George W. Bush Presidential Library

Collection: Executive Clerk, Office of the

Series: Saunders, G. Timothy (Tim) – Bill Files

Folder Title: 11/28/2001 [H. R. 2330]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
002	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
003	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
004	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
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008	Routing Memo	Enrolled Bill H.R. 2330 - Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001 - To: Staff Secretary - From: Karl Rove	1	11/21/2001	P5;
009	Statement	Statement by the President - From: POTUS	1	N.D.	P5;

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SERIES:
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780

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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011	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
012	Memorandum	Enrolled Bill H. R. 2330 - Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	11/20/2001	P5;
013	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
014	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
015	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
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017	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
018	Memorandum	Enrolled Bill - H.R. 2330 - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, FY 2002 - To: Harriet Miers - From: Jonathan Burks	1	11/21/2001	P5;
019	Statement	Statement by the President - To: Staff Secretary - From: Office of the Vice President	1	11/21/2001	P5;
020	Memorandum	Enrolled Bill H. R. 2330 - Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	11/20/2001	P5;
021	Statement	Statement by the President - From: POTUS	1	11/21/2001	P5;

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026	Statement	Statement by the President - From: POTUS	1	N.D.	P5;
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T001	Memorandum	Memorandum for the President - From: Mitchell E. Daniels, Jr., Director, OMB	5	11/20/2001	Transferred
T007	Statement	[Re: H. R. 2330]	1	11/28/2001	Transferred

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

THE PRESIDENT HAS SEEN
11/26/01

Last Day for Action

November 28, 2001 -- Wednesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

Purpose

Provides FY 2001 funding for the Department of Agriculture (except the Forest Service), the Food and Drug Administration, and several smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

The enrolled bill provides a total of \$16.1 billion in FY 2002 discretionary budget authority, \$0.7 billion above your request and \$0.1 billion above the FY 2001 enacted level.

The enrolled bill does not include an objectionable provision, opposed by the Administration but adopted during House Floor consideration, that would prohibit the use of funds to prevent an individual who is not in the business of importing prescription drugs from importing such drugs for personal use.

While the bill abides by the aggregate agreed upon spending level of $686 billion for discretionary spending, it includes a number of unrequested items and earmarks. For example, the bill includes an unrequested $75 million in specialty crop assistance for apple farmers, $75 million below the level provided in the House-passed bill, but $75 million above the Senate-passed level.

The conference report on H.R. 2330 passed the House by a vote of 379 to 33 on November 13th and passed the Senate by a vote of 92 to 7 on November 15th.

Priority Programs

The Department of Agriculture's (USDA's) Food Safety Inspection Service is funded at $716 million, equal to your request and $21 million above the FY 2001 enacted level. This level would fund 7,600 meat and poultry inspectors consistent with the latest estimate of the need for these services, in addition to supporting other USDA food safety activities. The funding provided in this bill will allow USDA to continue progress toward reducing pathogens on meat and poultry through a more science-based inspection system.

The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

OK

Conservation and Environmental Programs

The bill fully funds USDA's Environmental Quality Incentive's Program. In addition, the bill provides $779 million for conservation operations, $6 million above your request and $67 million above the FY 2001 level (excluding 2001 emergency appropriations). This increase will allow the Natural Resources Conservation Service to cover salary costs, along with technical assistance associated with the administration of the Conservation Reserve Program.

Farm Programs

Farm loan programs, providing loans for farm ownership and operation, are funded at $3 million above your request, which will provide an additional $36 million in loans. This represents a $67 million increase over FY 2001 levels (excluding emergency funds).

Salaries and expenses of the Farm Service Agency, which administers USDA's mandatory commodity price- and income-support programs, and the farm loan program, are funded at the requested level of $939 million, $63 million over the FY 2001 level (excluding emergency funds).

The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

Food Stamp Program Reserve

The Administration supports the provisions of the bill that provide a Food Stamp Program contingency reserve of $2.0 billion. Given the affect of recent events on the Nation's economy, the level provided in the enrolled bill will ensure adequate funding to meet program needs.

Unrequested Projects in Agricultural Research and Education Programs

The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

Reductions in appropriations for the eradication of pests and disease infestations

Your budget proposed $197 million to fund ongoing eradication programs, but the bill provided only about $50 million for these critical programs with a mechanism to tap additional funding from the Commodity Credit Corporation. While the use of CCC funds for unanticipated emergencies is appropriate, it becomes a form of backdoor financing when used for ongoing programs whose long-term costs are known, and are therefore no longer emergencies.

Dam Rehabilitation

The enrolled bill includes a provision, opposed by your Administration, that creates a new program for the rehabilitation of aging locally-owned dams constructed with USDA assistance. Requiring USDA to finance rehabilitation work on these dams would set a costly and objectionable government-wide precedent. These dams are a local responsibility, and the Federal Government should not rehabilitate these or other locally-owned dams built with assistance from Federal agencies, including the Army Corps of Engineers and the Bureau of Reclamation.

USDA Operations and Administration

The bill contains $59 million for USDA's Common Computing Environment, equal to your request and the FY 2001 enacted level, to modernize the information systems used in USDA's county offices. This initiative will improve customer service in USDA county offices by permitting data to be shared among the several USDA agencies with county-office presence and allowing applicants to file electronically. These improvements should shorten the time spent on paperwork by farmers and other rural customers and free USDA staff to do more field work.

Infringement on Executive Authority

The bill includes a provision -- originally enacted in FY 2001 -- that purports to restrict your authority to make legislative proposals to Congress by preventing USDA from developing user fee proposals in the budget that have not already been authorized. This provision would infringe upon your constitutional authority under the Recommendations Clause to recommend legislation that you deem appropriate. We also note that under the heading, "Rural Cooperative Development Grants," grant amounts are reserved for "minority" producers, which are further defined in terms of minority representation on governing boards or membership. The equal

protection component of the Fifth Amendment requires that such provisions be narrowly tailored to further a compelling Government interest. The Justice Department advises that the test has not been met here. These objectionable provisions will be construed to avoid the constitutional concerns noted here. Finally, the bill also maintains a number of provisions that would require Committee approval before Executive Branch execution. These provisions will be interpreted to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in INS v. Chadha.

Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of $686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2330. A signing statement is attached for your consideration.

Sincerely,

M E Daniels

Mitchell E. Daniels, Jr.
Director

Attachment

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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of $686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2330. A signing statement is attached for your consideration.

Sincerely,

M E Daniels

Mitchell E. Daniels, Jr.
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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

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Provides FY 2001 funding for the Department of Agriculture (except the Forest Service), the Food and Drug Administration, and several smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

The enrolled bill provides a total of $16.1 billion in FY 2002 discretionary budget authority, $0.7 billion above your request and $0.1 billion above the FY 2001 enacted level.

The enrolled bill does not include an objectionable provision, opposed by the Administration but adopted during House Floor consideration, that would prohibit the use of funds to prevent an individual who is not in the business of importing prescription drugs from importing such drugs for personal use.

While the bill abides by the aggregate agreed upon spending level of $686 billion for discretionary spending, it includes a number of unrequested items and earmarks. For example, the bill includes an unrequested $75 million in specialty crop assistance for apple farmers, $75 million below the level provided in the House-passed bill, but $75 million above the Senate-passed level.

The conference report on H.R. 2330 passed the House by a vote of 379 to 33 on November 13th and passed the Senate by a vote of 92 to 7 on November 15th.

Priority Programs

The Department of Agriculture's (USDA's) Food Safety Inspection Service is funded at $716 million, equal to your request and $21 million above the FY 2001 enacted level. This level would fund 7,600 meat and poultry inspectors consistent with the latest estimate of the need for these services, in addition to supporting other USDA food safety activities. The funding provided in this bill will allow USDA to continue progress toward reducing pathogens on meat and poultry through a more science-based inspection system.

The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

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The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

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The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

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Your budget proposed $197 million to fund ongoing eradication programs, but the bill provided only about $50 million for these critical programs with a mechanism to tap additional funding from the Commodity Credit Corporation. While the use of CCC funds for unanticipated emergencies is appropriate, it becomes a form of backdoor financing when used for ongoing programs whose long-term costs are known, and are therefore no longer emergencies.

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Sincerely,

M E Daniels Jr

Mitchell E. Daniels, Jr.
Director

Attachment

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The George W. Bush Library

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Statement	Statement by the President - From: POTUS	1	N.D.	P5;

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SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

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This Document was withdrawn on 5/21/2013 by AW

Linda

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

Purpose

Provides FY 2001 funding for the Department of Agriculture (except the Forest Service), the Food and Drug Administration, and several smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

The enrolled bill provides a total of $16.1 billion in FY 2002 discretionary budget authority, $0.7 billion above your request and $0.1 billion above the FY 2001 enacted level.

The enrolled bill does not include an objectionable provision, opposed by the Administration but adopted during House Floor consideration, that would prohibit the use of funds to prevent an individual who is not in the business of importing prescription drugs from importing such drugs for personal use.

While the bill abides by the aggregate agreed upon spending level of $686 billion for discretionary spending, it includes a number of unrequested items and earmarks. For example, the bill includes an unrequested $75 million in specialty crop assistance for apple farmers, $75 million below the level provided in the House-passed bill, but $75 million above the Senate-passed level.

The conference report on H.R. 2330 passed the House by a vote of 379 to 33 on November 13th and passed the Senate by a vote of 92 to 7 on November 15th.

Priority Programs

The Department of Agriculture's (USDA's) Food Safety Inspection Service is funded at $716 million, equal to your request and $21 million above the FY 2001 enacted level. This level would fund 7,600 meat and poultry inspectors consistent with the latest estimate of the need for these services, in addition to supporting other USDA food safety activities. The funding provided in this bill will allow USDA to continue progress toward reducing pathogens on meat and poultry through a more science-based inspection system.

The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

Conservation and Environmental Programs

The bill fully funds USDA's Environmental Quality Incentive's Program. In addition, the bill provides $779 million for conservation operations, $6 million above your request and $67 million above the FY 2001 level (excluding 2001 emergency appropriations). This increase will allow the Natural Resources Conservation Service to cover salary costs, along with technical assistance associated with the administration of the Conservation Reserve Program.

Farm Programs

Farm loan programs, providing loans for farm ownership and operation, are funded at $3 million above your request, which will provide an additional $36 million in loans. This represents a $67 million increase over FY 2001 levels (excluding emergency funds).

Salaries and expenses of the Farm Service Agency, which administers USDA's mandatory commodity price- and income-support programs, and the farm loan program, are funded at the requested level of $939 million, $63 million over the FY 2001 level (excluding emergency funds).

The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

Food Stamp Program Reserve

The Administration supports the provisions of the bill that provide a Food Stamp Program contingency reserve of $2.0 billion. Given the affect of recent events on the Nation's economy, the level provided in the enrolled bill will ensure adequate funding to meet program needs.

Unrequested Projects in Agricultural Research and Education Programs

The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

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Director

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This Document was withdrawn on 5/21/2013 by AW

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 2330, the "Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2002."

I appreciate the bipartisan effort that has gone into producing this Act. The Act abides by the agreed upon aggregate funding level for Fiscal Year 2002 of $686 billion. It provides for several important programs with significant national benefits by:

- fully funding the current participation rate for the key nutrition program for women, infants, and children;
- supporting Department of Agriculture (USDA) food safety activities, including providing 7,600 meat and poultry inspectors; and
- redirecting USDA research to provide new emphasis in key areas such as biotechnology, the development of new agricultural products, and improved protection against emerging exotic plant and animal diseases, as well as crop and animal pests.

