



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

August 2, 2007
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3222 – Department of Defense Appropriations Act, 2008

(Sponsor: Obey (D), Wisconsin)

The Administration appreciates the Committee's support of national defense, but is concerned about some of the funding priorities reflected in H.R. 3222. A \$1.7 billion reduction coupled with the rejection of \$1.8 billion in reasonable health care user fees creates a difference of \$3.5 billion between the President's request and the House bill. In addition, the Administration strongly opposes the Committee's decision to under-fund critical Operation and Maintenance and Military Personnel programs, which are a permanent base funding requirement. It is imperative that Congress take action on Department of Defense appropriations before the end of the fiscal year in order to fully support our troops.

The President has proposed a responsible plan for a balanced budget by 2012 through spending restraint and without raising taxes. To achieve this important goal, the Administration supports a responsible discretionary spending total of not more than \$933 billion in FY 2008, which is a \$60 billion increase over the FY 2007 enacted level. While the Administration appreciates that the House bill comes close to the President's request, the Democratic Budget Resolution and subsequent spending allocations adopted by the House Appropriations Committee exceed the President's discretionary spending topline by \$22 billion, causing a 9 percent increase in FY 2008 discretionary spending.

The Administration is also concerned with the Committee's apparent intention to shift funds between the base bill and the war request. Base funding requirements should not be shifted to supplemental bills as a way to increase spending on unrelated programs.

The President has called on Congress to reform the earmarking process that has led to wasteful and unnecessary spending. The Administration believes that the hundreds of earmarks in the bill will significantly limit the Department's ability to apply the best military, scientific, technical, and managerial expertise to the solution of national security challenges. The Administration opposes any efforts to shield earmarks from public scrutiny and urges Congress to bring full transparency to the earmarking process, eliminate wasteful earmarks, and to cut the cost and number of earmarks by at least half.

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

Operation and Maintenance

The Administration strongly opposes the \$5.7 billion reduction to Operation and Maintenance

(excluding Defense Health Programs), which could undermine the readiness of U.S. forces as they prepare for deployment and combat. In addition, the Administration objects to report language intended to limit the Department's authority to reprogram funds within Operation and Maintenance accounts and decrease its flexibility to address emerging needs.

Support to Other Nations

The House is urged to fund the \$500 million request for the Global Train and Equip program and not defer consideration of this program to a supplemental. This program is critical to enhancing the capability of partners and allies across the world to provide for their own security and reduce the demands on U.S. forces. The Administration views the activities conducted under the Global Train and Equip authority as an enduring requirement to avoid major military interventions in the future, and the Combatant Commanders regard such funding as the most important national security investment beyond Iraq and Afghanistan.

Reductions in Critical Procurement Programs

The Administration opposes the bill's substantial changes to Procurement Programs that are vital to meeting both immediate and future national security threats. We strongly oppose these funding reductions, such as:

- Missile Defense: The reduction of \$139 million for U.S. missile defenses in Europe which would endanger U.S. security and that of our European allies by delaying the fielding of missile defense assets to protect against the emerging missile threat from Iran.
- Army Future Combat System: The \$433 million reduction would have a significantly adverse impact on the future development and fielding of the system.
- Global Positioning System (GPS) III: The \$80 million reduction in development funding for GPS III could delay the planned launch of the first GPS III satellite. If not launched by 2013, sustainment of the entire constellation of GPS satellites may be at risk.
- F-22 Squadrons: The \$364 million reduction will require contract terminations or renegotiations with cost increases and will delay integration of Small Diameter Bomb, AIM-9X and AIM-120D air-to-air missiles, and other essential capabilities.
- Science and Technology: The bill's significant reductions to Science and Technology programs will erode the Department's long-term technological edge. The Administration also opposes the Committee's language imposing artificial, arbitrary caps on indirect costs of basic research.
- Large Aircraft Infrared Countermeasures: Reductions will delay an urgently needed improvement to the ability of mobility aircraft to defend against infrared seeking surface-to-air missiles.

Unrequested Funding

The Administration opposes unrequested funding for programs which take resources away from more urgent defense needs:

- Stryker Brigade: The Administration opposes adding \$1.1 billion to the President's request for an additional Stryker brigade combat team. The Administration believes that the plan it submitted in the FY2008 budget to increase the size of the Army and Marine Corps is a balanced plan that will provide the nation's land forces with the correct capabilities for future conflicts. In addition, since the committee does not provide sufficient funding to cover the entire cost of creating a Stryker brigade, other critical programs would have to be reduced in order to fund this new brigade.
- Navy Shipbuilding: The Administration opposes major additions to Navy shipbuilding programs, such as the \$1.7 billion added for the Amphibious Dock Ship, \$1.5 billion added for three T-AKE Dry Cargo Ships, and nearly \$600 million for a Virginia-Class Submarine. These programs rob more deserving, urgent projects of critical resources in a time of war.
- Research and Development (R&D) Funding: The Administration opposes adding \$100 million to R&D accounts to directly fund only small business efforts on component and technology development programs. The Department already spends over \$1 billion annually in this area and the Administration believes that additional funding for restricted awards is undesirable. These programs have grown dramatically in size and face no competition for overall funding levels, while all other DoD programs must compete.
- Facilities Sustainment, Restoration and Modernization: Furthermore, the Administration opposes the addition of \$1.3 billion to the Army's facilities sustainment and restoration budget request. Rebasing initiatives will have an impact on many facilities, but adding this funding at the expense of other programs takes resources away from other priority programs within the President's budget.

