan. Likewise, the Administration opposes allowing railroads to use Federal grants to pay the credit risk premium or repay Railroad Rehabilitation and Improvement Financing loans.

The Administration supports amending the bill to give States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls. The Administration also supports amending the bill to provide States flexibility to implement variable tolls on interstates for congestion management or air quality improvement purposes. In addition, the Administration supports amending the bill to incorporate the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of "private activity bonds" for highways and surface freight transfer facilities.

Public Transportation Programs. Aside from concerns about overall funding levels, the Administration is pleased that the bill includes provisions to improve human service transportation coordination and expand the "New Starts" program, but is disappointed by the omission of a performance incentive program to reward transit agencies based on increases in transit ridership.

Accountability and Oversight. The Administration is pleased that the bill includes stringent project management and financial plan requirements which were requested by the Administration. Improved accountability and focused oversight by the Federal Highway Administration will help maximize the effective use of available funds.

Funding Firewalls and Guarantees. The Administration supports a separate category or "firewalls" for determining the level of spending from the Highway Trust Fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creation of "firewalls" for general fund spending on such critical areas as defense and homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

Byrd Test Change. The Administration opposes weakening the Byrd Test to compare spending authority to current resources plus four years, rather than two years, of estimated future revenue. The Byrd Test was established at the creation of the Highway Trust Fund in 1956 to

ensure that future revenues would be sufficient to cover outstanding spending authority. The Byrd Test has been successful in ensuring the Highway Trust Fund's solvency for nearly 50 years, and modification could allow levels of spending that cannot be sustained by estimated revenues to the Highway Trust Fund.

Park Roads. The Administration supports the funding level for park roads, but opposes the provisions of section 1806 of the bill that establish a park funding priority system that would reduce the Administration's ability to implement the President's Park Legacy Program. Allocation of park road funding should be consistent with the sound asset management approach on which the President's Park Legacy Program is based and which is currently used by the National Park Service, in a manner that will best address the needs of all parks, not just a few.

Cross-Border Transportation. The Administration opposes the bill's provisions defining foreign trucks and buses engaged in the cross-border transportation of cargo and passengers into the United States as "imports." Existing statutory provisions already address cross-border transportation safety, and the revised definition would significantly disrupt the almost $2 billion daily cross-border movement of goods.

MAGLEV. The Administration opposes the continued authorization of funding for Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration's SAFETEA proposal did not seek funding for MAGLEV and believes funds can be better spent investing in the Nation's public transportation systems.

Budget Estimates and Enforcement

This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

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

May 19, 2004
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 2400 - National Defense Authorization Act for Fiscal Year 2005

(Sen. Warner (R) VA)

The Administration thanks the Senate Armed Services Committee for its continued support of our national defense and supports Senate passage of S. 2400. The Committee's strong support for the President's priorities is appreciated and is critical to the continued successful prosecution of the global war on terrorism.

The Administration is pleased that the bill's overall funding levels closely match the President's request. We are very concerned, however, that the redistribution of funds among accounts will have a negative effect on military operations. The migration of funding from the Operation and Maintenance (O&M) accounts to the Procurement and Research, Development, Test, and Evaluation accounts will impact negatively the accounts that are primarily funding the global war on terrorism. These redistributions are further compounded by a $1.7 billion across-the board cut from lower than expected inflation and by a similar reduction in Working Capital Fund cash balances. The inflation cut cannot realistically be absorbed, because those savings do not exist. The President's budget was based on inflation projections that are still valid. Further, the Working Capital Fund balances are being used to address FY 2004 requirements and therefore will not be available in FY 2005. The practical effect of these reductions would be cuts to critical readiness accounts in the Operation and Maintenance appropriations. The Administration urges full funding of the President's request in the manner in which it was requested.

BRAC. The Administration would strongly oppose any amendments to weaken, delay, or repeal the base realignment and closure (BRAC) authority passed by the Congress three years ago. If the President is presented a bill that weakens, delays, or repeals the BRAC authority, the Secretary of Defense, joining with other senior advisors, would recommend that the President veto the bill.

The Administration appreciates inclusion of the following provisions:

Train and Equip. The Administration thanks the Committee for including section 1053, which will help U.S. forces enhance the ability of Iraqi and Afghan military and security forces to combat terrorism and support U.S. and coalition military operations. This provision is an important step toward achieving the fuller authority that the President requested, including the full $500 million requested authorization level. We will continue to work with Congress to fully support the President's request in order to meet urgent needs in Afghanistan. We also will work to extend this authority to other friendly nearby regional nations in order to increase DOD's ability to provide training and equipment to key countries in response to time-sensitive requirements that may emerge in the global war on terror. The Administration also will work to include requested transfer authority that would enable the U.S. Air Force to upgrade the air traffic control systems through the Caucasus and Central Asia into the Operation Enduring

Freedom theater of operations.

