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THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

November 16, 1983

The President has signed the following legislation:

H.J. Res. 408 which designates November 12, 1983, as "Anti-Defamation League Day; and

S.J. Res. 188 which designates the month of November 1983 as "National Christmas Seal Month."

#

THE WHITE HOUSE

WASHINGTON

November 16, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed DOJ Response to Questions
Concerning H.R. 3625, a Bill to
Amend the Inspector General Act
of 1978

Jim Murr of OMB has asked for comments by close of business today on the attached proposed responses prepared by the Department of Justice to questions submitted by the House Government Operations Committee concerning H.R. 3625. This bill would, among other things, amend the Inspector General Act of 1978 to extend its coverage to include the Department of Justice. The Department has consistently opposed the bill, most recently in testimony delivered by Associate Attorney General Lowell Jensen on October 26, 1983 (copy of testimony and my memorandum concerning it attached).

The questions from the Committee ask precisely in what manner extension of the IG Act to Justice would interfere with prosecutorial discretion, and what reservations the Department has concerning the reporting requirements of the Act. The Department's response is a lengthy discussion of the application of prosecutorial discretion throughout the U.S. Attorneys Offices and at the Department, as well as the established procedures for approval of undercover operations. The central point that is made is that an IG at Justice would be in a position to override or at least intrude upon the exercise of this discretion. With respect to the reporting requirements of the Inspector General Act, the Department's response notes that application of this requirement to the Justice Department could compromise sensitive ongoing investigations, confidential sources, classified information, and litigation material.

I have reviewed the Department's proposed responses to the questions submitted by the Committee, and have no objection to them. They are consistent with prior Department of Justice testimony on the Inspector General Act and H.R. 3625.

Attachment

THE WHITE HOUSE

WASHINGTON

November 16, 1983

MEMORANDUM FOR JAMES C. MURR
CHIEF, ECONOMICS-SCIENCE-GENERAL GOVERNMENT
BRANCH, OFFICE OF MANAGEMENT AND BUDGET

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

SUBJECT: Proposed DOJ Response to Questions
Concerning H.R. 3625, a Bill to
Amend the Inspector General Act
of 1978

Counsel's Office has reviewed the above-referenced proposed responses, and finds no objection to them from a legal perspective.

FFF:JGR:aea 11/16/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 16, 1983

MEMORANDUM FOR JAMES C. MURR
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cc: FFFielding/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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Received (YY/MM/DD) 1 1Name of Correspondent: Branden Bhum☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Proposed D.O.J. response to questions
concerning H.R. 3625, a bill to amend
the I.G. Act of 1978

ROUTE TO:

ACTION

DISPOSITION

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<u>CUHOLL</u>		ORIGINATOR	<u>83/11/16</u>			<u>1 1</u>
		Referral Note:				
<u>CUATIB</u>		<u>D</u>	<u>83/11/16</u>		<u>S</u>	<u>83/11/16</u>
		Referral Note:			<u>COB</u>	
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ACTION CODES:

A - Appropriate Action
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 to be used as Enclosure

I - Info Copy Only/No Action Necessary
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 X - Interim Reply

DISPOSITION CODES:

A - Answered
 B - Non-Special Referral
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Type of Response = Initials of Signer
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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO	Melissa Allen	Take necessary action	☐
	Hal Steinberg	Approval or signature	☐
	Karen Wilson	Comment	☐
	☒ Fred Fielding	Prepare reply	☐
		Discuss with me	☐
		For your information	☐
		See remarks below	☐
FROM	Branden Blum ^{BS} (x3802)	DATE	11/16/83

REMARKS

Proposed DOJ response to questions concerning H.R. 3625, a bill to amend the IG Act of 1978

A hearing was held before the House Govt. Operations Committee on 10/26/83. The attached questions were sent by the Committee to Justice after the hearing. H.R. 3625 was marked up on 11/15/83, and Justice wants to submit their answers before the committee report is ^{filed} on Friday, 11/18/83.

Please provide me with your comments by COB TODAY, November 16, 1983.

cc: Jim Murr

OMB FORM 4
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When Deputy Attorney General Schmults testified before this Subcommittee two years ago, he raised a number of questions about the role of the Inspector General at Justice. He suggested, for example, that our bill at that time would subject to Congressional review "every decision not to prosecute or to curtail or prolong an undercover operation." Do you still have similar concerns, and if so, why?

- A. Where are prosecutorial decisions currently reviewed at Justice?
- B. Who currently reviews decisions to curtail or prolong an undercover operation?
- C. How would H.R. 3625 change those particular assignments?

PROSECUTORIAL DECISIONS

Most of the day-to-day prosecutorial decisions, including decisions to initiate prosecution in the approximately 30,000 federal criminal cases commenced each year, are subject to the direct supervision of the United States Attorneys who have general authority and responsibility for the prosecution of federal offenses within each of their districts. 28 U.S.C. 547. However, the Attorney General has supervisory authority over all federal criminal litigation, as well as all civil litigation to which the United States or an agency thereof is a party. 28 U.S.C. 516. By virtue of the exercise of this general supervisory authority, review of particular prosecutorial decisions by the Attorney General, Deputy Attorney General, Associate Attorney General, an Assistant Attorney General, or a supervising Division of the Department may be required either because of established Department policy or because merited by the facts of a particular case. In addition, there are certain instances in which review of prosecutorial decisions by such Department officials is mandated by statute.

For example, a statute requires approval by the Attorney General or Deputy Attorney General of decisions to prosecute offenses under the Atomic Energy Act (42 U.S.C. 2771(c)) or the offense of interference with federally protected activities such as the right to vote (18 U.S.C. 245(a)(1)) and of decisions to decline prosecution of certain bankruptcy offenses (18 U.S.C. 3057). A statute also requires approval of an Assistant Attorney General for court order applications for wiretaps (18 U.S.C. 2517(1)), compelling the testimony of a witness (18 U.S.C. 6003), or calling a special grand jury (18 U.S.C. 3331).

Department policy requires consultation with or express approval of the Criminal Division for commencing prosecutions for violations of approximately fifty statutes which may pose issues of particular sensitivity or complexity, including, among others,

national security offenses such as espionage and sabotage, violations of the Racketeer Influenced and Corrupt Organizations statute, certain securities violations, federal election law violations, obscenity offenses, and certain public corruption offenses. Decisions to decline prosecution or accept a guilty plea to lesser charges with respect to air piracy offenses or threats to the life of the President are also, as a matter of policy, uniformly reviewed by the Criminal Division. With respect to initiation of criminal tax prosecutions, review by the Tax Division is required.

