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Staff Name: **PRESIDENT BUSH**

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Subject/Description: **LEGISLATIVE REPORT FOR THE WEEK OF SEPTEMBER
25**

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October 2, 2006

INFORMATION

MEMORANDUM FOR THE PRESIDENT

THROUGH: CANDIDA WOLFF
Assistant to the President for Legislative Affairs

FROM: DEB FIDDELKE
Deputy Assistant to the President for Legislative Affairs

SUBJECT: LEGISLATIVE REPORT FOR THE WEEK OF SEPTEMBER 25

Highlights

The much sought and hard fought victory on the Hamdan legislation was the capstone of Congress' legislative activity in September. Before leaving for several weeks, they also approved the appropriations bills for the Departments of Defense and Homeland Security, the Defense Authorization bill, port security legislation, the Secure Fence Act, and confirmed Mary Peters as Secretary of Transportation. In their rush to get home and campaign, however, they left much undone and will have a full plate when they return after the election.

Hamdan Legislation - On Wednesday, the House approved legislation to authorize military tribunals and preserve critical intelligence programs by a bipartisan margin of 253 to 168. Thirty-four Democrats supported the bill, while seven Republicans opposed it: Congressmen Roscoe Bartlett (R, MD-06), Wayne Gilchrest (R, MD-01), Walter Jones (R, NC-03), Steve LaTourette (R, OH-14), Jim Leach (R, IA-02), Jerry Moran (R, KS-01) and Ron Paul (R, TX-14).

On Thursday, the Senate passed the legislation on a strong bipartisan vote of 65 to 34, with twelve Democrat Senators supporting and Senator Chafee opposing it. Prior to passage, several amendments were beaten back on a largely party-line basis. The most difficult amendment defeated was by Chairman Arlen Specter (R, PA) to remove the legislation's habeas provisions, which would have allowed the current 195 petitions by detainees to proceed. The amendment was defeated 48 to 51 with three Republicans joining Specter (Lincoln Chafee, RI; Gordon Smith, OR; and John Sununu, NH), while Democrat Ben Nelson (NE) opposed it.

While the language in the House and Senate versions of the legislation was identical, they were technically separate bills. Thus the House picked up the Senate-passed bill and voted for a second time on Friday, which cleared that bill for your signature.

Terrorist Surveillance Program - The House approved legislation to modernize FISA and authorize the Terrorist Surveillance Program on Thursday by a vote of 232 to 191, with 18 Democrats supporting. The bill was based on language negotiated with Congresswoman Heather Wilson (R, NM-01) that is supported by your Administration, but does not reflect the final version your staff would like to see approved.

The Senate reached a final agreement on language that is preferable. Republican Leaders attempted to call it up and pass it by unanimous consent, but faced objection from Senate Democrats. They were unable to take any further action prior to adjournment and will resume their efforts to pass the bill in the lame duck session.

Appropriations Conference Reports - Both bodies easily approved Fiscal Year '07 funding for the Department of Defense, legislation which also included a Continuing Resolution to keep those departments without FY'07 appropriations bills funded until November 17. In addition to base funding for the Department, the bill includes an additional \$70 billion in emergency funds for GWOT related activities including \$17.1 billion for Army reset and \$5.8 billion for Marine Corps reset, which is expected to address FY 2007 needs.

After a tussle over the postponement of a deadline on implementation of the Western Hemisphere Travel Initiative, the House and Senate approved the final appropriations bill for the Department of Homeland Security. That disagreement was resolved after Secretary Chertoff assured Chairmen Peter King (R, NY-03), Jim Sensenbrenner (R, WI-05) and House Leaders that DHS interpreted the language to allow them to implement the Initiative prior to the 2009 date in the legislation. The bill provides \$1.8 billion in emergency spending, a majority of which will be used for the construction of fencing, infrastructure and technology on the southwest border. Additionally, it funds your request for 1500 additional border patrol agents and 6700 additional detention beds. The legislation also includes key authorizing provisions. Language was inserted that will allow DHS to regulate the security of chemical plants. The bill also contains provisions to merge emergency response and preparedness within the department, essentially replacing the current framework for the Federal Emergency Management Agency (FEMA). Finally, the bill includes limited language to allow people to carry a "personal use" allowance of a 90-day supply of prescription drugs over the Canadian border.

Other Legislative Activities

Iran Freedom and Support Act - The House and Senate both unanimously approved H.R. 6198, the Iran Freedom and Support Act. The bipartisan legislation serves as a renewal of the Iran Libya Sanctions Act (ILSA), and included other provisions negotiated with the key sponsors, your staff and the State Department. Senator Rick Santorum (R, PA) has been an ardent supporter of enhancing ILSA and was the Senate sponsor of this legislation. The House bill was sponsored by Representatives Ileana Ros-Lehtinen (R, FL-18) and Tom Lantos (D, CA-12). In addition to extending ILSA for five years, the bill authorizes assistance to pro-democracy groups inside and outside Iran and provides the Treasury Department with additional authorities to go after money laundering efforts that support weapons of mass destruction (WMD) proliferation.

