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APPROVED
DEC 22 1974

ACTION

THE WHITE HOUSE
WASHINGTON

Last Day: December 23

December 20, 1974

*Posted in
Colorado 12/23*

*To ARCHIVES
12/24*

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 6274 - Check Forgery Insurance Fund Extension

Attached for your consideration is H.R. 6274, sponsored by Representative Rodino, which provides relief for payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund.

OMB recommends approval and provides you with additional background information in its enrolled bill report (Tab A).

Bill Timmons and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign H.R. 6274 (Tab B)



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

DEC 16 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6274 - Check forgery insurance
fund extension
Sponsor - Rep. Rodino (D) New Jersey

Last Day for Action

December 23, 1974 - Monday

Purpose

Broadens the availability of the check forgery insurance fund to permit settlement payments to innocent payees or special endorsees of checks drawn on designated U.S. depositories, and authorizes the use of foreign currencies to make such payments.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Justice	No objection

Discussion

The enrolled bill, which was proposed by the Treasury Department, would amend the Act of November 21, 1941 (31 U.S.C. 561-564). The latter provides for a revolving check forgery insurance fund and directs the Treasurer of the United States to draw on the fund to pay the rightful payees or special endorsees of checks drawn on the Treasurer (but not on other depositories) where the checks have been lost or stolen and thereafter paid under forged endorsements.

The main problem with the existing law is that no means exist to make settlement with innocent payees or special endorsees of forged checks drawn on Government accounts in other depositories -- besides the U.S. Treasurer -- in this country and abroad.



As proposed by Treasury, the enrolled bill would resolve this problem by:

- making the check forgery insurance fund available with respect to checks drawn on Federal disbursing officers on all designated U.S. depositories, in this country and abroad; and
- expanding the fund's availability to include checks drawn in dollars or foreign currencies on accounts in depositories located in foreign countries.

Winfred H. Rommel

Assistant Director for
Legislative Reference

Enclosures



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 781

Date: December 16, 1974

Time: 6:30 p.m.

FOR ACTION: Geoff Shepard
Bill Timmons
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Thursday, December 19

Time: 2:00 p.m.

SUBJECT:

Enrolled Bill H.R. 6274 - Check forgery insurance fund extensions

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 781

Date: December 16, 1974

Time: 6:30 p.m.

FOR ACTION: Geoff Shepard ✓
Bill Timmons
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Thursday, December 19

Time: 2:00 p.m.

SUBJECT:

Enrolled Bill H.R. 6274 - Check forgery insurance
fund extensions

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

Approved
P.C.S.



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.


If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

December 17, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS
FROM: WILLIAM E. TIMMONS 
SUBJECT: Action Memorandum - Log No. 781
Enrolled Bill H. R. 6274 - Check Forgery
Insurance Fund Extensions

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 781

Date: December 16, 1974

Time: 6:30 p.m.

FOR ACTION: Geoff Shepard
Bill Timmons
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Thursday, December 19

Time: 2:00 p.m.

SUBJECT:

Enrolled Bill H.R. 6274 - Check forgery insurance
fund extensions

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

Sign

P Areeda



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

DEC 12 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 6274, "To grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes."

The enrolled enactment would broaden the authorized use of the check forgery insurance fund so that settlement payments could be made therefrom to innocent payees or special indorsees of checks drawn in U.S. dollars or foreign currencies on designated depositories of the United States on which indorsements have been forged.

The legislation was proposed by this Department and we recommend that it be approved by the President.

Sincerely yours,

General Counsel



Department of Justice
Washington, D.C. 20530

DEC 12 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Ash:

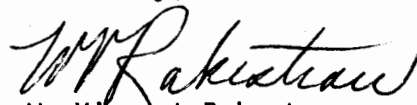
In compliance with your request, I have examined a facsimile of the enrolled bill H.R. 6274, "To grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes."

The Act of November 21, 1941, c. 489, 31 U.S.C. 561-64, establishes a revolving check forgery insurance fund and authorizes the Treasurer of the United States to draw on that fund to pay the payee or holder of a check drawn on the Treasurer where the check has been lost or stolen without fault on the part of the payee or holder and has been subsequently negotiated and paid on a forged indorsement.

The purpose of the bill is to extend the coverage of the Act of November 21, 1941 to checks drawn on Government accounts in other depositories in the United States and abroad. It is intended, in particular, to reach the situation of checks drawn on foreign currency accounts held by the Government in foreign countries.

Accordingly, the Department of Justice has no objection to Executive approval of this legislation.

Sincerely,



W. Vincent Rakestraw
Assistant Attorney General

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

DEC 16 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6274 - Check forgery insurance
fund extension.
Sponsor - Rep. Rodino (D) New Jersey

Last Day for Action

December 23, 1974 - Monday

Purpose

Broadens the availability of the check forgery insurance fund to permit settlement payments to innocent payees or special endorsees of checks drawn on designated U.S. depositories, and authorizes the use of foreign currencies to make such payments.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Justice	No objection

Discussion

The enrolled bill, which was proposed by the Treasury Department, would amend the Act of November 21, 1941 (31 U.S.C. 561-564). The latter provides for a revolving check forgery insurance fund and directs the Treasurer of the United States to draw on the fund to pay the rightful payees or special endorsees of checks drawn on the Treasurer (but not on other depositories) where the checks have been lost or stolen and thereafter paid under forged endorsements.

