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SPECIAL REPORT: **Homeland Security Appropriations for FY 2004 (House Version), California Implications -- August 14, 2003**

By a vote of 425 to 2 on June 24, 2003, the House of Representatives passed a \$30.4 billion House version of the FY 2004 Appropriations bill for the Department of Homeland Security, after it was approved by the House Appropriations Committee on June 17, 2003. The House Committee report accompanying the bill is H.Rpt. 108-69. (On July 24, 2003, the Senate passed H.R. 2555, a \$29.4 billion version of the bill by a vote of 93-1. The report is S.Rpt. 108-86. Previously, by a vote of 29 to 0, the Senate Appropriations Committee marked up and passed their version of the bill on July 10, 2003.)

The following represents 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/corrections. The ordering of items generally reflects their presence in the bill and does not mean to imply any relative importance.

This appropriations analysis is available on the California Institute web site at <http://www.calinst.org/pubs/hs04h.htm> , and a printable version in Adobe Acrobat ("pdf") format is available at <http://www.calinst.org/pubs/hs04h.pdf> . An analysis of the Senate version of the FY 2004 homeland security funding bill is available at <http://www.calinst.org/pubs/hs04s.htm> , and a pdf format version is available at <http://www.calinst.org/pubs/hs04s.pdf>.

FY 2004 HOUSE DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS

On Tuesday, June 24, 2003, the House passed H.R. 2555 making FY04 appropriations for the Department of Homeland Security. The \$30.4 billion bill (\$29.4 in discretionary funding; \$1 billion in mandatory) is the first appropriation bill for the new Department created in November 2002. The bill passed by a vote of 425-2. Many Democrats, however, argued that the funding level was insufficient to fully satisfy homeland security needs, and Appropriations Ranking Member David Obey (WI) tried unsuccessfully to include an additional \$1 billion for port, aviation, and border security. In addition to the \$30.4 billion appropriated, the bill also allows the Department to use \$4.8 billion in immigration and passenger screening user fees, raising the total programmatic funding for the Department to approximately \$35 billion, about \$1 billion more than requested by the Administration. The funding is also approximately \$666,749,000 above fiscal year 2003 enacted levels.

OFFICE FOR DOMESTIC PREPAREDNESS -- FIRST RESPONDERS

The bill provides \$4.446 billion for first responders, including:

- \$1.9 billion for formula grants to state and local governments. The bill retains the small-state minimum that adversely impacts California's share of the funding. *See, Bulletin, Vol. 10, Nos. 11 (4/25/03), 12 (5/2/03), 17 (6/12/03), and 18 (6/19/03).* The Committee Report states that no less than 80 percent of these funds must be passed on by the State to local units of government and that none of the funds may be used for construction or overtime.

- \$510 million for state and local law enforcement terrorism prevention grants;
- \$500 million for grants to high-threat, high-density urban areas; and
- \$200 million for critical infrastructure grants;
- \$760 million for firefighter assistance grants that would not have to be used specifically for homeland security purposes; and
- \$168 million for Emergency Management Performance Grants; and
- \$125,000,000 for the National Domestic Preparedness Consortium, of which \$45,000,000 is for the Center for Domestic Preparedness. ODP identifies, develops, tests, and delivers training to State and local emergency responders via the National Domestic Preparedness Consortium.

These figures include an additional \$10 million each for the terrorism prevention grants and the firefighters assistance grants added by a floor amendment offered by Rep. Lee Terry (NE). The amendment was adopted by voice vote, and reduced funding for the Transportation Security Agency by \$20 million to offset the increased grant funding.

(Only 60 percent of the ODP grant funds are allocated on a per capita basis – 40 percent of the funds are divided equally among states, regardless of size. Thus, although California houses more than 12 percent of the nation's population, the state received less than 8 percent of ODP state and local grant funds allocated by this formula.)

EMERGENCY PREPAREDNESS AND RESPONSE

The Committee recommends \$363,339,000 for preparedness, mitigation, response and recovery activities, an increase of \$200,339,000 from the budget request.

