October 3, 2023
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4394 — Energy and Water Development and Related Agencies Appropriations Act, 2024
(Rep. Granger, R-TX)

The Administration strongly opposes House passage of H.R. 4394, Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2024, and for other purposes.

In May, the Administration negotiated in good faith with the Speaker on bipartisan legislation to avoid a first-ever default and protect the Nation's hard-earned and historic economic recovery. This negotiation resulted in the Fiscal Responsibility Act (FRA) of 2023, which passed with overwhelming bipartisan support and set spending levels for FYs 2024 and 2025. The agreement held spending for non-defense programs roughly flat with FY 2023 levels, a compromise that protected vital programs Americans rely on from draconian cuts House Republicans proposed. The agreement also protected historic legislative accomplishments from the past two years, including the Inflation Reduction Act, Honoring our PACT Act of 2022, CHIPS and Science Act, and the Infrastructure Investment and Jobs Act (Bipartisan Infrastructure Law).

House Republicans had an opportunity to engage in a productive, bipartisan appropriations process, but instead are wasting time with partisan bills that cut domestic spending to levels well below the FRA agreement and endanger critical services for the American people. These levels would result in deep cuts to clean energy programs and other programs that work to combat climate change, essential nutrition services, law enforcement, consumer safety, education, and healthcare.

These bills include billions in additional rescissions from the IRA and other vital legislation that would result in unacceptable harm to clean energy and energy efficiency initiatives that lower energy costs and critical investments in rural America.

The draft bills also include numerous new, partisan policy provisions with devastating consequences including harming access to reproductive healthcare, threatening the health and safety of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI+) Americans, endangering marriage equality, hindering critical climate change initiatives, and preventing the Administration from promoting diversity, equity, and inclusion.

The Administration stands ready to engage with both chambers of the Congress in a bipartisan appropriations process to enact responsible spending bills that fully fund Federal agencies in a timely manner.

If the President were presented with H.R. 4394, he would veto it.

The Administration would like to take this opportunity to share additional views regarding the House Appropriations Committee's (Committee) version of the bill.

Army Corps of Engineers (Corps)

Cape Cod Canal Bridges. The Administration is disappointed that the bill does not include funding for replacing the Cape Cod Canal Bridges. The Administration urges the Congress to include funding for the Cape Cod Canal Bridges and authorizing legislation, as requested in the FY 2024 Budget, which would allow the Corps to transfer funds from the Corps to the Commonwealth of Massachusetts for replacement of these bridges.

Revised Definition of "Waters of the United States." The Administration strongly opposes section 109 of the bill, which would invalidate the Administration's Waters of the United States rule. If enacted, the provision would jeopardize protections for clean water, cause increased uncertainty in the scope of waters that receive Clean Water Act protections, and threaten economic growth in agriculture, local economies, and downstream communities; and threaten clean drinking water sources.

Firearm Possession. The Administration objects to section 110 of the bill, which prohibits the Secretary of the Army from promulgating or enforcing any regulation that prohibits an individual from possessing a firearm at a water resources development project. The Corps already permits private individuals to possess firearms at Corps-administered projects for hunting at designated areas or for shooting at authorized shooting ranges. This language would impede the Corps' ability to maintain public safety and the security of critical infrastructure at Corps projects.

Natural Disaster Procedures. The Administration objects to section 111 of the bill, which would prohibit the Corps, without express authorization by the Congress, from using its funds to revise the eligibility requirements for rehabilitation assistance after a flood under the Public Law 84-99 program. The Corps has proposed such changes in a rulemaking, "Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers," which would amend 33 C.F.R. Part 203. The changes that the Corps has proposed would reduce flood risks across the Nation by ensuring that all levee authorities that participate in this Corps program are maintaining their levee systems properly and are able to respond appropriately in the event of a flood, including alerting emergency officials and other key community decision makers.

Department of Energy (DOE)

Office of Science. The Administration is concerned that the funding levels for the Office of Science are well below the authorized level found in Public Law 117-167, the bipartisan CHIPS and Science Act. Given the vast needs in fusion research initiatives, microelectronics research centers, the Energy Earthshot Initiatives, and isotope production for crucial medical, industrial, and national security applications which collectively bolster U.S. leadership in the sciences and engineering that serve as the engine for American innovation, the Administration would like to work with the Committee to prioritize this important work.

Energy Efficiency and Renewable Energy (EERE) Topline. The Administration strongly opposes reducing funding across EERE program offices. The bill funds EERE, the

Federal Energy Management Program, and the Office of State and Community Energy Programs at $3.0 billion, which is $466 million below the FY 2023 enacted level. These programs are central to ensuring American researchers, labor, and entrepreneurs can design, build, and lead the clean energy future. Reducing funding for these programs would increase the Nation's dependence on foreign materials, manufacturing, and technologies during the transition to zero emission vehicles, low embodied carbon materials, and carbon-pollution free electricity. The Administration is particularly concerned about reducing funding to efforts to increase U.S. energy efficiency. For example, the reduction to the State and Community Energy Programs would prevent the weatherization of more than 11,000 low-income homes and increase energy costs for Americans by hindering local governments' implementation of clean energy projects in communities across the Nation.

Office of Economic Impact and Diversity. The Administration strongly opposes elimination of the Office of Economic Impact and Diversity, which leads the Department's efforts in advancing energy and environment justice, as well as diversity, equity, inclusion, and accessibility. The Office's elimination would hurt the Department's ability to gauge the socioeconomic impacts of its activities, partner with Minority-Serving Institutions and minority business enterprises, and reduce the energy burden of disadvantaged and underserved communities. This Office, which protects fairness and equal rights, has received bipartisan support from multiple Administrations and Congresses over multiple decades.

