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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510

August 27, 1986

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing with respect to H.R. 2478, the omnibus territories measure. Subsequent to final Congressional action and the adjournment of the Congress, the Committee was informed that the Administration was considering a veto of the measure as a result of a possible interpretation by the Department of Justice of certain language in section 19 of the bill. The Department apparently believes that the reference to the 1978 Omnibus Territories Act contained in section 19 could be interpreted to include any appropriations made pursuant to that Act.

The language of section 19, however, does not mention either authorizations or appropriations pursuant to the 1978 Act. Section 19 addresses only amounts "covered into the treasuries of said islands or paid pursuant to said laws". Sections 1(c) and 4(c) of the 1978 Act deal with the timing of payments to Guam and the Virgin Islands and are the only provisions of that Act which form the basis for such payments. All other grants or transfers are mere authorizations and require the enactment of an appropriation. There is no reference to any appropriation in section 19. We find the interpretation by the Department of Justice to be at best strained and completely contrary to settled decisions with respect to the distinction between authorizations and appropriations.

The Committee staff have reviewed the issue, and it remains our view, as well as that of the Budget Committees which approved the language, that the interpretation offered by the agencies is completely contrary to the legislative history, the clear meaning of the statutory language, and principles of statutory construction.

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It remains our view, as expressed in the explanation of the legislation during Senate consideration on August 9, 1986, that section 19 applies only to the section 30 funds for Guam, those funds covered over to Puerto Rico under the Federal Relations and Foraker Acts, the section 28(b) funds for the Virgin Islands, and those funds for the Northern Mariana Islands which are backed by a pledge of the Full Faith and Credit of the United States. As OMB Director Miller testified before the Budget Committee, these funds "appear in the Federal budget as an incidental matter for convenience of administration rather than as a means of resource allocation." Section 19 was drafted and approved by the Budget Committees to address those and only those accounts.

Accordingly, we urge you to sign H.R. 2478. If the Administration continues to believe that a clarification of section 19 is necessary, we would be happy to work with you to secure the prompt enactment of such amendments to section 19 which you request and which are consistent with the intent of H.R. 2478.

Sincerely,

J. Bennett Johnston
Ranking Minority

James A. McClure
Chairman