



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

28 April 2000

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

The Department of Defense proposes the enclosed legislation relating to our operations and management. These proposals are part of the departmental legislative program for the Second Session of the 106th Congress and we urge their enactment. The purpose of each proposal is stated more fully in its accompanying sectional analysis.

We suggest amending the National Defense Authorization Act for Fiscal Year 1998 to expand and extend the authority to provide support for counter-drug activities of Ecuador, Peru, and Colombia. We also request clarification and extension of our authority to provide assistance to United Nations-sponsored efforts to inspect and to monitor Iraqi weapons activities. This provision also would reflect that the United Nations Monitoring, Verification, and Inspection Commission is the successor organization to the United Nations Special Commission on Iraq.

We propose extending the Defense civilian intelligence personnel system to cover those entities of the Department with personnel who perform intelligence functions but who are not in a currently designated intelligence component. We propose a resource utilization program in order to revitalize our Department of Defense laboratories. This would authorize the use of generated and contributed funds to revitalize and refurbish our laboratory facilities. We propose that Reserve component members who become eligible for retirement benefits and who desire to decline the Reserve Component Survival Benefit Plan obtain their spouse's consent prior to declining the plan in the same manner as active duty retirees must obtain such consent. Finally, we request an adjustment in the authorized strengths for Air Force majors on active duty in order to obtain an appropriate distribution of officers within the Air Force. This would not increase the total number of officers in the Air Force or the officer to enlisted ratio.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of these initiatives for your consideration and the consideration of the Congress.

Sincerely,

Douglas A. Dworkin
Acting General Counsel

Enclosures
As Stated





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The Honorable Al Gore
President of the Senate
Washington, D.C. 20510

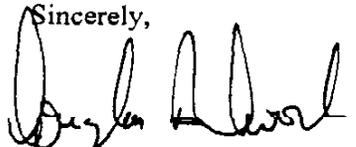
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**SEC. ____ . EXPANSION AND EXTENSION OF AUTHORITY TO PROVIDE
ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF
ECUADOR, PERU, AND COLOMBIA.**

1 (a) IN GENERAL.—Section 1033 of the National Defense Authorization Act for Fiscal
2 Year 1998, (Public Law No. 105-85, 111 Stat. 1881), is amended—

3 (1) in subsection (a), by striking “either or both” and inserting “any”;

4 (2) in subsection (a), by striking “consult with” and inserting “concurrence of”;

5 (3) in subsection (b)—

6 (A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3)
7 respectively;

8 (B) by inserting before the redesignated paragraph (2), the following new
9 paragraph (1):

10 “(1) The Government of Ecuador.”;

11 (4) in subsection (c)—

12 (A) by striking the period at the end of paragraph (2) and adding “and light
13 observation aircraft.”;

14 (B) by striking, in paragraph (3), “maintenance and repair” and inserting
15 “maintenance, repair, or upgrading.”;

16 (C) by inserting after paragraph (3) the following new paragraphs:

17 “(4) The operating costs of equipment of the government of Colombia
18 that is used for counter-drug activities.”

19 “(5) The sustainment, including ammunition, of one air mobile counter-
20 drug brigade headquarters and its subordinate ground units.”; and

1 (5) in subsection (e)(2) by striking "\$20,000,000 during any of the fiscal years
2 1999 through 2002" and inserting "\$40,000,000 during any of the fiscal years 2001
3 through 2006."

4 (b) CLERICAL AMENDMENT.—(1) The heading of such section is amended to read as follows:

5 **"SEC. 1033. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-**
6 **DRUG ACTIVITIES OF ECUADOR, PERU, AND COLOMBIA."**

7 (2) The item relating to such section in the table of sections at the beginning of

8 Title X of such act is amended to read:

9 "Sec. 1033. Authority to provide additional support for counter-drug activities of Ecuador, Peru, and Colombia."