Criminal Division approval is also required under Department policy for the acceptance of a plea of nolo contendere or an Alford plea, i.e., a tender of a guilty plea by a defendant who continues to assert his innocence. Department policy further requires consultation with the Criminal Division before a United States Attorney may add a new count to a superseding indictment, file a motion to proceed against a juvenile offender as an adult, or file a notice for the purposes of invoking statutes permitting enhanced sentencing of a defendant as a Dangerous Special Offender. Policy also mandates approval of an Assistant Attorney General for initiating cases with the scope of the Department's policy generally disfavoring dual or successive prosecutions or for an agreement to forego prosecution in exchange for cooperation where the person involved is a high-level public official or an officer of a federal investigative or law enforcement agency.

Express approval of the Attorney General is required prior to the arrest, indictment, or interrogation of, or the issuance of a subpoena to, a member of the press. Express approval of an Assistant Attorney General is required, by virtue of regulations mandated by the Congress, before an application may be made for a search warrant to seize documents held by a third party physician, lawyer, or clergyman, where the search may entail examination of confidential information on patients, clients, or parishioners. 28 C.F.R. §59.4(b).

UNDERCOVER OPERATIONS

Undercover operations conducted by the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration are governed by guidelines of both Departmental and the agency. Formal guidelines for the Immigration and Naturalization Service will be issued shortly. Set forth below is a summary of the FBI's guidelines.

The level of approval needed to authorize, curtail, or discontinue an undercover operation or activity depends on various factors, e.g., whether the operation is a foreign counterintelligence case or a criminal case, the potential cost of the operation, or its proposed duration, whether any sensitive circumstances are involved, etc.

In general, in a criminal case, the concept of the undercover operation is analyzed at the field office level by the case Agent and the Squad Supervisor, then presented to the Special Agent in Charge (SAC) of the office. Unless the undercover activity falls within one of the two categories noted below, the SAC may approve the operation after he makes a written determination that: (a) the Attorney General's Guidelines have been satisfied; (b) that the proposed undercover operation is an effective means to obtain evidence or necessary information; (c) that there is no present expectation that sensitive circumstances will arise, that the operation will last more than six months, or that expenditures will exceed \$20,000; and (d) that the operation will be conducted with minimal intrusion consistent with the need to collect the evidence or information in a timely and effective manner.

The following two categories of undercover operations can only be authorized by the Director or by an Assistant Director designated by him:

1. when the undercover operation requires the commitment of a specific amount of money or will last more than six months; and/or
2. when the operation might involve "sensitive circumstances," which include possible corrupt action by public officials or political candidates, activities of religious or political organizations, activities of the news media, the commission of a serious crime, etc.

If the operation falls within one of these categories, the SAC must apply to Headquarters for approval of the establishment, extension, or renewal of the undercover operation. The application goes to two offices at FBI Headquarters: (1) the relevant substantive section (for example, the Organized Crime Section in the Criminal Investigative Division); and (2) the Undercover and Selective Operations Unit. Personnel in these units review the proposal and discuss it with lawyers in the Legal Counsel Division. Only after written approval by the pertinent sections is the application sent to the Criminal Undercover Operations Review Committee. This Committee consists of employees of the FBI designated by the Director and three attorneys from the Department of Justice designated by the Assistant Attorney General in charge of the Criminal Division. The Committee re-

commends approval only after reaching a consensus. Either the Director or the designated Assistant Director may approve an operation recommended by the Criminal Undercover Review Committee, but only the Director may approve an operation if there is a significant risk of violence or physical injury to an individual or if the operation will be used to infiltrate a group under investigation as part of a domestic security investigation. The operation can continue no longer than six months unless reauthorized. In the case of a sensitive undercover operation, it would not be unusual for the Committee to review the matter more frequently. Reauthorization must be by the Director or Assistant Director in all cases.

Further, it should be noted that the Department of Justice Appropriations Act of 1980 required written certification by the Director (or, if designated by the Director, the Associate Director) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) if an undercover operation involves leasing space; establishing, acquiring, or operating business entitles; depositing proceeds of the operation in a financial institution; or using the proceeds from the operation to offset reasonable expenses of the undercover operation. This procedure continues to be followed.

Any extension of an FBI undercover operation beyond six months requires authorization by the Director or an Assistant Director of the FBI acting upon a favorable recommendation by the Undercover Operations Review Committee. Where the Review Committee has not reached a consensus regarding the continuation of the operation, approval of the Attorney General, Associate Attorney General, or Assistant Attorney General for the Criminal Division may be required.

If the operation significantly deviates from an existing, previously approved undercover operation, then the matter must be presented to the Criminal Undercover Review Committee as required by the FBI's guidelines. Pending the Review Committee's recommendation, the FBI consults with the United States Attorney, Strike Force Chief, or Assistant Attorney General and with Department members of the Review Committee to determine whether an interim modification, suspension, or termination of the operation is appropriate. There are also provisions for emergency authorization by an SAC to initiate an operation in certain cases, e.g., to protect life or substantial property, to apprehend or to identify a fleeing offender, etc. However, written application for approval must be submitted to FBI Headquarters within 48 hours after the emergency authorization.

In addition to these reviews, the case Agent, Supervisor, and SAC in the field, as well as the Headquarters Supervisory Special Agent, Unit Chief, and Section Chief are all responsible for following and controlling the undercover operation. If circumstances warrant, field office and Headquarters officials can agree to limit the scope and/or duration of the operation, unless the action could be considered a significant deviation and thus requires the matter to be brought before the Criminal Undercover Review Committee. They cannot extend the scope of the operation without the approval of the Criminal Undercover Review Committee and the Director or the designated Assistant Director.

The guidelines controlling the foreign counter-intelligence undercover operations are, for the most part, classified. However, certain limited undercover activities, e.g., one-time contracts with a foreign counterintelligence target, can be approved by the Supervisor in the field office or the SAC. The FBI's Foreign Counterintelligence Manual provides the procedures by which all other operations must be approved or reauthorized. In general, a written request is submitted from the SAC in the field office, and is then reviewed and approved by the appropriate section. In certain other cases (e.g. where the projected duration of the operation is lengthy, the operation will require large expenditures of money, or where there is a significant question of law and policy, etc.), the case is presented to the Intelligence Division Undercover Operations Review Committee for approval. The Assistant Director of the Intelligence Division has final authority to approve such an operation. Operations are subject to periodic formal review by FBI Headquarters and, in circumstances noted above, by the Intelligence Undercover Review Committee and cannot continue unless renewal is approved. As with a criminal operation, there is continuing review of particular operational steps at the field office and Headquarters levels.

