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107TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT 107–189

REPORT ON THE OPERATIONS OF THE STATE JUSTICE INSTITUTE

AUGUST 2, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 2048]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2048) to require a report on the operations of the State Justice Institute, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 2048 is to require the Attorney General, in consultation with the State Justice Institute ("SJI" or "the Institute"), to submit a report to the House and Senate Committees on the Judiciary regarding the effectiveness of the Institute in fulfilling its missions, which include providing funds to improve the quality of justice in State courts, facilitating enhanced coordination

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between State and Federal courts, and developing solutions to common problems faced by all courts. The report would be done in consultation with SJI, and would be due not later than October 1, 2002.

BACKGROUND AND NEED FOR THE LEGISLATION

Congress created SJI in 1984.[1] Since becoming operational in 1987, the Institute has awarded more than $125 million in grants to support over 1,000 projects. Another $40 million in matching requirements has been generated from other public and private funding sources.

OPERATIONS OF THE INSTITUTE

The Institute operates according to the following relevant sections of title 42 of the U.S. Code:

(1) *§ 10702. Establishment and Duties.* Congress established SJI as a private nonprofit corporation. Its stated purpose is to further the development and adoption of improved judicial administration in State courts. SJI is to accomplish this goal by providing funds to State courts and other national organizations or nonprofits which support State courts. SJI also fosters coordination and cooperation with the Federal judiciary in areas of mutual concern. The Institute may not duplicate the work or functions of existing nonprofit organizations.

(2) *§ 10703. Board of Directors*. An 11-person (voting) Board of Directors supervises SJI. The Board is comprised of six judges, a State court administrator, and four members from the public sector, no more than two of whom shall be members of the same political party. The President appoints the Board with the advice and consent of the Senate. Board members serve 3-year terms. The chief responsibility of the Board is to develop policy and funding priorities for SJI. Board members serve without compensation.

(3) *§ 10704. Officers and Employees.* The Board appoints a Director to supervise the administration of SJI. The Director is empowered to hire and fire staff. SJI currently employs 19 individuals.

(4) *§ 10705. Grants and Contracts.* The Institute awards grants and enters into cooperative agreements or contracts to conduct research, demonstrations, or special projects that enhance the operation of State courts and that provide technical assistance and training in support of these activities. SJI functions as a national clearinghouse for information related to the operations of State courts. Section 10705 imposes a statutory duty on the Institute to monitor and evaluate any program supported by SJI funds.

(5) *§ 10706. Restrictions on Certain Activities.* The Institute may not use funds to support any program that advocates particular nonjudicial public policies or encourages nonjudicial political activities.

[1] Pub. L. No. 98–620, 42 U.S.C. § 10701, *et seq.*

(6) *§ 10710. Records and Reports.* The Institute is authorized to require all grant recipients to maintain records associated with the awarding of grants. Records developed by SJI which evaluate grant recipients are to remain on file for inspection by the public for 5 years.

(7) *§ 10711. Audits.* SJI is audited annually. The resulting report is filed with the General Accounting Office.

(8) *§ 10712. Report by Attorney General.* The Attorney General was required to submit a report evaluating the effectiveness of SJI on October 1, 1987 *(infra)*.

THE 1987 ATTORNEY GENERAL REPORT

Section 10712 of the original authorizing legislation, which took effect on October 1, 1985, required the Attorney General to submit a report governing the effectiveness of SJI operations by October 1, 1987, to the House and Senate Committees on the Judiciary. (In fact, H.R. 2048 simply amends § 10712 by changing the reporting date to October 1, 2002.) Since SJI did not become operational until fiscal year 1987, however, the report submitted by former Attorney General Meese is of limited value in assessing the operations of the Institute.

Still, the report praised SJI start-up activities in the following summation: "Although the Institute has only recently begun implementation of its program, much has been accomplished since it began operation. The Institute has made diligent efforts to develop and implement effective policies, procedures, and guidelines. . . ."[2] With regard to oversight, the report also noted that the Institute had established ". . . an effective system of internal control by developing procedures and guidelines for its staff and grantees that ensure its resources are protected against fraud, waste, abuse, and mismanagement."[3] The report concluded by noting that a full assessment of SJI activities could not be made until grants had been awarded and other program activities implemented.[4]

MAY 3, 2001, COMMITTEE STAFF MEETING WITH SJI OFFICIALS

Majority and minority Committee staff, including the former Chief Oversight Counsel, met with the Director of SJI and his Deputy on May 3, 2001. The purpose of the meeting was to educate staff about SJI operations.

Topics broached during the meeting include the following:

(1) SJI officials stated that other State-based legal entities receive Federal funding, citing programs that assist the Legal Services Corporation, State prosecutors, and the police (COPS).

