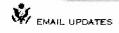
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President's Statement on Signing of H.R. 2863, the "Department of Defe Emergency Supplemental Appropriations to Address Hurricanes in the Mexico, and Pandemic Influenza Act, 2006"

Today, I have signed into law H.R. 2863, the "Department of Defense, Emergency Suppleme Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 201 provides resources needed to fight the war on terror, help citizens of the Gulf States recover devastating hurricanes, and protect Americans from a potential influenza pandemic.

Sections 8007, 8011, and 8093 of the Act prohibit the use of funds to initiate a special access new overseas installation, or a new start program, unless the congressional defense commit advance notice. The Supreme Court of the United States has stated that the President's auth classify and control access to information bearing on the national security flows from the Cor does not depend upon a legislative grant of authority. Although the advance notice contempl sections 8007, 8011, and 8093 can be provided in most situations as a matter of comity, situ arise, especially in wartime, in which the President must act promptly under his constitutiona executive power and authority as Commander in Chief of the Armed Forces while protecting extraordinarily sensitive national security information. The executive branch shall construe th in a manner consistent with the constitutional authority of the President.

Section 8059 of the Act provides that, notwithstanding any other provision of law, no funds a the Department of Defense for fiscal year 2006 may be used to transfer defense articles or se other than intelligence services, to another nation or an international organization for internat peacekeeping, peace enforcement, or humanitarian assistance operations, until 15 days afte executive branch notifies six committees of the Congress of the planned transfer. To the exte protection of the U.S. Armed Forces deployed for international peacekeeping, peace enforce humanitarian assistance operations might require action of a kind covered by section 8059 s 15 days after notification, the executive branch shall construe the section in a manner consis President's constitutional authority as Commander in Chief.

A proviso in the Act's appropriation for "Operation and Maintenance, Defense-Wide" purports planning for consolidation of certain offices within the Department of Defense. Also, sections 8032, 8037(b), and 8100 purport to specify the content of portions of future budget requests Congress. The executive branch shall construe these provisions relating to planning and male budget recommendations in a manner consistent with the President's constitutional authority the opinions of the heads of departments, to supervise the unitary executive branch, and to r for congressional consideration such measures as the President shall judge necessary and ϵ

Section 8005 of the Act, relating to requests to congressional committees for reprogramming shall be construed as calling solely for notification, as any other construction would be inconthe constitutional principles enunciated by the Supreme Court of the United States in INS v. (

The executive branch shall construe section 8104, relating to integration of foreign intelligenc information, in a manner consistent with the President's constitutional authority as Command

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including for the conduct of intelligence operations, and to supervise the unitary executive bra the executive branch shall construe sections 8106 and 8119 of the Act, which purport to prof President from altering command and control relationships within the Armed Forces, as advis other construction would be inconsistent with the constitutional grant to the President of the a Commander in Chief.

The executive branch shall construe provisions of the Act relating to race, ethnicity, gender, a residency, such as sections 8014, 8020 and 8057, in a manner consistent with the requireme equal protection of the laws under the Due Process Clause of the Constitution's Fifth Amend

The executive branch shall construe Title X in Division A of the Act, relating to detainees, in a consistent with the constitutional authority of the President to supervise the unitary executive as Commander in Chief and consistent with the constitutional limitations on the judicial powe assist in achieving the shared objective of the Congress and the President, evidenced in Title protecting the American people from further terrorist attacks. Further, in light of the principles by the Supreme Court of the United States in 2001 in Alexander v. Sandoval, and noting that structure of Title X do not create a private right of action to enforce Title X, the executive brai construe Title X not to create a private right of action. Finally, given the decision of the Congr in subsections 1005(e) and 1005(h) that the amendments made to section 2241 of title 28, U Code, shall apply to past, present, and future actions, including applications for writs of habe described in that section, and noting that section 1005 does not confer any constitutional right alien detained abroad as an enemy combatant, the executive branch shall construe section preclude the Federal courts from exercising subject matter jurisdiction over any existing or fu including applications for writs of habeas corpus, described in section 1005.

Language in Division B of the Act, under the heading "Office of Justice Programs, State and Enforcement Assistance," purports to require the Attorney General to consult congressional prior to allocating appropriations for expenditure to execute the law. Because the President's constitutional authority to supervise the unitary executive branch and take care that the laws executed cannot be made by law subject to a requirement to consult with congressional com involve them in executive decision-making, the executive branch shall construe the provision only notification. At the same time, the Attorney General shall, as a matter of comity between executive and legislative branches, seek and consider the views of appropriate committees in as the Attorney General deems appropriate.

Certain provisions in the Act purport to allocate funds for specified purposes as set forth in th explanatory statement of managers that accompanied the Act or other Acts; to make change statements of managers that accompanied various appropriations bills reported from confere past; or to direct compliance with a committee report. Such provisions include section 8044 in and sections 5022, 5023, and 5024 and language under the heading "Natural Resources Co Service, Conservation Operations" in Division B, of the Act. Other provisions of the Act, such 8073 and 8082 in Division A, purport to give binding effect to legislative documents not press President. The executive branch shall construe all these provisions in a manner consistent w bicameral passage and presentment requirements of the Constitution for the making of a law

GEORGE W. BUSH

THE WHITE HOUSE,

December 30, 2005.

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