The main problem with the existing law is that no means exist to make settlement with innocent payees or special endorsees of forged checks drawn on Government accounts in other depositories -- besides the U.S. Treasurer -- in this country and abroad.



As proposed by Treasury, the enrolled bill would resolve this problem by:

- making the check forgery insurance fund available with respect to checks drawn on Federal disbursing officers on all designated U.S. depositories, in this country and abroad; and
- expanding the fund's availability to include checks drawn in dollars or foreign currencies on accounts in depositories located in foreign countries.

Winfred H. Rommel

Assistant Director for
Legislative Reference

Enclosures

RELIEF FOR PAYEES AND SPECIAL INDORSEES OF FRAUDU-
LENTLY NEGOTIATED CHECKS DRAWN ON DESIGNATED
DEPOSITARIES OF THE UNITED STATES BY EXTENDING THE
AVAILABILITY OF THE CHECK FORGERY INSURANCE FUND

AUGUST 3, 1973.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. DONOHUE, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 6274]

The Committee on the Judiciary, to whom was referred the bill (H.R. 6274) to grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, lines 5 and 6: Strike the language of lines 5 and 6. Page 1, line 7: Strike "(b)" and insert "(a)". Page 1, line 9: Strike "(c)" and insert "(b)".

PURPOSE

The provisions of the Act of November 21, 1941, as set out in sections 561 through 564 of title 31 of the United States Code now provide for payment from a fund known as the Check Forgery Insurance Fund to payees or to special indorsees whose names are forged on U.S. checks which were negotiated and paid on the forged indorsement. This bill, as amended, would add a new section to permit similar payment to payees and special indorsees on forged checks drawn in U.S. dollars or foreign currencies on depositories designated by the Secretary of the Treasury in the United States or abroad by Government disbursing officers.

STATEMENT

The bill H.R. 6274 was introduced in accordance with the recommendations of an executive communication from the Treasury Department which recommends its enactment.

The bill would amend the Act of November 21, 1941, by adding a new section. This Act is set out as sections 561 to 564 of title 31, and provides for the check forgery insurance fund and for payments from the fund to payees of lost or stolen checks on the United States paid on forged indorsement. This is a revolving fund established out of appropriated funds. The Act authorizes and directs the Treasurer of the United States to draw on that fund to pay a payee, or a holder who is a special indorsee whose indorsement is necessary for further negotiation, the amount of a check drawn on the Treasurer whenever it is established that (a) the check was lost or stolen without fault of the payee or such holder; (b) it was thereafter negotiated and paid by the Treasurer on a forged indorsement of the payee's or special indorsee's name; (c) the payee or special indorsee did not participate in the proceeds of the negotiation or payment, and (d) reclamation on the check subsequent to the forgery has been or may be delayed or unsuccessful. The use of the fund by the Treasurer does not relieve a forger, or transferee subsequent to the forgery, from any liability on the check, and all amounts recovered by the Treasurer as a result of such liability are credited to the fund as necessary to reimburse it.

The Executive Communication points out that the law does not provide full relief for payees or indorsees of Government checks since no means now exists to make settlement with payees or special indorsees of forged checks drawn in U.S. dollars or foreign currencies on depositaries designated by the Secretary of the Treasury in the United States or abroad, by Government disbursing officers who maintain checking accounts with such depositaries. The increased use of such checks and increased incidence of forged indorsements on such checks necessitate the establishment of a fiscal resource by which prompt and certain relief payments may be made to innocent payees or special indorsees on forged depositary checks, to settle their claims against the Government. The purpose of the proposed bill is to provide that recourse by broadening the authorized use of the check forgery insurance fund, and in certain circumstances by authorizing the use of foreign currencies, to make such settlements.

Since 1963, United States disbursing officers, in 10 countries where balances of foreign currencies are excess to the Government's regular operating needs, have been converting checks drawn on the Treasurer to foreign currency checks drawn on depositaries designated by the Secretary of the Treasury, as a means to use the excess currencies. The checks generally represent monthly payments of benefits of various kinds, which cannot all be personally delivered or made in cash. For the month of January 1972, for example, 12,059 such conversions in a dollar amount of \$1,653,419.00 occurred. In addition, United States Disbursing Officers of the Department of State, Treasury disbursing officers, and certain other Government disbursing officers draw checks in foreign currencies on foreign depositaries directly.

At the present time reclamation on forged depositary checks, if successful, and the ultimate settlement payments to the entitled payees or indorsees involve long periods of time, because many depositaries rely on or must comply with the banking and currency laws and regulations of their foreign countries; the rightful payees or

indorsees are deprived of the funds in the meantime. If reclamation action is not successful, a disbursing officer can currently make settlement only by creating an overpayment in his account, and thereafter requesting relief from the General Accounting Office, which may not be granted.

The Treasury Department has pointed out that while the use of checks drawn in United States dollars on depositaries in this country is less common, there is the same lack of authority to make settlement with innocent payees or special indorsees when forgeries occur.

