



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

June 20, 2006
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5631 – Department of Defense Appropriations Bill, FY 2007

(Sponsors: Lewis (R), California; Obey (D), Wisconsin)

The Administration commends the House Committee for reporting this bill in a timely manner and urges its swift enactment.

The President's FY 2007 Budget holds total discretionary spending to \$872.8 billion and cuts non-security discretionary spending below last year's level. The Budget funds priorities and meets these limits by proposing to reform, reduce, or terminate 141 lower-priority programs. The Administration urges Congress to fund priority needs while holding spending to these limits and objects to the use of gimmicks to meet these limits. The Administration looks forward to working with Congress to adopt the President's proposals to cut wasteful spending in order to maintain fiscal discipline to protect the American taxpayer and sustain a strong economy.

The Administration opposes the \$4 billion reduction in funds for the Department of Defense (DOD) included in this bill and will strongly oppose any additional efforts to shift funds away from the Department of Defense. This bill also moves approximately \$2 billion from the base budget to the emergency spending provisions in Title IX, including about \$0.7 billion for Operation Noble Eagle. The Committee's action reverses the Administration's policy of funding stable, predictable operations within the base budget. Base funding requirements should not be shifted to supplemental bills as a way to increase non-security related discretionary funding. If the President is presented with a final DOD appropriations bill that significantly underfunds the Department of Defense to shift funds to non-security spending, his senior advisors would recommend that he veto that bill.

The Administration appreciates the Committee's support for the President's proposed 2.2 percent across-the-board pay raise with additional targeting for warrant officer and enlisted troops. The Administration also appreciates the Committee's support for funding key transformational acquisition programs, for fully funding Cooperative Threat Reduction, and for providing an initial \$50 billion in funding for FY 2007 wartime operations, maintenance, and re-equipping needs. The Administration also thanks the Committee for increasing the Department's general transfer authority to \$4.75 billion to provide increased flexibility in targeting resources where the need is greatest. Furthermore, the Administration thanks Congress for providing the vital funds in the recently enacted Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

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

Military Personnel

The Administration strongly opposes the \$1.2 billion reduction to the base military personnel

accounts, which will lead to a shortfall in these accounts. Excessive reductions in the military personnel accounts undermine good budgeting practices and unnecessarily consumes the General Transfer Authority provided to DOD.

Operation and Maintenance

The Administration strongly opposes the Committee's \$2.5 billion reduction to the President's request for Operation and Maintenance, including across-the-board reductions in the General Provisions. The Administration is concerned that these reductions could undermine the readiness and preparedness of U.S. forces.

Support to Other Nations

The Administration appreciates the inclusion of \$1 billion in Title IX funds to build Afghan and Iraqi security forces, but encourages the House to increase the amount to \$2 billion to ensure that the efforts to build security forces will not be interrupted. The Administration also welcomes section 9007, which authorizes up to \$500 million for the Commanders' Emergency Response Program, and section 9008, which authorizes logistical support to coalition forces supporting operations in Afghanistan and Iraq. The Administration encourages the House to increase the \$300 million in Title IX funds for coalition support to \$1 billion. This will ensure that coalition reimbursements are not interrupted so our coalition partners can continue providing their critical support to the War on Terror. These recommended increases for support to other nations are needed because of reductions made to the FY 2006 emergency supplemental request.

Reductions to Protection from Bioterrorism

The Administration opposes the Committee's reduction of \$50 million to the biodefense component of the Transformational Medical Technology Initiative. Any reduction seriously undermines the Nation's countermeasures against bioterrorism. The request is structured to provide critically needed technologies on an expedited schedule. Cuts to the program disrupt this schedule.

Reductions in Weapon Systems

The Administration opposes the Committee's reduction in requested weapons system funding, such as cuts to the Future Combat Systems, Joint Strike Fighter, Global Hawk, Space Radar, Transformational Communications Satellite, and the Missile Defense program, including funds proposed for a possible missile defense interceptor site in Europe. These reductions will force the continued use of aging or obsolete weapons and delay the fielding of critical new capabilities. The Administration strongly opposes the reduction in the Evolved Expendable Launch Vehicle Program, which will delay four scheduled FY 2009 launches, as well as the Committee's reduction to the Global Positioning System (GPS) Program, which creates a risk of a two-year gap in global GPS service. Furthermore, the Administration strongly opposes the Committee's reduction to the Conventional Trident program. This program is a crucial element in providing the President the ability to respond quickly to time sensitive, high consequence

situations anywhere in the world, especially given the danger of the nexus between terrorism and weapons of mass destruction.

Competitive Sourcing

The Administration opposes requirements in section 8013(a)(3) that would unnecessarily subject private sector bidders to intrusive data requirements concerning the provision of health benefits to their employees. While well intentioned, this provision ultimately undermines the efficiencies in private health plans and provides another disincentive for the private sector to participate in DOD's competitions. Further, by discouraging private sector interest in competitive sourcing, this provision places at risk significant savings. This provision makes it particularly burdensome for small businesses that may struggle to assemble competitive offers. The Administration urges the House to amend the health care provisions to acknowledge that contractors provide health benefits to their employees using a variety of efficient tools, such as health savings and medical savings accounts. The Administration strongly urges the House to modify section 8013(a)(2) so that the Department may take full advantage of OMB Circular A76 policies to achieve the best value for the taxpayer.

Unrequested Program Funding and Acquisition Changes

The Administration opposes the continued funding of the Joint Strike Fighter Alternative Engine program. In addition, the Administration is concerned with the Committee's direction to replace twelve E-A-18G electronic warfare aircraft with twelve F/A-18E/F fighter aircraft. These changes to the President's request unnecessarily restrict the Secretary of Defense's flexibility to plan an effective modernization program and divert resources from higher priorities.

DD(X) Split Funding

The Administration strongly opposes the appropriation of funding for only one DD(X) in FY 2007. This action would require additional funds in FY 2007 to execute this alternative strategy and would have an overall effect of raising the end-cost for both ships by a total of \$211 million. The Administration urges the Congress to provide the budget request for split funding of two ships for FY 2007.

Intelligence Community Management Account (ICMA)

The Administration opposes the bill's \$38 million reduction to ICMA, and the \$39 million earmark for the National Drug Intelligence Center (NDIC) within this account, which results in a total \$77 million reduction relative to the request. This reduction will hinder the Director of National Intelligence's ability to complete the stand-up of his Office, meet the provisions of the Intelligence Reform and Terrorism Prevention Act of 2004, and implement the recommendations of the Weapons of Mass Destruction Commission. Further, the Administration proposed terminating NDIC in order to focus counter-drug intelligence resources on a smaller subset of intelligence providers, including the new, multi-agency Drug Intelligence Fusion Center within the Department of Justice. The Administration believes closing NDIC and reassigning its missions will significantly improve the management of counter-drug intelligence activities.

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. The Administration continues to discourage any efforts, such as section 8063, to enact secret laws as part of defense funding

legislation and encourages instead appropriate use of classified annexes to Committee reports and joint statement of managers that accompany final legislation.

Constitutional Concerns

Recognizing the Executive Branch's constitutional entitlement to communicate with Congress, section 8011 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.

Section 8049(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. Sections 8007, 8081, and 9005 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 8063 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 8010, 8032, and 8085 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." The Administration urges that these provisions be deleted.

Section 8089, 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 9012 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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