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

May 24, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4111 - Strategic and Critical Minerals Act of 1990
(Craig (R) Idaho and two others)

The Administration has no objection to the enactment of H.R. 4111.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Coleman) in consultation with NRD (Reisner, Cogswell, and Gibbons) and Interior (Harris). It is consistent with Interior testimony on the bill at a 3/27/90 hearing before the House Interior Committee.

H.R. 4111 would require the Secretary of the Interior to establish a Strategic Resources Generic Mineral Technology Center. The Center would develop new -- and improve existing -- mining and mineral resource conservation technologies.

The Center's goal would be to reduce the dependence of the United States on foreign supplies of strategic and critical materials. The Center would conduct research, identify new mineral deposits, and "facilitate the transfer of information, studies, and technologies to the private sector." H.R. 4111 would authorize appropriations of such sums as may be necessary to establish and operate the Center. (The committee report on H.R. 4111 recommends that the Center be funded at $1.5 million annually.)

The University of Idaho has already submitted a proposal to the Department of the Interior providing for establishment of the Center at the University.

LEGISLATIVE REFERENCE DIVISION DRAFT
5/24/90

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

June 4, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4148 - Harquahala Valley Irrigation District Water Rights
(Udall (D) Arizona and four others)

The Administration has no position on H.R. 4148 at this time. The bill leaves unanswered many questions concerning its scope and costs and how it relates to several pending Arizona Indian water rights settlements. The Administration will seek to address these concerns during Senate consideration of H.R. 4148 and other legislation to settle related Indian water rights claims for the Ft. McDowell Indian Community.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Fitter), in consultation with NR (Wolf, Long, Tuccillo, Cogswell, and Gibbons), and Interior (Somers).

The United States is currently negotiating Indian water rights to Arizona's Gila River system, which includes the Salt and Verde Rivers. In this regard, H.R. 4148 would authorize the Secretary of the Interior to negotiate with the Harquahala Valley Irrigation District (HVID) for its right to approximately 46,000 acre feet of irrigation water from the Central Arizona Project (CAP). (CAP water comes from the Colorado River.) The bill specifies that this CAP water is to be used to settle the water rights claims of the Fort McDowell Indian Community and other tribes having a claim to Salt and Verde River water. The potential Federal liability related to the Fort McDowell Indian settlement has not been determined.

The HVID is one of many subcontractors of the Central Arizona Water Conservancy District (CAWCD). CAWCD holds the master contract for CAP water with the Federal Government. H.R. 4148 would authorize certain benefits to both HVID and CAWCD in return for the rights to the HVID water. Specifically, HVID's

$26 million repayment obligation to the Federal Government for a water distribution system would be extinguished. In addition, CAWCD would receive a Federal credit, for the remaining balance of the "fair value" of the water, which it could use against its $2 billion repayment obligation to the Federal Government for the main distribution features of the CAP. CAWCD is scheduled to begin repaying approximately $15 million annually in 1992. H.R. 4148 would allow CAWCD to use credits to offset approximately two years of debt. This process would finance Indian water rights settlements outside the appropriations process, setting an adverse precedent for future settlements.

LEGISLATIVE REFERENCE DIVISION
6/4/90

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

September 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4131 - Foreign Contracting Audit Equity Act
(Conyers (D) Michigan and 15 others)

The Administration opposes enactment of H.R. 4131 because it would place significant burdens on the acquisition process, discriminate against foreign firms, and invite foreign retaliation, which would adversely affect U.S. companies.

In particular, the Administration objects to provisions of H.R. 4131 that would:

-- Require Executive agencies to obtain greater inspection and audit rights from a foreign contractor than from a U.S. contractor. This discrimination would weaken U.S. negotiating positions with foreign contractors and hinder competition between foreign and domestic firms.

-- Require foreign auditors, when performing audits for the U.S. Government pursuant to international agreements, to use U.S. auditing standards. Foreign auditors currently apply U.S. cost principles to determine the allowability of costs on U.S. contracts. To require the use of U.S. auditing standards would be contrary to the primary rationale for reciprocal audit agreements.

-- Permit examination by the Comptroller General of any records of any foreign contractor. This provision discriminates against foreign firms because it would place a greater burden on foreign contractors than currently exists on U.S. contractors. This is inconsistent with current law, which provides access to records of both U.S. and foreign contractors that "directly pertains to, and involves transactions relating to the contract or subcontract."

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Fotias), in consultation with the Departments of Defense (Cipiccho), State (Davis), General Services Administration (Troilo), Council of Economic Advisers (Monaco), National Security Council (Deal), White House Counsel

(Rademaker), GO (Kelly), NS (McCelland), OFPP (Coleman), TCJ (Silas), FM (Stack/Brown), Cabinet Affairs (Williamson), and OPD (Lindsey). (Justice Department failed to provide views on this legislative referral.)

Description of H.R. 4131

H.R. 4131 would require that:

-- Solicitations for negotiated procurements and contracts include a provision that would entitle the procuring agency and its authorized representative to inspect the plant and audit the books and records of a foreign contractor.

-- Before award of a covered contract (in excess of $500,000) using procedures other than competitive procedures, the proposal be:

(1) audited in accordance with contract auditing standards generally accepted in the United States; and

(2) determined to contain a reasonable price by the head of the agency, an authorized representative, a foreign audit entity, or the Defense Contract Audit Agency.

-- The head of an agency not waive any requirement for a foreign contractor or subcontractor to submit cost or pricing data, unless the agency head makes a written determination that the price is reasonable.

-- The head of an agency awarding a covered contract, or authorized agency representative, verify any certification or statement made by the contractor by examining records of the foreign contractor, until three years after final payment under the covered contract, related to:

(1) the proposal for the contract;
(2) discussions conducted on the proposal;
(3) pricing of the contract;
(4) performance of the contract; or
(5) pricing of any change or modification of the contract.

-- A clause be included in covered contracts which would entitle the Comptroller General of the United States, or an authorized representative, to examine any records of any foreign contractor until three years after final payment under a covered contract.

Other provisions of H.R. 4131 would:

-- Permit the head of an Executive agency to require the production of information and records by a foreign contractor through the use of a subpoena, enforceable by order of any appropriate U.S. District Court.

-- Permit a procuring agency to suspend payment on a covered contract for failure to comply with provisions of the bill.

Administration Position To Date

The Administration has not previously taken a position on H.R. 4131.

OMB cleared on September 17, 1990, a Defense report to Congress strongly opposing H.R. 4131 for the reasons cited above the line. However, Defense has not yet transmitted this report to Congress.

Legislative Reference Division Draft
9/21/90 -- 1:00 P.M.

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

May 15, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4151 - Human Services Reauthorization Act of 1990
(Kildee (D) MI and 104 others)

The Administration supports reauthorization of the Head Start program and has requested a $500 million increase in funding for the program to $1.9 billion for FY 1991. The requested 36 percent increase would represent the largest single-year increase in the 25-year history of the program and would enable Head Start to enroll up to 180,000 additional children.

Although H.R. 4151 authorizes appropriations for Head Start, the bill is objectionable in a number of respects. The Administration strongly opposes H.R. 4151 because:

-- The authorization levels for the Head Start program are excessive: $2.4 billion for FY 1991, $4.3 billion for FY 1992, increasing to $7.7 billion for FY 1994.

-- Amendments to the Head Start program would reduce the percentage of funding for discretionary grants, and a substantial amount of funds would be earmarked for staffing, insurance, facility improvements, and transportation.

-- The bill would also extend the authorizations for the Community Services Block Grant (CSBG) and Follow Through programs. Both of these programs have achieved their objectives and should not continue to be federally funded. Community action agencies can compete successfully for funds from sources other than the CSBG, and those agencies should not receive special administrative funding. After more than 20 years as a small demonstration program, Follow Through has long since been replaced by new research and demonstration authorities and the $5 billion Chapter 1 compensatory education program.

Head Start program reauthorization must also be addressed when the House and Senate Conferees meet to resolve differences on the child care bills, H.R. 3 and S. 5. The House-passed H.R. 3 includes major changes and appropriations authorization increases for Head Start. The provisions in H.R. 4151 would be in addition to the Head Start provisions of H.R. 3. If the House were to approve a freestanding Head Start program authorization bill, any separate program expansion should be dropped in the child care conference.

Any expansion of Head Start should focus on increasing the number of children enrolled in the existing program, and funding levels should be considered within the fiscal constraints developed through the bipartisan budget negotiations.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LRD (Jeffrey Weinberg) in consultation with HIM (Barry Clendenin and Peter Nakahata). The Departments of Health and Human Services (per Sondra Wallace, Office of the General Counsel) and Education (per Paul Riddle, Office of the General Counsel) concur. OPD (Hanns Kuttner) agrees with the draft position.

OMB staff has not reviewed the report on H.R. 4151, which was just filed by the House Education and Labor Committee on May 9th. The description of H.R. 4151 is based on information from HHS staff.

H.R. 4151

Major provisions of H.R. 4151 would:

-- authorize for Head Start: $2.4 billion for FY 1991; $4.3 billion for FY 1992; $5.9 billion for FY 1993; and $7.7 billion for FY 1994. (The Administration requested $1.9 billion for FY 1991.)

-- authorize for the Community Services Block Grant (CSBG): $452 million for FY 1991; $460 million for FY 1992; $480 million for FY 1993; and $500 million for FY 1994. (The Administration did not request any CSBG funds for FY 1991.)

-- authorize for the Follow Through program $20 million for FY 1991; $30 million for FY 1992; $40 million for FY 1993; and $50 million for FY 1994. (The Administration did not request any funds for Follow Through for FY 1991.)

-- authorize for the State Dependent Care Development Grants Act "such sums" for each of FYs 1991 through 1994. (The Administration requested $13.2 million for FY 1991.)

-- authorize the Child Development Associate Scholarship Assistance program through FY 1994 at $3 million for FY 1991 and "such sums" for each of the outyears. (The Administration requested $1.4 million for FY 1991.)

-- amend the Head Start program in the following objectionable ways:

   o reduce from 13 to 12 percent the amount of funds available for discretionary grants, which fund activities including Indian and migrant programs and services for handicapped children;

- o earmark funds (based on appropriations levels) for hiring, compensation, and training of staff, insurance, facility improvements, and transportation; and

- o require HHS to determine whether Head Start services are provided effectively nationwide in family day care settings.

Administration Position to Date

The draft position is consistent with reports by HHS and Education to the House Education and Labor Committee opposing H.R. 4151. On April 30, 1990, Secretary Sullivan wrote Chairman Hawkins opposing the excessive authorization levels in H.R. 4151 and objecting to certain of the program amendments contained in the bill. Secretary Cavazos also sent a letter to the Chairman objecting to extension of the Follow Through program.

During the markup of H.R. 4151 on May 1, 1990, by the Education and Labor Committee, the bill's provisions reauthorizing the Low-Income Home Energy Assistance Program (LIHEAP) were dropped. Those provisions were referred to the Energy and Commerce Committee. H.R. 4151 would have authorized LIHEAP at $2.15 billion for FY 1991, compared to the Administration's request of $1.05 billion.

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

June 14, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4238 - Vaccine and Immunization Amendments of 1990
(Waxman (D) CA and seven others)

The Administration has no objection to enactment of H.R. 4238.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LRD (Pellicci) in consultation with HIMD (Turman). HHS (per Fran White, Associate General Counsel for Legislation) concurs in the proposed position.

The proposed position is consistent with HHS testimony before the House Energy and Commerce Subcommittee on Health and the Environment on March 7, 1990.

The House Energy and Commerce Committee report on H.R. 4238 is not yet available for review (the bill was ordered reported on May 15, 1990). The description of the bill is based upon discussions with HHS staff.

Provisions of H.R. 4238

H.R. 4238 would reauthorize through FY 1995 the Centers for Disease Control's (CDC) Immunization Grant Program. The bill authorizes $185 million in FY 1991 and "such sums as necessary" for each of FYs 1992-95. Approximately half of our Nation's children receive their immunizations through State, local, and public sector immunization programs partially supported with these grant funds. The President's FY 1991 Budget requests $130.9 million for FY 1991.

H.R. 4238 would also:

-- Authorize $5 million for FY 1991 and "such sums as necessary" for each of FYs 1992-95 to acquire and maintain a six-month supply of vaccines. The FY 1991 Budget did not request funds for the vaccine stockpile.

-- Reauthorize through FY 1995 the Public Health Service's (PHS) National Vaccine Program. The bill authorizes $34 million for FY 1991 and "such sums as necessary" for each of FYs 1992-95. The President's FY 1991 Budget contains $6.9 million for this activity. PHS' National Vaccine Program Office coordinates vaccine-related activities of the various PHS agencies.

The Senate companion legislation (S. 2629) would authorize $200 million for FY 1991 and "such sums as necessary" for each of FYs 1992-95 for CDC's Immunization Grant Program. S. 2629, like H.R. 4238, would authorize the acquisition of vaccines and PHS' National Vaccine Program (at the same levels as the House bill).

LEGISLATIVE REFERENCE DIVISION DRAFT
6/14/90

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

September 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4279 - Intergovernmental Cash Management Improvement Act
(Conyers (D) Michigan and Horton (R) New York)

The Administration supports House passage of H.R. 4279. The bill provides procedures and incentives for better cash management at the Federal and State levels. Implementation of H.R. 4279 would assure the States that Federal funds would arrive on time and that States would prudently manage their drawdowns of Federal funds.

The Administration will work with the Senate or in conference to address the following concerns:

-- Payment of interest to States should only be made when the Federal Government is obligated to pay by a certain date, but has not provided the funds by that date. Payment of interest to States should not be made when States have made disbursements in anticipation of an appropriation.

-- Administrative costs incurred by States in complying with provisions of H.R. 4279 are indirect costs of a Federal program, and should be reimbursed as overhead, not as direct costs. The direct funding method would not encourage efficient administrative practices in calculating interest due.

-- Calculation of interest rates should be determined at equivalent rates to auctions of 13-week Treasury bills, specifically during the preceding calendar quarter. Stating that interest rates are to be calculated at the equivalent rates of 13-week Treasury bills auctioned "during the period for which interest is calculated" is ambiguous. This could create substantial burdens on the Treasury Department.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Fotias), in consultation with the Departments of the Treasury (Carro), Justice (Burton),

Education (Heindel), Health and Human Services (Burnett), Housing and Urban Development (Kamark), and Labor (Morin), FM (Stidman), LVE (Matlack), HTF (Peroff), Cabinet Affairs (Williamson), and OPD (Lindsey).

Description of H.R. 4279

H.R. 4279 would generally require the Federal Government and the States to accord each other equal treatment in the transfer and management of Federal assistance funds. Its major provisions are summarized below.

H.R. 4279 requires States to pay interest to the United States on funds from the time funds are deposited by the United States to the State's account until the time that funds are paid out by the State. The amounts received by the United States as payment of interest from the States would be deposited in the Treasury and credited as miscellaneous receipts. Calculation of the interest rate would be equivalent to the average of the bond rates of 13-week Treasury bills auctioned "during the period for which interest is calculated." [**The Treasury Department prefers that this period be specified as during the preceding calendar quarter for greater clarity and administrative efficiency.**]

When a State disburses its own funds for Federal program purposes, H.R. 4279 requires that the United States pay interest to the State from the time the State's funds are paid out until the Federal funds are deposited to the State's bank account. This interest is to be paid out of any money in the Treasury not otherwise appropriated and is to be calculated as described above. Administrative costs incurred by States in complying with provisions of H.R. 4279 are to be indirect costs of a Federal program for which the costs are incurred.

H.R. 4279 authorizes the Secretary of the Treasury to collect from any Executive agency, which does not disburse Federal funds in a timely manner, the cost to the Treasury caused by the untimely disbursement. These charges are to be paid out of appropriations available for agency operations.

Other provision of H.R. 4279 would:

-- Provide for Federal/State agreements setting out the terms of financing arrangements for Federal assistance programs administered by State governments.

-- Call for Federal agencies to execute grant awards to the States in a timely manner to ensure that States have sufficient funds to administer Federal programs.

Administration Position To Date

In a May 3, 1990, hearing before the House Government Operations Subcommittee on Legislation, the Department of the Treasury (Murphy) and OMB (Diefenderfer) testified in support of H.R. 4279 and S. 926, a related bill which passed the Senate on August 4, 1989.

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

June 14, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4238 - Vaccine and Immunization Amendments of 1990
(Waxman (D) CA and seven others)

The Administration has no objection to enactment of H.R. 4238.

* * * * * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LRD (Pellicci) in consultation with HIMD (Turman). HHS (per Fran White, Associate General Counsel for Legislation) concurs in the proposed position.

The proposed position is consistent with HHS testimony before the House Energy and Commerce Subcommittee on Health and the Environment on March 7, 1990.

The House Energy and Commerce Committee report on H.R. 4238 is not yet available for review (the bill was ordered reported on May 15, 1990). The description of the bill is based upon discussions with HHS staff.

Provisions of H.R. 4238

H.R. 4238 would reauthorize through FY 1995 the Centers for Disease Control's (CDC) Immunization Grant Program. The bill authorizes $185 million in FY 1991 and "such sums as necessary" for each of FYs 1992-95. Approximately half of our Nation's children receive their immunizations through State, local, and public sector immunization programs partially supported with these grant funds. The President's FY 1991 Budget requests $130.9 million for FY 1991.

H.R. 4238 would also:

-- Authorize $5 million for FY 1991 and "such sums as necessary" for each of FYs 1992-95 to acquire and maintain a six-month supply of vaccines. The FY 1991 Budget did not request funds for the vaccine stockpile.

