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Office of the Assistant Attorney General

Washington, D.C. 20530

16 JUL 1984

Honorable David A. Stockman
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Stockman:

We have examined a facsimile of the enrolled bill, H.R. 5653, "making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes." Our comments are directed exclusively to § 116 of the bill. We believe this provision is unconstitutional under the decision of the Supreme Court in INS v. Chadha, 103 S. Ct. 2764 (1983), because it would purport to give committees of Congress the power to affect the legal rights of the Executive Branch, here the Secretary of the Army. We recommend that our conclusion with respect to the constitutionality of § 116, and our interpretation of the effect of that section, be communicated to the Chief Counsel of the Army Corps of Engineers. We do not, however, recommend a presidential signing statement on this issue.

Section 116 as written authorizes the Secretary of the Army to use funds appropriated by the bill to acquire improved real property or unimproved real property and to construct or have constructed on that property "an appropriate residence for the official use of Corps of Engineers Division Commanders in those areas where appropriate housing cannot otherwise be provided," and to operate and maintain that property. That authority is expressly made "[s]ubject to approval by the Committees on Appropriations." Thus, the Secretary of the Army may acquire property, construct residences, and operate and maintain that property if the Committees on Appropriations both "approve" the planned action. The Secretary's authority is, in effect, subject to veto if one of those committees fails to approve a particular exercise of that authority.

There is no doubt that this provision permits committees of Congress to affect the legal rights and duties of the President and the Secretary of the Army. As the Chief Justice stated, writing for the Court in Chadha, all actions by Congress (or its committees) having "the purpose and effect of altering the legal rights, duties and relations of persons, including . . . Executive Branch officials . . . ," 103 S. Ct. at 2787, are legislative actions that must be enacted pursuant to the Presentment Clauses of the Constitution (passage by both Houses of Congress and presentment to the President for his approval or veto). Because this provision falls squarely within the Court's analysis of legislative veto devices in Chadha, it is unconstitutional.

The question remains whether the unconstitutional committee approval device is severable from the underlying authority provided by § 116 to the Secretary of the Army to acquire, construct, operate, and maintain residences for the official use of Corps of Engineers Division Commanders. The severability of an unconstitutional provision from the rest of the statute to which it is attached presents a question of legislative intent: "Unless it is evident that the Legislature would not have enacted those provisions which are within its power, independent of that which is not," the invalid portion should be severed and the remaining statutory authority continued. INS v. Chadha, 103 S. Ct. at 2774, quoting Champlin Refining Co. v. Corporation Comm'n, 286 U.S. 210, 234 (1932). As further guidance, the Court in Chadha explained that "[a] provision is . . . presumed severable if what remains after severance 'is fully operative as a law'." 103 S. Ct. at 2775, quoting Champlin Refining Co. v. Corporation Comm'n, 286 U.S. at 234.

In the short time available, we have been unable to obtain, and therefore to research, the legislative history of this bill. That history might give some indication of congressional intent on this question. However, the Supreme Court's analysis of the severability issue in Chadha, and particularly its summary affirmance of the D.C. Circuit's legislative veto decision in Consumer Energy Council of America v. Federal Energy Regulatory Commission, 673 F.2d 425, 442 (D.C. Cir. 1982), */ indicate that the presumption in favor of severability is strong, and that in the absence of very clear legislative history to the contrary, the Court would be reluctant to find a legislative veto device to be inseverable. We suggest that the Chief Counsel

*/ Aff'd sub nom. Process Gas Consumers Group v. Consumer Energy Council of America, 103 S. Ct. 3556 (1983).

of the Army Corps of Engineers may want to pursue this issue further, since his staff is undoubtedly familiar with the legislative history of this enrolled bill.

Because § 116 is a relatively minor provision of this enrolled bill, we do not believe it is necessary for the President to discuss the constitutionality of the section in a signing statement. We recommend, however, that our interpretation of the effect of this section be communicated to the Chief Counsel of the Army Corps of Engineers.

The Department of Justice defers to those agencies more directly concerned with the subject matter of the bill as to whether it should receive Executive approval.

Sincerely,

(Signed) Robert A. McConnell

Robert A. McConnell
Assistant Attorney General
Office of Legislative and
Intergovernmental Affairs

THE WHITE HOUSE

WASHINGTON

July 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 5713

By memorandum dated yesterday you advised Darman that the above-referenced enrolled bill contained several unconstitutional legislative vetoes. The memorandum noted that you had alerted the Department of Justice, which would provide signing statement language as soon as possible.

Justice has now provided the requested language, which Darman's office is anxiously awaiting (tomorrow is the last day for action on the bill). The language accompanies an enrolled bill report from Assistant Attorney General McConnell to OMB Director Stockman. Footnote 1 of this report notes that Justice only became aware of the bill and its unconstitutional provisions through the intervention of our office, and suggests revising the clearance procedures for appropriations bills to ensure that Justice is in the loop. In its enrolled bill report, Justice strongly urges that its proposed signing statement be issued.

Justice's draft signing statement notes that the Attorney General has advised the President that the four legislative veto provisions are unconstitutional. A strongly-worded concluding paragraph states that "the time has come, with more than a year having passed since the Supreme Court's decision in Chadha, to make clear that legislation containing legislative veto devices that comes to me for my approval or disapproval will be implemented in a manner consistent with the Chadha decision." I have no objection to the draft statement.

Attachment

THE WHITE HOUSE

WASHINGTON

July 16, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5713 -- Department of
Housing and Urban Development/Independent
Agencies Appropriation Bill, 1985

Counsel's Office has reviewed the above-referenced enrolled bill. The bill contains four unconstitutional legislative veto provisions (pp. 13, 14 (two), and 19). These provisions permit funding beyond specified levels only with the approval of the Committees on Appropriations, a clear violation of the Supreme Court's decision in Immigration and Naturalization Service v. Chadha. I have advised the Department of Justice of this problem, and that Department will be submitting proposed signing statement language as soon as possible. Since the presence of unconstitutional legislative vetoes in appropriations bills seems to be a recurring problem even after Chadha, I recommend that a signing statement be issued.

FFF:JGR:aea 7/16/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 17, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 5713

I advised you yesterday that the above-referenced enrolled bill contained four unconstitutional legislative veto provisions, and that the Department of Justice would be submitting signing statement language addressed to the problem presented by these provisions. The Department has now submitted the attached draft language. I have reviewed the proposed signing statement, and recommend that it be issued. The language may seem strong, but, as the statement indicates, a full year has passed since the Supreme Court's definitive ruling on this issue and Congress should not be left in doubt as to our commitment to the principles enunciated in the Chadha opinion.

FFF:JGR:aea 7/17/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 17, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 5713

I advised you yesterday that the above-referenced enrolled bill contained four unconstitutional legislative veto provisions, and that the Department of Justice would be submitting signing statement language addressed to the problem presented by these provisions. The Department has now submitted the attached draft language. I have reviewed the proposed signing statement, and recommend that it be issued. The language may seem strong, but, as the statement indicates, a full year has passed since the Supreme Court's definitive ruling on this issue and Congress should not be left in doubt as to our commitment to the principles enunciated in the Chadha opinion.

