House Report 106-680 - DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 2001

ADDITIONAL VIEWS OF HON. JOSE SERRANO AND HON. DAVID OBEY

The fiscal year 2001 Commerce-Justice-State-Judiciary appropriations bill represents at best an unbalanced approach to spending priorities, and at worst an unnecessary exercise in futility, since the Majority party knows this bill will look drastically different before it can become law. While some of the problems in the previous year's House version of this bill no longer exist (declaring the decennial Census to be an unforeseen emergency, for example), many of the problems with last year's bill are repeated, and several new concerns have been identified.

The fiscal year 2001 Commerce-Justice-State spending bill does not fulfill the challenges of the changing national and global environmental and economy. The lack of balance in the funding provided shortchanges not only programs necessary to ensure a fair and equitable business environment, but also programs aimed at protecting the nation's most vulnerable citizens. The reason this bill does not meet these challenges is not specifically due to the leadership of the Appropriations Committee. The fundamental problem lies with the Majority party's insistence on cutting taxes by $170 billion over the next five years, and financing these cuts with unrealistic reductions in discretionary spending. The Majority continues to promote the fiction that their unaffordable tax cuts can be paid for by reducing discretionary spending--and that spending can be reduced without damaging programs. That is simply not true--and this bill in its current form is a key example of the results of that way of thinking.

The Commerce-Justice-State bill does not have to be a partisan exercise, yet each year it becomes increasingly more so. Both parties agree that lowering the nation's crime rate is a priority Federal activity. Both parties support economic growth through fair trade and expanded technological innovation. Both parties are committed to American leadership in world diplomacy. Yet the Majority party leadership in this House insists on sacrificing the funds needed to meet these bipartisan goals in order to offer enormous tax cuts mostly targeted at the richest families in the country.

There are several critical concerns with this legislation that need to be highlighted to all Members of the House:

First--while the bill provides increased funding levels for the Department of Justice, particularly for Federal law enforcement agencies and for detention, it severely underfunds other Justice priorities, including initiatives aimed at maintaining competition to protect the rights of businesses and consumers, and programs that protect the civil rights of all Americans.

Second, the bill continues to starve the Department of Commerce, by cutting programs and activities that are key to ensuring continued economic prosperity and growth for this Nation, and denying increases requested by the Administration designed to further those goals.

Third, while the bill includes full funding for embassy security and maintains current services levels for most State Department programs, there are funding shortfalls and language provisions that create more UN and peacekeeping arrears instead of honoring the commitments made in prior years.

Fourth, the bill as reported continues the game played for the past five years of underfunding the Legal Services Corporation and expecting the situation to be partially corrected in a Floor amendment through cuts in other programs in the bill.

Finally, the bill includes several language provisions that are controversial at best, and would lead to a veto of this bill by the President if not changed.

Following are additional details on the shortcomings of this fiscal year 2001 Commerce-Justice-State-Judiciary appropriations bill, and the Democratic efforts to improve the bill during consideration by the Full Appropriations Committee.

DEPARTMENT OF JUSTICE AND RELATED AGENCIES

The Committee continues to make funding crime at all levels a high priority, and the results of these efforts are evident in falling crime rates.

Yet certain agencies within the Justice Department continue to be cavalier about their responsibility to manage their resources efficiently and effectively. Rather than disciplining those agencies for not following the direction of Congress, the Majority has chosen to reward them with funding increases.

While the Department of Justice in total fares better under this mark than the other departments and agencies funded in this bill, there are still major shortfalls in the bill for certain DOJ components, particularly: (1) Maintaining competition in the marketplace to ensure the protection of the rights of consumers; (2) protecting and preserving civil rights of all Americans; and (3) ensuring the reimbursement to the Treasury of money paid by the taxpayers to treat tobacco related illnesses.

Antitrust and Federal Trade Commission.--In the area of maintaining competition, the majority party again fails to provide the necessary resources to ensure that DOJ's Antitrust Division, as well as the independent Federal Trade Commission, can keep pace with changing economic realities. The current globalization and consolidation of businesses, both U.S.-owned and foreign, are expected to continue, and the importance of preserving economic competition in the global marketplace cannot be overstated. The threat to consumers is real: Anti-competitive behavior leads directly to higher prices and reduced efficiency and innovation. The amounts provided in this bill will barely allow the Antitrust Division to keep up with inflation, and do nothing to provide the resources necessary to allow the Division, as well as the FTC, to keep up with a crushing workload that is without historical precedent.