-- Reauthorize through FY 1995 the Public Health Service's (PHS) National Vaccine Program. The bill authorizes $34 million for FY 1991 and "such sums as necessary" for each of FYs 1992-95. The President's FY 1991 Budget contains $6.9 million for this activity. PHS' National Vaccine Program Office coordinates vaccine-related activities of the various PHS agencies.

The Senate companion legislation (S. 2629) would authorize $200 million for FY 1991 and "such sums as necessary" for each of FYs 1992-95 for CDC's Immunization Grant Program. S. 2629, like H.R. 4238, would authorize the acquisition of vaccines and PHS' National Vaccine Program (at the same levels as the House bill).

LEGISLATIVE REFERENCE DIVISION DRAFT
6/14/90

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

October 12, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4257 - District of Columbia Judicial Reorganization Act of 1990
(Dymally (D) California and
Fauntroy (D) District of Columbia)

The Administration opposes enactment of H.R. 4257 because it superimposes a new and unnecessary Supreme Court on the District of Columbia court system, resulting in a wasteful proliferation of appeals and an unwarranted burden on litigants.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with the Department of Justice (Dulmage) and HTF (Dickey). The District of Columbia (Pinkston) was provided an opportunity to comment on this draft but did not respond.

Provisions of H.R. 4257

The principal provisions of H.R. 4257, as ordered reported by the House District Committee, would:

-- Establish a Supreme Court for the District of Columbia composed of a chief justice and 6 associate justices appointed by the President.

-- Provide that, beginning on the Act's effective date, the current chief judge and 8 associate judges of the District of Columbia Court of Appeals shall serve out their current terms as justices of the new Supreme Court. (The total number of Supreme Court judges would subsequently be reduced from 9 to 7 by attrition. Justices who did not desire to be elevated to the Supreme Court could remain on the Court of Appeals. Any resulting vacancies in the Court of Appeals would be filled through the existing statutory mechanism.)

-- Make numerous changes of a conforming nature to the D.C. Code.

-- Authorize appropriations of $.5 million in FY 1991, $5 million in FY 1992, $4 million in FY 1993, $3 million in FY 1994, $2 million in FY 1995, and $1 million in FY 1996 to implement these changes.

Administration Position To Date

In an October 1, 1990, letter to the House District Committee, the Department of Justice stated that it opposed H.R. 4257.

Legislative Reference Division Draft
10/12/90 -- 12:00 P.M.

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

June 14, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4273 - Tuberculosis Prevention Amendments of 1990
(Waxman (D) CA)

The Administration has no objection to enactment of H.R. 4273.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LRD (Pellicci) in consultation with HIMD (Turman). HHS (per Fran White, Associate General Counsel for Legislation) concurs in the proposed position.

The proposed position is consistent with HHS testimony before the Senate Labor and Human Resources Committee on April 26, 1990.

The House Energy and Commerce Committee report on H.R. 4273 is not yet available for review (the bill was ordered reported on May 15, 1990). The description of the bill is based upon discussions with HHS staff.

H.R. 4273 would reauthorize through FY 1995 the Centers for Disease Control's Tuberculosis Prevention and Control Program. The bill extends the current $36 million authorization through FY 1991, and authorizes "such sums as necessary" for each of FYs 1992-95. The President's FY 1991 Budget requested $8.3 million for this program.

In April 1989, HHS Secretary Sullivan endorsed the goal of eliminating tuberculosis from the United States by the year 2010.

Identical legislation (S. 2630) has been introduced in the Senate by Sen. Kennedy (D-MA).

LEGISLATIVE REFERENCE DIVISION DRAFT
6/14/90

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

May 17, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4283 - Panama Canal Commission Authorization Act
(Dyson (D) Maryland and 2 others)

The Administration has no objection to enactment of H.R. 4283.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with the Panama Canal Commission (Saunders) and TCJ (Adkins).

Provisions of H.R. 4283

H.R. 4283, as ordered reported by the House Merchant Marine and Fisheries Committee, would:

-- Authorize the Commission to make expenditures within the limits of the funds and borrowing authority available to it during FY 1991;

-- set specific limits on the amounts which may be expended during FY 1991 for official reception and representation expenses and expenses of the Commission's Supervisory Board, Secretary, and Administrator; and

-- authorize pay increases for Commission officials and employees when increases are granted by statute to Federal employees in equivalent positions (such pay raises could not exceed the raises granted Federal employees).

Administration Position To Date

In an April 25, 1990, letter to the House Merchant Marine and Fisheries Committee, the Chairman of the Panama Canal Commission stated that the Commission "strongly supports" enactment of H.R. 4283.

Legislative Reference Division
5/17/90 -- 3:15 p.m.

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

May 24, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4314 - To Implement the Inter-American Convention on International Commercial Arbitration
(Brooks (D) Texas and four others)

The Administration supports enactment of H.R. 4314.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Rooney) in consultation with IAD (DuSault/Sasser), NSC (Deal), State (Rappaport), Justice (Wolf), and Commerce (Dalmut).

H.R. 4314 is virtually identical to an Administration bill which would implement the Inter-American Convention on International Commercial Arbitration. The Senate ratified the Convention on October 9, 1986. However, the instrument of ratification cannot be deposited with the General Secretariat of the Organization of American States until implementing legislation such as H.R. 4314 is enacted.

This Convention would facilitate the use of arbitration to resolve international commercial disputes among a number of countries in this hemisphere. The Convention is modeled after the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, to which the United States became a party in 1970. H.R. 4314 is modeled after, and incorporates in large part, the legislation which implements the New York Convention with several additional provisions to clarify the application of this Convention. In part, the bill:

-- requires that the Convention be enforced in United States courts;

-- authorizes a court having jurisdiction to direct where an arbitration be held and to appoint arbitrators, in accordance with the provisions of a commercial agreement;

-- authorizes a court to require the rules of the Inter-American Commercial Arbitration Commission to govern when the parties fail to agree on rules of procedure;

-- requires arbitral decisions or awards made in a foreign country to be recognized in the United States only if such country has ratified or acceded to the Convention; and

-- clarifies the relationship between this Convention and the New York Convention when both could apply in a particular case.

LEGISLATIVE REFERENCE DIVISION DRAFT
5/24/90

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

September 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4323 - Great Lakes Water Quality Improvement Act of 1990
(Nowak (D) New York and 26 others)

The Administration opposes enactment of H.R. 4323 because the bill would impose unreasonable deadlines on the Environmental Protection Agency and certain States, and is inconsistent with the President's FY 1991 Budget.

The requirements for the development and adoption of specific numeric water quality criteria for the Great Lakes within strict timeframes is unrealistic. The lack of necessary flexibility could actually impede the ongoing efforts to develop and adopt water quality standards as required by the Clean Water Act. Further, the bill's FY 1991 authorization level of $30 million exceeds the President's recommendation by $18 million and creates an unwarranted new State grant program. Finally, the bill contains numerous provisions which would duplicate existing Clean Water Act authorities.

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(Not to be Distributed Outside Executive Office of the President)

This draft position has been developed by LRD (Fitter) in consultation with NRD (Cameron, Fairweather, Long, and Gibbons), OIRA (Hunt), EPA (Dickerson), Commerce (Brown), DOI (Lyder), Army (Rees), State (Davis), and Justice (DeSanctis).

H.R. 4323 would amend provisions of the Clean Water Act designed to prevent and mitigate water pollution in the Great Lakes. Specifically, the bill would modify U.S. implementation of the 1978 Great Lakes Agreement (the Agreement) between the United States and Canada. It would do so by accelerating the Agreement's implementation, and clarifing U.S. monitoring responsibilities and accountability. The Agreement committed the two nations to coordinate actions to restore and maintain water quality in the Great Lakes, especially with respect to the control of toxics and better wastewater treatment. The major provisions of the bill would:

-- authorize EPA within 30 months of enactment, to issue final guidance on numerical limits on pollutants in the

Great Lakes. The guidance is to be consistent with the Agreement, and necessary to protect human health and the biological integrity of the Lakes. EPA would be required to develop complementary biological criteria to assess Great Lakes water quality within the same timeframe;

-- require the Great Lakes States (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Pennsylvania), within three years after EPA publishes its guidance, to adopt water quality standards which are consistent with the EPA guidance and the Agreement. EPA would be required to promulgate standards for any State unable to comply within the specified deadline;

-- amend the existing requirements for the development of remedial action plans by (1) establishing deadlines for the development of such plans for areas designated after enactment of this Act; (2) allowing States to petition EPA for deadline extensions; and (3) clarifying EPA's authority to review and approve such plans;

-- clarify EPA's sole authority to review and approve lakewide management plans for the United States;

-- require EPA to report to Congress on the implementation of remedial action plans and lakewide management plans;

-- add Duluth/Superior Harbor located in Minnesota and Wisconsin as a priority area for toxics removal demonstration projects;

-- authorize a Federal grant program, with 50 percent State cost-sharing, to implement the Agreement and to carry out activities required by this Act; and

-- authorize appropriations for the Great Lakes program of $11 million in each of FYs 1987 through 1991 and $30 million in each of FYs 1992 through 1997. The President's FY 1991 budget included $12 million for this program. The bill further specifies that $12.6 million (42 percent) of the annual FY 1992 - 1997 amounts are to be used for the Federal grant program authorized by this Act.

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

September 13, 1990
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4328 - Textile, Apparel, and Footwear Trade Act of 1990
(Hollings (D) South Carolina and 54 others)

The President's senior advisers would recommend that he veto H.R. 4328 if it is presented to him.

H.R. 4328 would provide permanent, rigid protection from imports to domestic producers of textiles, apparel, and footwear. The quotas set by the bill would cause harm to consumers and the economy, violate our international obligations, and virtually destroy any chance of a successful conclusion of the Uruguay Round of multilateral trade negotiations.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Rooney) in consultation with IAD (DuSault/Bent/Kizer), State (Davis), USTR (Miller), Commerce (Van Hanswyk), Treasury (Levy), Labor (Taylor), Agriculture (Hovermale), Justice (Pestal), Office of Cabinet Affairs (Williamson), and CEA (Baldwin).

H.R. 4328 passed the Senate on July 17, 1990, by a vote of 68 to 32. On July 25, 1990, the House Ways and Means Committee reported H.R. 4328, as passed by the Senate, without recommendation.

Administration Position to Date

On July 11, 1990, a Statement of Administration Policy was issued to the Senate prior to its consideration of H.R. 4328. This SAP is identical to the Senate SAP. Ambassador Hills has sent letters to every member of the Senate (July 9, 1990) and House of Representatives (July 18, 1990) stating the Administration's objections and expressing a senior advisers veto threat.

Provisions of H.R. 4328, as passed by the Senate

In addition to establishing quotas for certain imports, as described below, H.R. 4328 would permit the Secretary of Commerce to establish quotas, within the overall quota limits, for specific countries.

Other principal features of H.R. 4328 are:

-- a congressional finding and determination that increased imports of textiles, textile products, and nonrubber footwear are causing or threatening serious injury to domestic industries;

-- an import quota for CY 1990 for each textile and textile products category as well as for man-made fibers, set at 101 percent of CY 1989 imports, with one percent annual growth thereafter;

-- an import quota on each category of nonrubber footwear set at CY 1989 import levels (with no growth allowed) for each year beginning with CY 1990. An exception from these limits is provided for products produced in Canada and Israel. Imports of nonrubber footwear valued at more than $2.50 within each category must also be frozen at CY 1989 import levels;

-- exemptions from textile and textile products quotas for (1) imports from insular possessions under certain conditions; (2) sweaters assembled in Guam which are limited to 168,162 dozen for CY 1990 with a one percent increase each year thereafter; and (3) imports produced in Canada, Israel, or Caribbean Basin Initiative (CBI) countries;

-- preference for countries, proportional to their annual increase in commercial purchases of U.S. agricultural products, when the Secretary of Commerce allocates textile and apparel quotas; and

-- a pilot program to be established by the Secretary of the Treasury for CY 1991 to auction textile and textile products import licenses to U.S. companies. (This program is to raise money to offset the reduction in tariffs paid to the United States that would result from the import quotas.)

H.R. 4328 also would authorize the President to enter into negotiations with foreign countries to grant new concessions or reductions in U.S. tariffs for countries that are adversely affected by the quotas of H.R. 4328. Compensation would be limited to a ten percent reduction in existing textile, textile

products, and footwear duties, and any such reductions must be phased in over five years. (This compensation authority would provide for only a very small fraction of the damages incurred by other countries from the trade restrictions in the bill.) H.R. 4328 would prohibit any reduction in textile or footwear duties except as provided therein.

In addition, H.R. 4328 would require a review by the Secretary of Commerce "of the operations of this Act" ten years after its enactment. The Secretary of Commerce is to submit a report to Congress within six months after the review is commenced.

A sense of the Senate provision regarding the U.S.-Mexico free trade agreement (FTA) was added to H.R. 4328 during Senate consideration. This provision: (1) commends both President Bush and President Salinas of Mexico for beginning the FTA process; (2) encourages close cooperation with Congress in preparing and negotiating the FTA; and (3) encourages each country to take interim steps to improve current trade relationships.

LEGISLATIVE REFERENCE DIVISION DRAFT
September 12, 1990 11:30 AM

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

June 18, 1990
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4329 - American Technology Preeminence Act
(Roe (D) New Jersey and 45 others)

The Administration opposes enactment of H.R. 4329, as reported by the House Science and Technology Committee on May 10, 1990, and as ordered reported by the House Judiciary Committee on June 12, 1990, unless it is amended to:

-- Reduce the appropriations authorizations for the Advanced Technology Program to levels in the 1991 Budget (i.e., from $100,000,000 to $10,000,000) and authorize "such sums" for FY 1992.

-- Amend the "foreign participation" provisions to ensure that foreign-owned or -controlled companies established in the United States will not be discriminated against with respect to participation in the Advanced Technology Program. The provisions in H.R. 4329 appear inconsistent with U.S. obligations under bilateral investment agreements and other accords. If enacted, they would seriously compromise our bargaining position in urging other nations to adopt similar policies of free and open trade and investment.

-- Delete the provision elevating the Director of the Office of Science and Technology Policy (OSTP) from Executive Level II to Level I. This provision would be inconsistent with the current Executive Schedule for the Executive branch. Also, the President recently elevated the position of the Director of OSTP to an Assistant to the President for Science and Technology, making further action unnecessary.

H.R. 4329 contains miscellaneous objectionable provisions which impose inappropriate new requirements on Executive Branch agencies, restrict agency flexibility in managing programs, or are duplicative of existing programs.

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Not to be Distributed Outside Executive Office of the President)

This Statement of Administration Policy was drafted by the Legislative Reference Division (Bowers), in consultation with the Departments of Commerce (Clark), Justice (Filippini), State (Rappaport), Energy (Hunsieker), Council of Economic Advisors (Holtz-Eaken), the National Aeronautics and Atmospheric Administration (Stehmer), the National Science Foundation (Chester), the Office of Science and Technology Policy (Wells), the Small Business Administration (Broadbent), the U.S. Trade Representative (Richards), TCJ (Beebe and Schwartz), and ES (Noonan and Schwartz).

Time did not permit responses from the following agencies: Departments of Defense and the Treasury, the General Services Administration and the Office of Personnel Management.

This position statement addresses the latest printed version of H.R. 4329, as reported by the House Science Committee on May 10, 1990, and as reportedly amended on June 12, 1990, by the House Judiciary Committee. However, we understand that the bill is still under review by various committees and further amendments are possible.

OSTP (Wells) does not object to the third bullet above concerning the Director of OSTP. (Generally , with the exception of certain Executive Office of the President officials, only Cabinet officers occupy Level I positions.)

H.R. 4329 would authorize appropriations for and modify Commerce Department and other technology-related programs as described below.

Appropriations Authorizations

H.R. 4329 would authorize the core programs of the National Institute of Standards and Technology at the 1990 appropriated level ($145,301,000), which is $1 million over the President's 1991 Budget request. This additional $1,000,000 would be used to fund three earmarkings for programs not requested by the Administration. For FY 1992, the bill authorizes appropriations which are $17 million over the level in the 1991 Budget.

Commerce's Technology Administration (TA) would be authorized at $6 million in 1991 and $7.5 million in 1991, or $1.4 million and $2.9 million, respectively, over the 1991 President's Budget level of $4.6 million.

The bill would authorize appropriations for the Advanced Technology Program (ATP) at $50 million in 1990, $100 million in 1991, and $250 million in 1992. The President's 1991 Budget requests $10 million (equal to the 1990 appropriated level for this program.) The appropriations authorization levels are displayed below.

	1991 Budget Request	H.R. 4329 1991	H.R.4329 1992
	(in thousands of dollars)		
NIST Core Programs*	183,408	184,408	210,000
ATP Program	10,000	100,000	250,000
Other TA	4,583	6,500	9,000
TOTAL	197,991	290,908	469,000

*This includes funding for Manufacturing Technology Centers.

Substantive Provisions

In addition to the objectionable features already described, H.R. 4329 would:

-- Expand the authority of the ATP to cover additional technical and service areas. (The ATP, established by the 1988 Trade Act, is designed to foster development of precompetitive generic technologies which have broad application across industries.)

-- Require the Secretary of Commerce to give preference, when selecting among Advanced Technology proposals of relatively equal merit, to those requiring the lowest percentage of Federal funds.

-- Require development of a five-year National High Performance Computing Technology Plan, as contemplated by the Administration, to develop supercomputer hardware and software, and establish a network to coordinate related federally supported research.

-- Establish a number of Presidential commissions and boards, including: (1) a Presidential commission on reducing capital costs for emerging technology chaired by the Director of OSTP; (2) a Presidential commission on procurement and technology, chaired by the Director of OSTP, to study how Federal procurement practices could

improve U.S. competitiveness; and (3) an OSTP-sponsored board to foster and monitor the development of U.S.-based high resolution information systems industries, like advanced television.