H.R. 3625

In large measure, with respect to prosecutorial decisions, the effect of H.R. 3625 would not be to supplant the review procedures outlined above, but rather to engraft a new review process on existing procedures that we strongly believe is unnecessary and would also diminish the flexibility and candor necessary to the proper exercise of prosecutorial discretion. Our United States Attorneys are faced with the massive work of dealing with complex investigations and prosecutions in a criminal justice system taxed at all levels. Within the confines of Department policy and statutory limitations, they must be given a large degree of independence in their decision making. Subjecting the numerous prosecutorial decisions made by the United States Attorneys, who are appointed by the President after confirmation by the Senate, to review by an Inspector General is antithetical to the discretionary nature of the vast majority of these decisions and to the need for prompt and decisive action by our prosecutors. In sum, H.R. 3625 would drastically alter the independent and discretionary decision making of the United States Attorneys which is so crucial to effective enforcement of our criminal laws and the proper allocation of strained investigative and prosecutive resources.

Similarly, H.R. 3625 would not necessarily change the current structure within the Department for reviewing and approving undercover operations. What it would do, however, is enable the Inspector General or his staff to interject themselves into the approval or renewal process. The current law permits the Inspector General "to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment." The Department believes that the language is broad enough to enable the Inspector General or his staff to intrude on those policy considerations which should remain with the Attorney General, the Director of the FBI, the Administrator of the DEA and the Commissioner of INS, whether to initiate or discontinue an undercover operation, how much money to expend in the operation, the value of the operation to law enforcement or foreign counterintelligence efforts, etc. Also to be considered is the sensitive nature of the undercover operation. Although there are various internal levels of approval and review required, the Department still must balance this need for oversight and control against the risk to the operation if information concerning it is disseminated too broadly. The Department believes that the access of an Inspector General or his staff to such undercover information, as well as other sensitive information, is not appropriate for control purposes nor for security purposes.

In addition to the general conflict between review of prosecutorial decisions by an Inspector General and the principle of the independent exercise of prosecutorial discretion on the

Horton # 1

part of our United States Attorneys, there are certain instances in which the general prohibitions in the Inspector General Act on interference with investigations and the issuance of subpoenas by the Inspector Generals would directly conflict with existing review procedures in the Department. For example, an Inspector General would be able to subpoena or interrogate a member of the press, notwithstanding the fact that Department Policy designed to guard against actual or apparent interference with First Amendment values would otherwise require express prior authorization of the Attorney General. Similarly, an Inspector General could reopen an undercover investigation terminated by the Attorney General or the Director of the FBI on the grounds that it inappropriately interfered with significant privacy interests or offered unjustified inducements to engage in criminal activity. The Inspector General could intrude on such policy considerations as whether to initiate or discontinue an undercover operation, how much money to expend in the operation, the value of the operation to law enforcement or foreign counterintelligence efforts. Moreover, we note that H.R. 3625 would not provide for limitations on Inspector General investigations with respect to national security matters that the Inspector General Act now provides with respect to such matters under the jurisdiction of the Department of Defense. Also, it appears that as a general matter, the Attorney General would be powerless to direct the Inspector General to postpone or delay an investigation that the Attorney General determined could jeopardize a ongoing investigation or prosecution.

What concerns, if any, do you have about the reporting requirements of the 1978 Inspector General Act?

- A. Are you concerned that privileged or highly sensitive information would be required in Justice IG reports to the Congress? If so, please elaborate.
- B. Would an amendment protecting classified or confidential information resolve your concerns?
- C. What other amendments would be necessary to erase your concerns about the reporting requirements?

The Department's concerns over the blanket extension of the Inspector General Act include the reporting requirements under the Act.

The Act requires a semi-annual report summarizing the activities of each Inspector General during the immediate preceding six-month period. These reports must include, among other things, a description of significant problems, abuses, deficiencies relating to the administration of programs and operations; a description of recommendations for corrective action made during the reporting period with respect to problems identified; a summary of each report made to the head of the establishment during the reporting period; and a list of each audit completed during the reporting period. It is further required that within sixty days of the transmission of the above-described reports to Congress, the head of each establishment should make copies of such reports available to the public upon request. The report which would be required both to Congress and the public does not address the need to protect from disclosure sensitive ongoing investigations and techniques, confidential sources, classified information, litigation material and other similar sensitive information contained in Department files. Unlike other agencies, these activities are the major functions of the Department of Justice. The only way to protect such information is to limit those who have access to it and to insure that the agency holding the information has control over its use and dissemination. If such information were contained in the reports required of the Inspector General, the risk of compromise is greatly increased because of the number of people who would necessarily have access to the reports, even if the reports were not required to be released to the public. The Department's concerns over the reporting requirements of the Act can be resolved by structuring legislation that recognizes the elements of the Justice Department's missions and responsibilities. We continue to believe that a Justice Inspector General's responsibilities should be clearly set forth to recognize the unique characteristics of the Department.

THE WHITE HOUSE

WASHINGTON

October 25, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Statement of Lowell Jensen Regarding
Inspector General Act - H.R. 3625 on
October 26, 1983

Lowell Jensen proposes to deliver the attached testimony tomorrow before the Subcommittee on Legislation and National Security of the House Government Operations Committee. The testimony reiterates the Justice Department's traditional opposition to proposals to extend the Inspector General Act of 1978 to the Justice Department. Jensen's proposed testimony stresses the existence of the Office of Professional Responsibility, which handles the functions that would be delegated to an Inspector General, and notes that an Inspector General at the Justice Department would be inconsistent with the Attorney General's paramount responsibility for law enforcement. The testimony concludes by referring to the Administration proposal submitted in the last Congress to establish an Inspector General at the Departments of Justice and Treasury, with more limited responsibilities and powers than the typical Inspector General. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

October 25, 1983

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

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

SUBJECT: Statement of Lowell Jensen Regarding
Inspector General Act - H.R. 3625 on
October 26, 1983

Counsel's Office has reviewed the above-referenced statement, and finds no objection to it from a legal perspective.

