

Statement on Signing the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006

June 15, 2006

Today, I have signed into law H.R. 4939, the “Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.” The Act provides additional resources needed to fight the war on terror, help citizens of the Gulf States recover from devastating hurricanes, and protect Americans from a potential influenza pandemic.

Sections 1209 and 2202 of the Act prohibit use of certain funds appropriated in the Act to initiate new start programs unless the congressional defense committees receive advance written notice. The Supreme Court of the United States has stated that the President’s authority to classify and control access to information bearing on the national security flows from the Constitution and does not depend upon a legislative grant of authority. Although the advance notice contemplated by sections 1209 and 2202 can be provided in most situations as a matter of comity, situations may arise, especially in wartime, in which the President must act promptly under his constitutional grants of executive power and authority as Commander in Chief of the Armed Forces while protecting certain extraordinarily sensitive national security information. The executive branch shall construe these sections in a manner consistent with the constitutional authority of the President.

Subsection 1304(a) of the Act amends section 550 of Public Law 109–102 to purport to require the President to consult with committees of the Congress prior to exercising authority granted to the President by section 550. Subsection 1304(b) purports to require the Secretary of State to consult such committees prior to exercising authority under that provision. Because the President’s constitutional authority to supervise the unitary executive branch and take care that the laws be faithfully executed cannot be made by law

subject to a requirement to consult with congressional committees or to involve them in executive decision-making, the executive branch shall construe the references in the provisions to consulting to require only notification.

The provision under the heading, “Joint Explosive Device Defeat Fund,” Department of Defense-Military, that calls for the reporting to congressional committees of information that may include highly sensitive and classified national security information, will be construed consistently with the President’s constitutional responsibility to control the dissemination of such information.

The executive branch shall construe the provision in the Act under the heading “Disaster Relief,” Federal Emergency Management Agency, Department of Homeland Security, that purports to require the Secretary of Homeland Security to submit a housing proposal and expenditure plan for congressional committee approval as calling solely for notification, as any other construction would be inconsistent with the constitutional principles enunciated by the Supreme Court of the United States in *INS v. Chadha*.

Sections 7030 through 7033 of the Act, inclusive, purport to make changes in or in relation to statements of managers that accompanied various appropriations bills reported from House-Senate conferences in the past. Also, a provision in chapter 9 of the Act under the heading “Emergency Relief Program,” Federal Highway Administration, Department of Transportation, purports to give binding effect to a document not presented to the President. The executive branch shall construe these provisions in a manner consistent with the bicameral passage and presentment requirements of the Constitution for the making of a law.

George W. Bush

The White House,
June 15, 2006.

NOTE: H.R. 4939, approved June 15, was assigned Public Law No. 109–234.