

The original documents are located in Box 49, folder “7/7/76 HR12567 Authorizing Appropriations for the Federal Fire Prevention and Control Act of 1974 (vetoed)” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

*Noted
7/7/76
Delivered to Clerk
of House 7/7 - 4:00pm*

8/16/76

THE WHITE HOUSE
WASHINGTON
July 5, 1976

ACTION

Last Day: July 7

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON ~~_____~~

SUBJECT:

H.R. 12567 - Authorizing Appropriations
for the Federal Fire Prevention and
Control Act of 1974

Attached for your consideration is H.R. 12567, sponsored
by Representative Teague and 24 others.

The enrolled bill would authorize appropriations of \$5.025
million for the transition quarter, \$20.5 million for FY
77 and \$26 million for FY 78 for the National Fire
Prevention and Control Administration and the Fire Research
Center.

Section 2 of the enrolled bill provides that Congress may,
by concurrent resolution, veto a plan to commit funds for
construction of the National Academy for Fire Prevention
and Control. Because of this section, most of your advisers
recommend disapproval.

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

OMB, Justice, Counsel's Office (Lazarus) and I recommend
disapproval of H.R. 12567 and the proposed veto message
which has been cleared by the White House Editorial Office
(Smith). Max Friedersdorf recommend that you sign H.R.
12567.

DECISION

Sign H.R. 12567 at Tab B.

Approve _____

Disapprove _____

JAC

Veto H.R. 12567 and sign veto message at
Tab C.

Approve _____

Disapprove _____

JAC



A



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JUN 30 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12567 - Authorizing appropriations
for the Federal Fire Prevention and Control Act of
1974

Sponsor - Rep. Teague (D) Texas and 24 others

Last Day for Action

July 7, 1976 - Wednesday

Purpose

Authorizes appropriations for the National Fire Prevention and Control Administration and the Fire Research Center for the transition quarter and fiscal years 1977 and 1978, and expands Congress' control over funds for the construction of a National Academy for Fire Prevention and Control.

Agency Recommendations

Office of Management and Budget

Disapproval (Veto
message attached)

Department of Justice
National Science Foundation
Department of Commerce

Disapproval
No objection
Approval

Discussion

The Federal Fire Prevention and Control Act of 1974 established a National Fire Prevention and Control Administration (Fire Administration) in the Department of Commerce to coordinate, encourage, and facilitate programs of fire prevention and control. The Act also established a Fire Research Center in Commerce, as well as a National Academy for Fire Prevention and Control, as an integral part of the Fire Administration, to advance the professional development of fire service personnel and of other persons engaged



in fire prevention and control. Finally, the Act authorized funds for these purposes for 1975 and 1976, with not more than \$9 million of the authorized funds to be available for the construction of the Academy. Funds have not been appropriated to build Academy facilities, and no funds were requested for this purpose in your 1977 Budget.

H.R. 12567 would authorize appropriations of \$5.025 million for the transition quarter, \$20.5 million for fiscal year 1977, and \$26 million for fiscal year 1978. It would also provide that the Congress could disapprove by concurrent resolution any proposed commitment to obligate funds for the construction of any facility of the Academy. Both the House and Senate passed the bill by voice vote.

The enrolled bill's authorization level for 1977 is \$10.322 million higher than proposed in your Budget. A more acceptable appropriation will, however, be enacted. The House version of the Commerce appropriations bill includes \$10.178 million for 1977, the amount requested in your Budget, and the Senate version contains \$14.3 million. The conferees are expected to split the difference.

Although this bill's authorization for the transition quarter is \$2.746 million higher than requested, the funds already appropriated -- \$2.279 million -- are the amount contained in your Budget.

H.R. 12567 would also require the Secretary of Commerce to submit to the House Committee on Science and Technology and the Senate Commerce Committee the plans for construction of the National Academy for Fire Prevention and Control "before a commitment may be made to obligate funds for the construction of any facility of the Academy." If Congress, by concurrent resolution, disapproves the proposed commitment of funds within 60 calendar days of the submission of such plans, the Secretary may not obligate the funds. The report of the House Committee on Science and Technology explains that this provision is necessary to "ensure that an adequate but not excessive facility is built for the Fire Academy."

The Administration has consistently objected to provisions similar to this for two major reasons. First, such provisions are inconsistent with the principle of the separation of powers. Once Congress has entrusted a responsibility to the Executive branch, that responsibility cannot be subjected to further congressional control except through the plenary legislative



processes of repeal or amendment. Second, a disapproval of executive action by concurrent or one-house resolution violates Article 1, section 7, clauses 2 and 3 of the Constitution, which require that every bill and every resolution, the legal effect of which is not limited to internal congressional affairs, must be concurred in by both Houses and be presented to the President.

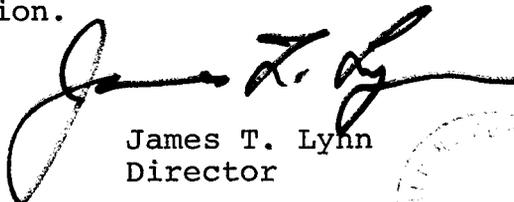
The provision for congressional veto was first added by the House. During the subcommittee markup on March 3, 1976, Representative Fuqua insisted that a one-house veto provision be added to the bill. The Senate subsequently concurred, but changed the one-house veto to veto by concurrent resolution. No Executive branch agency was asked to comment on the bill subsequent to the House subcommittee's inclusion of the provision for congressional veto.

In its attached views letter on the enrolled bill, the Department of Justice recommends disapproval, stating: "Veto of executive actions by concurrent resolution is an unconstitutional encroachment on executive powers conferred by Article II in that it attempts to revoke, by less than a full legislative act required by Article I, authority conferred on the President by law."

The Department of Commerce recommends approval of H.R. 12567, but in its attached views letter expresses concern about the legislative encroachment issue and defers to the Department of Justice on the constitutional issues involved. (Commerce notes that as a practical matter, prior congressional approval would "not significantly delay or hinder the programs of the National Fire Prevention and Control Administration or the establishment of its academy facilities.")

We concur in Justice's recommendation that you veto H.R. 12567. A veto will demonstrate your continued strong opposition to the congressional trend in enacting bills with constitutionally objectionable encroachment provisions. It will not interrupt the fire prevention and control programs at least through September 30, 1976. Appropriations for that period are now in hand. Further, the danger of interrupting the programs in 1977 is slight. The Congress has three months to reenact the authorization.

A proposed veto message, which we have coordinated with Justice, is attached for your consideration.



James T. Lynn
Director

Enclosures

B



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

JUN 24 1976

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

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H. R. 12567, an enrolled enactment

"To authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes."

H. R. 12567 would amend Section 17 of the Federal Fire Prevention and Control Act of 1974, which authorizes funding for carrying out the purposes of the Act, to authorize not to exceed \$3,750,000 for the transitional quarter beginning July 1, 1976 and ending September 30, 1976; not to exceed \$15,000,000 for the fiscal year ending September 30, 1977; and not to exceed \$20,000,000 for the fiscal year ending September 30, 1978.

Section 16(b) of the Act of March 3, 1901, which authorizes a Fire Research Center located in the National Bureau of Standards, would be amended to provide authorization of not to exceed \$1,275,000 for the transitional fiscal year beginning July 1, 1976 and ending September 30, 1976; not to exceed \$5,500,000 for the fiscal year ending September 30, 1977; and not to exceed \$6,000,000 for the fiscal year ending September 30, 1978.

Section 7(h) of the Federal Fire Prevention and Control Act of 1974 would be further amended to provide opportunity for Congressional disapproval of construction of a facility for the National Academy for Fire Prevention and Control. The enrolled enactment would require the Secretary to submit, to the Chairman of the Committee on Science and Technology of the House of Representatives and the Chairman of the Committee on Commerce of the Senate, the plans for the construction of such facility prior to the commitment to obligate funds



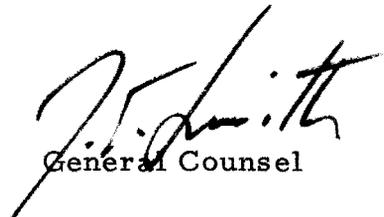
for such construction. The Secretary may make a commitment to obligate funds for the construction of such facility unless the Congress, within sixty calendar days of the date such plans are submitted, adopts a concurrent resolution, the substance of which would disapprove a commitment to obligate funds for the construction of such facility under such plans.

