



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

September 4, 2007  
(Senate)

## STATEMENT OF ADMINISTRATION POLICY

### **S. 1645 – Military Construction, the Department of Veterans Affairs, and Related Agencies Appropriations Act, 2008**

(Sponsor: Sen. Byrd (D), West Virginia)

As reflected in the Administration's Budget request, the President supports all of the necessary resources to meet the needs of our veterans and to address military construction requirements. However, the Administration is concerned that S. 1645 contains an excessive level of spending and other objectionable provisions.

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. The Democratic Budget Resolution and subsequent spending allocations adopted by the Senate Appropriations Committee exceed the President's discretionary spending topline by \$22 billion, causing a 9 percent increase in FY 2008 discretionary spending. In addition, the Administration opposes the Senate Appropriations Committee's plan to shift \$3.5 billion from the Defense appropriations bill to non-defense spending, which is inconsistent with the Democrats' Budget Resolution and risks diminishing America's war fighting capacity. In combination with other spending bills, S. 1645 would lead to spending and tax increases that put economic growth and a balanced budget at risk.

The President's FY 2008 Budget makes funding for the Military Construction and Veterans Affairs (VA) appropriations bill a high priority within the \$933 billion topline, providing over an 8 percent increase for VA alone and a 22 percent increase for the bill as a whole. The Administration believes that between the robust increase in spending for VA proposed in the Budget and the \$1.8 billion increase for VA provided in the FY 2007 supplemental, ample resources are available to ensure veterans receive the quality care they deserve. If Congress determines that additional resources above the President's request and enacted supplemental funding are necessary, Congress must provide reductions in other appropriations bills to offset this increase and meet the President's topline of \$933 billion. If Congress increases VA funding above the President's request and does not offset this increase with spending reductions in other bills, the President will veto any of the other bills that exceed his request until Congress demonstrates a path to reach the President's topline of \$933 billion. Funding for our troops, past and present, should not be held hostage to Congress' attempts to provide irresponsible increases in domestic spending.

The President has called on Congress to reform the earmarking process that has led to wasteful and unnecessary spending. Specifically, he called on Congress to provide greater transparency and full disclosure of earmarks, to put them in the language of the bill itself, eliminate wasteful

earmarks, and to cut the cost and number by at least half. The Administration opposes any efforts to shield earmarks from public scrutiny and urges Congress to bring full transparency to the earmarking process and to cut the cost and number of earmarks by at least half.

The Administration strongly opposes the earmark provision that prohibits the disposal or transfer of property at the 388-acre West Los Angeles Medical Center. This language circumvents the recommendations in VA's nationwide infrastructure study, the Capital Asset Realignment for Enhanced Services (CARES). The original decision on this property would have allowed VA to designate a portion of the campus for disposal or leasing. The West Los Angeles property was subsequently identified as one of 18 CARES sites that needed further study. While that study is not yet completed, it is likely that the restrictive Senate language would eliminate more than \$4 billion of revenue, which would be used to improve facilities around the country for our Nation's veterans.

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

#### Department of Veterans Affairs (VA)

The Administration appreciates the Committee's continued support of the Nation's veterans, but strongly believes that the President's FY 2008 Budget for VA and the recently enacted FY 2007 supplemental funding provide the resources needed to ensure that veterans, including those returning from current combat operations, receive the quality care and services that they deserve. The President's request for veterans is over 8 percent above last year's level and more than 76 percent above the level when he took office.

The President's FY 2008 Budget meets the growing health care needs of the Nation's veterans, expands VA's ability to provide mental health care and prosthetics, supports continued restructuring of the medical care system to ensure that services are available where veterans live, funds the construction of six new cemeteries, and strengthens the collaboration between VA and the Department of Defense (DOD) to better aid servicemembers as they transition out of the military.

The Administration is closely tracking the ongoing cost of providing for our veterans in the VA medical care system, and FY 2007 appropriations are sufficient to meet these projected needs. Congress augmented FY 2007 resources by including \$1.8 billion for VA in the recently enacted FY 2007 supplemental. As this additional funding came late in the year and is available until expended, most of these resources will be available in FY 2008 to supplement the 8 percent increase the Administration is seeking. The Administration believes that, when combined with these supplemental resources, the requested level for FY 2008 is more than sufficient to address all needs within the VA system.

The bill provides \$3.6 billion more than the President's request for VA and represents an 18 percent increase over the FY 2007 enacted level before the supplemental. The Administration agrees with Congress on the critical importance of providing needed care to the Nation's veterans and looks forward to working together on an appropriate funding level within the total \$933 billion discretionary topline for FY 2008.

## Military Construction

The Administration appreciates the Committee's support for the President's military construction request. However, the Administration does not support funding in the bill for 60 unrequested projects totaling nearly \$600 million and strongly urges Congress to redirect this funding to fully support the President's military construction request.

The Administration also notes that the Committee chose to fund incrementally several projects requested by the President. The Administration, as a general rule, does not support partial funding of capital projects. The Administration believes that DOD needs to budget fully for such projects in the year of the request, and we will continue to work closely with Congress to minimize any exceptions to the full-funding rule.

## Base Realignment and Closure (BRAC) 2005

The Administration appreciates the Committee's full funding of the President's FY 2008 request to implement the recommendations of the 2005 BRAC Commission. This funding will allow DOD to implement successfully its plans for FY 2008, including the initiation or continuation of military construction projects necessary to accommodate base realignments and move personnel back to the United States from bases overseas.

## Constitutional Concerns

Several provisions of the bill purport to require advance approval by congressional committees prior to the obligation of funds. These include sections 125, 126, 201, 202, 211, 220, 221, 222, and under the headings, "Department of Defense Base Closure Account 2005," Department of Defense, and "Information Technology Systems," Department of Veterans Affairs. Because these provisions contradict the Supreme Court's ruling in *INS v. Chadha*, they should be amended to require only notification to Congress.

Noting that the Supreme Court has stated that the President's authority to classify and control access to information bearing on national security flows from Article II of the Constitution and does not depend upon any legislative grant of authority, and recognizing that notice can be provided in most circumstances as a matter of comity, situations may arise, especially in wartime, in which the President must act promptly under his constitutional authority while protecting sensitive national security information about military activities. Accordingly, section 113, which would require the Secretary of Defense to inform congressional committees of plans for certain military exercises, should be amended to call for prior notice unless, in the exercise of constitutional authority, the President directs otherwise.

Section 118 of the bill would require the Secretaries of State and Defense to report on matters concerning highly sensitive diplomatic initiatives taken regarding common defense burdens assumed by U.S. allies and dictate a particular foreign-policy objective. This provision infringes upon the President's constitutional authority to conduct foreign affairs and therefore should be deleted or rendered advisory, by changing "shall" to "should."

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