Subsection (c) of the proposed bill would correct the problems described above and supply the authority now lacking. As has been stated this subsection would amend the Act of November 21, 1941, by adding thereto a new section 4 to authorize the Secretary of the Treasury to make available the check forgery insurance fund, established by section 1 of the Act (31 U.S.C. 561), for settlement payments to payees or special indorsees of checks drawn on and paid by designated depositaries, pursuant to regulations to be prescribed by the Secretary and under the four conditions specified in section 2, summarized above, except as they pertain to the Treasurer of the United States. If such a check were payable in foreign currency, the drawer accountable officer would be authorized wherever possible to make settlement payment in the same currency notwithstanding the prohibition in section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), against the expenditure by United States agencies of foreign credits owed to or owned by the Treasury except as provided in annual appropriation acts. The proposed bill incorporates the provision of section 3 of the 1941 Act for the continuing liability of a forger, or transferee subsequent to the forgery, after settlement payment to the person entitled to the amount of the check, and the provision for restoration to the check forgery insurance fund of amounts recovered on the basis of that liability, except that recoveries of foreign currency would be used to reimburse that fund or a foreign currency fund or account, depending on which was used to make the settlement payment.

Subsection (a) of the amended bill would renumber the present sections 4 and 5 of the 1941 Act as sections 5 and 6. The present section 5 of the Act provided for the effective date of the 1941. It was not set forth as a section in title 31, but is set forth in a note following section 561 of that title.

A subcommittee hearing was conducted on the bill H.R. 6274 on Thursday, July 19, 1973. At that hearing it was explained that the check forgery insurance fund was established to provide a means of payment to entitled payees and special indorsees* of checks drawn on the Treasurer of the United States that have been lost or stolen and paid by the Treasurer on forged indorsements. The Act established with appropriated money a revolving fund and authorized and directed the Treasurer to use it, under four stated conditions, to pay the rightful payees or indorsees in these cases. The fund thus provides for the expeditious settlement of claims by making funds available in advance of reclamation actions by the Treasury against forgers or subsequent transferees.

*A special indorsee on a check is a named person to whom or to whose order the check is to be paid by virtue of a special indorsement to him.

At the hearing, the witness appearing in behalf of the Department of the Treasury discussed the need for extension of the use of the fund in the manner proposed in the executive communication and provided in this bill. It was pointed out that for a number of years the United States Government has been paying some of its obligations abroad in foreign currencies; and, in recent years, the Treasury has expanded the procedure to include benefit payments to annuitants in certain foreign countries. These payments are made in foreign currency checks drawn on Treasury-designated depositories. This maximizes the use of U.S.-owned foreign currencies by authorizing the payments to be made in such currencies in those countries where the United States has accumulated balances in excess of its normal operating needs. The expanded procedure has been in effect since 1963 and in January 1973 applied to ten countries where 11,868 foreign currency-denominated checks were issued to pay benefits in the dollar amount of \$1,769,692. In total, Treasury disbursing officers issue about 150,000 checks monthly on designated depositories.

No means now exists, however, to make timely settlement with payees or special indorsees whose depository checks are stolen or lost, and cashed through fraudulent indorsements. The situation is compounded in foreign countries because depositories must rely on the banking laws and regulations of the country in which the depository is located; and, in some cases, the reclamation procedures are such that check claims may not be resolved for inordinate periods—sometimes as long as two years. The testimony at the hearing on July 19, 1973 established that over and above these long delays, if reclamation action proves to be unsuccessful, a disbursing officer can presently make settlement only by creating an overdraft in his account and subsequently requesting relief from the General Accounting Office—which may or may not be granted depending on the facts of the case. Clearly this is not an acceptable procedure from an accounting or administrative standpoint. The witness at the hearing stated that the Treasury Department has recognized that it is unfair to payees of checks drawn on United States depositories to have to wait for long periods for settlement on forged items when payees of checks drawn on the Treasurer can receive settlement checks in a much shorter time. In this connection it must be noted that the checks drawn on such depositories are legal obligations of the United States just as are checks drawn on the Treasurer.

This bill provides a logical and proven remedy in this situation. The new section 4 which would be added to the basic statute would make the check forgery insurance fund available for settlement payments to payees or special indorsees of checks drawn on and paid by designated depositories, under the same constraints as now exist for Treasurer's checks and under regulations issued by the Secretary of the Treasury in the Code of Federal Regulations. In the case of checks drawn in foreign currencies, settlement would, to the extent possible, be made in the same currency; and for this purpose the bill would waive the prohibition in section 1415 of the Supplemental Appropriations Act, 1953 (31 U.S.C. 724) against the expenditure of U.S.-owned foreign currencies except as provided in annual appro-

priation acts. The bill protects the Treasury against losses under the extended procedure by incorporating a provision in section 3 of the 1941 Act which makes a forger, or a transferee subsequent to the forgery, liable for the amount of the fraudulently-cashed check, and by a provision for reclamation of such amounts and ultimate credit to the check forgery insurance fund or the foreign currency account which withstood the settlement charge, as the case may be.

As originally proposed by the Treasury the bill would have stricken the words "and directed" from section 2 of the existing law. It now provides that after a payee has satisfied the requirements set forth in the section the Treasurer ". . . is authorized and directed . . ." to draw on the fund prior to reclamation to pay the payee or special indorsee. The committee decided not to make this change in existing law. Therefore the committee amendment is to strike the language of subsection (a) of the bill with a further amendment changing the lettering on the remaining two subsections to "(a)" and "(b)".