Personnel. The Administration appreciates the Committee's support for many of its personnel-related legislative proposals, including the request for pay raises for our troops, and also appreciates the flexible authority to temporarily increase troop strength.

Commander's Emergency Response Program (CERP). The Administration appreciates the Committee's support of CERP in section 311 and urges its inclusion in the final bill. By providing resources to our field commanders, CERP is critical to Iraq's future and the safety of our troops.

Transformation. The Administration appreciates the inclusion of funding for key transformational programs such as the Army's Future Combat Systems, Unmanned Aerial Vehicles, the Joint Unmanned Combat Aerial Systems program, and the construction of the Navy's first DD(X) destroyer and Littoral Combat Ship.

Colombia. The Administration is pleased that the bill would extend through FY 2006 the expanded authorities to assist Colombia's democratic government in its fight against narco-terrorists from the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC). While the Administration notes than any numerical limit on military personnel deployments is inconsistent with the authority committed by the Constitution to the President to conduct the Nation's foreign affairs and command the armed forces, the Administration also appreciates that the Committee granted the Administration's request to increase the number of troops and contractors deployable in support of Plan Colombia at one time. These measures are critical to the continued success of U.S. policy in Colombia and to help President Uribe prosecute a unified campaign against terrorism and drug traffickers.

Environmental Cleanup. The Administration appreciates the Committee's strong support for the President's initiative to accelerate environmental remediation of Department of Energy (DOE) sites. We also strongly support section 3116, which clarifies the Secretary of Energy's authority to classify and dispose of nuclear waste resulting from reprocessing activities in the State of South Carolina. The Administration hopes this issue will be resolved soon in the States of Washington and Idaho.

Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). The Administration appreciates the Committee's support for DOE's efforts to improve execution of EEOICPA. Consistent with the Administration's legislative proposal, section 3143 would remove impediments to processing that have contributed to a significant backlog of applications and allow DOE to further accelerate completion of applications through the physicians panel.

Threat Reduction and Nonproliferation. The Administration appreciates the SASC's strong support for DOD Threat Reduction and DOE Nonproliferation programs. The provisions to: (1) authorize appropriations for the full request of $409 million for DOD's Cooperative Threat Reduction Program, (2) grant permanent authority for the President to waive, annually, the conditions that must be met before continuing the Russian chemical demilitarization program at Shchuch'ye, (3) authorize appropriations of $1.3 billion for DOE nonproliferation programs, and (4) remove the $50 million limitation on DOE nonproliferation funds that can be spent on new

projects outside of the former Soviet Union, will significantly enhance efforts that are critical to the security of our nation and the world.

The Administration will work with Congress to address concerns with the following issues as the bill moves through the legislative process:

Restrictions on Transfer of Funds. The Administration is concerned about restrictions on DOD's ability to transfer a limited amount of money to respond to unanticipated events or to address changes in program execution. For example, the bill does not fully support the Administration's request for $4 billion in general transfer authority.

Military Housing Privatization. The Administration urges Senate support in providing relief from the cap on budget authority on Military Housing Privatization Initiative projects. The Department expects to reach the current $850 million cap on family housing in November 2004. It is essential to raise the cap to $1.85 billion if the Department is to meet its 2007 goal of eliminating inadequate housing and improving the quality of life of its military families.

Expanded Health and Personnel Benefits/TRICARE. The Administration supports the provision of a demonstration program to determine the interest in and impact of expanding health care benefits to non-mobilized Reservists who are unemployed or uninsured. In addition, the Administration will work with Congress to ensure the continuing availability through FY 2005 of important benefits provided before and after mobilization. In considering any new initiatives, the Administration urges Congress to oppose including any language which would have the effect of restricting the Department's flexibility and resources essential to successfully prosecute the war.

Global Peace Operations Initiative. The Administration urges inclusion of the President's proposal to authorize DOD, subject to the concurrence of the Secretary of State, to conduct (or transfer funds for the Department of State to conduct) train and equip activities for the purpose of increasing the capacity of other countries to conduct peace operations. At a time of increasing instability in many parts of the world, the global capacity to conduct peace operations, particularly peace enforcement, is not keeping pace with demand. The Administration's proposal would address this shortfall by permitting the United States to improve both the quality and quantity of other nations' peacekeepers. This initiative also would ensure that there is a reliable cadre of global peacekeepers that will lessen the peacekeeping burden on U.S. personnel.

