Special Report - Senate FY 2012
Commerce, Justice, Science
Appropriations and
California Implications - September 2011

On September 15, 2011, the Senate Appropriations Committee approved its fiscal year 2012 Commerce, Justice, Science and Related Agencies Appropriations bill (S.1572/S.Rpt. 112-78). The vote was 29-1.

For fiscal year 2012, the Committee recommends total discretionary appropriations of $52,701,000,000, along with an additional $135,000,000 in funding for natural disasters, for the Departments of Commerce and Justice, Science, and Related Agencies. This amount is $626,000,000 below the fiscal year 2011 level and $4,969,684,000 below the President’s fiscal year 2012 budget request. The House CJS bill calls for total funding of $50,565,000,000.


OVERVIEW OF POLICY DECISIONS

DEPARTMENT OF COMMERCE

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OVERVIEW OF POLICY DECISIONS

The Committee Report states: “the bill eliminates 30 programs funded in prior years. Personnel and operations funding for the departments, agencies, and commissions funded in this bill are reduced by approximately 2 percent below fiscal year 2011 levels, with the expectation that agencies must become more frugal, and can and should achieve efficiencies in all operations. Funding for grant programs and scientific research is reduced even further.

"These are regrettable reductions that will result in real consequences. For example, in the area of funding for State and local law enforcement, the Committee’s recommendation provides roughly $2,300,000,000, which is more than $470,000,000 below fiscal year 2011, a nearly 17 percent reduction. A funding level of $200,000,000 for the COPS hiring program, which is $47,000,000 below the fiscal year 2011 level, will result in approximately 350 fewer new police officers hired to protect State and local jurisdictions. The critical Byrne Justice Assistance Grant program is funded at $395,000,000, a reduction of $35,000,000 below the fiscal year 2011 level. This level will result in cuts to all State and local components of the criminal justice system, from multijurisdictional drug and gang
task forces to crime prevention and domestic violence programs, courts and prosecution, community corrections, drug prevention and treatment, sex offender management, justice information sharing, and crime victim and witness support initiatives.

"In the area of scientific discovery and development of new technologies, the Committee’s recommendation constitutes an approximately 3 percent reduction to research at NIST and NSF, and to NASA. In past years, the Committee has been able to recommend an annual 7 percent increase in NIST and NSF funding as authorized by the bipartisan America COMPETES Act. Reductions to NSF research will result in 380 fewer grants supporting 4,400 fewer researchers, students, teachers, and technical support personnel.

"The Committee’s recommendation also reduces funding for economic and trade agencies below fiscal year 2011 levels, which will restrict new economic initiatives. For example, the National Export Initiative, which is a worthy plan for doubling U.S. exports by 2015, cannot be funded for the second year in a row because funding for the International Trade Administration is stalled. Economic development grants that help local communities innovate and new business sectors thrive have decreased by 10 percent from 2011.

"The bill fully funds the U.S. Patent and Trademark Office [PTO], which fosters American innovation and job creation by providing protections for ideas and products developed by our entrepreneurs, businesses, and academic institutions. Specifically, the bill gives the agency authority to spend all fees collected from inventors, and supports depositing all fees above the appropriated level into the new Patent and Trademark Fee Reserve Fund as authorized by the landmark America Invents Act.

"For science and basic research at NSF, NIST, and NASA, the bill invests more than $12,000,000,000 to support America’s next generation of scientists, engineers, and entrepreneurs. At NSF, the bill will support more than 225,000 researchers, students, teachers, and technical support personnel."

**DEPARTMENT OF COMMERCE**

The Committee recommends a total of $7,691,667,000 for the Department of Commerce, not including disaster funding. The recommendation is $110,810,000 above the fiscal year 2011 enacted level and $1,110,971,000 below the budget request. The House bill recommends $7.1 billion in discretionary budget authority, a decrease of $464 million below fiscal year 2011, and $1.7 billion below the request.

**International Trade Administration**

The Committee’s recommendation provides $441,104,000 for the International Trade Administration. The recommendation is $9,002,000 below the fiscal year 2011 enacted level and $84,987,000 below the budget request. The House bill recommends $460,106,000 in total resources for the ITA.

**National Export Initiative** – The Committee Report states: “The Committee remains supportive of the National Export Initiative [NEI], but regrettably the overall funding level for fiscal year 2012 does not afford increases to ITA. The Committee directs ITA to move ahead with organizational optimization plans that were submitted as part of the 2012 request. These plans are estimated to reduce costs by $20,200,000, including $8,600,000 of permanent administrative reductions. ITA is directed to use any net savings to enhance the U.S. Foreign Commercial Service for the purposes of advancing export promotion and maintaining a presence in foreign markets.

