

# CRS Report for Congress

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## Appropriations for FY2001: Commerce, Justice, and State, the Judiciary, and Related Agencies

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## **ABSTRACT**

Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bounded by the rules of the House and Senate, the Congressional Budget and Impoundment Control Act of 1974 (as amended), the Budget Enforcement Act of 1990, and current program authorizations.

This report is a guide to one of the 13 regular appropriations bills that Congress passes each year. It is designed to supplement the information provided by the House and Senate Appropriations Subcommittees on the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies. It summarizes the current legislative status of the bill, its scope, major issues, funding levels, and related legislative activity. The report lists the key CRS staff relevant to the issues covered and related CRS products.

This report is updated as soon as possible after major legislative developments, especially following legislative action in the committees and on the floor of the House and Senate.

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# Appropriations for FY2001: Commerce, Justice, and State, the Judiciary, and Related Agencies

## Summary

This report tracks action by the 106th Congress on FY2001 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and other related agencies (often referred to as CJS appropriations). P.L. 106-113 (H.R. 3421, Division B of H.R. 3194, Section 1000 (a)) appropriated \$39.6 billion for these agencies for FY2000. The President's FY2001 budget requests about \$39.6 billion for these agencies, about a \$51 million increase or 0.1 % above the FY2000 total. On June 14, 2000, the House Appropriations Committee approved its version of the CJS appropriations bill (H.R. 4690, H.Rept. 106-680). It recommended funding totaling \$37.4 billion—\$2.2 billion below the President's request and about \$2.2 billion below the FY2000 appropriation. The House passed the bill on June 26, approved the same overall funding total recommended by the Committee. On July 18, 2000, the Senate Appropriations Committee approved its version of the bill (H.R. 4690, S. Rept. 106-404). It approved total funding of \$36.7 billion which is about \$700 million below the House version and about \$2.9 billion below both the President's request and the actual FY2000 appropriation. The bill is awaiting floor action in the Senate.

The major CJS appropriations issues or concerns that are receiving attention in both the Senate and the House include the following.

*Department of Justice:* building more prisons, extending the 1994 Crime Act funding authorization beyond September 30, 2000; increasing funding for drug-related efforts among the Department of Justice (DOJ) agencies; increasing funding for community law enforcement; combating cybercrime; changing the focus and levels of appropriations for DOJ's Office of Juvenile Justice and Delinquency Prevention; providing funding for programs that would reduce gun and youth violence; reducing pending caseloads in immigration-related claims, particularly green card and naturalization applications; meeting the statutory mandate that the Border Patrol be increased by 1,000 agents in FY2001, and accounting for the shortfall in hiring in FY1999; determining the level of detention capacity necessary to comply with the statutory mandate that certain criminal aliens be detained until deported; and restructuring INS internally as proposed by the Administration or dismantling or restructuring the agency by legislation. *Department of Commerce:* the progress made in streamlining and downsizing Department programs; implementation of the decennial census including followup operations; federal financial support of industrial technology development programs; monitoring foreign compliance with trade agreements and U.S. trade laws; and implementing new White House environmental initiatives at the National Oceanic and Atmospheric Administration. *Department of State:* improving embassy security through a doubling of funding as well as a request for an advance appropriation to cover the period FY2002 to FY2005. *The Judiciary:* level of funding required for court staff and defender services in the lower courts, and whether the salaries of judges and justices should receive a cost-of-living increase. *Other Related Agencies:* adequacy of funding levels for the Legal Services Corporation, and the Equal Employment Opportunity Commission, given a rapidly growing workload of civil rights cases.

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Division abbreviations: A = American Law; G&F = Government and Finance; RSI = Resources; Science, and Industry Division, DSP = Domestic Social Policy Division; FTD = Foreign Affairs, Defense, and Trade.