Office of Clean Energy Demonstrations. The Administration appreciates the funding provided in the bill for program direction but is concerned that the Office of Clean Energy Demonstrations is only funded at $35 million, which is $54 million below the FY 2023 enacted level. Without programmatic funding, the ability of the United States to out-innovate countries such as China on next-generation energy technologies would be severely hampered. Specifically, the Department would not be able to fund demonstration projects that bring costs down and reduce carbon and other emissions for the industrial sector while maximizing benefits to underserved and overburdened host communities.

Office of Nuclear Energy. The Administration appreciates the Committee's support for the Office of Nuclear Energy, including the $120 million provided for the Advanced Nuclear Fuel Availability Program to make available small quantities of high-assay low-enriched uranium (HALEU) for advanced reactors in the short term and to support the transition of these activities to the private sector in the long term.

Title 17 Loan Authority. The Administration opposes the rescission of the $15 billion in Title 17 loan authority principal that was provided in the Consolidated Appropriations Act, 2023. Even with existing authority from the IRA and prior annual appropriations, the pipeline of eligible innovative Title 17 applications exceeds available loan limitation. Rescinding this authority is short sighted, preventing $15 billion in Government capital deployment to leverage billions more in private capital for innovative clean energy projects across the Nation, which would result in only $150 million in Congressional Budget Office scored savings for FY 2024.

Rescissions and Policy Provisions. The Administration objects to the three rescissions of IRA resources in section 312 of the bill and a number of policy provisions in sections 317 and 608 for energy efficiency in homes and buildings that would hinder the equitable transition to a clean energy economy. With respect to the policy provisions, for example, sections 317 and 608 would limit the Department's ability to save consumers money through improved efficiency standards for residential clothes washers and gas stoves and sections 610 and 611, which target China, have unintended consequences that include prohibiting efforts to reshore intellectual property and manufacturing know-how that could be important in developing a domestic manufacturing base for critical technologies such as batteries.

W80-4 Alteration Program. The Administration strongly opposes continued funding for the W80-4 Alteration-Sea-Launched Cruise Missile-Nuclear (SLCM-N) program. The President's 2022 Nuclear Posture Review concluded that SLCM-N, which would not be delivered before the 2030s, has marginal utility and would impede investment in other priorities. In addition, deploying SLCM-N on Navy attack submarines or surface combatants would reduce capacity for conventional strike munitions, create additional burdens on Naval training, maintenance, and operations, and could create additional risks to the Navy's ability to operate in key regions in support of U.S. deterrence and warfighting objectives. The United States has sufficient current and planned capabilities for deterring an adversary's limited nuclear use through conventional and nuclear armaments, including the W76-2 low-yield submarine-launched ballistic missile warhead, the current air-launched cruise missile, its successor (the long-range standoff weapon), and F-35A dual-capable aircraft that can be equipped with B61-12 nuclear gravity bombs. Further investment in SLCM-N would divert resources and focus from higher modernization priorities for the U.S. nuclear enterprise and infrastructure.

Stockpile Research, Technology, and Engineering. The Administration opposes reductions in Stockpile Research, Technology, and Engineering, which would hamper the National Nuclear Security Administration's (NNSA) ability to perform Nuclear Weapons Council-directed studies on issues of significant congressional interest, including how to defeat hard and deeply buried targets and non-ballistic reentry vehicles.

Low-Priority NNSA Construction. The Administration opposes funding provided in the bill for the High Explosives Synthesis, Formulation, and Production (HESFP) and the Tritium Finishing Facility (TFF) projects. Delays to these projects would not significantly impact nuclear modernization programs, and funds provided would be better used for higher priority activities. In addition, execution of the HESFP and TFF projects would compete with higher priority construction work at the Savannah River Site and the Pantex Plant.

Bioassurance. The Administration opposes the Committee's decision not to fund critical Bioassurance efforts. NNSA brings unique capabilities that are critical to support national biodefense goals; including the ability to leverage high performance computing to urgently address detection, attribution, and countermeasure development. With a growing interest from state and non-state actors in pursuing biological weapons, this omission would make the United States less responsive and resilient to emerging and novel biological threats.

DOE/NNSA Community Capacity Building Programs. The Administration opposes the lack of funding for Community Capacity Building programs, which advance the

President's pursuit of equity for all while increasing community support for and contributions to nuclear modernization and environmental remediation activities.

Department of the Interior, Bureau of Reclamation

Shasta Reservoir Enlargement Project. The Administration is concerned that language within the Water and Related Resources account directs funding for Water Infrastructure Improvements for the Nation (WIIN) Act water storage projects be made available to the Shasta Dam and Reservoir Enlargement Project. This redirection would reduce resources for other projects that are already planned.

California Water Title. The Administration objects to Title V of the bill, which would restrict the Bureau of Reclamation's flexibility to most appropriately allocate Central Valley Project (CVP) water supplies by prioritizing irrigation, deem the Shasta Reservoir Enlargement Project be eligible for Infrastructure Investment and Jobs Act and WIIN Act funding, and would impair Reclamation's ability to protect the fish, wildlife, and habitat affected by CVP operations.

Constitutional Concerns

Sections 101, 201, and 301 of the bill would raise separation of powers concerns by conditioning the Executive's authority to reprogram funds on receiving the approval of the House and Senate Committees on Appropriations.

The Administration will continue to work with the Congress to address these concerns as the FY 2024 appropriations process moves forward.

* * * * * * *