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

May 22, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 1588 - National Defense Authorization Act for Fiscal Year 2004

(Rep. Hunter (R) California)

The Administration commends the House Armed Services Committee (HASC) for its continued support of our national defense. The Committee-reported bill includes a number of authorities consistent with the President's request, including a substantial military pay raise and other benefits critical to sustaining the high quality and morale of America's armed forces.

The Administration appreciates the hard work and support of the HASC and the House Committees on Government Reform and Resources for including vital provisions of the "Defense Transformation for the 21st Century Act." The security challenges facing the United States have changed dramatically, and our military must be changed to meet those new challenges. To adapt to a changing world, maximize our ability to defend America, strengthen readiness, and improve the quality of life for our troops and civilian employees, the Department of Defense must transform the way it manages personnel, acquires equipment, and trains military forces to ensure readiness. Provisions in the National Security Personnel System will allow the Department of Defense (DoD) to manage civilian employees more flexibly and fairly. Provisions of the Readiness and Range Preservation Initiative (RRPI) will allow our troops to have realistic training experiences to be ready to defend this Nation. Inclusion of these and other transformation provisions in the final bill that is presented to the President will help DoD be prepared to meet current and future threats to the Nation's security.

The Administration strongly opposes any change to the base realignment and closure (BRAC) authority passed by the Congress two years ago – especially changes that would impede a comprehensive rationalization of our military base infrastructure. If the President is presented a bill to repeal or delay BRAC, the Defense Secretary, joining with other senior advisors, would recommend that the President veto the bill. The exclusion of an arbitrary number of installations from consideration for closure or realignment would undermine a comprehensive review of the Department's infrastructure. To be comprehensive, a BRAC review also should not be artificially based on force levels that are over a decade old and that do not address adequately the Nation's ability to meet current and future threats.

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 Committee's support for the deployment of near-term ballistic missile defenses to protect the homeland, allies, and deployed forces. In examining the management of the Patriot Advanced Capability-3 and Medium Extended Air Defense System programs, DoD determined that these programs would be managed best together by the Army. Splitting them between the Army and the Missile Defense Agency would duplicate effort, add cost, and impede program progress, particularly development of the air defense mission. The Administration also is concerned about several changes to the budget request.

- Low-Yield Nuclear Weapons. The Administration appreciates the support for research of low yield nuclear weapons in section 3111. However, maintaining the prohibition on development will hinder the ability of our scientists and engineers to explore technical options to deter national security threats of the 21st century. A complete repeal of section 3136 of the FY 1994 National Defense Authorization Act is needed. This in no way would usurp Congress's right to authorize and appropriate the funds necessary to develop and build new or modified nuclear weapons should this or a future President determine that such weapons were in the supreme interest of the United States.

- Defense Industrial Base Provisions. The Administration objects strongly to the Title VIII Subtitle B provisions because they are burdensome, counterproductive, and have the potential to degrade U.S. military capabilities. These provisions: (1) undermine our efforts to promote cooperation and interoperability with our allies and the use of commercial items when appropriate; (2) establish rigorous restrictions against using non-U.S. sources that will unnecessarily restrict the Department of Defense's ability to access non-U.S. state-of-the-art technologies and industrial capabilities; and (3) require that international cooperative programs, such as the Joint Strike Fighter, be modified or terminated drastically. Certain provisions require DoD assign significantly greater resources to collect industrial information, perform industrial analyses, and report results to Congress, the sole purpose of which seems to be to identify and eliminate non-U.S. suppliers from U.S. defense applications. Other provisions are duplicative of those in the Defense Production Act. Adequate means are already available in law and regulations to protect the U.S. industrial base.

- Assistance and Support for Other Nations. The Administration notes that H.R. 1588 does not include Support of Foreign Nations Committed to Combating Global Terrorism (Section 441 of the Defense Transformation Act). This authority would allow the Department of Defense 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.