These two agencies more than pay for themselves, receiving their funding from pre-merger filing fees collected under the Hart-Scott-Rodino Act. This bill provides for changes in those filing fees that increase the resulting revenues from those fees by $100 million. Yet the Majority party has proposed to invest less than $14 million of those increased fee revenues back into the two agencies responsible for doing the work that relates to these fees--resulting in more than $85 million in scorekeeping adjustments that are used to offset other spending in this bill. The Committee could have fully funded the requests of the Antitrust Division and the Federal Trade Commission and still had more than $35 million to invest in other priorities in this bill.

An amendment offered at Full Committee by Mr. Obey to restore the funding for the Antitrust Division and the FTC to their full requested levels, an additional $50.5 million above the amounts provided in the bill (Roll Call No. 5) failed 19-26 on a party line vote.

Civil Rights programs.--Other shortfalls in the recommendation for the Department of Justice are the recommended funding levels for programs related to the enforcement and protection of civil rights for all Americans. Funding for DOJ's Civil Rights Division is reduced below the request, and is inadequate to maintain current services. Moreover, the funding level in the reported bill does not provide funding to carry out important initiatives such as addressing police brutality through pattern and practice investigations; combating abuse and neglect in institutions such as nursing homes, mental health facilities and juvenile detention and correctional facilities; addressing potential post-Census voting rights cases, and more aggressively investigating and prosecuting hate crimes.

The bill also continues to shortchange the budget of the Community Relations Service, an agency charged with assisting States and local communities in resolving conflicts and preventing racial and ethnic violence--the only Federal agency with such a mandate. The bill also does not provide for new and expanded grant programs under the COPS program for community crime prevention activities related to civil rights, including the Police Integrity and Hate Crimes training initiative, and police recruitment to encourage diversified applicants to reflect the communities they serve.

The bill also underfunds other critical agencies involved in civil rights, including the U.S. Commission on Civil Rights, funded slightly below current year levels and 19 percent below the amount requested; and the Equal Employment Opportunity Commission, which is given an increase of $9 million above current year levels, but is still almost 10 percent below the Administration's request.

An amendment by Mr. Serrano at Full Committee, which sought to restore funding for many of these programs to the requested levels, was defeated (Roll Call No. 7).

Legal Services Corporation.--The fiscal year 2001 Commerce-Justice-State spending bill continues the charade of purposefully underfunding the Legal Services Corporation, the government agency charged with assuring that poor people have access to equal justice under the law. The bill as reported includes only $141 million for the Legal Services Corporation, a decrease of $164 million below current year appropriated levels of $305 million and $199 million below the request of $340 million. This is the sixth year in a row that the Subcommittee has reported a bill that includes only $141

million for the LSC, a number that represented one-third of the FY 1995 appropriated levels for LSC, but is absolutely meaningless now.

For the past five years, an amendment on the House Floor has been offered by the Ranking Member of the Subcommittee, supported on a bipartisan basis, restoring the funding level for LSC to about $250 million by cutting other accounts in the bill. As the funding in this bill gets increasingly tighter, it becomes harder and harder to find places to cut in order to offset the add-back for LSC. The outlay rate for this account is high, so it is difficult to find accounts in the bill to cut that would not result in reductions in force. And the level of $250 million that has typically been restored is still far short of the amount needed to maintain critical legal assistance for the country's poor and disadvantaged. It is time to stop using the LSC as a pawn in a meaningless game played by the Majority, and to fund this important agency at the amount required to ensure no reduction in the level of legal services available to the poor.

An amendment offered by Mr. Serrano at Full Committee, which would have only restored funding for Legal Services Corporation to the current year funding level of $305 million, was defeated by a vote of 26 Yeas to 27 Nays (Roll Call No. 2).

Tobacco Riders.--This bill includes two general provisions under Title I which contribute to the Majority party's effort to defund the Department of Justice's lawsuit against tobacco companies for the purpose of recovering health care costs. These provisions, sections 110 and 113 of the reported bill, represent just one more attempt to both put an end to the tobacco lawsuit and protect one of the Majority party's most generous political contributors. Section 110 and 113 would effectively prohibit the transfer of funds from other agencies to cover the costs of the lawsuit.

During debate on this language, and on similar riders included in other bills, it has been asserted that there is no need for other agencies to pay for the tobacco lawsuit--that the Department of Justice should be funding the litigation. Yet when the Administration requested direct funding under the Justice Department for the tobacco lawsuit in fiscal year 2000 (a total of $20 million), that request was denied by this Subcommittee.