(2) State court judges and other advocates have historically been weak at lobbying for resources, especially at the Federal level from the Department of Justice. Most of the resources they receive at the State level are devoted for per-

[2] REPORT OF THE ATT'Y GEN. TO THE HOUSE AND SENATE COMMITTEES ON THE JUDICIARY REGARDING THE EFFECTIVENESS OF THE STATE JUSTICE INSTITUTE at 2 (Oct. 1, 1987).
[3] *Id.* at 7.
[4] *Id.* at 11.

sonnel and courthouse construction and maintenance, not the educational programs that SJI provides.

(3) About one-third of all SJI grants are devoted to educating State judges on how to improve the operations of their courts. The remaining grants are devoted to technology projects, such as systems to improve record-keeping, document-imaging, etc.

(4) Each State has at least one library that functions as a repository for SJI products.

(5) As noted, the authorizing statute provides for regular audits of SJI. In addition, the Institute conducts its own oversight of grantees. The practice of allowing a grantee to draw money for a project only on a monthly or quarterly basis allows SJI to cancel mismanaged projects.

RELATION OF H.R. 2048 TO SJI REAUTHORIZATION

Congress last enacted an SJI authorization bill in 1992 for a 4-year authorization that expired in fiscal year 1996.[5] During the past 9 years, the appropriators have normally allocated roughly $7 million in funding for the Institute. Consistent with this practice, the most recent House mark contains $6,835,000 in funding for SJI operations in Fiscal Year 2002.[6]

House appropriations staff have stated a preference that the Judiciary Committee move a study bill such as H.R. 2048 in advance of (not in tandem with) authorizing legislation. The request is logical, since the Attorney General's report might contain recommendations that will later assist the Committee in drafting an authorization.

Proceeding first with the study is consistent with the Chairman's directive to conduct vigorous Committee oversight. Any recommendations set forth in the study, once completed, will better inform the drafting of authorizing legislation, which dovetails with the Chairman's desire that the Committee remain vigilant in asserting its subject matter jurisdiction.

HEARINGS

No hearings were held on H.R. 2048.

COMMITTEE CONSIDERATION

The Subcommittee on Courts, the Internet, and Intellectual Property did not conduct a markup of H.R. 2048. On July 24, 2001, the Committee met in open session and ordered favorably reported the bill H.R. 2048 without amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 2048.

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[5] Pub. L. No. 102–572, title VIII, § 801, Oct. 29, 1992.

[6] H.R. 2500, 107th Cong., 1st Sess. (2001). *See also* H.R. Rep. No. 139, 107th Cong., 1st Sess. 134 (2001).

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules on the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 2048 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2048, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 2001.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2048, a bill to require a report on the operations of the State Justice Institute.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers Jr.
Ranking Member

H.R. 2048—A bill to require a report on the operations of the State Justice Institute

H.R. 2048 would require the Attorney General to submit a report on the effectiveness of the State Justice Institute to the Committees on the Judiciary of the Senate and the House of Representatives by October 1, 2002. Based on information from the Department of Justice, CBO estimates that it would cost the agency less than $500,000 in fiscal year 2002 to write and distribute the report. Because this bill would not affect direct spending or receipts,

pay-as-you-go procedures would not apply. H.R. 2048 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Lanette J. Walker, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

SEC. 1. REPORT BY ATTORNEY GENERAL ON STATE JUSTICE INSTITUTE

Section 1 amends § 213 of the State Justice Institute Act of 1984 by requiring the Attorney General, in consultation with the Institute, to submit a report to the House and Senate Committees on the Judiciary regarding the effectiveness of the Institute in fulfilling its missions, which include providing funds to improve the quality of justice in State courts, facilitating enhanced coordination between State and Federal courts, and developing solutions to common problems faced by all courts. The report would be done in consultation with SJI, and would be due not later than October 1, 2002.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 213 OF THE STATE JUSTICE INSTITUTE ACT OF 1984

REPORT BY ATTORNEY GENERAL

SEC. 213. [On October 1, 1987] *Not later than October 1, 2002*, the Attorney General, in consultation with the Federal Judicial Center, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the effectiveness of the Institute in carrying out the duties specified in section 203(b). Such report shall include an assessment of the cost effectiveness of the program as a whole and, to the extent practicable, of individual grants, an assessment of whether the restrictions and limitations specified in sections 207 and 208 have been respected, and such recommendations as the Attorney General, in consultation with the Federal Judicial Center, deems appropriate.

MARKUP TRANSCRIPT

BUSINESS MEETING

TUESDAY, JULY 24, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

Now, pursuant to notice, I call up the bill H.R. 2048, a bill to require a report on the operations of the State Justice Institute for purposes of markup.

