The original documents are located in Box 59, folder "1976/10/01 HR14238 Legislative Branch Appropriation Act 1977 (1)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

S10/1/76

APPROVED

OCT 1 - 1976

Statement issued 10/1/76

THE WHITE HOUSE

WASHINGTON

ACTION

September 30, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 14238 - Legislative Branch Appropriation Act, 1977

Posted 10/1/76

To Archives 10/1

Attached for your consideration is H.R. 14238, sponsored by Representative Casey.

The enrolled bill appropriates funds for activities of the Congress and other legislative branch organizations.

The bill also contains provisions that temporarily bar October, 1976, comparability pay increases to Members of Congress, Federal Judges, the Vice President and executive branch officials in Levels I through V of the Executive Schedule and which repeal the one percent "kicker" feature of the cost-of-living adjustments in annuities paid under the Federal civilian and military retirement systems as was recommended in your 1977 budget.

A detailed discussion of the provisions of the enrolled bill is provided in the OMB enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Schmults), Alan Greenspan, Bill Seidman and I recommend approval of the enrolled bill and the proposed signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign H.R. 14238 at Tab B.

That you approve the signing statement at Tab C.

Approve ~~GRF~~ Disapprove ______

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SEP 30 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14238 - Legislative Branch Appropriation Act, 1977
Sponsor - Rep. Casey (D), Texas

Last Day for Action

October 8, 1976 - Friday

Because many activities covered by this appropriation bill will be without legal authority to obligate funds in order to continue operations after fiscal year 1977 begins on October 1, we recommend that you sign the bill on Friday, October 1. In addition, this bill should be enacted before your Executive Order is issued on the October 1 comparability pay raise.

Purpose

Appropriates funds for activities of the Congress and other legislative branch organizations. This bill also contains provisions that temporarily bar October, 1976, comparability pay increases to Members of Congress, Federal Judges, the Vice President and executive branch officials in Levels I through V of the Executive Schedule and which repeal the one percent "kicker" feature of the cost-of-living adjustments in annuities paid under the Federal civilian and military retirement systems as was recommended in your 1977 Budget.

Agency Recommendation

Office of Management and Budget	Approval (draft signing statement attached)
Civil Service Commission (Executive pay and Federal retirement benefits provision)	Approval (views letter attached)

Discussion

The President's approval of appropriations bills containing funds only for the legislative branch has usually been considered *pro forma*. However, this year's bill includes two major provisions for comparability pay and retirement systems. Approval is recommended for the appropriation bill for 1977 even though it does contain the provision temporarily barring a pay raise for certain Federal executives. A discussion of these provisions follows.

Temporary Bar to Executive, Legislative and Judicial Salary Increases

The enrolled bill contains the Udall Rider which would deny the upcoming October, 1976, comparability pay increase to members of Congress, Federal judges, the Vice President, and executive branch officials in Levels I through V of the Executive Schedule. It would prohibit use of 1977 appropriated funds to pay such officials in excess of the rates in effect for their positions on September 30, 1976.

The restriction would apply through the new fiscal year and would be expressly inapplicable to pay increases you recommend in January, based on the report of the Quadrennial Commission on Executive, Legislative and Judicial Salaries (Quad Comm), and transmit with the 1978 Budget. Thus, the ban could apply for a maximum of one year and possibly for as little as four months, i.e., the period from October 1, 1976 to February, 1977, when your recommended executive pay increases would take effect (assuming Congress does not disapprove them, as happened in 1974).

The Udall Rider would produce an anomalous, albeit temporary, pay inversion under which more than 13,000 employees in the top steps of grade GS-15 and in supergrades GS-16 through GS-18 of the General Schedule would receive higher pay than officials in Level V of the Executive Schedule who would be limited to $37,800, the existing rate. There would be the same inversion in military pay and in other civilian pay systems. The executive level pay freeze is undesirable and may enhance difficulties in recruitment and retention of top staff.

Repeal of the One Percent "kicker" in Federal Annuity Adjustments

The enrolled bill would repeal the one percent add-on feature of cost-of-living adjustments in annuities under Federal military and civilian retirement systems, as recommended in the 1977 Budget and in your Message of March 24, 1976. In addition, H.R. 14238 would substitute a new method for computing cost-of-living adjustments in annuities in the future. In place of the present formula, which requires an increase in the CPI of at least three percent to remain in effect for three consecutive months in order to trigger an annuity adjustment, the enrolled bill would guarantee automatic, semiannual annuity increases equal to the percent change in the CPI over the previous six months. The new formula would apply in the military and civilian retirement systems.