Sectional Analysis

This proposal, if enacted, would amend section 1033 of the National Defense Authorization Act for Fiscal Year 1998, to enable the Department to support counter-drug interdiction activities by the governments of Ecuador, Peru and Colombia. Successful counter-drug interdiction by these countries is a key element in our national drug strategy, and a critical part of combined hemispheric efforts to stem the flow of illicit drugs, and reduce the threat to struggling democracies. The amendments to section 1033, would provide the Secretary additional authority to support these counter-drug efforts in four significant ways.

First, it would extend the authority of the Secretary of Defense with the concurrence of the Secretary of State, to provide support for counter-drug activities conducted by the governments of Peru and Colombia, for an additional four years. The current authority contained in Section 1033, National Defense Authorization Act for Fiscal Year 1998, expires at the end of FY 2002.

Second, the proposal would authorize the Secretary with the concurrence of the Secretary of State, to also provide such support to the government of Ecuador.

Third, the proposal would expand the nature of support provided to these countries, by authorizing the provision of additional types of equipment and supplies that will enable these countries to successfully engage drug traffickers. It provides for paying some of the operating cost of counter-drug equipment for all three countries. In particular, it specifically provides for the provision of sustainment costs, including ammunition, for a Colombian airmobile counter-drug brigade headquarters and its subordinate ground units.

Finally, it also provides a dollar authority commensurate with the number of countries

being supported and the likely costs associated with these counter-drug efforts.

Section 1033 authorized the Secretary to provide specific types of support to the Governments of Peru and Colombia, not to exceed \$20.0 million during any of the fiscal years 1999 through 2002. This authorization has provided the Secretary with a responsive and effective means for supporting the riverine interdiction efforts in Colombia and Peru. Enactment of this proposal will afford the U.S. Government the opportunity to build upon these successful efforts by providing similar support to the government of Ecuador, at a time when drug traffickers will be looking for new venues in which to avoid the counter-drug pressure in Peru and the mounting pressure in Colombia.

Ecuador, in spite of its internal difficulties, has assumed its role in the regional struggle against drug traffickers by providing the United States long-term access to its airbase at Manta. The transfer of light observation aircraft in addition to small riverine craft would significantly enhance the interdiction results in Peru and Colombia by adding a relatively inexpensive and responsive aerial information gathering asset to support ground and riverine counter-drug operations. The expanded authority also provides for upgrading, as well as, maintaining and repairing the equipment of these governments that is used for counter-drug activities. Using this authority the Department can provide enhancements to Colombia's and Peru's aerial interdiction fleet to make them more effective.

**SEC. ____ . CLARIFICATION AND EXTENSION OF AUTHORITY TO PROVIDE
ASSISTANCE TO UNITED NATIONS-SPONSORED EFFORTS TO
INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.**

1 (a) **LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2001.**—The total amount of
2 the assistance for fiscal year 2001 that is provided by the Secretary of Defense under section
3 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of
4 the Department of Defense in support of activities under that Act may not exceed \$15,000,000.

5 (b) **EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.**—Section 1505(f) of the
6 Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking
7 "2000" and inserting "2001".

8 (c) **REFERENCES TO UNITED NATIONS INSPECTION AND MONITORING ACTIVITIES.**—

9 (1) Section 1505(b)(2) of the Weapons of Mass Destruction Control Act of 1992 (22
10 U.S.C. 5859a(b)(2)) is amended by striking "the United Nations Special Commission on Iraq (or
11 any successor organization)" and inserting "United Nations Monitoring, Verification and
12 Inspection Commission." ; and

13 (2) subsection (d)(4) of such section 1505 is amended in the first sentence of
14 subparagraph (A) by striking "United Nations Special Commission on Iraq (or any successor
15 organization)" and inserting "United Nations Monitoring, Verification and Inspection
16 Commission".

Sectional Analysis

The United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) was officially established as the successor organization to the United Nations Special Commission on Iraq (UNSCOM) by United Nations Security Council Resolution (UNSCR) 1284, passed 17 December 1999. Since this resolution was passed after the enactment of Public Law 106-65, 22 U.S.C. 5859a can now be amended to reflect the current UN organization,

UNMOVIC.

This proposed revision to 22 U.S.C. 5859a will recognize UNMOVIC as UNSCOM's successor. The proposed revision will also extend Department of Defense authority to continue to provide support for weapons inspections and monitoring in Iraq for an additional year.