FFF:JGR:aea 10/25/83
cc: FFFielding/JGRoberts/Subj/Chron

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Received (YY/MM/DD) 1 1Name of Correspondent: Branden Blum☐ MI Mail Report

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Subject: Statement of Lowell Jensen
re: Inspector General Act - H.R. 3625
on October 26, 1983

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
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<u>CW4T18</u>	<u>B</u>	<u>83/10/25</u>		<u>S</u>	<u>83/10/26</u>
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DRAFT

STATEMENT

OF

D. LOWELL JENSEN
ASSOCIATE ATTORNEY GENERAL

BEFORE

THE

GOVERNMENT OPERATIONS COMMITTEE
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY
HOUSE OF REPRESENTATIVES

CONCERNING

INSPECTOR GENERAL ACT - H.R. 3625

ON

OCTOBER 26, 1983

Mr. Chairman and Members of the Subcommittee:

The Subcommittee's invitation to appear today to discuss H.R. 3625, the "Inspector General Act Amendments of 1983" offers another opportunity for the Department of Justice to discuss the extension of the Inspector General Act of 1978 to the Department. H.R. 3625 would extend all the provisions of the 1978 Act to the Department of Justice. A Justice Inspector General under H.R. 3625 would have the authorities and powers presently bestowed upon statutory Inspectors General under the 1978 Act. With the exception of the Department's Office of Professional Responsibility and the audit and internal security units of the Federal Bureau of Investigation, H.R. 3625 appears intended to transfer all remaining audit and internal security units in the Department's boards, bureaus and divisions to an Inspector General.

As the Subcommittee is aware, representatives of the Department have appeared before committees of Congress on several occasions to discuss our serious reservations concerning the blanket extension of the 1978 Act to the Department. We continue to sincerely believe that blanket extension of the 1978 Act would disrupt the core functions of the Department and undermine the accountability of its officials for the Department's activities. Such a result is not consistent with our shared goals of controlling waste, maintaining high standards of conduct, and assuring integrity in the government's processes.

The Nation's chief law enforcement officer is the Attorney General. The Office of the Attorney General is a final and ultimate repository of power that of the prosecutor. The power of investigation, indictment and prosecution are of far greater breadth than any Inspector General. The Attorney General is responsible for the

supervision and conduct of the activities delegated to the Department of Justice by law. These responsibilities, to investigate, to prosecute, or to institute litigation, when such is necessary to uphold federal law, to be carried out effectively and efficiently, require that broad based discretion be entrusted to the Attorney General. The clear authority and accountability of the Attorney General in these areas is an imperative ingredient for the enforcement of the Nation's laws. Accordingly, it is the Attorney General's responsibility to conduct the Department's activities in such a manner so as to assure that they are performed within the confines of the Constitution and the law, and that the highest of professional standards are adhered to.

A diffusion of this responsibility would result by the simple extension of the 1978 Act as contemplated by H.R. 3625. For example, under the 1978 Act the role of the Inspector General includes providing policy direction in an agency for investigations and conducting investigations he determines appropriate. The head of an agency may not preclude or interfere with an investigation of an Inspector General. 1/ This wide authority of present statutory Inspectors General would impact adversely upon the government's law enforcement efforts if such power was to be lodged in a Justice Inspector General. It would conflict with the very responsibility committed to the Attorney General under present law.

Delegated to the Attorney General under present law is the authority to determine whether some of the strongest weapons of

1/ 5 U.S.C. App. §§4(a)(1), 6(a)(2).

the government should be exercised-whether government resources should be expended to either investigate an individual or as a further step, to commence litigation, against a citizen in order to uphold an important national interest. To deny the Attorney General this ultimate authority to determine the outer limits of investigations, prosecutions and litigation is to preclude the exercise of the historical responsibilities of the office.

This present responsibility of the Attorney General is a recognition of several important principles. The interests of the United States are not well served by diffused and conflicting responsibilities among the government's officers. Nor are they well served by officers having similar authority yet differing and uncoordinated responsibilities. Additionally, the exercise of discretionary decisions in this area should not be subject to review by subordinate officers. One individual should be accountable. Present law, placing in the Attorney General plenary responsibility over the conduct of the legal affairs of the United States, is sound policy.

H.R. 3625 would superimpose an Inspector General over the present authority of the Attorney General. It would permit an Inspector General to conduct investigations and inquiries beyond that determined appropriate by the Attorney General. Accountability for the Department's activities would become clouded. There would be a potential for disruption of ongoing investigations or litigation. An Inspector General would have the statutory premise to ignore a decision of the Attorney General that a particular inquiry or action was improvident.

Congress has recognized the unique functions of the Department of Justice and the primacy of the Attorney General. Under the 1978 Act, the Inspectors General are obligated to notify the Attorney General of probable violations of federal law. 2/ Additionally, Congress has recognized that the Inspectors General are not law enforcement agents, and should not be merged into such functions.3/ It has also been noted that the discretionary functions of the Attorney General should not be subject to review and challenge by a subordinate officer of the Department.4/ Finally, H.R. 3625 implicitly recognizes the unique functions of the Department in that it maintains the present responsibility and authority of the Director of the Federal Bureau of Investigation over the FBI audit and internal security units.

This is not to say that the Attorney General's discretion and the performance of the Department's investigations and litigation is not, or should not be subject to scrutiny. In fact, the Department, properly so, is perhaps the most scrutinized agency of the Executive branch. Beyond Congressional oversight, the Judicial Branch, in addition to reviewing the positions advocated by the Department in litigation, closely reviews the conduct of those who perform criminal investigations. This accountability, a result

2/ 5 U.S.C. App. §4(d).

3/ See 127 Cong. Rec. H7575 (daily ed. Oct. 21, 1981) (remarks of Representative Brooks), S.Rep. No. 1071, 95th Cong., 2d Sess. 14(1978).

4/ Hearings on Inspectors General Legislation Before the Committee on Governmental Affairs, Un. States Senate, 97th Cong., 2d Sess., pt. 2, at 47-48 (1980).

of our constitutional form of government, creates a necessary incentive to exercise good judgment.

We must also note that the existing mechanism in the Department responsible for the investigation of personnel misconduct is accountable directly to the Attorney General. Inquiries are conducted independently and with authority beyond that of any present Inspector General. The credibility and effectiveness of this mechanism has not been subject to debate. It is a mechanism for which we are proud.