While the Administration proposed simple repeal of the one percent feature, without change in the adjustment formula, the substitute provision represents a reasonable approach to the time lag problem the one percent kicker was designed to solve. Repeal of the one percent add-on combined with the biannual adjustment feature would produce savings of over $3 billion by 1981.

Relationship to Concurrent Resolution

The following compares the enrolled bill with House and Senate appropriations subcommittee allocations under the second concurrent resolution on the budget:

1977 Budget Authority
(in millions of dollars)

House Target	Senate Target	Enrolled Bill
980	1,000	943

Action on Legislative Branch Appropriations

For other appropriation bills, the analysis memorandum from OMB usually describes and discusses Congressional changes to the President's budget requests. The requests for legislative branch funds originate in its budget offices, are sent to the President merely to maintain the comprehensiveness of the Federal budget, and must--by law--be transmitted to the Congress without change.

Consequently, the difference between the budget requests and the enrolled bill, in this case an increase of $10.4 million, merely notes the difference between the action of the Congress and the estimates of the various legislative branch budget offices.

Thus, it is more informative to discuss--for this bill--the significant changes from the past year's appropriation bill. The comparison that follows is limited to the budget authority in the enrolled bill for 1977 as compared with the budget authority enacted for 1976.

In total, the 1977 bill provides an appropriation of $943,400,485, an increase of $10.4 million over the 1976 bill. The relatively small change in the request is partially attributable to non-recurring 1976 appropriations for construction, the payment of mail costs carried over from 1975, and a Government Printing Office write-off of prior deficiencies. If these non-recurring items are excluded, the 1977 appropriation is $85 million higher than the 1976 bill.

The major increases and decreases follow:

	Change from 1976 in millions of dollars and percentage of change
- Senate.............................	+11.2 (+8.9%)
-- increased funds are primarily for additional supporting staff for various Senate offices.	
- House of Representatives...........	+12.8 (+5.6%)
-- primarily reflects the full year cost of the October 1, 1976 pay raise and additional staffing.	
- Joint Items........................	-17.1 (-23.6%)
-- reflects decreases in reimbursements to the Postal Service for official mail costs (the 1976 bill included $16.1 million to cover mailing costs incurred in 1975) as well as the phasing out of the American Indian Policy Review Commission and the temporary Capitol Guides hired for the Bicentennial.	

	Change from 1976 in millions of dollars and percentage of change
- Congressional Budget Office..........	+4.5 (+109.4%)
-- this increase reflects the full year costs of operation of the CBO and 15 additional positions for budget, fiscal, and tax analysis.	
- Architect of the Capitol.............	-16.0 (-20.9%)
-- this decrease is primarily the result of the completion of funding for the James Madison Memorial Building and alterations in buildings and grounds to provide facilities to the physically handicapped. This has been partially offset by the modification and enlargement of the Capitol Power Plant and the increased costs of utilities. The House refused a Senate proposal to appropriate $25 million for the restoration of the West Central Front of the Capitol and the Senate rejected a proposal to acquire property for a new Senate Office Building.	
- Library of Congress..................	+18.8 (+15.8%)
-- this increase is primarily a result of staff expansion.	
- Copyright Royalty Commission.........	+0.3
-- this commission will be established and these funds appropriated upon enactment of S. 22 or similar legislation. It will be independent of the Library of Congress and the Copyright Office.	

	Change from 1976 in millions of dollars and percentage of change
- Government Printing Office...........	-13.0 (-8.5%)
-- the change includes a reduction of $23.4 million attributable to a non-recurring 1976 appropriation writing off prior year deficiencies. It is partially offset by increased staffing.	
- General Accounting Office.............	+9.0 (+6.4%)
-- reflects staff expansion.	
- Other minor increases..................	+2.0

Recommendation

The freeze on Executive pay in this bill continues the serious erosion of the concept of comparability with the private sector for Federal executives, risking difficulty with recruitment and retention of top staff. In addition, this pay freeze is structured to provide better salaries for some employees than their supervisors make. In spite of the undesirability of this freeze, however, I recommend that you sign the bill and issue a signing statement (attached) objecting to the freeze and indicating that remedies will be proposed when you present your recommendations to the Congress following the Quadrennial Commission Report.

