



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

July 25, 2007
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 1644 – Department of Homeland Security Appropriations Act, 2008

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

The Administration strongly opposes S. 1644 because, in combination with the other FY 2008 appropriations bills, it includes an irresponsible and excessive level of spending and includes 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.

S. 1644 exceeds the President's request for programs funded in this bill by \$2.2 billion, part of the \$22 billion increase above the President's request for FY 2008 appropriations. The Administration has asked that Congress demonstrate a path to live within the President's topline and cover the excess spending in this bill through reductions elsewhere. Because Congress has failed to demonstrate such a path, if S. 1644 were presented to the President, he would veto the bill.

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

Securing Our Borders

The Administration has requested a total of \$11.8 billion in FY 2008 for border security and interior enforcement measures, representing a nearly 50 percent increase since FY 2006. The

Administration is pleased that the bill supports the requested funding for strengthening border security by adding 3,000 new Border Patrol agents, enhancing interior enforcement efforts, and providing \$1 billion for fencing and other infrastructure improvements through the Secure Border Initiative. The Senate is asked to support other key elements of the Administration's effort to control our border as well.

The Administration strongly objects to the \$100 million reduction to the US-VISIT budget. While the Administration appreciates the Senate's support for the Unique Identity program, US-VISIT cannot collect and analyze 10-print or move towards completing IDENT/IAFIS interoperability without the full request, as these funds are necessary to critical support operations and key program management and support functions, such as data center operations and fingerprint examiners. This shortfall will deny DHS and the FBI the ability to search each other's databases using a full 10 fingerprints, to assist with terrorism and criminal investigations.

The Administration opposes any provision delaying Western Hemisphere Travel Initiative (WHTI) implementation at our land and sea borders to June 2009. The Administration is committed to working with Congress and the public to implement WHTI in a manner that will cause as little disruption as possible, while providing Americans with the enhanced security that they expect. Recently, the U.S. Departments of State and Homeland Security announced that U.S. citizens traveling to Canada, Mexico, the Caribbean, and Bermuda, by air, who have applied for but not yet received passports can nevertheless temporarily enter and depart the United States with a government issued photo identification and proof of application for a passport from the Department of State through September 30, 2007. The federal government is making this accommodation for air travel due to longer-than-expected processing times for passport applications in the face of record demand. In addition, earlier this summer, DHS announced that it will accept an expanded list of secure documents at land and sea ports of entry when WHTI becomes effective on January 31, 2008.

The Administration is concerned by the decision to significantly reduce funding for the Secure Flight program, which addresses critical vulnerabilities in the Nation's aviation security system. The program has been delayed for many years, and lack of sufficient funding in FY 2008 would further delay it beyond the current target deployment of 2010. TSA has provided all requested information on the program and continues to work closely with Congress and the Government Accountability Office (GAO) to meet the ten mandates specified in P.L. 108-334. Hence, the Administration asks that Congress fund the Secure Flight program at the requested level while providing TSA authority to transfer sufficient funds, if needed, after Congressional notification, to meet the ten requirements as soon as possible.

Federal Emergency Management Agency (FEMA)

The Administration strongly opposes the dramatic increase of \$1.8 billion for State and local homeland security grant programs. By the end of FY 2007, DHS will have provided over \$23 billion in direct preparedness support to State and local agencies of which approximately \$8.5 billion will be unspent and available for preparedness projects in FY 2008. Rather than appropriating additional unjustified dollars, Congress should work together with the Administration to ensure that existing dollars are being appropriately spent and to develop a better understanding of what reductions in risk and increases in State and local capabilities will

be achieved with these unspent funds. The Administration strongly believes that the FY 2008 request level of \$2.2 billion is appropriate and allows the Federal Government to meet national priorities and stand together with State and local first responders in preparing for terrorist attacks and other major disasters. Further, the Administration is opposed to the creation of a new regional preparedness grant program, which would be duplicative of current programs. While the Administration strongly supports efforts to enhance preparedness on a regional scale, existing grant programs currently offer strong incentives for regional collaboration through State homeland security strategies and programs.

Chemical Facility Security

The Administration opposes section 531, which would prevent the Department of Homeland Security (DHS) from establishing and enforcing, for the first time, a single, national performance-based standard for enhancing the security of high-risk chemical facilities. Allowing State preemption of Federal law could thwart DHS's efforts to establish a national chemical facility security framework. Separately, while the Administration would prefer that Congress not restrict the Department's authorities in this manner, the Administration notes that the approach taken by this bill would cause less disruption to the chemical security program than language contained in the House version of the bill, H.R. 2638 which in addition to allowing State preemption, would also lessen the protection of sensitive information relating to the security of these facilities.

Secret Service

The Administration strongly objects to the elimination of \$3.1 million for presidentially-designated Secret Service protection for Executive Office of the President (EOP) personnel, which leaves these costs unfunded for FY 2008. In addition, beyond FY 2008, the uncertainty of who will be protected and how much the Secret Service protection will cost would create an unnecessary burden for the EOP.