Pre-Disaster Mitigation Fund

The Committee also recommends \$180,000,000 for the Pre-Disaster Mitigation Fund, a decrease of \$100,000,000 from the budget request. The Committee directs the Emergency Preparedness and Response Directorate to provide at least \$250,000 per year to each State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. The Committee also recommends \$20,000,000 for the National Flood Mitigation Fund, to be derived by transfer from the National Flood Insurance Program.

The Committee recommends \$1,800,000,000, a decrease of \$156,000,000 from the budget request, in Disaster Relief funding. Of this amount, up to \$22,000,000 shall be transferred to the Office of Inspector General. The Report states that: "The Committee takes this reduction to the budget request without prejudice, and expects to fully fund all disaster relief expenses in fiscal year 2004."

Post-Disaster Mitigation

The Committee Report states that: "The budget request included a proposal to discontinue the section 404 post-disaster hazard mitigation grants program, and rely solely on a competitive pre-disaster mitigation grant program for mitigation activities. The Committee maintains that the section 404 postdisaster hazard mitigation grant program is an effective mechanism to ensure mitigation activities are undertaken when the need is most apparent, which is immediately after a

disaster strikes. When used in conjunction with the pre-disaster mitigation grant program, a comprehensive mitigation strategy can be accomplished. The Committee therefore continues the post-disaster hazard mitigation grant program, and recommends that the set-aside remain at 7.5 percent.”

Stafford Loans

\$25 million is funded for disaster assistance loans under the Stafford Act.

Mitigation of Fire Hazards

The Committee Report urges the Emergency Preparedness and Response Directorate to continue to work with the State of California Office of Emergency Services to eliminate an extremely dangerous forest fire condition around the San Bernardino National Forest caused by drought and bark beetle infestation.

BIODEFENSE COUNTERMEASURES

The Committee recommends advance appropriations of \$5.593 billion for biodefense countermeasures, with a limitation of \$890,000,000 for fiscal year 2004 obligations. The Committee report states that: “The Committee believes that by providing these funds in an advance appropriation, a market place is created for those manufacturers who would otherwise not undertake the lengthy and expensive process to produce needed countermeasures as identified by the Secretary.”

TRANSPORTATION SECURITY ADMINISTRATION

The Committee provides a total of \$5,172,000,000 for the Transportation Security Administration, \$359,700,000 above the budget request, including:

- \$100 million for port security grants; The Coast Guard has estimated, however, that there are approximately \$1 billion in security requirements currently identified as necessary in the near term, and over \$4.4 billion over a 10-year period, according to the Committee report.
- \$335 million for the procurement and installation of explosive detection systems;
- \$50 million for air cargo security, including \$30 million for state-of-the-art detection technologies; and
- \$10 million for intercity bus security.

Airport Security Direction and Enforcement

The Committee Report provides a total of \$160,000,000 for state and local enforcement activities instead of \$225,000,000 as requested. Funding under this line item is used to reimburse state and local law enforcement officers at checkpoints, when necessary. The report states that the funding reduction reflects a change in policy where airports are no longer required to have an enforcement presence at every checkpoint at all times. This policy change occurred after the Administration’s budget was submitted.

Maritime and Land Security

The Committee recommends \$231,700,000 for maritime and land transportation security, an increase of \$146,200,000 above the President’s request.

BUREAU OF CUSTOMS AND BORDER PROTECTION

The Bureau of Customs and Border Protection (CBP) consolidates the inspection, trade, and revenue functions of the U.S. Customs Service, the inspection, Border Patrol, intelligence and

related functions of the Immigration and Naturalization Service, and the inspection functions of the Agriculture Quarantine and Inspection program, formerly part of the Animal and Plant Health Inspection Service.