Cost

At the hearing on July 19, 1973, the witness appearing in behalf of the Treasury Department was questioned concerning the cost to the United States in connection with the existing fund and the effect which might be expected from the enactment of the bill. It was stated that the fund was established in 1941 with an appropriation of \$50,000. This was utilized as a revolving fund until 1963 when an additional \$50,000 was authorized. In 1970 this was increased to \$200,000, and in 1972 an additional \$1,800,000 was authorized. The revolving fund has now been funded at the full amount of two million dollars. The Treasury Department has furnished the committee with a summary of the numbers of check and amounts in connection with the operation of the revolving fund in the years 1962 through 1973. This statement is set out at the end of this report. It should be noted that the losses which were not recovered throughout the history of the fund was \$68,148.90. As is evident from this history, recovery is made in the overwhelming majority of the cases and the amounts so recovered are deposited in the fund. While it is not possible to predict what loss may occur in specific cases in the future, it appears that there will be a similar experience in effecting ultimate collection under the provisions of this bill as has been the case under the existing provisions of the law.

COMMITTEE APPROVAL

On July 31, 1973, the full Committee on the Judiciary by voice vote and with no dissenting vote, ordered the bill favorably reported to the House, as amended.

CONCLUSION

The Committee has concluded that the bill provides for the utilization of a time tested means for the payment of the amounts due to payees on these checks in these situations. It is recommended that the amended bill be considered favorably.

[The executive communication is as follows:]

THE SECRETARY OF THE TREASURY,
Washington, March 19, 1973.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill, "To grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes."

The Act of November 21, 1941 (55 Stat. 777; 31 U.S.C. 561-564) established out of appropriated funds the revolving check forgery insurance fund, and authorized and directed the Treasurer of the United States to draw on that fund to pay a payee, or a holder who is a special indorsee whose indorsement is necessary for further negotiation, the amount of a check drawn on the Treasurer whenever it is established that (a) the check was lost or stolen without fault of the payee or such holder; (b) it was thereafter negotiated and paid by the Treasurer on a forged indorsement of the payee's or special indorsee's name; (c) the payee or special indorsee did not participate in the proceeds of the negotiation or payment, and (d) reclamation on the check subsequent to the forgery has been or may be delayed or unsuccessful. The use of the fund by the Treasurer does not relieve a forger, or transferee subsequent to the forgery, from any liability on the check, and all amounts recovered by the Treasurer as a result of such liability are credited to the fund as necessary to reimburse it.

No means now exists, however, to make settlement with payees or special indorsees of forged checks drawn in U.S. dollars or foreign currencies on depositories designed by the Secretary of the Treasury in the United States or abroad, by Government disbursing officers who maintain checking accounts with such depositories. The increased use of such checks and increased incidence of forged indorsements on such checks necessitate the establishment of a fiscal recourse by which prompt and certain relief payments may be made to innocent payees or special indorsees on forged depository checks, to settle their claims against the Government. The chief purpose of the proposed bill is to provide that recourse by broadening the authorized use of the check forgery insurance fund, and in certain circumstances by authorizing the use of foreign currencies, to make such settlements.

Since 1963, United States disbursing officers, in 10 countries where balances of foreign currencies are excess to the Government's regular operating needs, have been converting checks drawn on the Treasurer to foreign currency checks drawn on depositories designated by the Secretary of the Treasury, as a means to use the excess currencies. The checks generally represent monthly payments of benefits of various kinds, which cannot all be personally delivered or made in cash. For the month of January 1972, for example, 12,059 such conversions in a dollar amount of \$1,653,419.00 occurred. In addition, United States Disbursing Officers of the Department of State, Treasury disbursing officers, and certain other Government disbursing officers draw checks in foreign currencies on foreign depositories directly.

At the present time reclamation on forged depositary checks, if successful, and the ultimate settlement payments to the entitled payees or indorsees involve long periods of time, because many depositaries rely on or must comply with the banking and currency laws and regulations of their foreign countries; the rightful payees or indorsees are deprived of the funds in the meantime. If reclamation action is not successful, a disbursing officer can currently make settlement only by creating an overpayment in his account, and thereafter requesting relief from the General Accounting Office, which may not be granted.

Although the use of checks drawn in United States dollars on depositaries in this country is less common, there is the same lack of authority to make settlement with innocent payees or special indorsees when forgeries occur.

Subsection (c) of the proposed bill, the most important provision, would correct the problems described above and supply the authority now lacking. The subsection would amend the Act of November 21, 1941, by adding thereto a new section 4 to authorize the Secretary of the Treasury to make available the check forgery insurance fund, established by section 1 of the Act (31 U.S.C. 561), for settlement payments to payees or special indorsees of checks drawn on and paid by designated depositories, pursuant to regulations to be prescribed by the Secretary and under the four conditions specified in section 2, summarized above, except as they pertain to the Treasurer of the United States. If such a check were payable in foreign currency, the drawer accountable officer would be authorized wherever possible to make settlement payment in the same currency notwithstanding the prohibition in section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), against the expenditure by United States agencies of foreign credits owed to or owned by the Treasury except as provided in annual appropriation acts. The proposed bill incorporates the provision of section 3 of the 1941 Act for the continuing liability of a forger, or transferee subsequent to the forgery, after settlement payment to the person entitled to the amount of the check, and the provision for restoration to the check forgery insurance fund of amounts recovered on the basis of that liability, except that recoveries of foreign currency would be used to reimburse that fund or a foreign currency fund or account, depending on which was used to make the settlement payment.