The Administration also strongly objects to section 516(b) that would limit the Secret Service's protective mission by creating a burdensome reimbursable mechanism in lieu of the appropriate flexibility needed to protect these officials. The Secret Service is better equipped to manage these costs.

Principal Federal Official (PFO)

The Department of Homeland Security supports the Senate bill's omission of language previously included in the House bill, H.R. 2638, which would prohibit funding PFOs during disasters or emergencies. The Secretary of Homeland Security serves as the principal Federal official for domestic incident management. The PFO plays a valuable role as the representative of the Secretary in the field by coordinating Federal operations to respond to and recover from terrorist attacks, major disasters, and other emergencies. The Administration understands the need to clarify the chain of command for incident management and is currently revising the National Response Plan to address this need.

Management

The Administration strongly supports funding provided in the bill for the design and buildout of the St. Elizabeths campus, which is the first critical step toward a consolidated DHS headquarters.

The Administration is strongly opposed to any effort to reduce, limit, or delay funding for DHS human resources initiatives. The bill provides only \$5 million of the \$15 million requested for a human capital system, which would severely impact support to basic human resource services and development of practices designed to meet the Department's diverse personnel requirements.

While the Administration understands the need for prompt delivery of reports to Congress, the requirement to deliver reports on complicated matters before receiving funding could inhibit the Department's efforts to carry out its mission. Congress already requires more than 1,000 appropriations-related DHS reports and is urged to ease the administrative burden upon DHS and reduce the additional reports required in the bill.

The Administration objects to the provision that would prohibit the use of funds for further data center development until the National Center for Critical Information Processing is fully used. The Department is consolidating its data center operations into two primary facilities and this provision would limit the Department's ability to improve and streamline its data management capabilities.

The Administration appreciates the importance of GAO's ability to conduct inquiries efficiently and effectively, and DHS is taking action to speed its response to GAO requests. However, the Administration objects to the requirement that DHS revise departmental guidance regarding relations with GAO in consultation with the Comptroller General. Congress's directing the adoption of certain truncated deadlines and procedural hurdles is inconsistent with the principle of separation of powers, because it would interfere with the time-tested process of accommodation between the Executive and Legislative branches.

The Administration strongly objects to section 502, which would suspend for FY 2008 the DHS Secretary's authority to reorganize the Department to rapidly meet changing mission needs.

National Communications System

The Administration is concerned with the level of funding provided for Next Generation Network priority telecommunications services. Without the full request, the Wireless Priority Service and Government Emergency Telecommunications Service would lose coverage as communications carriers migrate from circuit-switched networks to packet-switched networks, preventing national security decision makers from receiving prioritized bandwidth for emergency communications.

United States Coast Guard (USCG)

The Administration objects to section 529, which prohibits alteration of the Civil Engineering Program of the Coast Guard. This language would severely limit USCG's administration of its engineering programs, including its ability to make such programs more cost-effective, and

undermine the Commandant's authority under 14 U.S.C. 632. It would also significantly affect the Commandant's efforts to realign the USCG's mission support organization, of which civil engineering activities and elements comprise only one part.

United States Citizenship and Immigration Services (USCIS)

The Administration is disappointed that the bill does not include a provision necessary to clarify fee authority with respect to the USCIS Systematic Alien Verification for Entitlements (SAVE) program. The SAVE program serves the needs of numerous Federal, State and local agencies that need to verify immigration status for the purpose of determining eligibility for a wide variety of public benefit programs by providing them the necessary information from DHS records.

Competitive Sourcing

The Administration strongly opposes sections 515 and 528, which impose restrictions on competitive sourcing for work performed by the Immigration Information Officers at the U.S. Citizenship and Immigration Services and the Federal Law Enforcement Training Center instructor staff. Depriving DHS of the operational efficiencies gained by competition limits its ability to direct Federal resources to other priorities. Management decisions about public-private competition and accountability for results should be vested with the Department.

Constitutional Concerns

Several provisions of the bill purport to require advance approval by congressional committees prior to the obligation of funds. These include sections 504, 505, 509, and 534; and under the headings, "Border Security Fencing, Infrastructure, and Technology," and "Air and Marine Interdiction, Operations, Maintenance, and Procurement," U.S. Customs and Border Protection; "Salaries and Expenses," United States Secret Service; "Management and Administration," National Protection and Programs Directorate; and "Indicator Technology," United States Visitor and Immigrant Status.

Section 513 of the bill, which purports to prohibit the Executive Branch from screening certain airline passengers, should be stricken as inconsistent with the President's constitutional authority as Commander in Chief to take steps necessary to protect the Nation from foreign attack.

Section 518 purports to prohibit the use of funds with respect to the transmission of certain information to Congress. This section could impede communications within the Executive Branch and could undercut the President's constitutional duty to "take care that the Laws be faithfully executed." The Administration urges the Senate to delete the provision.

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