

NOTE: The President spoke at 6:25 p.m. at Broadmeadows Farm. In his remarks, he referred to professional football player Chad Lewis and his wife, Michele; Mike Fitzpatrick, candidate for Congress in Pennsylvania's Eighth Congressional District; and former President Saddam Hussein of Iraq.

**Statement on Signing the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005**

*October 28, 2004*

Today, I have signed into law H.R. 4200, the "Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005." The Act authorizes funding for defense of the United States and its interests abroad, for military construction, and for national security-related energy programs.

Section 326 of the Act, amending sections 3551, 3552, and 3553 of title 31, United States Code, purports to require an executive branch official to file with the Comptroller General a protest of a proposed contract for private sector performance of agency functions previously performed at higher cost by Federal employees, whenever a majority of those Federal employees so requests, unless the official determines, free from any administrative review, that no reasonable basis exists for the protest. The executive branch shall construe section 326 in a manner consistent with the President's constitutional authority to supervise the unitary executive branch, including the making of determinations under section 326.

Section 574 of the Act amends sections 3037, 5046, 5148, and 8037 of title 10, United States Code, to prohibit Department of Defense personnel from interfering with the ability of a military department judge advocate general, and the staff judge advocate to the Commandant of the Marine Corps, to give independent legal advice to the head of a military department or chief of a military service or with the ability of judge advocates assigned to military units to give independent legal advice to unit commanders. The executive branch shall construe section 574 in a manner consistent with: (1) the President's constitutional authorities to take care that the

laws be faithfully executed, to supervise the unitary executive branch, and as Commander in Chief; (2) the statutory grant to the Secretary of Defense of authority, direction, and control over the Department of Defense (10 U.S.C. 113(b)); (3) the exercise of statutory authority by the Attorney General (28 U.S.C. 512 and 513) and the general counsel of the Department of Defense as its chief legal officer (10 U.S.C. 140) to render legal opinions that bind all civilian and military attorneys within the Department of Defense; and (4) the exercise of authority under the statutes (10 U.S.C. 3019, 5019, and 8019) by which the heads of the military departments may prescribe the functions of their respective general counsels.

The executive branch shall construe section 1021, purporting to place restrictions on the use of the U.S. Armed Forces in certain operations, and sections 1092 and 1205, relating to captured personnel and to contractor support personnel, in a manner consistent with the President's constitutional authority as Commander in Chief and to supervise the unitary executive branch.

Section 1203 of the Act creates a Special Inspector General for Iraq Reconstruction, under the joint authority of the Secretaries of State and Defense, as a successor to the Inspector General of the Coalition Provisional Authority under title III of Public Law 108-106. Title III as amended by section 1203 shall be construed in a manner consistent with the President's constitutional authorities to conduct the Nation's foreign affairs, to supervise the unitary executive branch, and as Commander in Chief of the Armed Forces. The Special Inspector General shall refrain from initiating, carrying out, or completing an audit or investigation, or from issuing a subpoena, which requires access to sensitive operation plans, intelligence matters, counter-intelligence matters, ongoing criminal investigations by administrative units of the Department of Defense related to national security, or other matters the disclosure of which would constitute a serious threat to national security. The Secretary of State and the Secretary of Defense jointly may make exceptions to the foregoing direction in the public interest.

The executive branch shall construe as advisory section 1207(b)(1) of the Act, which purports to direct an executive branch official to use the U.S. voice and vote in an international organization to achieve specified foreign policy objectives, as any other construction would impermissibly interfere with the President's constitutional authorities to conduct the Nation's foreign affairs and supervise the unitary executive branch. The executive branch also shall construe the phrase "generally recognized principles of international law" in sections 1402(c) and 1406(b) to refer to customary international law as determined by the President for the Nation, as is consistent with the President's constitutional authority to conduct the Nation's foreign affairs.

The executive branch shall construe section 3147 of the Act, relating to availability of certain funds if the Government decides to settle certain lawsuits, in a manner consistent with the Constitution's commitment to the President of the executive power and the authority to take care that the laws be faithfully executed, including through litigation and decisions whether to settle litigation.

Several provisions of the Act, including sections 315, 343(2) amending section 391 of Public Law 105-85, 506(b), 517(c), 571(b), 574(d)(8), 576(c), 577(c), 643(c) and (e), 651(g)(2), 666(c), 841(c), 3114(d)(2), and 3142(c) call for executive branch officials to submit to the Congress proposals for legislation. The executive branch shall implement these provisions in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to recommend for the consideration of the Congress such measures as the President judges necessary and expedient. Also, the executive branch shall construe section 1511(d) of the Act, which purports to make consultation with specified Members of Congress a precondition to the execution of the law, as calling for, but not mandating such consultation, as is consistent with the Constitution's provisions concerning the separate powers of the Congress to legislate and the President to execute the laws.

A number of provisions of the Act, including sections 112(b)(6), 213(c), 513(e)(1), 912(d), 1021(f), 1022(b), 1042, 1047, 1202, 1204, 1207(c) and (d)(2), 1208, 1214, and 3166(a) amending section 3624 in Public Law 106-398, call for the executive branch to furnish information to the Congress, a legislative agent, or other entities on various subjects. The executive branch shall construe such provisions in a manner consistent with the President's constitutional authority to withhold information the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.

Section 3161 expands the categories of atomic weapons industry employees who may receive direct compensation from the United States for their work-related illnesses. As a result, some claimants from the private sector who have occupationally caused asbestos-related diseases may be able to receive direct Federal compensation under the Energy Employees Occupational Illness Compensation Act Program. As a general matter, Federal taxpayers should bear no additional burdens arising from the tort liabilities of private sector defendants, including contractors of the United States. The limited extension of Federal responsibility here is unique because it is solely a replacement for no-fault workers' compensation payments not otherwise available, in the unique situation in which the Federal Government may have encouraged its contractors to resist workers' compensation claims brought by atomic weapons industry employees with occupational illnesses.

**George W. Bush**

The White House,  
October 28, 2004.

NOTE: At the time of publication, H.R. 4200, approved October 28, had not been received by the Office of the Federal Register in time for assignment of a Public Law number. This statement was released by the Office of the Press Secretary on October 29. An original was not available for the verification of the content of this statement.