The second purpose of the proposed bill is to remove from the 1941 Act the mandate to the Treasurer of the United States to draw on the check forgery insurance fund to pay a payee, or a special indorsee, prior to reclamation from the forger or transferee subsequent to the forgery, the amount of a Treasurer's check paid on a forged indorsement. The presence in the 1941 statute of the mandatory language misleads some claimants into believing that the use of the fund in their behalf will be immediate and automatic.

In view of the foregoing, subsection (a) of the proposed bill would strike from section 2 (31 U.S.C. 562) the words "and directed."

Finally, subsection (b) of the bill would renumber the present sections 4 and 5 of the 1941 Act as sections 5 and 6. The present section 5 of the Act, which does not appear in 31 U.S.C. 561-564, provided that the Act should take effect 60 days after enactment.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

WILLIAM E. SIMON,
Acting Secretary.

Enclosures 2.

A BILL To grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 21, 1941 (55 Stat. 777; 31 U.S.C. 561-564), is amended as follows:

(a) Section 2 is amended by striking out the words "and directed" from the concluding clause.

(b) Section 4 and 5 are redesignated as sections 5 and 6.

(c) A new section 4 is added to read as follows:

"Sec. 4. The Secretary of the Treasury is authorized to make available to accountable officers of the United States sums in the fund to pay to a payee or special indorsee of a check drawn on and paid by a designated depository of the United States the amount of the check, without interest, where it is established, in accordance with regulations promulgated under section 5, that the conditions specified in section 2 of this Act, except as they pertain to the Treasurer of the United States, have been fulfilled. Notwithstanding the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), where such check was payable in a foreign currency the accountable officer may be authorized to make payment in that foreign currency. The liability and restoration provisions of section 3 of this Act shall apply with respect to checks drawn on designated depositories, except that recoveries of foreign currency shall be used, as required, to reimburse either the foreign currency fund or account or the check forgery insurance fund, whichever account or fund is charged when settlement is made with the payee or indorsee."

[The statement concerning the operation of the Check Forgery Insurance Fund referred to in this report is as follows:]

STATEMENT OF TREASURER'S CHECK FORGERY INSURANCE (REVOLVING) FUND, ACT OF NOV. 21, 1941, PUBLIC LAW 310, 77th CONGRESS—55 STAT. 777, 31 U.S.C. 561-564

	Checks issued		Amount of checks issued		Irretrievable losses	
	Number	Cumulative total	Amount	Cumulative total	Amount	Cumulative total
Fiscal year:						
1962.....	3,454	32,927	\$262,811.16	\$2,999,878.68	\$1,130.03	\$11,050.27
1963.....	3,026	35,953	307,410.88	3,307,289.56	620.00	11,670.27
1964.....	5,471	41,424	552,578.57	3,859,868.13	1,489.07	13,159.34
1965.....	6,891	48,315	675,346.31	4,535,214.44	1,356.59	14,515.93
1966.....	6,653	54,968	637,736.72	5,172,951.16	1,194.40	15,710.33
1967.....	7,952	62,920	753,525.12	5,926,476.28	1,360.58	17,071.91
1968.....	7,836	70,756	771,728.32	6,698,204.60	2,379.04	19,449.95
1969.....	3,484	74,241	447,168.80	7,145,373.40	2,175.16	21,625.11
1970.....	6,319	80,560	806,368.46	7,951,741.86	10,883.53	32,508.64
1971.....	4,384	84,944	671,446.82	8,623,188.68	16,286.64	48,795.28
1972.....	8,895	93,839	1,453,740.84	10,076,929.52	11,119.13	59,914.41
1973.....	24,892	123,731	4,218,769.42	14,295,698.94	8,234.49	68,148.90

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 310, 77TH CONGRESS, 1ST SESSION

(Act of November 21, 1941, ch. 489, §§ 1-5, 55 Stat. 777; 31 U.S.C. 561-564)

AN ACT To authorize the Treasurer of the United States to make settlements with payees of lost or stolen checks, which have been paid on forged indorsements, in advance of reclamation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, to be available until expended, to be used by the Treasurer of the United States, under the direction of the Secretary of the Treasury, for making settlement with the payees and special indorsees of certain checks drawn on the Treasurer of the United States, as hereinafter provided. There is hereby further authorized to be appropriated from time to time such additional sums as may be necessary for such purpose. There shall be on deposit with the Treasurer of the United States in a special deposit account a revolving fund, to be known as the check forgery insurance fund (hereinafter referred to as "the fund"), to be composed of the sum of \$50,000 and such further sums as may hereafter be appropriated from time to time, together with all recoveries deposited to the credit of the fund as hereinafter provided.

SEC. 2. Whenever it is established (a) that any check heretofore or hereafter drawn on the Treasurer of the United States has been lost or stolen, without the fault of the payee or a holder who is a special indorsee and whose indorsement is necessary to the further negotiation of such check, (b) that such check has thereafter been negotiated and paid by the Treasurer on a forged indorsement of the payee's or special indorsee's name, (c) that the payee or special indorsee has not participated either directly or indirectly in the proceeds of such negotiation or payment, and (d) that reclamation from the forger or transferees or parties on such check subsequent to the forgery has been or may be delayed or be unsuccessful, the Treasurer of the United States is authorized and directed to draw on the fund prior to reclamation to pay such payee or special indorsee the amount of such check, without interest.

