



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

May 9, 2002  
(House)

## STATEMENT OF ADMINISTRATION POLICY

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

### **H.R. 4546 - Bob Stump National Defense Authorization Act for FY 2003**

(Reps. Stump (R) AZ and Skelton (D) MO)

The Administration supports H.R. 4546, which funds many of the major requirements needed to keep America secure, to transform the U.S. defense capabilities, and to sustain the high readiness and morale of our armed forces. The Administration commends the House Armed Services Committee for developing comprehensive and balanced national security legislation that strongly supports the President's FY 2003 Budget request. Consistent with the President's commitment to increasing the quality of life for the military, the bill would, among other things, raise military pay by up to 8.5 percent for members in certain pay grades, and would reduce service members' average out-of-pocket housing expenses from 11.3 percent to 7.5 percent in FY 2003. The Administration strongly supports provisions to help our service members.

The Administration appreciates the Committee's support for a reliable, flexible, and robust strategic nuclear deterrent. While improving U.S.-Russian relations enables the United States to reduce the number of its operationally deployed strategic nuclear warheads, in an uncertain security environment we must anticipate the unexpected. Consequently, it is vital that we implement the strategic vision laid out in the Nuclear Posture Review (NPR) by building: (1) improved command, control, communications, intelligence, and planning capabilities; (2) strategic defense capabilities; (3) flexible strategic strike options with advanced conventional weapons and a responsive capability; and (4) a responsive infrastructure. The bill's commitment to the NPR marks an important contribution to U.S. national security.

The Administration commends the Committee for including four of the eight requested readiness and range preservation provisions, and would strongly oppose any effort to strike or weaken them. In particular, the provisions relating to the Endangered Species Act and the Migratory Bird Treaty Act are narrow in scope, address only military readiness activities (the training, testing, and operations that relate to combat), and serve to safeguard against litigation which would thwart the military's primary mission. By allowing the military to provide realistic training experiences at various military installations, these provisions are designed to save the lives of America's young men and women by preparing them and their equipment for combat on the first day of battle. These authorities in no way diminish the Defense

Department's commitment to responsible environmental stewardship.

In addition, the Administration commends the committee for its support of the Administration's missile defense program, which remains one of our top priorities.

Although the Administration supports H.R. 4546, the bill includes a number of provisions that are of concern, including those discussed below. The Administration looks forward to working with Congress to address these concerns as H.R. 4546 moves through the legislative process.

#### Contingency War Reserve Funding

Consistent with the Administration's request, the House Budget Committee set aside an additional \$10 billion in funding for war-related items. The House Armed Services Committee has reduced this amount to \$6.3 billion by charging \$3.7 billion of the Administration's base appropriations request against the reserve and substituting unrequested programs of the same amount into the base request. This diminishes the Department's ability to address future contingencies. Full funding of the Contingency War Reserve is important because war requirements are constantly changing and the military needs flexibility to address emerging needs as they arise. The Administration looks forward to working with Congress to authorize the full contingency reserve so that the DoD can address the ongoing costs associated with the war on terrorism.

#### Transformation

The President has made transformation of the military a top defense priority. The Department of Defense is conducting a comprehensive review of capabilities and requirements to determine which weapons system will meet the emerging threats to our national security in the 21<sup>st</sup> Century. In order to carry out this review, the Secretary is carefully considering the legacy systems and evaluating promising transformational technologies. This effort will be challenging and will require consultation and cooperation with the Congress.

Consistent with this policy, the Secretary of Defense has determined that the Crusader is no longer relevant to the type of warfare we are likely to face in the 21<sup>st</sup> century. The Administration will soon transmit to Congress a budget amendment to reallocate funds originally requested for the Crusader to alternative programs that are essential to the acceleration and improvement of the Army's deployment of transformational precision ground fire capabilities. The President's senior advisors would recommend that he veto any bill which included statutory restrictions limiting his ability to cancel this program.

#### End Strength Increases

The Administration opposes the increases to active military end strength contained in Section 402. The increases contained in H.R. 4546 are not necessary to sustain the war on terrorism and support other security requirements and would undermine efforts currently underway to establish the most effective utilization of military resources. Studies, to be completed by late summer, will inform decisions on how

to match resources to the areas that require unique military skills and how to focus military manpower on the most critical missions, while reducing operations and personnel tempo.

### Concurrent Receipt

The Administration opposes Section 641, which would phase in full concurrent receipt of military retired pay and veterans disability compensation for military retirees with disabilities rated at sixty percent or higher. This provision is contrary to the long-standing principle that no one should be able to receive concurrent retirement benefits and disability benefits based upon the same service. All Federal compensation systems aim for an equitable percentage of income replacement in the case of either work-related injury *or* retirement. The Administration's preliminary estimate is that Section 641 would increase mandatory outlays by \$18.5 billion from 2003 to 2012. Additionally, this provision would contravene longstanding law that DOD pays the accrual costs for all military retirement benefits (for post-1984 military service) and transfer those costs to the Treasury Department. The Administration also opposes any future expansion of the provision of Section 641.