**Market Access and Compliance** – The Committee recommends $42,623,000 for market access and compliance activities.

**Trade Promotion and the U.S. & Foreign Commercial Service** – The Committee recommends
$255,347,000 for trade promotion and the U.S. & Foreign Commercial Service. The House bill recommends $264,910,000.

**Economic Development Administration**

The Committee recommends $392,166,000 for the programs and administrative expenses of the Economic Development Administration (EDA), which includes disaster assistance. The recommendation is $108,734,000 above the fiscal year 2011 enacted level and $67,235,000 above the budget request. The House bill recommends $257,924,000. The House bill recommends $257,924,000.

**Economic Development Assistance Programs**

The Committee recommends $355,000,000 for Economic Development Assistance programs. The recommendation is $109,492,000 above the fiscal year 2011 level and $70,700,000 above the budget request. The House recommends $257,924,000.

**Trade Adjustment Assistance** – The Committee recommends $15,800,000 for Trade Adjustment Assistance (TAA), the same amount as the House.

**Patent and Trademark Office**

The Committee recommends $2,706,313,000 for the Patent and Trademark Office (PTO).

**National Oceanic and Atmospheric Administration**

The Committee’s recommendation provides $5,022,271,000 for the National Oceanic and Atmospheric Administration. The recommendation is $434,238,000 above the fiscal year 2011 enacted level and $463,463,000 below the budget request. The House bill recommends $4,485,052,000 in discretionary funds for NOAA.

**National Marine Fisheries Service** – The Committee recommends $811,441,000 for the National Marine Fisheries Service (NMFS) operations, research and facilities. The House bill recommends $685,381,000. Within the Committee’s recommendation for fisheries research and management, $28,662,000 is for Salmon Management activities,

**Pacific Salmon Treaty** - Within the amount provided for Salmon Management activities, the Committee provides a total of $9,759,000 to enable the States and tribal communities to move forward on necessary Pacific Salmon Treaty agreements. In addition, the Committee fully supports all other aspects of the budget request for Salmon Management activities that are essential to meeting these treaty obligations.

**Pacific Coastal Salmon Recovery**

The Committee’s recommendation provides $65,000,000 for the Pacific Coastal Salmon Recovery Fund. The recommendation is the same as the budget estimate and the House recommendation. It is $14,840,000 below fiscal year 2011 Funds are for conservation and restoration of Pacific salmon populations. State and local recipients of this funding will provide matching contributions of at least 33 percent of Federal funds. In addition, funds will be available to tribes, which do not require matching dollars.

**DEPARTMENT OF JUSTICE**

The Committee recommends a total of $26,907,016,000 for the Department of Justice. The recommendation is $482,134,000 below the fiscal year 2011 funding level and $1,817,323,000 below the budget request. The House bill recommends $26 billion in discretionary budget authority.
Interagency Law Enforcement - Interagency Crime and Drug Enforcement

The Committee’s recommendation provides $516,962,000 for Interagency Crime and Drug Enforcement. The recommendation is $10,550,000 below the fiscal year 2011 enacted level and $24,004,000 below the budget request. The House bill recommends $527,512,000.

Southwest border – The Committee Report states: “The Committee is concerned about the continuing violence and crime on the Southwest border, and supports the Department’s coordinated approach to addressing illegal narcotics and related criminal activities and violence there. A shrinking Federal budget means no significant expansion of or investment in the OCDETF program on the Southwest border. This will stagnate, but not eliminate, efforts to advance a single, coherent, strategic plan that will provide for escalating enforcement and prosecutorial activities along the Southwest border and in interior regions of the United States affected significantly by Southwest border drug trafficking.”

Office of Justice Programs

The Committee recommends a total of $1,632,370,000 for OJP, which is $286,285,000 below the budget request and $65,510,000 below the fiscal year 2011 enacted level. The Committee Report states: “For fiscal year 2012, the Committee has established a “Research, Evaluation and Statistics” appropriation to replace the “Justice Assistance” appropriation and created a separate Salaries and Expenses appropriation for OJP.

“Six years ago, DOJ was responsible for administering approximately 72 grant accounts. Today, more than 120 grants are administered by the Department. While the intent of these grant programs are noble, the Committee is concerned that the perpetual authorization and proposal for new grants, while not de-authorizing or omitting redundant and archaic ones, has become unmanageable. The Committee directs the Department to work closely with Congress to consider seriously the modification of existing programs and omission of outdated programs before new proposals and initiatives are unveiled. The Committee urges the Department to devise a proposal to consolidate and eliminate ineffective grant programs by outreach to Congress and emphasis on what works and what is cost effective for the taxpayers’ dollars.”