SEC. 3. Nothing contained in this Act shall be construed to relieve the forger from civil or criminal liability, nor to relieve any transferee or party on such check subsequent to the forgery from liability on his express or implied guaranty of prior indorsements, or liability to make refund to the Treasurer of the United States, and all amounts received by the Treasurer by way of reclamation from such persons, or other persons making repayment on behalf of such persons, to the extent that such amounts are necessary to reimburse the fund

for payments made to payees or special indorsees therefrom shall forthwith be deposited to the credit of the fund and shall be available for the purposes thereof.

SEC. 4. The Secretary of the Treasury is authorized to make available to accountable officers of the United States sums in the fund to pay to a payee or special indorsee of a check drawn on and paid by a designated depository of the United States the amount of the check, without interest, where it is established, in accordance with regulations promulgated under section 5, that the conditions specified in section 2 of this Act, except as they pertain to the Treasurer of the United States, have been fulfilled. Notwithstanding the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), where such check was payable in a foreign currency the accountable officer may be authorized to make payment in that foreign currency. The liability and restoration provisions of section 3 of this Act shall apply with respect to checks drawn on designated depositories, except that recoveries of foreign currency shall be used, as required, to reimburse either the foreign currency fund or account or the check forgery insurance fund, whichever account or fund is charged when settlement is made with the payee or indorsee.

SEC. [4.] 5. The Secretary of the Treasury shall have the power to make such rules and regulations as he may deem necessary or proper for the administration of the provisions of this Act.

SEC. [5.] 6. This Act shall take effect on the sixtieth day following the date of its enactment.



RELIEF FOR PAYEES AND SPECIAL INDORSEES OF FRAUDU-
LENTLY NEGOTIATED CHECKS DRAWN ON DESIGNATED DE-
POSITARIES OF THE UNITED STATES BY EXTENDING THE
AVAILABILITY OF THE CHECK FORGERY INSURANCE FUND

MARCH 22, 1974.—Ordered to be printed

Mr. Hruska, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 6274]

The Committee on the Judiciary, to which was referred the bill (H.R. 6274), to grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositaries of the United States by extending the availability of the check forgery insurance fund, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

Sections 4 and 5 of the Act of November 21, 1941 (55 Stat. 777; 31 U.S.C. §§ 561-64), now provide for payment from a fund known as the Check Forgery Insurance Fund to payees or to special indorsees¹ whose names are forged on U.S. checks which were negotiated and paid on the forged indorsement. The instant bill would add a new section to permit similar payment to payees and special indorsees on forged checks drawn in U.S. dollars or foreign currencies on depositaries designated by the Secretary of the Treasury in the United States or abroad by Government disbursing officers.

STATEMENT

Current law provides authority for check forgery insurance fund and for payments from the fund to payees of lost or stolen checks on the United States paid on forged indorsement. This is a revolving fund established out of appropriated funds. The Treasurer of the

¹ A special indorsee on a check is a named person to whom or to whose order the check is paid by virtue of a special indorsement to him.

United States is directed to draw on that fund to pay a payee, or a holder who is a special indorsee whose indorsement is necessary for further negotiation, the amount of a check drawn on the Treasurer whenever it is established that (a) the check was lost or stolen without fault of the payee or such holder; (b) it was thereafter negotiated and paid by the Treasurer on a forged indorsement of the payee's or special indorsee's name; (c) the payee or special indorsee did not participate in the proceeds of the negotiation or payment, and (d) reclamation on the check subsequent to the forgery has been or may be delayed or unsuccessful. The use of the fund by the Treasurer does not relieve a forger, or transferee subsequent to the forgery, from any liability on the check, and all amounts recovered by the Treasurer as a result of such liability are credited to the fund as necessary to reimburse it.

The subject bill, H.R. 6274, was introduced in accordance with an Executive communication from the Treasury Department which recommends prompt enactment.

The Executive communication from the Treasury Department raises a deficiency in present law which does not now provide full relief for payees or indorsees of Government checks. There are presently no means to make settlement with payees or special indorsees of forged checks drawn in U.S. dollars or foreign currencies on depositaries designated by the Secretary of the Treasury in the United States or abroad. Checking accounts are maintained by Government disbursing officers with these depositaries and checks drawn on these accounts are frequently paid in foreign currencies. The increased use of such checks and the increased incidence of forged indorsements on such checks necessitate the creation of a fiscal resource from which prompt and certain relief payments can be made to innocent payees or special indorsees on forged depositary checks. The purpose of the proposed bill is to provide a recourse to settle claims by innocent payees and special indorsees against the Government by broadening the authorized use of the check forgery insurance fund, and in certain circumstances by authorizing the use of foreign currencies to make such settlements.

Since 1963, United States disbursing officers, in ten countries where balances of foreign currencies are excess to the Government's regular operating needs, have been converting checks drawn on the Treasury to foreign currency checks drawn on depositaries as a means to use the excess currencies. The checks generally represent monthly payments of benefits of various kinds, which cannot all be personally delivered or made in cash. For the month of January, 1972, for example, 12,059 such conversions in a dollar amount of \$1,653,419.00 occurred. In addition, United States Disbursing Officers of the Department of State, Treasury disbursing officers, and certain other Government disbursing officers draw checks in foreign currencies on foreign depositaries directly.

