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(Senate)

STATEMENT OF ADMINISTRATION POLICY

Substitute Amendment to H.R. 6157 — Department of Defense Appropriations Act, 2019
(Sen. Shelby, R-AL)

This Statement of Administration Policy (SAP) provides views on the Substitute Amendment to H.R. 6157, making appropriations for the Departments of Defense (DOD), Labor, Health and Human Services, Education, and related agencies for the fiscal year (FY) ending September 30, 2019.

This legislation includes important investments in the Nation's military readiness and lethality. Division A, which makes appropriations for DOD, fully funds the Administration's requested 2.6 percent pay raise for United States troops. The Administration appreciates the funding in this bill to support execution of the National Security Strategy and National Defense Strategy, as well as the Nuclear Posture Review, South Asia Strategy, and vision of a free and open Indo-Pacific region. The Administration also welcomes the Senate's timely consideration of appropriations legislation, and looks forward to working with the Congress well before the end of the fiscal year to enact individual bills that provide sufficient funding to essential programs without further jeopardizing the Nation's fiscal state.

Division B invests in the health, education, and job skills of the American people. The Administration appreciates the inclusion of funding for priorities such as anti-opioid programs, charter schools, the Child Care and Development Block Grant, and apprenticeship grants, as well as the bill's support for efforts to combat improper payments and maintain program integrity. However, the bill does not include – and in some case precludes – numerous Administration proposals to reduce spending and improve program effectiveness found in the FY 2019 Budget's Major Savings and Reform volume.

The Administration appreciates that division A is generally consistent with the FY 2019 Budget request topline level. Division B, however, exceeds the Administration's request by $11.8 billion. The Administration recognizes that the problematic spending levels in division B stem from the non-Defense discretionary cap set by the Bipartisan Budget Act of 2018 (BBA), about which the Administration has repeatedly registered concern in multiple SAPs and other communications to the Congress since the BBA's enactment.

In the FY 2019 Budget request, this SAP, and publicly available letters to the Senate Appropriations Committee expressing views on each division of this bill, the Administration has identified numerous reductions and reforms that, if adopted, would bring these bills into alignment with the President's policies. The Administration hopes that the Congress will consider these suggestions and engage with the Administration to ensure that funding is eventually enacted for the truly essential programs supported by these bills. As the appropriations process continues, the Administration would like to work with the Congress to identify a path to ultimately enacting non-Defense discretionary spending for FY 2019 below the BBA cap of $597 billion.

The Administration would like to take this opportunity to share additional views regarding the Senate Appropriations Committee's (Committee) version of the bill.

<u>Division A – Department of Defense Appropriations Act, 2019</u>

Military Pay Raise. The Administration appreciates that the bill fully funds the FY 2019 Budget request for a 2.6 percent military pay raise.

Strategic Forces. The Administration appreciates the Committee's robust support for the 2018 Nuclear Posture Review and the FY 2019 Budget request for operations, sustainment, and recapitalization of U.S. strategic nuclear forces.

Ground Combat Investments. The Administration appreciates the Committee's robust support of Army and Marine Corps ground investments. The bill provides $12.5 billion, including Armored Brigade Combat Teams and amphibious ground combat systems, which provide critical support in furtherance of National Security Strategy and National Defense Strategy (NDS) objectives.

Israeli Cooperative Programs. The Administration appreciates the Committee's support for the FY 2019 Budget request of $500 million for Israeli Cooperative Programs, consistent with the U.S.-Israel Memorandum of Understanding.

Financial Assistance for Palau. The Administration appreciates the Committee's ongoing support for the 2010 Palau Compact Review Agreement (CRA), which has enabled the United States to fulfill its financial commitment to the Republic of Palau in FY 2018. Consistent with the CRA, the Administration strongly urges the Congress to include the provision requested in the FY 2019 Budget that would provide the authority for DOD to offset costs associated with Palau's acquisition of private land for new U.S. defense sites to install critical defense assets.

Littoral Combat Ships (LCS). The Administration strongly objects to the provision of an additional $475 million above the FY 2019 Budget request for the procurement of a second LCS. The additional ship is not needed. One LCS in FY 2019, when combined with the three funded in FY 2018, would keep both shipyards supplied with enough work to remain viable for the Frigate competition. It is imperative that, based on lessons learned from the LCS program, a more capable and survivable ship is developed to meet the Navy's needs, consistent with NDS priorities.

Evolved Expendable Launch Vehicle. The Administration strongly objects to the elimination of $209 million in launch funding for the Space Test Program-4 mission. The Robotic Servicing of Geosynchronous Satellites payload is an innovative public-private partnership to demonstrate on-orbit repair, refueling, and other servicing capabilities. This satellite will be available for launch in spring 2021, which requires the procurement of its launch vehicle in FY 2019. Failure to do so would lead to significantly increased program costs for satellite storage and program support, and puts at risk substantial private investment and future public-private partnerships.

