



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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September 21, 2010
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 3454 - National Defense Authorization Act for Fiscal Year 2011

(Sen. Carl Levin, D-Michigan)

The Administration supports Senate passage of S. 3454, the National Defense Authorization Act for Fiscal Year 2011. The Administration appreciates the Senate Armed Services Committee's continued support of our national defense, including, among other things, its support for the Department's topline budget requests for both the base budget and for overseas contingency operations. The Administration welcomes the Committee's support for authorities that assist the ability of the warfighter to operate in unconventional and irregular warfare environments, authorities that are important to field commanders, such as the authority to reimburse coalition partners. The Administration appreciates that the Committee supports the President's budget request, specifically by not authorizing funding for additional C-17 aircraft or for the F-35 Joint Strike Fighter (JSF) extra engine and by authorizing the phased adaptive approach for missile defense in Europe.

There are many areas of agreement with the Committee's bill as reported; however, the Administration has concerns with some of the restrictions placed on the Department of Defense, including potentially limiting its ability to effectively advance its priorities and streamline operations. The Administration looks forward to working with the Congress to address these concerns, some of which are outlined in more detail below, and others which may be identified in a classified annex once it is made available.

National Guard Deployment to Secure the Southwest Border: The Administration strongly objects to Section 1041, which the Administration would construe to require the Secretary of Defense to authorize the funding for deployment, under title 32, United States Code, of at least 6,000 National Guard personnel to undertake operations such as constructing fences and border checkpoints, surveying the border, and providing radio communication interoperability among federal, state and local law enforcement agencies, until the Secretary, in consultation with the Department of Homeland Security and the Governors of the border states, certifies to Congress that the Federal Government has achieved "operational control" of the border. The legislation would unduly interfere with the President's role as Commander in Chief with respect to the management of the Total Force. The Administration continues to pursue a comprehensive, multi-layered, targeted approach to law enforcement and security on the southwest border. Within this approach, the National Guard will be utilized to meet specific, requirements-based needs where they can implement missions using their unique capabilities.

Building Partner Capacity and Foreign Policy: The Administration urges the inclusion of its requested proposals, which were developed with close coordination between the Departments of Defense and State, to build the capacity of partner-nation special and conventional forces. Among other things, these proposals are important for the implementation of U.S. policy in Afghanistan, to enhance and increase coalition participation in Afghanistan in order to reduce the

pressure on U.S. forces, and to support the drawdown strategy in Iraq and counter-terrorism programs. To ensure consistency with broader foreign policy objectives, the Administration urges that any new foreign policy or assistance related authorities or requirements to do reports or determinations should require concurrence of the Secretary of State, particularly those in sections 1304 and 1534.

Commanders' Emergency Response Program (CERP): The Administration appreciates the Committee's continued support for this critical program, but urges the restoration of funding to the requested amount of \$1.3 billion. The CERP remains a critical enabler in support of the responsible drawdown in Iraq and provides the people of Afghanistan with tangible, positive economic opportunities and improvements at the local level, leveraging the execution of the shape, clear, hold, and build aspects of our strategy.

Iraqi Security Forces Fund (ISFF): The Administration objects to the \$1 billion reduction to the ISFF, and the limitation placed on the obligation of these funds. Full funding of the ISFF is critical to the development of the Iraqi military and police so that they possess the minimum essential capabilities necessary for internal security and external defense. Reducing the request would impede the transition of responsibility necessary to complete the drawdown of U.S. forces in a responsible manner. The new requirement for a determination on Iraqi commitment to build security forces and the new authority to accept contributions should require concurrence of the Secretary of State to ensure consistency with broader foreign policy objectives.

Policy Concerning Homosexuality in the Armed Forces: The Administration supports section 591 as it would allow for completion of the Comprehensive Review, enable the Department of Defense to assess the results of the review, and ensure that the implementation of the repeal is consistent with the standards of military readiness, effectiveness, unit cohesion, recruiting and retention. Such an approach recognizes the critical need to allow our military and their families the full opportunity to inform and shape the implementation process through a thorough understanding of their concerns, insights and suggestions.

Restrictions on Guantanamo Detainee Transfers: The Administration strongly objects to Section 1044, which prohibits the use of Department of Defense funds to transfer individuals held at the detention facilities at Guantanamo to the countries of Afghanistan, Pakistan, Saudi Arabia, Somalia and Yemen for one year following enactment of this bill. Individual detainee transfer determinations should be made on a case-by-case basis, taking into account all factors, including the threat posed by the particular detainee, U.S. legal obligations and broader U.S. national security interests. This provision restricts the United States' ability to make these case-by-case decisions for over seventy percent of the detainees being held at Guantanamo. By precluding transfers to these countries, section 1044 poses serious national security concerns, including by reducing the Executive Branch's ability to negotiate transfer conditions that promote national security.