Port Security – The House and Senate agreed to final provisions to better secure the nation's seaports, establish improved cargo screening standards and ensure the successful resumption of shipping in the event of a terrorist attack. The conference report will codify the Administration's Container Security Initiative that is currently screening 74 percent of all containers bound for the U.S. and the Customs-Trade Partnership Against Terrorism program that has executed agreements with over 6,000 global shippers responsible for 45 percent of the cargo that reaches the U.S. In addition, Majority Leader Frist and Speaker Hastert agreed to add one unrelated provision, legislation to ban internet gambling.

Secure Fence Act – As the pending business in the Senate at the beginning of the week, this bill temporarily served as the vehicle to bring the Hamdan legislation to the Senate floor. The bills were then split apart and the Secure Fence Act was approved by the Senate on Friday by a vote of 80 to 19. The legislation had already passed the House and authorizes the construction of more than 700 miles of fencing on the southwest border. It also requires the Department of Homeland Security to achieve a virtual fence along the entire border with the use of technology and to assess vulnerabilities on the northern border. Your administration supported compromise language that was introduced in the Senate but did not pass for procedural reasons. Leader Frist and Speaker Hastert have agreed, however, to make our changes to the bill in subsequent legislation during the lame duck session.

DoD Authorization – Congress also gave final approval to the Fiscal Year '07 Department of Defense authorization bill. The authorized funding levels largely mirror those of the appropriations bill. The legislation also includes several provisions to enhance the Department's Quadrennial Defense Review (QDR), and improve its response capabilities for homeland security and natural disasters. As mentioned previously, the measure also contains language to revert to previous Air Force and Navy policy on religious services. In effect, this provides military chaplains with greater discretion to lead public religious services consistent with their denominational faith. This language assuaged concerns of House conservatives on the Armed Services Committee that current Pentagon policy had become too restrictive. This is Senator John Warner's (R, VA) last authorization bill as Chairman of the Senate Armed Services committee.

US-UK Extradition Treaty - Senator Chris Dodd (D, CT) had delayed approval of the US-UK Extradition Treaty for several months, based on concerns from the Irish-American community. In the past few weeks, the State Department, Justice and staff for Foreign Relations Chairman Richard Lugar (R, IN) were able to resolve the concerns. On Friday, the Senate finally approved the treaty by unanimous consent.

Older Americans Act – Both the House and Senate unanimously supported the reauthorization of this legislation. The final bill promotes the key principles of your "*Choices for Independence*" plan, which emphasizes consumer choice, access to reliable information, and health promotion. The legislation supports community-based efforts to assist low-income and limited-English speaking populations with enrollment in the Medicare prescription drug program. It also creates Aging and Disabilities Resource Centers to provide a single point of access to the range of services available to seniors, including the Medicare prescription drug

program. Also included in the legislation was a measure by Representative Tom Osborne (R, NE-03) to evaluate, coordinate, and improve federal youth programs.

Nominations - On Friday, the Senate confirmed Mary Peters to be Secretary of Transportation by unanimous consent, along with more than 35 of your other nominees including General Craddock's promotion to Supreme Allied Commander Europe. Senator Lincoln Chafee (R, RI) did not relent in his current opposition to the nomination of John Bolton for UN Ambassador which prevented action on that nomination. He did, however, leave the door open for possible consideration in November.

There is a procedural process that requires the Senate to send back all pending nominations during a recess of more than 30 days, unless unanimous consent is received to keep them. Using this maneuver, Democrats required the nominations of John Bolton, Steven Bradbury and several of your judges to be returned to the White House. We can opt to re-nominate them when the Senate returns.

Child Custody Protection Act – One piece of legislation that did not get done was the Child Custody Protection Act. Early in the week, the House passed a revised version of legislation to prohibit the transportation of a minor across state lines for an abortion without parental consent. Leader Frist brought up the bill and filed cloture on the motion to proceed in the Senate. The cloture vote failed 57 to 42.

Outlook

This lame duck is going to have to do some serious quacking. When Congress returns on November 13th they face a number of remaining legislative items:

- Legislation to authorize the Terrorist Surveillance Program;
- Legislation authorizing the India Civil Nuclear agreement;
- PNTR for Vietnam;
- Immigration reform;
- Legislation to authorize oil and natural gas drilling in previously inaccessible areas of the Gulf of Mexico;
- Tax extenders, death tax elimination and an increase in the minimum wage – the “Trifecta” bill;
- Legislation to authorize the American Competitiveness Initiative;
- Postal reform legislation;
- Reauthorization of the Ryan White HIV-AIDS Act;
- Peru FTA;
- Conference report for the Water Resources Development Act;
- 11 individual appropriations bills, or an omnibus appropriations bill, or a continuing resolution to fund the federal government into 2007;
- And remaining nominations.