The provisions of H.R. 6274 were canvassed extensively in the House at which time it was explained that the check forgery insurance fund was originally established to provide a means of payment to entitled payees and special indorsees of checks drawn on the Treasurer of the United States that have either been lost or stolen and then paid by the Treasurer on forged instruments. The Act established with appropriated money a revolving fund and authorized and directed

the Treasurer to use it, under four stated conditions, to pay the rightful payees or indorsees in these cases. The fund was thus intended to provide for the expeditious settlement of claims by making funds available in advance of reclamation actions by the Treasury against forgers or subsequent transferees.

However, during testimony in the House hearings on H.R. 6274, a witness, appearing on behalf of the Treasury Department, testified that for a number of years the United States Government has been paying some of its obligations abroad in foreign currencies; and, in recent years, the Treasury has expanded its procedure to include benefit payments to annuitants in certain foreign countries. These payments are made in foreign currency checks drawn on Treasury-designated depositories, which makes maximum use of foreign currencies owned by the United States and retained as accumulated balances in excess of normal operating needs.

Testimony also pointed out that there are presently no means to make timely settlement of claims by payees or special indorsees whose depository checks are stolen or lost, and cashed through fraudulent indorsements. This situation is further complicated in foreign countries since depositories must rely on the banking laws and regulations where the depository is located. In some cases, reclamation proceedings can take as long as two years. Even accounting for these delays, and if a reclamation action proves to be unsuccessful, a disbursing officer can now make settlement only by creating an overdraft in his account and subsequently requesting relief from the General Accounting Office—which may or may not be granted depending on the facts of the case. These delays are not consistent with efficient accounting or administrative practices, and create an undue burden on payees who must wait for extended periods to receive settlement. It should be noted here that checks drawn on such depositories are legal obligations of the United States, just as are checks drawn on the Treasurer, thus expeditious settlement would be to the Government's benefit.

This bill provides a logical and proven remedy for quick and timely settlement through funds retained in the check forgery insurance fund. The new section 4 would provide a remedy for reimbursement to payees and special indorsees consistent with regulations issued by the Secretary of Treasury in the Code of Federal Regulations. In the case of checks drawn in foreign currencies, settlement would, to the extent possible, be made in the same currency. The bill also makes provision for waiving the prohibition in section 1415 of the Supplemental Appropriations Act, 1953 (31 U.S.C. 724) against the expenditure of U.S.-owned foreign currencies except as provided in annual appropriation acts.

A provision in section 3 of the 1941 Act has also been incorporated in the bill to protect the Treasury against losses sustained under the extended procedure of reclamation. That provision makes a forger, or a transferee subsequent to the forgery, liable for the amount of the fraudulently-cashed check. It also provides for reclamation of such amounts and ultimate credit to the check forgery insurance fund or the foreign currency account which withstood the settlement charge, as the case may be.

COSTS

Losses which have not been recovered for payments from the Check Forgery Insurance Fund since its inception in 1941, have totaled only \$68,148.90. Hearings before the House Judiciary Committee would indicate that there will be a similar experience in effecting ultimate collection under the provisions of this bill as has been the case under the existing provisions of the law.¹

CONCLUSION

For the foregoing reasons, your Committee recommends prompt approval of the subject bill.

CHANGES IN EXISTING LAW

In compliance with Rule XXIX of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 310 77TH CONGRESS, 1ST SESSION

(Act of November 21, 1941, ch. 489, §§ 1-5, 55 Stat. 777; 31 U.S.C. 561-564)

AN ACT To authorize the Treasurer of the United States to make settlements with payees of lost or stolen checks, which have been paid on forged indorsements, in advance of reclamation, and for other purposes

SEC. 4. The Secretary of the Treasury is authorized to make available to accountable officers of the United States sums in the fund to pay to a payee or special indorsee of a check drawn on and paid by a designated depository of the United States the amount of the check, without interest, where it is established, in accordance with regulations promulgated under section 5, that the conditions specified in section 2 of this Act, except as they pertain to the Treasurer of the United States, have been fulfilled. Notwithstanding the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), where such check was payable in a foreign currency the accountable officer may be authorized to make payment in that foreign currency. The liability and restoration provisions of section 3 of this Act shall apply with respect to checks drawn on designated depositories, except that recoveries of foreign currency shall be used, as required, to reimburse either the foreign currency fund or account or the check forgery insurance fund, whichever account or fund is charged when settlement is made with the payee or indorsee.

SEC. [4.] 5. The Secretary of the Treasury shall have the power to make such rules and regulations as he may deem necessary or proper for the administration of the provisions of this Act.

SEC. [5.] 6. This Act shall take effect on the sixtieth day following the date of its enactment.

¹ See Appendix, *infra*.

(Executive communication)

THE SECRETARY OF THE TREASURY,
Washington, March 19, 1973.

THE VICE PRESIDENT,
*U.S. Senate,
Washington, D.C.*

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill. "To grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositaries of the United States by extending the availability of the check forgery insurance fund, and for other purposes."

The Act of November 21, 1941 (55 Stat. 777; 31 U.S.C. 561-564) established out of appropriated funds the revolving check forgery insurance fund, and authorized and directed the Treasurer of the United States to draw on that fund to pay a payee, or a holder who is a special indorsee whose indorsement is necessary for further negotiation, the amount of a check drawn on the Treasurer whenever it is established that (a) the check was lost or stolen without fault of the payee or such holder; (b) it was thereafter negotiated and paid by the Treasurer on a forged indorsement of the payee's or special indorsee's name; (c) the payee or special indorsee did not participate in the proceeds of the negotiation or payment, and (d) reclamation on the check subsequent to the forgery has been or may be delayed or unsuccessful. The use of the fund by the Treasurer does not relieve a forger, or transferee subsequent to the forgery, from any liability on the check, and all amounts recovered by the Treasurer as a result of such liability are credited to the fund as necessary to reimburse it.