## Contents

Most Recent Developments .....	1
Introduction and Overview .....	1
Government Performance Results Act (GPRA) Requirements .....	2
Brief Survey of Major Issues .....	3
Status .....	5
Background .....	6
Department of Justice and Related Agencies .....	6
Department of Commerce .....	7
The Judiciary .....	9
Department of State and Related Agencies .....	10
Other Related Agencies .....	11
Major Legislative and Policy Issues .....	12
Department of Justice .....	13
Department of Commerce .....	23
The Judiciary .....	33
Department of State and Related Agencies .....	40
Other Related Agencies .....	43
Maritime Administration (MARAD) .....	43
Census Monitoring Board .....	44
The Small Business Administration (SBA) .....	44
Legal Services Corporation (LSC) .....	45
Equal Employment Opportunity Commission (EEOC) .....	46
Commission on Civil Rights .....	46
Federal Communications Commission (FCC) .....	46
Federal Maritime Commission (FMC) .....	49
The Federal Trade Commission (FTC) .....	49
Securities and Exchange Commission (SEC) .....	49
The State Justice Institute .....	50
Office of the U.S. Trade Representative (USTR) .....	51
U.S. International Trade Commission (ITC) .....	51
U.S. Commission on International Religious Freedom .....	51
Compliance with GPRA Requirements .....	51
Major Funding Trends .....	53
Current Funding Status .....	53
Related Legislative Action .....	55
Department of Justice and Related Agencies .....	55
Department of Commerce .....	56
The Judiciary .....	57
Department of State .....	58

Department of Justice .....	59
Other Related Agencies .....	69
For Additional Reading .....	69
Department of Justice .....	69
Department of Commerce .....	70
The Judiciary .....	71
Department of State .....	72
Other Related Agencies .....	72
Selected World Wide Web Sites .....	72
Appendix .....	74

## List of Tables

Table 1. Status of CJS Appropriations, FY2001 .....	5
Table 2. Funding Trends for Departments of Commerce, Justice, and State, and the Judiciary .....	53
Table 3. Departments of Commerce, Justice, and State, and the Judiciary Appropriations .....	54
Table 1A. Appropriations Funding for Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY2000 and FY2001 .....	74

# Appropriations for FY2001: Commerce, Justice, and State, the Judiciary, and Related Agencies

## Most Recent Developments

*On February 7, 2000, the President submitted the FY2001 budget request for appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies. On June 6, 2000 the Commerce, Justice and State Subcommittee of the House Appropriations Committee reported out its version of the FY2001 CJS appropriations bill. The full Appropriations Committee approved its version of the bill on June 14, 2000 (H.R. 4690, H. Rept. 106-680). The bill was passed by the House on June 26, 2000. The Senate Appropriations Committee reported its version of the bill on July 18, 2000 ( S. Rept 106-404). The bill is awaiting floor action in the Senate.*

## Introduction and Overview

This report tracks legislative action by the second session of the 106th Congress on FY2001 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and other related agencies (often referred to as CJS appropriations). P.L. 106-113 (H.R. 3421, Division B of H.R. 3194, Section 1000 (a)) appropriated \$39.6 billion for these agencies for FY2000. The President's FY2001 budget requests about \$39.6 billion for these agencies, about a \$51 million increase or 0.1 % above the FY2000 total.<sup>1</sup> On June 14, 2000, the House Appropriations Committee approved its version of the CJS appropriations bill (H.R. 4690, H.Rept. 106-680). It recommends funding totaling \$37.4 billion—\$2.2 billion below the President's request and about \$2.2 billion below the FY2000 appropriation. The House approved the bill on June 26 by a vote of 214-195, with 1 voting present.<sup>2</sup> It approved the same overall funding total recommended by the Appropriations Committee. The House, however, did make a few funding changes (that differ from the Committee's recommendations) for certain individual agencies covered by the bill. These are reflected in this report.

On July 18, 2000, the Senate Appropriations Committee approved its version of the bill. It approved total funding of \$36.7 billion which is about \$700 million

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<sup>1</sup> For more details on FY2000 appropriations see: *Appropriations for FY2000: Commerce, Justice, and State, Judiciary, and Related Agencies*. CRS Report RL30209, by Edward Knight, et. al.

<sup>2</sup> The floor debate in the House is contained in the Congressional Record, vol 146 on June 23, 2000, pp. H5039-72; and June 26, 2000, pp. H5103-62.

below the House version and about \$2.9 billion below both the President's request and the actual FY2000 appropriation (S. Rept. 106-404). The bill is awaiting floor action in the Senate.

