



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

July 7, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY
H.R. 4754 – Departments of Commerce, Justice, and State, the Judiciary, and Related
Agencies Appropriations Bill, FY 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, as reported by the House Committee.

The President supports a discretionary spending total of not more than \$819 billion, in addition to \$2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery. Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration. The Administration urges the House to fully fund Presidential initiatives, such as the Greater Middle East Leadership and Democracy Initiative, now known as the Broader Middle East and North Africa (BMENA) Initiative, and the USA Freedom Corps Citizen Corps Initiative.

The Administration is pleased that the level of resources provided in the Committee-reported bill is consistent with the \$819 billion discretionary total and looks forward to working with the House to address the following concerns.

Department of Commerce

The Administration appreciates that the Committee provides funding for many important elements of the Department of Commerce consistent with the Administration's request. The Administration will work with the Committee as the bill moves toward conference to address areas of concern.

Department of Justice (DOJ)

The Administration appreciates that the Committee provides funding for the many law enforcement and counter-terrorism priorities within the DOJ -- especially for the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Attorneys, and Bureau of Prisons. The Administration also appreciates that the Committee has provided the requested level of funding for the Office of the Federal Detention Trustee. However, new information suggests that FY 2005 requirements for this account will be higher than initially projected. The Administration

will continue to work with the Congress to address these requirements.

The Administration is disappointed that the Committee provides \$805 million more than requested for certain State and local grant programs, while reducing requested funding for key higher-priority Presidential programs, including Residential Substance Abuse Treatment grants, Project ChildSafe, Drug Courts, State and Local Gun Prosecutors, Project Sentry, and USA Freedom Corps. The Administration urges the House to fund these priority programs.

In addition, funds provided for prisoner re-entry require additional flexibility to foster participation by faith and community-based organizations. The Administration will work with the Congress to address this issue.

The Administration urges the House to maintain the resources for the Internal Revenue Service and the Bureau of Immigration and Customs Enforcement to participate in the Organized Crime and Drug Enforcement Task Force program. We also urge the House to fund the \$14 million requested for the Environment and Natural Resources Division to adequately represent the Government's interests regarding \$200 billion in tribal claims. The Administration supports the amendment adopted in Committee that would clarify existing appropriations language that protects sensitive law enforcement information from inappropriate public release and will continue to assist the important law enforcement objective of maintaining adequate information regarding Federal Firearms Licensees (FFLs).

The Committee-reported bill would provide the FBI with new, expanded personnel management flexibilities. To address these issues for the FBI, but not other law enforcement agencies, would likely lead to inequities among law enforcement personnel. Several of the requested authorities -- exempting certain reemployed annuitants from prohibitions against "double dipping," allowing the FBI to seek critical pay authority, and extending authority to waive the mandatory retirement age for FBI law enforcement officers beyond age 60 until age 65 -- are already administratively available to the FBI. In addition, these provisions are premature in light of the imminent release of an Office of Personnel Management report to the Congress on law enforcement pay and benefits and anticipated congressional action on S. 129, the Federal Workforce Flexibility Act. We urge the deletion of the provisions in the Committee bill in favor of these broader efforts.

Department of State

The Administration appreciates the consideration given to the Department of State funding levels and the Capital Security Cost Sharing Program and looks forward to working with the Congress to ensure the National Endowment for Democracy, part of the Broader Middle East and North Africa (BMENA) Initiative, are funded at the request. The BMENA Initiative is important because political, economic and social reform in the region is a priority and a challenge of equal concern to the United States and the G-8. The BMENA efforts agreed to at Sea Island are based on genuine cooperation with the region's governments and reformers in business and civil society, and provide the opportunity for the G-8 to launch new joint efforts and marshal additional resources to advance these urgent reform priorities.

The Administration appreciates full funding of the President's FY 2005 Budget for Contributions to International Organizations and for International Peacekeeping Activities and

the Committee's continued support of critical Diplomatic and Consular Programs funding for the Department's worldwide operations.

Small Business Administration (SBA)

The Administration appreciates the Committee's support for the Administration's proposals for SBA, including the provision of \$12.5 billion of 7(a) loan guarantees using a zero-subsidy approach. Zero-subsidy operation puts the 7(a) program on a more sound and stable financial footing.

Federal Communications Commission (FCC)

The Administration appreciates the Committee's support for the FCC and urges the House to include the Administration's proposed budget amendment, transmitted after Committee action, which would ensure the availability of funds to audit and improve financial management practices for E-rate and other universal service funds. The FCC Inspector General has testified that waste, fraud and abuse is a particular concern for the E-rate program.

Constitutional Concerns

The Administration objects to certain provisions of the bill on the sole basis that they infringe on the President's constitutional powers. For instance, section 609 would prohibit the use of funds relating to U.S. participation in UN peacekeeping missions; section 611 would prohibit the use of funds relating to maintaining diplomatic relations with Vietnam; and section 625 would prohibit the use of appropriated funds to send a delegation to the UN Human Rights Commission under certain circumstances. By interfering with the President's exercise of military and diplomatic functions, these provisions infringe upon the President's authority to act as the Commander-in-Chief and to conduct diplomacy on behalf of the United States.

Potential Amendments

If legislation were presented to the President that includes any provision that forces the courts to allow notice to criminal suspects before a search warrant is executed, the President's senior advisors would recommend that the President veto the bill. If any other amendment that would weaken the USA PATRIOT Act were adopted and presented to the President for his signature, the President's senior advisors would recommend a veto.

The Administration also understands that an amendment may be offered that would restrict the Justice Department's enforcement of the Controlled Substances Act. The Administration would oppose amendments that would weaken law enforcement's ability to thwart illegal drug traffickers and enforce the Federal criminal drug laws.

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