-- Make permanent the current arrangement whereby Federal agencies involved in R&D contribute a small percentage of their budgets to support the activities of the Federal Laboratory Consortium for technology transfer.

-- Authorize matching Federal funds for a two-year pilot project to assist other countries in the development industrial standards.

-- Require the Secretary of Commerce to give preference, when selecting among Advanced Technology proposals of relatively equal merit, to those requiring the lowest percentage of Federal funds.

-- Direct the National Science Foundation to enter into a contract to develop a methodology to establish international product standards, a clear responsibility of NIST.

-- Require numerous reports (e.g., require (1) the Director of OSTP to report annually to Congress on all major Science and Technology proposals involving more than one country and costing over $1 billion; (2) the Secretary of Commerce to report to Congress on the possibility of establishing a Federal on-line information product catalog; (3) the biennial national critical technologies report to include a list of emerging technologies and potential markets for related products; (4) the Secretary of Commerce to report on the feasibility of establishing a privately-funded Quality Institute; (5) the High Resolution Information Systems Board to report to the President annually; and (6) the Director of OSTP to report to Congress on States that historically receive a small share of the Federal R&D dollars).

-- Require minimum expenditure levels for steel technology and NIST's Centers for Building Technology and Fire Research; and bar any merger of the Building Technology and Fire Research centers.

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

September 13, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4330 - National Service Act of 1990
(Hawkins (D) CA and 26 others)

The President strongly supports the concept of community service. He has challenged all individuals and institutions to make service central to their lives and work.

The Administration, however, strongly opposes H.R. 4330 because it is incompatible with the President's concept of voluntary service. If H.R. 4330 were presented to the President in its current form, his senior advisers would recommend a veto.

H.R. 4330 would:

-- Provide unnecessary financial incentives for service. It includes unjustified deferment and cancellation of certain student loan payments for full-time professional staff in drug counseling, prevention and treatment programs and full-time volunteers. These costly provisions extend the concept of "volunteer" far beyond reasonable bounds.

-- Attempt to direct community service efforts from the Federal level rather than from the community.

-- Emphasize short-term volunteer participation and financial rewards, concepts inconsistent with a sustained commitment to volunteerism. The reward for voluntary service should never be seen as financial.

-- Authorize $212 million for FY 1991 for unwarranted new Federal programs and expansion of existing programs (excluding the costs of the loan deferment and cancellation provisions and the costs of administering the new programs).

-- Establish an American Conservation Corps that would substantially recreate outdated programs previously offered through the Youth Conservation Corps and Youth Adult Conservation Corps. Such programs are costly and based on the discredited approach to youth employment that relies on temporary public sector employment rather than preparing youth for long-term, private sector employment.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LRD (Jeffrey Weinberg) in consultation with LVE (Barry White, Larry Matlack, and Terri Williams) and the White House Office of Policy Development (Marianne McGettigan). The Departments of Education (per Randy Hanson, Office of the Legislative Counsel), Justice (per Mark Pestal, Legislative Affairs) and the Interior (per Don Harris, Office of the Legislative Counsel) and ACTION (per Stephanie Van dervander, Office of the Director) concur.

H.R. 4330 was reported by the House Education and Labor Committee on September 5, 1990 (H. Rept. 101-677, Part I). The bill was jointly referred to the Committees on Banking, Foreign Affairs, and Interior. Those Committees did not consider H.R. 4330.

Administration Position to Date

On June 26, 1990, Secretary Cavazos and the Director of ACTION sent a joint letter to the House Education and Labor Committee strongly opposing H.R. 4330. The letter did not include a veto threat.

A February 6, 1990, SAP on the Senate volunteer service bill, S. 1430, contained a senior advisers veto threat. Prior to Senate passage, S. 1430 was amended to reduce its authorization level from $300 million for FY 1991 to $50 million for FY 1990 and $75 million for FY 1991.

H.R. 4330 includes provisions similar to those in H.R. 717 establishing an American Conservation Corps (ACC). When H.R. 717 was pending before the House Interior Committee, the Departments of Interior and Agriculture sent letters to the Committee strongly opposing the ACC.

Description of Major Provisions of H.R. 4330

Title I would:

-- Authorize the Department of Education (ED) to make formula grants to States through their State educational agencies for statewide, school-based, service-learning programs. ($35 million would be authorized for FY 1991.)

-- Authorize ED to make planning grants for model programs for educational institutions and community-based organizations to administer service-learning programs for school dropouts and out-of-school youth. ($10 million would be authorized for FY 1991.)

-- Amend the Higher Education Act to authorize $15 million to give priority to providing tutoring services to illiterate parents of disadvantaged elementary school students.

-- Authorize ED to make grants to colleges and universities for students to provide community services. ($10 million would be authorized for FY 1991.)

-- Increase by $19 million the FY 1991 authorization for the work study student aid program under the Higher Education Act.

-- Provide for deferment and cancellation of certain student loans for certain volunteer service or employment in drug counseling and prevention.

-- Authorize the President to make annual Presidential Awards for School-Based Service to individuals in each State in six specified categories.

-- Authorize the President to create an interagency task force chaired by the President or Vice President to create and monitor measures for coordinating this Act and designing a Federal service strategy.

-- Authorize ACTION to make grants for "Youthbuild" projects for construction and rehabilitation of housing and other facilities by youth ages 16 to 24. The youths must be economically disadvantaged and have dropped out of high school. ($10 million would be authorized for FY 1991.)

Title II would:

-- Establish an American Conservation Corps to be administered by the Departments of Agriculture and the Interior. The Departments would make grants to States for a variety of conservation and rehabilitation projects and would directly carry out such projects on Federal lands. ($38 million would be authorized for FY 1991.)

-- Establish a Youth Service Corps in ACTION for project grants to help meet human, social, or environmental needs, including service in State or local government agencies and medical facilities. ($28 million would be authorized for FY 1991.)

-- Require generally that enrollees in the two Corps be 16 to 25 years old, with a special effort made to enroll economically disadvantaged individuals.

-- Provide subsistence allowances and other benefits, including education and training, to each enrollee. The subsistence allowance and benefits would equal between 100 percent and 160 percent of the amount the individual would have earned if paid at the minimum wage during the period of service.

-- Require in-service and post-service training and educational services to be provided to enrollees in the two Corps. ($13 million would be authorized in FY 1991.)

LEGISLATIVE REFERENCE DIVISION DRAFT
9/13/90

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

April 18, 1990
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4380 - Superconducting Super Collider Project Authorization Act of 1990
(Roe (D) New Jersey)

The Administration supports the authorization of the Superconducting Super Collider Project and is committed to its construction. Specifically, the Administration supports provisions that would establish a cap of $5 billion on Federal costs and require a minimum of 20% foreign cost sharing. The Administration would support H.R. 4380 if it were amended to include several technical changes needed to make the bill consistent with Administration policy on the SSC. In addition, the Administration would support changes that would:

-- Require the successful completion of an above-ground magnet assembly test, involving 10 prototype magnets produced by industry in their own facilities, before allowing funds to be spent on tunnel construction. Premature tunnel construction could result in unnecessary costs and project delays.

-- make it clear that while the United States is desirous of receiving foreign assistance for the construction of the SSC, and is concerned that American industry receive the technological advantages that may accrue during construction, the bill should not include language (i.e. Section 9) that is contrary to current U.S. policy and law that seeks to achieve non-discriminatory trade and investment;

-- delete the provision providing the State of Texas with a refund of its contribution if the project is terminated. This provision would establish a dangerous precedent for other Federal projects.

The Administration supports H.R. 4380 with the recommended modifications outlined above.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Fitter) in consultation with ES (Milton, Palmieri), OSTP (Erb), State (Rappaport), USTR (Vaughn), Treasury (Levy), Commerce (Sockett), NSF (Chester), and Justice (Pestal).

Energy Disagreement with SAP

Energy (Henson Moore) disagrees with the first two bullets of the SAP. Energy does not want the bill to require an above-ground test or the use of 25 to 50 industrially produced magnets. Energy would agree to a requirement for 10 magnets that have been "assembled by industry." OMB staff and OSTP strongly disagree, because Energy's change would result in a much lower level of certainty that the magnets could be reproduced.

Energy also recommends the deletion of the bullet concerning foreign trade. Energy advises that the foreign trade limitations are more symbolic than actual, and opposing them would send the wrong message to U.S. industry. Commerce, USTR, and Justice strongly disagree.

Energy will be contacting Bob Grady to discuss its concerns.

Major Provisions of H.R. 4380

The Superconducting Super Collider (SSC) will be the world's largest accelerator for elementary particle physics. The project, which will consist of 54 miles of underground tunnels located outside of Dallas, Texas, is intended to provide scientific information on the forces that exist between subatomic particles. The cost of the project is currently estimated at $7.8 billion. Approximately $748 million has been authorized through FY 1991.

-- Federal Share of Project and Cost-Sharing Requirements

H.R. 4380 would cap Federal expenditures for the project at $5 billion, and authorize appropriations for the Federal share. The Secretary of Energy would be required to secure commitments from international sources sufficient to fund between 20 and 33.3 percent of the project. The State of Texas would be required to contribute $1 billion. The Texas contribution, which the State has already committed, would be refunded to the State if the project is terminated prior to October 1, 1995.

-- Availability of Funds for Project

The bill would also establish an SSC Fund in the Treasury into which Federal and non-federal project funds would be deposited. A schedule for making expenditures out of the SSC Fund, subject

to appropriations, is also provided. Specifically, up to $220 million would be available immediately for research and development activities. An additional $1.2 billion would be available after the Secretary of Energy provides specified information to congressional committees describing the status of the project. These funds could be spent on both magnet development and on the construction of the first 8 miles of the tunnel. The balance of the funds, approximately $6 billion, would be available only after the Secretary has certified to the committees that the project is viable and that the required non-federal financial commitments have been secured.

-- "Buy American" Requirements

The bill would limit the award of SSC contracts to domestic firms and to foreign firms that are either based in countries contributing to the project or that agree to perform a majority of their contractual activities in the United States. Further, no more than 50 percent of project components or major systems may be manufactured outside the United States.

-- Department of Energy Role

Finally, the bill would: (1) establish an SSC office within the Department of Energy to oversee the project (such an office has already been established administratively); (2) authorize the Secretary of Energy to enter into contracts and agreements necessary for project construction; and (3) require the Secretary to submit an annual SSC status report to Congress.

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

March 29, 1990
(House Floor)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4404 - DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS
(Whitten (D) Mississippi)

In order to promote democracy in our hemisphere, the President sent to Congress a request for $300 million for economic assistance to Nicaragua on March 13th. This was the third essential element of a supplemental package that the President asked Congress to approve by April 5th. The two other elements are $500 million for economic assistance to Panama and $70 million for refugee assistance. The President requested that the additional spending from the supplementals be fully offset by savings from the Department of Defense budget. In addition, the President requested several supplementals in the FY 1991 Budget, all of which were fully offset.

The Appropriations Committee bill fully funds the request for assistance to Nicaragua, but provides only $420 million of the $500 million requested for Panama. The Committee reallocates the $80 million reduction from Panama for assistance to Africa ($30 million), for assistance to the Caribbean ($15 million), for disaster relief related to Hurricane Hugo damage in the Eastern Caribbean ($5 million), and for additional funding for refugees ($30 million). The Committee fully offsets this funding by savings from the Department of Defense.

While the foreign aid provisions in the Committee bill are not in full agreement with the President's proposals, the Administration finds these provisions acceptable at this stage. The Defense budget reductions that the Committee includes to offset the costs of the aid to Panama and Nicaragua and refugee assistance are also acceptable.

The Committee's bill would provide increases for several mandatory programs, including $510 million for Food Stamps and $340 million for veteran's programs. These appropriations are necessary and, because they are mandatory, do not require offsets from savings in other areas.

The Committee bill contains several unrequested provisions that increase domestic discretionary spending. Although the Committee's proposed offsets for the increased funding for international programs are acceptable, the Administration is very concerned that some of the additional domestic discretionary spending is unneccessary, and most of the associated outlays are not offset.

The Administration is particularly concerned about provisions to fund firefighting activity. Per what is understood to be an agreement between the Budget Committees and CBO, all firefighting activities in the Departments of Agriculture and Interior -- whether planned in advance or not -- were classified as mandatory during the FY 1990 appropriation process. For the FY 1991 appropriation process, the Budget Committees and CBO are to classify all firefighting costs as discretionary -- both planned costs, such as those for planned suppression, presuppression, and management activities, and unplanned costs that result from unanticipated emergency fire suppression activities. The issue is how to classify provisions that provide $433 million to pay to fight fires that may occur later in the year and to "reimburse" certain accounts (some of which have unobligated balances). Because of the Budget Committee's/CBO agreement to classify all firefighting costs as mandatory in FY 1990, the Administration can understand Congress' decision not to offset these funds despite the fact that the provisions provide advanced funding for fires that may never occur. The Administration would argue that the advanced nature of the funding, in anticipation of an emergency situation, clearly indicates that these provisions are, in fact, discretionary.

The Administration believes the firefighting provisions (above and beyond $77 million of mandated reimbursement) should either be dropped or offset. However, given the Budget Committees decision to classify these provisions as mandatory, if the provisions are not dropped, the Administration would urge the House to make clear that only $77 million is for reimbursement, and to limit the availability of the remaining $356 million to FY 1990 only. Such a change would ensure that any funds not spent on emergency fire suppression activities in FY 1990 would not be available to fund discretionary programs in FY 1991.

The bill contains a general provision that permits funding that had been apportioned for use in the fourth quarter of the fiscal year to be used in the third quarter where necessary. The Administration believes that the provision would appropriately be implemented through the regular apportionment process as specified in Section 1513 of Title 31 of the U.S. Code. However, explicit reference should be made to this section to assure that there is no ambiguity about the intent that the existing process for the orderly control of spending will continue to apply.

The Administration appreciates the expeditious action by the House Appropriations Committee. While reserving the right to seek to improve the bill in the Senate and in conference, the Administration urges the House to complete action on the Appropriations Committee's bill promptly so that the Congress can present the President with an acceptable bill by April 5th.

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

September 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4450 - Coastal Zone Management Act Reauthorization Amendments
(Hertel (D) Michigan and 2 others)

The Administration supports reauthorization of the Coastal Zone Management Act (CZMA) and amendments to encourage States to improve management of the coastal zone. The Administration has submitted legislation (H.R. 4438) to reauthorize and amend the CZMA. H.R. 4438 would encourage States to meet specific high-priority national objectives to address more efficiently coastal and ocean environmental problems.

However, if H.R. 4450 is presented to the President in the form of the subtitute to be considered by the House, the Secretaries of the Interior, Defense, Agriculture, and Energy, and the Attorney General, would recommend a veto because it would be likely to be interpreted to:

-- subject Outer Continental Shelf (OCS) lease sales to review for consistency with State coastal zone management programs; and

-- broadly expand the application of the CZMA's "consistency" provisions to encompass a wide range of Federal activities undertaken beyond the traditionally defined area of the coastal zone and impose new restrictive standards on Federal agencies in conducting those authorized activities.

The Administration would also oppose enactment of H.R. 4450 unless it is amended consistent with H.R. 4438 to authorize appropriations at levels requested in the 1991 Budget, and to delete provisions that would:

-- Shift the focus of the CZMA from balanced management to coastal protection (amendments to sections 302(5)). The language proposed by the Administration reflects the proper balance in that it gives priority to environmental protection while also allowing for economic development.

-- Imply in its findings a new larger, but undefined, role for States "outside the coastal zone" (proposed new CZMA section 302(9)). This should be amended to conform with section 303(e)(7) of H.R. 4438. The

Administration's proposal would allow the Secretary of Commerce to respond to changing circumstances and emerging issues that affect the coastal zone.

-- Reestablish the Coastal Energy Impact Program.

The Administration prefers the approach contained in H.R. 4438, which offers incentives and technical assistance to States to encourage voluntary compliance with the CZMA program. The Administration's proposal, with its competitive grant proposal, would encourage States to assume a greater role than the formula grant approach in H.R. 4450.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This Statement of Administration Policy was drafted by the Legislative Reference Division (Bowers), in consultation with the Departments of Commerce (Levitt), Interior (Somers), Justice (Pestal), Energy (Pulliam), Agriculture (McAndrew), State (Davis), Transportation (DeCell), and Defense (Potuk), the Council on Environmental Quality (O'Malley), EPA (Dickerson), and TCJ (Tornquist). NR defers to Grady.

The proposed rule for House consideration of H.R. 4450 makes in order as original text the text of H.R. 5665, which was introduced on September 19th.

Basis for Veto Threat and Commerce Objection

H.R. 4450 would amend the current "consistency" provision of the CZMA as follows (additions to current law underlined, deletions bracketed):

> Each Federal agency activity, in or outside of the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone, shall be carried out [conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities] in a manner which is, to the maximum extent practicable, consistent with approved State management programs.

The CZMA prescribes a detailed process for Federal notification to States and certification that its activities are consistent with State plans.

H.R. 4450 contains language that would reverse a Supreme Court holding that OCS activities are not subject to CZMA "consistency" review. Several agencies have supplied examples of other Federal activities that they believe would be effectively subject to

State veto if H.R. 4450 were enacted. These include: Navy port visits and test-fires of missiles; Corps of Engineers dredging activities; and USDA's timber sale program.

Commerce objects to the veto threat and disagrees with the other agencies' predictions about the likely interpretation of the bill's consistency provisions.