An amendment offered by Ms. DeLauro at Full Committee to delete these two provisions, and add a new section that would clarify that any recoveries in the tobacco litigation in fiscal year 2001 and thereafter would be available immediately to the Department of Veterans Affairs, the Department of Defense, and the Department of Health and Human Services for medical care activities, was defeated (Roll Call No. 13).

DEPARTMENT OF COMMERCE AND RELATED AGENCIES

The funding level in this bill will severely undercut the Department's ability to perform its critical role in fostering economic growth in trade and technology and promoting sound environmental stewardship. At over $1 billion below the President's request for fiscal year 2001, this bill fails to make many of the necessary inflationary adjustments to the Commerce Department's base funding from last year--something the bill does include for the Department of Justice and other agencies. If the Department's funding remains at the bill's proposed levels, significant lay-offs could occur and important programs and activities would be jeopardized.

Trade Compliance Initiative.--One new initiative not funded in this recommendation is the President's Trade Compliance initiative. This $22 million initiative, under the Department of Commerce International Trade Administration, the Office of the U.S. Trade Representative, the Department of State and the Department of Agriculture, is intended to support trade compliance efforts with China and to more rigorously enforce current trade agreements.

Just one month ago, on May 24, 2000, the House passed H.R. 4444, a bill to grant Child permanent normal trading relations with the United States. During the debate on that bill, supporters of granting China an expanded trade relationship--including the leaders of the Majority party--spoke of the need to rigorously enforce that agreement. This bill fails to provide any of the additional funds identified by the Administration as necessary to ensure reliable oversight, monitoring, and enforcement of the China trade agreement.

During Full Committee markup of this bill, Mr. Obey offered an amendment to restore $22 million, the full amount requested for the Administration's Trade Compliance Initiative. That amendment was rejected on party line vote (Roll Call No. 8).

National Oceanic and Atmospheric Administration.--Another failure in this bill is the overall funding for the National Oceanographic and Atmospheric Administration (NOAA), which is cut $113 million below current year levels and $530 million below the budget request for fiscal year 2001. The Majority argues that the cuts below the current fiscal year reflect projects earmarked by the other body and thus will have no programmatic impact on the core operations of the National Ocean Service, the National Marine

Fisheries Service, the National Weather Service, and Oceanic and Atmospheric Research. Yet a closer look at the cuts reveals that there will be significant impacts: The failure to provide inflationary cost increases for core programs, and other cuts in line items that fund ongoing research and operational programs, could lead to staffing reductions of up to 1,000 NOAA employees. These cuts could mean that NOAA customers would receive reduced services--including nautical charts, long-term climate and weather data, and fishery stock assessments.

At the Full Committee markup of this bill, Mr. Farr offered an amendment that would have restored most components of NOAA to their total current year funding level, and redirected the additional spending to investments in the core programs of each line agency. This amendment would have allowed for the expansion of certain coastal, fisheries, and research programs toward the levels requested in the President's fiscal year 2001 budget request. This amendment (Roll Call No. 9) failed on a party line vote.

Public Broadcasting Digital Conversion.--This bill as reported fails to adequately fund the transition to digital broadcasting for many public television and radio stations. Failure to adequately fund the transition to Digital broadcasting of many public television and radio stations at the President's request level jeopardizes public broadcasting's ability to comply with a congressional mandate to switch from analog to digital transmission. The Telecommunications Act of 1996 and the Balanced Budget Act of 1997 require that the analog spectrum currently used by television broadcasters be auctioned and the funds returned to the U.S. Treasury. In compliance with these Acts, the Federal Communications Commission (FCC) adopted rules which require that all public television stations begin digital broadcasting by May 1, 2003. All analog television broadcasting must be discontinued by May 1, 2006. For many stations, the cost of digital conversion is projected to exceed their annual revenues. If forced to convert without Federal assistance, many stations, especially in small and rural markets, will be forced to reduce their services or even go off the air.

An amendment offered by Ms. Lowey at Full Committee to restore funding for the Public Telecommunications Facilities Program to the full requested level of $110 million was rejected on a party line vote (Roll Call No. 11)

Economic Statistics.--In the area of economic statistics, funding levels have remained virtually unchanged for the last five years. During this time the Republicans in Congress have denied annual budget requests to fund economic statistical initiatives, developed in concert with data users, to maintain and improve the quality of the GDP and to keep pace with the rapidly growing economy. No one can deny that the economy and the way Americans do business is changing. But funding the non-decennial Census statistical agencies at these constrained levels places them further behind schedule in multi-year plans to update and improve economic accounts. While these programs have gone unfunded, the magnitude and scope of the gaps and discrepancies in economic statistics have increased, and the cost and effort needed to fix the problems have only multiplied.