FFF:JGR:aea 7/17/84

cc: FFFielding/JGRoberts/Subj/Chron

PROPOSED LANGUAGE FOR PRESIDENTIAL
SIGNING STATEMENT RE: H.R. 5713

In signing this bill into law, I note that four of its provisions purport to limit my authority, and the authority, respectively, of the Administrators of the National Aeronautics and Space Administration ^{or} ~~and~~ the Veterans Administration, to use funds otherwise appropriated by this bill, unless the Committees on Appropriations of both the House of Representatives and the Senate approve of those expenditures. Three of these provisions would purport to permit those Committees to authorize the Administrator of NASA or the Administrator of the VA to exceed certain secondary limits on the amounts that may be spent on several specified activities, by using otherwise appropriated funds; the fourth would purport to allow those Committees to authorize the Administrator of NASA to enter into certain leases or construction contracts that otherwise must be specified in an appropriations act.

The Attorney General has advised me that, under the Supreme Court's decision in INS v. Chadha, 103 S. Ct. 2764 (1983), Congress, including committees of Congress, may not be given power that has "the purpose and effect of altering the legal rights, duties and relations of persons, including . . . Executive Branch officials . . .," through procedures that bypass the constitutional requirements for valid legislative action. Thus, the provisions

in this bill purporting to empower the Appropriations Committees to approve certain expenditures of funds absent participation by both Houses of Congress and the President are unconstitutional.

I fully recognize the interest of Congress and its committees in preserving oversight and accountability over the discretion Congress grants to the Executive in such important areas as the obligation of appropriations. I do believe, however, that the time has come, with more than a year having passed since the Supreme Court's decision in Chadha, to make clear that legislation containing legislative veto devices that comes to me for my approval or disapproval will be implemented in a manner consistent with the Chadha decision. I strongly urge Congress to discontinue the inclusion of such devices in legislation, because doing so serves no constructive purpose after Chadha beyond introducing confusion and ambiguity into the process by which the Executive's obligations are discharged.



Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable David A. Stockman
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Stockman:

We have examined a facsimile of an enrolled bill, H.R. 5713, "making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes." ^{1/} Our comments are directed exclusively to four provisions of this bill that purport to give the Committees on Appropriations of the House and Senate the power to approve certain expenditures made or actions taken under authority provided by the bill. We believe these provisions are unconstitutional under the decision of the Supreme Court in INS v. Chadha, 103 S. Ct. 2764 (1983). We have attached language noting this constitutional defect for a presidential signing statement, which we strongly recommend be issued by the President with regard to this enrolled bill.

Three of these unconstitutional "committee approval" devices are included in the appropriation made for the National Aeronautics and Space Administration (NASA). Funds that are appropriated by this bill for "Research and Development" by NASA are subject to certain secondary limits on the amounts that may be spent on several particular research and development activities, "without the approval of the Committees on Appropriations" (p. 13). Funds appropriated for "Space Flight, Control, and Data Communications" are similarly subject to secondary limits on expenditures for

^{1/} We note that this Department first received this enrolled bill on July 16, 1984, from your Office in response to our request for it after the unconstitutional provisions were brought to our attention by the Office of the Counsel to the President. We will be communicating suggestions separately to your Office with regard to potential alterations in the process to ensure that appropriations bills going to the President that may raise constitutional problems are considered by your Office and referred to this Department in a timely fashion.

several specified activities, "without the approval of the Committees on Appropriations" (p. 14). The effect of these two provisions is to allow NASA to exceed the limitations imposed and to use otherwise appropriated funds, if both Committees on Appropriations approve. The third provision in the NASA appropriation appears in the appropriation made for "Construction of Facilities." Under that section, the Administrator of NASA is prohibited from using appropriated funds for the construction or lease of new contractor-funded facilities, if under the terms of the contracts for those facilities NASA would have to reimburse substantially all of such contractor investment, unless the lease or contract is specifically identified in an appropriations act. However, the Administrator may authorize a facility lease or construction "with the approval of the Committees on Appropriations," if he determines that deferral of such action until enactment of the next appropriations act "would be inconsistent with the interest of the Nation in aeronautical and space activities" (p. 14).

The fourth provision appears in the appropriation for the Veterans Administration (VA). The bill appropriates \$70,000,000 for "Medical Administration and Miscellaneous Operating Expenses" of the VA, subject to maximum limits for certain types of expenditures "without the approval of the Committees on Appropriations" (p. 19). As with the NASA appropriation limitations, the Committees on Appropriations would be empowered to authorize the Administrator of the VA to exceed the statutorily prescribed ceilings on certain types of expenditures of appropriated funds, by using otherwise appropriated funds.

There is no doubt that these four provisions permit committees of Congress to affect the legal rights and duties of the President and the Administrators of NASA and the VA, not to mention those of private parties whose interests may arise from the expenditure of the conditioned funds. As the Chief Justice stated for the Court in Chadha, all actions by Congress (or its committees) having "the purpose and effect of altering the legal rights, duties and relations of persons, including . . . Executive Branch officials . . . ," 103 S. Ct. at 2787, are legislative actions that must be enacted pursuant to the Presentment Clauses of the Constitution (passage by both Houses of Congress and presentment to the President for his approval or veto). Because these provisions fall squarely within the Court's definition of a legislative act and because they purport to authorize action by committees rather than by Congress and the President, they are unconstitutional.

The question remains whether the unconstitutional committee approval devices are severable from the underlying authority provided by these sections to the Administrators of NASA and the VA to use the funds otherwise appropriated by this bill. The severability of an unconstitutional provision from the rest of the statute to which it is attached presents a question of legislative intent: "Unless it is evident that the Legislature would not have enacted those provisions which are within its power, independent of that which is not," the invalid portion should be severed and the remaining statutory authority continued. INS v. Chadha, 103 S. Ct. at 2774, quoting Champlin Refining Co. v. Corporation Comm'n, 286 U.S. 210, 234 (1932). As further guidance, the Court in Chadha explained that "[a] provision is . . . presumed severable if what remains after severance 'is fully operative as a law'." 103 S. Ct. at 2775, quoting Champlin Refining Co. v. Corporation Comm'n, 286 U.S. at 234. The Supreme Court's analysis of the severability issue in Chadha, and particularly its summary affirmance of the D.C. Circuit's legislative veto decision in Consumer Energy Council of America v. Federal Energy Regulatory Commission, 673 F. 2d 425, 442 (D.C. Cir. 1982), ^{2/} indicate that the presumption in favor of severability is strong, and that in the absence of very clear legislative history to the contrary, the Court would be reluctant to find a legislative veto device to be inseverable. We believe that the presumption of severability for legislative veto devices enacted after the Court's decision in Chadha is even stronger, because Congress was put on clear notice by that decision of the unconstitutionality of such devices.

In the short time available, we have been unable to obtain, and therefore to research, the legislative history of this bill. That history might give some further indication of congressional intent on that question. Without that legislative history, it is difficult for us to be certain regarding Congress's intent in conditioning the use of specified appropriated funds on approval by the Committees on Appropriations. Severing the committee approval device from the ceiling limitations imposed by the three provisions in this enrolled bill would, in effect, negate the secondary dollar limits applicable to the specified activities. Although such a result might, in the abstract, seem counterintuitive, Congress has, as observed above, been on clear notice since June of 1983 that such devices are unconstitutional, leaving Congress no obvious justification for continuing to insert such devices in legislation. The fourth limitation, on the authority of

^{2/} Aff'd sub nom. Process Gas Consumers Group v. Consumer Energy Council of America, 103 S. Ct. 3556 (1983).

the NASA Administrator to enter into certain leases or construction contracts, does not appear to us, at least in the absence of relevant legislative history, to pose a difficult severability problem.

Rather than trying finally to resolve these legal issues for all purposes in the context of this enrolled bill report, we recommend that the General Counsels of NASA and the VA pursue the severability issue further, since their staffs are undoubtedly familiar with the legislative history of this enrolled bill.