We also believe that H.R. 3625's proposal to merge the evaluation and audit units of the Department into the Inspector General office needs to be reassessed. The evaluation and audit units of the Attorney General and bureau heads are necessary to meet specific and changing management initiatives, including budget requirements, allocation of resources and organizational arrangements. They are part of management, and should remain separate from an Inspector General. The audits conducted by the Inspector General are concerned with the review of program operations in order to ascertain compliance with a unit's mandate and the detection of waste, fraud and abuse. These functions should remain distinct.

In summary, the Department of Justice strongly believes that blanket extension of the 1978 Act to the Department is inappropriate. Any proposal to establish an Inspector General at the Department of Justice should clearly distinguish a Justice Inspector General. All his responsibilities and duties should be clearly

set forth. To insert a Justice Inspector General within the text of the 1978 Act will distort and weaken the present mechanism at the Department.

We are aware of the Subcommittee's sincere efforts, which we share, in assuring that mechanisms be in place to guard against waste, fraud and abuse. Last Congress, the Administration submitted its proposal to establish an Inspector General at the Departments of Justice and Treasury. This proposal would put in place a strong Inspector General with the necessary degree of independence and authority so that he can properly execute his mandate, while not infringing upon the role of the Attorney General.

THE WHITE HOUSE

WASHINGTON

November 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 3348 -- Gold Medal in Honor
of the Late Congressman Leo J. Ryan

Richard Darman has asked for comments on the above-referenced enrolled bill as soon as possible. The bill directs the Department of the Treasury to strike a gold medal to honor former Congressman Leo J. Ryan, the Democrat from California who was killed while visiting the "People's Church" settlement in Jonestown, Guyana. The bill would also authorize production and sale of bronze duplicates. The medal is to be in recognition of Ryan's "distinguished service" and "untimely death by assassination." The bill passed both Houses by voice vote. OMB recommends approval; Treasury has no objection.

I am not certain I would have voted to give a gold medal to Ryan. The distinction of his service in the House is certainly subject to debate, and his actions leading to his murder can be viewed as those of a publicity hound. Nonetheless, I see no legal objection to the President signing this bill.

Attachment

THE WHITE HOUSE

WASHINGTON

November 18, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *FFF/RAH*
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 3348 -- Gold Medal in Honor
of the Late Congressman Leo J. Ryan

Counsel's Office has reviewed the above-referenced enrolled bill, and finds no objection to it from a legal perspective.

FFF:JGR:aea 11/18/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 18, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 3348 -- Gold Medal in Honor
of the Late Congressman Leo J. Ryan

Counsel's Office has reviewed the above-referenced enrolled bill, and finds no objection to it from a legal perspective.

FFF:JGR:aea 11/18/83
cc: FFFielding/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1Name of Correspondent: Richard G. DARMAN☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: H. R. 3348 - Gold Medal in Honor of
the Late Congressman Leo J. Ryan

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CW HOLL</u>	ORIGINATOR	<u>83/11/17</u>			<u>1 1</u>
	Referral Note:				
<u>CW DT18</u>	<u>J</u>	<u>83/11/17</u>		<u>S</u>	<u>83/11/21</u>
	Referral Note:				<u>NODN</u>
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

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

FOR OUTGOING CORRESPONDENCE:

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

Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUMDATE: 11/17/83 ACTION/CONCURRENCE/COMMENT DUE BY: MONDAY NOON, 11/21SUBJECT: H.R. 3348 - Gold Medal in Honor of the Late Congressman
Leo J. Ryan

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	☐	☐	HICKEY	☐	☐
MEESE	☐	☒	JENKINS	☐	☐
BAKER	☐	☒	McFARLANE	☐	☐
DEAVER	☐	☒	McMANUS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
DARMAN	☐	☒	ROGERS	☐	☐
DUBERSTEIN	☒	☐	SPEAKES	☐	☐
FELDSTEIN	☐	☐	SVAHN	☒	☐
FIELDING	☒	☐	VERSTANDIG	☐	☐
FULLER	☒	☐	WHITTLESEY	☐	☐
GERGEN	☐	☐	_____	☐	☐
HERRINGTON	☐	☐	_____	☐	☐

REMARKS:

Please provide any comments/recommendations by noon Monday, 11/21st.

Thank you.

RESPONSE:Richard G. Darman
Assistant to the President
Ext. 2702



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

Received SS

1983 NOV 17 PM 3:36

NOV 17 1983

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 3348 - Gold Medal in Honor of
the Late Congressman Leo J. Ryan
Sponsors - Rep. Lantos (D) California and 231 others

Last Day for Action

November 25, 1983 - Friday

Purpose

To award a gold medal in honor of the late Congressman, Leo J. Ryan.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Treasury

No objection

Discussion

On November 18, 1978, Congressman Leo J. Ryan, a Democrat from California, was assassinated while investigating the "People's Church" settlement in Jonestown, Guyana. In recognition of Ryan's untimely death, as well as his "distinguished service" as a member of the House of Representatives, H.R. 3348 authorizes the President to present a gold medal of appropriate design, on behalf of the Congress, to the family of the late Congressman.

The enrolled bill directs the Department of the Treasury to strike the medal and authorizes the sale of bronze duplicates to the public at a cost sufficient to cover manufacturing costs. The bill also authorizes \$25,000 in appropriations for production of the Ryan medal.

H.R. 3348 passed both Houses by voice vote.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

Ninety-eighth Congress of the United States of America

AT THE FIRST SESSION

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

An Act

To honor Congressman Leo J. Ryan and to award a special congressional gold medal to the family of the late Honorable Leo J. Ryan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, a gold medal of appropriate design to the family of the late Honorable Leo J. Ryan in recognition of his distinguished service as a Member of Congress and the fact of his untimely death by assassination while performing his responsibilities as a Member of the United States House of Representatives. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed \$25,000 after October 1, 1983, to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, material, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out subsection (a) shall be reimbursed out of the proceeds of such sales.

(c) The medals provided for in this section are national medals for the purpose of section 5111 of title 31, United States Code.

Speaker of the House of Representatives.

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

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

November 18, 1983

STATEMENT BY THE PRESIDENT

I am pleased today to affix my signature to the bill H.R. 3348, honoring the late Congressman Leo J. Ryan by authorizing a special Congressional Gold Medal of appropriate design to be struck and presented to his family.

Today marks the fifth anniversary of the day Leo Ryan was tragically struck down by an assassin's bullet on a faraway airport runway in Guyana. As his colleagues have noted in their tribute to him, it was typical of Leo Ryan's concern for his constituents that he would investigate personally the rumors of mistreatment in Jonestown that reportedly affected so many from his district.