We are concerned that this provision for prior Congressional approval may constitute an unconstitutional legislative encroachment. We would defer, however, to the views of the Department of Justice on the constitutional issues involved. We do not believe that the requirement imposed would significantly delay or hinder the programs of the National Fire Prevention and Control Administration or the establishment of its Academy facilities.

The Department of Commerce recommends approval by the President of H. R. 12567.

Enactment of this legislation would involve the expenditure of funds by this Department, the amount of which would be determined by the appropriations made pursuant to the authorizations contained in H. R. 12567.

Sincerely,


General Counsel



Department of Justice
Washington, D.C. 20530

June 24, 1976

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

Dear Mr. Lynn:

In compliance with your request we have examined a facsimile of the enrolled bill authorizing appropriations for the Federal Fire Prevention and Control Act of 1974 for fiscal years 1977 and 1978. (H.R. 12567)

Section 2 of the enrolled bill provides that Congress may, by concurrent resolution, veto a plan to commit funds for construction of the National Academy for Fire Prevention and Control. Veto of executive action by concurrent resolution is an unconstitutional encroachment on executive powers conferred by Article II in that it attempts to revoke, by less than a full legislative act required by Article I, authority conferred on the President by law.

The Department of Justice recommends that the enrolled bill be disapproved by the President for this reason.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General
Office of Legislative Affairs



NATIONAL SCIENCE FOUNDATION

WASHINGTON, D.C. 20550



OFFICE OF THE
DIRECTOR

June 24, 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

This is in reply to your communication of June 22, 1976, requesting the comments of the National Science Foundation on Enrolled Bill H. R. 12567, "To authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978 and for other purposes."

The Foundation has no objection to approval of the bill by the President.

Sincerely yours,

A handwritten signature in cursive script that reads "H. Guyford Stever".

H. Guyford Stever
Director



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 1

Time: 100pm

FOR ACTION: ~~Lynn May~~ *Paul Leach* ^{veto} cc (for information):
 Max Friedersdorf *sign*
 Glenn Schleede
 Robert Hartmann (veto message attached)

Jack Marsh
 Jim Cavanaugh
 Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 2

Time: 100pm

SUBJECT:

H.R. 12567 - Authorizing appropriations for the
 Federal Fire Prevention and Control Act of 1974

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> 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

7/8

Ron-

To add to the Bill
files, pls. Thanks

Kate

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 1

Time: 100pm

FOR ACTION: ~~Lynn May~~ *Paul Lead* cc (for information):
Max Friedersdorf
Glenn Schleede
Robert Hartmann (veto message attached)

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 2

Time: 100pm

SUBJECT:

H.R. 12567 - Authorizing appropriations for the
Federal Fire Prevention and Control Act of 1974

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

*Review
disapproval from
gink review but would defer
to Sent + W/C
Schleede*



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.

James M. Cannon
For the President

7/1/76 - 3:00 pm

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 1

Time: 10:00 am

FOR ACTION: ~~Lynn May~~ *Paul Lead*
Max Friedersdorf
Glenn Schleede
Robert Hartmann (veto message attached)

cc (for info): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

to Res 4:45
to DJS 7/2 11:00
GAMS
oh/fjl

DUE: Date: July 2

100pt

SUBJECT:

H.R. 12567 - Authorizing appropriations for the Federal Fire Prevention and Control Act of 1974

RETURN TO RESEARCH ROOM 128

ACTION REQUESTED:

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

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.

M. Cannon
President

7/1/76 - 3:00 pm

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 1

Time: 100pm

FOR ACTION: ~~Lynn May~~ *Paul Lead* cc (for information):
Max Friedersdorf
Glenn Schleede
Robert Hartmann (veto message attached)

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 2

Time: 100pm

SUBJECT:

H.R. 12567 - Authorizing appropriations for the
Federal Fire Prevention and Control Act of 1974

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

*7/1/76 - copy sent for researching: nm
7/2/76 - Researched copy returned: nm*

*LAST DAY 7/7
TO PPS 7/5*

veto OK
as written
[Signature]
7/3/76

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.

James M. Cannon
For the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 1

Time: 100pm

FOR ACTION: Lynn May *Paul Lead* cc (for information):
Max Friedersdorf
Glenn Schleede
Robert Hartmann (veto message attached)

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 2

Time: 100pm

SUBJECT:

H.R. 12567 - Authorizing appropriations for the Federal Fire Prevention and Control Act of 1974

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

please return to Judy Johnston, ground floor West Wing

Judy - I agree that this should be vetoed because of the Constitutional "separations of powers" issue. Run the veto message by Ed Schmults to assure that Constitutional point is made with greatest force and clarity

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.

James M. Cannon
For the President



with greatest force and clarity

THE WHITE HOUSE

WASHINGTON

July 2, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M. F.*
SUBJECT: HR 12567 - Authorizing appropriations for the Federal
Fire Prevention and Control Act of 1974

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.



Attachments



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

To: J. Casanough
7-1-76
10 9 AM

JUN 30 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12567 - Authorizing appropriations for the Federal Fire Prevention and Control Act of 1974
Sponsor - Rep. Teague (D) Texas and 24 others

Last Day for Action

July 7, 1976 - Wednesday

Purpose

Authorizes appropriations for the National Fire Prevention and Control Administration and the Fire Research Center for the transition quarter and fiscal years 1977 and 1978, and expands Congress' control over funds for the construction of a National Academy for Fire Prevention and Control.

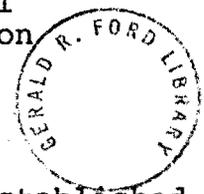
Agency Recommendations

Office of Management and Budget

Disapproval (Veto message attached)

Department of Justice
National Science Foundation
Department of Commerce

Disapproval
No objection
Approval



Discussion

The Federal Fire Prevention and Control Act of 1974 established a National Fire Prevention and Control Administration (Fire Administration) in the Department of Commerce to coordinate, encourage, and facilitate programs of fire prevention and control. The Act also established a Fire Research Center in Commerce, as well as a National Academy for Fire Prevention and Control, as an integral part of the Fire Administration, to advance the professional development of fire service personnel and of other persons engaged

TO THE SENATE OF THE UNITED STATES

I am returning, without my approval, H.R. 12567, a bill "to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes."

I am disapproving H.R. 12567 because it contains a provision that would seriously obstruct the exercise of the President's constitutional responsibilities over Executive branch operations. Section 2 of the enrolled bill provides that Congress may, by concurrent resolution, veto a plan to commit funds for construction of the National Academy for Fire Prevention and Control. This provision extends to the Congress the power to prohibit specific transactions authorized by law, without changing the law and without following the constitutional process such a change would require. Moreover, it involves the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers.

Provisions of this type have been appearing in an increasing number of bills which this Congress has passed or is considering. Most are intended to enhance the power of the Congress over the detailed execution of the laws at the expense of the President's authority. I have consistently opposed legislation containing these provisions, and will continue to oppose actions that constitute a legislative encroachment on the Executive branch.

I urge the Congress to reconsider H.R. 12567 and to pass a bill I can accept so that it will be possible for the National Fire Prevention and Control Administration to proceed with its important work.

THE WHITE HOUSE

July , 1976



TO THE SENATE OF THE UNITED STATES

ok fine

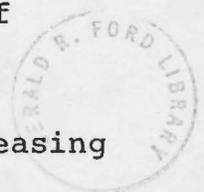
*Attached
with
Serious
Fwd.
Backup*

I am returning, without my approval, H.R. 12567, a bill
"to authorize appropriations for the Federal Fire Prevention
and Control Act of 1974 and the Act of March 3, 1901, for fiscal
years 1977 and 1978, and for other purposes."

I am disapproving H.R. 12567 because it contains a pro-
vision that would seriously obstruct the exercise of the
President's constitutional responsibilities over Executive
branch operations. Section 2 of the enrolled bill provides
that Congress may, by concurrent resolution, "veto" a plan to
commit funds for construction of the National Academy for Fire
Prevention and Control. This provision extends to the Congress
the power to prohibit specific transactions authorized by law,
without changing the law and without following the constitutional
process such a change would require. Moreover, it involves the
Congress directly in the performance of Executive functions
in disregard of the fundamental principle of separation of
powers.