Paul H O'Neill
for James T. Lynn
Director

Attachment

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

CHAIRMAN

September 30, 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the Commission's views on enrolled bill, H.R. 14238, "The Legislative Branch Appropriations Act, 1977."

Our comments on the enrolled bill are limited to a provision appearing in title II under the heading "Compensation of Members" (on page 8 of the enrolled bill) and to section 1306(a)-(c) (on page 24 of the enrolled bill).

This provision for compensation of Members would bar, for the duration of fiscal year 1977, the payment of salary increases under Public Law 94-82 to individuals who occupy offices or positions referred to in section 225(f) of the Federal Salary Act of 1967, as amended. The offices and positions that would be affected include those of Members of Congress and Federal judges, and positions under the Executive Schedule. Under Public Law 94-82, the pay rates for these offices and positions will be increased in October by a percentage amount (rounded to the nearest $100) equal to the average percentage of the General Schedule pay comparability adjustment. Notwithstanding the increased rates, however, if H.R. 14238 is signed into law, the individuals occupying these offices and positions will not be able to be paid the higher rates during fiscal year 1977. The provision would not, on the other hand, prevent these individuals from receiving pay increases in February and March of 1977 under the quadrennial pay review and adjustment machinery established by section 225 of the Federal Salary Act of 1967, as amended.

We believe that this temporary suspension of actual pay raises for the individuals occupying these offices and positions is very undesirable. As a result of the six-year freeze on pay for top Federal officials, from 1969 to 1975, these pay rates are extremely inadequate by almost any measure, and this suspension of the October pay raise, although only temporary, can only worsen this situation.

It should be noted that, because of the particular wording of this provision of enrolled bill H.R. 14238, certain anomalous situations are going to arise. First, individuals occupying positions in the executive branch which are not actually listed in the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, but are instead paid at Executive Schedule pay rates under other provisions of law, will not be affected by the suspension of the pay raise, and will therefore receive the October pay raise under Public Law 94-82. Thus, for example, the Chairman of the Board of Governors of the Federal Reserve System will continue to be paid the present level II rate of $44,600, while the Administrator of the Federal Energy Administration, also currently paid at level II, will receive a pay increase to $46,800, merely through a quirk of statutory codification. Second, more than 20,000 career employees in grades GS-15 through 18 and in a variety of other pay systems will receive a pay increase from $37,800 to $39,600, despite the fact that their superiors, incumbents of Executive Schedule level V positions, will continue to be paid $37,800.

These sorts of dysfunctional and irrational relationships can only exacerbate the already critical situation resulting from the inadequacy of the Government's executive pay rates. However, we note that there will be an opportunity to correct these problems early in 1977, when the President will transmit to the Congress his recommendations for new executive pay rates. If neither House of Congress disapproves, these new rates will go into effect in February and March of 1977. Therefore, because of other important features of the enrolled bill, specifically section 1306, the Commission will not recommend a veto on the basis of this provision.

Section 1306(a)-(c) of the enrolled bill would amend title 5, United States Code to revise the method of determining cost-of-living increases payable to civil service annuitants and would eliminate the additional 1 percent now applicable to each increase.

The current formula works in the following fashion. Civil Service Retirement annuities are adjusted on the first day of the third month that begins after the Consumer Price Index (CPI) has: (1) risen at least 3 percent above the index on which the last adjustment was based; and (2) remained at the higher level for 3 consecutive months. The annuity increase equals the highest percentage increase in the CPI during the 3-month period, plus 1 percent.

H.R. 14238 would eliminate the "1 percent kicker" and the 3 percent minimum requirement and put cost-of-living reviews on a regular twice-a-year basis occurring each January and July with any increase in the CPI for the previous 6-month period being reflected in annuity adjustments effective in March and September, respectively.

The initial transitional increase will be granted to all individuals on the annuity rolls on March 1, 1977 and will reflect the total CPI increase of December 1976 over December 1975.

H.R. 14238 would, if enacted produce the following savings in outlay through 1981 for the civil service system compared with present law under a low rate of inflation or a high rate of inflation.

Fiscal Year	Savings (Low Inflation)	Savings (High Inflation)
1977	$107 million	$100 million
1978	73 million	171 million
1979	250 million	307 million
1980	364 million	469 million
1981	455 million	583 million

The over compensating effect of the "1 percent kicker" has been well publicized and the Commission submitted a proposal to eliminate the "kicker" from the formula for civil service annuity adjustments.