Support of Sensitive Military Operations to Combat Terrorism. The Administration urges inclusion of this requested authority, which would enable U.S. Special Operations Forces to provide support to small numbers of foreign forces, irregular forces, groups, or individuals that could assist U.S. military operations to combat terrorism. This proposal is designed to facilitate U.S. military operations against terrorism and not for the primary purpose of developing foreign capabilities and internal security mechanisms.

Transfer of Nebraska Avenue Complex. The Administration strongly urges expedited passage of free-standing legislation to transfer ownership of the Nebraska Avenue Complex (NAC) from the Navy to the General Services Administration to allow for the consolidation of the Department of Homeland Security (DHS) headquarters operations at the NAC. We are concerned that delaying the transfer would hamper DHS' mission to ensure our Nation's security,

and we will continue to work with the Committee to resolve any outstanding concerns with pending transfer language.

Responsibilities of Chief Information Officers. Section 801 would transfer acquisition and management responsibility for Information Technology (IT) integral to a weapon system from DOD's Chief Information Officer to the Military Services' acquisition executives and a board of senior officials. This provision conflicts with private sector best practices for IT management and could undermine the gains made under the Clinger-Cohen Act by reintroducing stove-piping and problems with interoperability.

Reductions to Proposed Investment Programs. The Administration is concerned with the bill's production cut of two F/A-22 aircraft and the associated $280 million reduction, as well as the $200 million cut (40 percent of the President's request) of the Kinetic Energy Interceptors, a key element of the Ballistic Missile Defense System. We also have concerns with the $145 million reduction to the VXX program, which would delay Initial Operational Capability for the critical Presidential helicopter one year from FY 2009 to FY 2010.

Prohibition on Aircraft Retirement. The Administration has concerns about section 131, which prohibits the retirement of KC-135E tanker aircraft in FY 2005, because it would limit DOD's flexibility to manage its assets to meet combatant commander requirements as fully and efficiently as possible.

Shipbuilding. The Administration has concerns with section 123, which would allow flexible funding of submarine engineered re-fueling overhauls, because it would weaken the validity of the budget process. Sufficient authority exists to reprogram as necessary to support these overhauls. The bill authorizes $11.4 billion for procurement of nine new Navy ships, $250 million more than requested. The Administration appreciates the support for the shipbuilding program but is concerned that $250 million in unrequested funding for the acceleration of the LHA(R) Amphibious Assault Ship Program and the second DD(X) Class Destroyer Program will place a burden on future budget requests, which may prove to be counterproductive to the long; term shipbuilding program.

Space Launch. Section 1032, which creates a "Panel on the Future of Military Space Launch", would be duplicative of the Administration's ongoing work to develop a new National Space Transportation Policy, which is intended to be completed within the next few months. The provision should be deleted.

Consolidation of Counterintelligence Offices of DOE and the National Nuclear Security Administration (NNSA). The Administration has concerns with section 3118, because it would effectively prohibit DOE from consolidating counterintelligence functions into a single office reporting directly to the Secretary of Energy, as requested in the Administration's proposal. Authorizing the Secretary of Energy to consolidate counterintelligence responsibilities for the entire DOE complex, but only in NNSA is unworkable. Section 3118 is an impediment to coherent and effective counterintelligence activities necessary for the entire DOE complex, and we strongly urge the Senate to amend this provision consistent with the Administration's proposal.

Constitutional Concerns. Provisions contravening the President's constitutional authority to

supervise the unitary executive branch and act as the Commander-in-Chief should be deleted or modified. For instance, section 905 of the bill should be amended to eliminate the requirement, as a condition of the exercise of authority, that the Secretary of the Navy submit legislation to Congress, as the requirement contravenes the Constitution's commitment exclusively to the President of the authority to supervise the unitary executive branch and to submit for the consideration of Congress such measures as the President judges necessary and expedient. Similarly, section 1033(a) of the bill should be amended to grant the Secretary of Defense discretion to establish, rather than to require, a separate dedicated program element, because such a requirement contravenes the Constitution's commitment exclusively to the President of authority to submit for the consideration of Congress such measures as the President judges necessary and expedient in the format of his choosing, including budget proposals that are measures seeking appropriations.