A number of provisions contained in the bill purport to restrict executive branch execution of programs that are funded in the bill. Where such provisions contradict the Supreme Court ruling in INS v. Chadha, their intent will be interpreted as advisory only.

I appreciate that the Congress has worked expeditiously during this difficult and trying time in our Nation's history to consider the FY 2002 appropriations bills. Through a renewed sense of bipartisanship, the Congress and my Administration must work together to ensure the timely enactment of the remaining bills.

George Bush

THE WHITE HOUSE,

November 28, 2001.

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Routing Memo	Enrolled Bill H.R. 2330 - Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001 - To: Staff Secretary - From: Karl Rove	1	11/21/2001	P5;

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

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SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

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Recommendation

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Sincerely,

M E Daniels Jr

Mitchell E. Daniels, Jr.
Director

Attachment

11/21/01 WED 10:13 FAX 001

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	0946
CONNECTION TEL	62569
CONNECTION ID	EXECUTIVE CLERK
ST. TIME	11/21 10:10
USAGE T	02'58
PGS. SENT	6
RESULT	OK

SS/ RM NO. ______

WHITE HOUSE STAFFING MEMORANDUM

'01 NOV 21 AM8:38

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

'01 NOV 21 AM8:37

SS/ RM NO. [redacted]

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

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CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

11/21

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

SS/ RM NO. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT comments	☑	☐	HUBBARD comments	☑	☐
CARD ok	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN N/C	☑	☐	JOHNSON	☐	☐
CALIO OK	☑	☐	LINDSEY OK	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE comments	☑	☐
GONZALES See Comments	☑	☐	SPELLINGS ✓	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	____________	☐	☐

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RESPONSE:

Harriet E. Miers
Assistant to the President
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Ext. 62702

SS/ RM NO. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

01 NOV 21 AM 11:44

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
~~CALIO~~	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	____________	☐	☐

REMARKS:
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RESPONSE: Legislative Affairs (Howard) - ok

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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

'01 NOV 20 PM7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

Purpose

Provides FY 2001 funding for the Department of Agriculture (except the Forest Service), the Food and Drug Administration, and several smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

The enrolled bill provides a total of $16.1 billion in FY 2002 discretionary budget authority, $0.7 billion above your request and $0.1 billion above the FY 2001 enacted level.

The enrolled bill does not include an objectionable provision, opposed by the Administration but adopted during House Floor consideration, that would prohibit the use of funds to prevent an individual who is not in the business of importing prescription drugs from importing such drugs for personal use.

While the bill abides by the aggregate agreed upon spending level of $686 billion for discretionary spending, it includes a number of unrequested items and earmarks. For example, the bill includes an unrequested $75 million in specialty crop assistance for apple farmers, $75 million below the level provided in the House-passed bill, but $75 million above the Senate-passed level.

The conference report on H.R. 2330 passed the House by a vote of 379 to 33 on November 13th and passed the Senate by a vote of 92 to 7 on November 15th.

Priority Programs

The Department of Agriculture's (USDA's) Food Safety Inspection Service is funded at $716 million, equal to your request and $21 million above the FY 2001 enacted level. This level would fund 7,600 meat and poultry inspectors consistent with the latest estimate of the need for these services, in addition to supporting other USDA food safety activities. The funding provided in this bill will allow USDA to continue progress toward reducing pathogens on meat and poultry through a more science-based inspection system.

The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

Conservation and Environmental Programs

The bill fully funds USDA's Environmental Quality Incentive's Program. In addition, the bill provides $779 million for conservation operations, $6 million above your request and $67 million above the FY 2001 level (excluding 2001 emergency appropriations). This increase will allow the Natural Resources Conservation Service to cover salary costs, along with technical assistance associated with the administration of the Conservation Reserve Program.

Farm Programs

Farm loan programs, providing loans for farm ownership and operation, are funded at $3 million above your request, which will provide an additional $36 million in loans. This represents a $67 million increase over FY 2001 levels (excluding emergency funds).

Salaries and expenses of the Farm Service Agency, which administers USDA's mandatory commodity price- and income-support programs, and the farm loan program, are funded at the requested level of $939 million, $63 million over the FY 2001 level (excluding emergency funds).

The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

Food Stamp Program Reserve

The Administration supports the provisions of the bill that provide a Food Stamp Program contingency reserve of $2.0 billion. Given the affect of recent events on the Nation's economy, the level provided in the enrolled bill will ensure adequate funding to meet program needs.

Unrequested Projects in Agricultural Research and Education Programs

The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

Reductions in appropriations for the eradication of pests and disease infestations

Your budget proposed $197 million to fund ongoing eradication programs, but the bill provided only about $50 million for these critical programs with a mechanism to tap additional funding from the Commodity Credit Corporation. While the use of CCC funds for unanticipated emergencies is appropriate, it becomes a form of backdoor financing when used for ongoing programs whose long-term costs are known, and are therefore no longer emergencies.

Dam Rehabilitation

The enrolled bill includes a provision, opposed by your Administration, that creates a new program for the rehabilitation of aging locally-owned dams constructed with USDA assistance. Requiring USDA to finance rehabilitation work on these dams would set a costly and objectionable government-wide precedent. These dams are a local responsibility, and the Federal Government should not rehabilitate these or other locally-owned dams built with assistance from Federal agencies, including the Army Corps of Engineers and the Bureau of Reclamation.

USDA Operations and Administration

The bill contains $59 million for USDA's Common Computing Environment, equal to your request and the FY 2001 enacted level, to modernize the information systems used in USDA's county offices. This initiative will improve customer service in USDA county offices by permitting data to be shared among the several USDA agencies with county-office presence and allowing applicants to file electronically. These improvements should shorten the time spent on paperwork by farmers and other rural customers and free USDA staff to do more field work.

