



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

September 13, 2023  
(Senate)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 4366 — Consolidated Appropriations Act, 2024 (Sen. Murray, D-WA)

The Administration strongly supports Senate passage of the Senate amendment to H.R. 4366, making appropriations for: military construction, the Department of Veterans Affairs, and related agencies; Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs; and the Departments of Transportation, Housing and Urban Development, and related agencies for the fiscal year (FY) ending September 30, 2024 and for other purposes.

In May, the Administration and congressional leaders reached a bipartisan budget agreement that avoided a first-ever default and protected the Nation's hard-earned and historic economic recovery. In addition, the agreement allows for the annual appropriations process to proceed through regular order. This negotiation resulted in the Fiscal Responsibility Act (FRA) of 2023, which passed with overwhelming bipartisan support and set spending levels for FYs 2024 and 2025.

In contrast to the partisan, damaging approach of House Republicans that would cut domestic spending to levels well below the FRA agreement and endanger critical services for the American people, the Senate has worked in an overwhelmingly bipartisan manner to pass all twelve appropriations bills out of committee for the first time since 2018.

The Administration urges swift passage of H.R. 4366 to ensure there is adequate time for the Congress to consider the Administration's supplemental request and funding anomalies before the end of the fiscal year.

The Administration would like to take this opportunity to share additional views regarding H.R. 4366.

### Division A— Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2024

#### Department of Veterans Affairs (VA)

*VA Medical Care.* The Administration appreciates the \$121 billion in discretionary appropriations that the Committee has provided for VA Medical Care. Along with previously provided Toxic Exposures Fund funding, this level would enable VA to support key Administration priorities such as ending veteran homelessness, increasing access to mental healthcare, and preventing suicide, as well as investing in other critical areas, including caregiver support programs and overdose prevention and substance use

treatment programs. The Administration also appreciates the continuing flexibility to provide veterans with the robust array of medical care services they deserve.

*Prohibition on Information Technology (IT) Purchases from China.* The Administration agrees in principle with the concerns that section 259 of the bill attempt to address.

However, the Administration opposes this section as written, which would prohibit VA from purchasing IT and other office equipment where the manufacturer, bidder, or offeror has any of a variety of relationships to the People’s Republic of China. In addition to concerns about implementation and the cost to VA to repurchase IT, this sweeping ban is contrary to the Administration’s preferred risk-based approach to addressing IT prohibitions, including through use of the authorities provided to the Federal Acquisition Security Council (FASC). The Congress established the FASC to, in relevant part, review and address risks to the U.S. Government technology supply chain.

#### Department of Defense

*Guantánamo Bay Prohibitions.* The Administration strongly opposes sections 135 and 411 of the bill, which would prohibit closure or realignment of the U.S. Naval Station, Guantánamo Bay, and would prohibit construction or modification of facilities in the United States to house transferred Guantánamo Bay Detention Facility (GTMO) detainees. These provisions would interfere with the President’s ability to determine the appropriate disposition of GTMO detainees.

*Reprioritization of Military Construction Funding to Unrequested Projects.* The Administration opposes the Committee’s proposed realignment of military construction funding from priority projects to other projects. Contrary to the Administration’s fiscally responsible policy to fully fund executable projects, the bill proposes to fund three military construction projects incrementally. While the impact is significantly less than the House bill, this would effectively create an unfunded obligation of almost \$300 million needed to successfully execute these projects over time, divert those funds to projects that either are not executable in FY 2024 or were not requested by the Administration, and, given the already agreed upon levels for FY 2025 appropriations under the FRA, reduce the amount available for other high priority military construction requirements in FY 2025 by a comparable amount.

#### Constitutional Concerns

Certain provisions of the bill raise separation of powers concerns, including by conditioning the Executive’s authority to take certain actions on receiving the approval of the House and Senate Committees on Appropriations. The Administration looks forward to working with the Congress to address these and other concerns.