No means now exists, however, to make settlement with payees or special indorsees of forged checks drawn in U.S. dollars or foreign currencies on depositaries designed by the Secretary of the Treasury in the United States or abroad, by Government disbursing officers who maintain checking accounts with such depositaries. The increased use of such checks and increased incidence of forged indorsements on such checks necessitate the establishment of a fiscal recourse by which prompt and certain relief payments may be made to innocent payees or special indorsees on forged depositary checks, to settle their claims against the Government. The chief purpose of the proposed bill is to provide that recourse by broadening the authorized use of the check forgery insurance fund, and in certain circumstances by authorizing the use of foreign currencies, to make such settlements.

Since 1963, United States disbursing officers, in 10 countries where balances of foreign currencies are excess to the Government's regular operating needs, have been converting checks drawn on the Treasurer to foreign currency checks drawn on depositaries designated by the Secretary of the Treasury, as a means to use the excess currencies. The checks generally represent monthly payments of benefits of various kinds, which cannot all be personally delivered or made in cash. For the month of January 1972, for example, 12,059 such conversions in a dollar amount of \$1,653,419.00 occurred. In addition, United States Disbursing Officers of the Department of State, Treasury disbursing officers, and certain other Government disbursing officers draw checks in foreign currencies on foreign depositaries directly.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

WILLIAM E. SIMON,
Acting Secretary.

Enclosures 2.

A BILL To grant relief to payees and special indorsees of fraudulent negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 21, 1941 (55 Stat. 777; U.S.C. 561-564), is amended as follows:

(a) Section 2 is amended by striking out the words "and directed" from the concluding clause.

(b) Section 4 and 5 are redesignated as sections 5 and 6.

(c) A new section 4 is added to read as follows:

"Sec. 4. The Secretary of the Treasury is authorized to make available to accountable officers of the United States sums in the fund to pay to a payee or special indorsee of a check drawn on and paid by a designated depository of the United States the amount of the check, without interest, where it is established, in accordance with regulations promulgated under section 5, that the conditions specified in section 2 of this Act, except as they pertain to the Treasurer of the United States, have been fulfilled. Notwithstanding the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), where such check was payable in a foreign currency the accountable officer may be authorized to make payment in that foreign currency. The liability and restoration provisions of section 3 of this Act shall apply with respect to checks drawn on designated depositories, except that recoveries of foreign currency shall be used, as required, to reimburse either the foreign currency fund or account or the check forgery insurance fund, whichever account or fund is charged when settlement is made with the payee or indorsee."

STATEMENT OF TREASURER'S CHECK FORGERY INSURANCE (REVOLVING) FUND, APPENDIX, PUBLIC LAW 310, 77th CONGRESS—55 STAT. 777, U.S.C. 561-564

	Checks issued		Amount of checks issued		Irretrievable losses	
	Number	Cumulative total	Amount	Cumulative total	Amount	Cumulative total
Fiscal year:						
1962-----	3,454	32,927	\$262,811.16	\$2,999,878.68	\$1,130.03	\$11,050.27
1963-----	3,026	35,953	307,410.88	3,807,289.56	620.00	11,670.27
1964-----	5,471	41,424	552,578.57	3,859,868.13	1,489.07	13,159.34
1965-----	6,891	48,315	675,346.31	4,535,214.44	1,356.59	14,515.93
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1972-----	8,895	93,839	1,453,740.84	10,076,929.52	11,119.13	59,914.41
1973-----	24,892	123,731	4,218,769.42	14,295,698.94	8,234.49	68,148.90



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

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

An Act

To grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 21, 1941 (55 Stat. 777; 31 U.S.C. 561-564), is amended as follows:

(a) Sections 4 and 5 are redesignated as sections 5 and 6.

(b) A new section 4 is added to read as follows:

“SEC. 4. The Secretary of the Treasury is authorized to make available to accountable officers of the United States sums in the fund to pay to a payee or special indorsee of a check drawn on and paid by a designated depository of the United States the amount of the check, without interest, where it is established, in accordance with regulations promulgated under section 5, that the conditions specified in section 2 of this Act, except as they pertain to the Treasurer of the United States, have been fulfilled. Notwithstanding the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), where such check was payable in a foreign currency the accountable officer may be authorized to make payment in that foreign currency. The liability and restoration provisions of section 3 of this Act shall apply with respect to checks drawn on designated depositories, except that recoveries of foreign currency shall be used, as required, to reimburse either the foreign currency fund or account or the check forgery insurance fund, whichever account or fund is charged when settlement is made with the payee or indorsee.”

Speaker of the House of Representatives.

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

December 11, 1974

Dear Mr. Director:

The following bills were received at the White House on December 11th:

S. 2193 ✓

S. 2363 ✓

S. 3906 ✓

S. 4040 ✓

H.R. 6274 ✓

H.R. 6925 ✓

H.R. 7730 ✓

H.R. 8352 ✓

H.R. 8824 ✓

H.R. 11929 ✓

H.R. 14214 ✓

H.R. 17026 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C.