Infringement on Executive Authority

The bill includes a provision -- originally enacted in FY 2001 -- that purports to restrict your authority to make legislative proposals to Congress by preventing USDA from developing user fee proposals in the budget that have not already been authorized. This provision would infringe upon your constitutional authority under the Recommendations Clause to recommend legislation that you deem appropriate. We also note that under the heading, "Rural Cooperative Development Grants," grant amounts are reserved for "minority" producers, which are further defined in terms of minority representation on governing boards or membership. The equal

protection component of the Fifth Amendment requires that such provisions be narrowly tailored to further a compelling Government interest. The Justice Department advises that the test has not been met here. These objectionable provisions will be construed to avoid the constitutional concerns noted here. Finally, the bill also maintains a number of provisions that would require Committee approval before Executive Branch execution. These provisions will be interpreted to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in INS v. Couthie.

Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of $686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2330. A signing statement is attached for your consideration.

Sincerely,

M E Daniels Jr

Mitchell E. Daniels, Jr.
Director

Attachment

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	Statement by the President - From: POTUS	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/21/2013 by AW

SS/ RM NO.

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

'01 NOV 23 AM10:13

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	________	☐	☐

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

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Agency Recommendations

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Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

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Recommendation

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Sincerely,

M E Daniels

Mitchell E. Daniels, Jr.
Director

Attachment

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	Statement by the President - From: POTUS	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
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This Document was withdrawn on 5/21/2013 by AW

SS/ RM NO. ______________

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCERNENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

01 NOV 21 PM2:31

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	____________	☐	☐

REMARKS:

Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

OK-NEC

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

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Agency Recommendations

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Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

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Recommendation

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Sincerely,

M E Daniels Jr.

Mitchell E. Daniels, Jr.
Director

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11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

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SS/ RM NO. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

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HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	____________	☐	☐

'01 NOV 21 P 7:13

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

RESPONSE:

No comments

Harriet E. Miers
Assistant to the President
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Ext. 62702

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FOIA IDs and Segments:
2014-0045-P

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Ext. 62702

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

Purpose

Provides FY 2001 funding for the Department of Agriculture (except the Forest Service), the Food and Drug Administration, and several smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

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This Document was withdrawn on 5/21/2013 by AW

499761

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

Purpose

Provides FY 2001 funding for the Department of Agriculture (except the Forest Service), the Food and Drug Administration, and several smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

The enrolled bill provides a total of $16.1 billion in FY 2002 discretionary budget authority, $0.7 billion above your request and $0.1 billion above the FY 2001 enacted level.

The enrolled bill does not include an objectionable provision, opposed by the Administration but adopted during House Floor consideration, that would prohibit the use of funds to prevent an individual who is not in the business of importing prescription drugs from importing such drugs for personal use.

While the bill abides by the aggregate agreed upon spending level of $686 billion for discretionary spending, it includes a number of unrequested items and earmarks. For example, the bill includes an unrequested $75 million in specialty crop assistance for apple farmers, $75 million below the level provided in the House-passed bill, but $75 million above the Senate-passed level.

The conference report on H.R. 2330 passed the House by a vote of 379 to 33 on November 13th and passed the Senate by a vote of 92 to 7 on November 15th.

Priority Programs

The Department of Agriculture's (USDA's) Food Safety Inspection Service is funded at $716 million, equal to your request and $21 million above the FY 2001 enacted level. This level would fund 7,600 meat and poultry inspectors consistent with the latest estimate of the need for these services, in addition to supporting other USDA food safety activities. The funding provided in this bill will allow USDA to continue progress toward reducing pathogens on meat and poultry through a more science-based inspection system.

The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

Conservation and Environmental Programs

The bill fully funds USDA's Environmental Quality Incentive's Program. In addition, the bill provides $779 million for conservation operations, $6 million above your request and $67 million above the FY 2001 level (excluding 2001 emergency appropriations). This increase will allow the Natural Resources Conservation Service to cover salary costs, along with technical assistance associated with the administration of the Conservation Reserve Program.

Farm Programs

Farm loan programs, providing loans for farm ownership and operation, are funded at $3 million above your request, which will provide an additional $36 million in loans. This represents a $67 million increase over FY 2001 levels (excluding emergency funds).

Salaries and expenses of the Farm Service Agency, which administers USDA's mandatory commodity price- and income-support programs, and the farm loan program, are funded at the requested level of $939 million, $63 million over the FY 2001 level (excluding emergency funds).

The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

Food Stamp Program Reserve

The Administration supports the provisions of the bill that provide a Food Stamp Program contingency reserve of $2.0 billion. Given the affect of recent events on the Nation's economy, the level provided in the enrolled bill will ensure adequate funding to meet program needs.

Unrequested Projects in Agricultural Research and Education Programs

The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

Reductions in appropriations for the eradication of pests and disease infestations

Your budget proposed $197 million to fund ongoing eradication programs, but the bill provided only about $50 million for these critical programs with a mechanism to tap additional funding from the Commodity Credit Corporation. While the use of CCC funds for unanticipated emergencies is appropriate, it becomes a form of backdoor financing when used for ongoing programs whose long-term costs are known, and are therefore no longer emergencies.

Dam Rehabilitation

The enrolled bill includes a provision, opposed by your Administration, that creates a new program for the rehabilitation of aging locally-owned dams constructed with USDA assistance. Requiring USDA to finance rehabilitation work on these dams would set a costly and objectionable government-wide precedent. These dams are a local responsibility, and the Federal Government should not rehabilitate these or other locally-owned dams built with assistance from Federal agencies, including the Army Corps of Engineers and the Bureau of Reclamation.

USDA Operations and Administration

The bill contains $59 million for USDA's Common Computing Environment, equal to your request and the FY 2001 enacted level, to modernize the information systems used in USDA's county offices. This initiative will improve customer service in USDA county offices by permitting data to be shared among the several USDA agencies with county-office presence and allowing applicants to file electronically. These improvements should shorten the time spent on paperwork by farmers and other rural customers and free USDA staff to do more field work.

