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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 25, 2006
(Senate)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4939 – Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006

(Sponsors: Cochran (R), Mississippi; Byrd (D), West Virginia)

The Administration supports expeditious Senate passage of an FY 2006 Emergency Supplemental for the Global War on Terror and Hurricane Relief as requested by the President. The Administration commends the Committee for its continued support for our ongoing military and intelligence operations in the Global War on Terror (GWOT), other international activities, and hurricane relief and reconstruction. The Senate reported bill also included \$2.3 billion in emergency funds for pandemic influenza preparedness and prevention included in the President's Budget for FY 2007. The Administration wants to work with Congress to secure enactment of pandemic influenza funding before October 1, 2006, and believes this is an appropriate vehicle to ensure the funding is available when it is needed.

However, the Senate reported bill substantially exceeds the President's request, primarily for items that are unrelated to the GWOT and hurricane response. The Administration is seriously concerned with the overall funding level and the numerous unrequested items included in the Senate bill that are unrelated to the war or emergency hurricane relief needs. The final version of the legislation must remain focused on addressing urgent national priorities while maintaining fiscal discipline. Accordingly, if the President is ultimately presented a bill that provides more than \$92.2 billion, exclusive of funding for the President's plan to address pandemic influenza, he will veto the bill.

In addition, today the President sent to Congress a revision to the Administration's pending supplemental request, asking for an additional \$2.2 billion for the U.S. Army Corps of Engineers to heighten and strengthen levees in New Orleans. This additional funding is fully offset by a corresponding reduction to the previous request for the Disaster Relief Fund and assumes a non-Federal share for a portion of the work. The Administration urges the Senate to amend the bill to incorporate this revised request during its consideration of the bill.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Global War on Terror (GWOT)

The Administration appreciates the Committee's strong commitments to the President's funding request for ongoing military operations in the GWOT. The Administration also commends the Committee for funding the President's request for international funding for counter-insurgency and stabilization activities in Iraq and urgent, unanticipated needs to help relieve human suffering, including in Sudan and other parts of Africa.

The Administration appreciates the Committee's full support for the training of the Iraqi

Security Forces, but opposes the \$290 million reduction from the President's request of \$2.2 billion for the Afghan Security Forces Fund (ASFF). This reduction to ASFF would set back efforts to build police forces by denying them the ability to operate from secure, functional, and economical facilities. Such setbacks hamper the effort to build cohesive units able to secure the peace and foster continued democratic transition in Afghanistan.

Similarly, the Administration opposes the reduction of funding for coalition support by more than one-half, or \$760 million. Failure to fund this effort through the end of the calendar year would jeopardize continued coalition partner support and a shared coalition responsibility for success in Iraq and Afghanistan this fall and winter.

The Administration opposes the reduction in requested transfer authority, particularly the failure to increase general transfer authority from \$3.75 billion to \$5 billion. The lack of additional transfer authority and needed flexibility will hamper the Department of Defense's (DOD's) ability to ensure that funding goes to the most pressing requirements.

The Administration appreciates the Committee's support for military pay and allowance programs, but notes that the increase of over \$500 million for these programs should have been appropriated in the base appropriations bill for FY 2006. The Administration opposes the inclusion of unrequested procurement funding while reducing critical funds for supporting combat missions in Iraq and for responding to unanticipated requirements. The Committee reduces \$104 million from the Army's Operation and Maintenance account that is intended to sustain Iraqi military forces operating side-by-side with American units.

The Administration appreciates the Committee's support for the National and Military Intelligence Programs. However, the bill funds the National Intelligence Program at a higher level than requested, particularly for the National Reconnaissance Office. The Administration urges the Senate to redirect this funding to restore other reductions to the President's request.

In addition, the Administration is concerned about the \$13 million rescission to the Export-Import Bank's subsidy appropriations that are available for tied-aid grants, which help deter or defend against trade distortions caused by government-to-government concessional financing of public sector capital projects in developing countries.

Hurricane Disaster Relief and Recovery

The Administration appreciates the Committee's support for the request for FEMA's Disaster Relief Fund. However, the Administration is concerned that the additional \$1.2 billion provided far exceeds what is needed for the new "alternative housing pilot program" authorized in the bill. Such a pilot program should maintain the Department of Housing and Urban Development as the lead agency for longer-term and permanent housing initiatives, and focus on cost-effective alternatives that treat severely affected communities equitably.

The Committee provides \$5.2 billion in Community Development Block Grant funds, \$1 billion above the request. The Administration is concerned that the bill would permit funding to all affected States rather than limiting it to Louisiana, as requested, because Louisiana faces unique needs to mitigate future flood risk and address other housing concerns. The Administration also believes that designation of \$1 billion of the total for affordable rental

housing is unnecessary and hampers the ability of local communities to prioritize funding based on local needs and citizen input.

