



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

June 20, 2018
(Senate)

STATEMENT OF ADMINISTRATION POLICY
Senate Amendment to H.R. 5895 — Energy and Water, Legislative Branch, and
Military Construction and Veterans Affairs Appropriations Act, 2019
(Sen. Shelby, R-AL)

The Administration appreciates the investments that the Senate Amendment to H.R. 5895, making appropriations for energy and water development, the Legislative Branch, military construction, Veterans Affairs, and related agencies for the fiscal year ending September 30, 2019, and for other purposes, makes in the Nation's military, veterans, water resources, and energy programs.

The Administration welcomes the Senate's timely consideration of appropriations legislation, and looks forward to working with the Congress well before the end of the fiscal year to enact individual bills that provide sufficient funding to essential programs without further jeopardizing the Nation's fiscal state.

The Fiscal Year (FY) 2019 Budget request, as amended, accounts for the Bipartisan Budget Act of 2018 (BBA's) new Defense and non-Defense discretionary spending caps for FY 2019. The Administration strongly supports the overall Defense levels included in the BBA. Given the Nation's long-term fiscal constraints and the need to right-size the Federal Government, however, the Administration does not support the BBA's non-Defense cap of \$597 billion, which is \$57 billion above the FY 2019 Budget.

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

Division A – Energy and Water Development and Related Agencies Appropriations Act, 2019

Corps of Engineers

Agency Topline. The Administration appreciates the bill's investments in the Nation's water resources through the Corps of Engineers civil works program. The Administration also believes, however, that the bill should encourage a more modern approach to investing in the Nation's infrastructure that would strike an appropriate balance in incentivizing and facilitating greater non-Federal participation in water resources projects while maintaining robust support for infrastructure where Federal investment is most warranted and needed.

Department of Energy

Plutonium Disposition. The Administration greatly appreciates the Committee's support for terminating the Mixed Oxide (MOX) Fuel Fabrication Facility project and pursuing a plutonium disposition alternative. The MOX project is billions of dollars over budget and years behind schedule. Terminating MOX and pursuing a less expensive and faster solution for disposing of surplus plutonium would save tens of billions of dollars going forward.

National Nuclear Security Administration (NNSA) Infrastructure and Operations. The bill provides \$2.8 billion for NNSA Infrastructure and Operations, which is \$248 million below the FY 2019 Budget request. These reductions are inconsistent with congressional direction to accelerate vital recapitalization and modernization of NNSA's aging infrastructure and to reduce deferred maintenance. In addition, the reductions are not consistent with the 2018 Nuclear Posture Review recommendations to provide an effective, responsive, and resilient nuclear weapons infrastructure.

Office of Science. The bill provides \$6.7 billion for the Office of Science, which is \$1.3 billion above the FY 2019 Budget request. The Administration appreciates the Committee's support of prioritizing basic research, but urges restraint in funding these programs.

Advanced Research Projects Agency-Energy (ARPA-E). The Administration is disappointed that the bill does not eliminate ARPA-E. The Administration believes that the continued funding of ARPA-E makes little strategic sense given the existence of applied energy research elsewhere within the Department of Energy. The Administration urges the Congress to eliminate ARPA-E and incorporate its more successful elements, such as coordination with industry and cross-cutting research, into the Department's applied energy programs.

Applied Energy Programs. The bill provides \$4.3 billion for the Department of Energy's applied energy programs, which is \$2.4 billion above the FY 2019 Budget request. The Administration encourages the Congress to restrain funding levels in these programs and focus resources on early-stage research and development across the applied energy technology spectrum rather than late-stage or near commercial-ready technology.

Loan and Loan Guarantee Programs. The bill maintains the Title XVII Innovative Technology Loan Guarantee Program, the Advanced Technology Vehicle Manufacturing Loan Program, and the Tribal Energy Loan Guarantee Program. In the FY 2019 Budget request, the Administration proposed eliminating these programs and funding only the minimum administrative expenses necessary to monitor the existing portfolio. The Administration urges the Congress to adopt the elimination proposals to recognize the private sector's primary role in taking risks to finance projects in the energy and automobile manufacturing sectors.

Nuclear Waste Management. The Administration is disappointed that the bill fails to provide funding for the Yucca Mountain licensing proceeding and encourages the Congress to do so, consistent with the FY 2019 Budget request. The Administration appreciates the bill's inclusion of a provision authorizing an interim storage pilot project that would be funded in the future from the Nuclear Waste Fund, subject to appropriations, and encourages the Congress to provide

funding for that program to ensure that progress is made.