Infringement on Executive Authority

The bill includes a provision -- originally enacted in FY 2001 -- that purports to restrict your authority to make legislative proposals to Congress by preventing USDA from developing user fee proposals in the budget that have not already been authorized. This provision would infringe upon your constitutional authority under the Recommendations Clause to recommend legislation that you deem appropriate. We also note that under the heading, "Rural Cooperative Development Grants," grant amounts are reserved for "minority" producers, which are further defined in terms of minority representation on governing boards or membership. The equal

protection component of the Fifth Amendment requires that such provisions be narrowly tailored to further a compelling Government interest. The Justice Department advises that the test has not been met here. These objectionable provisions will be construed to avoid the constitutional concerns noted here. Finally, the bill also maintains a number of provisions that would require Committee approval before Executive Branch execution. These provisions will be interpreted to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in INS v. Couthie.

Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of $686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2330. A signing statement is attached for your consideration.

Sincerely,

M E Daniels Jr

Mitchell E. Daniels, Jr.
Director

Attachment

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	Statement by the President - From: POTUS	1	N.D.	P5;

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COLLECTION:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

RESTRICTION CODES

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SS/ RM NO. ______

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
~~CARD~~	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

'01 NOV 21 AM8:49

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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

'01 NOV 20 PM7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

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Sponsors: Representative Bonilla (R), Texas
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Sincerely,

M E Daniels

Mitchell E. Daniels, Jr.
Director

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11/28/2001 [H. R. 2330]
FRC ID:
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OA Num.:
731
NARA Num.:
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STATEMENT BY THE PRESIDENT

Today, I have signed into law H.R. 2330, the "Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2002."

I appreciate the bipartisan effort that has gone into producing this Act. The bill abides by the agreed upon aggregate funding level for Fiscal Year 2002 of $686 billion. It provides for several important programs with significant national benefits by:

- fully funding the current participation rate for the key nutrition program for women, infants, and children;
- supporting Department of Agriculture (USDA) food safety activities, including providing 7,600 meat and poultry inspectors; and
- redirecting USDA research to provide new emphasis in key areas such as biotechnology, the development of new agricultural products, and improved protection against emerging exotic plant and animal diseases, as well as crop and animal pests.

A number of provisions contained in the bill purport to restrict executive branch execution of programs that are funded in the bill. Where such provisions contradict the Supreme Court ruling in <u>INS v. Couthie</u>, their intent will be interpreted as advisory only.

I appreciate that the Congress has worked expeditiously during this difficult and trying time in our Nation's history to consider the FY 2002 appropriations bills. Through a renewed sense of bipartisanship, the Congress and my Administration must work together to ensure the timely enactment of the remaining bills.

THE WHITE HOUSE,

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The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Enrolled Bill - H.R. 2330 - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, FY 2002 - To: Harriet Miers - From: Jonathan Burks	1	11/21/2001	P5;

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SS/ RM NO. [redacted]

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 **ACTION / CONCURRENCE / COMMENT DUE BY:** 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

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Last Day for Action

November 28, 2001 -- Wednesday

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Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

The enrolled bill provides a total of $16.1 billion in FY 2002 discretionary budget authority, $0.7 billion above your request and $0.1 billion above the FY 2001 enacted level.

The enrolled bill does not include an objectionable provision, opposed by the Administration but adopted during House Floor consideration, that would prohibit the use of funds to prevent an individual who is not in the business of importing prescription drugs from importing such drugs for personal use.

While the bill abides by the aggregate agreed upon spending level of $686 billion for discretionary spending, it includes a number of unrequested items and earmarks. For example, the bill includes an unrequested $75 million in specialty crop assistance for apple farmers, $75 million below the level provided in the House-passed bill, but $75 million above the Senate-passed level.

The conference report on H.R. 2330 passed the House by a vote of 379 to 33 on November 13th and passed the Senate by a vote of 92 to 7 on November 15th.

Priority Programs

The Department of Agriculture's (USDA's) Food Safety Inspection Service is funded at $716 million, equal to your request and $21 million above the FY 2001 enacted level. This level would fund 7,600 meat and poultry inspectors consistent with the latest estimate of the need for these services, in addition to supporting other USDA food safety activities. The funding provided in this bill will allow USDA to continue progress toward reducing pathogens on meat and poultry through a more science-based inspection system.

The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

Conservation and Environmental Programs

The bill fully funds USDA's Environmental Quality Incentive's Program. In addition, the bill provides $779 million for conservation operations, $6 million above your request and $67 million above the FY 2001 level (excluding 2001 emergency appropriations). This increase will allow the Natural Resources Conservation Service to cover salary costs, along with technical assistance associated with the administration of the Conservation Reserve Program.

Farm Programs

Farm loan programs, providing loans for farm ownership and operation, are funded at $3 million above your request, which will provide an additional $36 million in loans. This represents a $67 million increase over FY 2001 levels (excluding emergency funds).

Salaries and expenses of the Farm Service Agency, which administers USDA's mandatory commodity price- and income-support programs, and the farm loan program, are funded at the requested level of $939 million, $63 million over the FY 2001 level (excluding emergency funds).

The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

Food Stamp Program Reserve

The Administration supports the provisions of the bill that provide a Food Stamp Program contingency reserve of $2.0 billion. Given the affect of recent events on the Nation's economy, the level provided in the enrolled bill will ensure adequate funding to meet program needs.

Unrequested Projects in Agricultural Research and Education Programs

The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

Reductions in appropriations for the eradication of pests and disease infestations

Your budget proposed $197 million to fund ongoing eradication programs, but the bill provided only about $50 million for these critical programs with a mechanism to tap additional funding from the Commodity Credit Corporation. While the use of CCC funds for unanticipated emergencies is appropriate, it becomes a form of backdoor financing when used for ongoing programs whose long-term costs are known, and are therefore no longer emergencies.