We have attached language that we propose be included in a presidential signing statement. The language is designed to serve two purposes. The first purpose is to inform Congress, and particularly the Committees on Appropriations, of the Executive's view that the Supreme Court's decision in Chadha does not permit Congress to empower its committees to exercise authority that purports to confer legal rights on the Executive or withdraw legal rights from the Executive. Second, the proposed language is designed to inform Congress of the manner in which the Executive will execute the statutory authorities contained in this enrolled bill.

We believe it is particularly important that the President issue a signing statement that includes the proposed language at the time he signs this bill. Last year, shortly after the Chadha decision was issued, this Department recommended a presidential signing statement objecting to similar legislative veto devices contained in the bill making appropriations for NASA for fiscal year 1984. For reasons that were not disclosed to us, that signing statement was not issued. We believe that if that statement had been issued at that time, we might not be faced now with the legislative veto devices contained in H.R. 5713. Therefore, we recommend strongly that the President make public in a signing statement our interpretation of, and objection to, the legislative veto devices contained in this year's appropriations bill.

The Department of Justice defers to those agencies more directly concerned with the subject matter of the bill as to whether it should receive Executive approval.

Sincerely,

Robert A. McConnell
Assistant Attorney General

THE WHITE HOUSE

WASHINGTON

July 16, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 5713 -- Department of Housing and Urban Development/Independent Agencies Appropriation Bill, 1985

Richard Darman has asked for comments on the above-referenced enrolled bill as soon as possible. This is the appropriations bill for HUD, EPA, the VA, NASA, NSF, and other agencies. According to OMB, the total appropriated by the bill -- \$56.5 billion -- is generally consistent with the Administration's economic program. Our office is of course in no position to comment upon the funding levels in the bill, but my review of the bill has disclosed four unconstitutional legislative veto provisions. See pp. 13, 14 (two), 19. The unconstitutional sections provide that funding may exceed specified levels only with the approval of the Committees on Appropriations.

This bill was not routed to Justice by OMB for comment. I alerted Larry Sims of OLC to the problem, and also advised Darman's office that our comments would be delayed until we heard back from Justice. Sims advised that he agreed that the provisions in question were unconstitutional under Chadha, and reported that Justice would be forwarding signing statement language as soon as possible. The attached memorandum for Darman notes that Justice will be submitting such a statement.

Attachment

THE WHITE HOUSE

WASHINGTON

July 16, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5713 -- Department of
Housing and Urban Development/Independent
Agencies Appropriation Bill, 1985

Counsel's Office has reviewed the above-referenced enrolled bill. The bill contains four unconstitutional legislative veto provisions (pp. 13, 14 (two), and 19). These provisions permit funding beyond specified levels only with the approval of the Committees on Appropriations, a clear violation of the Supreme Court's decision in Immigration and Naturalization Service v. Chadha. I have advised the Department of Justice of this problem, and that Department will be submitting proposed signing statement language as soon as possible. Since the presence of unconstitutional legislative vetoes in appropriations bills seems to be a recurring problem even after Chadha, I recommend that a signing statement be issued.

FFF:JGR:aea 7/16/84

cc: FFFielding/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Richard Darman

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill H.R. 5713 - Department of Housing and Urban Development Independent Agencies Appropriation Bill, 1985

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Type of Response - Code
<u>WH/TOU</u>	ORIGINATOR	Completion Date YY/MM/DD
		<u>89 07 13</u>
<u>WH/AT 18</u>	Referral Note: <u>D</u>	<u>D 89 07 16</u>
	Referral Note:	<u>10:00am</u>
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ACTION CODES:

- A - Appropriate Action
- I - Info Copy Only/No Action Necessary
- C - Comment/Recommendation
- R - Direct Reply w/Copy
- D - Draft Response
- S - For Signature
- F - Furnish Fact Sheet to be used as Enclosure
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- C - Completed
- B - Non-Special Referral
- S - Suspended

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- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 7/13 ACTION/CONCURRENCE/COMMENT DUE BY: 10:00 a.m. MONDAY, 7/16

SUBJECT: Enrolled Bill H.R. 5713 — Department of Housing and Urban Development/
Independent Agencies Appropriation Bill, 1985

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	McMANUS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	VERSTANDIG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HERRINGTON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
McFARLANE	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide comments/recommendations on the attached enrolled bill by 10:00 A.M., MONDAY, JULY 16.

Thank you.

RESPONSE:

1984 JUL 13 AM 11:38

Richard G. Darman
Assistant to the President
Ext. 2702



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

1984 JUL 10 10 43

JUL 13 1984

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5713 -- Department of Housing and
Urban Development/Independent Agencies
Appropriation Bill, 1985
Sponsor: Rep. Whitten (D), Mississippi

Last Day For Action

July 18, 1984

Prompt signature is recommended due to the inclusion of 1984 funding for two Administration-supported subsidized housing programs.

Purpose

This bill provides \$56,543 million in budget authority for the Department of Housing and Urban Development, Environmental Protection Agency, Veterans Administration, National Aeronautics and Space Administration, National Science Foundation, and other agencies.

Highlights

- o The bill is generally consistent with the deficit downpayment plan cap on discretionary programs.
- o It limits the increase in incremental subsidized housing units as requested by the Administration, but provides different types of units.
- o The enrolled bill is a decrease of \$1.9 billion from the House-passed bill.

Agency Recommendations

Office of Management and Budget	<u>Approval</u>
Department of Housing and Urban Development	<u>Approval</u> (informally)
Environmental Protection Agency	<u>Approval</u> (informally)
Veterans Administration	<u>Approval</u> (informally)
National Aeronautics and Space Administration	<u>Approval</u> (informally)
Other affected agencies	<u>Approval</u> assumed

Summary of Congressional Action

	(in millions of dollars) <u>1/</u>		
	<u>Discretionary</u> <u>Cap</u>	<u>Enrolled</u> <u>Bill</u>	<u>Congressional</u> <u>Change</u>
Freeze-based programs....	36,053	36,309	+256
Subsidized housing.....	(5,839)	(6,006)	(+167)
Discretionary programs..	(30,214)	(30,303)	(+89)
Non-freeze based programs	20,302 <u>2/</u>	20,235	-67
Total, Budget Authority	56,355	56,543	+189
Credit Limitations:			
Direct loans.....	1,167 <u>2/</u>	1,268	+101
Guaranteed loans.....	119,150 <u>2/</u>	119,375	+225

1/ Totals may not add due to rounding.

2/ Reflects President's request.

Discussion

Subsidized housing. Although the enrolled bill includes significant changes in subsidized housing, it does stay within the Administration request of 100,000 incremental units. The bill provides 49,000 fewer housing vouchers and 44,500 more section 8 units than requested. In addition, the enrolled bill includes Administration-requested supplemental funding for 1984 housing programs that was initially included in a separate supplemental appropriation bill.

Solar energy and energy conservation bank. The Administration and the Senate proposed no funding for this program. The enrolled bill provides \$15 million, a reduction of \$10 million from the House bill.

Operating funds. The Conference provides \$1,309 million for the Administration's operating programs, \$100 million more than the President's request. This increase is partially offset by providing \$20 million less than requested for the Superfund program.

State solid waste grants. The Administration's objection to the Senate's elimination of language prohibiting the use of funds for State solid waste grants was heeded in the Conference bill and the restriction was included.

Medical care. The Conference bill includes the Senate level of funding for this account that provides an increase of 500 FTE over the request. This is 520 FTE fewer than the House provided.