Provisions of this type have been appearing in an increasing
number of bills which this Congress has passed or is considering.
Most are intended to enhance the power of the Congress over the
detailed execution of the laws at the expense of the President's
authority. I have consistently opposed legislation containing
these provisions, and will continue to oppose actions that
constitute a legislative encroachment on the Executive branch.

I urge the Congress to reconsider H.R. 12567 and to pass
a bill I can accept so that it will be possible for the National
Fire Prevention and Control Administration to proceed with its
important work.



House 3 Representatives
TO THE ~~SENATE OF THE UNITED STATES~~

I am returning, without my approval, H.R. 12567, a bill "to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes."

I am disapproving H.R. 12567 because it contains a provision that would seriously obstruct the exercise of the President's constitutional responsibilities over Executive branch operations. Section 2 of the enrolled bill provides that Congress may, by concurrent resolution, "veto" a plan to commit funds for construction of the National Academy for Fire Prevention and Control. This provision extends to the Congress the power to prohibit specific transactions authorized by law, without changing the law and without following the constitutional process such a change would require. Moreover, it involves the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers.

Provisions of this type have been appearing in an increasing number of bills which this Congress has passed or is considering. Most are intended to enhance the power of the Congress over the detailed execution of the laws at the expense of the President's authority. I have consistently opposed legislation containing these provisions, and will continue to oppose actions that constitute a legislative encroachment on the Executive branch.

I urge the Congress to reconsider H.R. 12567 and to pass a bill I can accept so that it will be possible for the National Fire Prevention and Control Administration to proceed with its important work.

THE WHITE HOUSE

July , 1976



TO THE HOUSE OF REPRESENTATIVES:

I am returning, without my approval, H.R. 12567, a bill "to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes."

I am disapproving H.R. 12567 because it contains a provision that would seriously obstruct the exercise of the President's constitutional responsibilities over Executive branch operations. Section 2 of the enrolled bill provides that Congress may, by concurrent resolution, "veto" a plan to commit funds for construction of the National Academy for Fire Prevention and Control. This provision extends to the Congress the power to prohibit specific transactions authorized by law, without changing the law and without following the constitutional process such a change would require. Moreover, it involves the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers.

Provisions of this type have been appearing in an increasing number of bills which this Congress has passed or is considering. Most are intended to enhance the power of the Congress over the detailed execution of the laws at the expense of the President's authority. I have consistently opposed legislation containing these provisions, and will continue to oppose actions that constitute a legislative encroachment on the Executive branch.



I urge the Congress to reconsider H.R. 12567 and to pass a bill I can accept so that it will be possible for the National Fire Prevention and Control Administration to proceed with its important work.

THE WHITE HOUSE,



July 7, 1976

Received from the White House a sealed envelope
said to contain H.R. 12567, "An Act to authorize appropriations
for the Federal Fire Prevention and Control Act of 1974
and the Act of March 3, 1901, for fiscal years 1977 and
1978, and for other purposes," and a veto message by
the President thereon.

Edmund L. Henshaw, Jr.
Clerk of the House of Representatives
by Ellen Kayser
4:00 P.M.
Time received



TO THE HOUSE OF REPRESENTATIVES:

I am returning, without my approval, H.R. 12567, a bill "to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes."

I am disapproving H.R. 12567 because it contains a provision that would seriously obstruct the exercise of the President's constitutional responsibilities over Executive branch operations. Section 2 of the enrolled bill provides that Congress may, by concurrent resolution, "veto" a plan to commit funds for construction of the National Academy for Fire Prevention and Control. This provision extends to the Congress the power to prohibit specific transactions authorized by law, without changing the law and without following the constitutional process such a change would require. Moreover, it involves the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers.

Provisions of this type have been appearing in an increasing number of bills which this Congress has passed or is considering. Most are intended to enhance the power of the Congress over the detailed execution of the laws at the expense of the President's authority. I have consistently opposed legislation containing these provisions, and will continue to oppose actions that constitute a legislative encroachment on the Executive branch.



Delivered to Clerk of House: 7/7/76

(Stencilled)

*ms
JAM*

I urge the Congress to reconsider H.R. 12567 and to pass a bill I can accept so that it will be possible for the National Fire Prevention and Control Administration to proceed with its important work.

Gerald R. Ford

THE WHITE HOUSE,
July 7, 1976.



**AUTHORIZING APPROPRIATIONS FOR THE FEDERAL
FIRE PREVENTION AND CONTROL ACT OF 1974**

MARCH 17, 1976.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. TEAGUE, from the Committee on Science and Technology,
submitted the following

REPORT

[To accompany H.R. 12567]

The Committee on Science and Technology, to whom was referred the bill (H.R. 12567) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to authorize appropriations as follows:

Fiscal year 1977, \$15,000,000 for the National Fire Prevention and Control Administration, \$5,500,000 for the National Bureau of Standards Fire Research Center.

Fiscal year 1978, \$20,000,000 for the National Fire Prevention and Control Administration, \$6,000,000 for the National Bureau of Standards Fire Research Center.



CONTENTS

	Page
I. Purpose of the bill.....	3
II. Sectional analysis of the bill.....	3
A. Section 1.....	3
B. Section 2.....	4
III. Committee actions.....	4
IV. Explanation of the bill.....	4
A. Funding levels.....	4
B. Fire research grants.....	8
C. Fire Academy construction.....	11
Administration views.....	12
Burn treatment centers.....	13
Oversight activities.....	13
Oversight findings and recommendations by the Committee on Government Operations.....	13
Estimate and comparison by the Congressional Budget Office.....	13
Cost and budget data.....	13
Effect of legislation on inflation.....	14
Effect of the bill on existing legislation.....	14

(2)

I. PURPOSE OF THE BILL

Losses from fires continue to be at high levels in the United States. Each year more than 11,000 persons lose their lives as a direct result of fires. About two hundred of those are firefighters who die in the performance of their dangerous duty. Property losses caused by fire are estimated to exceed \$3 billion per year. Other indirect costs, for instance the cost of maintaining fire departments, when added in, push the total cost of fires to over \$10 billion annually.

The prevention and control of fires is primarily the responsibility of local authorities. To make a contribution in certain fields where only a national effort can meet the needs, the National Fire Prevention and Control Administration and the Fire Research Center of the National Bureau of Standards were established by the Federal Fire Prevention and Control Act of 1974. That Act gave initial authorizations for fiscal years 1975 and 1976.

This bill will extend the authorizations of the National Fire Prevention and Control Administration and the Fire Research Center through fiscal years 1977 and 1978 at appropriate levels. The bill will also improve the administration of the Federal Fire Prevention and Control Act of 1974.

This bill, H.R. 12567, has been sponsored by twenty-five members of the Committee on Science and Technology. An identical bill, H.R. 12568, has been sponsored by seven Committee members.

II. SECTIONAL ANALYSIS OF THE BILL

A. SECTION 1

Funding

The bill authorizes appropriations as follows:

Fiscal year 1977—

1. \$15,000,000 for the National Fire Prevention and Control Administration; and
2. \$5,500,000 for the Fire Research Center of the National Bureau of Standards.

Fiscal year 1978—

1. \$20,000,000 for the National Fire Prevention and Control Administration, and
2. \$6,000,000 for the Fire Research Center of the National Bureau of Standards.

Administration

The bill ensures that the Federal government will take a more coordinated approach to fire research by placing under a single administrative unit, the National Bureau of Standards Fire Research Center, the funding and administration of all fire research work supported by the Department of Commerce of the type described in Section 18 of the Federal Fire Prevention and Control Act of 1974. Such research principally concerns investigations of fire itself how it starts, develops, and combusts and investigation of the effects of fires on individual human beings.

(3)

B. SECTION 2

Fire Academy facility

The bill requires that the House and Senate committees with jurisdiction over the National Fire Prevention and Control Administration be notified of planned construction of facilities for the Fire Academy 60 days before obligations may be incurred under such plans. Either house of Congress may disapprove of the plans by a resolution within the sixty days.