Information Protection. Section 1034(c) and (d) should be amended to clarify that land remote sensing information shared by the Federal Government with tribal governments be protected in the same manner as information shared with State and local governments. Provisions establishing commissions or panels (including sections 841(f)(3), 902, and 1032(d)(1)) should be amended to ensure that the commissions or panels may secure direct access to information "to the extent permitted by law," to preserve statutory protections for various types of information specifically protected by law. In addition, the appointment of the members of the commission established by section 902, examining the roles and missions of the armed forces, should be vested in the President or the Secretary of Defense rather than being constituted on a partisan basis. Regarding section 841, the bill should be modified to establish a more appropriate means of providing administrative and financial support for the proposed Commission on the Future of the National Technology and Industrial Base.

Redundant Functions. Section 914 of the bill should be deleted because it would establish in DOD a cancer institute to perform research that has no special relationship to the armed forces and that duplicates functions better performed by the National Cancer Institute in the Department of Health and Human Services.

Interagency Contracting. The Administration has concerns with sections 803 and 815, which would significantly restrict the Department's ability to use other agencies' contracts for meeting mission needs. The Administration seeks to work with Congress on more tailored measures to augment internal controls at the Department and the agencies through which it contracts.

Inclusion of Additional Administration Proposals. We will work with Congress to secure enactment of other Administration proposals, such as the Readiness and Range Preservation Initiative and executive protection authorities for DOE's Federal protective force. We also will work to enact the authority requested in the President's budget for $200 million to train and equip forces solely in Afghanistan as part of the Afghan Freedom Support Act.

Additional Potential Amendments

Competitive Sourcing. We would also strongly oppose any amendment that significantly limits DOD's flexibility on competitive sourcing, such as by mandating that the Department's employees compete for a certain percentage of work currently performed by contractors. Arbitrary quotas concerning commercial work to be performed by Federal employees would

undermine the Department's ability to redirect its manpower to military activities, likely require the redeployment of uniformed personnel from critical in-theatre operations to non-core support activities, increase operating costs, and sacrifice billions of dollars in potential cost savings. If the final version of the bill contains such a provision previously noted above, the President's senior advisors will recommend that he veto the bill.

EEOICPA. The Administration would oppose the adoption of any amendment that would substantially expand the costs and scope of the EEOICPA Federal compensation program, or delay processing of Part D applications by shifting processing responsibilities out of DOE and creating an unworkable process in the Department of Labor.

Energy Savings Performance Contracts. The Administration would object to the movement of the Energy Savings Performance Contracts (ESPCs) authority from DOE to DOD. In addition, we would oppose the expansion of ESPC authorities to non-building applications since it is inconsistent with Federal fiscal and procurement policies. The Administration supports immediate extension of current ESPC authority for all agencies.

UN Oil-for-Food. The Administration strongly supports efforts to ensure accountability for the UN Oil-for-Food program and has successfully urged the establishment of a high-level inquiry. However, the Administration would have concerns with attempts to withhold assessed contributions to the UN, which could undermine the Volcker inquiry initiated by the UN Secretary-General.

$25 Billion Contingent Emergency Reserve Fund. We understand that an amendment may be offered that would authorize the $25 billion contingent emergency reserve fund to support operations in Iraq and Afghanistan. We urge the Senate to support the request for this fund to ensure there is no disruption in funding and resources for our armed forces.

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

September 8, 2004
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 2537 – Department of Homeland Security Appropriations Bill, FY 2005

(Sponsors: Stevens (R), Alaska; Byrd (D), West Virginia)

The Administration supports Senate passage of the FY 2005 Department of Homeland Security Appropriations Bill, as reported by the Senate Committee.

The President supports a discretionary spending total of not more than $819 billion, in addition to $2.5 billion in advance appropriations for Project Bioshield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery.

Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration.

The Administration is pleased that the level of funding in the Committee-reported bill is consistent with the $819 billion discretionary total and that the Committee has produced a bill that funds many of the Department's highest priorities. We believe that on the whole the bill provides for a robust level of funding for homeland security. In particular, the Administration applauds the Committee's support of critical homeland security programs like the US VISIT program, the Container Security Initiative (CSI), the Customs-Trade Partnership Against Terrorism (C-TPAT), funding for improved radiation detection technology and the biosurveillance initiative, as well as other priorities such as reducing the immigration backlog.