A. The bill provides the amount of funding requested by the Administration.

The Administration objected to restrictive language in the House bill prohibiting obligation of certain funds until NSF submits a 1986 budget request for science education that is at least 8.5% of the total NSF budget. The Conference bill deleted this language, however no funds are to be obligated for VLBA (Very Large Baseline Array) prior to April 1, 1985. This will give the House Subcommittee the opportunity to review NSF's 1986 budget request before funds are obligated.

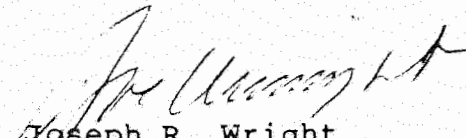
Credit Budget. The major change in direct loan programs is an increase of \$100 million for Housing for the elderly or handicapped. For guaranteed loans, the limitations on Federal Housing Administration (FHA) loans and Government National Mortgage Association guarantees of mortgage-backed securities are \$1.9 billion and \$68.2 billion, respectively -- the same as requested. While the Administration requested no new guaranteed community development loans, the enrolled bill provides \$225 million.

Recommendation

The enrolled bill provides the requested level of 100,000 incremental units for subsidized housing, and is generally consistent with the deficit downpayment plan cap on discretionary spending.

Moreover, several objectionable language provisions included in the House or Senate bill were modified or deleted in conference in response to the Administration's urging.

I recommend that you sign the enrolled bill.


Joseph R. Wright
Acting Director

Ninety-eighth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-third day of January, one thousand nine hundred and eighty-four

An Act

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, 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 the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriations Acts, is increased by \$847,524,808: *Provided*, That \$11,215,073 of such contract authority shall be available only for contracts using contract authority released by Acts of Congress prior to 1976: *Provided further*, That the budget authority obligated under contracts for annual contributions shall be increased above amounts heretofore provided in appropriation Acts by \$10,759,482,775: *Provided further*, That of the budget authority provided herein, \$312,760,000 shall be for assistance in financing the development or acquisition cost of public housing for Indian families; \$1,725,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 14371), of which (a) \$75,000,000 shall be for the modernization of vacant uninhabitable dwelling units in vacant buildings located in public housing projects, pursuant to section 14 of such Act, other than section 14(f) of such Act and other than projects for which budget authority for this purpose was reserved or obligated during fiscal years 1983 or 1984, and (b) \$100,000,000 shall be made available for modernization under such section 14, other than section 14(f) of such Act, through June 30, 1985, and any balances of such authority remaining unreserved after such date shall only be available for the section 8 existing housing program utilizing a term of one hundred and eighty months (42 U.S.C. 1437f); \$774,287,500 shall be for assistance payments in the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f); \$1,709,040,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959,

as amended (12 U.S.C. 1701q); and, \$2,620,687,500 shall be for the section 8 existing housing program (42 U.S.C. 1437f); \$419,250,000 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); and \$945,000,000 shall be used other than for low-income housing for Indian families for public housing new construction, notwithstanding sections 6 (h) and (i) of the United States Housing Act of 1937, as amended, or may be used for acquisition with or without rehabilitation for use as public housing if the public housing authority certifies to the Secretary of Housing and Urban Development before a reservation is made, that comparable dwelling units exist which may be used for its public housing program: *Provided further*, That the Secretary shall not approve the use of any of the budget authority provided herein (except such amounts as are provided for in the third proviso of this paragraph), or reserved and obligated in years prior to fiscal year 1985, for assistance under the housing voucher program authorized under section 8(o) of the United States Housing Act of 1937, as amended: *Provided further*, That any balances of authorities made available prior to the enactment of this Act which are or become available for obligation in fiscal year 1985 shall be added to and merged with the authority approved herein, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1985: *Provided further*, That none of the merged amounts available for obligation in 1985 shall be subject to the provisions of section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further*, That all amounts of budget authority equal to the amounts of such budget authority which are recaptured during fiscal year 1985 shall be rescinded.

The paragraph under the heading "ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING" in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219, 220), as amended by section 127 of Public Law 98-151, making further continuing appropriations for fiscal year 1984 (97 Stat. 964, 980), is further amended by (a) deleting "\$1,550,000,000" in the second proviso and inserting in lieu thereof "\$1,612,982,000"; (b) striking out in the seventh proviso thereof the second citation to section 1437f of title 42, United States Code (including the parentheses), and inserting in lieu thereof the following: ", \$261,675,000 of budget authority shall only be made available for the section 8 voucher program (section 8(o) of the United States Housing Act of 1937, as added by section 207 of the Housing and Urban-Rural Recovery Act of 1983, Public Law 98-181, 97 Stat. 1153, 1155, 1181), including payment of fees to Public Housing Agencies"; (c) deleting, in the clause numbered (1) in the ninth proviso, "shall not become available until March 31, 1984, and at such time", and in that clause deleting "such heading" and inserting in lieu thereof "this heading"; (d) deleting "\$2,217,150,000" in the seventh and ninth provisos and inserting in each such proviso in lieu thereof "\$3,820,320,000"; and (e) deleting the period at the end thereof and inserting a colon in lieu thereof and the following: "*Provided further*, That, notwithstanding any proviso hereof, any amounts of budget authority recaptured and becoming available for obligation in fiscal year 1984 in excess of \$2,500,000,000 shall be made available only for use under section 14 of the United States Housing Act of 1937, as amended: *Provided further*, That the amount of contracts for annual contributions, not otherwise provided for, as authorized

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by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by \$69,490,893, of which \$6,160,000 shall be available for contracts using contract authority released by Acts of Congress prior to 1976: *Provided further*, That budget authority in the amount of \$300,000,000 shall be available as an appropriation of funds only for rental rehabilitation grants to authorized grantees pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended, as authorized in section 17(a)(3)(A) of that Act, to remain available until September 30, 1986: *Provided further*, That \$150,000,000 of such budget authority shall not be available until October 1, 1984: *Provided further*, That, notwithstanding the provisions of section 17(b)(4) of such Act, any rental rehabilitation grant amounts not obligated at the end of fiscal year 1984 shall not be added to the amount available for allocation for such grants for fiscal year 1985 but shall remain available for obligation according to the fiscal year 1984 allocation and consistent with the terms and conditions of law applicable as of September 30, 1984: *Provided further*, That budget authority in the amount of \$315,000,000 shall be available as an appropriation of funds only for development grants to authorized grantees pursuant to section 17(a)(1)(B) of the United States Housing Act of 1937, as authorized in section 17(a)(3)(B) of that Act, to remain available until September 30, 1986: *Provided further*, That \$115,000,000 of such budget authority shall not be available until October 1, 1984."

Notwithstanding any other provision of this Act, the immediately preceding paragraph shall become effective upon enactment of this Act.

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) is reduced in fiscal year 1985 by not more than \$81,617,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1985 by not more than \$7,631,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In 1985, \$600,000,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum

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loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1985 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, \$4,144,000, to remain available until September 30, 1986.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), \$1,138,500,000: *Provided*, That of the authority provided herein, not more than \$15,000,000 shall be obligated to public housing agencies by April 1, 1985, for planning costs associated with the preparation of applications submitted to the Secretary in fiscal year 1985 for modernization assistance under section 14 of such Act, without offset by any amount of operating subsidy payment to which a public housing agency may otherwise be entitled.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, \$3,500,000.

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community

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Development Amendments of 1978, all unobligated balances of excess rental charges and any collections after September 30, 1984, to remain available until September 30, 1986: *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), \$387,683,000, to remain available until expended.

During 1985, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During 1985, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed \$50,900,000,000 of loan principal.