While H.R. 14238 is somewhat different from the Commission's proposal, it would eliminate the "1 percent kicker".

Furthermore, the Commission believes the change in method of determining cost-of-living annuity adjustments as provided by the enrolled bill will be equitable.

Accordingly, the Commission recommends that the President sign enrolled bill H.R. 14238.

By direction of the Commission.

Sincerely yours,

Georgiana Sheldon

ACTING Chairman

STATEMENT BY THE PRESIDENT

I am signing H.R. 14238, Appropriations for the Legislative Branch for Fiscal Year 1977, with reluctance.

Last year, the Congress enacted Public Law 94-82 which, after more than six years, allowed annual pay adjustments for all Federal employees. Before that time pay raises for officials at the top levels of the Federal Government had been frozen. As annual comparability increases came due each October, more and more Federal employees bumped up against the fixed ceiling, preventing them from receiving the annual comparability increase. Soon, many employees in the upper Civil Service grades were receiving exactly the same salary as policy-making officials.

Under these conditions, it became increasingly difficult to recruit top-flight people into the Federal Government and it became even more difficult to retain those who were already there. With salaries significantly higher in the private sector, many dedicated individuals are deterred from entering or remaining in the public service. Chief Justice Burger has spoken often -- forthrightly and eloquently -- on the identical problems which plague the Federal Judiciary.

While last year's law did not solve these problems by any means, it did give some small relief to Federal officials who had not had a pay raise since 1968, despite large increases in the cost of living.

In the bill I am signing today, Congress has not only withdrawn the small step they took last year to help alleviate the problems of Federal pay, but they have created additional chaos.

If the Congress had frozen only the pay of its members in this bill, I would sign without hesitation.

Instead, in this election year, the Congress chose not only to stop its own pay raises but those of the Judiciary and top-level Executive Branch employees as well.

Further, the Congress has created havoc in the pay levels throughout the Federal Government. The Congress wrote language in this bill which enables employees in Civil Service grades 16, 17, and 18, and some at grade 15, to be paid higher salaries than the Commissioner of Education, the Commissioner of Food and Drugs, the Commissioner of Indian Affairs, the Administrator of the Farmers Home Administration, the Director of the National Park Service, and the Archivist of the United States. Many other officials will receive lower salaries than their subordinates.

The Congress has made a bad situation worse.

I seriously considered returning this bill to the Congress without my approval.

However, I am signing this bill because the Congress will have an opportunity to remedy the situation early next year when I present my recommendations after reviewing the proposals of the Quadrennial Commission on Executive, Legislative, and Judiciary Salaries.

I am also signing this bill because the Congress did take action on an Administration initiative of some importance -- the elimination of the so-called 1% kicker from increases provided Federal annuitants. The 1% kicker was originally intended to compensate for the delay in providing cost-of-living adjustments. However, as a result of compounding, there has been overcompensation. Since the 1% add-on was adopted, the cost of living has increased 58% while the 1% kicker adjustments have totalled 71%. Although the new cost-of-living adjustment system which this legislation establishes does not conform entirely to my recommendations, it nevertheless should maintain an appropriate balance between protecting Federal annuitants from inflation, while preserving the fiscal soundness of Federal retirement programs.

In signing this bill I express not only my chagrin but also my deep regret that so many dedicated men and women of the Judiciary and the Executive Branch will have their pay frozen by the actions of this Congress. We must all hope and expect that the next Congress will act more responsibly.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

To: Johnston 9-30-76 7:30 p.m.

SEP 30 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14238 - Legislative Branch Appropriation Act, 1977
Sponsor - Rep. Casey (D), Texas

Last Day for Action

October 8, 1976 - Friday

Because many activities covered by this appropriation bill will be without legal authority to obligate funds in order to continue operations after fiscal year 1977 begins on October 1, we recommend that you sign the bill on Friday, October 1. In addition, this bill should be enacted before your Executive Order is issued on the October 1 comparability pay raise.

Purpose

Appropriates funds for activities of the Congress and other legislative branch organizations. This bill also contains provisions that temporarily bar October, 1976, comparability pay increases to Members of Congress, Federal Judges, the Vice President and executive branch officials in Levels I through V of the Executive Schedule and which repeal the one percent "kicker" feature of the cost-of-living adjustments in annuities paid under the Federal civilian and military retirement systems as was recommended in your 1977 Budget.