The bill provides a total of \$5.081 billion, including \$493.727 million for Automation Modernization, and \$129 million for continuing efforts to develop and deploy inspection technologies. \$61.75 million is also included to continue and expand the Container Security Initiative (CSI). CSI was initiated in January 2002 to pre-screen cargo containers at foreign ports of origin or transit rather than wait for these goods to arrive in U.S. ports for inspection. When combined with the \$60 million previously appropriated for this program, the Committee expects the program to expand to include a total of 30 mega-ports and strategically important ports worldwide.

REIMBURSEMENT FOR EMERGENCY ALIEN MEDICAL CARE

The Committee report states: "The 2003 Omnibus Appropriations Act conferees directed the INS to provide reimbursement to hospitals in Arizona for emergency services to illegal immigrants injured as a result of interaction with the Border Patrol.... It also directed the INS, in coordination with the Department of Health and Human Services, to report by July 1, 2003, with recommendations to address this issue. The Committee recognizes the problem faced by the States and local governments in providing such emergency health care, often at financially strapped facilities, with little or no chance of reimbursement. The Committee expects the forthcoming July 1 report to detail the steps DHS has taken to satisfy the conference report direction, and its policy for handling the need for medical treatment for illegal aliens in fiscal year 2004."

BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT

The Committee recommends \$2,996,816,000, \$33,000,000 below the President's request, for the Bureau of Immigration and Customs Enforcement. ICE has the lead responsibility for enforcing immigration and customs laws in the United States, as well as investigation into fraud, forced labor, trade agreement noncompliance, moneylaundering, smuggling and illegal transshipment, export control enforcement, vehicle and cargo theft. Of the funding provided, \$350 million is allocated for the US VISIT information technology and infrastructure program, and \$175 million for the Air and Marine Interdiction Program. The US Visitor and Immigrant Status Indicator Technology (US VISIT) project will track the entry and exit of all non-immigrant travelers.

The Committee Report also expresses concern over the deleterious impact on the U.S. economy caused by intellectual property theft. To determine how the new Department is dealing with this problem, the Committee directs the Under Secretary for Border and Transportation Security to report, not later than September 1, 2003, on the number of personnel exclusively assigned to IPR enforcement; their deployment; and information about numbers and value of seizures. The report should also include a 5-year plan showing budget, personnel and milestones associated with this effort at both CBP and ICE.

U.S. COAST GUARD

The bill provides a total of \$6.681 billion for the U.S. Coast Guard, including \$1.3 billion for national security related activities, and \$530 million for the Integrated Deepwater Systems program. In addition, the Committee recommends \$134 million for Rescue 21.

Vessel Traffic Safety Fairway, Santa Barbara/San Francisco

The Committee Report states: “The bill continues language that would prohibit the use of funds to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara traffic separation scheme and the San Francisco traffic separation scheme. On April 27, 1989, the Department of Transportation published a notice of proposed rulemaking that would narrow the originally proposed five-mile-wide fairway to two one-mile-wide fairways separated by a two-mile-wide area where offshore oil rigs could be built if Lease Sale 119 goes forward. Under this revised proposal, vessels would be routed in close proximity to oil rigs because the two-mile-wide non-fairway corridor could contain drilling rigs at the edge of the fairways. The Committee is concerned that this rule, if implemented, could increase the threat of offshore oil accidents off the California coast. Accordingly, the bill continues the language of previous appropriations bills prohibiting the implementation of this regulation.”

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

The Committee includes a total of \$776 million for Information Analysis and Infrastructure Protection, and \$900 million for Science and Technology. Included in the amounts for Science and Technology are \$80 million for the Rapid Prototyping Program; \$35 million for University and Fellowship Programs, including university-based centers of excellence; and \$60 million for the research, development, testing and evaluation of an antimissile device for commercial aircraft.

CITIZENSHIP AND IMMIGRATION SERVICES

The bill provides \$248.5 million in direct appropriations for the Bureau of Citizenship and Immigration Services, an increase of \$13.5 million over the Administration’s request. An additional \$1.6 billion for Bureau operations is available through immigration user fees.