Department of the Interior

Bureau of Reclamation. The Administration appreciates the bill's investments in the Nation's water resources through the Bureau of Reclamation. The Administration also believes, however, that the Congress should encourage a more modern approach to investing in the Nation's infrastructure that strikes an appropriate balance in incentivizing and facilitating greater non-Federal participation in water resources projects while maintaining robust support for infrastructure where Federal investment is most warranted and needed.

Constitutional Concerns

Certain provisions of Division A raise constitutional concerns. For instance, certain provisions would contravene the separation of powers, and another would be unconstitutional under the Recommendations Clause. The Administration looks forward to working with the Congress to address these concerns.

Division B – Legislative Branch Appropriations Act, 2019

The Administration recognizes that the Legislative Branch needs adequate funding to maintain operations and ensure the safety and security of Members of Congress, their staff, and visitors. The bill, however, provides \$321 million above the level assumed in the FY 2019 Budget.

Division C – Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2019

Department of Defense

Detention Facilities at Naval Station Guantanamo Bay. While the Administration appreciates the Committee's support for continuing to keep Guantanamo Bay open, the bill does not provide the requested \$69 million needed to build a new high-value detention facility at Guantanamo Bay. The current facility for high-value detainees is experiencing structural and system failures that, if left unaddressed, could in the future pose life and safety risks to our guard forces and the detainees being held there; it also does not meet the requirements of the aging detainee population.

Unrequested Reprioritization of Military Construction Funding. The Administration objects to the bill's realignment of requested military construction funding from priority projects to other unrequested projects. Contrary to the Administration's fiscally responsible policy to fully fund projects up-front, the bill instead proposes to incrementally fund seven military construction projects, effectively passing the \$576 million needed to fully fund the projects to future-year budgets. Further, the bill would divert approximately \$450 million from projects where full funding was requested to other, unrequested projects. Many of these unrequested projects are not ready for construction due to the lack of planning and design and are not included in the Department of Defense's Future Years Defense Program. By incrementally funding military

construction projects to fund unrequested projects, the bill would delay critical resources needed to complete high-priority projects that would be initiated in FY 2019 and would instead place the burden on future budgets to make up the difference.

Department of Veterans Affairs

Veterans Affairs (VA) Capital Infrastructure Programs. The Administration appreciates the \$2 billion in additional investment in VA facilities that would further enhance the safety and security of those facilities and help VA programs and services keep pace with modern technologies.

VA Medical Care. The bill provides \$73.4 billion, which is \$350 million above the FY 2019 Budget request. The Administration appreciates the robust funding level for VA's healthcare program. There is still a need, however, for additional funding in FY 2019 for VA's traditional community care program due to the delay in enacting the VA MISSION Act of 2018 (MISSION Act). VA estimates that the delay increases the requirement to continue VA's traditional community care program by an additional \$1.6 billion above the FY 2019 Budget request, or an additional \$1.1 billion above the level provided for the Medical Community Care account in the bill. The Administration recognizes that the final requirement is dependent on a number of factors, including community care utilization patterns in the traditional program and the Choice Program. The Administration is confident that consolidating all community care programs and unifying funding for the new program by using discretionary resources, as proposed in the FY 2019 Budget request, will increase future transparency and accountability. The Administration looks forward to working with the Congress to secure all necessary funding within the existing non-Defense discretionary cap.

Veterans' Electronic Health Record. The Administration appreciates the \$800 million provided in the bill to continue implementation of VA's new electronic health record (EHR), which is \$407 million below the FY 2019 Budget request. Due to the delay in the contract award, there will be some carryover into FY 2019. Nonetheless, a funding reduction of this magnitude would increase the risk to contract performance, infrastructure readiness, and the deployment schedule. This risk is compounded by the Committee's decision to exclude the requested transfer language for the EHR account, which would allow VA to successfully execute and manage resources across the Department in support of the EHR modernization.

Constitutional Concerns

Certain provisions of Division C raise constitutional concerns. For instance, certain provisions would interfere with the President's constitutional authority and duty to protect national security, as well as his authority as Commander in Chief. Other provisions would contravene the separation of powers, and another could infringe on the President's constitutional authority to control the disclosure of information that is subject to executive privilege. The Administration looks forward to working with the Congress to address these concerns.

The Administration looks forward to working with the Congress as the FY 2019 appropriations process moves forward.

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