III. COMMITTEE ACTIONS

On March 9, 1976, the Committee on Science and Technology considered the bill, then numbered H.R. 12174, and an amendment recommended by the Subcommittee on Science, Research and Technology.

A quorum being present, the Committee agreed to the amendment by voice vote, agreed to the bill as amended by unanimous roll call vote (22 yea, 15 not voting), and ordered a clean bill reported.

IV. EXPLANATION OF THE BILL

A. FUNDING LEVELS

1. General

In passing the Federal Fire Prevention and Control Act of 1974, the Congress expressed its belief that the Federal government should take a larger role in the national effort against fire. The National Fire Prevention and Control Administration (Fire Administration) and the Fire Research Center of the National Bureau of Standards were established by the Act to serve as the government's agencies for this purpose.

The Committee on Science and Technology held hearings on January 22, 1976, to consider extending the authorizations given in the 1974 Act. The Committee placed emphasis in its inquiry on the determination of what levels of funding are appropriate for the Fire Administration and the Fire Research Center during fiscal years 1977 and 1978. Included in the record of the Committee's hearings are: (1) copies of that part of the President's fiscal year 1977 proposed budget which pertains to the Fire Administration and the Fire Research Center, (2) a summary of the Department of Commerce's budget submissions to OMB for use in preparing the President's proposed fiscal year 1977 budget in the fire area, and (3) a statement by the Joint Council of National Fire Service Organizations (representing the nation's fire chiefs, arson investigators, unionized fire fighters, etc.) on funding levels the Joint Council would recommend.

Table 1 gives recommended fiscal year 1977 budget figures for broad categories of activity as presented in the three documents just mentioned and as recommended by the Committee. Estimated fiscal year 1976 obligations are included for comparison. (Fiscal year 1976 obligations will exceed fiscal year 1976 new obligational authority because of carryovers from fiscal year 1975.)

Table 2 shows similar estimates that have been put forward for fiscal year 1978. Table 2 was derived from material in the hearings record including (1) a five year plan submitted by the Fire Adminis-

tration, (2) a five year plan submitted by the Fire Research Center, and (3) the statement of the Joint Council of National Fire Service Organizations.

TABLE 1.—BUDGET SUGGESTIONS FOR FISCAL YEAR 1977 COMPARED WITH FISCAL YEAR 1976 ESTIMATED OBLIGATIONS¹
[In thousands of dollars]

Budget category	Source of suggested amounts, fiscal year—				
	1976 estimated obligations	1977 budget submitted to Congress	1977 budget submitted to OMB by Commerce, September 1975	1977 budget recommended by Joint Council of National Fire Service Organizations	1977 budget recommended by Committee on Science and Technology
Public education.....	230	229	1,226	1,224	1,600
National Academy for Fire Prevention and Control.....	1,429	2,082	2,679	7,549	7,600
National Fire Data Center.....	1,138	1,280	1,962	1,941	2,200
Technology and planning (less \$900,000 for sec. 18 grants).....	2,288	1,979	2,765	2,755	2,800
General administration.....	611	452	711	698	800
Subtotal, NFPCA (less \$900,000 for sec. 18 grants).....	5,696	6,022	9,344	14,167	15,000
Fire Research Center (directly appropriated funds only).....	3,200	3,256	4,034	3,933	4,600
Additional \$900,000 for sec. 18 grants.....	900	900	900	900	900
Subtotal, Fire Research Center (plus all sec. 18 grants).....	4,100	4,156	4,934	4,833	5,500
Total.....	9,796	10,178	14,278	19,000	20,500

¹ The budget estimates actually put forward have been altered by relocating \$900,000 for sec. 18 type grants from the Fire Administration to the Fire Research Center.

² The Joint Council suggested that all of this amount be spent for programs and that a separate authorization (not noted on this table) be granted for Academy construction.

TABLE 2.—BUDGET SUGGESTIONS FOR FISCAL YEAR 1978¹
[In thousands of dollars]

Budget category	Source of suggested amounts, fiscal year—		
	1978 budget suggested in Fire Administration draft 5-yr plan	1978 budget recommended by Joint Council of National Fire Service Organizations	1978 budget recommended by Committee on Science and Technology
Public education.....	4,100	3,000	2,200
National Academy for Fire Prevention and Control.....	29,429	26,000	9,500
National Fire Data Center.....	3,720	4,000	3,300
Technology and planning (less \$900,000 for sec. 18 grants).....	4,333	9,100	4,000
General administration.....	1,100	1,000	1,000
Subtotal fire administration (less \$900,000 for sec. 18 grants).....	42,687	43,100	20,000
Fire Research Center (directly appropriated funds only).....	5,700	6,000	5,100
Additional \$900,000 for sec. 18 grants.....	900	900	900
Subtotal Fire Research Center (plus all sec. 18 grants).....	6,600	6,900	6,000
Total.....	49,287	50,000	26,000

¹ The budget estimates actually put forward have been altered by relocating \$900,000 for sec. 18 type grants from the Fire Administration to the Fire Research Center.

2. Fire Administration

The Fire Administration began its life by rapid growth in 1975 and 1976. It is not yet near maturity. None of its programs is fully developed. The \$6.0 million (see Table 1) proposed for fiscal year 1977 explicitly allows for no growth whatsoever (except for pay and cost increases) between fiscal year 1976 and fiscal year 1977 in four of the five major areas of Fire Administration expenditures. The fifth area has been scheduled for a significant increase. The proposed budget is clearly inadequate to support the development of the NFPCA towards a state in which it can be expected to bring about significant decreases in the nation's fire toll.

The five areas of Fire Administration expenditures are:

a. Public education.—The goal of this program is to reduce fire-related deaths, injuries, and property losses through educating the public about fire—how to avoid it, and how to deal with it if it occurs. The public education program will develop methods of educating the public, concentrating on high-risk groups. The developments will be tested, and those education methods that have been shown to work will be disseminated. Public education in the fire area is not a simple matter. For example, a West Coast city recently tried to educate its citizens about false alarms. At the end of the education campaign false alarms had increased somewhat.

b. National Academy for Fire Prevention and Control.—The National Academy is to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control. The Superintendent of the Academy was appointed in January 1976. By the beginning of fiscal year 1977, a site is to be selected for the physical location of the Academy. During fiscal year 1977, plans under the President's budget include the development of six additional programs of instruction, presentation of courses developed in 1976 to 2,000 fire service personnel, establishment of an assistance program through grants for the development and implementation of 12 statewide education and training plans, and development and testing of four or more innovative demonstration projects in fire service education.

c. National Fire Data Center.—The Data Center is charged by law to provide an accurate nationwide analysis of the fire problem, assist in setting priorities, and monitor the progress of programs to reduce fire losses. During fiscal year 1977 current plans under the limited budget include extending the Fire Data System to six additional states, initiating the collection of foreign data for comparison and analysis, starting an investigative program for specific fire types, and implementing an information network to tell fire services about important facts that have been discovered.

d. Technology and planning.—This program currently has three main thrusts: the technological improvement of fire-related equipment and systems, the provision of assistance to state and local governments to establish master plans for fire prevention and control, and the support of extramural fire research. The technology program expects, for example, to perfect improvements in clothing and equipment for the protection of fire fighters, to study the potential development of low-cost automatic fire suppression systems for houses and apartments, and to review building codes. Approximately \$900,000 of the extramural fire research support previously handled through

this program is of the "Section 18" type and would not be supported through the Fire Administration under H.R. 12567.

e. General administration.—The activity provides staff assistance in the general management and administration of the Fire Administration budget, program planning and analysis, management and organization, information, contract and grant management, legal and other administrative areas.

The Fire Administration had planned a number of activities when the \$14.3 million proposed fiscal year 1977 budget was submitted to OMB which will not be possible or will be severely delayed under the \$10.2 million budget proposed by the President. Such activities include:

Addition of twelve states to the system of the National Fire Data Center,

Improved analysis of National Fire Data Center information to help set Fire Administration priorities,

Validation tests of the home safety program in Oregon, Maryland, Washington, Florida, Michigan, Pennsylvania, West Virginia, Louisiana, Massachusetts, California, and Illinois,

Distribution of master fire planning packages and provision of technical assistance to communities for local master planning, and

Efforts to determine methods of encouraging wide acceptance and use of home fire detectors.