Dam Rehabilitation

The enrolled bill includes a provision, opposed by your Administration, that creates a new program for the rehabilitation of aging locally-owned dams constructed with USDA assistance. Requiring USDA to finance rehabilitation work on these dams would set a costly and objectionable government-wide precedent. These dams are a local responsibility, and the Federal Government should not rehabilitate these or other locally-owned dams built with assistance from Federal agencies, including the Army Corps of Engineers and the Bureau of Reclamation.

USDA Operations and Administration

The bill contains $59 million for USDA's Common Computing Environment, equal to your request and the FY 2001 enacted level, to modernize the information systems used in USDA's county offices. This initiative will improve customer service in USDA county offices by permitting data to be shared among the several USDA agencies with county-office presence and allowing applicants to file electronically. These improvements should shorten the time spent on paperwork by farmers and other rural customers and free USDA staff to do more field work.

Infringement on Executive Authority

The bill includes a provision -- originally enacted in FY 2001 -- that purports to restrict your authority to make legislative proposals to Congress by preventing USDA from developing user fee proposals in the budget that have not already been authorized. This provision would infringe upon your constitutional authority under the Recommendations Clause to recommend legislation that you deem appropriate. We also note that under the heading, "Rural Cooperative Development Grants," grant amounts are reserved for "minority" producers, which are further defined in terms of minority representation on governing boards or membership. The equal

protection component of the Fifth Amendment requires that such provisions be narrowly tailored to further a compelling Government interest. The Justice Department advises that the test has not been met here. These objectionable provisions will be construed to avoid the constitutional concerns noted here. Finally, the bill also maintains a number of provisions that would require Committee approval before Executive Branch execution. These provisions will be interpreted to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in INS v. ~~Couthie~~.

Chadha.

Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of $686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2330. A signing statement is attached for your consideration.

Sincerely,

M E Daniels

Mitchell E. Daniels, Jr.
Director

Attachment

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	Statement by the President - To: Staff Secretary - From: Office of the Vice President	1	11/21/2001	P5;

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Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

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FAX MESSAGE
from
NATIONAL MEDIATION BOARD
Representation & Legal Department
Telephone No. 202-692-5040
Fax No. 202-692-5085

Date: November 21, 2001

TO: Harriet Miers

FROM: Benetta M. Mansfield
Deputy Chief of Staff

NO. of PAGES (Including cover sheet): 8

RE: Presidential Emergency Board No. 236

11/21/2001 WED 15:21 FAX 001
11/21/01 WED 08:43 FAX 001

SS/ RM NO. ____________

WHITE HOUSE STAFFING MEMORANDUM Chris 6-1647

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

'01 NOV 21 PM 7:13

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	____________	☐	☐

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

See suggestion on page 5. Comments phoned in 11/21 @ 2:50 pm

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

SS

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Enrolled Bill H. R. 2330 - Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	11/20/2001	P5;

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FOIA IDs and Segments:
2014-0045-P

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STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 2330, the "Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2002."

I appreciate the bipartisan effort that has gone into producing this Act. The Act abides by the agreed upon aggregate funding level for Fiscal Year 2002 of $686 billion. It provides for several important programs with significant national benefits by:

- fully funding the current participation rate for the key nutrition program for women, infants, and children;
- supporting Department of Agriculture (USDA) food safety activities, including providing 7,600 meat and poultry inspectors; and
- redirecting USDA research to provide new emphasis in key areas such as biotechnology, the development of new agricultural products, and improved protection against emerging exotic plant and animal diseases, as well as crop and animal pests.

A number of provisions contained in the bill purport to restrict executive branch execution of programs that are funded in the bill. Where such provisions contradict the Supreme Court ruling in INS v. Chadha, their intent will be interpreted as advisory only.

I appreciate that the Congress has worked expeditiously during this difficult and trying time in our Nation's history to consider the FY 2002 appropriations bills. Through a renewed sense of bipartisanship, the Congress and my Administration must work together to ensure the timely enactment of the remaining bills.

THE WHITE HOUSE,

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THE WHITE HOUSE

WASHINGTON

Date 11/21/01

To: Tim Saunders

From: The Staff Secretary HCN

Please revise statement

Thanks

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b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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This Document was withdrawn on 5/21/2013 by AW

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Routing Memo	Enrolled Bill H.R. 2330 - Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001 - To: Staff Secretary - From: Karl Rove	1	11/21/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

This Document was withdrawn on 5/21/2013 by AW

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

Last Day for Action

November 28, 2001 -- Wednesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

Purpose

Provides FY 2001 funding for the Department of Agriculture (except the Forest Service), the Food and Drug Administration, and several smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Health and Human Services	Approval
Other affected agencies	Approval (assumed)

Discussion

The enrolled bill provides a total of $16.1 billion in FY 2002 discretionary budget authority, $0.7 billion above your request and $0.1 billion above the FY 2001 enacted level.

The enrolled bill does not include an objectionable provision, opposed by the Administration but adopted during House Floor consideration, that would prohibit the use of funds to prevent an individual who is not in the business of importing prescription drugs from importing such drugs for personal use.

While the bill abides by the aggregate agreed upon spending level of $686 billion for discretionary spending, it includes a number of unrequested items and earmarks. For example, the bill includes an unrequested $75 million in specialty crop assistance for apple farmers, $75 million below the level provided in the House-passed bill, but $75 million above the Senate-passed level.

The conference report on H.R. 2330 passed the House by a vote of 379 to 33 on November 13th and passed the Senate by a vote of 92 to 7 on November 15th.

Priority Programs

The Department of Agriculture's (USDA's) Food Safety Inspection Service is funded at $716 million, equal to your request and $21 million above the FY 2001 enacted level. This level would fund 7,600 meat and poultry inspectors consistent with the latest estimate of the need for these services, in addition to supporting other USDA food safety activities. The funding provided in this bill will allow USDA to continue progress toward reducing pathogens on meat and poultry through a more science-based inspection system.