Leo Ryan is the 88th recipient of a Congressional Gold Medal and only the 4th Member of Congress to receive this high honor from his colleagues.

#

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO Art Schissel (Treas.)	Take necessary action ☐
Ted Ebert (GSA)	Approval or signature ☐
John Logan (DOJ)	Comment ☐
John Roberts (WH Counsel)	Prepare reply ☐
Stuart Smith/M. Chaffee	Discuss with me ☐
	For your information ☐
	See remarks below ☐
FROM <i>Greg</i> Greg Jones 11/18/83	DATE

REMARKS

Attached, FYI, is a letter OMB sent on 11/16 to Senate Governmental Affairs on S. 563 -- former Presidents.

This letter was OK'd by the White House before it went (Ed Meese).

It is substantially identical to OMB's letter on the same bill last year.

Please pass along to appropriate persons.

NOV 1 6 1983

Honorable William V. Roth, Jr.
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for the views of the Office of Management and Budget (OMB) on S. 563, the "Former Presidents Facilities and Services Reform Act of 1983."

Title I of S. 563 would make certain changes to existing law with respect to Presidential libraries. Title II concerns staff and services provided to former Presidents, as well as pensions for spouses of deceased former Presidents. Title III deals with Secret Service protection afforded former Presidents, their families, and former Vice Presidents.

As you know, this Administration is strongly committed to bringing the growth in Federal spending under control, with a view toward the elimination of all but essential expenditures.

To the extent that S. 563 has as its goal a reduction in unnecessary spending, we are certainly sympathetic to its objectives. As a general rule, however, the Administration opposes the imposition of any additional restrictions on the privileges and prerogatives of former Presidents; and it is for this reason that OMB opposes enactment of S. 563. Our principal objections are outlined below.

We do not believe that the major changes affecting libraries of former Presidents are necessary or desirable. Libraries of former Presidents are national resources that are invaluable to scholars, students and others engaged in historical research. In our view, the substantial restrictions that S. 563 would impose on the construction of libraries of former Presidents, especially the provision of the bill that would limit a Presidential library to no more than 40,000 square feet in area, are unreasonable and arbitrary and do not draw adequate distinctions between the Administrations of different Presidents (e.g., between Presidents who serve for eight years and those who serve for four years).

We should note that the Department of Justice has advised us that the prospectus procedure in Title I of S. 563 by which Presidential libraries would be authorized is an unconstitutional

17006

legislative veto. The Department has also advised that section 102 of S. 563 -- concerning the President's authority to dispose of Presidential records -- must be interpreted to recognize the principle that the President, and not the Archivist of the United States, is the ultimate authority in determining the disposal of Presidential records.

We support increasing pensions for the spouses of deceased former Presidents from \$20,000 per year to two-thirds of the rate payable to a former President, currently equal to Level I of the Executive Schedule. In addition, we do not object to a number of other provisions of Title II of S. 563, such as authority for the detail of Federal employees to offices of former Presidents on a reimbursable basis. We do object, however, to several other features of Title II. For example, we consider unreasonably restrictive the limit on a former President to one office of not more than 4,000 square feet and the prohibition on a former President from using Federal funds in the preparation of his memoirs unless he enters into an agreement with the Government Printing Office (GPO) for their publication. In connection with the publication of Presidential memoirs, we are of the view that GPO should not be in the business of publishing and distributing works that heretofore have been published and distributed by private sector organizations. We also believe that the bill's authorization of \$750,000 to the outgoing President and Vice President in the year that they leave office is unreasonably low. Current law provides the outgoing Administration with \$1 million in assistance and should not be reduced.

OMB believes that no additional restrictions on the availability of Secret Service protection for former Presidents and their families should be enacted at this time. We have no objection to making limited Secret Service protection available to former Vice Presidents, however. Concerning the requirement in Title III of S. 563 that the Secretary of the Treasury in certain instances obtain the approval of an advisory committee before extending Secret Service protection to particular individuals, the Justice Department has advised that such an arrangement would be an unconstitutional abrogation of the principle of separation of powers.

Sincerely,

David A. Stockman

David A. Stockman
Director

THE WHITE HOUSE

WASHINGTON

November 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Suggested (Draft) Signing Statement
for H.R. 3348 (Gold Medal for Leo Ryan)

Richard Darman asked for immediate comments on the attached draft signing statement. In your and Mr. Hauser's absence, I advised Darman's office to correct the split infinitive in the second paragraph and to substitute "this high honor" for "the nation's highest civilian honor" in the last sentence. I am aware of no formal ranking of civilian honors, and have often seen the Presidential Medal of Freedom described as "the nation's highest civilian honor."

Attachment

Peter Ruston

8325

MEMORANDUM

NATIONAL SECURITY COUNCIL

November 18, 1983

Peter -
pls note that
this has not yet
been signed.
Paul T.

MEMORANDUM FOR JAMES M. FREY

FROM: ROBERT M. KIMMITT

SUBJECT: Enrolled Bill H.R. 2915 - Authorization for
Department of State

We recommend that the President veto H.R. 2915, "The Department of State Authorization Act for Fiscal years 1984 and 1985."

Although the bill has positive features, such as the National Endowment for Democracy (Section 501 et. seq.), there are several provisions that are either objectionable or inadvisable. Specifically, the delay in implementation of the prepublication review requirement of NSDD-84 (Section 1110) and the onerous requirements concerning the position of Director of the Office of Foreign Missions (Section 604) contradict specific Presidential decisions and guidance on these issues, and the second of these may have important constitutional ramifications. There is every reason to believe that those inside the Executive Branch whose recommendations on these issues were not accepted by the President are seeking redress in Congress.

Lastly, the War Powers Resolution provision is inadvisable given the lack of debate or consultation on revising a measure that goes to the essence of Executive-legislative relations.

SPECIAL DRAFT¹⁸³House
DRAFT

—Ordered to be printed

Mr. _____, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2915]

Senate is
Reviewing

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2915) to authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

November 10, 1983

the Senator from Colorado (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUE), the Senator from Arkansas (Mr. STENNIS), the Senator from Nevada (Mr. BENTLEY), the Senator from Alaska (Mr. BARTLETT), the Senator from Montana (Mr. CONNALLY), the Senator from Wyoming (Mr. CANTWELL), the Senator from Idaho (Mr. ANDERSON), the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. GOLDBERGER), the Senator from New Mexico (Mr. MONTELEONE), the Senator from Colorado (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUE), the Senator from Arkansas (Mr. STENNIS), the Senator from Nevada (Mr. BENTLEY), the Senator from Alaska (Mr. BARTLETT), the Senator from Montana (Mr. CONNALLY), the Senator from Wyoming (Mr. CANTWELL), the Senator from Idaho (Mr. ANDERSON), the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. GOLDBERGER), the Senator from New Mexico (Mr. MONTELEONE).