These items constitute a minor fraction of all the activities which could not be undertaken with the smaller budget.

The \$15,000,000 authorized by H.R. 12567 for the Fire Administration during fiscal year 1977 will allow for Fire Administration obligations equal to or slightly above the \$9.3 million originally requested by the Fire Administration for its own programs (Table 1) and will permit the expenditure of funds in significant amounts for construction of the National Academy for Fire Prevention and Control.

The \$20,000,000 authorization for the Fire Administration during fiscal year 1978 will permit further maturation of the Fire Administration and significant Academy construction. Academy construction is discussed in greater detail elsewhere in this report.

These levels of authorization are deemed necessary and appropriate to ensure that the benefit of the money already spent by the Fire Administration is realized through the establishment of an effective program.

3. Fire Research Center

The Fire Research Center is more mature than the Fire Administration. Although both the Center and the Administration were created by the 1974 Act, the Center was built from pre-existing fire research programs of the National Bureau of Standards, whereas the Administration started from scratch.

In fiscal year 1976 the total Research Center program costs about \$5.4 million. Of that, \$3.2 million comes directly appropriated (via the Fire Administration) and the remaining \$2.2 million is provided to the Center by other Federal agencies as payment for fire research services rendered to the agencies by the Center.

Because H.R. 12567 would ensure that all extramural grants by the Department of Commerce for work of the "Section 18" type are made

by the Fire Research Center, Table 1 shows Fire Research Center obligations with an additional \$900,000 added. \$1.2 million is the amount that will be obligated by the Fire Administration for fire safety grants in fiscal year 1976. The Fire Administration estimates that \$900,000 of the \$1,200,000 for fire safety grants will be spent for sec. 18 type work. (The next section of this report discusses the research grant question.)

The Fire Research Center is organized in two divisions—The Fire Science Division devoted primarily to developing new basic information, and the Fire Safety Engineering Division dedicated to applying new knowledge to the fire problem.

Fire Science Division.—Four programs are in the Division. (i) Information and Hazard Analysis investigates fire incidents, analyzes materials involved in fires, develops case histories, etc. Currently the group is focusing on fires involving plastics. (ii) Chemistry studies the fundamentals of combustion processes. (iii) Toxicology of Combustion Products works to determine the toxic effects of smoke and gases from fires. (iv) Physics and Dynamics has the objective of understanding the heat transfer and gas dynamics of fires in a variety of enclosures. One intent is to learn enough about physical effects to be able to predict the behavior of large fires—like a house fire—from knowledge of the materials involved and their placement in the structure.

Fire Safety Engineering Division.—Five programs are in the Division. (i) Consumer Products develops test methods and recommends flammability standards for improving the fire safety of consumer products—rugs, children's sleepwear, upholstered furniture, etc. The emphasis is on control of ignition. (ii) Furnishings places emphasis on the control of the spread of fire through the setting of appropriate standards for the flammability of ignited furnishings. (iii) Construction is responsible for fire safety of buildings themselves as opposed to their contents. (iv) Detection and Control Systems works to set standards for the performance of such systems. (v) Design Concepts uses the results of other Fire Research Center work to make recommendations for use by architects, fire officials, and the like.

The \$5.5 million authorized by H.R. 12567 for the Fire Research Center during fiscal year 1977 will allow for a small increase in Federal fire research programs, and will permit the consolidation of three extramural granting programs (currently operated by the Fire Administration, the Fire Research Center, and the National Science Foundation) in the Fire Research Center at the same level of expenditure as in fiscal year 1976. The \$6 million authorized for fiscal year 1978 should offset inflation between fiscal year 1977 and fiscal year 1978 and permit a small increment in size. It is anticipated that other agency activities of the Fire Research Center will be funded at roughly the same level in fiscal year 1977 and fiscal year 1978 as in fiscal year 1976.

B. FIRE RESEARCH GRANTS

1. General

The Federal Fire Prevention and Control Act of 1974 granted authorization for contracts and grants to be let for execution of provisions of the Act in several sections of the Act. This portion of this

report deals with grants of the type described in section 18 of the Act. That section says,

*** the Secretary (of Commerce) is authorized to conduct directly or through contracts or grants, a fire research program, including—(1) basic and applied fire research for the purpose of arriving at an understanding of the fundamental processes underlying all aspects of fire. Such research shall include scientific investigations of (eight areas are listed); (2) research into the biological, physiological, and psychological factors affecting human victims of fire, and the performance of individual members of fire services, including (seven areas are listed) * * *

Both the Fire Administration and the Fire Research Center have made grants under section 18. In addition, the National Science Foundation has been making fire research grants, principally of the section 18 type, under the Foundation's own authorization. Grants of the section 18 type have been made primarily to universities although a few have gone to non-profit and other types of institutions. The Foundation, Fire Administration, and Fire Research Center have stayed apprised of each others' grants. Indeed, some grantees have been simultaneously supported by all three groups. In fiscal year 1977 it is planned that the Foundation will not support fire research.

Two issues are of concern: The total amount of Federal funds for section 18 grants and the administration of section 18 grants.

2. Total section 18 grant funds

The intent of the Federal Fire Prevention and Control Act of 1974 was to have the Federal government do more in the effort against fire. Under present plans as outlined in the President's budget, the amount available for section 18 extramural grants in fiscal year 1977 (\$1.8 million) will be less than two-thirds the fiscal year 1976 amount (\$2.96 million).

This is illustrated in Table 3.

TABLE 3.—OBLIGATIONS FOR "SECTION 18 TYPE" FIRE RESEARCH GRANTS

(In thousands of dollars)

	Fiscal year—		
	1976 (estimate)	1977 (President's budget)	1977 (committee recommendations)
Fire Administration.....	1,900	2,900	0
Fire Research Center.....	893	917	2,900
National Science Foundation.....	1,162	0	0
Total.....	2,955	1,817	2,900

¹ Fire Administration estimate.

² For fiscal year 1977 \$1,200,000 has been requested for fire safety grants, the same amount that was appropriated for fiscal year 1976. It is assumed in table 3 that, as in fiscal year 1976, \$900,000 of the \$1,200,000 would be spent for sec. 18 type work.

The legislative history shows clearly that for fiscal year 1977 the Foundation will be allowed to drop its fire research program (which had been given authorization *minima* for two successive years) because

of the establishment of the Fire Research Center and the authorized transfer of the Foundation's program to that Center.

The \$5.5 million authorized by H.R. 12567 for the Fire Research Center in fiscal year 1977 allows for extramural grants up to \$2.9 million, roughly the total of fiscal year 1976 expenditures by the three groups making section 18 type grants, as shown in Table 3. It is expected that the program of section 18 extramural grants previously managed by the three groups will be handled by the Fire Research Center alone beginning in fiscal year 1977. The \$5.5 million authorization will permit the Center's in-house programs funded by direct appropriations to increase by \$300,000 to the level of \$2.6 million (\$5.5 million less the \$2.9 million for extramural grants).

3. Administration

The intent of H.R. 12567 is to insure that extramural grants of the section 18 type are centrally administered in the Fire Research Center. There are several reasons for this stipulation. These lie in two broad categories and are described below. The intent of the bill is also to leave the Fire Administration free to make extramural grants and contracts for other than section 18 purposes.

Previous Congressional Action—The 1974 Act was passed with the intent that the Fire Research Center be responsible for section 18 type activities. The conference report (p. 28) reports acceptance by the conferees of the provisions of the House bill with regard to the Fire Research Center. The House report (p. 9) says,

* * * the intent of the Committee is that there be a separately funded and managed fire research program at NBS * * *.
The Bureau of Standards is responsible for studying and elucidating the physical and chemical phenomena of fire, and the effects of fire on humans.