The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

Conservation and Environmental Programs

The bill fully funds USDA's Environmental Quality Incentive's Program. In addition, the bill provides $779 million for conservation operations, $6 million above your request and $67 million above the FY 2001 level (excluding 2001 emergency appropriations). This increase will allow the Natural Resources Conservation Service to cover salary costs, along with technical assistance associated with the administration of the Conservation Reserve Program.

Farm Programs

Farm loan programs, providing loans for farm ownership and operation, are funded at $3 million above your request, which will provide an additional $36 million in loans. This represents a $67 million increase over FY 2001 levels (excluding emergency funds).

Salaries and expenses of the Farm Service Agency, which administers USDA's mandatory commodity price- and income-support programs, and the farm loan program, are funded at the requested level of $939 million, $63 million over the FY 2001 level (excluding emergency funds).

The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

Food Stamp Program Reserve

The Administration supports the provisions of the bill that provide a Food Stamp Program contingency reserve of $2.0 billion. Given the affect of recent events on the Nation's economy, the level provided in the enrolled bill will ensure adequate funding to meet program needs.

Unrequested Projects in Agricultural Research and Education Programs

The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

Reductions in appropriations for the eradication of pests and disease infestations

Your budget proposed $197 million to fund ongoing eradication programs, but the bill provided only about $50 million for these critical programs with a mechanism to tap additional funding from the Commodity Credit Corporation. While the use of CCC funds for unanticipated emergencies is appropriate, it becomes a form of backdoor financing when used for ongoing programs whose long-term costs are known, and are therefore no longer emergencies.

Dam Rehabilitation

The enrolled bill includes a provision, opposed by your Administration, that creates a new program for the rehabilitation of aging locally-owned dams constructed with USDA assistance. Requiring USDA to finance rehabilitation work on these dams would set a costly and objectionable government-wide precedent. These dams are a local responsibility, and the Federal Government should not rehabilitate these or other locally-owned dams built with assistance from Federal agencies, including the Army Corps of Engineers and the Bureau of Reclamation.

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Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of $686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2330. A signing statement is attached for your consideration.

Sincerely,

M E Daniels Jr

Mitchell E. Daniels, Jr.
Director

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WASHINGTON, D.C. 20503

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November 20, 2001

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Sincerely,

M E Daniels Jr

Mitchell E. Daniels, Jr.
Director

Attachment

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	Statement by the President - From: POTUS	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
11/28/2001 [H. R. 2330]
FRC ID:
780
OA Num.:
731
NARA Num.:
1457

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

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This Document was withdrawn on 5/21/2013 by AW

OFFICE OF THE EXECUTIVE CLERK
TRACKING SHEET FOR PRESIDENTIAL DOCUMENTS

TITLE: H.R. 2330 - Agriculture, Rural Development, Food and Drug Administration and Related Agencies Approp. Act, FY 2002

COA: 11/28/01

TYPE DOCUMENT:

PROCLAMATION	LETTER(S)
EXECUTIVE ORDER	MESSAGE TO THE CONGRESS/SENATE
MEMORANDUM	STATEMENT BY THE PRESIDENT
DECISION MEMORANDUM	SIGNING STATEMENT
DETERMINATION (numbered)	TREATY/CONVENTION/AGREEMENT, etc.

OTHER: ______

RECEIVED:	(Advance:	11/20/01	Time:	6:45 a.m./p.m.)
	In final:	/ /01	Time:	a.m./p.m.

SENT TO CORRESPONDENCE FOR TYPING IN FINAL:

(Advance:	/ /01	Time:	a.m./p.m.)
In final:	11/20/01	Time:	7:00 a.m./p.m.

TO HARRIET MIERS' OFFICE:

(For staffing:	11/26 ~~11/21~~/01	Time:	2 PM ~~11:00~~ a.m./p.m.)
In final:	/ /01	Time:	a.m./p.m.

*INFO, INCLUDING STENCIL AND DISC, TO PRESS OFFICE:

Date:	11/28/01	Time:	3:15 a.m./p.m.
POSTED:	/ /01	Time:	a.m./p.m.

NOTIFICATIONS:

______ (Person/time) — NSC (#____), when appropriate -- Desk Officer; W.H. Situation Room -- x6-9425.

______ — Ginger Gregory, x6-2230, Legislative Affairs (for messages to the Congress)

______ (Person/time) — ______ (Other)

______ (Person/time) — ______ (Other)

OTHER INFORMATION:

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and one

An Act

Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $2,992,000: *Provided*, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,704,000.

in receiving funding under this subsection, based on a three-year rolling average of funding levels."; and

(2) in subsections (b)(10)(C) by striking "and (F) of paragraph (3) for awarding grants in" and inserting ", (F), and (G) of paragraph (3) for".

SEC. 776. None of the funds made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who carry out the programs authorized by section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524) in excess of a total of $4,000,000 for all such programs for fiscal year 2002.

SEC. 777. Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in the section heading, by inserting "**JOHN OGONOWSKI**" before "**FARMER-TO-FARMER PROGRAM**"; and

(2) by adding at the end the following new subsection:

"(d) DESIGNATION OF PROGRAM.—The program of farmer-to-farmer assistance authorized by this section shall be known and designated as the 'John Ogonowski Farmer-to-Farmer Program'.".

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002".

Speaker of the House of Representatives.

~~Vice President of the United States and~~
President of the Senate pro tempore.

APPROVED
NOV 28 2001

SS/ RM NO. 11/28

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-20-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-21-01 4:00 PM

Subject: ENROLLED BILL H.R. 2330 - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, FY 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

REMARKS:
Please forward comments directly to Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, November 21, 2001. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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

'01 NOV 20 PM 7:00

THE DIRECTOR

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2330 -- Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, FY 2001

Sponsors: Representative Bonilla (R), Texas
Senator Kohl (D), Wisconsin

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November 28, 2001 -- Wednesday

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The Women, Infants, and Children (WIC) program is funded at $4.3 billion, an increase of $211 million over your request and $305 million over the FY 2001 level. This level is sufficient to support participation by a monthly average of just over 7.5 million individuals. Preliminary data indicates that in FY 2001 end-of-the-year participation in the WIC program exceeded 7.2 million monthly. The Senate version of the bill provided an additional $110 million above your request for this program. We did not object to this increase and we do not object to the increase in the final version of the bill, which is needed to maintain current levels of participation.

