



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

May 20, 2003  
(Senate)

## STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

### **S. 1050 - National Defense Authorization Act for Fiscal Year 2004**

(Senator Warner (R) VA)

The Administration appreciates the Senate Armed Services Committee's continued support of our national defense. The Committee-reported bill includes, for example, endorsement of the President's requested military pay raise and other benefits critical to maintaining the high quality and morale of America's armed forces, continuance with needed flexibility of the Cooperative Threat Reduction program, and support for critical research and development for low-yield nuclear weapons. It is essential to undertake the research needed to evaluate a range of U.S. options that may prove essential in deterring or neutralizing future threats. The Administration welcomes section 322, which addresses readiness issues associated with the Endangered Species Act, but urges support for the remaining provisions in the Readiness and Range Preservation Initiative, which are intended to ensure that the men and women of our Armed Forces receive the training they need to succeed when put in harms way. The Administration looks forward to working with the Congress to address the priorities set forth in the "Defense Transformation for the 21st Century Act" in the final defense authorization bill that is presented to the President.

The Administration would oppose any amendments to change the base realignment and closures (BRAC) authority passed by the Congress two years ago and if any such amendment should be included in the final legislation, the Secretary of Defense, joining with other senior advisors, would recommend that the President veto the bill.

The Administration has a number of other concerns with the bill, including those described below. The Administration looks forward to working with the Congress on these and other issues as the bill moves through the legislative process.

- **Missile Defense.** The Administration appreciates the bill's full funding of missile defense programs and sections 221-223, which eliminate statutory restrictions to the program element structure and authorize the use of Research, Development, Testing, and Evaluation (RDT&E) funding to support development and fielding of initial ballistic missile defense capabilities. The Administration believes, however, that giving responsibility for RDT&E for the Patriot Advanced Capability – 3 (PAC-3) and Medium Extended Air Defense System (MEADS) programs to the Missile Defense Agency (MDA) would detract from MDA's primary

responsibility of ballistic missile defense and would impede progress in PAC-3 and MEADS, particularly for their roles in air defense. That latter responsibility should go to the Department of the Army.

- Train and Equip. The bill does not include section 441, Support of Foreign Nations Committed to Combating Global Terrorism, of the Administration's proposed Defense Transformation Act. This authority would allow the Department of Defense (DoD) flexibility to provide time-sensitive military support to key cooperating nations that are assisting in the global war on terrorism. It would allow DOD to provide training and equipment expeditiously and efficiently in response to unanticipated, no-notice requirements that the global war on terrorism may generate.
- Continuity of Operations. The Administration urges the inclusion of the requested authority to facilitate the relocation of DoD's command and control leadership. This authority would enable the Secretary of Defense to: (1) designate other facilities as part of the Pentagon Reservation, and (2) manage and maintain relocation facilities, particularly the primary alternate relocation facility, as turn-key alternatives ready as fully operational alternatives without warning.
- Overseas Basing Commission. The Administration opposes the provision to establish a commission to review DoD's overseas presence. Establishing this commission is not necessary. The Department has accelerated its ongoing review to adjust the global positioning of forces and supporting infrastructure and plans to inform Congress of its recommendations.
- F-22. The Administration opposes the bill's production cut of two F-22 aircraft. Restrictions on production quantities would undermine the program's buy-to-budget strategy, through which the Air Force will acquire as many aircraft as it can within the program's cap on total funding.
- Space Launch Capability. The Administration strongly objects to language in Section 913 that would require two space launch vehicles or families of space launch vehicles for all national security payloads. The requirement to make every national security payload dual compatible with two families of launch vehicles would be problematic and could seriously delay or curtail many critical national security payloads at high taxpayer costs. The Secretary of Defense and Director of Central Intelligence should have the ability, consistent with National Space Policy, to waive the dual compatibility requirement on selected national security payloads, based on unique or extenuating requirements.
- Limitations, Restriction, Flexibility Issues. The bill includes provisions that would add more complexity and impose limitations on DoD's management structure, including sections 231-234 and section 211, which would prohibit the transfer of several programs outside the Office of the Secretary of Defense (OSD). Transfer of these programs would improve management

efficiency and allow OSD to focus on providing oversight and strategic guidance to the entire Department.

- Indemnification - Counterterrorism Technology. The Administration strongly opposes section 851, which would authorize the Federal government to provide unlimited indemnification to companies that sell counterterrorism technology to State and local government agencies and could make the government liable for excessive costs that cannot be reasonably estimated or controlled. The Support Anti-terrorism by Fostering Effective Technologies Act of 2002 already provides critical incentives for the development and deployment of anti-terrorism technologies to State and local governments by providing liability protections for sellers of qualified anti-terrorism technologies.
- Perchlorate Study. While Administration supports the intent of section 331(b), which requires a review of the effects of perchlorate on the endocrine system, we are concerned that this section would unnecessarily duplicate an ongoing National Academy of Sciences study (initiated in March 2003) being undertaken pursuant to the request of the Federal Interagency Working Group on Perchlorate.
- Special Pay and Benefits. The Administration is concerned that a number of unsought special pay and benefit authorities, including sections 604, 606, 615, 616, and 643, divert resources unnecessarily. These mandatory authorities would undermine each Service's determination of whether such additional benefits are warranted and appropriate. Specifically, section 616 (Assignment Incentive Pay for Service in Korea), Assignment Incentive Pay authority enacted in last year's Defense Authorization bill, already authorizes Service Secretaries discretion to award such pay as necessary, thus obviating the need for any additional authority.
- Berry Amendment. The Administration is concerned that section 831, dealing with exceptions to the Berry Amendment, should be modified to ensure that textile products are appropriately covered consistent with the Administration's request.
- Public-private competitions. The Administration strongly supports clear statutory authority for the Department's use of best value source selections in public-private competitions, but opposes caveats in section 812 that would sunset the authority, preclude its application to needs other than information technology, or sanction timeframes for conducting competitions that conflict with those established in OMB Circular A-76.

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