State and Local Law Enforcement Assistance - The Committee’s recommendation provides $1,063,498,000 for State and local law enforcement assistance. The recommendation is $54,347,000 below the fiscal year 2011 enacted level, and $110,002,000 below the budget request. The House recommended $1,047,985,000. The funding includes:

Edward Byrne Memorial Justice Assistance Grant (JAG) program – The recommendation includes $395,000,000 for the Byrne/JAG program. The House recommended: $357,265,000.

State Criminal Alien Assistance Program (SCAAP) - The Committee recommends $273 million for SCAAP. The House bill provides no funding for SCAAP. In 2010, California and its local governments received almost $129 million of the $324 million total SCAAP payments awarded.

Byrne competitive grants – The Committee’s recommendation includes $21,000,000 for competitive, peer-reviewed grants to programs of national significance to prevent crime, improve the administration of justice or assist victims of crime. The House bill provides $15,000,000

Border Prosecution Initiatives – The Committee’s recommendation provides $20,000,000 to assist State and local law enforcement, including prosecutors, probation officers, courts and detention facilities along both the Southwestern and Northern borders involved in the investigation and prosecution of drug and immigration cases referred from Federal arrests.

Juvenile Justice Programs

The Committee’s recommendation provides $251,000,000 for juvenile justice programs. The recommendation is $24,423,000 below the fiscal year 2011 enacted level and $29,000,000 below the
budget request. The House bill provides no funding for this program.

**Community Oriented Policing Services**

The Committee’s recommendation provides $231,500,000 for community oriented policing services. The recommendation is $263,433,000 below the fiscal year 2011 enacted level and $438,000,000 below the budget request. The House bill does not provide funding for this program.

Included in the funding are the following programs:

**COPS Hiring Program** – The Committee recommends $200,000,000 for COPS Hiring grants to help State, local or tribal law enforcement agencies to create and preserve approximately 1,500 police officer positions. Like the Administration’s request, the grants will have an award cap of $125,000 and require grantees to provide a 25 percent local match.

**Training and Technical Assistance** – The Committee’s recommendation provides $10,000,000 within the COPS Hiring Program to provide Training and Technical Assistance to assist agencies with developing innovative community policing strategies through applied research and evaluation initiatives.

**Methamphetamine Hot Spots** – The Committee’s recommendation includes a $10,000,000 transfer 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. The House bill recommends $15 million for anti-methamphetamine-related activities.

**SCIENCE**

**Office of Science and Technology Policy**

The Committee’s recommendation provides $6,000,000. The recommendation is $647,000 below the fiscal year 2011 enacted level and $650,000 less than the budget request. The House bill recommends $3 million.

**National Aeronautics and Space Administration**

The Committee’s recommendation provides $17,938,773,000 for the National Aeronautics and Space Administration. The recommendation is $509,255,000 below the fiscal year 2011 enacted level and $785,527,000 below the budget request. The House recommendation is $16,810,257,000.

**Science** – The Committee recommends $5,100,000,000 for Science. The FY11 amount was $4,935,409,000 and the President’s Request was $5,016,800,000. The House recommendation is $4,504,000,000.

**Exploration**

The Committee proposes $3,775,000,000 in funding for the Exploration account, compared to the 2011 appropriations of $3,800,683,000 and the President's request of $3,948,700,000.

Included in that funding are the following:

**Orion Crew Exploration Vehicle** – The Committee provides $1,200,000,000 for an Orion crew exploration vehicle that will enable human transportation beyond low Earth orbit. The report states: "The vehicle shall be capable of being launched on the heavy lift launch vehicle and may also provide alternative access to low Earth orbit, including the ISS by fiscal year 2014, using fixed price contracts for components wherever possible. The program shall be managed under a strict cost cap of $5,500,000,000 through fiscal year 2017. Within 60 days of enactment, NASA shall report to the Committee on planned milestones, expected performance and configurations, planned testing program, and deliverables for the crew exploration vehicle program, along with any suggestions for streamlining oversight. As part of this report, NASA shall evaluate the preceding cost cap and validate the cap or provide a viable and validated alternative."
Commercial Crew -- The Committee recommends $500,000,000 for commercial crew activities, the same as the authorized level. Of the amount included for commercial crew development activities, $307,400,000 shall be available on October 1, 2011. This amount is equal to the fiscal year 2011 level for commercial crew development. An additional $192,600,000 of commercial crew funding will become available after the NASA Administrator has certified, in writing, that NASA has: (1) published the notifications to implement acquisition strategy for the heavy lift launch vehicle system, also known as the space launch system [SLS] and (2) begun to execute relevant contract actions in support of development of SLS.

