



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

July 31, 2002
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 5010 - DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, FY 2003

(Sponsors: Byrd (D), West Virginia; Stevens (R), Alaska)

This Statement of Administration Policy provides the Administration's views on the FY 2003 Department of Defense Appropriations Bill, as reported by the Senate Committee. While every other bill reported by the Committee exceeds the President's request, this bill fails to include the war reserve and other necessary funding, resulting in an \$11.5 billion decrease to the President's request. Despite these major concerns, the Administration supports passage of the bill in the Senate to advance the legislation to conference.

Before addressing the Administration's specific concerns with the Defense bill, the Administration would like to reiterate its strong opposition to the FY 2003 discretionary spending total adopted by the Senate Appropriations Committee, which allows for \$772.5 billion in spending, including \$2.2 billion in emergency funds and \$2.2 billion in inappropriate advances on FY 2004 spending. Fiscal discipline and constraints on overall government spending are critical to the Nation's ability to provide needed resources for national priorities and a fiscal environment that encourages continued economic growth and a quick return to a balanced budget. We urge caution as the Senate continues to report bills well above the President's request and the House-passed budget resolution. Continuing this trend could lead to a breakdown in the appropriations process and hold up urgent funding for our agencies. The President supports a discretionary spending total of \$759.1 billion, consistent with the House-passed Budget Resolution, and within that total urges the Congress to provide appropriations consistent with his request for defense and homeland security activities to support the war on terrorism and increased national homeland security efforts.

The Committee has funded many of the requirements needed to keep America secure, to transform U.S. defense capabilities, and to maintain the quality of life of our armed forces. For example as the President requested, the Committee bill fully funds the military pay raise of 4.1 percent and additional targeted pay increases for selected ranks, and funds a number of key programs critical to the President's goal of transforming U.S. military capabilities, including Trident submarine conversions and unmanned aerial vehicles.

The Administration welcomes the Committee's support of the President's decision to terminate

the Crusader artillery program in favor of more transformational efforts to improve the Army's indirect fire capabilities. The Administration appreciates that consistent with the revised FY 2003 request, the Committee did not provide funding for the Crusader program and instead funded critical research and development efforts for more advanced indirect fire systems.

As missile defense is one of the President's top priorities, the Administration is concerned by the Committee's \$814 million reduction in this account. While the Committee has provided some potential ability to replace this reduction in missile defense funding through use of projected FY 2003 inflation offsets, the Administration requests that the Senate provide certainty by providing full direct appropriation for this important program.

On July 3, 2002, the President submitted a budget amendment clarifying the intended purposes for the \$10 billion war reserve. The Administration is very concerned that the Committee did not include the \$10 billion appropriation to sustain the global war on terrorism. Without this funding, the Department of Defense (DoD) will lack sufficient resources for critical activities to sustain the war on terrorism as it expands. The Administration looks forward to working with the Senate to ensure that these funds are included in the final bill and to address the Department's request for an increase of \$500 million in general transfer authority.

The Administration is also concerned that Committee report language permits funding for military retirees to concurrently receive Veterans Affairs (VA) disability and military retirement benefits subject to authorization of such a provision. The report contemplates tapping the \$10 billion war reserve if such benefits are authorized. This authorization provision currently under consideration in the FY 2003 Defense Authorization Conference would cost nearly \$60 billion over ten years and could increase the number of veterans seeking benefits by almost 690,000, diverting critical resources away from fighting the war on terrorism and transforming our military capabilities. As stated in the June 19th Statement of Administration Policy on S. 2514, the President's senior advisers would recommend that he veto the Defense Authorization bill if the bill repealed the current prohibition on concurrent receipt of these benefits.

The Committee bill does not include the Administration's CHOICE proposal to better coordinate DoD and VA medical care services by ensuring that retirees elect either VA or DoD as their exclusive health care provider through an annual open season. Military retirees have access to VA and DoD health care systems and both departments budget for the estimated 700,000 retirees. The result is imprecise and duplicative, drawing resources away from key requirements. Neither system can ensure that these retirees receive continuity of health care due to the movement between systems. This initiative would enhance continuity of care reduce waiting times, while optimizing resources by preventing duplication of benefits.

The Administration appreciates that the Congress granted the Administration's request for expanded authorities to prosecute the unified campaign against both terrorism and drugs in Colombia in the FY 2002 Emergency Supplemental Appropriations bill. We strongly encourage the Congress to provide these authorities for the Department of Defense in FY 2003 as requested as well. This will enable the Administration to use the resources available to aid Colombia and conduct a unified

campaign against groups that use narcotics trafficking to fund terrorists and other activities that threaten the national security of Colombia.

The Administration opposes Title IX of the Committee bill, which provides authority to make loan guarantees for the production of commercial reusable in-space transportation. The bill language is premature and prejudicial to the upcoming work of the President's National Space Transportation Policy task force. It singles out one space transportation concept for preferential subsidized financing and supports a controversial propulsion system for which the technology and commercial viability is unproven. Moreover, the credit risk premiums for any loan guarantees would be so high as to eliminate private sector interest in the program.

Constitutional Concerns

Although the 30-day advance notice contemplated by Section 8007 of the bill can be provided in most situations as a matter of comity, situations may arise, especially in wartime, in which the President must promptly establish special access controls on classified national security information under his constitutional grants of the executive power and authority as Commander in Chief of the Armed Forces. Similarly, there may be times in which the President as Commander-in-Chief may need to proceed with respect to certain transfers of defense articles or services more promptly than the 15-day advance notice contemplated by section 8066. In addition, Section 8065 of the bill must be construed to require only notification of Congress, given the constitutional principles enunciated in INS v. Chadha. Finally, the Administration notes that, while the preferences in Section 8014 and 8094 may survive judicial review to the extent they constitute political classifications such as Indian tribes, they may not survive such review to the extent they involve racial classifications suspect under equal protection component of the Due Process Clause of the Constitution.

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