### **Division B—Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2024**

#### Department of Agriculture (USDA)

*Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).* The Administration appreciates that the bill funds the FY 2024 Budget request for WIC and

supports the longstanding bipartisan principle that WIC should be funded to serve all eligible participants without harmful benefit reductions or waiting lists, which would result in greater hardship and poorer health outcomes for this vulnerable population. Due to rising participation and food costs, caused in part by Russia's war against Ukraine, estimated funding needs for WIC have increased since transmittal of the FY 2024 Budget, and the Administration has requested additional funding beyond what was provided in the bill to ensure WIC is able to serve all eligible women and children who seek assistance in FY 2024. The Administration looks forward to working with the Congress to ensure that WIC funding is sufficient to serve all eligible women and children who seek assistance.

*Sodium Limits in Child Nutrition Meal Patterns.* The Administration appreciates the Committee's support for continued alignment of the Child Nutrition school meal patterns with the Dietary Guidelines for Americans (DGAs). The Administration is concerned that section 773 of the bill would functionally limit USDA's ability to establish any standards for sodium in school meals and would like to work with the Congress to continue to support school meal nutrition standards that align with the DGAs.

*Climate Hubs and Climate Change Research.* The Administration appreciates the support for climate science research at USDA as well as support for climate hubs, which provide important assistance to the Nation's farmers and ranchers who are on the frontlines facing the challenges of a changing climate.

*Rural Partners Network.* The Administration is disappointed that the bill provides only \$3 million for the Rural Partners Network, which is a decrease of \$2 million from the FY 2023 enacted level and \$29 million below the FY 2024 Budget request. This decrease would jeopardize the critical technical assistance that Rural Partners Network staff are providing to rural and tribal communities across the Nation.

*Rural Housing.* The Administration greatly appreciates that the Committee included the authority for rental assistance to continue after USDA multi-family loans are paid off. This would allow more low-income housing properties to remain in rural America and reduce the need for the more expensive tenant protection option of vouchers. Without this authority, the cost for USDA vouchers is expected to grow significantly as multifamily housing units are paid off. Unfortunately, the Committee did not address a fundamental flaw in USDA's single family direct home ownership program, which requires low-income borrowers to repay the Government for the cost of the loan after the loan is paid off or when the borrower no longer occupies the home. No other Federal mortgage program has this requirement—and it penalizes rural America. The bill also raises the interest rate floor on this program, which may result in some very low-income borrowers no longer qualifying. In addition, the Administration is concerned that the Senate bill has a significantly lower loan level for single family housing direct loans than requested—it is lower than the House and lower than the historic loan level of \$1 billion. At the Senate level, some qualifying low-income rural Americans may not otherwise be able to purchase a home, and the Administration urges the Congress to provide the requested loan level of \$1.5 billion.

*National Institute of Food and Agriculture (NIFA) Research and Education Grants.* The Administration appreciates the continued support for USDA research activities. However, the Administration has concerns with section 745, which would rescind \$307

million of the FY 2022 unobligated balances necessary to fulfill planned spending for programs that are pending award and/or were delayed due to closings and delays in reopening to full services as a result of COVID-19 pandemic. This planned research is vital to advancing the Nation's food and fiber sector commitments and energy security, which would not be possible with the rescission. For example, this reduction increases the risk that livestock and poultry producers would not have access to adequate veterinary medicine services, impacting the Nation's food safety and infrastructure.

#### Department of Health and Human Services (HHS)

*Food and Drug Administration (FDA).* The Administration appreciates the targeted increase of \$20 million in the Senate bill. The Administration does have some concerns that at that level, FDA would need to absorb the statutorily required pay increase for staff. In order to maintain current FDA staff and service levels, this would require FDA to take funding from other programs to meet the need. This would impact FDA's ability to maintain current levels of oversight on activities such as food safety and medical product review. The Administration would like to work with the Congress to ensure that there is sufficient funding to support the staff necessary to allow FDA to meet its core public health mission to keep food safe and ensure medical products are safe and effective.