Agency Recommendation

Office of Management and Budget	Approval (draft signing statement attached)
Civil Service Commission (Executive pay and Federal retirement benefits provision)	Approval (views letter attached)

Discussion

The President's approval of appropriations bills containing funds only for the legislative branch has usually been considered pro forma. However, this year's bill includes two

SIGNING STATEMENT
APPROPRIATIONS FOR THE LEGISLATIVE BRANCH

I am signing H.R. 14238, Appropriations for the Legislative Branch for Fiscal Year 1977, with reluctance.

Last year, the Congress enacted Public Law 94-82 which, after more than six years, allowed annual pay adjustments for <u>all</u> Federal employees. Before that time pay raises for officials at the top levels of the Federal Government had been frozen. As annual comparability increases came due each October, more and more Federal employees bumped up against the ~~frozen~~ fixed ceiling, preventing them from receiving the annual comparability increase. Soon, many employees in the upper Civil Service grades were receiving exactly the same salary as policy-making officials.

Under these conditions, it became increasingly difficult to recruit top-flight people into the Federal Government and it became even more difficult to retain those who were already there. With salaries far higher in the private sector, many dedicated individuals are deterred from entering or remaining in the public service. Chief Justice Burger has spoken often -- forthrightly and eloquently -- on the identical problems which plague the Federal Judiciary.

While last year's law did not solve these problems by any means, it did give some small relief to Federal officials who had not had a ~~cost-of-living~~ pay raise since 1968, despite large increases in the cost of living.

In the bill I am signing today, Congress has not only withdrawn the minor step they took last year to help alleviate the problems of Federal pay; they have created additional chaos.

If the Congress had frozen <u>only</u> the pay of its members in this bill, I would sign without hesitation.

Instead, in this election year, the Congress chose not only to stop its own pay raises but those of the Judiciary and top-level Executive Branch employees as well.

Further, the Congress has created havoc in the pay levels throughout the Federal Government. The Congress wrote language in this bill which enables employees in Civil Service grades 16, 17, and 18, and some at grade 15, to be paid higher salaries than the Commissioner of Education, the Commissioner of Food and Drugs, the Commissioner of Indian Affairs, the Administrator of the Farmers Home Administration, the Director of the National Park Service, and the Archivist of the United States. Many other officials will receive lower salaries than their subordinates.

The Congress has turned a bad situation into bedlam.

I gave considerable thought to returning this bill to the Congress without my approval.

However, I am signing this bill because the Congress will have an opportunity to remedy the situation early next year when I present my recommendations resulting from the proposals of the Quadrennial Commission on Executive, Legislative, and Judiciary Salaries.

I am also signing this bill because the Congress did take action on an Administration initiative of some importance -- the elimination of the so-called 1% kicker from increases provided Federal annuitants. The 1% kicker was originally intended to compensate for the delay in providing cost-of-living adjustments. However, as a result of compounding, there has been overcompensation. Since the 1% add-on was adopted, the cost of living has increased 58% while the 1% kicker adjustments have totalled 71%. Although the new cost-of-living adjustment system which this legislation establishes does not conform entirely to my recommendations, it does appear to maintain an appropriate balance between protecting Federal annuitants from inflation, while preserving the fiscal soundness of Federal retirement programs.

In signing this bill I extend apologies to the hard-working men and women of the Judiciary and the Executive Branch whose pay will be frozen by the actions of this Congress. We must all hope that the next Congress will act more responsibly.

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The Congress has ~~turned~~ made a bad situation ~~into bedlam~~ worse.

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In ~~signing this bill~~ I ~~extend apologies to the hard-working~~ express ~~not only~~ my chagrin but also my deep regret ~~for those dedicated~~ men and women of the Judiciary and the ~~Executive~~ Branch ~~whose~~ will have their pay ~~will be~~ frozen by the actions ~~of~~ this Congress. We must all hope and expect ~~that~~ the next Congress ~~will~~ act more responsibly.

that so many dedicated

OK as edited

Gerald Ford

9/30/76

Last Paragraph:

In signing this bill I express not only my chagrin but also my deep regret that so many dedicated men and women of the Judiciary and the Executive Branch will have their pay frozen by the actions of this Congress. We must all hope and expect that the next Congress will act more responsibly.

THE WHITE HOUSE
WASHINGTON

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SEP 30 1976

Recommend approval

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14238 - Legislative Branch Appropriation Act, 1977
Sponsor - Rep. Casey (D), Texas

Last Day for Action

October 8, 1976 - Friday

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