



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 8, 2005
(Senate)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2862, Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill, FY2006

(Sen. Cochran (R) MS and Sen. Byrd (D) WV)

The Administration appreciates that the House and Senate Appropriations Committees have reported this bill in a timely manner. The Administration is opposed to the overall funding level provided in the Senate-reported Commerce, Justice, and Science appropriations bill because it exceeds the President's request by \$1.4 billion.

The Administration is committed to working with the Congress to ensure the overall discretionary spending limit is not breached; that the Department of Defense is adequately funded; and that non-security related spending is reduced below last year's level. The Administration is concerned that the spending limits reflected in the Senate 302(b) allocations would result in an unacceptable shift of over \$7 billion from critical defense requirements to non-security related accounts, including \$1.4 billion to accounts within the jurisdiction of the Commerce, Justice, and Science subcommittee when adjusted for the Strengthening America's Communities Initiative.

The Administration appreciates that the Congress has acted swiftly to address the emergency requirements to meet immediate needs arising from the consequences of Hurricane Katrina and looks forward to working with Congress to fund our long-term recovery efforts in the Gulf Coast and other affected regions. The Administration anticipates making further requests that will provide for a comprehensive response and recovery effort after fully assessing the impact of the hurricane.

The Administration would like to take this opportunity to share views regarding the Senate version of this bill.

Department of Commerce

The Senate mark for the Department of Commerce is more than \$1.1 billion (19 percent) greater than the President's 2006 request, on a comparable basis, and more than \$700 million (12 percent) greater than the 2005 enacted level.

The Administration is concerned that, at the same time, the Senate bill reduces the request for the Census Bureau by \$150 million (17 percent). This reduction would suspend the American Community Survey, increase the lifecycle cost of the 2010 Census by over \$1 billion, and lead to a less accurate Census. Timely and accurate Census data are necessary for decision

makers at every level of government for budgetary and planning purposes, and in recovery efforts for crisis situations. The bill also would jeopardize the accuracy of the national income accounts and lead to the elimination of important economic data series.

The bill does not support the Strengthening America's Communities Initiative, which would have streamlined the Government's duplicative and often ineffective community and economic development programs. The Administration intends to transmit draft legislation to Congress and looks forward to working with the House and Senate to craft an improved structure for these programs.

The Administration values the support provided in the Senate bill for the President's U.S. Ocean Action Plan, but is concerned the bill provides the National Oceanic and Atmospheric Administration (NOAA) \$558 million more than the FY 2005 enacted level and \$890 million more than the President's FY 2006 request. The President's request supports NOAA's needs with strong funding for weather forecasts and warnings, fisheries management (including a new research vessel), climate and ocean science, and other important activities.

The Administration urges the Senate to base its science and technology funding on national needs and competitive merit, especially by including the requested increases within the National Institute of Standards and Technology (NIST) labs for nanotechnology research and other priority foundational innovation research. However, the bill provides significant unrequested NIST funding for unrelated, non-competitive construction earmarks totaling \$115 million.

The Administration is disappointed that the bill adopts none of the proposed terminations and reductions of programs that duplicate or overlap other efforts, have weak performance measures, show few demonstrated results, or do not fulfill essential priorities. The Administration is also concerned that the bill reinstates funding for programs that were terminated last year or are on a path toward termination. For example, the bill provides unrequested funding for the Advanced Technology Program and requires that \$60 million be devoted to new awards in FY 2006, which creates expectations for continuing awards in FY 2007 and beyond. The 2005 appropriations act had no new awards and was on a path that would justifiably facilitate a phase out. Given the growth of venture capital and other sources of funding for quality high-tech projects, the Administration believes this program is an inappropriate use of Federal funds and strongly objects to the ATP's continuation.

The Administration also encourages the Senate not to reinstate the Technology Opportunities Program, a low-priority grant program that was terminated last year, and to forego unrequested funding for Public Telecommunications Facilities, Planning and Construction grants. In addition, the bill extends the steel loan guarantee program, despite high prices in that industry.

The Departmental Management account is of insufficient size to absorb the cost of the Technology Administration. In addition, the bill also creates unnecessary Executive Branch management challenges and denies savings for taxpayers by prohibiting NOAA from contributing to Commerce-wide E-Government activities and by exempting the International

Trade Administration from guidance that promotes cost-recovery for activities that convey special benefits to recipients beyond those accruing to the general public. The Administration urges the Senate to consider such basic needs as the renovation of the headquarters of the Department of Commerce.

The Administration urges the Senate to remove language in the bill that would require both the Department of Commerce and the U.S. Trade Representative to conduct negotiations to make the Continued Dumping and Subsidy Offset Act acceptable under international trade rules. This Act provides hundreds of millions of dollars of taxpayer funds annually to businesses and other parties that already receive protection from imports due to antidumping and countervailing duties. This subsidy is unwarranted from a domestic economic standpoint as the Nation has much higher needs and better ways to improve our competitiveness. In fact, other countries are beginning to retaliate against U.S. businesses because of this program. The subsidy should be repealed rather than retained. The objectionable language is also inconsistent with the constitutional authority of the President to conduct the relations of the United States with foreign countries and international organizations, including the conduct of negotiations.