Background/Administration Proposal

The CZMA generally authorizes Federal assistance to coastal States for managing the use and development of coastal areas. It provides technical assistance and grants for redevelopment of deteriorating urban waterfronts and ports and for acquiring and operating estuarine sanctuaries.

-- Appropriations Authorizations

In March, the Administration submitted legislation to reauthorize the CZMA, which expires on September 30, 1990, consistent with the FY 1991 Budget. The Reagan Administration had consistently proposed termination of CZMA grants to States. The Administration proposal (H.R. 4438) would authorize appropriations of $36.3 million for FY 1991, and totaling $145.2 million for FYs 1992-1995. H.R. 4450 would authorize appropriations of $63.8 million for FY 1991, and totaling $365.6 million for FYs 1992-1995.

-- Amendments to the CZMA

The Administration bill would also amend the CZMA to improve coastal zone management, in light of increasing population growth along the coasts. Such growth has given rise to competing concerns about environmental quality and pressure for development. H.R. 4438 is designed to encourage States to concentrate better on meeting high-priority national objectives. It does this by earmarking special funds to States meeting the objectives specified in the bill (e.g., enhancing wetlands protection, preventing or mitigating non-point sources of pollution, and managing the handling and disposal of beach and marine debris).

H.R. 4438 would also: (1) expand Commerce's ability to undertake cooperative or joint research and education activities, and (2) provide for improved Federal oversight of States' performance in administration of approved coastal management programs.

Other Provisions in H.R. 4450

The principal objectionable features of H.R. 4450 are described above the line. Other differences from the Administration's proposal, most of which are not objectionable, would:

-- Conform the definition of the coastal zone to that contained in the Submerged Lands Act. This would eliminate confusion created by the President's extension of the territorial sea from three to twelve miles.

-- Create a National Interests Improvement program to encourage States to make continued improvements in their management programs in specified national interest areas. (This is similar to the National Priority Program Elements contained in the Administration's bill.)

-- Make various improvements to the management of the program which are supported by the Administration.

-- Authorize Commerce to make discretionary grants to coastal States for developing coastal management programs.

-- Require a State to submit to Commerce for approval a Coastal Waters Protection Program, to develop and implement coastal land use management measures to assist in controlling nonpoint source pollution of coastal waters.

Administration Position to Date

The Administration has not previously taken a position on H.R. 4450.

On March 22nd, the Departments of Commerce and the Interior and the Environmental Protection Agency testified before a House Merchant Marine and Fisheries subcommittee urging amendment of H.R. 4030 to conform with the Administration's bill. Commerce and Interior reiterated this position in reports to the full committee.

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

July 30, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4487 - National Health Service Corps
(Richardson (D) NM and 27 others)

The Administration supports continuation of the National Health Services Corps (NHSC). However, the Administration objects to certain provisions in H.R. 4487 and will seek amendments in the Senate to delete the following:

- The requirement that the Secretary of Health and Human Services (HHS) reimburse NHSC loan recipients for the additional amount of tax liabilities they incur. Currently, the Secretary may make such payments when justified by special circumstances. Extending the policy to all loan recipients is unwarranted.

- The earmarking of a specified percentage of funds for new NHSC scholarships and scholarships in selected health care fields. This earmarking inappropriately restricts HHS' flexibility to allocate resources in accordance with changing needs and priorities.

- The restriction on States that they cannot provide more favorable loan repayment arrangements than the NHSC. This provision inappropriately restricts the States' flexibility to determine the allocation of their resources in addressing health manpower shortages within their State.

- The increase of the loan repayment ceiling to $35,000 per year of obligated service from the current level of $20,000 per year. Raising the ceiling would increase the annual cost per NHSC placement and reduce the total number of placements that could be supported.

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

July 30, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4498 - Grand Canyon Protection Act of 1990
(Miller (D) California and 29 others)

The Administration supports the goal of H.R. 4498, which is to protect the environmental resources downstream of the Glen Canyon Dam. The bill would do this by imposing power operating criteria on the Dam, including interim operating criteria for water flows within 90 days of the bill's enactment.

As currently drafted the bill could not be implemented, because the research necessary to determine interim operating criteria will not be completed before July 1991. The Administration will work in the Senate to seek amendments to allow sufficient time for the completion of the research so that the criteria would be based on sound scientific evidence.

The Secretary of the Interior currently has sufficient authority to administratively establish power operating criteria including interim operating criteria for water flows from the Dam. In fact, the Administration supports the imposition of short-term operating criteria within 90 days after the current research on water flow rates is concluded. The Administration is also in the process of preparing an environmental impact statement (EIS) that will provide the basis for long-term operating criteria for the Dam. The EIS is expected to be completed in 1993. The Administration's operating procedures will be designed to protect the environment and ecological resources of the Glen Canyon National Recreation Area and the Grand Canyon National Park, while allowing continued power generation from the Glen Canyon Dam.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Fitter) in consultation with NR (Wolf, Long, Gibbons), ES (Palmer, Hezir), Interior (West), EPA (Wood), and CEQ (Curtis).

The Department of Energy (Tyson) recommends that the Administration state opposition to H.R. 4498 because the bill is unnecessary and premature.

Provisions of the Bill

The Glen Canyon Dam is located in Arizona, just upstream of the Glen Canyon National Recreation Area and the Grand Canyon National Park. The Dam generates 4.4 billion kilowatt hours of electricity annually, valued at $80 million. The water releases which generate this power can vary from 5,000 to 30,000 cubic feet per second, depending on power demand. These releases affect downstream river levels, which impact fisheries, white water rafting, beaches, vegetation, and wildlife in the Glen Canyon National Recreation Area and the Grand Canyon National Park.

H.R. 4498 would direct the Secretary of the Interior to operate the Dam so as to minimize fluctuating water releases and to undertake other reasonable mitigation measures to protect and improve downstream environmental, recreational, and cultural resources. Within 90 days of enactment, the Secretary would be required to promulgate and implement interim operating procedures to minimize adverse environmental impacts on the Glen Canyon National Recreation Area and the Grand Canyon National Park. These procedures may be deviated from, however, upon a finding that such a deviation is necessary and in the public interest. Within three years after enactment, the Secretary would be required to complete a final Glen Canyon Dam Environmental Impact Statement (EIS) in accord with the National Environmental Policy Act of 1969. The Secretary is to implement long-term operating procedures for the Dam based on the EIS. Studies completed pursuant to the EIS, and a report describing the long-term operating procedures are to be provided to Congress. Finally, H.R. 4498 would (1) require the Secretary to monitor the implementation of the Act and (2) authorize such sums as necessary to carry out the Act.

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

September 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4491 - Coast Guard Omnibus Act of 1990
(Jones (D) North Carolina)

The Administration supports House passage of H.R. 4491, but will seek amendments in the Senate to delete:

-- section 3, which would authorize Federal expenditures for a bridge which should be maintained and improved with local funds;

-- section 7, which would cast doubt on the Coast Guard's ability to impose adequate bonding requirements on its contractors;

-- sections 9, 10, 11, and 14, which would inappropriately provide for the transfer of Federal property without following established procedures for disposal of Federal real property;

-- section 12, which would delay improvements in the Coast Guard's automated information system; and

-- section 15, which would authorize appropriations of $6 million for transfer to the University of Alaska to establish a cold water survival school. This inappropriate earmarking would detract from other, higher priority, Coast Guard programs.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with the Departments of Transportation (DeCell) and Commerce (Brown), GSA (Robinson), GM (Haun), and TCJ (Tornquist, Hurdle, and Adkins).

Provisions of H.R. 4491

A copy of H.R. 4491, as ordered reported by the House Merchant Marine and Fisheries Committee on September 13th, is not available for review. This SAP is based on amendments and summaries supplied by Transportation (DeCell).

H.R. 4491 as introduced was an Administration bill to require all power driven vessels of twenty or more meters in length to be equipped with bridge-to-bridge radio telephones. This provision is now section 2 of a 15-section bill. The following describes provisions opposed by the Administration (i.e., those mentioned above the line):

-- Section 3 would designate the Sidney Lanier Bridge on the Brunswick River in Georgia as an obstruction to navigation, thereby qualifying it for certain Federal assistance.

-- Section 7 would provide that the Coast Guard may impose only "reasonable" bonding requirements on its contractors.

-- Sections 9, 10, and 11 would provide for the transfer of Coast Guard property in Hempstead, New York, South Haven, Michigan, and Dare County, North Carolina, without consideration, to specified local governments.

-- Section 12 would require the Coast Guard to develop, and submit to Congress, a "strategic information resources plan" before using any FY 1992 funds to acquire additional information resources.

-- Section 14 would provide for the transfer of Coast Guard property in Muskegon, Michigan, to the Department of Commerce.

-- Section 15 would authorize $6 million for FY 1991 for a Coast Guard Cold Water Survival Training Center to be located at the University of Alaska in Kenai, Alaska.

Other, unobjectionable, provisions of H.R. 4491 would:

-- Modify the application of certain regulations for specified vessels, barges, and dredges.

-- Provide for members of the Coast Guard Academy Board of Visitors to be designated biennially, rather than annually as is currently the case.

-- Modify certain requirements related to the Boating Safety Program.

-- Declare an additional two miles of the Bayou Lafourche in Louisiana to be a navigable waterway.

Administration Position To Date

In a September 12, 1990, report to the House Merchant Marine and Fisheries Committee, the Department of Transportation proposed several amendments to H.R. 4491.

Legislative Reference Division Draft
9/21/90 -- 10:00 A.M.

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

October 12, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4515 - High Speed Rail Transportation Policy and Development Act
(Walgren (D) Pennsylvania and 11 others)

The Administration opposes enactment of H.R. 4515 unless it is amended to delete the provision that would inappropriately authorize the Federal Government to guarantee up to $1 billion in loans for development of high speed rail technologies.

The Federal Government is already funding basic research in high speed rail technologies. This research will help States, localities, and the private sector to determine whether proposed projects are technologically and economically feasible. Financing from conventional sources will be available for projects meeting these criteria.

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Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with Transportation (Herlihy), Commerce (Sockett), Energy (Tyson), Defense (Belton), EPA (Hoff), State (Davis), NR (Starler), and TCJ (Schwartz, Adkins, and Socolof).

Provisions of H.R. 4515

H.R. 4515 as ordered reported by the House Energy and Commerce Committee would:

-- Authorize the Secretary of Transportation to guarantee up to $1 billion in loans for the construction of high speed rail systems and the purchase of related equipment. These guarantees would be made under an existing program which is currently limited to guaranteeing loans to assist failing freight railroads. H.R. 5229, the FY 1991 Transportation Appropriations bill, as passed by Senate, would provide $100 million in new loan guarantee authority for this program during FY 1991. This provision was included among "Major Provisions Opposed By the Administration" in the Director's October 10, 1990, letter to the conferees on this bill.

-- Require the Federal Railroad Administration (FRA) Administrator to submit to the House Energy and Commerce and Senate Commerce, Science, and Transportation Committees, within 18 months of enactment, a comprehensive report on the means of commercializing high speed rail technology. (The bill would authorize the appropriation of $12 million, to remain available until expended, to finance this report.)

-- Require the FRA Administrator to issue a National High Speed Rail Transportation Policy within 18 months of submitting the above report.

Administration Position To Date

In July 26, 1990, testimony before a House Energy and Commerce subcommittee, the Department of Transportation and the Corps of Engineers stated that they opposed the loan guarantee provisions of H.R. 4515.

Legislative Reference Division Draft
10/12/90 -- 6:10 P.M.

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

May 3, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4522 - Firefighters' Safety Study Act
(Meyers (R) Kansas and 26 others)

The Administration has no objection to enactment of H.R. 4522.

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(Not to be Distributed Outside Executive Office of the President)

This Statement of Administration Policy was drafted by the Legislative Reference Division (Bowers), in consultation with the Federal Emergency Management Agency (Hirsch), the Department of Justice (Pestal), and HTF (Tanaka).

The purpose of H.R. 4522 is to improve the information available to emergency response personnel when dealing with medical, fire, or hazardous material emergencies or natural disasters. The intent is to ensure that such information clearly communicates the probable hazards that these individuals must contend with in emergency situations involving hazardous materials.

The bill would require the Administrator of FEMA's U.S. Fire Administration to convene a working group. It would consist of representatives from other Federal agencies, such as EPA and DOT, State and local regulatory agencies, and chemical companies. The panel is to review and report to the Fire Administrator and congressional committees on the adequacy of existing information for response personnel in emergency situations.

On November 14, 1989, FEMA testified before a House Science subcommittee in support of H.R. 2813, a similar bill. H.R. 4522 differs by: (1) requiring the working group to report to congressional committees in addition to the Fire Administration, and (2) placing private industry representatives on the working group. The report would be due to Congress one year after the bill's date of enactment, and the working group would meet at least annually to consider revisions to the report.

Legislative Reference Division Draft
5/3/90 -- 2:15 p.m.

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

May 25, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4525 - Office of Government Ethics Authorization
(Frank (D) MA and two others)

The Administration supports enactment of H.R. 4525 as reported by the House Judiciary Committee.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LRD (Schreiber) in consultation with the GO Division (McCormick). The Office of Government Ethics (Jane Ley) concurs with this position.

Description of H.R. 4525

H.R. 4525 would increase the Office of Government Ethics (OGE) authorization for appropriations from the current $3.5 million to $5 million for each of FYs 1990-94. This increase recognizes the added responsibilities imposed on OGE by the Ethics Reform Act of 1989.

H.R. 4525 is an Administration-sponsored bill, which was cleared by OMB on April 6, 1990. OGE testified in support of the bill on April 19, 1990, before the Subcommittee on Administrative Law and Intergovernmental Affairs of the House Judiciary Committee.

The House Judiciary and Post Office and Civil Service (PO/CS) Committees have concurrent jurisdiction over H.R. 4525. The House Judiciary Committee favorably reported H.R. 4525 on May 22, 1990, and plans to file its report on May 24th. The House PO/CS Committee has not yet taken action on the bill.

LEGISLATIVE REFERENCE DIVISION DRAFT
5/25/90

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

September 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4559 - Red Rock Canyon National Conservation Area
(Bilbray (D) Nevada)

The Administration has no objection to House passage of H.R. 4559, but will work in the Senate to amend section 8 which reserves water rights for the proposed Red Rock Canyon National Conservation Area in Nevada. Section 8 should stipulate that any reservation of water rights needed for the conservation area should be done under State law.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Peterson) in consultation with NRD (VanHouten, Cogswell, and Gibbons), Interior (Hill), and Justice (DeSanctis).

The Committee report on H.R. 4559 is not available. Interior staff (Hill) advises, however, that H.R. 4559 would:

-- Designate approximately 83,100 acres, which are principally public lands managed by the Bureau of Land Management, as the Red Rock Canyon National Conservation Area in Nevada. The conservation area is to conserve, protect and enhance the area's important geologic, archeological, ecological, cultural, scenic, scientific and recreation resources.

-- Direct the Secretary of the Interior, through the Bureau of Land Management, to manage the area in accordance with the Federal Land Policy and Management Act of 1976 and other laws including those relating to management of wild free roaming horses and burros on public lands. The bill provides for hunting and prohibits collecting wood for sale or other commercial purposes. Nothing in the Act would preclude measures to prevent fire or infestations of insects and diseases.

-- Require that management plans for the area be completed and submitted to the Congress within three fiscal years following the fiscal year of enactment.

-- Withdraw, subject to valid and existing rights, all Federal lands from the operation of the public land laws, the mining laws, and the mineral and geothermal leasing laws.

-- Expressly reserve to the United States the amount of water reasonably required to carry out the purposes for which the area is established. The priority date of this right would be the date of enactment of this bill. Valid or existing water rights, or applications, would not be disturbed.

-- Require the Secretary to review and recommend the suitability or nonsuitability of preserving 46,500 acres of the area as wilderness. Pending submission of a recommendation and until otherwise directed by the Congress, these lands would be managed so as to maintain their potential for inclusion in the National Wilderness Preservation System.

LEGISLATIVE REFERENCE DIVISION DRAFT
September 21, 1990 - 11:40 a.m.

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

June 14, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4609 - Coast Guard Authorization Act Amendments
(Tauzin (D) Louisiana and 3 others)

The Administration has no objection to House passage of H.R. 4609.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with the Department of Transportation (Bronner) and TCJ (Adkins and Kelly).

Provisions of H.R. 4609

H.R. 4609 would amend the Coast Guard Authorization Act of 1989 (P.L. 101-225) to:

-- increase the FY 1991 Coast Guard Operation and Maintenance (O&M) authorization from $2,381,500,000 to $2,391,500,000 (compared with the Administration's request of $2,361,351,000); and

-- add a new authorization of $15,000,000 for the Coast Guard's Environmental Compliance and Restoration (E,C&R) activities. (This category does not cover the Coast Guard's efforts to enforce environmental laws and regulations. Rather, it covers the cost of the Coast Guard's efforts to bring its own facilities into compliance with environmental requirements.)

The Department of Transportation plans to seek amendments in the Senate to:

-- increase the proposed FY 1991 EC&R authorization from $15,000,000 to $22,000,000. The latter figure includes the $7,000,000 the Administration originally proposed for EC&R activities plus $15,000,000 which the Administration proposes to shift from O&M to EC&R activities; and

-- decrease the proposed FY 1991 O&M authorization from $2,391,500,000 to $2,346,500,000 to reflect the shift of $15,000,000 to EC&R activities and to eliminate $30,000,000 authorized in excess of the President's request.

Administration Position To Date

The Administration has not previously taken a position on H.R. 4609.

Legislative Reference Division Draft
6/14/90 - 5:00 p.m.

