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SPECIAL REPORT: House FY 2006 Science, State, Justice, Commerce Appropriations and California Implications - June 2005

On June 16, 2005, by a vote of 418-7, the House passed the FY 2006 Appropriations for Science, State, Justice and Commerce (H.R. 2862/H.Rpt. 109-118). The \$57.45 billion is slightly higher than the \$56.24 billion appropriated in FY2005. It is less than the President's budget request of \$60.5 billion, but that figure assumed the transfer of economic development programs to the bill. The Committee also recommends \$360.7 million for mandatory programs funded within the bill.

The following is a quick analysis of the bill from a California perspective as prepared by the California Institute. We apologize for any errors or omissions in our discussion of these documents, and would appreciate any input/feedback on how to make improving corrections. The ordering of items generally reflects their presence in the bill and does not mean to imply any relative importance.

DEPARTMENT OF JUSTICE

The bill provides \$21.4 billion in discretionary funding for the Department of Justice, \$790 million above the fiscal year 2005 level and \$1.1 billion above the President's request.

Drug Enforcement Administration

The bill provides \$20 million under the Office of Justice Programs for DEA to assist State and local law enforcement with proper removal and disposal of hazardous materials at clandestine meth labs and to initiate a container program, including funding for training, technical assistance and purchase of equipment to adequately remove and store hazardous material. Within the level of funding provided, DEA shall dedicate three positions to manage and oversee this program.

Office of Justice Programs

The recommendation includes \$2,205,479,000 for the Office of Justice Programs (OJP), which is \$999,721,000 over the President's request. The Committee Report states: "Again this year, the budget request proposes merging all programs administered by OJP under the Justice Assistance heading. The Committee recommendation retains the account structure used in previous fiscal years and funds State and local law enforcement programs under different appropriation accounts.

Justice Assistance

The Committee recommends \$227,466,000 for the Justice Assistance account, which is \$2,610,000 above the enacted level. The Justice Assistance program includes assistance to States and localities in the form of research, evaluation, statistics, white collar crime, information

sharing, missing children assistance, and victim assistance. In addition, funding for the management and administration of all grants provided through OJP is provided under this heading. The budget proposed merging all OJP programs under this heading.

State and Local Law Enforcement Assistance

The Committee recommends a total of \$1,001,296,000 for State and Local Law Enforcement Assistance programs. This amount is \$1,001,296,000 above the request and \$276,908,000 below the enacted level. The Committee does not adopt the Administration's proposal to consolidate this appropriation under the Justice Assistance heading.

Edward Byrne Memorial Justice Assistance Grants program

The Committee recommendation includes \$348,466,000 for the Edward Byrne Memorial Justice Assistance Grants program. The recommendation is \$348,466,000 above the budget request. Funding under this program is authorized for (a) law enforcement programs; (b) prosecution and court programs; (c) prevention and education programs; (d) corrections and community corrections programs; (e) drug treatment programs; and (f) planning, evaluation, and technology improvement programs.

The formula used for distributing funds under this program allocates 50 percent of funding based on population, and 50 percent based on violent crime rates. The formula allocates 60 percent of funding to States and 40 percent to units of local government.

State Criminal Alien Assistance Program

The Committee recommendation provided \$355,000,000 for the State Criminal Alien Assistance Program (SCAAP) for reimbursement to States for the costs of incarceration of criminal aliens, which was again proposed for elimination in the budget request. The recommendation provides a \$54,074,000 increase above the fiscal year 2005 level. NOTE: During floor consideration of the bill, an amendment was approved boosting funding for SCAAP by \$50 million to \$405 million.

Southwest Border Prosecutions

The Committee recommends \$30,000,000 to provide assistance to State and local law enforcement agencies (including prosecutors, probation officers, courts, and detention facilities) along the southwest border with the handling and processing of drug and alien cases referred from Federal arrests. The recommendation is \$401,000 above the fiscal year 2005 level.

