MEMORANDUM OF DISAPPROVAL


My approval of H.R. 5560 is unneccessary, because the changes are identical to Title II, Subtitle G of H.R. 5210, the "Anti-Drug Abuse Act of 1988," which I was pleased to approve on November 18, 1988. Accordingly, and in order to avoid creating further technical problems, I am withholding my approval of H.R. 5560.

RONALD REAGAN.
H.R. 5560.

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 508, the "Whistleblower Protection Act of 1988." I regret that the Congress did not present me with constitutional and effective legislation to expand the protections and procedural rights afforded to Federal employees who report fraud, waste, and abuse they discover in Federal programs.

A major objection to S. 508 is its change of the factual showings required to establish the standards of conduct for Federal employees when the Congress convenes.

The Attorney General and the Director of the Office of Government Ethics find this provision to be particularly objectionable.

I support several positive aspects of H.R. 5043 that would substantially improve the effectiveness of Federal post-employment restriction laws. The bill would have granted the Attorney General the power to seek civil penalties for violations of the post-employment restrictions and to obtain injunctive relief from Federal courts to prevent violations. The bill also would have permitted the Attorney General to distinguish between misdemeanor and felony violations of the restrictions in charging individuals. The bill also would have adjusted the 1-year ban on certain contacts with a former employer to 2 years to make clear that it applies to matters in which the United States has a direct interest, even if that particular agency does not have a direct interest. Finally, the bill would have eliminated the compartmentalization of the Executive Office of the President for purposes of post-employment restrictions.

I urge that future legislation on post-employment restrictions incorporate these positive aspects of H.R. 5043.

In withholding my approval of H.R. 5043, I am well aware that there will be criticisms. But I must act on this bill according to my判断 of what is best for the country. While this bill would not have affected me or my Administration, it is fundamentally flawed and would have made securing good government for America substantially more difficult. I urge the Congress and the new Administration to address effectively and fairly the standards of conduct for Federal employees when the Congress convenes.

RONALD REAGAN.
S. 508.

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 508, the "Whistleblower Protection Act of 1988." I regret that the Congress did not present me with constitutional and effective legislation to expand the protections and procedural rights afforded to Federal employees who report fraud, waste, and abuse they discover in Federal programs.

Reporting of mismanagement and violations of the law, often called whistleblowing, contributes to effective and efficient government. Whistleblowers contribute to efficient use of taxpayers' dollars and effective government. Such reporting is to be encouraged, and those who make the reports must be protected. At the same time, we must ensure that heads of departments and agencies can manage their personnel effectively. Enactment of S. 508 would have interfered substantially with personnel management in Federal departments and agencies.

The provisions of S. 508 also raised serious constitutional concerns. Section 3 of the bill amends chapter 12 in Title 5 of the United States Code substituting new Sections 1201 through 1222. Section 1211 creates an Office of Special Counsel and purports to insulate the Office from presidential supervision and to require the President to remove his subordinates from office. Section 1217 purports to prohibit review within the Executive branch of views of the Office of Special Counsel proposed to be transmitted in response to congressional committee requests.

Section 1221(c)(3)(A) of Title 5, as contained in the bill, purports to authorize the Special Counsel to obtain judicial review of most decisions of the Merit Systems Protection Board in proceedings to which the Special Counsel is a party. Implementation of this provision would place two Executive branch agencies before a Federal court to resolve a dispute between them. The litigation of intra-Executive branch disputes conflicts with the constitutional grant of the Executive power to the President, which includes the authority to supervise and resolve disputes between his subordinates. In addition, permitting the Executive branch to litigate against itself conflicts with constitutional limitations on the exercise of the judicial power of the United States to actual cases or controversies between parties with concretely adverse interests.

These provisions could not have been implemented to the extent that they are inconsistent with the President's constitutional authority and duty to faithfully execute the laws, supervise his subordinates in the Executive branch, and recommend such measures to the Congress as he judges necessary and expedient, and Article 2578

1129.150 PROCEEDINGS OF THE HOUSE SUBSEQUENT TO SINE DIE ADJOURNMENT