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

May 31, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4611 - National Cooperative Production Amendments
(Brooks (D) Texas and 10 others)

The Administration supports extending the coverage of the National Cooperative Research Act of 1984 (NCRA) to joint production ventures. The Administration supports House passage of H.R. 4611 and will seek changes in the Senate to make this legislation consistent with an Administration proposal recently transmitted to Congress.

H.R. 4611 contains a provision which would afford less favorable treatment under the antitrust laws to firms with significant foreign ownership than to domestic companies. This discrimination appears inconsistent with principles embodied in bilateral investment agreements and other accords. It would also undermine efforts to obtain nondiscriminatory treatment of U.S. firms in foreign-based consortia. In addition, the provision is contrary to U.S. objectives in the Uruguay Round negotiations concerning trade-related investment measures. Accordingly, the Administration strongly urges the deletion of this provision from H.R. 4611.

The Administration also urges deletion of the provision in H.R. 4611 requiring all joint venture facilities to be located in the United States. Like the foreign ownership restriction, this provision would impair the efficiency-enhancing objectives of the legislation. It is also contrary to U.S. investment policy because it would limit and distort investment options -- including those available to U.S. companies.

The Administration will also propose a technical amendment in the Senate to ensure that foreign competition is properly considered in the review of the legality of joint ventures.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Blum) in consultation with the Departments of Justice (Dulmage/Roberts), Commerce (Clark), State (Rappaport), and the Treasury (Levy), the National Science Foundation (Chester), USTR (Seriver), EPC (Buchholz), OFPP

(Brown), TCJ (Sloan), and NS (Henry). Earlier versions of this SAP were reviewed and signed-off on by CEA (Robinson), OSTP (Phillips), White House OPD (Lindsey), and IA (Smith). The Department of Defense did not respond to our request for comments.

A copy of the House Judiciary Committee report on H.R. 4611 is not yet available for review. Judiciary Committee staff (Coffey), however, advises that the bill would amend the National Cooperative Research Act (NCRA) to extend its provisions to production techniques involving two or more firms.

Background

The NCRA currently provides that courts must use a "rule of reason" analysis (instead of a "per se" test) in antitrust actions involving joint research and development ventures. This means that courts must consider any procompetitive benefits of cooperative research activities when determining if the antitrust laws have been violated.

Major Provisions of H.R. 4611

H.R. 4611 would extend the "rule of reason" analysis requirement to antitrust actions brought against joint production ventures. In addition, H.R. 4611 would:

-- Limit antitrust liability to actual damages (instead of treble damages) for those joint production ventures filing a disclosure notice as provided for by the NCRA.

-- Require courts to consider "the worldwide capacity of suppliers to provide a product" when determining if a joint production venture violates the antitrust laws. (The NCRA specifies that courts must take into account all relevant factors affecting competition when applying the "rule of reason" standard. H.R. 4611 would, in effect, define the worldwide capacity of suppliers as one such factor for consideration.)

-- Exclude from the scope of the NCRA joint production ventures for which foreign entities control more than 30 percent of the voting securities. H.R. 4611 would also define foreign entity (e.g., a corporation in which more than 50 percent of the voting securities are controlled by non-U.S. citizens).

-- Require any facility operated by a joint production venture seeking coverage under the NCRA to be located within the United States or its territories.

Administration Position To Date

Pursuant to an Economic Policy Council recommendation endorsed by the President, Justice and Commerce jointly transmitted a draft bill on May 7th to amend the NCRA. That bill, like H.R. 4611, would require courts to: (1) analyze antitrust challenges to joint production ventures under the "rule of reason;" and (2) limit antitrust liability to actual damages for production ventures filing a disclosure notice.

The Administration has not previously taken a position on H.R. 4611.

Legislative Reference Division
5/31/90 -- 3:30 p.m.

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

May 11, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4612 - Bankruptcy Amendments Regarding Swap Agreements and Forward Contracts
(Brooks (D) Texas and 8 others)

The Administration has no objection to House passage of H.R. 4612.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Fotias), in consultation with the Departments of the Treasury (Levy) and Justice (Dulmage), the Council of Economic Advisers (Stein), the Securities and Exchange Commission (Berman), White House Counsel (Bybee), and HTF (Long/Rhinesmith). The CFTC did not respond to our request for views.

Background

H.R. 4612 concerns the bankruptcy treatment of two complex, high volume agreements traded in the capital markets.

A "swap agreement" is a complex transaction whereby two parties share the risk of interest rate and currency fluctuations. (H.R. 4612 contains an 11-line definition of the term.) A "forward contract," which provides for the purchase or sale of a commodity at a future date, is also a means of hedging price fluctuations. According to House Judiciary Committee staff (Slover), H.R. 4612 would generally conform the bankruptcy treatment of swap agreements and forward contracts with the treatment accorded to other complex financial instruments (i.e., securities contracts and repurchase agreements).

Description of H.R. 4612

H.R. 4612 would amend the bankruptcy code to allow swap agreements and forward contracts to be settled even after a petition for bankruptcy has been filed. In effect, the bill would remove these transactions from the bankruptcy estate of the debtor.

H.R. 4612 also provides that a bankruptcy trustee generally could not avoid paying the debtor's obligations to the other party to a swap agreement if the agreement occurs immediately prior to the filing of a bankruptcy petition. Under current law, trustees may be able to avoid such payments, even though the other party cannot avoid payment to the trustee when a contract is "netted out." ("Netting out" refers to the calculation of the net sum owing from one party to the other at the end of an agreement's term or upon default. Swap agreements often contain packages of individual contracts, each of which represents a net gain or loss to one party.)

Administration Position to Date

The Administration has not previously taken a position on H.R 4612.

In an uncleared letter, dated July 26, 1989, to Senator Metzenbaum on S. 396 (a related bill), Treasury took no position on the bill, but presented the pros and cons of the proposal.

Treasury cited the view of proponents of the legislation that it would further development of the swap market, thereby helping corporations reduce their exposure to the risk of market fluctuations. Treasury noted that the market value of swap agreements can change significantly in a short time, which might argue for protecting the non-bankrupt party to a swap agreement.

Treasury also cited the view of opponents to this legislation that swap market participants should be treated the same as other creditors in a bankruptcy situation. Opponents argue that denying special treatment for swaps would have the beneficial effect of forcing swap market participants to consider more carefully the credit risk before entering into swap transactions.

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

September 7, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4632 - Penalties for False Maritime Distress Signals
(Studds (D) Massachusetts)

The Administration supports enactment of H.R. 4632.

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(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with the Departments of Transportation (Bronner) and Justice (Dulmage), the Federal Communications Commission (Solheim), and TCJ (Hurdle).

Provisions of H.R. 4632

H.R. 4632, as ordered reported by the House Merchant Marine and Fisheries Committee, would make knowing and willful false distress messages to the Coast Guard a felony. Such violations would be punishable by a civil penalty of up to $5,000. Violators would be liable for all costs the Coast Guard incurs as a result of the false message.

In addition, H.R. 4632 would authorize the appropriation of $2,000,000 in each of FYs 1991 and 1992 to the Coast Guard for the acquisition of direction finding and transmitter identification equipment.

Administration Position To Date

In a July 23, 1990, hearing before a House Merchant Marine and Fisheries subcommittee, the Department of Transportation testified in favor of H.R. 4632.

Legislative Reference Division Draft
9/7/90 - 2:30 P.M.

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

May 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4636 - Supplemental Assistance for Emerging Democracies Act of 1990
(Fascell (D) Florida)

The Administration supports enactment of legislation to promote democracy in Nicaragua and Panama. Although H.R. 4636 authorizes programs and activities requested by the Administration, it also includes objectionable provisions that raise serious policy concerns and impinge significantly on the ability of the President to conduct foreign policy.

Without modifications to take into account the Administration's concerns regarding the bill's restrictions on military aid to El Salvador, the President's senior advisers would recommend that H.R. 4636 be vetoed. The Moakley amendment is very similar to the restrictions on El Salvador currently in H.R. 4636, and would also cause the President's senior advisers to recommend veto. Such restrictions would greatly hinder the Administration's ability to work towards peace in El Salvador. The Administration supports, as a substitute, the Broomfield-Byron amendment, which provides sufficient flexibility for providing assistance to El Salvador. Under the Broomfield-Byron amendment, the President shall withhold a portion of military assistance funds for El Salvador if he determines that the Government has not made demonstrated progress in the area of human rights, Jesuit murder investigation, administration of justice, and civilian control over the police.

H.R. 4636 also contains provisions that limit the President's flexibility to respond to changing conditions and to provide for an effective foreign assistance program. Accordingly, the Administration will seek to delete or modify those provisions that:

-- Impose numerous conditions, restrictions, and earmarks on regional assistance programs -- i.e., particularly the separate policy and program requirements for the Caribbean. These requirements would limit the flexibility needed by the Administration to implement development assistance programs, and are contrary to

the recommendations in the House Foreign Affairs Committee Task Force Report on Foreign Assistance.

-- Require the President to negotiate certain agreements with the government of Panama or otherwise prescribe the conduct of foreign negotiations.

-- Require prior notification or certification to Congress before certain foreign assistance funds could be obligated or expended for specified purposes.

-- Earmark funds for the establishment of an Agency for International Development (AID) mission in Namibia, thereby encroaching on the President's authority to conduct diplomatic relations with foreign governments.

-- Earmark the Emergency Refugee and Migration Assistance Fund, especially the earmarks for domestic refugee/migrant assistance, thereby precluding the flexibility required to administer such emergency assistance effectively.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Rooney) in consultation with IAD (DuSault), GC (Rettman), NSC (National Security Advisor Scowcroft), State (Secretary Baker), AID (Lester), USIA (Johnston), Justice (DeSanctis), Treasury (Levy), Commerce (Van Hanswyk), ONDCP (Ketter), HHS (White), DOD (Brick), Trade and Development Program (Desoto), and White House Counsel (Rademaker). Changes to this position to address the Broomfield-Byron and Moakley amendments were approved by IAD (DuSault), State (Madigan), NSC (Coulson), AID (Lester), DOD (Brick), Justice (Pestal), and White House Counsel (Rademaker).

Major Provisions of H.R. 4636

H.R. 4636 authorizes FY 1990 appropriations for assistance to Panama and Nicaragua, similar to the Administration's proposal. The bill also increases the FY 1990 appropriations authorization for refugees (but by $20 million more than requested) and repeals, as requested, section 614 of P.L. 101-162, which would release $188 million of State and USIA 1990 appropriations. However, it also includes restrictions on obligating authorized funds to Panama, Nicaragua, and El Salvador; an appropriation authorization for sub-saharan Africa, as well as policy language for the Development Fund for Africa; and development assistance policy language for the Caribbean. These and other provisions are discussed below.

El Salvador Restrictions

-- Requires that half of FY 1990 unexpended military assistance funds be withheld until the President makes a determination that: (1) the Farabundo Marti National Liberation Front (FMLN) is not negotiating in good faith or is not supporting the UN role in the negotiations; (2) the FMLN is still acquiring or receiving significant lethal equipment; or (3) that the military actions of the FMLN jeopardize the survival of the government of El Salvador. If such a determination is not made by the end of the fiscal year, withheld funds would be transferred to development assistance for El Salvador for use without fiscal year limitation.

-- Stipulates a maximum level of $85 million for FY 1991 military assistance and requires one-half of these funds to be withheld until the above Presidential determination is made. Only 25 percent of the $85 million could be obligated prior to March 1, 1991. This would allow for congressional review of a required Presidential report on the situation in El Salvador.

-- Requires that all FYs 1990 and 1991 military assistance be terminated if the President determines that: (1) the duly-elected head of government is deposed; (2) the government is not negotiating in good faith for a cease-fire and permanent settlement; or (3) the government is failing to conduct a "thorough and professional investigation into, and prosecution of those responsible" for the November 1989 slayings of six Jesuit priests in El Salvador. If terminated, military assistance could be resumed if the President subsequently determines that the above conditions no longer exists.

Panama and Nicaragua FY 1990 Authorizations and Limitations

-- Authorizes appropriations of $470 million for Panama ($30 million less than requested) to support Panama's efforts to restructure its economy, restore relations with international financial institutions, address specific development problems, and strengthen democratic institutions. The kinds of activities that may be undertaken and the funding levels for such activities are specified. The activities and funding levels are generally consistent with the Administration's proposal.

-- Authorizes appropriations of $340 million for Nicaragua ($40 million more than requested to cover increased funding for displaced persons) to support democracy, long-term development, and economic growth in Nicaragua. The kinds of activities that may be

undertaken and the funding levels for such activities are specified and generally consistent with the Administration's proposal.

-- Waives the Brooke-Alexander amendment which prohibits foreign aid for any country which is delinquent one year or more in debt repayment to the U.S. Government. This would permit the provision of assistance to Panama and Nicaragua authorized by this bill.

-- Authorizes reallocation of the Panama and Nicaragua funds between authorized activities if Congress is notified by the President 15 days prior to the reallocation.

-- Limits expenditure of appropriations for Panama, as authorized by this bill, to 50 percent pending the Secretary of the Treasury reporting that: (1) the United States and Panama have reached agreement for exchanging records on international currency transactions; or (2) Panama is negotiating in good faith to do so.

-- Requires the President, as a condition of providing bilateral and multilateral assistance to Panama in FY 1991, to certify that Panama is cooperating fully with the United States, or taking adequate steps on its own, to control narcotics production, trafficking, and money laundering. H.R. 4636 further stipulates that the President's certification for FY 1991 may be made only if the United States and Panama have signed an agreement that provides for mutual access to financial transaction records (relating to drug investigations).

-- Imposes a 15-day congressional report and wait requirement before each obligation of funds for Panama or Nicaragua.

Regional Assistance

-- Authorizes a Development Fund for Africa, which has been included in Appropriation Acts for fiscal years 1988, 1989, and 1990. Although the Administration has supported special treatment for Africa, the bill reduces flexibility in designing assistance programs for African countries. The bill mandates 10 percent funding targets for each of three priority sectors: health; family planning; and the environment. It also requires detailed programming and accountability for local currency proceeds, thereby reducing the effectiveness of U.S. assistance in supporting economic policy reforms. Five percent of the program funds may be transferred to supplement AID operating expenses.

-- Specifies U.S. policies, priorities, and prohibitions for providing economic assistance to the Caribbean.

Generally, these provisions constitute intrusive and overly prescriptive policy guidance for implementing economic assistance programs, particularly for the Caribbean.

Other Authorizations

-- Authorizes supplemental FY 1990 appropriations of $20 million each for assistance to: (1) Haiti, of which $5 million is for election assistance; and (2) the Caribbean, of which $5 million is for only the Eastern Caribbean.

-- Authorizes supplemental FY 1990 appropriations of $30 million for sub-saharan Africa, including $10 million for Namibia and $20 million for other sub-saharan Africa developmental assistance activities. This "repays" the earlier shift of Africa appropriations to Panama under the "Urgent Assistance for Democracy in Panama Act of 1990" (P.L. 101-243).

-- Amends the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, to authorize a total of $458.4 million for Migration and Refugee Assistance for FY 1990. This authorizes $20 million more than the President's $70 million supplemental request. H.R. 4636 also increases the FY 1990 authorization for the Emergency Refugee and Migration Assistance Fund from $50 million to $125 million, with a specified distribution of the increase, including a one-third minimum for State and local migrant impact assistance.

-- Authorizes the President to issue guarantees for Israeli housing project loans made for newly arrived immigrants. The total principal amount of guarantees outstanding at any one time would be limited to $400 million and an initial servicing fee of one-quarter of one percent of the principal amount of the loan may be charged. This loan guarantee authority was not requested by the Administration, but AID and State have no objection to providing these guarantees (so long as adequate assurances can be agreed upon by the United States and Israel). The agencies are concerned about the fee limitation and its $150,000 annual cap.

-- Authorizes $200,000 for travel to Washington, D.C., by foreign students in the United States to study the workings of democratic government -- the Claude and Mildred Pepper Scholarship program.

-- Authorizes continuation of USIA-designated au pair programs, until another agency is authorized to

implement such programs. This pilot program would otherwise expire on September 30, 1990.

-- Authorizes appropriations of $3.5 million for each of FYs 1991, 1992, and 1993 for a U.S. voluntary contribution to the Pan American Health Organization to provide continued support for the Gorgas Memorial Institute of Tropical and Preventive Medicine. This Institute was established to conduct research and related activities in tropical medicine. However, due to the lack of necessary personnel, the Institute has been ineffective.

El Salvador Amendments

H.Res. 395, which provides for the consideration of H.R. 4636, includes two amendments relating to El Salvador. One, the Moakley amendment, contains the virtually identical restrictions on FYs 1990 and 1991 assistance to El Salvador that are in H.R. 4636. Specifically, it adds the additional condition of violent actions directed at civilians to both of the Presidential determinations.

By contrast the Broomfield-Byron amendment applies only to FY 1991. Additionally, it authorizes the President to provide assistance based on determinations made in reports due November 1990 and May 1991. Based on these Presidential reports, up to 25 percent must be withheld if the El Salvador Government is not: (1) progressing on human rights; (2) conducting a serious investigation of the Jesuit case; (3) separating police from military control; (4) taking steps toward judicial reform; and (5) reducing the size of the Salvadorian military, if a negotiated settlement is reached. The amendment provides a waiver of any withholding based on FMLN actions. The scope of the waiver also covers acts of terrorism and economic sabotage and consideration of FMLN investigation into human rights abuses. With respect to terminating aid, only three of the conditions in H.R. 4636 are specified -- i.e., that the Government (1) is not negotiating in good faith, (2) is not supporting a UN role, or (3) is deposed by military coup. The amendment also authorizes $100 million of Economic Support Funds (ESF) to be used for monitoring, verification, demobilization, repatriation, retraining, and reconstruction, if the President determines and reports that the Government and FMLN have reached a settlement of the conflict.