#### Constitutional Concerns

Certain provisions of the bill raise separation of powers concerns, including by conditioning the Executive's authority to take certain actions on receiving the approval of the House and Senate Committees and by preventing the President from recommending certain legislation to the Congress. The Administration looks forward to working with the Congress to address these and other concerns.

### **Division C—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2024**

#### Department of Transportation (DOT)

*Federal Aviation Administration (FAA) Topline.* The Administration appreciates the \$16.5 billion provided in the bill for FAA. Consistent with the FY 2024 Budget request, the bill prioritizes the operations and capital funding as requested for FAA. This funding supports critical hiring of air traffic controllers to rebuild the pipeline of new controllers needed to meet projected traffic demands. This funding also supports investments to modernize essential systems in the National Airspace System.

*Federal Transit Administration.* The Administration appreciates the \$2.9 billion provided in the bill for public transportation programs, which would help the Administration continue to meet its goals to address the state of good repair backlog, reduce greenhouse gas emissions, and expand service through transformational projects funded by the Capital Investment Grants program.

*National Infrastructure Investments.* The Administration appreciates the \$800 million provided in the bill for the multi-modal Rebuilding American Infrastructure with

Sustainability and Equity (RAISE) grant program to support surface transportation projects across the Nation with significant local or regional impact.

*Amtrak and Rail Safety and Infrastructure Grants.* The Administration appreciates the Committee's support to improve the safety and efficiency of the Nation's passenger and freight rail network. This includes almost \$2.5 billion in grants to Amtrak and nearly \$600 million for Consolidated Rail Infrastructure and Safety Improvement grants.

#### Department of Housing and Urban Development (HUD)

*Housing Choice Vouchers.* The Administration strongly supports the \$31.7 billion provided in the bill for the Housing Choice Voucher program, an increase of \$1.5 billion (including emergency funding) over the FY 2023 enacted level. The Administration appreciates the funding to renew assistance for 2.3 million currently assisted families, as well as \$60 million for special purpose vouchers to support homeless and at-risk veterans, low-income families, and youth aging out of foster care.

*Project-Based Rental Assistance.* The Administration supports the \$15.8 billion provided in the bill for the Project-Based Rental Assistance program. Preserving housing that is affordable for the lowest-income households—and ensuring rents remain affordable for those households—is a critical component of tackling the Nation's housing challenges.

*HOME Investment Partnerships Program.* The Administration supports the \$1.5 billion provided in the bill for HOME block grants, equal to the FY 2023 enacted level. HOME plays a critical role in the production and preservation of affordable housing across the Nation.

*Homeless Assistance Grants.* The Administration strongly supports the \$3.9 billion provided in the bill for Homeless Assistance Grants, an increase of \$275 million above the FY 2023 enacted level, which would fund intervention programs that serve homeless and at-risk individuals and families, including survivors of domestic violence and homeless youth. The Administration also appreciates the \$100 million included in this funding level for the creation of new permanent supportive housing, which would increase housing stability and supportive services for individuals and families experiencing homelessness.

*Public Housing Fund.* The Administration supports the \$8.9 billion provided in the bill for the Public Housing Fund, an increase of \$361 million over the FY 2023 enacted level. The funding is essential to operate, maintain, and make capital improvements to affordable public housing units serving some of the Nation's most vulnerable families.

*HUD's Operations.* The Administration appreciates the Committee's support for HUD's operational funding and flexibilities. Ensuring that there are enough resources to deliver on HUD's mission is a priority.

#### Constitutional Concerns

Several provisions of the bill would raise separation of powers concerns under *INS v. Chadha*, 462 U.S. 919 (1983), and *Bowsher v. Synar*, 478 U.S. 714 (1986), by purporting to require the approval of congressional committees before the Executive Branch can

spend or reallocate funds. These provisions are impermissible forms of congressional aggrandizement in the execution of the laws other than by enactment of statutes. The Administration looks forward to working with the Congress to address these and other concerns.

The Administration looks forward to working with the Congress as the FY 2024 appropriations process moves forward.

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