Edward Byrne Discretionary Grants

The Committee recommendation provides \$110,000,000 for discretionary grants to help to improve the functioning of the criminal justice system with an emphasis on drugs, violent crime, and serious offenders. Within the amounts appropriated for discretionary grants, the Committee expects OJP to examine the following California proposals, to provide grants if warranted, and to submit a report to the Committee on its intentions for each proposal:

- Carlsbad, CA, for a law enforcement initiative;
- Los Angeles County, CA, Sheriff's Department;
- City of Hemet, CA, to combat crime and gang activity;
- Orange County, CA, for the Integrated Law and Justice System;
- San Diego County Sexual Assault Felony Enforcement Task Force;
- San Diego Family Justice Center;
- California Western School of Law for a Pre-Arrestment Services Program;
- San Joaquin Valley Rural Crime Prevention;
- Orange County, CA, District Attorney Office for law enforcement technologies;
- San Francisco, CA, Ex-Offender Reentry Services;

- Salinas & Monterey, CA, joint gang drug task forces;
- San Diego, CA, Crisis Intervention Response Team;
- COPS in Schools Program, CA;
- South Gate, CA, for a law enforcement initiative;
- Garden Grove, CA, Anti-trafficking Task Force;
- Santa Ana, CA, Police Department;
- Solano County, CA, for a law enforcement initiative; and
- City of Rialto Police Preparedness Project.

Weed and Seed Program

The recommendation provides \$50,000,000 for the Weed and Seed program, which is \$11,172,000 below the fiscal year 2005 level. The budget proposed merging the Weed and Seed program under the Justice Assistance account.

Community Oriented Policing Services

The Committee recommendation includes \$520,057,000 for the Community Oriented Policing Services (COPS) program for fiscal year 2006. Included within that funding are the following programs:

Methamphetamine Enforcement and Clean-Up - The Committee recommends \$60,000,000 to combat methamphetamine production and distribution, to target drug “hot spots,” and to remove and dispose of hazardous materials at clandestine methamphetamine labs. This amount is \$8,146,000 above the enacted level and \$40,000,000 above the request.

Within the amount provided, the Committee has included \$20,000,000 to reimburse the Drug Enforcement Administration for assistance to State and local law enforcement for proper removal and disposal of hazardous materials at clandestine methamphetamine labs and to initiate container programs, including funds for training, technical assistance, and purchase of equipment to adequately remove and store hazardous waste.

The Committee expects the COPS Program Office, in consultation with DEA, to examine each of the following California proposals, to provide grants if warranted, and to submit a report to the Committee on its intentions for each proposal:

- California Methamphetamine Strategy (CALMS);
- Woodland, CA, for Methamphetamine Enforcement; and
- Los Angeles, CA, methamphetamine program.

Law Enforcement Technologies and Interoperable Communications Program

The Committee recommendation provides \$120,000,000 for continued development of technologies and automated systems to assist State and local law enforcement agencies in investigating, responding to and preventing crimes, and gathering and analyzing information, and for the continued development of interoperable communications systems for State and local law enforcement entities.

Within the amount provided, the Committee expects the COPS office to examine each of the following California proposals, to provide grants if warranted, if each application complies with the direction provided above, and to submit a report to the Committee on its intentions for each proposal:

- San Diego County, CA, Sheriff’s Department for automation infrastructure upgrades;
- City of Roseville, CA, Police Department for law enforcement technologies;
- Placer County, CA, for law enforcement technologies;
- Nevada County, CA, for law enforcement technologies;
- Sierra County, CA, Sheriff’s Department for law enforcement technologies;