SEC. ____ . EXTENSION OF THE DEFENSE CIVILIAN INTELLIGENCE

PERSONNEL SYSTEM.

1 (a) AUTHORITY FOR SENIOR DOD INTELLIGENCE POSITIONS.—Section 1601(a)(1) of title
2 10, United States Code, is amended to read as follows:

3 "(1) establish, as positions in the excepted service, such defense intelligence positions in
4 the intelligence components of the Department of Defense, military departments, Office of the
5 Secretary of Defense, Joint Staff, unified command headquarters, and Defense Threat Reduction
6 Agency as the Secretary of Defense determines necessary to carry out the intelligence functions
7 of the Department including—

8 "(A) Intelligence Senior Level positions designated under section 1607 of this
9 title; and

10 "(B) positions in the Defense Intelligence Senior Executive Service;"

11 (b) CONFORMING DEFINITION FOR DEFENSE INTELLIGENCE POSITION.—Section 1614 of
12 such title 10, is amended by striking paragraph (1) and inserting the following new paragraph (1):

13 "(1) The term "defense intelligence position" means a civilian position as an intelligence
14 officer or intelligence employee of an intelligence component of the Department of Defense, a
15 military department, the Office of the Secretary of Defense, the Joint Staff, a unified command
16 headquarters, or the Defense Threat Reduction Agency."

Sectional Analysis

This amendment authorizes extension of the Defense Civilian Intelligence Personnel System (DCIPS) to cover civilian personnel who perform intelligence functions in specified offices and agencies of the Department of Defense in addition to the designated intelligence components of the Department and the military departments as provided in current law.

Congress has previously recognized the desirability of a uniform, flexible personnel management system for civilian intelligence personnel within the Department of Defense. Subtitle B of Title XVI of the National Defense Authorization Act for Fiscal Year 1997 consolidated previous authorities (separate statutory authorities for managing civilian intelligence personnel in the military departments, DIA and NSA). It also authorized greater flexibility in creating defense civilian intelligence positions, in compensating civilian intelligence personnel, and in certain personnel management practices. The Department has implemented this authority in DoD Directive 1400.35, "Defense Civilian Intelligence Personnel System (DCIPS)," March 19, 1999.

The 1996 legislation authorized designation of defense civilian intelligence positions only in the military departments or in an "intelligence component" of the Department of Defense. The DoD intelligence components are defined in section 1614(2) of title 10, United States Code, to include the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, any successor agency, and "any other component of the Department of Defense that performs intelligence functions and is designated by the Secretary of Defense as an intelligence component of the Department of Defense." DoD Directive 1400.45 designates the National Reconnaissance Office as a DoD intelligence component.

Many individuals performing intelligence functions are currently assigned throughout the Office of the Assistant Secretary of Defense (OASD) for Command, Control, Communications and Intelligence (OASD(C3I)), as well as in a variety of other DoD organizations such as OASD (Special Operations and Low-Intensity Conflict), OASD (International Security Affairs), OASD (Strategy and Threat Reduction), the Joint Staff, the unified command headquarters, and the Defense Threat Reduction Agency. None of these organizations has been designated as an intelligence component of the Department because they perform many other functions not directly related to intelligence.

The limitation in current law on the designation of DCIPS positions creates inequitable results for certain individuals and prevents DCIPS from achieving its goal of providing a uniform and flexible career management system for all defense civilian intelligence personnel. Civilian DoD personnel who perform intelligence functions while assigned to organizations other than designated intelligence components are not currently eligible for participation in DCIPS. This deprives both these individuals and their supervisors of the many benefits of the DCIPS system. Civilian personnel who perform substantially equivalent intelligence functions in two different DoD components or offices, and accordingly are covered by different personnel systems (i.e., DCIPS and Title 5), are likely to be treated differently for purposes of training, compensation, career-broadening assignments within the intelligence community, performance awards, and career progression. Their supervisors will have different management tools available, including different systems for resolving employee appeals, for terminating employees for national security reasons, and for managing reductions in force.