Department of Justice (DOJ)

The Administration appreciates the Senate Committee's support for Federal law enforcement and other criminal justice efforts, including the request for the Office of the Federal Detention Trustee. The Administration, however, urges the Senate to fully fund critical Federal Bureau of Investigation (FBI) counterterrorism and intelligence activities, including the President's request for the Terrorist Screening Center and for additional national security agents and intelligence analysts.

While the Committee supported some of the reductions to DOJ programs proposed by the Administration, further reductions are needed to shift funding to higher-priority anti-crime and other initiatives. The proposed reductions are in programs that cannot adequately demonstrate performance, including Byrne Discretionary Grants, Byrne Justice Assistance Grants, COPS Hiring Grants, COPS Law Enforcement Technology Grant, and Juvenile Accountability Block Grants. The Administration asks the Senate to fund the request for Capital Litigation Improvement Grants, USA Freedom Corps, and Prisoner Re-Entry. The Administration also urges full funding for Project Safe Neighborhoods, including funding for Project ChildSafe, State and Local Gun Crime Reduction Grants, Drug Courts and Criminal History Records, as well as the DNA Initiative. Funding for these important initiatives, at the requested level, can be provided by eliminating program increases above those proposed by the Administration and by adopting the program savings proposed in the FY 2006 Budget.

The Senate is urged to fund the request for the Organized Crime and Drug Enforcement Task Force (OCDETF) and the Drug Enforcement Administration in the manner and form requested. The Administration prefers that OCDETF and the Drug Intelligence Fusion Center remain under the leadership of the Office of the Deputy Attorney General, who can set uniform priorities and goals for the program. The Senate is also encouraged to accept the proposed transfer of the High Intensity Drug Trafficking Areas program to DOJ, where it can more effectively coordinate with OCDETF.

The Administration also encourages the Senate to fully fund the request for DOJ litigation activities including the Criminal, Civil, and Environment and Natural Resources Division and the United States Attorneys.

The Administration thanks the Senate for providing the full request level for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The Administration is eager to work with the Congress to enact the proposal to collect and spend receipts from an explosives user fee.

National Aeronautics and Space Administration (NASA)

The Administration appreciates the Committee's strong support for the President's priorities by fully funding the original request for Constellation Systems including the Crew Exploration Vehicle, as well as the request for the Space Shuttle and the International Space Station (ISS). The Administration seeks modification of the bill consistent with the President's FY 2006 budget amendment, which identified additional resources within Exploration Systems for the Crew Exploration Vehicle and Crew Launch Vehicle and reallocates funding within the Science Directorate to focus resources on near-term requirements, including the option for a Hubble Space Telescope servicing mission with the Shuttle. The Administration strongly objects to the elimination of funding for key priorities, including the Space Station Cargo/Crew Services and Centennial Challenges programs, and urges the Senate to shift funding from lower-priority programs in the bill to restore the Administration's request.

The Administration also strongly objects to a total of nearly \$600 million in earmarked funding for unrequested activities, including \$220 million above the President's request for a possible Hubble servicing mission, which would significantly reduce the resources needed for critical ongoing and planned science and technology efforts. The Administration also urges the Senate to include requested flexibility in the bill for the transfer of funds, which may be necessary for important program adjustments.

National Science Foundation (NSF)

The Administration shares the priority the Senate Committee affords basic research and fundamental science and education at NSF, but is concerned that the bill does not fully support the President's request. The Committee has identified areas, such as facilities oversight, that need increased investment to maintain NSF's efficient operations, and yet does not provide the full request for salaries and expenses that would allow NSF to continue to perform to high standards.

The Administration appreciates the Committee's support for the transfer of \$48 million from the Coast Guard to NSF for polar icebreaking services. The Administration requests, however, that the bill not limit total funding for these services to \$58 million.

Small Business Administration (SBA)

The Administration appreciates that the Senate bill generally follows the Administration's

proposed framework for funding SBA, including maintaining zero subsidy for the 7(a) lending program. Under the current zero subsidy approach, loan volume has grown dramatically and the program is more stable as it does not require an appropriation. The Administration would oppose any amendment that would reintroduce a subsidy to this program.

The Administration is disappointed that the bill provides \$50 million for unrequested projects while only providing \$152 million in operating funds in the Salaries and Expenses account, \$32 million below the FY 2005 level, and \$47 million below the President's FY 2006 request. The shortfall in administrative funds would adversely affect the implementation of SBA programs.

Federal Communications Commission

The Administration appreciates the funding provided by the Committee, and the Committee's support for fighting fraud and abuse in the Universal Service Fund. The Administration opposes, however, the restrictive language in section 520 of the bill that would prohibit reforms to improve the fairness and efficiency of the program and potentially reduce burdens on telephone ratepayers.

E-Government

The Administration strongly urges the Senate to fund the President's E-Government Initiatives to ensure American citizens and small businesses are able to continue to receive high quality E-Government services. The Senate bill contradicts current statutory requirements to the Executive Branch to reduce duplication and increase efficiency in government-wide IT investments. The Administration looks forward to continuing to work with the Senate on these important initiatives.

Constitutional Concerns

The requirement in section 518 that the Secretary of Commerce represent the United States in international negotiations impermissibly infringes upon the President's constitutional authority to conduct the nation's foreign affairs, and to supervise the unitary Executive Branch. At the President's direction, the Departments of State and Commerce work closely in partnership on international issues concerning the conservation and management of living marine resources, and a statute should not purport to change that relationship.