During the fiscal year 1976 authorization process for the National Science Foundation, it was recognized that the Foundation's fire research grant program supported activities primarily of the section 18 type. The Foundation's Research Applied to National Needs (RANN) program, in which fire research has been located, has a policy of "spinning-off" programs to other agencies. The Fire Research Center was judged to be ready to take over the Foundation's fire research program. The Foundation's fiscal year 1976 authorization bill (Public Law 94-86, sec. 2(a)(10)) reads,

(10) of the total amount authorized under sec. 1, category (4), not less than \$1,000,000 shall be available for the purpose of "Fire Research." The transfer of this program to the Fire Research Center of the National Bureau of Standards (15 U.S.C. 278 f.) during the fiscal year ending June 30, 1976, is authorized;

The conference report on the bill (report No. 94-422, p. 9) reads,

The Fire Research Center was established under the Federal Fire Prevention and Control Act of 1974 as a focus for fire related research separate from the National Fire Prevention and Control Administration, and the conferees agreed that the NSF/RANN fire research program should be transferred to this Center.

Rationale—Most importantly, in order to have a coherent program to discharge its responsibilities under section 18, the Fire Research Center needs to have control over both the in-house and extramural aspects of the program.

On January 16, 1976, Howard Tipton, Administrator of the Fire Administration and Betsy Ancker-Johnson, Assistant Secretary of Commerce for Science and Technology signed a joint agreement concerning implementation and coordination of section 18 activities. The agreement included the following two basic principles (and a third, procedural principle).

"1. The identification of research projects and the establishment of their priority will be determined jointly by the Assistant Secretary for Science and Technology and the Administrator, NFPCA, and in the event of their disagreement, as directed by the Secretary.

"2. The Director, National Bureau of Standards is responsible for the conduct of research activities under Section 18 of the Act as implemented by departmental regulations (D0030-2A)."

These principles seem sensible and are in accord with the intent of H.R. 12567.

C. FIRE ACADEMY CONSTRUCTION

The 1974 Act envisioned a modest but central facility for the National Academy for Fire Prevention and Control. Under the 1974 Act, the site of the Academy is to be selected by the site selection board by October 29, 1976, just at the start of fiscal year 1977. Two items received Committee attention: funds for construction and assurance that a reasonable facility is built.

1. Funds

No funds were requested for construction of Fire Academy facilities in the fiscal year 1977 budget proposed to OMB by the Fire Administration, and no funds have been requested by the President for that purpose. It is possible that funds for construction will be required during fiscal year 1977 or fiscal year 1978 for Academy facilities. H.R. 12567 allows for construction expenditures. The 1974 Act (sec. 7h) said, "Of the sums authorized to be appropriated, . . . , not more than \$9,000,000 shall be available for the construction of facilities of the Academy . . ." Since the site has not yet been selected, it is not clear whether the \$9 million ceiling will be adequate. This matter may require further consideration in the next year or two. The Fire Administration was instructed by the 1974 Act to consider the use of a surplus government facility. It is expected that this and other cost saving stratagems will be borne in mind by the Fire Administration during site selection and construction planning.

2. Reasonable facility

In order to ensure that an adequate but not excessive facility is built for the Fire Academy, H.R. 12567 requires that construction plans for the facility be given to the House Committee on Science and Technology and to the Senate Commerce Committee 60 days before funds may be committed to obligation for construction. Either house of Congress may prevent such obligation by a resolution within the 60 day period if it does not approve of the plans.

The waiting period provision applies to both new construction and construction for remodeling. The Committee suggests, therefore, that if a site is selected with pre-existing facilities requiring substantial alteration, construction plans for remodeling be drawn up and submitted to Congress before the site selection becomes final.

ADMINISTRATION VIEWS

A bill which had been suggested by the Department of Commerce for extending authorizations given in the Federal Fire Prevention and Control Act of 1974 was introduced and numbered H.R. 11506. This bill was found to have the following shortcomings.

1. Amounts

The entire substance of H.R. 11506 is to request "such sums as may be necessary" to carry out provisions of the 1974 Act during fiscal year 1977 and fiscal year 1978. The Committee believes that specified amounts should be authorized.

2. Separate authorization

H.R. 11506 does not provide separate authorizations for the National Fire Prevention and Control Administration and the National Bureau of Standards Fire Research Center. The Committee believes Congress should determine the relative priorities of funding these two groups.

3. Administration

H.R. 11506 does not contain the administrative improvements recommended by the Committee.

The following explanation (and other material) from the Department of Commerce accompanied the draft bill introduced on January 26, 1976 as H.R. 11506.

The purpose of this bill is to authorize appropriations through the fiscal year ending September 30, 1978, as may be necessary for the continuation of the programs of the National Fire Prevention and Control Administration and the Fire Research Center and to consolidate into one account the appropriations authority for carrying out the programs of the National Fire Prevention and Control Administration and the Fire Research Center in order to promote efficiency and coordination by centralizing fiscal accountability.

Under current planning for administering the funds authorized to be appropriated, they would be utilized to carry out the programs of the National Fire Prevention and Control Administration, except for the claims program under section 11 of the Act, and for the support of the research activities of the Fire Research Center.

This proposal does not provide authorizations for section 19 of the Act relating to research on treatment for victims of fire which is administered by the Department of Health, Education, and Welfare.

BURN TREATMENT CENTERS

The 1974 Act included authorization for the National Institutes of Health to conduct an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires. This subject matter is not within the legislative jurisdiction of the Committee on Science and Technology. The Committee has therefore not undertaken to extend, revise or otherwise consider burn treatment authorizations. The Committee does believe, however, that the House of Representatives should deal with burn treatment through the appropriate committee. The Committee understands that such action is being taken.

OVERSIGHT ACTIVITIES

Pursuant to Rule X Clause 2(b)(1) of the Rules of the House of Representatives the following statement regarding oversight activities is made. The Committee held hearings on this bill on January 22, 1976. The activities and policies of the entire programs of the National Fire Prevention and Control Administration and the National Bureau of Standards Fire Research Center were reviewed at that time. The results and findings from these oversight activities are incorporated in the recommendations found in the present bill and this report.

OVERSIGHT FINDINGS AND RECOMMENDATIONS BY THE COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to Rule X Clause 2(b)(2) of the Rules of the House of Representatives the following oversight findings and recommendations by the Committee on Government Operations have been received: No statement of findings and recommendations was received as of March 15, 1976.

ESTIMATE AND COMPARISON BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to Section 308(a) of the Congressional Budget Act of 1974, the following estimate and comparison prepared by the Director of the Congressional Budget Office has been received: No report received as of March 15, 1976.

COST AND BUDGET DATA

The bill will authorize appropriations for Fiscal Year 1977 in the amount of \$20,500,000 in new obligational authority and will authorize appropriations for fiscal year 1978 in the amount of \$26,000,000 in new obligational authority. If the program authorized under this bill remains unchanged in fiscal years 1979, 1980, and 1981 and the same level of effort is maintained, there will be no change in costs other than those occasioned by inflation.

EFFECT OF LEGISLATION ON INFLATION

In accordance with Rule XI, Clause 2(1)4 of the Legislative Reorganization Act of 1974, this legislation is assessed to have no detectable inflationary impact on prices and costs in the national economy.

EFFECT OF THE BILL ON EXISTING LEGISLATION

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

FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

* * * * *

NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

SEC. 7. (a) ESTABLISHMENT.—The Secretary shall establish, at the earliest practicable date, a National Academy for Fire Prevention and Control. The purpose of the Academy shall be to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities.

(b) SUPERINTENDENT.—The Academy shall be headed by a Superintendent, who shall be appointed by the Secretary. In exercising the powers and authority contained in this section the Superintendent shall be subject to the direction of the Administrator.

(c) POWERS OF SUPERINTENDENT.—The Superintendent is authorized to—

(1) develop and revise curricula, standards for admission and performance, and criteria for the awarding of degrees and certifications;

(2) appoint such teaching staff and other personnel as he determines to be necessary or appropriate;

(3) conduct courses and programs of training and education, as defined in subsection (d) of this section;

(4) appoint faculty members and consultants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and with respect to temporary and intermittent services, to make appointments to the same extent as is authorized by section 3109 of title 5, United States Code;

(5) establish fees and other charges for attendance at, and subscription to, courses and programs offered by the Academy. Such fees may be modified or waived as determined by the Superintendent;

(6) conduct short courses, seminars, workshops, conferences, and similar education and training activities in all parts and localities of the United States;

(7) enter into such contracts and take such other actions as may be necessary in carrying out the purposes of the Academy; and

(8) consult with officials of the fire services and other interested persons in the exercise of the foregoing powers.

