

NOTE: The President spoke at 10:40 a.m. in the Rose Garden at the White House. H.R. 5010, the Department of Defense Appropriations Act, and H.R. 5011, the Military Construction Appropriation Act, approved

October 23, were assigned Public Law No. 107-248 and Public Law No. 107-249, respectively. The Office of the Press Secretary also released a Spanish language transcript of these remarks.

Statement on Signing the Department of Defense Appropriations Act, 2003 *October 23, 2002*

Today I have signed into law H.R. 5010, the "Department of Defense Appropriations Act, 2003," which provides \$354.8 billion for national security programs administered by the Department of Defense.

I appreciate the bipartisan effort that has gone into producing this Act. It abides by an aggregate FY 2003 funding level that I support of \$759 billion, which is consistent with the House-passed Budget Resolution. My Administration appreciates that the Congress has completed the FY 2003 Defense and Military Construction appropriations bills.

I am disappointed that the Act does not fund the \$10 billion I requested to support the war on terrorism. I am also concerned that the Act cuts \$2.7 billion from my request for operations and maintenance activities at the very time our Armed Forces are engaged in a battle against global terrorism. Without these funds, we may be forced to reduce other important programs to finance the war on terrorism.

Sections 8007 and 8111 of the Act prohibit the use of funds to initiate a special access program or to initiate a new start program, unless the congressional defense committees receive advance notice of such initiation. The U.S. Supreme Court has stated that the President's authority to classify and control access to information bearing on national security flows from the Constitution and does not depend upon a legislative grant of authority. Although the advance notice contemplated by sections 8007 and 8111 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 sections 8007 and 8111 in a manner consistent with the constitutional authority of the President.

Section 8066 of the Act provides that, notwithstanding any other provision of law, no funds available to the Department of Defense for fiscal year 2003 may be used to transfer defense articles or services, other than intelligence services, to another nation or an international organization for international peacekeeping, peace-enforcement, or humanitarian assistance operations, until 15 days after the executive branch notifies six committees of Congress of the planned transfer. The provision does not affect transfers using funds available to the Department of Defense if the recipient is other than a nation or an international organization or if the transfer is of intelligence services, such as provision of or accommodation procurements for imagery intelligence, geospatial information, or cryptological support. The provision also does not affect transfers of defense articles or defense services using funds contained in the Act that are available to the Central Intelligence Agency rather than the Department of Defense. To the extent that protection of the U.S. Armed Forces deployed

for international peacekeeping, peace-enforcement, or humanitarian assistance operations might require action of a kind covered by section 8066 sooner than 15 days after notification, the executive branch shall construe section 8066 in a manner consistent with my constitutional duty as Commander in Chief of the Armed Forces.

A proviso in the Act's appropriation for "Operation and Maintenance, Defense-Wide" prohibits implementation of, and purports to prohibit planning for, consolidation of certain offices within the Department of Defense. Similarly, section 8121 of the Act purports to specify the content of future Department of Defense budgetary and programming plans. The executive branch shall construe these provisions relating to planning in a manner consistent with the President's constitutional authority to require the opinions of the heads of departments and to recommend for congressional consideration such measures as the President shall judge necessary and expedient.

Section 8094 of the Act provides that, in implementing a health care interagency partnership under that section, Native Hawaiians shall have the status of Native Americans who are eligible for the

healthcare services provided by the Indian Health Service. The executive branch shall implement section 8094 in a manner consistent with the requirement to afford equal protection of the laws under the Due Process Clause of the Fifth Amendment to the Constitution.

Section 8116 of the Act makes certain appropriated funds available for transportation, food, lodging, supplies, fees, and training materials for members of the Armed Forces and their immediate family members while participating in chaplain-led programs, such as retreats and conferences, that assist them in building and maintaining a strong family structure. In implementing this provision, the executive branch shall accord the fullest respect to the fundamental constitutional right of free exercise of religion, subject to the constitutional limitation on establishment of religion and any other applicable law.

GEORGE W. BUSH

The White House,
October 23, 2002.

NOTE: H.R. 5010, approved October 23, was assigned Public Law No. 107-248.

Statement on Signing the Military Construction Appropriation Act, 2003 *October 23, 2002*

Today I have signed into law H.R. 5011, the "Military Construction Appropriations Act, 2003," which provides \$10.5 billion for Department of Defense military construction and family housing programs. The Act ensures the Nation's military construction priorities are met and provides the resources and infrastructure for our fighting forces at home and abroad. My Administration is committed to improving military housing and the quality of life of our uniformed defenders and their families, and this bill clearly reflects that commitment.

Sections 107, 110, and 113 of the Act provide for notice to the Congress of relocation of activities between military installations, initiation of a new installation abroad, or U.S. military exercises involving \$100,000 in construction costs. The U.S. Supreme Court has stated that the President's authority to classify and control access to information bearing on national security flows from the Constitution and does