This amendment authorizes the Secretary of Defense to designate individual positions performing intelligence functions in specified DoD offices and agencies for participation in DCIPS. This amendment would also permit the Secretary to finally resolve the assignment status of approximately 56 former employees of the C4I Integration Support Activity (CISA), which was abolished in 1997 as part of the Defense Reform Initiative. These personnel, who had been in defense civilian intelligence personnel positions in CISA, currently perform duties throughout OASD(C3I), but their positions are being carried temporarily on the rolls of the Defense Intelligence Agency. DoD will further define the terms "defense intelligence position," "intelligence officer," and "intelligence employee" in consultation with the Office of Personnel Management and the Office of Management and Budget.

SEC . ____ . RESOURCE UTILIZATION PILOT PROGRAM FOR

REVITALIZING DEPARTMENT OF DEFENSE LABORATORIES

1 (a) PROGRAM AUTHORIZED.—Subchapter V of Chapter 148, title 10, United States
2 Code, is hereby amended by inserting after section 2539b, the following new section:

3 **"Section 2539c. Commercial Resource Utilization Program.**

4 (a) Fees received for services made available under section 2539b of title 10,
5 United States Code, and contributions made by commercial participants in cooperative
6 research and development agreements conducted under the Stevenson-Wydler
7 Technology Innovation Act of 1980 (Public Law 96-480; 94 Stat. 2311, et seq.), may, at
8 the discretion of the Secretary of Defense, be used by the Laboratory Director of the
9 facility at which such services or cooperative agreements are conducted, and be deposited
10 into an account established in the Treasury, "RDT&E Facilities Maintenance, Defense"
11 account, for the maintenance of facilities. The authority to obligate such funds shall
12 expire at the end of the third fiscal year following the fiscal year in which such funds
13 were deposited.

14 (b) The use of such funds as may be received pursuant to the authority granted in
15 subsection (a) shall be governed by guidelines issued jointly by the Undersecretary of
16 Defense (Comptroller) and the Director, Defense Research and Engineering. Such
17 guidelines shall define specific types and classes of facilities or projects that may be
18 eligible for such funds.

19 (c) At the discretion of the Secretary, the Director, Defense Research and
20 Engineering may require an annual report from each laboratory which receives such
21 funds, describing how such funds were received and used."

1 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of
2 subchapter V, of such chapter is amended by inserting after the item relating to section
3 2539b the following new item:
4 "2539c. Resource Utilization Pilot Program for Revitalizing Department of Defense Laboratories."

Sectional Analysis

Current legislation permits the Defense laboratories, under certain circumstances, to make their unique facilities available to private industry. Fees received from such commercial use must either be transferred to the Treasury as general receipts or credited to the appropriation under which the laboratory conducted its collaboration with industry. This provides little incentive for the laboratories to cooperate with industry and places an added burden on Laboratory facilities. The proposed legislation would authorize the retention of such fees into a special account to be expended by the Laboratory Director to maintain or repair Laboratory facilities.

Likewise, the Statute would permit the contributions of funds, material or equipment received under Cooperative Research and Development Agreements to be retained in such a special account for use by the Laboratory Director for the purpose of maintaining and repairing his technical facilities. The authority of the Laboratory Director to obligate such funds or assets contributed to such an account would remain for three years beyond the fiscal year in which the funds were deposited into the account. Such funds or assets would remain available for expenditure or use as the Laboratory Director deems appropriate but within the guidelines established by the Director, Defense Research and Engineering and the USD (Comptroller).

The provisions contained in subsections (b) and (c) are intended to focus the use of such funds on the refurbishment of those facilities which promote the basic mission of the Laboratory and are not intended to encourage Laboratories to promote any commercial initiatives which is outside its technical mission.