Grass Valley, CA, Police Department for law enforcement technologies;
San Bernardino County, CA, and Riverside County, CA, Sheriffs' Departments for a regional fingerprint identification project;
East Valley Community Justice Center;
City of San Bernardino, CA, Police Department for mobile data terminals;
San Bernardino County, CA, for an electronic crime reporting system;
Redlands, CA, Police Department for a crime mapping program;
Rancho Cucamonga, CA, for law enforcement technology testing and evaluation;
City of Corona, CA, Police Department for law enforcement technologies;
Ventura County, CA, Sheriff's Department for law enforcement technologies;
County of Calaveras, CA, Sheriff's Department for law enforcement technologies;
City of Rancho Santa Margarita, CA, Police Department for law enforcement technologies;
Contra Costa County, CA, for the ARIES Integrated Justice System;
City of Sonoma, CA, for law enforcement technologies;
Kern County, CA, Sheriff's Department for mobile data terminals;
San Luis Obispo County, CA, Sheriff's Department for law enforcement technologies;
Covina, CA, for a law enforcement technology program;
West Covina, CA, for a law enforcement technology program;
Santa Monica, CA, for a law enforcement technology program;
Fremont, CA, for a law enforcement technology program;
San Mateo County, CA, for a law enforcement technology program;
Solano County, CA, for a law enforcement technology program;
Montebello, CA, for a law enforcement technology program;
Novato, CA, for a law enforcement technology program;
Inglewood, CA, for a law enforcement technology program;
Gardena, CA, for a law enforcement technology program;
County of San Bernardino, CA, for a law enforcement technology program;
Ontario, CA, for a law enforcement technology program;
Fontana, CA, for a law enforcement technology program;
Downey, CA, for a law enforcement technology program;
Bell Gardens, CA, for a law enforcement technology program; and
Stockton, CA, for a law enforcement technology program;

Juvenile Justice Programs

The Committee recommendation provides a total of \$333,712,000 for Juvenile Justice Programs for fiscal year 2006. The budget request proposes to fund juvenile justice programs under the Justice Assistance heading. The Committee recommendation is \$45,333,000 below the fiscal year 2005 level and \$101,488,000 above the request for similar juvenile justice programs.

Within the overall amounts recommended, OJP directed to review the following proposals, provide a grant if warranted, and submit a report to the Committee on its intentions regarding:

IMPACT/Night Light program in San Bernardino County, CA;
Phoenix House San Diego County, CA;
South Los Angeles, CA, B.T. program for at-risk youth;
Hollywood, CA, B.T. program for at-risk youth;
SIPA of CA program for at-risk youth;
San Fernando Valley, CA, underage drinking and delinquency prevention program;
Burbank, CA, high school violence prevention program;

Pasadena, CA, drug-free activities for at-risk youth;
Pasadena, CA, program for at-risk youth;
Hillside Altadena Family Center, CA, leadership program for at-risk youth;
Santa Monica, CA, outreach efforts to prevent gang violence;
County of Santa Clara, CA, Juvenile Detention Reform Initiative;
San Francisco City, CA, Attorney's Family Reunification Program for Neglected Children;
Oakland, CA, Martin Luther King, Jr. Freedom Center for youth violence prevention;
Oakland, CA, mentoring center program for at-risk youth;
Gilroy, CA, Gang Task Force Youth Center;
Devonshire, CA Area PALS Youth Community Center;
Los Angeles, CA, Phoenix Academy program for at-risk youth;
San Bernardino County Youth Violence Prevention Program;
Colton, CA, PAL Program;
L.A.'s at risk youth program;
Van Nuys, CA, Volunteer Center program for at-risk youth;
California – training equipment for a program for at-risk youth;
Los Angeles, CA, anti-gang initiative;
Long Beach, CA, youth gang prevention;
Santa Clara County PALS program for at-risk youth.

Juvenile Accountability Block Grants

The recommendation provides \$60,000,000 for the Juvenile Accountability Block Grants program, which is \$5,735,000 above the enacted level and \$60,000,000 above the request.

DEPARTMENT OF COMMERCE AND RELATED AGENCIES

The Committee recommendation includes a total of \$5,825,734,000 in general purpose discretionary funds for the programs of the United States Trade Representative, the International Trade Commission and the Department of Commerce for fiscal year 2006, \$831,470,000 below the current year level, including supplemental appropriations. The recommended level is \$21,345,000 below the request, excluding the \$3,710,000,000 requested for the Strengthening America's Communities grant program.