During fiscal year 1985, gross obligations for direct loans of not to exceed \$65,448,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During 1985, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed \$1,880,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717), \$745,000.

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During 1985, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed \$68,250,000,000 of loan principal.

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SPECIAL ASSISTANCE FUNCTIONS FUND

(TRANSFER OF FUNDS)

The Secretary shall transfer all assets acquired and liabilities incurred pursuant to section 305 of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1720), to the management and liquidating functions fund established pursuant to section 306 of such Act (12 U.S.C. 1721): *Provided*, That on October 1, 1984, each outstanding obligation issued by the Secretary of Housing and Urban Development to the Secretary of the Treasury pursuant to section 305(d) of such Act, together with any promise to repay the principal and unpaid interest which has accrued on each obligation, and any other term or condition specified by each such obligation, is canceled.

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

(TRANSFER OF FUNDS)

The Secretary shall transfer all assets acquired and liabilities incurred pursuant to section 313 of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1723e), to the management and liquidating functions fund established pursuant to section 306 of such Act (12 U.S.C. 1721): *Provided*, That on October 1, 1984, each outstanding obligation issued by the Secretary of the Housing and Urban Development to the Secretary of the Treasury pursuant to section 313(c) of such Act, together with any promise to repay the principal and unpaid interest which has accrued on each obligation, and any other term or condition specified by each such obligation, is canceled.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980 (12 U.S.C. 3601), \$15,000,000, to remain available until September 30, 1986.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), \$3,472,000,000, to remain available until September 30, 1987: *Provided*, That not to exceed 20 per centum of any grant made with funds appropriated herein shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development.

During 1985, total commitments to guarantee loans, as authorized by section 108 of the aforementioned Act, shall not exceed \$225,000,000 of contingent liability for loan principal.

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URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, \$440,000,000, to remain available until September 30, 1988: *Provided*, That \$2,500,000 of such amount shall be made available for technical assistance grants under section 119(q) of such Act: *Provided further*, That notwithstanding section 119(q) such \$2,500,000 shall be made available for such grants only to cities and urban counties eligible for assistance under section 119 which have not been grantees before fiscal year 1985 for programs under section 119 of such Act: *Provided further*, That with respect to funds provided herein the provisions of section 119(i) shall be construed as not applying to such \$2,500,000.

REHABILITATION LOAN FUND

During 1985, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1984, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, \$12,000,000, to remain available until expended: *Provided*, That up to \$1,000,000 of the budget authority provided herein shall be made available for the demonstration program authorized pursuant to section 810(i), and for evaluation of such demonstration program pursuant to section 810(j), of such Act.

COMMUNITY DEVELOPMENT GRANTS

(FISCAL YEAR 1984)

Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1984 (Public Law 98-45), not more than \$2,000,000 shall be available immediately to carry out a neighborhood development demonstration pursuant to section 123 of the Housing and Urban-Rural Recovery Act of 1983.

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POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$16,900,000, to remain available until September 30, 1986: *Provided*, That of the funds provided herein \$500,000 shall be used in addition to the \$4,000,000 provided for the modernization study in Public Law 98-45 (97 Stat. 223, 224): *Provided further*, That not more than a total of \$500,000 of the funds available for use on the modernization study shall be used for the energy analysis and program evaluation component of the study: *Provided further*, That \$500,000 of the funds provided herein shall be for the design and implementation of the housing voucher demonstration evaluation, including a comparison of the housing voucher program with fifteen year assistance contracts under the section 8 existing housing program.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, \$6,700,000, to remain available until September 30, 1986.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed \$4,000 for official reception and representation expenses, \$577,320,000, of which \$282,085,000 shall be provided from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISION

Section 1305 of title 31, United States Code, is amended by adding to the end thereof the following new paragraphs to provide for indefinite appropriations to be available currently and permanently:

“ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

“(7) to make payments required under contracts made under section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c).

“COLLEGE HOUSING GRANTS

“(8) to make payments required under contracts made under title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.).

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“RENT SUPPLEMENT PROGRAM

“(9) to make payments required under contracts under section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s).

“HOMEOWNERSHIP AND RENTAL HOUSING ASSISTANCE

“(10) to make payments required under contracts under sections 235 and 236, respectively, of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z-1).”

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; \$11,065,000: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed \$500 for official reception and representation expenses, \$36,000,000: *Provided*, That funds provided by this appropriation for laboratories shall be available only for the acquisition or conversion of existing laboratories.

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DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, \$7,759,000, to remain available until expended: *Provided*, That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; and not to exceed \$3,000 for official reception and representation expenses; \$656,275,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, \$193,000,000, to remain available until September 30, 1986.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, \$447,500,000, to remain available until September 30, 1986: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, \$12,000,000, to remain available until expended: *Provided*, That none of the funds available under this heading may be obligated for construction of new facility projects without the prior approval of the Committees on Appropriations. ✓

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PAYMENT TO THE HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For payment to the Hazardous Substance Response Trust Fund as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), \$44,000,000.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), \$620,000,000, to be derived from the Hazardous Substance Response Trust Fund, to remain available until expended: *Provided*, That not to exceed \$87,573,000 shall be available for administrative expenses. Funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of Public Law 96-510: *Provided further*, That for performance of specific activities in accordance with section 104(i) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, \$14,620,000 shall be made available to the Department of Health and Human Services on October 1, 1984, to be derived by transfer from the Hazardous Substance Response Trust Fund, of which no less than \$5,125,000 shall be available for toxicological testing of hazardous substances.

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m) (1)-(3), 201(n)(2), 206, 208, and 209, \$2,400,000,000, to remain available until expended.


EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed \$500 for official reception and representation expenses, and hire of passenger motor vehicles, \$700,000.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed \$1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, \$2,194,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.



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FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), \$100,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed \$2,000 for official reception and representation expenses, \$130,149,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, \$331,219,000: *Provided*, That of this amount \$4,778,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), shall be available until September 30, 1986.

NATIONAL FLOOD INSURANCE FUND

For repayment under notes issued by the Director of the Federal Emergency Management Agency to the Secretary of the Treasury pursuant to section 15(e) of the Federal Flood Insurance Act of 1956, as amended (42 U.S.C. 2414(e)), \$200,205,000. In fiscal year 1985, not to exceed (1) \$37,045,000 for operating expenses, (2) \$59,283,000 for agents' commissions and taxes, and (3) \$8,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without the approval of the Committees on Appropriations. ✓

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GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, \$1,149,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of \$4,449,000. Administrative expenses of the Consumer Information Center in fiscal year 1985 shall not exceed \$1,449,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1985 in excess of \$4,449,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, \$2,096,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; including not to exceed (1) \$155,500,000 for a space station; (2) \$195,000,000 for space telescope development; (3) \$120,200,000 for the gamma ray observatory; (4) \$92,400,000 for upper stages; (5) \$92,500,000 for the Venus radar mapper mission; and (6) \$56,100,000 for Galileo; without the approval of the Committees on Appropriations; \$2,422,600,000, to remain available until September 30, 1986; including \$155,500,000 for a space station, of which \$5,500,000 shall be made available from prior year appropriations: *Provided*, That of this amount, \$63,800,000 is available for space station systems definition and integration studies, including \$6,300,000 for systems engineering and integration support activities: *Provided further*, That within this amount, NASA shall conduct a study of an option which "phases-in" the permanently manned features of the station, as one of the reference configurations to be examined in the definition studies: *Provided further*, That the result of this study shall be reported to the House and Senate Committees on Appropriations prior to the selection by the Administrator of a configuration for the permanently manned space station: *Provided further*, That of this amount, \$57,500,000 shall be withheld from obligation or expenditure until April 1, 1985: *Provided further*, That the recommendations contained in the report required under the "Research and Program Management" be incorporated in any contract entered into as part of the systems definition and integration studies.