In addition, the Administration is pleased that the Committee chose to fund the full request for the Disaster Relief Fund, and urges the Congress to maintain the full level of funding in the final version of the bill. On September 6, 2004, the President submitted an emergency supplemental request to the Congress of $2.0 billion for FEMA's disaster relief account to respond to urgent needs related to Hurricanes Charley and Frances in Florida and other affected areas. The Administration appreciates the Congress' prompt action on this request and anticipates submitting a further request in the near future to provide for a comprehensive response to Hurricanes Charley and Frances. These supplementals, however, do not in any way diminish the need to provide the full regular 2005 request to respond to the historic level of disaster needs.

While we have several concerns with the bill, we appreciate the speed with which the Senate has started to address the budgetary needs of the Department, and look forward to

working with the Congress to expedite passage of the legislation while addressing the following concerns.

State and Local Programs

The Committee provides $3.8 billion for State and local programs, including firefighter assistance, which is nearly $0.2 billion above the request. Although the Committee's support for the first responder community is appreciated, the Administration believes that the programs funded through DHS should be better targeted toward terrorism preparedness. While an improvement over the House level, the bill does not provide the request to double funding for the risk-based Urban Area Security Initiative (UASI) program, but instead provides funding above the requested level for the basic State and local formula grant program. We urge the Congress to focus these grant funds on the areas of highest threat by fully funding the President's request for UASI, and we look forward to working with the Congress to restore funds to the requested level.

The Administration is also concerned that both the Emergency Management Performance Grants program and the Firefighter Assistance Grants program fail to focus on homeland security preparedness, and critical reforms proposed in the budget were not accepted. In order to meet the President's goal of increasing Federal resources devoted to protecting the homeland and using those funds most effectively, we encourage the Senate to adopt language that would eliminate arbitrary funding formulas and maximum grant awards, and allow greater targeting based on threats and vulnerabilities.

The bill also proposes to cut the Citizen Corps program by $20 million below the FY 2004 level and $30 million below the FY 2005 request. The Administration urges the Senate to provide the full $50 million request for this important locally based terrorism preparedness priority.

Potential Amendments – Weakening Cuba Travel Sanctions

The Administration understands that an amendment may be offered on the Senate Floor that would weaken current sanctions against Cuba. The Administration believes that it is essential to maintain sanctions and travel restrictions to deny economic resources to the brutal Castro regime. The licensing process helps to ensure that humanitarian and cultural travel facilitates genuine exchanges between U.S. travelers and ordinary Cuban citizens and that any sales to Cuba are done within the boundary of the law. Lifting the sanctions now, or limiting our ability to enforce them, would provide a helping hand to a desperate and repressive regime at the expense of the Cuban people. If the final version of the bill contained such a provision, the President would veto the bill.

Competitive Sourcing

The Administration has adopted a reasoned and responsible approach for ensuring the fair and effective application of public-private competition. On a government-wide basis, competitions completed in FY 2003 are estimated to generate savings, or cost avoidances, of more than $1 billion over the next three to five years. The House version of the bill contains a provision that would block DHS from using competition to choose the best public or private

sector source to handle basic administrative tasks associated with the processing of immigration applications and benefits. We understand an amendment may be offered on the Senate Floor that would also preclude public-private competition and turn back DHS' efforts to significantly improve customer service for immigrants. If the final version of the bill were to contain such a prohibition, the President's senior advisors would recommend that he veto the bill.

Transportation Security Administration (TSA)

The bill does not include language proposed by the Administration that the Congressional Budget Office would score as providing the full $750 million in air carrier security fees authorized by law and determined by TSA to accurately reflect air carriers' calendar year 2000 security costs. We urge the Senate to include this language as a partial offset to TSA aviation security spending, as proposed in the budget.

The Administration is concerned that neither the House nor the Senate Committee have included proposed language regarding existing airport Letters of Intent (LOI) that would enable the Secretary to sustain current LOI commitments as they apply to the installation of explosives detection equipment. The Administration urges the Senate to include this language in the bill.

DHS Management

The Administration is concerned about the amendment adopted by the Committee that reduces funding in the Departmental Operations accounts by $30 million. In addition, the Administration is concerned that the Committee does not provide requested resources for operational integration staffing. The Administration urges the Senate to restore this funding to ensure the Secretary can properly manage DHS.

Coast Guard

The Administration opposes the inclusion of $15 million in unrequested funding for alteration or removal of obstructive bridges. Alteration of obstructive highway bridges is eligible for funding from the Federal-Aid Highways program. Funds provided for these purposes in this bill could be more effectively dedicated to homeland security activities.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. These provisions should be changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.

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