The Administration commends the Committee for supporting the President's proposed actions to strengthen the Greater New Orleans hurricane protection system, including providing needed authorization for levee improvements and restoration of wetlands. Today the Administration is transmitting a proposal to Congress to authorize and fund actions needed to certify the majority of the levee system in the New Orleans area and, where needed, replace floodwalls. The Administration requests that Congress support the revised request, which is fully offset by a reduction to the Disaster Relief Fund request.

The Administration urges the Senate to eliminate section 2303, which instructs the Navy to adjust shipbuilding contracts for business disruptions that contractors incurred as a result of the hurricanes in 2005, for several reasons. First, it would require the Navy to cover shipbuilding costs that are routinely borne by private insurance, creating an incentive for insurance companies to deny payments. Expanding the scope of the Navy's liability would also limit flexibility in future contract negotiations because shipbuilders could claim business disruption for years to come. Second, Federal Acquisition Regulations expressly disallow insurable losses and already adequately evaluate the costs at issue in the shipbuilding contracts. Third, the legislation would require the Navy to cover business disruption costs of any affected shipyard – including those completely unrelated to DOD.

The Administration also opposes the \$594 million provided for Federal Highway Emergency Relief for requirements unrelated to the Gulf hurricanes, and the \$200 million provided to the Federal Transit Administration, which was not requested.

The Administration strongly objects to the \$700 million included in the Senate bill to relocate the privately owned rail line that runs along the Mississippi Gulf Coast. The CSX Corporation, using its own resources, has already repaired damage to the line, and trains are now running. Relocating the tracks would represent a substantial investment beyond pre-disaster conditions and would improperly require U.S. taxpayers to pay for private sector infrastructure.

The Senate is also urged to eliminate other unrequested and unnecessary funding and programmatic waivers in the bill, such as that included for the National Aeronautics and Space Administration, private historic residences, USDA debris removal and rural development programs, Job Corps construction, National Civilian Community Corps, Army Corps projects and reprogramming activities, and grants for Federal law enforcement.

Other Items

The Administration understands that an amendment may be offered to add additional funding for border security efforts. The Administration believes that such funding can significantly complement comprehensive immigration reform that provides enhanced border security and increased interior enforcement efforts and creates a temporary worker program that does not provide amnesty and allows new citizens to fully assimilate into their communities. The Administration looks forward to working with Congress to ensure that any additional funding provided for these purposes is targeted to address enforcement challenges on the Nation's borders most effectively.

The Administration strongly opposes the Committee's agricultural assistance proposal, totaling nearly \$4 billion. The 2002 Farm Bill was designed, when combined with crop insurance, to eliminate the need for *ad hoc* disaster assistance. In 2005, many crops had record or near-record production, and U.S. farm sector cash receipts were the second highest ever. Furthermore, the proposed level of assistance is excessive and may over-compensate certain producers for their losses.

The Administration appreciates the Committee's support for the President's proposed funding to rebuild a National Oceanic and Atmospheric Administration facility, assess fishery resources, and provide mapping to assist debris removal. However, the Administration strongly objects to the additional \$1.1 billion provided for the Department of Commerce. Providing direct income assistance would constitute preferential treatment for fishing industry participants, who are already eligible for other sources of assistance. In addition, the Committee provides substantial funding for non-emergency needs such as a promotion campaign for seafood.

The Administration urges the Senate to remove a provision prohibiting the use of funds to implement a final rule regarding foreign control of U.S. airlines. The Administration is committed to working with the Congress to address concerns with the rule.

The Administration objects to restrictions on the Bonneville Power Administration's (BPA) ability to use a portion of its secondary revenues to pay down debt owed to the Treasury. The Administration's proposal is consistent with sound business principles and would provide BPA with more financial flexibility to meet its long-term capital investment needs.

The Administration appreciates the Committee's support for the Administration's previous request for pandemic influenza prevention and preparedness activities and looks forward to working with the Congress to ensure this funding is allocated in the most effective manner possible to achieve our preparedness and prevention goals.

Constitutional Concerns

The language under the heading, "State and Local Law Enforcement, Office of Justice Programs," purports to require that the Attorney General consult with Congress prior to obligating funds. Because this provision would infringe on separation of powers, it should be modified to be permissive.

In addition, Section 2503 of the bill purports to require approval of the Committees prior to the obligation of funds. This provision should be changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court's ruling in *INS v. Chadha*.

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