There are any other Senators wishing to vote?

It was announced—yeas 47, nays 36.

Roll call Vote No. 352 Leg. I

YEAS—47

Grassley	Percy
Hatch	Pressler
Hatfield	Proxmire
Hawkins	Roth
Hecht	Rudman
Helms	Stafford
Humphrey	Stennis
Jepson	Stevens
Johnston	Symms
Kassebaum	Thurmond
Kasten	Trible
Long	Warner
Lugar	Welcker
Mattingly	Wilson
Nickles	Zorinsky
Packwood	

NAYS—36

Eagleton	Metzenbaum
Ford	Mitchell
Heflin	Moynihan
Helms	Nunn
Huddleston	Peil
Kennedy	Quayle
Lautenberg	Randolph
Leahy	Riegle
Levin	Sarbanes
Mathias	Sasser
Matsunaga	Specter
Melcher	Tsongas

NOT VOTING—17

Goldwater	Murkowski
Hart	Pryor
Hollings	Simpson
Inouye	Tower
Laxalt	Waltrop
McClure	

ruling of the Chair was sustained by the Senate. HATFIELD. Mr. President, I reconsider the vote by which the Chair was upheld. EVENS. I move to lay that on the table.

motion to lay on the table was

BOSCHWITZ and Mr. HATFIELD addressed the Chair. The PRESIDING OFFICER. The bill be in order.

motion before the Senate at the amendment of the

November 10, 1983

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair asks that the Senate please be in order. The Chair advises the staff that if we cannot conduct business in an orderly manner, the Chair will ask the Sergeant at Arms to clear the Chamber.

Mr. HATFIELD. Mr. President, may I restate my request, now that we have a little more order.

I have asked unanimous consent to set aside the Metzenbaum-Hatfield amendment temporarily, in order that we may consider the next amendment—singular.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, I ask Senators at this time to help us to handle this matter as expeditiously as possible by giving us some indication of amendments that Senators have plans to offer.

We are trying to set up a list here in order to know how long it is going to take. We have to get information to the House as quickly as possible as to when we expect to go to conference.

I say to Senators that I think we can handle almost any amendment, possibly with one or two exceptions, without a rollcall vote. I do not think we have to have rollcalls. We are in a position to accept a number of amendments and will be reasonable in accepting them. I am not saying how long they will stay on the measure when we get to conference.

We are trying to get to conference and not continue this self-flagellation. I do not think this idea of forcing ourselves until 3 or 4 o'clock in the morning is necessary.

We are going to conference on the supplemental on Monday. I reemphasize—we are going to conference on the supplemental on Monday. A lot of Senators want now to redraft the continuing resolution in the image of the supplemental. We do not really have to do that. We are going to have the supplemental back here for consideration next week. So I urge Senators not to try to bring everything out of the supplemental and piggyback it on the continuing resolution.

I ask Senators who have amend-

CONGRESSIONAL RECORD — SENATE

S 15885

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

Sec. . Funds appropriated or otherwise made available for fiscal year 1984 pursuant to Section 101(f) of this joint resolution or the enactment into law of H.R. 3222 shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended until November 18, 1983.

Mr. BOSCHWITZ. Mr. President, this amendment has been cleared on both sides.

It is an amendment that would waive for 8 days the necessity to pass the State Department authorization bill. The State Department authorization bill is presently in conference. There were 96 issues, and they are down to 1 issue. We expect the conference to be resolved shortly, but they need an 8-day window for such authorization.

I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The Chair hears none. Therefore, the question is on agreeing to the amendment.

The amendment (No. 2573) was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent to set aside the Metzenbaum-Hatfield amendment in order that the Senator from Utah may offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2574

(Purpose: To amend the Bankruptcy Act regarding the referees salary and expense fund.)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. FORD addressed the Chair.

Mr. HATCH. Mr. President, I believe

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following:

Sec. . (a) This section may be cited as the "Referees Salary and Expense Fund Act of 1983".

(b) Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds \$200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds \$100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed."

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Kentucky.

Mr. FORD. Without the Senator losing his right to the floor.

Can the manager of the bill or the Chair advise this Senator about the procedure? Is it the procedure that whoever gets the eye of the Chair is able to call up the next amendment?

The Senator from Oregon was trying to get a list a few moments ago.

Mr. HATFIELD. Mr. President, I respond to the Senator by indicating that the Senator from Ohio (Mr. METZENBAUM) and I have agreed to set aside our amendment temporarily, on a one-by-one basis, rather than on a blanket basis.

I asked for a list of names, and I would like to alternate on both sides

Nov. 18 deadline

apply with respect to deaths occurring on and after January 1, 1973."

§ 2680. Appropriations for State Department: information to congressional committees

(a)(1) Notwithstanding any provision of law enacted before October 26, 1974, no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972—

(A) unless the appropriation thereof has been authorized by law enacted on or after February 7, 1972; or

(B) in excess of an amount prescribed by law enacted on or after such date.

(2) To the extent that legislation enacted after the making of an appropriation to the Department of State authorizes the obligation or expenditure thereof the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this section—

(A) shall not be superseded except by a provision of law enacted after February 7, 1972, which specifically repeals, modifies, or supercedes the provisions of this section; and

(B) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

(Aug. 1, 1956, ch. 841, § 15, 70 Stat. 892; Feb. 7, 1972, Pub. L. 92-226, pt. IV, § 407(b), 86 Stat. 35; July 13, 1972, Pub. L. 92-352, title I, § 102, 86 Stat. 490; Oct. 26, 1974, Pub. L. 93-475, § 11, 88 Stat. 1442; H. Res. 163, Mar. 19, 1975.)

CODIFICATION

Section was formerly classified to section 170t of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-475 incorporated existing provisions into pars. (1) preceding subpar. (A), and par. 3(B), added pars. (1)(A), (B), (2), and (3)(A), and substituted "enacted before October 26, 1974, no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972" of "no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress.", in par. (1) preceding subpar. (A), and "section" for "subsection" in par. (3).