Office of the U.S. Trade Representative

In discussing Intellectual Property Rights (IPR), the Committee Report states:

“Pirating and counterfeiting has [sic] grown to an estimated \$200 billion a year problem and the theft of artistic and scientific creation is draining our economy. The Committee notes the United States has not yet taken an intellectual property rights enforcement case to the WTO against its trading partners to stem the hemorrhaging of U.S. intellectual property. Further, in the current year, the Committee included bill language establishing a position of Chief Negotiator for Intellectual Property Enforcement. The Committee is dismayed that this position remains vacant in light of the magnitude of the problem. The Committee expects the USTR to expeditiously fill this position.

Further, the Committee provides additional resources to supplement the current IPR office of four positions to meet the many demands of the office including negotiating at the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council, negotiating new agreements, monitoring implementation of the TRIPS and free trade agreements, managing the Special 301 process, coordinating the STOP initiative, and maintaining outreach to industry.

The Committee expects the USTR to add no less than an additional four positions to this office to address the increase in workload associated with expanded enforcement capabilities.

At the 15th plenary session of the U.S.-China Joint Commission on Commerce and Trade (JCCT), on April 21, 2004, the Chinese resented an action plan designed to address the piracy and counterfeiting of American ideas and innovations to include significantly reducing IPR infringement levels and increasing penalties for IPR violations. The Committee expects to be kept apprised of any such actions taken by the Chinese to counter IPR infringements.

The Committee remains supportive of the Strategy Targeting Organized Piracy (STOP) initiative designed to fight against the billions of dollars in global trade in pirated and counterfeit goods that cheat American innovators and manufacturers, hurt the U.S. economy, and endanger consumers worldwide.”

International Trade Administration

The Committee Report states:

“Intellectual Property Rights (IPR) Protection.— Given the significant increase the Committee has provided to ITA over the past few years, the Committee expects the ITA to pursue a more aggressive approach to supporting U.S. businesses especially in their efforts to compete in international markets that engage in blatant intellectual property rights infringement. The Committee directs the Department, including the USPTO, to create a U.S. Intellectual Property Office (USITO) in Beijing and Moscow. This office should be modeled on the U.S. Information Technology Office in Beijing. Initially, funding was provided to the USITO by the Commerce Department and now funding is provided by industry. Therefore, the Committee expects the Commerce Department to begin working with industry trade organizations to create this Office.

Further, the Committee directs the Department, including ITA and USPTO, to establish programs both domestically and internationally to provide assistance to small businesses seeking to secure their rights abroad. The Committee continues to support the new Strategy Targeting Organized Piracy (STOP) initiative to target the billions of dollars in global trade in pirated and counterfeit goods that cheat American innovators and manufacturers that hurt the U.S. economy and endanger consumers worldwide.

Therefore, the Committee directs the Department, in consultation with the State Department, to begin to measure piracy and counterfeit levels, beginning with China and to maintain these statistics. The Committee assumes the ITA will engage with non-governmental organizations, as well as private organizations, to assist in this effort. Further, the Committee expects the Department to begin documenting specific cases of IPR infringement.

Economic Development Administration

The recommendation includes \$227,569,000 for the programs and administrative expenses of the Economic Development Administration (EDA) for fiscal year 2006, which is \$200,985,000 above the request, and \$56,491,000 below the current year level. The Committee recommendation does not adopt the President’s proposal to create a new grant program entitled “Strengthening America’s Communities Initiative” to include the elimination of the Economic Development Assistance program and the Trade Adjustment Assistance for Firms program.

Economic Development Assistance Programs

The Committee provides \$200,985,000 for the Economic Development Assistance program and the Trade Adjustment Assistance for Firms program. The Committee continues funding for the traditional programs of the EDA to provide needed assistance to communities struggling with long-term economic dislocation, as well as sudden and severe economic dislocation. Of the

amounts provided, \$107,656,000 is for Public Works and Economic Development, \$45,400,000 is for Economic Adjustment Assistance, \$27,000,000 is for planning, \$8,434,000 is for technical assistance, including university centers, \$12,000,000 is for trade adjustment assistance, and \$495,000 is for research.