In addition, both amendments require that all FY 1991 military assistance funds be provided only with the approval of the President of El Salvador.

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

May 3, 1990
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4636 - Supplemental Assistance for Emerging Democracies Act of 1990
(Fascell (D) Florida)

The Administration supports enactment of legislation to promote democracy in Nicaragua and Panama. H.R. 4636 authorizes programs and activities requested by the Administration, including the repeal of section 614 of P.L. 101-162 which would make available the total amount appropriated for State and USIA for FY 1990. However, H.R. 4636 includes objectionable provisions that raise serious policy concerns and impinge significantly on the ability of the President to conduct foreign policy. Without modifications to take into account the Administration's concerns regarding the bill's restrictions on military aid to El Salvador, the President's senior advisers would recommend that H.R. 4636 be vetoed. These restrictions would greatly hinder the Administration's ability to work towards peace in El Salvador.

H.R. 4636 also contains provisions that limit the President's flexibility to respond to changing conditions and to provide for an effective foreign assistance program. Accordingly, the Administration will seek to delete or modify those provisions that:

-- Impose numerous conditions, restrictions, and earmarks on regional assistance programs -- i.e., particularly the separate policy and program requirements for the Caribbean. These requirements would limit the flexibility needed by the Administration to implement development assistance programs, and are contrary to the recommendations in the House Foreign Affairs Committee Task Force Report on Foreign Assistance.

-- Require the President to negotiate certain agreements with the government of Panama or otherwise prescribe the conduct of foreign negotiations.

-- Require prior notification or certification to Congress before certain foreign assistance funds could be obligated or expended for specified purposes.

-- Earmark funds for the establishment of an Agency for International Development (AID) mission in Namibia, thereby encroaching on the President's authority to conduct diplomatic relations with foreign governments.

-- Earmark the Emergency Refugee and Migration Assistance Fund, especially the earmarks for domestic refugee/migrant assistance, thereby precluding the flexibility required to administer such emergency assistance effectively.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Rooney) in consultation with IAD (DuSault), GC (Rettman), NSC (National Security Advisor Scowcroft), State (Secretary Baker), AID (Lester), USIA (Johnston), Justice (DeSanctis), Treasury (Levy), Commerce (Van Hanswyk), ONDCP (Ketter), HHS (White), DOD (Brick), Trade and Development Program (Desoto), and White House Counsel (Rademaker).

H.R. 4636 was ordered reported by the House Foreign Affairs Committee (HFAC) on April 26, 1990. Although the reported version of the bill is not available, State has provided OMB with a copy of the bill to be reported.

Major Provisions of H.R. 4636

H.R. 4636 authorizes FY 1990 appropriations for assistance to Panama and Nicaragua, similar to the Administration's proposal. The bill also increases the FY 1990 appropriations authorization for refugees (but by $20 million more than requested) and repeals, as requested, section 614 of P.L. 101-162, which would release $188 million of State and USIA 1990 appropriations. However, it also includes restrictions on obligating authorized funds to Panama, Nicaragua, and El Salvador; an appropriation authorization for sub-saharan Africa, as well as policy language for the Development Fund for Africa; and development assistance policy language for the Caribbean. These and other provisions are discussed below.

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-- Authorizes reallocation of the Panama and Nicaragua funds between authorized activities if Congress is notified by the President 15 days prior to the reallocation.

-- Limits expenditure of appropriations for Panama, as authorized by this bill, to 50 percent pending the Secretary of the Treasury reporting that: (1) the United States and Panama have reached agreement for exchanging records on international currency transactions; or (2) Panama is negotiating in good faith to do so.

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-- Authorizes the President to issue guarantees for Israeli housing project loans made for newly arrived immigrants. The total principal amount of guarantees outstanding at any one time would be limited to $400 million and an initial servicing fee of one-quarter of one percent of the principal amount of the loan may be charged. This loan guarantee authority was not requested by the Administration, but AID and State have no objection to providing these guarantees. The agencies are concerned about the fee limitation and its $150,000 annual cap.

-- Authorizes $200,000 for travel to Washington, D.C., by foreign students in the United States to study the workings of democratic government -- the Claude and Mildred Pepper Scholarship program.

-- Authorizes continuation of USIA-designated au pair programs, until another agency is authorized to implement such programs. This pilot program would otherwise expire on September 30, 1990.

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LEGISLATIVE REFERENCE DIVISION DRAFT
5/2/90

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

April 27, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4637 Employment of Federal Retirees for the 1990 Census
(Sawyer (D) OH)

The Administration supports enactment of H.R. 4637.

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(Not to be Distributed Outside Executive Office of the President)

This draft of a position was developed by LRD (Schreiber) in consultation with TCJ (Edwards) and GO (Seidl). The Department of Commerce (Bird) and the Office of Personnel Management (Woodruff) concur in this position.

H.R. 4637 is expected to be reported by the House Post Office and Civil Service Committee. The report is not yet available.

H.R. 4637 would amend Public Law 101-66, approved August 16, 1989, to remove the six-month limit on the Census Bureau's authority to employ Federal civilian and military annuitants and to waive the offsets against pay otherwise required for reemployed annuitants. Because permanent Census law already limits temporary employment for any census to one year, the effect of the bill is to allow use of annuitants, with waiver of offsets, for one year.

Census advises that, nationwide, almost 5 percent of temporary census jobs are filled by government retirees.

LEGISLATIVE REFERENCE DIVISION DRAFT
4/27/90

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

October 22, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4638 - Orphan Drug Amendments of 1990
(Waxman (D) CA)

The Administration opposes enactment of H.R. 4638. The current Orphan Drug Act has been successful in stimulating the development of drugs for rare diseases. Questions have been raised about the appropriateness of a few specific drugs receiving benefits under the Orphan Drug Act. However, the Administration believes that the provisions of H.R. 4638 would jeopardize the incentives provided by the Act for research and development of orphan drugs.

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(Not to be Distributed Outside Executive Office of the President)

This draft of a position was developed by LRD (Pellicci) in consultation with HIMD (Clendenin/Blickstein), OIRA (Antonelli), and the Office of the Vice President (Kristol/Hubbard/McIntosh). HHS (per Roger McClung, Office of the Assistant Secretary for Legislation) has no objection to the draft position.

The proposed position is consistent with an August 1990 SAP to the House and an HHS letter to the House Committee on Energy and Commerce on June 27, 1990, on H.R. 4638.

Background

The Orphan Drug Act of 1983 created incentives for drug companies to treat diseases that occur so infrequently that additional incentives are needed in order to stimulate the investment needed to bring the drug on the market. Drugs that qualify as orphan drugs are eligible for grants, tax credits, and seven years of market exclusivity. Under current law, these benefits are available to drugs for any disease or condition that affects fewer than 200,000 people in the United States.

An unlimited number of companies may obtain an orphan drug designation, which makes them eligible for the grant program to fund research. An unlimited number of companies also may apply for approval of an orphan drug, but only one company (the first to receive approval for its drug) actually gets the seven years of market exclusivity. The remaining companies must wait until the end of the seven-year period before they can market their drug.

Summary of H.R. 4638

H.R. 4638 authorizes $20 million for FY 1991, $25 million for FY 1992, and $30 million for FY 1993 for the Orphan Drug Grant program, to assist drug companies in developing drugs to treat rare diseases. The bill also establishes an Office for Orphan Drugs within the Office of the Assistant Secretary for Health.

H.R. 4638 would also amend the provision of current law that gives to one company -- the first to gets its drug approved -- the exclusive right to market its orphan drug for seven years. Under the bill, two or more companies would be given the right to market their drugs if they developed them simultaneously.

In order to obtain this right to market during the seven-year period, a company must show that it:

- Requested its drug be designated an orphan drug within six months of the time the holder of the exclusive marketing right received its designation;

- Initiated its human clinical trials within 12 months after the holder of the marketing right initiated its human clinical trials; and

- Submitted its application for approval (including the results of the required clinical and animal studies) less than one year after the holder of the exclusive marketing right submitted its application for approval.

These simultaneous development provisions would apply only to future orphan drugs. They would not apply to any drug approved before August 15, 1990, or which was in clinical trials before August 15, 1990, and for which a request for orphan drug designation was submitted by the date of the bill's enactment.

The bill requires HHS to begin, within two years, a study of the impact of the simultaneous development provisions on the development of drugs for rare diseases.

Finally, the bill requires that a company demonstrate not only that fewer than 200,000 people in the United States are affected by the disease at the time of the request for the designation of a drug as an orphan drug, but also that fewer than 200,000 people will be affected three years after the request for the designation. It also permits HHS to lift the prohibition on marketing for seven years if it can demonstrate that the patient population exceeds 200,000. (This is the only provision that affects currently designated orphan drugs.)

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

June 4, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4653 - Export Facilitation Act of 1990
(Gejdenson (D) Connecticut and 28 others)

H.R. 4653 contains provisions that raise serious constitutional or policy concerns and impinge significantly on the President's flexibility to respond rapidly to evolving national security and foreign policy needs. If the bill were presented to the President in its current form, his senior advisers would recommend that he veto it.

The Administration shares the goal of modernizing the export control system in recognition of recent political and economic developments in Eastern Europe and the Soviet Union. However, H.R. 4653 is severely flawed because it:

-- constrains and impermissibly infringes upon the President's authority to negotiate effectively multilateral controls that would permit legitimate civil exports while safeguarding strategic security concerns;

-- is incompatible with policy decisions by the President and undermines critical negotiations with our allies beginning with the June High Level COCOM meeting;

-- requires disclosure of U.S. proposals to COCOM which is inconsistent with the secrecy with which the President may wish to conduct negotiations;

-- introduces administrative rigidities into the export control system;

-- dictates internal Executive branch procedures and decision processes, including setting a time limit on Presidential resolution of inter-agency disputes. Such provisions are inconsistent with the Constitution's grant of authority to the President to manage the internal operations of the Executive branch;

-- equates the U.S. Munitions List with the COCOM International Munitions List, thereby reducing Presidential discretion to determine what items should be considered "munitions" and whether certain items or technologies should be exported to unstable regions, such as the Middle East;

-- makes the provisions of the EAA self-executing which denies the responsible agencies the ability to implement the EAA in a balanced, effective, and integrated way. This limits the President's ability to balance competing national security and foreign affairs concerns; and

-- unnecessarily expands judicial review to all actions relating to the administration of the EAA. The courts can already consider actions relating to any illegal administration of the EAA. However, the bill inappropriately substitutes the courts for the Executive in resolving export control issues which require the evaluation and balancing of complex foreign affairs concerns.

The Administration urges Congress to enact only a simple one-year extension of the Export Administration Act.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Rooney) in consultation with IAD (DuSault), NRD (Gibbons, Jacobi, and Beard), OIRA (Mills), NSC (National Security Adviser Scowcroft), State (Barry), DOD (Potuk/Popovich), Justice (Pestal), Agriculture (Askins), Interior (Somers), USTR (Morrissy), Treasury (Levy), and White House Council (Rademaker). Although Commerce (Dalmut), has no objection to issuing this position, it questions whether the problems in the bill are of a sufficient magnitude to warrant a veto threat.

Administration Position to Date

On May 2, 1990, National Security Adviser Scowcroft wrote to the House Foreign Affairs Committee expressing strong opposition to the subcommittee version of H.R. 4653, which is virtually identical to the reported bill. The Administration issued a Statement of Administration Policy on May 23, 1990, for the House Rules Committee stating that the Scowcroft letter set forth the Administration's position on H.R. 4653. This SAP will be the first veto threat issued on H.R. 4653. It reflects the concerns expressed in the Scowcroft letter and in a May 3, 1990, Justice letter.

Major Provisions of H.R. 4653

H.R. 4653 contains major revisions to the Export Administration Act (EAA). It also authorizes a one-year extension of the EAA as sought by the Administration. Specifically, the bill:

-- Creates a "license free zone," with some exceptions, for exports or reexports to COCOM countries or countries that have export control systems that are comparable to COCOM countries, effective September 30, 1991. (COCOM is a multilateral group of most NATO countries plus Japan and Australia that maintains an export control system. The intent is to deprive Eastern European and certain other countries of technology that could be detrimental to COCOM members' national security.)

-- Requires the U.S. to submit to COCOM a proposal to (1) decontrol exports worldwide that are below the "PRC green line" level of technological sophistication (i.e., items which if exported to the People's Republic of China would require only notification to COCOM); (2) adopt a "favorable consideration" policy for civil end use exports to a Eastern European country, for items or technology above the PRC green line, if adequate safeguards are established; and (3) liberalize controls on telecommunications goods and technology.

-- Limits the U.S. Munitions List (i.e., items controlled by the Department of State under the Arms Export Control Act) to items on COCOM's International Munitions List. Other items may be controlled as dual-use items on the Commodity Control List by Commerce under the EAA. Both agencies would publish revised lists within 3 months. H.R. 4653 sets a procedure to resolve disputes between Commerce and State regarding items on the Munitions List and the Commodity Control List. The procedure provides for ultimate resolution of any disputes by the President.

-- Adds a "sunset" provision that requires national security controls on exports to noncontrolled countries (i.e., Free World countries) to expire automatically on September 30, 1992. Under this provision, all items controlled for national security reasons would be removed from the Commodity Control List unless reinstated with justification by the Secretary of Commerce.

-- Provides that all EAA provisions are self-executing (i.e., the provisions would become effective on the stipulated dates, whether or not implementing regulations have been issued).

-- Amends the EAA to clarify when the Secretary of Commerce must consult with the Secretary of Defense in the export licensing process. Generally, such consultation would be required only for licenses for exports to certain countries, such as the Soviet Union or a communist country for a non-civil end use.

-- Grants Commerce overseas enforcement authority. An amendment adopted by full Committee also authorizes Commerce to engage in "sting-type" export enforcement operations.

-- Provides for judicial review of all actions relating to the administration of the EAA (as opposed to just enforcement actions, as under current law). The discretionary determination of whether an item should or should not be controlled would not be subject to judicial review.

-- Increases the criminal penalties for willful violations of the law, from 10 years to 20 years, and fines from $1 million to $2 million.

-- Extends the EAA for one year and authorizes FY 1991 appropriations of $46,707,000, which is $2.3 million more than requested, for the Bureau of Export Administration within Commerce.

In addition, H.R. 4653 contains provisions relating to exports of unprocessed timber. Specifically, Title II:

-- Makes permanent the current Federal ban on the export of unprocessed timber from Federal lands west of the 100th meridian. The ban would not apply to timber that the Secretaries of Interior and Agriculture determine to be in surplus. With certain exceptions, the substitution of unprocessed Federal timber for unprocessed timber exported from private lands is prohibited.

-- Directs the Secretary of Commerce to issue an order to prohibit the export from the United States of unprocessed timber harvested from lands owned or administered by a State.

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

May 23, 1990
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4653 - Export Facilitation Act of 1990
(Gejdenson (D) CT and 28 others)

On May 2, 1990, National Security Adviser Scowcroft sent a letter to Chairman Fascell setting forth the Administration's position on H.R. 4653. A copy of the letter is attached.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Peterson) in consultation with IAD (DuSault), NSC (Coulson), State (Kakesako), Commerce (Levitt), Defense (Brick), USTR (Bolten), and Justice (DeSanctis).

Attachment

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

June 14, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4736 - Defense Reports Reduction Act of 1990
(Aspin (D) Wisconsin and 17 others)

The Administration supports House passage of H.R. 4736, but will work in the Senate to delete the provision repealing section 602(c) of the Department of Defense Reorganization Act of 1986. The repeal of section 602(c) could inadvertently reinstate certain defense reporting requirements.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft position was prepared by LRD (Rooney) in consultation with NSD (Schuhart and Gessaman), OIRA (Sprehe), Defense (Brick), NSC (Hayden), Justice (DeSanctis), Transportation (Donelan), and Energy (Connolly).

Background

As part of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (P.L. 99-433), two-thirds of the more than 400 recurring defense reports required by Congress were eliminated. In addition, Defense was required to conduct a comprehensive review of all reporting requirements then in effect. This review was to include an assessment of the administrative burden imposed by each report and a recommendation on retaining, modifying, or deleting each report.

Pursuant to this requirement, on February 6, 1990, Defense transmitted to Congress a legislative proposal that repealed or modified numerous reporting requirements.

Provisions of H.R. 4736

H.R. 4736 would eliminate 59 of the recurring reports that the Department of Defense is required by law to submit to Congress. The bill also modifies 11 reports to reduce their reporting frequency and administrative burden.

Many of the reports that would be terminated or modified by H.R. 4736 are the same as those recommended in the Defense legislative proposal submitted in February.

However, H.R. 4736 repeals section 602(c) of the Goldwater-Nichols Act which terminated all previously required reporting provisions except those listed in the Act. This repeal could inadvertently reinstate other reporting provisions that were enacted in Defense related authorization or appropriations acts.

H.R. 4736 also contains two unrelated provisions that provide:

-- a two and one-half year extension for fully integrating fixed-wing aircraft into the range instrumentation system at the National Training Center in Fort Irwin, California (Air Force requested such an extension); and

-- clarification of the procedures for transferring obsolete naval vessels. A 60-day congressional notification period would remain in effect, but the subsection that allowed Congress to halt a transfer by use of a concurrent resolution would be deleted.