The Committee report goes on to state: "This certification may not be delegated and will assure the Committee that NASA is committed to all elements of the balanced human spaceflight program authorized in Public Law 111–267. The Committee understands that NASA will be providing more information on the acquisition strategy for SLS in the coming weeks.

"Currently, NASA lacks one consolidated set of requirements for crew safety. Within this funding, NASA shall develop and make available to the public detailed human rating processes and requirements to guide the design of all crew transportation capabilities. These requirements shall be at least equivalent to requirements for crew transportation currently in use, as well as any relevant recommendations of the Columbia Accident Investigation Board, and shall apply to all NASA-funded vehicles that carry humans, both commercial and Government-owned.

"The Committee is pleased by NASA’s commitment to hold commercially developed launch vehicles to be used to carry out NASA missions to the same safety standards as Government-developed launch vehicles. The Committee encourages NASA to develop plans to fully utilize NASA-owned rocket testing infrastructure for commercially developed launch vehicles to ensure that these vehicles are tested in the same manner as Government-developed launch vehicles.

"NASA Policy Directive 1050.1I states that funded Space Act Agreements may be used only when the Agency’s objective cannot be accomplished through the use of a procurement contract, grant, or cooperative agreement. The Committee believes that the current practice by NASA has gone beyond what is cited under NASA’s own policy directive. Such misuse of these authorities undermines the oversight of NASA in the procurement process and threatens crew safety. For future rounds of commercial crew competitions and acquisitions, NASA shall limit the use of funded Space Act Agreements as stated in the directive in order to preserve critical NASA oversight of Federal funds provided for spacecraft and launch vehicle development."

Education – The Committee provides $138,400,000 for Education, which is $7,108,000 below the fiscal year 2011 level and equal to the President’s request. The Education account funds science, technology, engineering, and mathematics [STEM] education activities.

Construction and Environmental Compliance and Restoration –

The Committee recommends $422,000,000 for CECR. The FY11 funding was $393,511,000 and the Budget request for FY12 was $450,400,000. The House recommendation is $424,000,000.

Hangar One – The Committee Report states: “Due to concerns raised in a June 2011 NASA inspector general report, the Committee does not provide the requested funding for the re-siding of Hangar One at Moffett Field, California.”

Funding for Construction -- The Report states: "NASA continues to request funds for construction of facilities within both the Space Operations and the Exploration accounts. For fiscal year 2012, the Committee has granted NASA authority to transfer funds for construction into the Construction and Environmental Restoration Account. For fiscal year 2013 and beyond, NASA should not request construction funds in its other accounts. The fiscal year 2013 budget should clearly identify any construction requests related to the 21st Century Launch Complex, the Orion Multipurpose Crew Vehicle, and the heavy lift launch vehicle system, including related ground and mission operations and test facility construction projects."
National Science Foundation

The Committee’s recommendation provides $6,698,095,000 for the National Science Foundation. The recommendation is $161,772,000 below the fiscal year 2011 enacted level and $1,068,905,000 below the budget request. The House recommends $6.9 billion

Research and Related Activities

The Committee’s recommendation provides $5,443,000,000. The recommendation is $120,875,000 below the fiscal year 2011 enacted level and $810,540,000 below the budget request. The House recommends $5,606,964,000.

Education and Human Resources

The Committee’s recommendation provides $829,000,000. The recommendation is $32,034,000 below the fiscal year 2011 enacted level and $82,200,000 below the budget request. The House recommends $835,000,000.

Marine Mammal Commission

The Committee recommendation provides $3,025,000. The recommendation is $218,000 below the fiscal year 2011 enacted level and is the same as the budget request.

Independent Report – The Committee Report states: “The Committee appreciates the Marine Mammal Commission’s willingness to assess the 2011 statistical analysis prepared by the National Park Service [NPS] regarding the potential displacement of breeding and pupping harbor seals by shellfish aquaculture at Point Reyes National Seashore. As part of this on-going review, the Committee urges the Commission to thoroughly examine the reviews and analyses prepared by other statisticians on the NPS study to ensure a comprehensive assessment of all viewpoints. This should include a response to criticisms that the study: (1) should not have used data points for 1982–1983; (2) did not account fully for the impact of an aggressive elephant seal in the Double Point area on 2003 and 2004 harbor seal populations in Drake’s Estero; and (3) did not accurately interpret aerial photographs and public health records when converting oyster harvest records to high/low values for further analysis. It also should include an analysis of the study’s statistical significance if the 1982–1983 and/or 2003–2004 data are removed.”

For the text of the bill and other documents, go to: http://appropriations.senate.gov or http://thomas.loc.gov/home/approp/app12.html.