Military Personnel

The Administration opposes the additional half percent increase to the proposed 3 percent across-the-board pay increase. The proposal builds on the 33 percent increase in basic pay since 2001. The \$310 million added for basic pay reduces funding available for other, more targeted military personnel priorities.

Defense Health Program (TRICARE)

The House bill rejects the policy to adjust TRICARE health fees and premiums for retired military beneficiaries under age 65. Adjusting these fees and premiums has been embraced in concept by the interim report of the congressionally-mandated Task Force on the Future of Military Health Care. The Administration's proposals would make high-quality military health care more sustainable in the future. Not allowing DoD to proceed with these changes will add about \$1.9 billion in costs in FY 2008 and over \$19.3 billion over six years.

General Transfer Authority

The Administration strongly opposes the Committee's decision to lower the amount of general transfer authority from the President's request of \$5 billion to \$3.2 billion, which needlessly restricts the Department's ability to respond to emerging and unanticipated requirements.

Security Clearance Reimbursements

The House bill limits the amount DoD can reimburse the Office of Personnel Management (OPM) for security clearance investigations. The OPM Revolving Fund needs to be able to adjust its prices to cover contract costs as necessary so that it can effectively manage the security clearance process. Because OPM provides investigation services to agencies across the Government, it is inappropriate for the Defense Subcommittee to create separate rates for DoD.

Classified Programs

The Administration looks forward to reviewing the classified annex and working with Congress to address any concerns on classified programs as the legislative process moves forward.

Competitive Sourcing

The Administration opposes requirements that would unnecessarily force private sector bidders to provide intrusive data concerning the health benefits of their employees. This would undermine efficiencies in private health plans and discourage companies, especially small businesses, from participating in DoD's competitions, and place significant potential savings at risk. The House is urged to amend the health care provisions to acknowledge that contractors provide health benefits to their employees in a variety of ways, such as through health savings and medical savings accounts. The House is also urged to permit DoD to take full advantage of OMB Circular A-76 to achieve the best value for the taxpayer.

The Administration opposes the Committee's provision which would add funds for the temporary assignment of 600 General Services Administration contract specialists on a reimbursable basis. To the degree that the Department needs GSA assistance, it already has the ability to avail itself of the interagency contracting process.

Constitutional Concerns

Recognizing the Executive Branch's constitutional entitlement to communicate with Congress, sections 8001 and 8012 of the bill should be amended to make explicit that it does not prevent officers or employees of the United States from communicating to Congress through the proper official channels requests for action on legislation or appropriations matters.

Sections 8008, 8050, and 8081 of the Bill call for notice to certain congressional committees before undertaking certain operations. Sections 8008 and 8081 would prohibit the use of funds to initiate a special access program, or certain new starts, unless the congressional defense committees receive advance notice. Section 8050(a) calls for notice to six congressional committees before any transfer of defense articles or services, other than intelligence services, to another nation or an international organization for international peacekeeping, peace

enforcement, or humanitarian assistance operations. In addition, section 8064 calls for reports on classified matters not specified in the bill. The U.S. Supreme Court has stated that the President's authority to classify and control access to information bearing on national security flows from the Constitution and does not depend upon a legislative grant of authority. While the Administration recognizes that notice can be provided in most circumstances, situations may arise, especially in wartime, in which the President must act promptly under his constitutional authority as Commander in Chief. Accordingly, these provisions should be amended to call for giving prior notice unless, in the exercise of this authority, the President directs otherwise.

Sections 8011, 8033, 8085, and 8106 purport to limit Executive Branch appropriations proposals and other information provided to Congress. These provisions are inconsistent with the President's constitutional authority, under the Recommendations Clause, to make such recommendations as he deems "necessary and expedient." These provisions should be deleted.

Section 8014 of the Bill authorizes the provisions of benefits to Native Hawaiian organizations. The Department of Justice advises that there is a substantial, unresolved question whether Congress has authority to deal with Native Hawaiians as it does with Indian tribes. To the extent the definition of "Native Hawaiian" constitutes a racial, rather than political, classification, such programs would be subject to strict scrutiny in Federal courts.

Section 8081 of the Bill, which purports to permit the use of funds to create or to initiate a new program, project, or activity unless it must be undertaken immediately in the interest of national security and only after written prior notice to certain congressional committees, and section 8088 of the Bill, relating to the integration of foreign intelligence information, should be amended to make clear that its provisions do not interfere with the President's constitutional authority as Commander in Chief for the conduct of intelligence operations.

Section 8103 of the bill purports to prohibit the United States from entering into a basing rights agreement with the Government of Iraq. This provision impermissibly infringes upon the President's constitutional authority to negotiate treaties and conduct the nation's foreign affairs. This provision should be deleted.

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