LEGISLATIVE REFERENCE DIVISION
June 14, 1990 - 5:10 PM

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

September 10, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4739 - National Defense Authorization Act
For Fiscal Year 1991
(Aspin D-Wisconsin and Dickinson R-Alabama)

The Administration submitted a fiscal year 1991 budget designed to ensure strong and capable military forces prepared to protect and advance American interests around the globe. That budget would maintain the U.S. capability to respond effectively to regional crises which threaten American interests, such as the current crisis in the Persian Gulf, and it takes account of the changes in the Soviet Union and eastern Europe.

In contrast, H.R. 4739 provides (1) insufficient funding for crucial strategic and conventional modernization programs; (2) insufficient funding and flexibility to pursue effectively the Strategic Defense Initiative (SDI); (3) insufficient troop levels to defend American interests; (4) insufficient flexibility for management of the reshaping of the armed forces, the defense civilian work force, and the defense base infrastructure; and (5) funding for items not needed for the national defense. The President's senior advisers would recommend that he veto the bill if it is presented to him in its current form.

The bill eliminates or underfunds crucial strategic and conventional weapon systems and the SDI. Of particular concern, the bill:

-- Terminates the B-2 Stealth bomber program, despite its value in a retaliatory force shaped by the limits in the START Treaty, and underfunds the strategic missile modernization programs that remain essential to deter the use of nuclear weapons.

-- Underfunds the SDI which holds promise of a future defense against nuclear weapons. As ballistic missiles capable of delivering nuclear, chemical, biological or high explosive warheads proliferate, the importance of SDI continues to grow.

-- Underfunds the A-12 Avenger carrier-based attack aircraft program that is essential to replacing the aging A-6 aircraft that provide the striking power for aircraft carrier battle groups.

-- Underfunds and over-restricts the C-17 cargo aircraft program that is crucial to maintaining the strategic airlift capability upon which America's ability to respond to regional crises substantially depends.

-- Underfunds and over-restricts the Advanced Tactical Fighter program that is essential to ensuring that the United States maintains air superiority in future conflicts.

The bill requires excessive cuts in military personnel. The Administration plans to carefully reshape the armed forces. However, the bill's single-year cut of 92,000 people, in addition to the Administration's reduction of 38,000, is inconsistent with the effective reshaping of the armed forces. So too is the arbitrary reduction of the number of general and flag officer positions. Moreover, the cut of 130,000 military personnel may create unforeseen risks during a period in which the United States has been forced to undertake substantial new overseas deployments to defend vital American interests in and around the Arabian Peninsula.

H.R. 4739 restricts the authority of the Secretary of Defense to reshape the armed forces, the Defense civilian work force and the defense base infrastructure. As the resources available for the national defense shrink, the Department of Defense's need for flexibility in administering the reduced resources becomes paramount. Enactment of the Administration's proposed "Defense Management Improvement Act," "Military Personnel Transition Assistance Act," and "Defense Base Consolidation Act" would provide that essential flexibility.

The Administration strongly opposes statutory micro-management of the Department's allocation of its scarce resources, such as the bill's certification and prior reporting requirements related to various procurement programs, and its restrictions on personnel and on the closure or realignment of unneeded bases. Congressional restrictions, such as the requirement to more than double the size of the Special Operations oversight staff, denies needed flexibility. As the reshaping of the force structure occurs, it is imperative that the Department of Defense has the flexibility to close or realign under-utilized or unneeded bases. H.R. 4739 would purport to require the Secretary of Defense to submit legislative proposals dealing with base closures. The Constitution confers on the President the power to submit such

legislative proposals as the President judges necessary and expedient. Thus, Congress may not require him to submit proposed bills.

It is critical that Congress not add low-priority or unneeded items to the defense budget. Thus, for example, the bill should not include funding for the V-22 Osprey aircraft program and for items which were not requested for National Guard and Reserve programs.

The bill would impose ill-advised, and in some cases constitutionally suspect, provisions that purport to limit the authority of the Executive Branch to deploy the armed forces. These include geographic and numerical restrictions on the deployment of personnel and equipment. Two provisions are of particular concern. First is the prohibition on fulfillment of the U.S. commitment to the NATO Alliance to base the 401st Tactical Fighter Wing at Crotone, Italy. Second is the requirement for "dual basing" of forces by assigning them within the United States and rotating them on a short-term basis through overseas deployments.

The Administration objects to sections 2811 through 2823 which grant the Department of Defense authorities for the disposition of Federally-owned real property. The provisions are at variance with existing law, particularly the Federal Property and Administrative Services Act of 1949, as amended. Of special concern is Section 2822 which would authorize the non-reimbursable transfer of property known as Barracks "K" in Arlington, Virginia. GSA's transfer of this property to the Navy was the subject of intense litigation. Changing the conditions of the transfer, as this section would, could be viewed as circumventing the underlying facts upon which the U.S. District Court based its decisions and could possibly result in additional litigation.

The Administration also objects to the provisions of H.R. 4739 which (1) require an unnecessary study of the safety of removing obsolete chemical weapons from the Aberdeen Proving Ground and Lexington Bluegrass Arsenal; (2) limit the discretion of the Director, Office of National Drug Control Policy, to direct programs with state and local law enforcement officials; and (3) limit the Secretary's ability to make resource allocations and contract policy decisions by transferring the decision whether or not to implement OMB Circular A-76 to local installation commanders.

Additionally, the Administration strongly objects to the following amendments:

-- The AuCoin-Machtley amendment which would require medical facilities of the uniformed

services outside the United States to perform abortions.

-- The Gilman amendment which includes the text of H.R. 2544 that allows Federal agencies to make Federal student loan payments on behalf of certain employees. The Department of Education has previously recommended that this provision be vetoed. Studies have indicated that forgiveness of loans has not been effective in inducing individuals to enter a particular profession. The Gilman amendment would set a dangerous and very costly precedent by allowing forgiveness for Federal civil servants in the Guaranteed Student Loan (GSL) programs, and it would lead to pressure for forgiveness for many other meritorious activities. Given the size of the GSL program, with $52 billion in loans outstanding, the potential cost to the Government is substantial. Also, the Federal Government should not be in a position of "rewarding" students who finance their education through student loans, and effectively penalizing students who choose work or savings to finance their post-secondary education.

-- The Bennett amendment which limits post-government employment opportunities. The amendment is unwarranted and inconsistent with the Ethics Reform Act principles of uniform treatment of employees in all agencies and is a prejudicial deterrent to the ability of the Administration to attract capable defense managers and administrators.

-- The Wyden amendment which would preclude the addition of any waste to single and double-shelled tanks at Hanford until two oversight boards certify that the risk of tank explosions is not credible. The Department of Energy (DOE) has already initiated detailed reviews related to tank safety. Use of certain double-shelled tanks is required for necessary waste processing. This provision is an improper use of the boards' statutorily-defined roles and functions, and it reduces their potential objectivity.

-- The second Wyden amendment under which the DOE would be required to reimburse local,

State and Federal environmental agencies for expenses related to the environmental oversight activities conducted pursuant to the Comprehensive Environmental Recovery, Conservation and Liability Act (CERCLA). Local governments do not have oversight authority under CERCLA, and under current law and Federal Facility Compliance Agreements, DOE provides for reimbursement of State oversight. The Administration believes that it would be inappropriate for another Federal agency to be required to augment Environmental Protection Agency (EPA) appropriations for EPA's activities; the authority already exists. The Administration is also opposed to similar requirements for EPA reimbursement in the Bustamante Amendment.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft report was prepared by LRD (Goad) in consultation with ESD(Palmieri), FM (Brown), GO (Kelly), LVE (Grams, Jacobs), NRD (Watts), NSD (Gessaman, Schuhart), OFPP (Baker), PRIV (Clark), White House Counsel (Rademaker), ACDA (Westby), CIA (Pepper), Commerce (Dalmut), Defense (Addington, O'Donnell), Education (Riddle), Energy (Connolly), EPA (Bassuser), EXIM (Cantz), FEMA (Levy), GSA (Brady and Neale), HHS (White, Calvin), Interior (West), Justice (DeSanctis), Labor (Warren), NSC (Scrowcroft), ONDCP (Carnavella), OPM (Woodruff), OSTP (Phillips), State (Davis), Transportation (Bronner), Treasury (Levy), USTR (Malan), VA (Gallin).

Authorization of Appropriations

H.R. 4739 authorizes $282.8 billion in budget authority for Fiscal Year 1991 for national defense programs, $23.8 billion less than requested by the Administration.

Budget Authority
($ in billions)

	Request	FY 91 HASC	Net Change
DOD-Military			
Military Personnel	$ 79.1	$ 78.2	$- 0.9
O&M	90.0	83.8	- 6.2

Procurement	77.9	63.8	- 14.1
RDT&E	38.0	36.0	- 2.0
Construction	5.5	4.8	- 0.7
Housing	3.5	3.6	+ 0.1
Revolving Funds	2.2	1.7	- 0.5
Other	-1.2	-0.8	+ 0.3
DOD-Military	295.0	271.1	- 23.9
DOE	10.9	11.0	+ 0.1
Other	0.8	0.8	0.0
Total for National Defense	$ 306.6	$ 282.8	$- 23.8

Strategic and Conventional Investment Programs

H.R. 4739 reduces authorizations for strategic weapon systems by $6.7 billion through program reductions and eliminations.

Major Strategic Investment Programs ($ in Millions)

	Request	FY 91 HASC	Net Change
B-2 Bomber	$4,648	$1,867	$-2,781
ICBM Modernization	2,365	662*	-1,743
Trident Submarine	1,425	1,183	- 242
Trident II Missile	1,746	1,546	- 200
SDI	4,663	2,911	-1,752
Total for Major Strategic Programs	$14,847	$8,129	$-6,718

* Includes $610 million in undistributed funds for Rail-Garrison and/or Small ICBM

H.R. 4739 reduces the Administration's request of $4.6 billion for SDI to $2.9 billion which will cause cancellation or delay experiments needed to prove SDI feasibility. The Committee eliminated the Department of Energy's $192 million request for new Nuclear Directed Energy Weapons (NDEW) and denied funds for full scale development of the Boost Surveillance and Tracking System (BSTS) in FY 1991. The Administration requested $265 million for BSTS, the first element of the SDI program to reach full scale development. The Committee authorized $137 million for continuing advanced development of BSTS and instructed the Secretary of Defense to transfer BSTS to the Air Force to replace the aging Defense Support Program satellites.

The bill eliminates all procurement funds for the B-2 Bomber and would place undue restrictions on the President's ability to obligate funds for the Trident II (D-5) missile.

H.R. 4739 eliminates all funds, $1.615 billion, for procurement and military construction for Rail Garrison MX, but authorizes $610 million for R&D on ICBM modernization and requires that the President report to Congress on how he proposes to allocate the funds.

H.R. 4739 reduces authorizations below the requested level for the following conventional weapon systems (in millions of $).

	Request	FY 91 HASC	Net Change
C-17	$1,681	$ 554	$-1,127
A-12	(Classified)		
CH/MH-53 Helicopter	479	45	- 434
P-7A ASW Aircraft	255	235	- 20
F-15	1,840	1,614	- 226
F-16	2,973	2,391	- 582
ATF R&D	1,047	864	- 183
AMRAMM Missile	1,345	29	-1,316
SSN-21 Submarine	4,016	2,640	-1,376
LH Helicopter	411	300	- 111
M1 Tank	838	789	- 49
M2 Fighting Vehicle	695	437	- 258
Total for Conventional Programs	$15,580	$9,898	$-5,682

H.R. 4739 severely disrupts essential procurement programs by deleting all requested FY 1991 quantities of the A-12 attack aircraft, the CH-53 helicopter, the T-45TS training aircraft, the AMRAAM air-to-air missile and the KC-135 tanker re-engining modifications. Initiation of full-scale development of the Air Force's Advanced Tactical Fighter is delayed past 1991. The JSTARS radar program and the ATACMS missile program are terminated.

As well, the bill would severely disrupt the C-17 program. It would limit funding for 2 aircraft in 1991 to $350 million rather than the $1.7 billion requested and would delay obligation of these funds until after a production aircraft has flown (scheduled for September 1991). This would effectively eliminate procurement of these two aircraft for 1991 -- at a time when C-141 replacement is becoming more critical as a result of Operation Desert Shield. The bill also directs the Navy to construct "commercially viable" fast sealift ships for charter by U.S. ship operators when not needed by the Navy. This is a

flawed concept of operation that would undermine military readiness.

The bill requires the Army to conduct a study of the safety of removing obsolete chemical weapons from Aberdeen Proving Ground and Lexington Bluegrass army depot. Given prior studies on the safety of chemical demilitarization, such a study is unnecessary and would delay the chemical demilitarization program.

Personnel-Related Provisions

H.R. 3479 reduces active duty military end strengths by 4.5% from the FY 1991 request. Authorized active forces end strengths for FY 1991 are:

	FY 1990 Program	FY 1991 Request	FY 1991 Committee Recommendation
Army	744,169	727,500	675,669
Navy	590,501	584,800	570,501
Marine Corps	196,735	196,500	192,235
Air Force	545,000	530,000	508,500
Total	2,076,405	2,038,800	1,946,905

The bill authorizes the following separation and benefit packages for involuntarily separated military personnel:

-- Separation pay calculated at 10 percent of annual base pay for each full year of service for involuntarily separated officers and enlisted personnel with six or more years of service. H.R. 4739 removes the current $30,000 cap on separation payments and contains provisions which grandfather eligibility of current officers with five years of service. Under current law only officers with five years or more of service are eligible for separation pay and payments are limited to $30,000.

-- Comprehensive medical transition assistance for involuntarily separated military personnel and their dependents. Coverage would be extended 60 days for involuntarily separated individuals with less than six years of service, 120 for those with more than six years. After the expiration date, individuals would be eligible to buy a

Defense Department-negotiated conversion health policy from a private insurance carrier.

-- Transition counseling would be available to every separating service member. Programs offering information on financial, educational and vocational benefits would be provided. H.R. 4739 requires that the Secretary of Labor establish a program offering counseling, employment, training and other information and services to military personnel and their families within 180 days of departure from active duty.

-- Job certification/verification programs for military personnel.

-- Relocation and job search information and assistance for overseas personnel.

-- Retention of dependent family members in Department of Defense Schools through the end of the school year; juniors would be allowed to stay through the senior year.

-- Government housing privileges for up to 180 days after the separation date would be extended to involuntarily separated service members and their families.

-- Commissary and exchange privileges would be extended to service personnel and their families for two years following their separation.

-- Participation in the Montgomery GI Bill or Veteran's Educational Assistance programs would be extended, prior to separation, to service members who originally elected not to participate.

Environmental Provisions

H.R. 4739 increases the authorization for the Defense Environmental Restoration Account (DERA) from the Administration's request of $817 million to $1 billion. DERA consolidated and expanded Department of Defense programs for the clean-up of hazardous waste and related issues at active and former Defense sites.

Land Transactions

The General Services Administration opposes sections 2811 through 2823 which contain numerous provisions granting the Department of Defense authority for the disposition of Federally-owned real property in a manner which is at variance with existing law, particularly the Property Act. GSA has recommended that the sections be deleted from the bill and that any Defense property that is found to be unneeded by the agency be reported to GSA for disposition. Of particular concern is section 2822 which would authorize the non-reimbursable transfer of property known as Barracks "K" in Arlington, Virginia. On June 30, 1989, GSA transferred the property to the Navy. Navy agreed to pay, and the transfer was conditioned on a reimbursement in the amount of $6 million. The transfer became the subject of litigation in National Law Center on Homelessness and Poverty v. U.S. Department of Veteran's Affairs, Civil Action No. 88-2503-OG. Based in part on the government's representation that the transfer required a $6 million reimbursement by the Navy, the United States District Court for the District of Columbia sustained GSA's decision to transfer the property to the Navy in lieu of making it available to assist the homeless under the McKinney Homeless Assistance Act. GSA asserts that changing the conditions of the transfer could be viewed as circumventing the facts upon which the court based its decisions and could possibly result in additional litigation.

Procurement and Financial Systems

The Administration opposes section 1011 of H.R. 4739 which limits the authority of the Secretary of Defense to make resource allocation and contracting policy decisions. The section transfers decisions on whether or not to implement OMB Circular A-76 away from the Secretary of Defense to local military installation commanders.

Section 109 prohibits the obligation of advance procurement funds until 30 days after submission to Congress of the five year defense program. This provision would undermine the orderly execution of major procurement programs. The bill also contains a provision preventing the obligation of funds to procure aircraft for the Army from a firm in Northern Ireland unless that firm institutes an equal opportunity program. This is unjustified interference in the internal affairs of another nation.

The administration, however, supports the following provisions:

-- Section 802 (similar to Section 204 of the Defense Management Improvement Act (DMIA)) which amends the Competition in Contracting

Act (CICA) to authorize an award to other than the low cost offeror without conducting further negotiations;

-- Section 803 (similar to Section 208 of the DMIA) which allows contracting officers to waive the cost and pricing data requirements of the Truth in Negotiations Act for contracts or subcontracts between $100,000 and $500,000;

-- Section 804 (similar to Section 203 of the DMIA) which repeals commercial pricing certificate requirements;

-- Section 805 (similar to Section 207 of the DMIA) which would provide the Department of Defense with greater discretion with regard to dual sourcing;

-- Section 813 which requires certification by subcontractors regarding their debarment status; and

-- Title X (Part A) which provides the Department of Defense Comptroller explicit authority to direct and manage all Defense financial management activities and operations.

General Provisions

The Administration objects to the following sections:

-- Section 243 which authorizes a $10 million grant for an Institute for Advanced Science and Technology. Although designated as a "competitive" award, only the University of Pennsylvania meets all the qualifications stipulated. The provision runs counter to the Administration's policy of making such awards on the basis of peer review and in the context of funding requirements for science and technology as a whole.