(d) PROGRAM OF THE ACADEMY.—The Superintendent is authorized to—

(1) train fire service personnel in such skills and knowledge as may be useful to advance their ability to prevent and control fires, including, but not limited to—

(A) techniques of fire prevention, fire inspection, firefighting, and fire and arson investigation;

(B) tactics and command of firefighting for present and future fire chiefs and commanders;

(C) administration and management of fire services;

(D) tactical training in the specialized field of aircraft fire control and crash rescue;

(E) tactical training in the specialized field of fire control and rescue aboard waterborne vessels; and

(F) the training of present and future instructors in the aforementioned subjects;

(2) develop model curricula, training programs, and other educational materials suitable for use at other educational institutions, and to make such materials available without charge;

(3) develop and administer a program of correspondence courses to advance the knowledge and skills of fire service personnel;

(4) develop and distribute to appropriate officials model questions suitable for use in conducting entrance and promotional examinations for fire service personnel; and

(5) encourage the inclusion of fire prevention and detection technology and practices in the education and professional practice of architects, builders, city planners, and others engaged in design and planning affected by fire safety problems.

(e) TECHNICAL ASSISTANCE.—The Administrator is authorized, to the extent that he determines it necessary to meet the needs of the Nation, to encourage new programs and to strengthen existing programs of education and training by local fire services, units, and departments, State and local governments, and private institutions, by providing technical assistance and advice to—

(1) vocational training programs in techniques of fire prevention, fire inspection, firefighting, and fire and arson investigation;

(2) fire training courses and programs at junior colleges; and

(3) four-year degree programs in fire engineering at colleges and universities.

(f) ASSISTANCE.—The Administrator is authorized to provide assistance to State and local fire service training programs through grants, contracts, or otherwise. Such assistance shall not exceed 4 per centum of the amount authorized to be appropriated in each fiscal year pursuant to section 17 of this Act.

(g) SITE SELECTION.—The Academy shall be located on such site as the Secretary selects, subject to the following provisions:

(1) The Secretary is authorized to appoint a Site Selection Board consisting of the Academy Superintendent and two other members to survey the most suitable sites for the location of the Academy and to make recommendations to the Secretary.

(2) The Site Selection Board in making its recommendations and the Secretary in making his final selection, shall give consideration to the training and facility needs of the Academy, environmental effects, the possibility of using a surplus Government facility, and such other factors as are deemed important and relevant. The Secretary shall make a final site selection not later than 2 years after the date of enactment of this Act.

(h) **CONSTRUCTION COSTS.**—(1) Of the sums authorized to be appropriated for the purpose of implementing the programs of the Administration, not more than \$9,000,000 shall be available for the construction of facilities of the Academy on the site selected under subsection (g) of this section. Such sums for such construction shall remain available until expended.

(2) *No commitment to obligate funds for the construction of any facility of the Academy under paragraph (1) shall be made unless—*

(A) *at least 60 days before such commitment is made, the Secretary submits to the chairman of the Committee on Science and Technology of the House of Representatives and to the chairman of the Committee on Commerce of the Senate the plan or plans for the construction of such facility; and*

(B) *neither House of Congress, during the 60-day period beginning on the date such plan or plans are submitted under subparagraph (A), adopts a resolution the substance of which disapproves the commitment to obligate funds for the construction of such facility under such plan or plans.*

(i) **EDUCATIONAL AND PROFESSIONAL ASSISTANCE.**—The Administrator is authorized to—

(1) provide stipends to students attending Academy courses and programs, in amounts up to 75 per centum of the expense of attendance, as established by the Superintendent;

(2) provide stipends to students attending courses and non-degree training programs approved by the Superintendent at universities, colleges, and junior colleges, in amounts up to 50 per centum of the cost of tuition;

(3) make or enter into contracts to make payments to institutions of higher education for loans, not to exceed \$2,500 per academic year for any individual who is enrolled on a full-time basis in an undergraduate or graduate program of fire research or engineering which is certified by the Superintendent. Loans under this paragraph shall be made on such terms and subject to such conditions as the Superintendent and each institution involved may jointly determine; and

(4) establish and maintain a placement and promotion opportunities center in cooperation with the fire services, for firefighters who wish to learn and take advantage of different or better career opportunities. Such center shall not limit such assistance to students and graduates of the Academy, but shall undertake to assist all fire service personnel.

(j) **BOARD OF VISITORS.**—Upon establishment of the Academy, the Secretary shall establish a procedure for the selection of professionals in the field of fire safety, fire prevention, fire control, research and development in fire protection, treatment and rehabilitation of fire victims, or local government services management to serve as members

of a Board of Visitors for the Academy. Pursuant to such procedure, the Secretary shall select eight such persons to serve as members of such Board of Visitors to serve such terms as the Secretary may prescribe. The function of such Board shall be to review annually the program of the Academy and to make comments and recommendations to the Secretary regarding the operation of the Academy and any improvements therein which such Board deems appropriate. Each member of such Board shall be reimbursed for any expenses actually incurred by him in the performance of his duties as a member of such Board.

(k) **ACCREDITATION.**—The Superintendent is authorized to establish a Committee on Fire Training and Education which shall inquire into and make recommendations regarding the desirability of establishing a mechanism for accreditation of fire training and education programs and courses, and the role which the Academy should play if such a mechanism is recommended. The Committee shall consist of the Superintendent as Chairman and eighteen other members appointed by the Administrator from among individuals and organizations possessing special knowledge and experience in the field of fire training and education or related fields. The Committee shall submit to the Administrator within two years after its appointment a full and complete report of its findings and recommendations. Upon the submission of such report, the Committee shall cease to exist. Each appointed member of the Committee shall be reimbursed for expenses actually incurred in the performance of his duties as a member.

(l) **ADMISSION.**—The Superintendent is authorized to admit to the courses and programs of the Academy individuals who are members of the firefighting, rescue, and civil defense forces of the Nation and such other individuals, including candidates for membership in these forces, as he determines can benefit from attendance. Students shall be admitted from any State, with due regard to adequate representation in the student body of all geographic regions of the Nation. In selecting students, the Superintendent may seek nominations and advice from the fire services and other organizations which wish to send students to the Academy.

FIRE TECHNOLOGY

SEC. 8. (a) TECHNOLOGY DEVELOPMENT PROGRAM.—The Administrator shall conduct a continuing program of development, testing, and evaluation of equipment for use by the Nation's fire, rescue, and civil defense services, with the aim of making available improved suppression, protective, auxiliary, and warning devices incorporating the latest technology. Attention shall be given to the standardization, compatibility, and interchangeability of such equipment. Such development, testing, and evaluation activities shall include, but need not be limited to—

(1) safer, less cumbersome articles of protective clothing, including helmets, boots, and coats;

(2) breathing apparatus with the necessary duration of service reliability, low weight, and ease of operation for practical use;

(3) safe and reliable auxiliary equipment for use in fire prevention, detection, and control, such as fire location detectors, visual and audio communications equipment, and mobile equipment;

(4) special clothing and equipment needed for forest fires, brush fires, oil and gasoline fires, aircraft fires and crash rescue, fires occurring aboard waterborne vessels, and in other special firefighting situations;

(5) fire detectors and related equipment for residential use with high sensitivity and reliability, and which are sufficiently inexpensive to purchase, install, and maintain to insure wide acceptance and use;

(6) in-place fire prevention systems of low cost and of increased reliability and effectiveness;

(7) methods of testing fire alarms and fire protection devices and systems on a non-interference basis;

(8) the development of purchase specifications, standards, and acceptance and validation test procedures for all such equipment and devices; and

(9) operation tests, demonstration projects, and fire investigations in support of the activities set forth in this section.

(b) **LIMITATION.**—The Administration shall not engage in the manufacture or sale of any equipment or device developed pursuant to this section, except to the extent that it deems necessary to adequately develop, test, or evaluate such equipment or device.