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SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; and including not to exceed (1) \$1,510,600,000 for space shuttle production and operational capability; and (2) \$1,339,000,000 for space transportation operations; without the approval of the Committees on Appropriations; \$3,601,800,000, to remain available until September 30, 1986. ✓

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, \$150,000,000, to remain available until September 30, 1987: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriation Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriation Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, with the approval of the Committees on Appropriations, if he determines that deferral of such action until the enactment of the next appropriation Act would be inconsistent with the interest of the Nation in aeronautical and space activities: *Provided further*, That with funds appropriated under the Research and Development account and the Space Flight, Control and Data Communications account to NASA in this Act, and subsequent appropriations Acts, NASA may enter into a contract with the California Institute of Technology to amortize the Central Engineering Building over a twelve-year period for a total cost of not to exceed \$17,000,000, plus applicable financing costs equal to the prime rate plus 2 percent, under the authority granted under Public Law 98-45. The building shall be built at the Jet Propulsion Laboratory with title to be vested initially in the California Institute of Technology, and to revert to NASA upon completion of payments. ✓ ✓

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of \$100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; \$1,317,000,000: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed \$35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive: *Provided further*, That the National Aeronautics and Space Administration may test a flat rate per diem system for employee travel allowances under regulations prescribed by the Administrator: *Provided further*, That the rates will be consistent with those authorized by the Administrator of the General Services Administration: *Provided further*, That per diem allowances paid employees under a flat rate per diem system shall be amounts determined by the Administrator of NASA to be sufficient to meet normal and necessary expenses in the area in which travel is performed, but in no event will the travel allowances exceed \$75 for each day in travel status within the continental United States, unless the statutory maximum rate of \$75 per day is increased by the Congress and implemented by the Administrator of the General Services Administration: *Provided further*, That the test approved under this section shall expire on September 30, 1985, or upon the effective date of permanent legislation establishing a flat rate per diem system for civilian personnel, whichever occurs first: *Provided further*, That the Administrator shall establish an Advanced Technology Advisory Committee in conjunction with NASA's Space Station program and that the Committee shall prepare a report by April 1, 1985, identifying specific space station systems which advance automation and robotic technologies, not in use in existing spacecraft, and that the development of such systems shall be estimated to cost no less than 10 per centum of the total Space Station costs.

GENERAL PROVISIONS

The National Aeronautics and Space Administration has authority, notwithstanding any other provision of law, to take such actions as the Administrator deems necessary to provide to the National Science Foundation, on a fully reimbursable basis, Class VI Computers, otherwise acquired for service at NASA installations under authorized acquisition procedures, with accompanying peripheral equipment, as requested by the Foundation: *Provided*, That the National Science Foundation is authorized to receive from the National Aeronautics and Space Administration, Class VI Computers, with such accompanying peripheral equipment as NASA makes available, and, upon receipt, to sell said computer and peripheral

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equipment to an institution of higher education under such terms as it deems appropriate notwithstanding any other provision of law.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During 1985, obligations of the Central Liquidity Facility for new loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed \$600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1985 shall not exceed \$850,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876-1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; \$1,301,912,000, to remain available until September 30, 1986: *Provided*, That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than \$70,302,000 shall be available for program development and management in fiscal year 1985: *Provided further*, That contracts may be entered into under the program development and management limitation in fiscal year 1985 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That not to exceed \$9,000,000 shall be available for the very long baseline array and such funds shall not be obligated before April 1, 1985: *Provided further*, That the Foundation is authorized to indemnify grantees, contractors, and subcontractors associated with the ocean drilling program under the provisions of section 2354 of title 10 of the United States Code, with all approvals and certifications required thereby made by the Director of the National Science Foundation.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the U.S. Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed \$1,000 for official reception and representation expenses; \$110,080,000, to remain available until expended: *Provided*, That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further*, That no funds in this account shall be used for the purchase of aircraft.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, \$87,000,000, to remain available until September 30, 1986: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That \$5,000,000 shall be transferred from funds provided under this head to and merged with funds made available under "Research and related activities" for the purpose of conducting research on teaching and learning: *Provided further*, That \$2,000,000 shall be made available for a contract to develop a science education plan and management structure for the Foundation.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, \$2,800,000, to remain available until September 30, 1986: *Provided*, That this appropriation shall be available in addition to other appropriations to the National Science Foundation for payments in the foregoing currencies.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), \$15,512,000.

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SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed \$1,000 for official reception and representation expenses; \$27,780,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

DEPARTMENT OF THE TREASURY

PAYMENTS TO LOCAL GOVERNMENT

FISCAL ASSISTANCE TRUST FUND

For payments to the Local Government Fiscal Assistance Trust Fund, \$4,566,700,000.

OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

For necessary expenses of the Office of Revenue Sharing, including hire of passenger motor vehicles, \$7,941,000.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation, pensions, gratuities, and allowances, including burial awards, plot allowances, burial flags, headstones and grave markers, emergency and other officers' retirement pay, adjusted-service credits and certificates, and other benefits as authorized by law; and for payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, \$13,992,900,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 31, 34-36, 39, 51, 53, 55, and 61), \$1,137,800,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), \$11,000,000, to remain available until expended.

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MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed \$2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); \$8,792,165,000, plus reimbursements.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until September 30, 1986, \$192,695,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction and supply, research, employee education and training activities, as authorized by law, \$70,000,000, plus reimbursements: *Provided*, That the total FTEE for the following offices within the Department of Medicine and Surgery not exceed 106 FTEE during fiscal year 1985: (1) Program Analysis and Development; (2) Health Systems Planning Service; (3) Planning Methods and Systems Development Service; (4) Facilities Planning Service; and (5) MEDIPP field personnel, without the approval of the Committees on Appropriations. ✓

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed \$3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of twelve passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; \$750,454,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services,

and site acquisition, where the estimated cost of a project is \$2,000,000 or more or where funds for a project were made available in a previous major project appropriation, \$568,194,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the Design Fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided*, That, notwithstanding any other provision of law, no funding provided in this or any other Act shall be available in fiscal year 1984 for the Design Fund and not to exceed \$15,000,000 in fiscal year 1985 shall be available for the Design Fund: *Provided further*, That funds provided in the appropriation "Construction, major projects" for fiscal year 1985, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1985 and (2) by the awarding of a construction contract by September 30, 1986: *Provided further*, That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after final acceptance by the Veterans Administration: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than \$2,000,000, \$200,200,000, to remain available until expended, along with unobligated balances of previous Construction, minor projects appropriations which are hereby made available for any project where the estimated cost is less than \$2,000,000: *Provided*, That not more than \$39,104,000 shall be available for expenses of the Office of Construction: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to construct State nursing home and domiciliary facilities and to remodel, modify or alter

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existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 5031-5037), \$34,500,000, to remain available until September 30, 1987.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding or improving State veterans' cemeteries as authorized by law (38 U.S.C. 1008), \$5,000,000, to remain available until September 30, 1987.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, \$500,000, to remain available until September 30, 1986.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

During 1985, the Loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the Direct loan revolving fund, shall be available, during 1985, for transfer to the Loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1985, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

DIRECT LOAN REVOLVING FUND

During 1985, within the resources available, not to exceed \$1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37).