***Government-wide rescissions.*** It is important to note that the Consolidated Appropriations Act (P.L. 106-113; 113 Stat.1501) includes a provision which mandates a 0.38% government-wide rescission of discretionary budget authority for FY2000. The Act further provides in carrying out these rescissions:

- (1) no program, project or activity of any department, agency, instrumentality or entity may be reduced by more than 15%...,
- (2) no reduction shall be taken from any military personnel account, and
- (3) the reduction for the Department of Defense and Department of Energy Defense Activities shall be applied proportionately to all Defense accounts.

The Act provides further that the Director of the Office of Management and Budget shall include in the President's budget submitted for fiscal year 2001 a report specifying the reductions made to each account pursuant to requirements of this provision this section (Section 301 (a) of H.R. 3425, included in H.R. 3194).<sup>3</sup>

On January 10, 2000, the White House released a fact sheet prepared by the Office of Management and Budget (OMB) which provides a general statement of actions taken by the Administration to comply with the government-wide rescissions requirements of the Section 301 (a) of the act (included in H.R.3194). To achieve the 0.38 cut, the Administration stated it had achieved total savings of \$2.356 billion, including cuts of \$478 million in Congressional earmarks (involving 2,372 projects), \$192.5 million from salaries and expenses, and \$1.7 billion in government programs.

The fact sheet did not provide further details on cuts for all federal agencies. These cuts are reflected in agency totals for FY2000 contained in the President's request for FY2001.

## **Government Performance Results Act (GPRA) Requirements**

As part of the budget process, the Government Performance and Results Act (GPRA) enacted by Congress in 1993 (P.L.103-62; 107 Stat 285) requires that agencies develop strategic plans that contain goals, objectives, and performance measures for all major programs. The GPRA requirements apply to nearly all executive branch agencies, including independent regulatory commissions, but not the judicial branch. Brief descriptions of the latest versions of the strategic plans of the *major* agencies covered by CJS appropriations are contained in the discussions of the FY2001 budget requests of individual agencies included in this report.

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<sup>3</sup> White House, Office of the Press Secretary. OMB Communications Office. Fact Sheet: 0.38% cuts. January 10, 2000.



## **Brief Survey of Major Issues**

The more contentious issues that are likely to be given consideration in the House and Senate debate over CJS appropriations for FY2001 include:

- Changing the focus and levels of appropriations for DOJ's Office of Juvenile Justice and Delinquency Prevention (OJJDP). Neither the 104<sup>th</sup> nor the 105<sup>th</sup> Congress reauthorized the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.
- Determining the level of INS detention capacity necessary to comply with the statutory mandate that certain criminal aliens be detained until deported;
- How much funding is required to maintain essential services, operations and court security in the lower courts.

Other issues or concerns that will likely receive attention include the following.

Department of Justice:

- Extending the 1994 Crime Act funding authorizations beyond FY2000 under the Violent Crime Reduction Trust Fund (VCRTF).
- Increasing funding for drug-related efforts, especially the Office of Justice Programs' Zero Tolerance Drug Supervision Program, the Offender Reentry Program and the Residential Substance Abuse Treatment program.
- Increasing funding for community policing initiatives and community crime prevention programs.
- Determining the severity of INS budget overruns in FY1999 due to overhiring in FY1998 and other mandatory costs, e.g., rents and telecommunications.
- Combating gun violence by hiring more federal, state, and local prosecutors to increase gun prosecutions, and reduce youth violence.
- Combating cybercrime.
- Reducing pending case loads in immigration-related claims, particularly naturalization cases.
- Meeting the statutory mandate that the Border Patrol be increased by 1,000 agents in FY2000.
- Restructuring INS internally as proposed by the Administration or dismantling the agency by legislation.