- Expanded Counter-Narcotics Authority. The Administration urges House support for enhanced counter-narcotics authority in the Andes and Central Asia, that would permit DoD to provide additional types of equipment and supplies to Colombia and Peru and include Bolivia, Ecuador, Afghanistan, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan. Enhancing the counterdrug capabilities for these nations is critical to our combined efforts to stem the flow of illicit drugs, to attack this source of terrorist funding, and to reduce the threat to struggling democracies.

- Nonproliferation and Cooperative Threat Reduction. The Administration appreciates full funding of the CTR budget request, but is very concerned about requirements imposed by the Committee that will hinder DoD's and DoE's ability to implement more rigorously and effectively Cooperative Threat Reduction (CTR) and Nuclear Nonproliferation activities. Furthermore, H.R. 1588 would limit the President's flexibility to apply CTR resources to the most pressing non-proliferation challenges in support of the Global War on Terrorism and would not clarify that DoE has authority to carry-out such activities outside states of the former Soviet Union.

- Force Structure. The Administration strongly opposes section 911, which would constrain the President's ability to align military force structure with the US National Security Strategy and the Defense Strategy. Moreover, the provision runs directly counter to the Department's capabilities-based planning approach, which focuses less on the size of service combat structures and more on the capabilities needed to execute the U.S. Defense Strategy.

- Military End Strength. The Administration opposes the bill's increase in military end strength as unnecessary. Current law gives DoD adequate flexibility to accommodate the shortfalls that the Committee perceives, by allowing DoD to exceed authorized end strength by three percent or up to two percent if the Secretary of Defense or a Secretary of a military department respectively determines it is in the national interest. Further, DoD has been actively engaged in the validation of military and civilian manpower; military positions are being identified as possible candidates for conversion to civilian or private sector performance.

- Civilian Pay. The Administration opposes language in section 1111, which states that civilian and military pay raises shall be adjusted at the same rate, to the maximum extent practicable. Civilian and military pay linkage is not necessary. The Administration proposed a 2% pay raise for all civilian employees, which is very generous at this time when many in the private sector are unemployed or facing shrinking paychecks. The Administration has proposed a Human Capital Performance Fund to finance higher pay raises for high-performing federal employees. DoD has different recruiting and retention needs for each group, and recent civilian pay raises have exceeded the rate of inflation. The Administration is particularly concerned that these additional civilian pay increases are

unfunded (costing DoD about $660 million, and Government-wide about $2.1 billion if so applied).

- Human Capital Performance Fund. The Administration understands that an amendment will be offered to support the President's Human Capital Performance Fund, which is performance driven and will allow the Federal Government to attract and maintain a quality workforce that will deliver results. The Administration strongly supports enactment of this proposal, which was included in the President's FY 2004 Budget.

- Clarification to Hatch Act. The Administration opposes section 1109, which would prohibit enforcement of penalties under the Hatch Act for employees who "voluntarily separate" from the civil service, including employees who transfer to international organizations and still enjoy certain Federal employee coverage, rights, and benefits. Section 1109 would also prohibit the U.S. Office of Special Counsel from publicizing formal enforcement actions or informal settlements of cases arising under the Whistleblower Protection Act and the Hatch Act. These changes would undermine the deterrent effect of the Hatch Act's penalties as well as public confidence in the Government's ability to encourage and protect whistleblowers.

- Special Pay and Benefits. The Administration is concerned that a number of unsought special pay and benefit authorities, including sections 615, 619, 620, 622, and 651, divert resources unnecessarily. These mandatory authorities would undermine each military department's determination of whether such additional benefits are warranted and appropriate.

- Payment of Special Compensation. The Administration opposes section 641, which moves the funding for the payment of special compensation for certain combat-related disabled military retirees and for certain severely disabled military retirees from the Military Personnel appropriations to the Military Retirement Fund. This section fails to reflect the full cost of providing this benefit, and encourages unnecessary further expansion of these benefits. It also contravenes long-standing policy by shifting the accrual cost for these benefits from DoD to the Treasury.