The bill provides increases far exceeding your budget in a number of areas, while funding for the pest eradication program was reduced from your request by $146 million. The bill funds two rural utility programs, the High Energy Grants program and a new Local Television Loan Program, that are not critical to the support and improvement of rural citizens' quality of life. The bill also provides $79 million for the boll weevil eradication program, $45 million above your request. Last year, Congress provided this level of funding as a one-time program to help affected farmers reduce debt, but has continued this funding level for another year.

Food and Drug Administration (FDA) - Funding Level and Prescription Drug Imports

The enrolled bill provides a $1.4 billion program level for the FDA, roughly equal to your request and $97 million above the comparable FY 2001 level. This increase will allow FDA to review new medical technology more quickly, conduct additional inspections to ensure regulatory compliance, and monitor and prevent medical errors and adverse events.

The enrolled bill does not provide $3 million in contingent funding requested for the prescription drug re-importation program that was created in the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. This program has not been implemented to date.

The final version of the bill also does not contain a provision opposed by the Administration regarding importation of FDA-approved prescription drugs. While the Administration supports efforts to allow American consumers to gain access to lower-cost prescription drugs, the language included in the bill contains several loopholes that effectively render the provision meaningless. The Administration continues to believe that the provision increases the likelihood that adulterated, misbranded, or counterfeit drugs would be imported into this country.

Conservation and Environmental Programs

The bill fully funds USDA's Environmental Quality Incentive's Program. In addition, the bill provides $779 million for conservation operations, $6 million above your request and $67 million above the FY 2001 level (excluding 2001 emergency appropriations). This increase will allow the Natural Resources Conservation Service to cover salary costs, along with technical assistance associated with the administration of the Conservation Reserve Program.

Farm Programs

Farm loan programs, providing loans for farm ownership and operation, are funded at $3 million above your request, which will provide an additional $36 million in loans. This represents a $67 million increase over FY 2001 levels (excluding emergency funds).

Salaries and expenses of the Farm Service Agency, which administers USDA's mandatory commodity price- and income-support programs, and the farm loan program, are funded at the requested level of $939 million, $63 million over the FY 2001 level (excluding emergency funds).

The Outreach for Socially Disadvantaged Farmers program, which assists minority farmers in learning about and applying for USDA farm programs, is funded at $3 million, the same as in FY 2001 and equal to your request.

Food Stamp Program Reserve

The Administration supports the provisions of the bill that provide a Food Stamp Program contingency reserve of $2.0 billion. Given the affect of recent events on the Nation's economy, the level provided in the enrolled bill will ensure adequate funding to meet program needs.

Unrequested Projects in Agricultural Research and Education Programs

The bill continues the past practice of providing significant funding for earmarks in both in-house research and external grants. Specifically, the bill includes $213 million above your budget request for over 400 such projects and $89 million for 17 new construction projects. Furthermore, the bill also breaks with recent practice by eliminating all funding for critical competitive grants through the Initiative for Future Agriculture and Food Systems.

Reductions in appropriations for the eradication of pests and disease infestations

Your budget proposed $197 million to fund ongoing eradication programs, but the bill provided only about $50 million for these critical programs with a mechanism to tap additional funding from the Commodity Credit Corporation. While the use of CCC funds for unanticipated emergencies is appropriate, it becomes a form of backdoor financing when used for ongoing programs whose long-term costs are known, and are therefore no longer emergencies.

Dam Rehabilitation

The enrolled bill includes a provision, opposed by your Administration, that creates a new program for the rehabilitation of aging locally-owned dams constructed with USDA assistance. Requiring USDA to finance rehabilitation work on these dams would set a costly and objectionable government-wide precedent. These dams are a local responsibility, and the Federal Government should not rehabilitate these or other locally-owned dams built with assistance from Federal agencies, including the Army Corps of Engineers and the Bureau of Reclamation.

USDA Operations and Administration

The bill contains $59 million for USDA's Common Computing Environment, equal to your request and the FY 2001 enacted level, to modernize the information systems used in USDA's county offices. This initiative will improve customer service in USDA county offices by permitting data to be shared among the several USDA agencies with county-office presence and allowing applicants to file electronically. These improvements should shorten the time spent on paperwork by farmers and other rural customers and free USDA staff to do more field work.

Infringement on Executive Authority

The bill includes a provision -- originally enacted in FY 2001 -- that purports to restrict your authority to make legislative proposals to Congress by preventing USDA from developing user fee proposals in the budget that have not already been authorized. This provision would infringe upon your constitutional authority under the Recommendations Clause to recommend legislation that you deem appropriate. We also note that under the heading, "Rural Cooperative Development Grants," grant amounts are reserved for "minority" producers, which are further defined in terms of minority representation on governing boards or membership. The equal

protection component of the Fifth Amendment requires that such provisions be narrowly tailored to further a compelling Government interest. The Justice Department advises that the test has not been met here. These objectionable provisions will be construed to avoid the constitutional concerns noted here. Finally, the bill also maintains a number of provisions that would require Committee approval before Executive Branch execution. These provisions will be interpreted to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in INS v. Couthie.

Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of $686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2330. A signing statement is attached for your consideration.

Sincerely,

M E Daniels

Mitchell E. Daniels, Jr.
Director

Attachment

Withdrawal Marker
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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	Statement by the President - From: POTUS	1	N.D.	P5;

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FOLDER TITLE:
11/28/2001 [H. R. 2330]
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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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