**SEC. ____ . RESERVE COMPONENT SURVIVOR BENEFIT PLAN SPOUSAL
CONSENT REQUIREMENT.**

1 (a) ELIGIBLE PARTICIPANTS.—Section 1448(a)(2)(B) of title 10, United States Code, is
2 amended to read as follows:

3 “(B) RESERVE-COMPONENT ANNUITY PARTICIPANTS.—A person who is—

4 “(i) eligible to participate in the Plan under paragraph (1)(B); and

5 “(ii) who is married or has a dependent child when he is notified under
6 section 12731(d) of this title that he has completed the years of service required
7 for eligibility for reserve-component retired pay,

8 unless the person elects (with his spouse’s concurrence, if required under paragraph (3))
9 not to participate in the Plan before the end of the 90-day period beginning on the date he
10 receives such notification. A person who elects not to participate in the plan as described
11 in the foregoing sentence remains eligible, upon reaching 60 years of age and otherwise
12 becoming entitled to retired pay, to participate in the Plan in accordance with eligibility
13 under paragraph (1)(A).”.

14 (b) SUBSEQUENT ELECTION TO PARTICIPATE.—Subsection (a)(3)(B) is amended—

15 (1) by striking “who elects to provide” and inserting “who is eligible to provide”;

16 (2) by redesignating clauses (i) and (ii) as (iii) and (iv), respectively; and

17 (3) by inserting before the redesignated clause (iii) the following new clauses:

18 “(i) not to participate in the Plan;

19 “(ii) to defer the effective date of annuity payments to the 60th anniversary of the
20 member’s birth pursuant to subsection (e)(2);”.

21 (c) CONFORMING AMENDMENT.—Subsection (a)(4)(B) is amended by striking “to

1 participate in the Plan” and inserting “not to participate in the Plan”.

2 (d) CONFORMING AMENDMENT.—Subsection (e) is amended by striking “making such

3 election”.

Sectional Analysis

This proposal would require Reserve component members who have been provided notification of eligibility for retired pay upon reaching 60 years of age, as required under section 12731(d) of title 10, United States Code (10 U.S.C. 12731(d)), to make an election regarding Reserve Component Survivor Benefit Plan (RCSBP). It would further require spousal consent if the member makes an election to decline RCSBP or if the member makes an election to provide less than a full, immediate annuity for the member’s spouse under RCSBP. Under current law, Reserve component members who do not make an election within 90 days after receipt of notification under 10 U.S.C. 12731(d) or who decline RCSBP are not required to obtain spousal concurrence. Thus, a spouse can be left without survivor benefit plan coverage, possibly without knowing that such coverage could have been provided. This amendment treats the spouses of Reserve component members the same as the spouses of active duty members in that they will now be part of the decision to decline or limit survivor benefit plan coverage unless the member elects full, immediate coverage for the spouse under RCSBP.

**SEC. ____ . INCREASE IN AUTHORIZED STRENGTHS FOR AIR FORCE OFFICERS
ON ACTIVE DUTY IN THE GRADE OF MAJOR.**

1 The table in section 523(a)(1) of title 10, United States Code, is amended by striking all
2 data pertaining to Air Force officers serving on active duty in the grade of major and inserting—

| | |
|---------------|-----------|
| “35,000..... | 9,861 |
| “40,000..... | 10,727 |
| “45,000..... | 11,593 |
| “50,000..... | 12,460 |
| “55,000..... | 13,326 |
| “60,000..... | 14,192 |
| “65,000..... | 15,058 |
| “70,000..... | 15,925 |
| “75,000..... | 16,792 |
| “80,000..... | 17,657 |
| “85,000..... | 18,524 |
| “90,000..... | 19,389 |
| “95,000..... | 20,256 |
| “100,000..... | 21,123 |
| “105,000..... | 21,989 |
| “110,000..... | 22,855 |
| “115,000..... | 23,721 |
| “120,000..... | 24,588.”. |

Sectional Analysis

The proposed amendment to section 523 of title 10, United States Code, increases DOPMA authorized end strength limitations for active duty Air Force officers in the grade of major. This will continue progress toward achieving an appropriate distribution of officers within the Air Force. An appropriate distribution may be achieved by increasing the authorized strengths of commissioned officers in the grade of major by (7%) seven percent starting in fiscal year 2001. This proposed amendment will not increase the total number of commissioned officers authorized for the Air Force and will not affect the officer to enlisted ratio.