Afghanistan Security Forces Fund (ASFF). The Administration objects to the $532 million reduction to the ASFF. With the President's South Asia Strategy at a critical juncture, this reduction would jeopardize the ability of the Afghanistan National Defense and Security Forces to maintain a security environment that supports upcoming parliamentary and presidential elections and achieve political reconciliation with the Taliban. Reduced funding specifically risks undermining: 1) the combat effectiveness of the Afghan National Army; 2) the ability of the Afghan National Police to effectively implement the Kabul Enhanced Security Zone; 3) the continued modernization of the Afghan Air Force; and 4) the continued expansion of the Afghan Special Security Forces.

Counter-Islamic State of Iraq and Syria Train and Equip Fund (CTEF). The Administration objects to the FY 2019 CTEF reduction of $406 million. This reduction would inhibit DOD's ability to ensure a lasting and complete defeat of the Islamic State of Iraq and Syria (ISIS), executed as part of DOD's by, with, and through strategy. The primary defeat mechanism in the fight against ISIS are U.S. partner forces in Iraq and Syria. Fully equipping and training these partner forces is critical to maintain campaign momentum against ISIS and its threat networks. If funding is reduced to the level in the bill, DOD would be significantly degraded in its ability to: 1) complete the materiel provisioning of the border guard forces to secure the western border of Iraq; 2) provide the necessary mobility and lethal equipment sets for local security forces to strengthen the security of liberated provinces; 3) build the capability of Peshmerga to conduct wide area security; 4) support the Iraqi Counter Terrorism Service with the necessary modern equipment to sustain the pressure on ISIS threat networks; 5) resource emerging requirements to support Syrian Democratic Forces offensive operations against remaining ISIS forces; and 6) support building the capacity of internal security forces to stabilize a post-ISIS Syria and prevent an ISIS reemergence.

Security Cooperation Funding. The Administration objects to the $150 million reduction to the security cooperation Overseas Contingency Operations request. Funding security cooperation at a level below the FY 2019 Budget request would force the cancellation or delay of critical security cooperation programs supporting the NDS line of effort to strengthen alliances and attract new partners.

Defense Information Systems Agency's National Background Investigation System (NBIS). The Administration objects to the bill's $60 million reduction to NBIS, which would undermine the Administration's efforts to increase the efficiency and effectiveness of the Federal background investigation process. The reduction would delay NBIS's deployment from FY 2019 to FY 2020, and undercut DOD's efforts to assume the National Background Investigation Bureau mission. The reduction would also limit DOD's ability to integrate capabilities that are critical to reducing the background investigation backlog, such as continuous evaluation, biometrics and fingerprinting, automated records checks, and case management.

End Strength. The Administration urges the Congress to fully fund the request to increase end strength to 1,338,100 Active Component and 817,700 Reserve Component members. One of the primary objectives of the FY 2019 Budget request, which fully aligns with the National Defense Strategy, is to invest in DOD's most important asset: people. Failure to fund the necessary end strength growth could impose critical delays on efforts to improve readiness by increasing manning levels to reduce personnel and operational tempo, as well as to generate expanded ability for full-spectrum training opportunities.

Division B – Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2019

Department of Labor

Apprenticeship. The Administration strongly supports the continued funding for the Department of Labor's apprenticeship grant program. These grants would help to expand the use of apprenticeship as a tool for cultivating a skilled workforce in businesses across the Nation. The bill maintains language, however, preventing the Department from spending funds to provide a streamlined, employer-driven approach to establishing high-quality apprenticeship programs.

Reemployment Services and Eligibility Assessments (RESEA). The Administration strongly supports the bill's funding for RESEA in accordance with the BBA. RESEA is an evidence-based intervention that reduces improper payments in the Unemployment Insurance program while getting claimants back to work more quickly and at higher wages.

Protecting Union Members. The Administration strongly objects to the lack of increased funding for the Office of Labor-Management Standards (OLMS). The increase is necessary to restore OLMS's investigative workforce, which the previous administration allowed to fall by one-third during the past 10 years. The FY 2019 Budget request strengthens protections for transparency for union members by supporting more audits and investigations to uncover flawed officer elections, fraud, and embezzlement.

International Labor Affairs Bureau (ILAB). The Administration strongly objects to the bill's continued funding for ILAB's grants, which the FY 2019 Budget request proposed to eliminate. Many of ILAB's grants are awarded non-competitively and spent on activities that are of questionable utility and where there is not a clear Federal role.

Department of Health and Human Services (HHS)

Child Care. The Administration appreciates the support provided for the Child Care and Development Block Grant, which helps families access child care so they can work, go to school, or enroll in a job training program.

Health Care Fraud and Abuse Control Account. The Administration appreciates the Committee's continued support of program integrity in health programs and the flexibility the bill provides to the Centers for Medicare and Medicaid Services to focus funding on the most valuable program integrity efforts and areas of greatest need.

Opioid Abuse and Mental Health Funding. The Administration appreciates that the bill provides funding to address opioids and mental health, most notably the $1.5 billion provided for State grants to address opioid abuse.