1972—Subsec. (a). Pub. L. 92-352 added provisions that this subsection shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

Pub. L. 92-226 substituted provisions constituting subsecs. (a) and (b) and prohibiting any State Department appropriation on and after July 1, 1972, without a prior congressional legislative authorization, and requiring the State Department and Federal agencies to furnish information to congressional committees for former provisions constituting the entire section and authorizing and making appropriations available for the State Department.

CHANGE OF NAME

The name of the Committee on Foreign Affairs of the House of Representatives was changed to Committee on International Relations, effective Mar. 19, 1975, by House Resolution 163, 94th Congress.

CONGRESSIONAL PURPOSE RESPECTING LAWS RELATING TO DEPARTMENT OF STATE AND UNITED STATES INFORMATION AGENCY, FOREIGN RELATIONS; AND AUTHORIZATION OF APPROPRIATIONS

Section 407(a) of Pub. L. 92-226 provided that: "It is the purpose of this section [amending sections 1476, 2680, and 2684 of this title] to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives [now the Committee on International Relations of the House of Representatives] in particular, to carry out the purposes and intent of the Legislative Reorganization Act of 1946 and 1970 [see Short Title notes under section 72a of Title 2, The Congress], with respect to—

"(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

"(2) providing periodic authorizations of appropriations for that Department and Agency."

§ 2680a. Authority and responsibility of ambassadors

Under the direction of the President—

(1) the United States Ambassador to a foreign country shall have full responsibility for the direction, coordination, and supervision of all United States Government officers and employees in that country, except for personnel under the command of a United States area military commander;

(2) the Ambassador shall keep himself fully and currently informed with respect to all activities and operations of the United States Government within that country, and shall insure that all Government officers and employees in that country, except for personnel under the command of a United States area military commander, comply fully with his directives; and

(3) any department or agency having officers or employees in a country shall keep the United States Ambassador to that country fully and currently informed with respect to all activities and operations of its officers and employees in that country, and shall insure that all of its officers and employees, except for personnel under the command of a United States area military commander, comply fully with all applicable directives of the Ambassador.

(Aug. 1, 1956, ch. 841, § 16, as added Oct. 26, 1974, Pub. L. 93-475, § 12, 88 Stat. 1442.)

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EXPEDITED PROCEDURE IN THE SENATE

Sec. 601. (a)(1) The provisions of subsection (b) of this section shall apply with respect to the consideration in the Senate of any resolution required by law to be considered in accordance with such provisions.

(2) Any such law shall—

(A) state whether the term "resolution" as used in subsection (b) of this section, means, for the purposes of such law—

- (i) a joint resolution; or
- (ii) a resolution of either House of Congress;
- (iii) a concurrent resolution; and

(B) specify the certification to which such resolution shall apply.

(b)(1) For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (a)(1) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

PROCUREMENTS FROM SMALL BUSINESSES

Sec. 602. In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purpose of carrying out this section."

USE OF PERSONNEL

Sec. 605.¹⁸ (a) Nothing in this Act is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act and the Foreign Assistance Act of 1961.

¹⁸The responsibilities vested to the Administrator of AID under this section were transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1960 establishing IDCA).

¹⁹22 U.S.C. 2751 note.

made in achieving lower prices and fair market

conditions for imported natural gas.

Prepublication review of writings of former

Federal employees

Sec. 1110. The head of a department or agency of the Government may not, before April 15, 1984, enforce, issue, or implement any rule, regulation, directive, policy, decision, or order which (1) would require any officer or employee to submit, after termination of employment with the Government, his or her writings for prepublication review by an officer or employee of the Government, and (2) is different from the rules, regulations, directives, policies, decisions, or orders (relating to prepublication review of such writings) in effect on March 1, 1983.

Elimination and modification of reports

Sec. 1111. (a) The following provisions are repealed:

(1) Section 126(c) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2691 note).

(2) Section 405(b) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 1048 note).

(3) Section 12(d) of the Taiwan Relations Act (22

1 numbered 7502; 23 U.S.T. 3227); and

2 "(2) the terms 'members of a mission' and 'family'
3 have the same meanings as is ascribed to them by
4 paragraphs (1) and (2) of section 2 of the Diplomatic
5 Relations Act (22 U.S.C. 254e)."

6 Director of the Office of Foreign Missions

7 Sec. 604. (a) Section 203 of the State Department Basic
8 Authorities Act of 1956 (22 U.S.C. 4303) is amended in
9 subsection (a)--

10 (1) in the second sentence by striking out

11 "appointed by the Secretary" and inserting in lieu
12 thereof "appointed by the President by and with the
13 advice and consent of the Senate"; and

14 (2) by adding at the end thereof the following:

15 "The Director shall have the rank of ambassador. The
16 Director shall be an individual who is a member of the
17 Foreign Service, who has been a member of the Foreign
18 Service for at least ten years, who has significant
19 administrative experience, and who has served in
20 countries in which the United States has had significant
21 problems in assuring the secure and efficient operations
22 of its missions."

23 (b) Such section is further amended by redesignating
24 subsection (b) as subsection (c) and by inserting the
25 following new subsection (b) after subsection (a):

1 “(b) There shall also be a Deputy Director of the
2 Office of Foreign Missions who shall be an individual who
3 has served in the United States Intelligence community.”.

4 (c) The amendments made by this section shall apply with
5 respect to any Director of the Office of Foreign Missions,
6 and to any Deputy Director of the Office of Foreign
7 Missions, appointed after the date of enactment of this Act.

8 Extraordinary protective services

9 Sec. 605. (a) Of the amounts authorized to be
10 appropriated for “Administration of Foreign Affairs” by
11 section 102(1) of this Act, \$6,000,000 for the fiscal year
12 1984 and \$6,300,000 for the fiscal year 1985 may be used for
13 the provision of protective services directly or by contract
14 in locations for which funds are not otherwise available to
15 provide such services, to the extent deemed necessary by the
16 Secretary of State in carrying out title II of the State
17 Department Basic Authorities Act of 1956 (relating to
18 foreign missions), except that amounts used under this
19 section shall not be subject to the provisions of section
20 208(h) of that Act.

21 (b) The Secretary of State may provide funds to a State
22 or local authority for protective services under this
23 section only if the Secretary has determined that a threat
24 of violence, or other circumstance, exists which requires
25 extraordinary security measures which exceed those which