[The bill, H.R. 2048, follows:]

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107TH CONGRESS
1ST SESSION

H. R. 2048

To require a report on the operations of the State Justice Institute.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2001

Mr. COBLE introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To require a report on the operations of the State Justice Institute.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORT BY ATTORNEY GENERAL ON STATE JUSTICE INSTITUTE.

Section 213 of the State Justice Institute Act of 1984 (42 U.S.C. 10712) is amended by striking "On October 1, 1987" and inserting "Not later than October 1, 2002".

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Chairman SENSENBRENNER. The Chair recognizes the gentleman from California, Mr. Coble, to move its recommendation to the full House and to insert his statement in the record.

Mr. COBLE. Mr. Chairman, that's the gentleman from North Carolina. The other Howard is from California.

Chairman SENSENBRENNER. Okay.

Mr. COBLE. You inadvertently said California.

Chairman SENSENBRENNER. I'm sorry.

Mr. COBLE. That's okay.

Mr. Chairman, as you pointed out, this bill I think will generate very little extended dialogue. The Congress established the State Justice Institute as a private, nonprofit corporation——

Chairman SENSENBRENNER. Can the gentleman put his statement in the record, so we can get all of your bills done——

Mr. COBLE. If we all promise to read it.

Chairman SENSENBRENNER [continuing]. The PTO bill.

Mr. COBLE. I will indeed.

[The prepared statement of Mr. Coble follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD COBLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, Congress established the State Justice Institute as a private nonprofit corporation in 1984. Its stated purpose is to further the development and adoption of improved judicial administration in state courts. SJI is to accomplish this goal by providing funds to state courts and other national organizations or nonprofits which support state courts. SJI also fosters coordination and cooperation with the federal judiciary in areas of mutual concern. Since becoming operational in 1987, the Institute has awarded more than $125 million in grants to support over 1,000 projects.

The 1984 legislation which created the Institute required the Attorney General to submit a report governing the effectiveness of SJI operations by October 1, 1987, to the House and Senate Committees on the Judiciary. Since SJI did not become operational until fiscal year 1987, however, the report submitted by former Attorney General Meese is of limited value in assessing the operations of the Institute.

H.R. 2048 simply changes the due date for a report that will be identical in scope to the 1987 study. Unlike the previous effort, however, the study that will emanate from H.R. 2048 will be based on at least 14 years worth of operations at the Institute. As a result, Congress should have the first real, comprehensive evaluation of the effectiveness of SJI by October 1, 2002.

Mr. Chairman, this is a noncontroversial bill that promotes good government. While I am impressed with SJI operations to date, all federal entities should be accountable to the taxpayers. I therefore urge my colleagues to support this legislation.

I thank the Chairman, and I yield back the balance of my time.

Chairman SENSENBRENNER. Without objection, all Members may put statements in the record.

Chairman SENSENBRENNER. Does the gentleman from California wish to say anything in addition?

Mr. BERMAN. Yes, I wish to put my statement in the record in support of this excellent legislation.

[The prepared statement of Mr. Berman follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD L. BERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman,

Thank you for agreeing to markup H.R. 2048 today.

I believe my colleagues should support H.R 2048.

H.R. 2048 requires the Attorney General, in consultation with the SJI, to submit a report to the House and Senate Judiciary Committees regarding effectiveness of the SJI. The report would be due no later than October 1, 2002.

The SJI appears to be a useful project. Congress created the SJI in 1984 to provide funds to improve the quality of justice in state courts. Congress also directed the SJI to facilitate enhanced coordination between state and federal courts, and develop solutions to common problems faced by all courts.

The ultimate purpose of the SJI report mandated by H.R. 2048 is to aid Congress in deciding whether to reauthorize the SJI. The SJI was last re-authorized in 1992, and that authorization expired in fiscal year 1996. While the Appropriations Com-

mittees have continued to appropriate approximately $7 million annually for the SJI, it is the responsibility of this Committee to reauthorize the SJI if it sees fit.

The Attorney General issued a study of SJI's effectiveness in 1987, but this report provides little useful information as the SJI did not become operational until 1987. Thus, a new report should help inform our decision on reauthorization of the SJI.

In short, H.R. 2048 is a good bill, and I ask my colleagues to vote in favor of it.

I yield back the balance of my time.

Chairman SENSENBRENNER. Okay. Are there amendments to the bill?

There are no amendments.

A reporting quorum is present. The question occurs on the motion to report the bill H.R. 2048 favorably.

All in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the bill is favorably reported.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules.

Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by House rules, in which to submit additional dissenting minority or supplemental views.

○