STATE DEPARTMENT

This Committee has been instrumental in getting reforms in the United Nations in exchange for our commitment to pay the back dues we owe the U.N. and its specialized agencies. With the funding of the full amount owed for prior arrears completed in the fiscal year 2000 bill, this issue should be behind us. But here we go again--this bill includes two provisions that create more U.N. arrears instead of honoring our commitment to finally pay our bills.

First, $100 million of our U.N. dues payment is fenced pending a semiannual State Department certification that the U.N. is living within its approved budget. Since the U.S. pays 25% of the U.N. budget in the last quarter of the budget year, delaying payment of over one-third of the U.S. contribution for more than six months deprives the U.N. of sorely needed operating funds and puts the U.S. into further arrears. Second, U.N. Peacekeeping is underfunded by $240 million or 33%, and report language is included that specifically denies funding for U.N. African missions in Sierra Leone, Congo, Angola, Ethiopia/Eritrea, and Western Sahara. Both provisions reduce our leverage at the time when we are trying to lower our U.N. assessment rate and achieve further reforms at the U.N. Both actions will create further arrears at the U.N., reinforcing the image painted by our international adversaries of the U.S. as a deadbeat when it comes to paying U.N. dues.

Refusing to pay for U.N. peacekeeping could also result in much heavier expenses being passed on to the U.S. taxpayers. Problems not dealt with on a multilateral basis are likely to fester and create a level of international instability that can not be ignored and may require the commitment of U.S. troops. Currently U.S. troops are not involved in any of the peacekeeping missions at issue, and the U.S. is responsible for only one quarter of the costs of the U.N. troops from other nations, most of which can be deployed at a fraction of the cost of using U.S. troops. United Nations peacekeeping missions can prevent further bloodshed and reduce tragedies in ares of the world, without the U.S. having to send in troops. However, we do have a responsibility to pay our fair share to the troop-contributing countries. It is ironic that the same Majority party that insisted on reforms in the U.N. is now tying the hands of the State Department in terms of being able to negotiate those very reforms. We can't convince other U.N. members to vote to lower our assessment rate from 25% to 22% (causing their own rates to increase) at the same time that we are going further into arrears by not paying our bills.

Congress is being shortsighted in trying to micromanage U.N. peacekeeping efforts by not approving the payment of bills from already appropriated funds for specific U.N. peacekeeping missions. Report language directs the State Department to `live within the appropriation and to take no action in terms of extending existing missions or creating new missions for which funding is not available.' To comply with this report language, the United States would have to exercise its veto authority for new or expanded peacekeeping missions in the U.N. Security Council based solely on approval of advance notifications to the subcommittee chairman, regardless of the world situation necessitating U.N. peacekeepers. Since the U.S. cannot unilaterally regulate war and peace in the world, it follows that we cannot solely determine whether hostilities in different areas of the world will result in peace agreements requiring U.N. peacekeepers. Funding for U.N. peacekeeping should not be capped at a particular level because one subcommittee chairman thinks that level is enough.

During consideration of this bill at Full Committee, Mr. Dixon offered an amendment (Roll Call No. 4) to restore $241 million for U.N. assessed peacekeeping payments, to the total requested level of $739 million. The amendment, which was rejected by only one vote (26 Yeas to 27 Nays), would also have eliminated report language prohibiting funding for African missions in Sierra Leone, Congo, Angola, Ethiopia/Eritrea, and Western Sahara.

CONCLUSION

This bill can and should be improved in a variety of areas. In addition to programs mentioned above, there are other underfunded or unaddressed needs in this bill in the areas of crime prevention, small business assistance, and the expansion of technological innovations, that are far too numerous to list. But the means to fully address all of the shortfalls in the bill are not available within the Subcommittee's current funding allocation. The Chairman of the Subcommittee has put together a bill that seeks to reflect his own and his party's priorities within the amounts available to him. In many cases, the recommendations made in this bill reflect the priorities of both parties, and we commend the Chairman for that. The fundamental problem is the Majority party's overall budget strategy, which seeks to shrink domestic appropriations in order to finance their agenda of tax cuts targeted to the most well off. This bill is a direct consequence of that budget strategy.

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