-- Section 313 mandates the continuation of hurricane reconnaissance flights by the Air Force. These aircraft, which perform a civilian mission, should be funded in the budget of an appropriate civilian agency.

-- Section 1302 ("M" Accounts) which limits obligation adjustments to a two year period for all programs without exception.

-- Section 1324 which authorizes the charter, but not the sale, of fast sealift vessels to United States ship operators.

LEGISLATIVE REFERENCE DIVISION DRAFT
SEPTEMBER 10, 1990 10:15 AM

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

October 5, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4765 - Puerto Rico Self-Determination Act
(DeLugo (D) Virgin Islands and 20 others)

The President has urged Congress to pass legislation this year that would grant the people of Puerto Rico, at the earliest possible time, the right to determine their political future.

* * * * * * *

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Jukes/Ratliff) in consultation with the Departments of Justice (Pestal), Health and Human Services (Burnett), Defense (Byron), State (Davis), USTR (Ives), HIM (Haskins), SS/EG (Schwartz), HTF (Parrish), EP (Jacobson), OA Counsel (Overton), and the White House (Untermeyer).

Treasury, Agriculture, the Interior, Transportation, and NSC did not respond to our request for views.

Background

In his February 9, 1989, address to Congress, the President asked Congress to "take the necessary steps" to allow the people of Puerto Rico to determine their political future through a referendum. The President also stated his personal preference for statehood.

The Department of Justice has advised OMB informally that congressional action is not required to authorize a referendum.

H.R. 4765

H.R. 4765, as reported by the House Interior and Rules Committees on October 2nd, is not available for review. This SAP is based on a typescript provided by Justice (Pestal).

H.R. 4765 would authorize appropriations of $13.5 million to the Executive Office of the President for grants to Puerto Rico's elections commission for a referendum to be held on or about September 16, 1991. Of this amount, $7.5 million would be for the cost of conducting the referendum, including $1.5 million to facilitate the participation of Puerto Ricans not resident in

Puerto Rico. The remaining $6 million would be disbursed to a "Dialogue Committee," to be divided equally among Puerto Rico's principal parties, to inform the public of the status options described below. (The Dialogue Committee on the Status of Puerto Rico was established by the Governor in 1989.)

The question to be put in the referendum would be:

> "Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?
>
> independence;
> statehood;
> a new commonwealth relationship; or
> none of the above statuses."

The bill provides that the referendum would be conducted under the election laws of Puerto Rico and "appropriate" Federal laws that apply to the election of the Resident Commissioner of Puerto Rico.

H.R. 4765 authorizes Puerto Rico to enable certain Puerto Ricans not resident in Puerto Rico to vote in the referendum, subject to approval by the Puerto Rican Legislative Assembly of a plan for such voting approved by a majority of the Dialogue Committee.

The bill provides that if the referendum results in a majority for one of the three status options, expedited procedures shall apply for the drafting and consideration of Federal implementing legislation. Specifically, House and Senate bills would be introduced by the appropriate committee chairmen by March 6, 1992. The bills would be in order for floor action 195 calendar days after introduction. H.R. 4765 states that its enactment:

> "constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico."

H.R. 4765 provides that, if Congress approves legislation to implement the result of the referendum, it shall be submitted to the people of Puerto Rico for ratification. Appropriations of "such sums as may be necessary" are authorized for the ratification vote and for consultations with the Puerto Rican parties in the drafting of the legislation.

Comparison with Senate-Reported Bill

S. 712, a related Senate bill, has been reported by the Committees on Energy and Natural Resources and Finance. The principal difference between the House and Senate bills is that the Senate bill is self-executing. The Senate bill sets forth the changes in Federal law that would result under each of the status options. It provides that those changes in law would take effect automatically upon approval of a status option by a majority of Puerto Ricans.

Administration Position to Date

In May 1990, the President wrote to Representative Lagomarsino, a proponent of H.R. 4765, in support of legislation to allow a referendum. (The President did not cite a specific bill.)

Justice worked informally with the House Interior Committee to address its concerns with the introduced version of the bill, and is satisfied with the reported version.

The Administration has testified on several occasions in support of S. 712. The Administration has, however, expressed numerous concerns with the Senate bill. Some of these have been addressed by the Senate committees; others would be need to be addressed on the floor if the Senate takes up S. 712.

Justice (Pestal) advises informally that the Senate is not likely to act on S. 712, but may take up H.R. 4765 if it passes the House.

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

September 7, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)
H.R. 4773 - White House Conference on Small Business Authorization Act
(LaFalce (D) New York and 16 others)

The Administration opposes enactment of H.R. 4773.

H.R. 4773 would require the President to call a National White House Conference on Small Business in 1994, to be preceded by conferences in each State. The Small Business Administration is already engaged in extensive and ongoing efforts to facilitate communications among owners of small businesses. In the absence of compelling national small business issues, H.R. 4773 would impose unnecessary costs on the Federal Government and on small businesses.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with the Small Business Administration (Shane) and HTP (Rhinesmith and Criscitello).

Provisions of H.R. 4773

The principal provisions of H.R. 4773, as reported by the House Small Business Committee, would:

-- require the President to call a National White House Conference on Small Business between January 1 and April 1, 1994;

-- require that this Conference be preceded by at least one conference in each State, and two conferences in each State with a population exceeding 10,000,000;

-- prohibit fees or charges for attendees other than amounts necessary to cover the costs of meals and a registration fee not to exceed $10;

-- establish a White House Conference on Small Business Commission to oversee preparation of the Conference, to be composed of 11 members appointed by the President;

-- authorize the appropriation of $5,000,000 for FY 1992, to remain available until expended, for conference-related purposes; and

-- specify that no funds appropriated to the Small Business Administration shall be used for the Conference unless those funds were appropriated for that purpose.

Administration Position To Date

ln a July 24, 1990, letter to the House Small Business Committee, the Small Business Administration stated that it opposed H.R. 4773.

Legislative Reference Division Draft
9/7/90 - 3:00 P.M.

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

June 13, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4785 - AIDS Prevention Act of 1990
(Waxman (D) CA)

The Administration strongly supports efforts to help needy Americans afflicted with AIDS and other diseases gain access to health care. The Administration also strongly supports efforts to provide assistance to areas disproportionately affected by AIDS and other diseases.

The Administration, however, opposes passage of H.R. 4785 for the following reasons:

-- The bill's narrow disease-specific approach sets a dangerous precedent, inviting treatment of other diseases through similar ad hoc arrangements. This approach also runs counter to the government's existing health care financing system, which will provide more than $870 million in Federal Medicaid payments for HIV disease in 1991. Additionally, this approach could encourage existing health care payors (e.g., States, insurance companies, and localities) to limit or reduce coverage for the disease being given special treatment. Enactment of this bill could thus bring results that are counter to the goal we all seek to achieve.

-- The bill's authorization levels are excessive. According to CBO, the authorizations would total $978 million in FY 1991 and at least $5 billion over FYs 1991-95. These large authorizations could drain appropriations from the Federal government's highest priorities in battling HIV/AIDS. Those priorities are finding therapies and vaccines through biomedical research, and reducing the spread of infection through prevention and education. The President requested $1.7 billion for these activities in his FY 1991 Budget.

-- The bill does not target funds to assist financially needy individuals first, a primary principle of Federal health care treatment financing. Because the bill does not target assistance according to financial need, it runs the risk of providing assistance to persons with independent resources at the expense of those in financial need.

-- The bill lacks an adequate maintenance-of-effort provision to ensure that grantees continue current investments in fighting HIV. Federal resources could simply substitute for current State, local, and private spending. Further, the

bill does not leverage Federal resources efficiently through dollar-for-dollar matching provisions.

-- The bill's $500 million State formula grants exceed by over $200 million the funding for all other Federal formula grants for prevention.

H.R. 4785 would create administrative bottlenecks that would seriously impede delivery of services. For example:

-- Individual health care providers (such as sexually transmitted disease clinics) would be eligible for both direct funding from the Federal government and formula funding from States. Bypassing State health departments through this unorthodox financing mechanism could lead to confusion regarding which activities are being supported with categorical funds versus formula funds and State funds versus local funds. This would reduce the Public Health Service's ability to properly monitor program expenses.

H.R. 4785 would be improved by Rep. Madigan's amendments. Those amendments would: (1) impose State matching requirements for titles I and IV of the bill; (2) add an income-related sliding fee schedule for individuals receiving preventive services; (3) require grantees to agree to maintain their current effort in combatting AIDS; and (4) reduce the authorization levels in the bill by $125 million in FY 1991 (from $978 million to $853 million), and by $625 million over FYs 1991-95 (from $5.1 billion to $4.5 billion).

The bill would also be improved if modified to encourage States to allow individuals to be informed of their possible infection and to take appropriate actions to seek treatment and prevent future spread of the virus.

Although these amendments would improve H.R. 4785, they do not go far enough to remedy the basic flaws in the bill.

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(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LRD (Pellicci) and HIMD (Clendenin/Turman). The White House Office of Policy Development (Kuttner) and the Domestic Policy Counsel (Heimbach) have no objection to the proposed position. HHS (per Jim Riccuiti) concurs in the proposed position.

The proposed position is similar to one sent to the House Rules Committee on June 6, 1990. The Administration did not take a position on a similar Senate bill, S. 2240 (Kennedy (D) MA), which passed the Senate on May 16, 1990, by a vote of 95-4.

H.R. 4785's major provisions would:

-- Authorize $500 million for each of FYs 1991 through 1995 for HHS to make grants for AIDS preventive health services, including counseling, testing, and therapeutic measures. Formula grants would be made to the States, and categorical grants would be made to certain public and nonprofit entities.

-- Authorize $300 million for each of FYs 1991 and 1992 and "such sums" for FYs 1993-95 for HHS' Health Resources and Services Administration to make grants to improve health services for low-income individuals with HIV disease. Grants would be made to the chief elected official of a city, urban county, or other political subdivision with a high concentration of AIDS cases.

The bill would also:

-- Authorize "such sums" in FYs 1991-95 for grants to "hard-hit" hospitals to provide certain inpatient preventive services. The bill also includes a "such sums" authorization for state matching grants for HIV testing and preventive services in state prisons.

-- Authorize $5 million for each of FYs 1991-95 in State grants to implement plans for reducing workplace exposure to HIV.

-- Authorize $30 million in FY91 and "such sums" in FY92-95 for comprehensive health care demonstration grants. Also authorized is $30 million for FYs 1991-93 for grants to assist "indigent individuals" in acquiring HIV drugs. Title IV also authorizes $20 million in FY91 and "such sums" in FYs 1992-95 for pediatric AIDS demonstration grants.

CBO estimates that the authorizations would total $978 million in FY 1991 and $5,085 million during FYs 1991-1995.

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

June 14, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4790 - Breast and Cervical Cancer Mortality Prevention Act of 1990
(Waxman (D) CA and 48 others)

The Administration has no objection to enactment of H.R. 4790.

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(Not to be Distributed Outside Executive Office of the President)

This draft of a position was developed by LRD (Pellicci) in consultation with HIMD (Kleinberg/Turman). HHS (per Fran White, Associate General Counsel for Legislation) concurs in the proposed position.

The proposed position is consistent with HHS testimony before the House Energy and Commerce Subcommittee on Health and the Environment on April 23, 1990. Marilyn Quayle, whose mother died of breast cancer, also appeared at this hearing to highlight the importance of breast and cervical cancer screening.

The House Energy and Commerce Committee report on H.R. 4790 is not yet available for review (the bill was ordered reported on May 15, 1990). The description of the bill is based upon discussions with HHS staff.

H.R. 4790 would create a new program of grants to States to help pay for mammograms and for Pap smears and other examinations to detect cervical cancer. The bill would authorize $50 million in FY 1991 and "such sums as necessary" in FYs 1992 and 1993 for grants to States to establish preventive health screening and referral services for low-income women. To receive funds, States would be required to match $1 for each $3 of Federal funds provided under the program.

As a condition of the grant, the bill would require States to have in place specified quality-assurance standards, including standards for laboratory technicians and others who interpret the mammograms and pap smears.

Senators Kassebaum (R) KS and Mikulski (D) MD have introduced companion legislation (S. 2283).

LEGISLATIVE REFERENCE DIVISION DRAFT
6/14/90

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

September 14, 1990
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4793 - Small Business Reauthorization and Amendments Act of 1990
(LaFalce (D) New York and 42 others)

If H.R. 4793 is presented to the President containing Title II in its current form, the Secretary of the Treasury will recommend a veto. The Administration also opposes enactment of H.R. 4793 because it contains unrealistically high authorization levels and unnecessarily costly programs and requirements.

Title II of H.R. 4793 would permit certain SBA borrowers to prepay their borrowings from the Federal Financing Bank at substantially reduced premiums, and to finance up to $150 million per year of such prepayments with new loans fully guaranteed by the Government. The effect of Title II would be to allow a borrower to change the borrowing terms to which it had agreed when it is favorable to the borrower -- and therefore unfavorable to the Bank and American taxpayers -- to do so.

H.R. 4793 should be amended to authorize FY 1991 program levels consistent with the President's Budget. Specifically, the Administration recommends program levels of $5 million for 8(a) direct loans (with no authorization for other forms of direct loans); $3.83 billion for guaranteed loans; and $1.5 billion for surety bond guarantees. The FY 1991 authorization levels in H.R. 4793 exceed these amounts by $96 million, $440 million, and $300 million, respectively. H.R. 4793 also contains authorization levels for these programs for FYs 1992-94 at levels increasingly greater than those for FY 1991. The Administration recommends that these FY 1992-94 authorizations be deleted.

For the Small Business Development Center (SBDC) program, the Administration recommends authorization levels of $30 million for FY 1991 and $15 million for FY 1992. The Administration recommends deletion of section 103, which would extend the SBDC program beyond FY 1992. This program has attracted substantial funding from non-Federal sources and should be permitted to become independent of Federal funding at the end of FY 1992.

H.R. 4793 should also be amended to delete:

-- section 104, which would involve the Small Business Administration (SBA) in reforestation activities more properly administered by the Department of Agriculture;

-- section 108, which would require that the Deputy SBA Administrator, currently appointed by the SBA Administrator, be appointed by the President;

-- sections 109 and 118, which would impose unnecessary delays on the Federal procurement process; and

-- Title III, which contains several costly and unnecessary mandates regarding small businesses in rural areas.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft Statement of Administration Policy was developed by the Legislative Reference Division (Brown), in consultation with the Departments of Agriculture (McAndrew), Commerce (Dalmut), Defense (Potuk), Interior (Poling), Justice (Dulmage), and the Treasury (Carro and Levy), GSA (Robinson), NASA (Costanza), and SBA (Shane), OIRA (Waxman), OFPP (Coleman), NR (Beard), and HTF (Ryder, Rhinesmith, and Crisatello).

Provisions of H.R. 4793

-- Appropriations Authorizations

H.R. 4793, as reported by the House Small Business Committee, would authorize appropriations as shown in the table below.

Fiscal Years
($ in millions)

	Pres. Bud.	H.R. 4793			
	1991	1991	1992	1993	1994
Direct loans	5	101	105	110	105
Loan guarantees	3,830	4,270	4,754	4,992	5,137
Surety bond guarantees	1,500	1,800	1,890	1,985	2,084

In addition, H.R. 4793 would authorize "such sums" for SBDCs and for SBA administrative expenses for FYs 1991-94.

-- Prepayment of Borrowings from the Federal Financing Bank

Title II of H.R. 4793 would permit small business investment companies and certified development companies to prepay their borrowings from the Federal Financing Bank at substantially reduced premiums, and to finance up to $150 million per year of such prepayments with new loans fully guaranteed by the

Government. These provisions are similar to S. 437 of the 100th Congress, which President Reagan disapproved on October 31, 1990.

-- Other Substantive Provisions

In addition to Title II (described above), H.R. 4793 would:

-- eliminate the provision of current law "sunsetting" the Small Business Development Center Program at the end of FY 1991 and change the formula for allocating grants under the program;

-- establish a program of grants designed to involve small businesses in reforestation activities, with authorizations of $30 million for FY 1991 and $50 million for "each fiscal year thereafter" (section 104);

-- extend, from October 1, 1990 to October 1, 1994, statutory provisions allowing the SBA to (1) override State usury laws for private sector financing of Small Business Development Companies, and (2) cooperate with for-profit businesses in providing training and seminars for small firms;

-- provide that future SBA Deputy Administrators shall be appointed by the President, rather than by the SBA Administrator as is currently the case (section 108);

-- establish special procedures to be followed where agencies propose to consolidate contracts currently being performed by small businesses (section 109);

-- authorize the SBA to allow an 8(a) contractor to furnish a product manufactured or processed by other than a small business under certain circumstances (section 118);

-- limit to $35 million the value of debentures which may be issued by small business investment companies which are determined by the SBA to be commonly controlled;

-- repeal an existing requirement that international trade loans be sold by the lender in the secondary market;

-- extend the maximum term of export revolving lines of credit under the Small Business Act from 18 months to 3 years;

-- modify the terms under which firms owned by Indian tribes may participate in SBA programs; and

-- establish in Title III a new program of SBA technical assistance, loans, loan guarantees, and grants to small

businesses located in rural areas. This program would be subject to appropriations.

Administration Position To Date

In June 14, 1990, testimony before the House Small Business Committee, the SBA Administrator stated that she opposed H.R. 4793. As noted above, President Reagan disapproved S. 437 of the 100th Congress on October 31, 1990, because it contained provisions similar to those in Title II of H.R. 4793.

Legislative Reference Division Draft
9/13/90 -- 7:00 P.M.

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

September 21, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

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Legislative Reference Division Draft
9/13/90 -- 7:00 P.M.