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1985 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1985 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of any sum appropriated or otherwise made available in this Act for the Veterans Administration may be obligated or expended for the purchase of any site for, or toward the construction of, any new hospital to replace the Allen Park Veterans' Administration Hospital, prior to the receipt by the Administrator of Veterans Affairs of the ongoing General Accounting Office study of such replacement project, except that such funds may be obligated or expended for design and engineering studies for such replacement project without regard to the limitation under this paragraph.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

One or more pilot programs shall be conducted to determine the effectiveness of utilizing private contractual services to assist in the administrative collection of various types of delinquent debts or other funds due the Government.

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1985 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriation Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of \$67,565,000 shall be available for expenses of the Federal Home Loan Bank Board, which amount shall include nonadministrative expenses for the examination and supervision of Federal and State-chartered institutions in an amount not to exceed \$43,184,000, including \$500,000 which shall be available only for

purposes of training State examiners, and administrative expenses in an amount not to exceed \$24,381,000, and said total amount shall be available for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year and prior fiscal years, and the Board may utilize and may make payment for services and facilities of the Federal Home Loan Banks, the Federal Reserve Banks, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Mortgage Corporation, and other agencies of the Government (including payment for office space): *Provided*, That, with the prior approval of the Committees on Appropriations, not to exceed 10 per centum of the lesser of the limitations on administrative and nonadministrative expenses may be transferred between said limitations: *Provided further*, That expenses for special examinations of Federal and State-chartered institutions determined by the Board to be necessary, all necessary expenses in connection with the conservatorship or liquidation of institutions insured by the Federal Savings and Loan Insurance Corporation, liquidation or handling of assets of or derived from such insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of such insured institutions, or activities relating to section 5A(f) or 6(i) of the Federal Home Loan Bank Act, section 5(d) of the Home Owners' Loan Act of 1933, section 12(i) of the Securities Exchange Act of 1934, or section 406(c), 407, or 408 of the National Housing Act and all necessary expenses (including services performed on a contract or fee basis, but not including other personal services) in connection with the handling, including the purchase, sale, and exchange, of securities on behalf of Federal home loan banks, and the sale, issuance, and retirement of or payment of interest on, debentures or bonds, under the Federal Home Loan Bank Act, as amended, shall be excluded from the above limitations: *Provided further*, That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That not to exceed \$1,500 shall be available for official reception and representation expenses: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of July 22, 1932, as amended (12 U.S.C. 1421-1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND
LOAN INSURANCE CORPORATION

Not to exceed \$1,343,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive

of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

TITLE IV

GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974 to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations without the approval of the Committees on Appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated

quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. No part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 414. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 415. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

THE WHITE HOUSE
WASHINGTON

7/18/84

NOTE FOR JOHN ROBERTS

Any problems with OMB's
changes?

Plan to release statement
at 3:00 p.m. today.

Sara Emery
2702



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

Received
1984 JUL 18 PM 12:42

MEMORANDUM

July 18, 1984

To: Richard Darman
From: Mike Horowitz **MH**
Subject: HUD/Independent Agencies Appropriations Bill:
Signing Statement

In light of the discovery of three additional legislative veto provisions in the bill, the draft signing statement has been modified in conjunction with Justice.

The Office of Management and Budget has no objection to the draft signing statement as amended.

cc: Dave Gerson
Pete Modlin



~~Strauss~~ ~~Vasquez~~

Staffed: Date/Time: 7/17/84

OMB STAFFING OF WHITE HOUSE PAPERS

6:20 PM

Action: XX Info Doc Date: 7/17/84 Paper from: Darman

Subj: SUGGESTED PRESIDENTIAL SIGNING STATEMENT FOR H.R. 5713 - HUD/INDEPENDENT AGENCIES APPROPRIATION BILL, 1985 (prepared by the Dept. of Justice)

DISTRIBUTION WITHIN OMB

	<u>Action</u>	<u>FYI</u>		<u>Action</u>	<u>FYI</u>		<u>Action</u>	<u>FYI</u>
Stockman	<u> </u>	<u>✓</u>	Wright	<u> </u>	<u>✓</u>	Gerson	<u> </u>	<u>✓</u>
Moran	<u> </u>	<u> </u>	Ballentine	<u> </u>	<u> </u>	Ginsburg	<u> </u>	<u> </u>
Horner	<u> </u>	<u> </u>	Triplett	<u> </u>	<u> </u>	Dale	<u> </u>	<u> </u>
Cogan	<u> </u>	<u>✓</u>	Leg/Affairs	<u> </u>	<u> </u>	Frey	<u> </u>	<u> </u>
Keel	<u> </u>	<u> </u>	Horowitz	<u>✓</u>	<u> </u>	Sowle	<u> </u>	<u> </u>
Khedouri	<u> </u>	<u>✓</u>	Modlin	<u> </u>	<u>✓</u>	Bryant	<u> </u>	<u> </u>
Hause	<u> </u>	<u> </u>		<u> </u>	<u> </u>		<u> </u>	<u> </u>

*Please call/send your comments in to: .

**Should receive first page(s) only.

RESPONSE TO WHITE HOUSE

Lead responsibility for preparing response: Horowitz

Address response to Darman for signature of Horowitz

Response should arrive at White House or Corres. Unit by: WED 7/18 at 8:45 AM

IF RESPONSE GOES DIRECTLY TO WHITE HOUSE, SEND A COPY TO CORRESPONDENCE UNIT

IF RESPONSE IS CALLED IN, ADVISE CORRESPONDENCE UNIT EVEN IF "NO COMMENT"

BRIEFING MATERIAL PREPARATION

Lead responsibility for preparing for meeting:

Material should be in David Gerson's office by:

Comments:

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7/17/84 ACTION/CONCURRENCE/COMMENT DUE BY: 7/18 - 9:00 a.m.

SUBJECT: SUGGESTED PRESIDENTIAL SIGNING STATEMENT FOR H.R. 5713 - HUD/
INDEPENDENT AGENCIES APPROPRIATION BILL, 1985 (prepared by the
Department of Justice)

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	VERSTANDIG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>ELLIOTT</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HERRINGTON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
McFARLANE	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
McMANUS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

May we have your edits/comments on the attached suggested statement by 9:00 a.m. tomorrow, Wednesday, July 18. Thank you.

RESPONSE:

Richard G. Darman
 Assistant to the President
 Ext. 2702

STATEMENT BY THE PRESIDENT

PROPOSED LANGUAGE FOR PRESIDENTIAL SIGNING STATEMENT RE: H.R. 5713

In signing this bill into law, I note that ~~four~~^{seven} of its provisions purport to limit my authority, and the authority ^{of} ~~the affected Department or Agency heads~~ respectively, of the ~~Administrators of the National Aeronautics and Space Administration and the Veterans Administration~~ to use funds otherwise appropriated by this bill, unless the Committees on Appropriations of both the House of Representatives and the Senate approve of those expenditures. Three of these provisions would purport to permit those Committees to authorize the Administrator of NASA or the Administrator of the VA to exceed certain secondary limits on the amounts that may be spent on several specified activities, by using otherwise appropriated funds; ^(a) ~~the~~ fourth would purport to allow those Committees to authorize the Administrator of NASA to enter into certain leases or construction contracts that otherwise must be specified in an appropriations act. ~~Other than~~ ^{the}

The Attorney General has advised me that, under the Supreme Court's decision in INS v. Chadha, 103 S. Ct. 2764 (1983), Congress, including committees of Congress, may not be given power that has "the purpose and effect of altering the legal rights, duties and relations of persons, including . . . Executive Branch officials . . .," through procedures that bypass the constitutional requirements for valid legislative action. Thus, the provisions ^{and}

Environmental Public Assets
The appropriations made for the ~~Department of Defense~~ the Federal Emergency Management Agency, and Section 409 of the general provisions applicable to all appropriations made by this bill, contain similar provisions.

in this bill purporting to empower the Appropriations Committees to approve certain expenditures of funds absent participation by both Houses of Congress and the President are unconstitutional.

