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THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: September 13

September 10, 1976

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *Jim Cannon*

SUBJECT:

S. 2862 - Authorizing Appropriations
for the Federal Fire Prevention
and Control Act of 1974

Attached for your consideration is S. 2862, sponsored by Senators Magnuson and Pearson.

The enrolled bill authorizes appropriations of \$3.75 million for the transition quarter, \$15 million for 1977 and \$20 million for 1978 for the National Fire Prevention and Control Administration and authorizes appropriations of \$1.275 million for the transition quarter, \$5.5 million for 1977 and \$6 million for 1978 for the Fire Research Center.

On July 7, 1976 you vetoed H.R. 12567, which contained authorization amounts for the Federal Fire Prevention and Control Act identical to those included in this bill, because it contained a constitutionally objectionable legislative encroachment provision. That provision is not in this bill.

Additional information is provided in OMB's enrolled bill report at Tab A.

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

RECOMMENDATION

That you sign S. 2862 at Tab B.

That you approve the signing statement at Tab C.

Approve _____ Disapprove _____



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

SEP 3 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2862 - Authorizing appropriations
for the Federal Fire Prevention and Control Act
of 1974

Sponsor - Sen. Magnuson (D) Washington and
Sen. Pearson (R) Kansas

Last Day for Action

September 13, 1976 - Monday

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.

Agency Recommendations

Office of Management and Budget

Approval

Department of Commerce

Approval (Informally)

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 to conduct basic and applied research into the fundamental processes underlying all aspects of fire.

S. 2862 would authorize appropriations of \$3.75 million for the transition quarter, \$15 million for 1977 and \$20 million for 1978 for the Fire Administration and \$1.275 million for the transition quarter, \$5.5 million for 1977 and \$6 million for 1978 for the Fire Research Center.

The total authorization level of \$20.5 million for 1977 contained in the enrolled bill is \$10.322 million higher than proposed in your budget. However, P.L. 94-362, which you approved on July 14, 1976, provided appropriations of \$12.2 million for the Fire Administration and Fire Research Center in 1977, an acceptable amount which is about \$2 million higher than you requested. 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 amounts contained in your budget.

On July 7, 1976, you vetoed H.R. 12567, which contained authorization amounts for the Federal Fire Prevention and Control Act identical to those included in this bill, because it contained a constitutionally objectionable legislative encroachment provision. That provision is not in this bill.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

STATEMENT BY THE PRESIDENT

I have today signed into law S. 2862, a bill which authorizes appropriations for the National Fire Prevention and Control Administration and the Fire Research Center.

While I have consistently supported the important work of the National Fire Prevention and Control Administration, I vetoed a similar bill -- H.R. 12567 -- two months ago because it provided for an unacceptable legislative encroachment on the President's constitutional responsibilities over Executive Branch operations.

Upon returning the earlier bill for Congressional reconsideration, I noted it provided 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.

At my urging, the Congress has reconsidered and excluded this type of provision from the present bill. I commend the Congress for its more responsible action in deleting the objectionable provision.

Due to the great national loss caused by fires, both in terms of human lives and property, and because of the challenge of improving fire prevention and control, I am happy to sign this bill which permits the important government fire prevention and control effort to continue. With



passage of this bill, the National Fire Prevention and Control Administration will now have authority through fiscal year 1978 to carry out its important work of coordinating programs of fire prevention and control. The Fire Research Center can now continue to conduct the needed basic and applied research into the fundamental problems of fire prevention and control.