(c) **MANAGEMENT STUDIES.**—(1) The Administrator is authorized to conduct, directly or through contracts or grants, studies of the operations and management aspects of fire services, utilizing quantitative techniques, such as operations research, management economics, cost effectiveness studies, and such other techniques and methods as may be applicable and useful. Such studies shall include, but need not be limited to, the allocation of resources, the optimum location of fire stations, the optimum geographical area for an integrated fire service, the manner of responding to alarms, the operation of citywide and regional fire dispatch centers, firefighting under conditions of civil disturbance, and the effectiveness, frequency, and methods of building inspections.

(2) The Administrator is authorized to conduct, directly or through contracts or grants, research concerning the productivity and efficiency of fire service personnel, the job categories and skills required by fire services under varying conditions, the reduction of injuries to fire service personnel, the most effective fire prevention programs and activities, and techniques for accurately measuring and analyzing the foregoing.

(3) The Administrator is authorized to conduct, directly or through contracts, grants, or other forms of assistance, development, testing, and demonstration projects to the extent deemed necessary to introduce and to encourage the acceptance of new technology, standards, operating methods, command techniques, and management systems for utilization by the fire services.

(4) The Administrator is authorized to assist the Nation's fire services, directly or through contracts, grants, or other forms of assistance, to measure and evaluate, on a cost-benefit basis, the effectiveness of the programs and activities of each fire service and the predictable consequences on the applicable local fire services of coordination or combination, in whole or in part, in a regional, metropolitan, or statewide fire service.

(d) **RURAL ASSISTANCE.**—The Administrator is authorized to assist the Nation's fire services, directly or through contracts, grants, or

other forms of assistance, to sponsor and encourage research approaches, techniques, systems, and equipment to improve fire prevention and control in the rural and remote areas of the Nation.

(e) **COORDINATION.**—In establishing and conducting programs under this section, the Administrator shall take full advantage of applicable technological developments made by other departments and agencies of the Federal Government, by State and local governments, and by business, industry, and nonprofit associations, and shall not conduct any research which is included in the fire research program, authorized by the amendment made by section 18 of this Act, without the specific authorization of the Secretary.

* * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. There are authorized to be appropriated to carry out the foregoing provisions of this Act, except section 11 of this Act, such sums as are necessary, not to exceed \$10,000,000 for the fiscal year ending June 30, 1975, [and] not to exceed \$15,000,000 for the fiscal year ending June 30, 1976, *not to exceed \$15,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$20,000,000 for the fiscal year ending September 30, 1978.*

SECTION 16 OF THE ACT OF MARCH 3, 1901

An Act To establish the National Bureau of Standards

* * * * *

SEC. 16. (a) There is hereby established within the Department of Commerce a Fire Research Center which shall have the mission of performing and supporting research on all aspects of fire with the aim of providing scientific and technical knowledge applicable to the prevention and control of fires. The content and priorities of the research program shall be determined in consultation with the Administrator of the National Fire Prevention and Control Administration. In implementing this section, the Secretary is authorized to conduct, directly or through contracts or grants, a fire research program, including—

(1) basic and applied fire research for the purpose of arriving at an understanding of the fundamental processes underlying all aspects of fire. Such research shall include scientific investigations of—

(A) the physics and chemistry of combustion processes;

(B) the dynamics of flame ignition, flame spread, and flame extinguishment;

(C) the composition of combustion products developed by various sources and under various environmental conditions;

(D) the early stages of fires in buildings and other structures, structural subsystems and structural components in all other types of fires, including, but not limited to forest fires, brush fires, fires underground, oil blowout fires, and waterborne fires, with the aim of improving early detection capability;

(E) the behavior of fires involving all types of buildings and other structures and their contents (including mobile homes and highrise buildings, construction materials, floor and wall coverings, coatings, furnishings, and other combustible materials), and all other types of fires, including forest fires, brush fires, fires underground, oil blowout fires, and waterborne fires;

(F) the unique fire hazards arising from the transportation and use, in industrial and professional practices, of combustible gases, fluids, and materials;

(G) design concepts for providing increased fire safety consistent with habitability, comfort, and human impact in buildings and other structures; and

(H) such other aspects of the fire process as may be deemed useful in pursuing the objectives of the fire research program;

(2) research into the biological, physiological, and psychological factors affecting human victims of fire, and the performance of individual members of fire services, including—

(A) the biological and physiological effects of toxic substances encountered in fires;

(B) the trauma, cardiac conditions, and other hazards resulting from exposure to fire;

(C) the development of simple and reliable tests for determining the cause of death from fires;

(D) improved methods of providing first aid to victims of fires;

(E) psychological and motivational characteristics of the persons who engage in arson, and the prediction and cure of such behavior;

(F) the conditions of stress encountered by firefighters, the effects of such stress, and the alleviation and reduction of such conditions; and

(G) such other biological, psychological, and physiological effects of fire as have significance for purposes of control or prevention of fires; and

(3) operation tests, demonstration projects, and fire investigations in support of the activities set forth in this section.

The Secretary shall insure that the results and advances arising from the work of the research program are disseminated broadly. He shall encourage the incorporation, to the extent applicable and practicable, of such results and advances in building codes, fire codes, and other relevant codes, test methods, fire service operations and training, and standards. The Secretary is authorized to encourage and assist in the development and adoption of uniform codes, test methods, and standards aimed at reducing fire losses and costs of fire protection.

(b) For the purposes of this section there is authorized to be appropriated not to exceed \$3,500,000 for the fiscal year ending June 30, 1975, [and] not to exceed \$4,000,000 for the fiscal year ending June 30, 1976, *not to exceed \$5,500,000 for the fiscal year ending September 30, 1977, and not to exceed \$6,000,000 for the fiscal year ending September 30, 1978.*

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

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

An Act

To authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out “and” immediately after “June 30, 1975,” and

(2) by inserting “, not to exceed \$3,750,000 for the transitional fiscal quarter beginning July 1, 1976, and ending September 30, 1976, not to exceed \$15,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$20,000,000 for the fiscal year ending September 30, 1978” immediately after “June 30, 1976”.

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(b)) is amended—

(1) by striking out “and” immediately after “June 30, 1975” and inserting a comma in lieu thereof, and

(2) by inserting “, not to exceed \$1,275,000 for the transitional fiscal quarter beginning July 1, 1976, and ending September 30, 1976, not to exceed \$5,500,000 for the fiscal year ending September 30, 1977, and not to exceed \$6,000,000 for the fiscal year ending September 30, 1978” immediately after “June 30, 1976”.

SEC. 2. Section 7(h) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(h)) is amended—

(1) by inserting “(1)” immediately before “Of the sums authorized”, and

(2) by adding at the end thereof the following new paragraph:

“(2) Before a commitment may be made to obligate funds for the construction of any facility of the Academy under paragraph (1), the Secretary shall submit to the chairman of the Committee on Science and Technology of the House of Representatives and to the chairman of the Committee on Commerce of the Senate the plans for the construction of such facility. The Secretary may make a commitment to obligate funds for the construction of such facility in accordance with such plans unless the Congress, within sixty calendar days of the date such plans are submitted under this paragraph, adopts a concurrent resolution the substance of which disapproves a commitment to obligate funds for the construction of such facility under such plans.”.

Speaker of the House of Representatives.

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

JULY 7, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES:

I am returning, without my approval, H.R. 12567, a bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes.

I am disapproving H.R. 12567 because it contains a provision that would seriously obstruct the exercise of the President's constitutional responsibilities over Executive branch operations. Section 2 of the enrolled bill provides that Congress may, by concurrent resolution, veto a plan to commit funds for construction of the National Academy for Fire Prevention and Control. This provision extends to the Congress the power to prohibit specific transactions authorized by law, without changing the law and without following the constitutional process such a change would require. Moreover, it involves the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers.

Provisions of this type have been appearing in an increasing number of bills which this Congress has passed or is considering. Most are intended to enhance the power of the Congress over the detailed execution of the laws at the expense of the President's authority. I have consistently opposed legislation containing these provisions, and will continue to oppose actions that constitute a legislative encroachment on the Executive branch.

I urge the Congress to reconsider H.R. 12567 and to pass a bill I can accept so that it will be possible for the National Fire Prevention and Control Administration to proceed with its important work.

GERALD R. FORD



THE WHITE HOUSE,
JULY 7, 1976

#