### Acquisition Issues

At a time when DOD needs to focus on threats from terrorism and weapons of mass destruction, the Administration is concerned with the potential for the diversion of military focus to non-military matters. The Administration seeks to work with the Congress to limit the number of assignments or organizational embellishments that are not strongly focused on or do not simplify the primary defense mission. Programs such as the Medical Free Electron Laser are best left to government agencies that have primary focus on medical and other non-defense missions, and to the private sector. Initiatives such as the "Technology Transition Initiative" (section 215), "Defense Acquisition Challenge Program" (section 216), and "Quick-Reaction Special Projects Acquisition Team" (section 809), while well intentioned, reduce rather than provide the managerial flexibility that the Department needs. The Administration seeks to give government managers more latitude to manage their primary mission through the Freedom to Manage Act.

### Core Logistics

The Administration opposes Section 335, which would expand the definition of core logistics functions from maintenance and repair of weapons systems to all the logistics capabilities including acquisition logistics, supply management, systems engineering, maintenance, and modification management needed to sustain weapons systems. By doubling the number of personnel positions exempt from competition, this provision would severely limit the Department's ability to manage logistics and acquisition programs; to reduce life cycle costs; and to foster economy, efficiency, high performance, and continuous support for weapons systems. Furthermore, this provision would undermine one of the President's top management agenda goals to increase competitive sourcing.

### Wireless Priority Access Service

The Administration opposes the reduction of \$37 million for the Defense Information Systems Agency for Wireless Priority Access Service (PAS). This program is a key element in the Administration's Homeland Security improvement effort. It provides emergency first responders as well as Federal, State, and local officials priority access to cellular telecommunications in the event of an emergency. The program schedule is ambitious, but September 11th clearly demonstrated the need for this type of capability, and we should not delay implementation any longer than necessary. Currently, both the local and nationwide solution are on schedule and on budget. The National Communication System expects to have initial operating capability by the end of 2002 and full operating capability by the end of 2003.

### Base Closure Process Changes

The Administration opposes any changes to the existing carefully-crafted and carefully-considered statute for base closures and realignments enacted only last year.

### Ball or Roller Bearings

The Administration opposes Section 807, which expands the existing requirement to procure only domestic ball or roller bearings -- to cover additional devices including cam follower bearings and ball screws. This provision would restrict competition, thereby decreasing the Department's ability to obtain the best products at the best price. It would add administrative complexity by forcing the Department and its prime contractors to ascertain the place of origin of these parts and to ensure no foreign-made parts are included in items purchased. No known national security reason justifies the added costs and administrative burden this provision would entail.

### Constitutional Concerns

H.R. 4546 contains a number of provisions that intrude on the President's authorities under the Constitution as Commander in Chief, in the conduct of foreign affairs, with respect to his responsibilities to supervise the Executive Branch, and in other areas. These provisions would be carried out in a manner consistent with the Constitution.

The legislation contains constitutionally flawed provisions that are inconsistent with the President's authority to supervise the unitary executive branch and to submit for the consideration of Congress such measures as he judges necessary and expedient (Secs. 144(c), 213, 404(d), 572(3), 1007(b)(8), 1022, 1102, 2814(d)(3), and 3152(b)(4)) and the President's authority as commander in chief of the armed forces and the sole representative of the Nation in foreign affairs (Sec. 1202). Moreover, it contains provisions (Secs. 211 and 1403(f)(4) and (5)) that purport to give the force of law to conference committee statements and committee reports, contrary to the bicameral adoption and presentment requirements of the Constitution for enactment of a law. Finally, it contains provisions (Secs. 215, 313, 1005(a), 3129(d), 3130(d), and 3144(a)(2)(B)) that purport to require the heads of departments to act through particular subordinates or to submit materials unreviewed to Congress, which is inconsistent

with the effective exercise of the President's constitutional authority to supervise the unitary executive branch.

Pay-As-You-Go (PAYGO) Scoring

Any law that would reduce receipts or increase direct spending is subject to the PAYGO requirements of the Balanced Budget and Emergency Deficit Control Act (BEA) and could cause a sequester of mandatory programs in any fiscal year through 2006. The requirement to score PAYGO costs expires on September 30, 2002, and there are no discretionary caps beyond 2002. Preliminary OMB estimates indicate that the bill would increase spending by \$6.1 billion through FY 2007. The Administration will work with Congress to ensure fiscal discipline consistent with the President's budget and a quick return to a balanced budget. The Administration also will work with Congress to ensure that any unintended sequester of spending does not occur.

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