National Institutes of Health (NIH) Consolidations. The Administration is disappointed that the bill does not consolidate the Centers for Disease Control and Prevention National Institute for Occupational Safety and Health (NIOSH), Agency for Healthcare Research and Quality (AHRQ), and National Institute on Disability, Independent Living, and Rehabilitation Research activities in NIH, as requested in the FY 2019 Budget. Further, the bill includes funding in excess of the request for NIOSH, AHRQ, and NIH, totaling $4.7 billion above the FY 2019 Budget request. The Administration strongly supports actions that reduce overlap in Government programs and increase efficiency, and looks forward to working with the Congress to achieve these goals.

Indirect Cost Policy. The Administration is disappointed by the continued inclusion of language in the bill (section 226), which prohibits changes to the method NIH uses to pay grantee institutions for administrative and facilities costs. In addition, the Administration strongly opposes any attempts to prohibit NIH or any other Agency staff from developing strategies to make Government programs more effective and efficient.

21st Century Cures Act Research Policy Board. The Administration is disappointed that the bill does not authorize the use of NIH funding to establish and operate the 21st Century Cures Act Research Policy Board, as requested in the FY 2019 Budget. Further, the indirect cost policy provision noted above makes it difficult to address regulatory burden in a meaningful way. As a result, the Administration will not be able to establish the Research Policy Board as directed by the Congress.

Health Professions Training Programs. The Administration is disappointed that the bill provides unrequested funds for health professions training programs. The bill provides $643 million, which is $555 million more than included in the FY 2019 Budget request.

Teen Pregnancy Prevention (TPP) program. The Administration opposes the bill's inclusion of $101 million in unrequested funds for the TPP program. The TPP program began in FY 2010 to provide competitive grants to replicate successful TPP approaches, test new TPP approaches, and identify the effectiveness of these interventions. The TPP program serves less than one percent of teenagers in the United States. Although the teenage pregnancy rate has declined significantly, the evidence suggests that TPP has not been a major driver in that reduction.

<u>Department of Education</u>

Charter Schools. The Administration appreciates the funding provided in the bill for the Charter Schools Program, which is generally consistent with the FY 2019 Budget request. This funding supports the opening, expansion, and replication of charter schools as well as helps charter school operators access high-quality facilities.

Unnecessary Department of Education Programs. The Administration is concerned that the bill funds 28 programs that the Administration has proposed for elimination in the FY 2019 Budget request. Eliminating these programs, which are duplicative, narrowly-focused, or unable to demonstrate effectiveness, would save nearly $6 billion in FY 2019.

School Choice. The Administration opposes the lack of funding for Opportunity Grants. The FY 2019 Budget requested $1 billion in funding to empower more families to choose the best private or public school for their children.

Student Aid Administration. The Administration objects to the funding level for Student Aid Administration which is $93 million below the FY 2019 Budget request. The requested increase is needed to service an ever increasing volume of Federal student loans, improve cybersecurity, and protect the data of 40 million Americans with student loans. The Administration also strongly opposes a provision in the bill under the Student Aid Administration heading that would constrain the Department of Education's authority in awarding a new servicing contract. The provision would require significant change to the Next Generation Processing and Servicing Environment procurement, increasing the discretionary cost of Federal student loan servicing, and severely restricting the Department of Education's ability to provide a consistent and improved borrower experience.

Expansion of Public Service Loan Forgiveness. The Administration opposes the wasteful $350 million funding level for a temporary benefit in the Federal Direct Student Loan program that expands Public Service Loan Forgiveness (PSLF) eligibility. In contrast, the Administration proposes to eliminate the PSLF program, which unfairly favors certain career choices over others, and instead focuses assistance on undergraduate student borrowers from all professions through a single income-based repayment plan.

<u>Social Security Administration (SSA)</u>

Limitation on Administrative Expenses. The Administration appreciates the Committee's support for SSA, including its full funding of program integrity activities to ensure that only eligible individuals receive Social Security benefits.

<u>Other Independent Agencies</u>

National Labor Relations Board (NLRB). The Administration opposes the $274 million funding level for the NLRB, which is substantially more than the President's FY 2019 Budget request. NLRB caseload and activities have declined markedly over recent decades, while funding levels have increased. The NLRB can fulfill its important mission of protecting workers' statutory rights to join, or refrain from joining, labor organizations at lower funding levels. The Administration requests transferring at least $6 million from NLRB to OLMS within the Department of Labor, an office that also protects workers' associational rights and whose inadequate funding levels impair its ability to perform its mission.

<u>Constitutional Concerns</u>

Certain provisions of the bill raise constitutional concerns. Such provisions would contravene the separation of powers between the executive branch and the Congress. In particular, these provisions would require congressional committee approval of certain executive actions, in violation of *INS v. Chadha*. The Administration looks forward to working with the Congress to address these concerns.

The Administration looks forward to working with the Congress as the FY 2019 appropriations process moves forward.

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