



GENERAL COUNSEL

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1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

SEP 25 2001

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Department of Defense proposes the enclosed draft bill, "Secretary of Defense Authority to Delegate," as part of its legislative program for the First Session of the 107th Congress and we urge its enactment.

This provision would assist the Secretary of Defense in his efforts to administer the Department of Defense efficiently by giving him the enhanced authority to designate Department of Defense officials to perform crucial functions. The horrific events of September 11, 2001, and the enormous additional responsibilities of the Secretary of Defense demand that he be accorded more flexibility to reorder the assets of the Department of Defense as circumstances may require. For example, current law could be read to require the Secretary of Defense to assign core elements of the Homeland Security mission only to a specific Assistant Secretary of Defense. This unnecessarily constrains the Secretary's ability to organize the Department to react most effectively in crisis situations on American soil. The President's announced creation of the Cabinet-level Office of Homeland Security will demand a government-wide re-examination and re-ordering of our assets to meet this affront to our security, and the Department's role in that endeavor will be substantial. The Secretary of Defense needs increased flexibility to reorganize his resources to meet this challenge.

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

Sincerely,

A handwritten signature in black ink, appearing to read "WJ Haynes II".

William J. Haynes II

Enclosure
As Stated





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1600 DEFENSE PENTAGON
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SEP 25 2001

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

Dear Mr. Speaker:

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SEC. ____ . SECRETARY OF DEFENSE AUTHORITY TO DELEGATE.

1 (a) ORGANIZATIONAL AUTHORITY.—Section 113(d) of title 10, United States Code, is
2 amended —

3 (1) by inserting the designator (1) before the current matter; and

4 (2) by adding at the end the following new paragraph:

5 “(2) In the event of war or national emergency, the Secretary of Defense may, consistent
6 with section 2 of the National Security Act of 1947 (50 U.S.C. 401), reorganize the components
7 of the Department of Defense. The Secretary shall report the exercise of his authority to
8 Congress within sixty days of such exercise.”.

9 (b) SECRETARY OF DEFENSE SUPERVISION.—Section 138(b)(6) of such title 10 is
amended—

11 (1) in subparagraph (A), by striking "shall have, among that Assistant Secretary's
12 duties" and inserting "or another official or officials appointed by the President by and
13 with the consent of the Senate and designated by the Secretary of Defense, shall have,
14 among that official's duties";

15 (2) in subparagraph (B), by striking "Assistant Secretary designated under
16 subparagraph (A) shall be the principal civilian adviser" and inserting "official or officials
17 designated under subparagraph (A) shall be the principal civilian adviser or advisers"; and

18 (3) in subparagraph (C), by striking "Assistant Secretary other" and inserting
19 "official or officials other".

Section-by-Section Analysis

This provision would assist the Secretary of Defense in his efforts to administer the Department of Defense efficiently by giving him the enhanced authority to designate Department of Defense officials to perform crucial functions. The horrific events of September 11, 2001, and the enormous additional responsibilities of the Secretary of Defense demand that he be accorded more flexibility to reorder the assets of the Department of Defense as circumstances may require. For example, current law could be read to require the Secretary of Defense to assign core elements of the Homeland Security mission to only a specific Assistant Secretary of Defense. This unnecessarily constrains the Secretary's ability to organize the Department to react most effectively in crisis situations on American soil. The President's announced creation of the Cabinet-level Office of Homeland Security will demand a government-wide re-examination and re-ordering of our assets to meet this affront to our security, and the Department's role in that endeavor will be substantial. The Secretary of Defense needs increased flexibility to reorganize his resources to meet this challenge.

Section 113 of title 10 establishes the general authority and responsibilities of the Secretary of Defense. This amendment enhances the Secretary's ability to organize the Department in times of crisis.

Section 138 of title 10 establishes the general authorities and responsibilities of the Assistant Secretaries of Defense. As part of this section, the Secretary of Defense currently is required to assign all aspects of combating terrorism to one Assistant Secretary of Defense. Given the scope of the terrorist threat, this amendment would permit the Secretary of Defense to assign responsibility for combating terrorism to one or more officials appointed by the President, by and with the advice and consent of the Senate.