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Statement on Signing the Consolidated Appropriations Act, 2012

December 23, 2011

Today I have signed into law H.R. 2055, the "Consolidated Appropriations Act, 2012." This bill provides the funding necessary for the smooth operation of our Nation's Government.

I have previously announced that it is the policy of my Administration, and in the interests of promoting transparency in Government, to indicate when a bill presented for Presidential signature includes provisions that are subject to well-founded constitutional objections. The Department of Justice has advised that a small number of provisions of H.R. 2055 raise constitutional concerns.

In this bill, the Congress has once again included provisions that would bar the use of appropriated funds for transfers of Guantanamo detainees into the United States (section 8119 of Division A), as well as transfers to the custody or effective control of foreign countries unless specified conditions are met (section 8120 of Division A). These provisions are similar to others found in the National Defense Authorization Act for Fiscal Year 2012. My Administration has repeatedly communicated my objections to these provisions, including my view that they could, under certain circumstances, violate constitutional separation of powers principles. In approving this bill, I reiterate the objections my Administration has raised regarding these provisions, my intent to interpret and apply them in a manner that avoids constitutional conflicts, and the promise that my Administration will continue to work towards their repeal.

The Congress has also included certain provisions in this bill that could interfere with my constitutional authorities in the areas of foreign relations and national security. Section 113 of Division H requires the Secretary of Defense to notify the Appropriations Committees of both Houses of Congress 30 days in advance of "any proposed military exercise involving United States personnel" that is anticipated to involve expenditures of more than $100,000 on construction. Language in Division I, title I, under the headings International Organizations, Contributions for International Peacekeeping Activities, disallows the expenditure of funds "for any United Nations peacekeeping mission that will involve United States Armed Forces under the command or operational control of a foreign national," unless my military advisers have advised that such an involvement is in the national interest, and unless I have made the same recommendation to the Congress. In approving this bill, I reiterate the understanding, which I have communicated to the Congress, that I will apply these provisions in a manner consistent with my constitutional authority as Commander in Chief.

Certain provisions in Division I, including sections 7013, 7025, 7029, 7033, 7043, 7046, 7049, 7059, 7062, and 7071, restrict or require particular diplomatic communications, negotiations, or interactions with foreign governments or international organizations. Others, including sections 7031, 7037, and 7086, hinder my ability to receive diplomatic representatives of foreign governments. Finally, section 7041 requires the disclosure to the Congress of information regarding ongoing diplomatic negotiations. I have advised the Congress that I will not treat these provisions as limiting my constitutional authorities in the area of foreign relations.

Moreover, several provisions in this bill, including section 627 of Division C and section 512 of Division D, could prevent me from fulfilling my constitutional responsibilities, by denying me the assistance of senior advisers and by obstructing my supervision of executive

branch officials in the execution of their statutory responsibilities. I have informed the Congress that I will interpret these provisions consistently with my constitutional duty to take care that the laws be faithfully executed.

Additional provisions in this bill, including section 8013 of Division A and section 218 of Division F, purport to restrict the use of funds to advance certain legislative positions. I have advised the Congress that I will not construe these provisions as preventing me from fulfilling my constitutional responsibility to recommend to the Congress's consideration such measures as I shall judge necessary and expedient.

Numerous provisions of this bill purport to condition the authority of executive branch officials to spend or reallocate funds on the approval of congressional committees. These are constitutionally impermissible forms of congressional aggrandizement in the execution of the laws. Although my Administration will notify the relevant committees before taking the specified actions, and will accord the recommendations of such committees appropriate and serious consideration, our spending decisions shall not be treated as dependent on the approval of congressional committees. In particular, section 1302 of Division G conditions the authority of the Librarian of the Congress to transfer funds between sections of the Library upon the approval of the Committees on Appropriations of the House of Representatives and the Senate. I have advised the Congress of my understanding that this provision does not apply to funds for the Copyright Office, which performs an executive function in administering the copyright laws.

BARACK OBAMA

The White House,
December 23, 2011.

NOTE: H.R. 2055, approved December 23, was assigned Public Law No. 112–74.

Categories: Bill Signings and Vetoes : Consolidated Appropriations Act, 2012, statement.

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