National Marine Fisheries Service

National Ocean Service

The recommendation includes \$12,000,000 for NOS construction and acquisition. The Committee Report states: "The committee expects the Marine Sanctuary Program to develop a detailed plan for the development of an Exploration Center for the Monterey Bay National Marine Sanctuary located in Santa Cruz, CA and report to the Committee on its plan within 60 days of enactment."

Pacific Coastal Salmon Recovery

The recommendation includes \$50,000,000 for conservation and habitat restoration and recovery grants for endangered and threatened Pacific salmon populations, which is \$38,798,000 below the current year and \$40,000,000 below the request.

SCIENCE

The funds recommended by the Committee in Title III of the accompanying bill support the development of national science policy, as well as the operational, research, and education activities of the National Aeronautics and Space Administration and the National Science Foundation. The recommendation totals \$22,119,984,000, which is \$444,432,000 above the amount provided in fiscal year 2005 including supplemental amounts, and \$53,020,000 above the budget request.

National Aeronautics and Space Administration

The Committee recommends \$16,471,050,000 for the National Aeronautics and Space Administration, an increase of \$14,650,000 above the budget request and \$274,650,000 above the fiscal year 2005 inclusive of \$126,000,000 in emergency funding provided in Public Law 108-324.

National Science Foundation

The Committee recommendation includes a total of \$5,643,370,000 for the National Science Foundation (NSF), which is \$170,546,000 above the current year funding level and \$38,370,000 above the request.

DEPARTMENT OF STATE

The Committee Report states:

"Intellectual Property Rights (IPR) Enforcement – Experts report that the problem with pirating and counterfeiting has grown to an estimated \$200 billion a year problem and the theft of artistic and scientific creation is draining our economy. The Committee notes the United States has not yet taken an intellectual property rights enforcement case against its trading partners to stem the hemorrhaging of U.S. intellectual property. The embassies in key markets, including China, Russia, and Brazil should conduct market surveys to determine methodologies/benchmarks for measuring levels of piracy and counterfeiting, and to conduct market research to determine the actual levels of piracy/counterfeiting. The Committee expects the Department to work closely with industry and to work with economist/market research firms, as practicable.

Some of China's IPR problems are attributable to rogue provinces and localities that do not adhere to IPR directives of the central government. The U.S. government including the State Department and the United States Trade Representative's Office should develop expertise on the situation in key provinces, and increase dialogue with officials in those provinces to enable the implementation of IPR commitments.

International Organizations

International Boundary and Water Commission, United States And Mexico

The bill includes a total of \$32,300,000 for the International Boundary and Water Commission, United States and Mexico (IBWC). This amount is \$181,000 above the amount available in fiscal year 2005 and \$3,000,000 below the total budget request for fiscal year 2006. The total amount provided includes \$27,000,000 for Salaries and Expenses and \$5,300,000 for construction. The recommendation includes language authorizing not to exceed \$6,000 for representation expenses, as requested.

Construction - The Committee recommendation for IBWC construction provides \$5,300,000, which is \$61,000 above the amount available in fiscal year 2005 and \$1,300,000 below the budget request. The recommendation provides funding for ongoing projects as follows: Boundary-wide construction—\$1,630,000; Water Quantity Program—\$2,670,000; and Water Quality Program—\$1,000,000. The Committee expects that significant carryover funding may be available to supplement fiscal year 2006 appropriations. Any allocation of funding, including carryover funding, shall be subject to reprogramming procedures set forth in section 605 of this Act.

RESCISSIONS

The Committee Report includes the following rescissions of funds:

Office of Justice Programs - State and Local Law Enforcement Assistance

The recommendation includes a rescission of \$38,500,000 of the unobligated prior year balances in this account. The budget request proposed a \$95,500,000 rescission for similar programs under Title I of this Act. This rescission shall not apply to funds available for the State Criminal Alien Assistance Program.

Community Oriented Policing Services

The recommendation includes a rescission of \$86,500,000 of unobligated prior year balances in this account. The budget request proposed a \$115,500,000 rescission from this account under Title I of this Act.