- Defense Acquisition Workforce Reductions. The Administration opposes Section 910, which reduces DoD's military and civilian defense acquisition and support personnel -- other than assigned civilian maintenance depot personnel -- by 25 percent over five years. DoD is continuing its transformation process in determining its civilian and military requirements; such legislated reductions hurt both efficiency and effectiveness in accomplishing the acquisition mission.

- F/A-22. The Administration opposes the bill's $161 million reduction from the request, which would undermine DoD's buy-to-budget strategy, as well as the limitation of funds obligation. This measure would reduce one aircraft from Lot 4 and possibly two to five

aircraft for FYs 2004-2009, and would establish an inflexible and arbitrary measure relating to software that impedes the start of operational testing.

- Acquisition Increases. The Administration is concerned that unsought acquisition authorizations above the FY 2004 budget request, including $727 million for legacy force programs, such as upgrades to Abrams tanks and Bradley Fighting Vehicles, would divert resources away from higher transformational military priorities.

- Procurement of Defense Biomedical Countermeasures. The Administration appreciates the Committee's support for encouraging more rapid development of safe and effective countermeasures, and for assuring the availability of promising treatments under accelerated development in the event of an emergency, if no other potentially beneficial treatments exist. The Administration, however, has concerns about sections 1031 - 1033, and would like to continue to work with Congress to enact the "Project BioShield" proposal submitted to Congress by the President.

- Information Technology. The Administration strongly opposes the bill's $1.7 billion reduction for Information Technology (IT) programs, including the $1.4 billion across-the-board reduction spread across several titles. At a time when IT investment is becoming even more critical to success on the battlefield and in business, the Committee has proposed cutting the Department's IT budget by over seven percent, reducing the allocation to below FY 03 levels. While the Administration is committed to improving Government-wide IT management, these reductions to the IT budget request would seriously impair the Department's ability to continue the Global War on Terrorism and Defense Transformation.

- Acquisition of Non-Commercial Items. The Administration strongly opposes section 1444, which would require an agency to accept a company's price for a non-commercial item based on the pricing of unrelated goods and services. This requirement fails to provide adequate protection to agencies for ensuring that the prices they pay for their goods and services are fair and reasonable.

- Competitive Sourcing. The Administration strongly objects to section 1454, which would prohibit the use of goals for competitive sourcing. These goals take into account agencies' workforce and mission needs, and are institutionalizing the use of competition to improve the performance of agency commercial activities. This section severely impedes the efforts of the Office of Management and Budget (OMB) as envisioned in the President's Management Agenda. Section 323 needlessly delays implementation of the soon-to-be-released revised OMB Circular A-76, until DoD prepares a prescribed report. The revised A-76 Circular reflects close consultation with DoD, and includes a careful balance of simplified processes and a fair and level playing field for conducting competition between public and private sources. Section 322 should be modified to make clear that

waivers from the A-76 Circular for high-performing organizations must be approved by OMB.

- Defense Working Capital Funds. The Administration is concerned by the magnitude of the bill's reductions for fuel prices and cash balances in Defense Working Capital Fund activities. Fuel prices continue to exceed the budget assumptions. The cash reductions, especially for the Transportation Working Capital Fund and the Air Force Working Capital Fund, would push cash levels below prudent levels. These reductions would translate to general reductions to the Operation and Maintenance accounts, undermining force readiness.

- Sealift Ship Construction Pilot Program. The Administration is concerned that the bill authorizes $40 million that would permit the Navy to establish a loan guarantee pilot program to construct two sealift vessels for commercial use. This pilot program would be very similar to an existing loan guarantee program in the Maritime Administration (Title XI), which has been plagued by significant defaults in recent years. The Administration believes it would be ill-advised to duplicate such a program. Further, in an effort to reduce corporate subsidies, the FY 2004 Budget proposes no subsidy funding for the Maritime Administration's Title XI program.

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