Guam Basing: The Administration is committed to addressing the needs in Guam (both on base and off) to allow for the realignment of Marines and their families from Japan. That effort requires a comprehensive government-wide approach. The Administration is concerned with the \$320 million reduction in funding for Navy construction in Guam. Deferral of funding requirements into future years or reductions to the program will increase the total cost to the United States of the realignment. The Administration looks forward to working with Congress to provide additional details on program implementation to address the Committee's concerns.

Defense Weather Satellites: The Administration objects to the committee's reduction of \$241.8 million in funding for the National Polar-orbiting Operational Environmental Satellite System (NPOESS) program. The decision to restructure the program, taken in February, was designed to address chronic budget, schedule, and management difficulties. DoD's senior leadership recently approved a long-term, follow-on weather satellite program to NPOESS – the Defense Weather Satellite System (DWSS). The Committee's reduction would significantly hinder the Department from taking the necessary steps to implement DWSS and to transition critical assets and data to NOAA, potentially resulting in future gaps in military and civil weather satellite coverage. The reduction could also result in terminating major elements of the existing program, impairing development of NOAA's Joint Polar Satellite System program, and incurring an otherwise avoidable termination liability for both DoD and Commerce.

National Nuclear Security Administration Program Reductions: The Administration objects to reductions to key weapons programs, including the W76 Life Extension, Plutonium Infrastructure Sustainment, Kansas City Responsive Infrastructure, Tritium Readiness, and Fissile Materials Disposition programs. Failure to provide the requested funding for these programs would delay essential stockpile support and nuclear infrastructure modernization in support of the Nuclear Posture Review and would reduce NNSA's ability to attain the W76 Life Extension Program production rates needed to meet Navy requirements.

Expansion of the Defense Production Act: The Administration objects to section 214, which authorizes the use of Defense Production Act Title III authorities to develop advanced technologies for ground vehicles without a determination that the industry involved is essential to the national defense and that government assistance is required for the production of the systems and technologies. Early stage development of advanced technologies for military vehicles is best addressed in the Research, Development, Testing, and Evaluation title.

Incremental and Full Funding: The Administration is concerned that the committee is authorizing incremental funding of military construction projects. As a matter of fiscal prudence, the Administration encourages full funding of these programs, which is consistent with the President's Budget.

Commission on Military Environmental Exposures: The Administration objects to section 314, directing the President to establish a commission of non-federal scientific experts to develop compensation decisions under controlling law and regulations for current and former members of the armed forces and their dependents based on the potential for exposure to environmental hazards at military installations. A commission made up of scientific experts should address scientific issues, while accountable government policy officials should make military and veterans benefits and entitlement recommendations. Also, until exposures resulting in health implications are established, it is premature to consider the issue of benefits and entitlements. The Administration would be pleased to work with the Congress in developing language that would address this matter in a manner that will advance the science as well as promote additional protection to our members and their dependents from such exposures.

Contracts for Commercial Imaging Satellite Capacities: The Administration objects to Section 142, which requires that DoD only procure the capacity of commercial imagery satellites with 1.5 meter telescopes after December 31, 2010. The planned next generation of commercial imagery satellites will use a 1.1 meter aperture. Since the commercial satellite industry does not currently build 1.5 meter satellites, this provision would require considerable additional government investment, and is not required to meet defense or intelligence requirements.

Further, by stipulating a predetermined commercial solution, this provision could negatively impact the commercial data providers, limit innovation in commercial technology, and increase the risks on future government contracts for commercial data services.

Iran. The Administration strongly supports P.L. 111-195, the recently enacted comprehensive Iran sanctions legislation, and is very concerned that a related section in S. 3454 (section 818) could conflict with P.L.111-195. The Administration urges that no new provisions on Iran be included in light of the comprehensiveness of the recently enacted sanctions legislation.

Troops to Teachers Program: The Administration urges the Senate's support for the transfer of the Troops to Teachers Program to DoD in FY 2011, as reflected in the President's Budget and DoD's legislative proposal to amend the Elementary and Secondary Education Act of 1965 and Title 10 of the U.S. Code. The move to Defense will help ensure that this important program supporting members of the military as teachers is retained and provide better oversight of program outcomes by simplifying and streamlining program management. The Administration looks forward to keeping the Congress abreast of this transfer, to ensure it runs smoothly and has no adverse impact on program enrollees.

Restoration of Policy Regarding Use of Medical Facilities: The Administration supports section 713, which would restore a policy to ensure that servicewomen and military dependents – including nearly 50,000 servicewomen stationed overseas – have the ability to obtain abortion services using their own, private funds.

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