I fully recognize the interest of Congress and its committees in preserving oversight and accountability over the discretion Congress grants to the Executive in such important areas as the obligation of appropriations. I do believe, however, that the time has come, with more than a year having passed since the Supreme Court's decision in Chadha, to make clear that legislation containing legislative veto devices that comes to me for my approval or disapproval will be implemented in a manner consistent with the Chadha decision. I strongly urge Congress to discontinue the inclusion of such devices in legislation, because doing so serves no constructive purpose after Chadha beyond introducing confusion and ambiguity into the process by which the Executive's obligations are discharged.

ROUTING AND TRANSMITTAL SLIP

Date 7/18

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. John Roberts		
2.		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Attached is an unsigned copy of the further letter on H.R. 5713, pointing out three additional vetoes. We have sent it to OLIGA for McConnell's signature; I hope the signed copy will go to OMB forthwith.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post) Barbara Price	Room No.—Bldg.
	Phone No.

5041-102

USGPO: 1983 O-381-529 (316)

OPTIONAL FORM 41 (Rev. 7-76)
 Prescribed by GSA
 FPMR (41 CFR) 101-11.206



Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable David A. Stockman
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Stockman:

In our enrolled bill report on H.R. 5713, the 1985 appropriations bill for the Department of Housing and Urban Development and other agencies, we pointed out that the bill contains four unconstitutional legislative veto devices. As we noted in that letter, those provisions were brought to our attention by the Office of the Counsel to the President, on the afternoon of July 16, 1984.

We have now had the opportunity to review the bill in full, and have found three additional provisions that contain unconstitutional committee approval devices similar to those discussed in our enrolled bill report. The first of these, which is included in the appropriation made for the Environmental Protection Agency, provides that none of the funds available for "Buildings and Facilities" may be "obligated for construction of new facility projects without the prior approval of the Committees on Appropriations" (p. 10). The second, included in the appropriation for the Federal Emergency Management Agency, makes funds appropriated for the National Flood Insurance Fund subject to certain secondary limits on the amounts that may be spent on particular activities "without the approval of the Committees on Appropriations" (p. 12). The third, which appears in section 409 of Title IV of the bill, "General Provisions," prohibits the use of funds appropriated by the bill for personnel compensation and benefits for other object classifications set forth in budget estimates submitted for the appropriation, "without the approval of the Committees on Appropriations" (p. 25).

We believe that the comments made in our enrolled bill report with respect to the four committee approval devices discussed there apply equally to the three additional committee approval devices we have found in the enrolled bill, and that the President should include these three additional provisions in his discussion of the legislative veto devices in the proposed signing statement. To that end, we have drafted language, in cooperation with your Office of General Counsel, to revise the presidential signing statement accordingly. A copy of the revised statement is attached.

Robert A. McConnell
Assistant Attorney General

Attachment

Revised
July 18, 1984

PROPOSED LANGUAGE FOR PRESIDENTIAL
SIGNING STATEMENT RE: H.R. 5713

In signing this bill into law, I note that seven of its provisions purport to limit my authority, and the authority of the affected department or agency heads, to use funds otherwise appropriated by this bill, unless the Committees on Appropriations of both the House of Representatives and the Senate approve of those expenditures. Three of these provisions would purport to permit those Committees to authorize the Administrator of NASA and the Administrator of the VA to exceed certain secondary limits on the amounts that may be spent on several specified activities, by using otherwise appropriated funds; a fourth would purport to allow those Committees to authorize the Administrator of NASA to enter into certain leases or construction contracts that otherwise must be specified in an appropriations act. The appropriations made for the Environmental Protection Agency and the Federal Energy Management Agency, and § 409 of the General Provisions applicable to all appropriations made by the bill, contain similar provisions.

The Attorney General has advised me that, under the Supreme Court's decision in INS v. Chadha, 103 S. Ct. 2764 (1983), Congress, including committees of Congress,

may not be given power that has "the purpose and effect of altering the legal rights, duties and relations of persons, including . . . Executive Branch officials . . . ," through procedures that bypass the constitutional requirements for valid legislative action. Thus, the provisions in this bill purporting to empower the Appropriations Committees to approve certain expenditures of funds absent participation by both Houses of Congress and the President are unconstitutional.

I fully recognize the interest of Congress and its committees in preserving oversight and accountability over the discretion Congress grants to the Executive in such important areas as the obligation of appropriations. I do believe, however, that the time has come, with more than a year having passed since the Supreme Court's decision in Chadha, to make clear that legislation containing legislative veto devices that comes to me for my approval or disapproval will be implemented in a manner consistent with the Chadha decision. I strongly urge Congress to discontinue the inclusion of such devices in legislation, because doing so serves no constructive purpose after Chadha beyond introducing confusion and ambiguity into the process by which the Executive's obligations are discharged.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 18, 1984

STATEMENT BY THE PRESIDENT

In signing H.R. 5713 into law, I note that seven of its provisions purport to limit my authority, and the authority of the affected Department or Agency heads, to use funds otherwise appropriated by this bill, unless the Committees on Appropriations of both the House of Representatives and the Senate approve of those expenditures. Three of these provisions would purport to permit those Committees to authorize the Administrator of NASA or the Administrator of the VA to exceed certain secondary limits on the amounts that may be spent on several specified activities, by using otherwise appropriated funds; a fourth would purport to allow those Committees to authorize the Administrator of NASA to enter into certain leases or construction contracts that otherwise must be specified in an appropriations act. The appropriations made for the Environmental Protection Agency and the Federal Emergency Management Agency, and Section 409 of the general provisions applicable to all appropriations made by this bill, contain similar provisions.

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#

*Final draft
for O'Brien
rvg*

PROPOSED LANGUAGE FOR PRESIDENTIAL
SIGNING STATEMENT RE: H.R. 5713

In signing this bill into law, I note that ~~four~~^{seven} of its provisions purport to limit my authority, and the authority ^{of} ~~the affected Department or Agency heads~~ respectively, of the ~~Administrators of the National Aeronautics and Space Administration and the Veterans Administration~~ to use funds otherwise appropriated by this bill, unless the Committees on Appropriations of both the House of Representatives and the Senate approve of those expenditures. Three of these provisions would purport to permit those Committees to authorize the Administrator of NASA or the Administrator of the VA to exceed certain secondary limits on the amounts that may be spent on several specified activities, by using otherwise appropriated funds; ^a ~~the~~ fourth would purport to allow those Committees to authorize the Administrator of NASA to enter into certain leases or construction contracts that otherwise must be specified in an appropriations act. ~~Other than persons~~

The Attorney General has advised me that, under the Supreme Court's decision in INS v. Chadha, 103 S. Ct. 2764 (1983), Congress, including committees of Congress, may not be given power that has "the purpose and effect of altering the legal rights, duties and relations of persons, including . . . Executive Branch officials . . .," through procedures that bypass the constitutional requirements for valid legislative action. Thus, the provisions

*EPA and
The appropriations made for the Department of Defense, the Federal Emergency Management Agency, and Section 409 of the general provisions applicable to all appropriations made by this bill, contain similar provisions.*