Department of Commerce:

- Progress made in the streamlining and downsizing of Department programs and operations.
- Funding needs of the Bureau of the Census in conducting the 2000 decennial census and evaluating the results.
- Extent to which federal funds should be used to support industrial technology development programs at the National Institute of Standards and Technology (NIST), particularly the Advanced Technology Program.
- Appropriateness of the Administration's proposal to increase funding for public broadcast facilities, planning, and construction at the National Telecommunications and Information Administration (NTIA).
- The completion of National Weather Service Modernization and the extent to which the National Oceanographic and Atmospheric Administration (NOAA) would implement a number of Presidential initiatives to protect the environment and foster research and development in the 21<sup>st</sup> century.
- The extent to which the National Oceanographic and Atmospheric Administration (NOAA) would implement a number of new ongoing Presidential initiatives to protect the environment and foster research and development in the 21<sup>st</sup> century.
- The extent to which foreign countries comply with trade agreements and U.S. trade laws.

Department of State:

- Increased funding for embassy security overseas.

The Judiciary:

- Whether to increase funding to compensate court-appointed defense attorneys in federal criminal cases.
- How to contain the growing costs of the Judiciary's Defender Services account.
- To what extent increased funding and staff for the district courts are needed due to increases both in criminal filings and in the number of persons on probation or receiving pretrial services.
- Whether the salaries of federal judges and justices should receive a cost-of-living increase, as they did in FY2000.

- Whether a statutory ban on judges receiving honoraria should be lifted.

Other Agencies:

- Adequacy of funding for the Legal Services Corporation.
- Adequacy of funding for the Equal Employment Opportunity Commission, given a rapidly growing workload of civil rights cases.
- Adequacy of funding for programs of the Small Business Administration (SBA)

This report provides background descriptions of the principal functions of the federal agencies covered by CJS appropriations and identifies and more extensively reviews the major legislative and policy issues that emerged during the debate on these appropriations.

### Status

On February 7, 2000, the President submitted the FY2001 budget request for appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies. The House approved the bill on June 26. It approved the same overall funding total recommended by the Appropriations Committee. The House, however, did make a few funding changes (that differ from the Committee's recommendations) for certain individual agencies covered by the bill. These are reflected in this report. The Senate Appropriations Committee passed its version of the bill on July 18, 2000 (S. Rept. 106-404). The bill is awaiting floor action in the Senate.

The table below shows the key legislative steps necessary for the enactment of FY2001 CJS appropriations legislation.

It is also important to note that the Consolidated Appropriations Act also includes a provision that mandates a 0.38% government-wide rescission of discretionary budget authority for FY2000 appropriations. For more details see page 1 of this report.

**Table 1. Status of CJS Appropriations, FY2001**

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conference Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
6-6-00	-	H.R. 4690, H.Rept. 106-680 6-14-00	6-26-00	H.R. 4690, S.Rept. 106-404 7-18-00*	-	-	-	-	-

\*The report of the Senate Appropriations Committee has not been filed.

## Background

The creation, legislative authority, and principal activities of the major agencies covered by the CJS appropriations legislation for each fiscal year are described below. Brief descriptions of most of the related agencies covered by the legislation are also included in this section.

### Department of Justice and Related Agencies

Title I of the CJS legislation typically covers the appropriations for the Department of Justice and related agencies. Established by an Act of 1870 (28 U.S.C. 501) with the Attorney General at its head, the Department of Justice (DOJ) provides counsel for citizens and protects them through its efforts for effective law enforcement. It conducts all suits in the Supreme Court in which the United States is concerned and represents the government in legal matters generally, providing legal advice and opinions, upon request, to the President and the executive branch's department heads.

The Department contains several divisions: Antitrust, Civil, Civil Rights, Criminal, Environmental and Natural Resources, and Tax. Major agencies within the Department of Justice include:

- *Federal Bureau of Investigation (FBI)* investigates violations of federal criminal law, protects the United States from hostile intelligence efforts, provides assistance to other federal, state and local law enforcement agencies, and has concurrent jurisdiction with Drug Enforcement Administration (DEA) over federal drug violations.
- *Drug Enforcement Administration (DEA)* is the lead drug law enforcement agency at the federal level, coordinating its efforts with state, local, and other federal officials in drug enforcement activities, developing and maintaining drug intelligence systems, regulating legitimate controlled substances activities, and undertaking coordination and intelligence-gathering activities with foreign government agencies.
- *Immigration and Naturalization Service (INS)* is responsible for administering laws relating to the admission, exclusion, deportation, and naturalization of aliens, including the oversight of the process involving the admission of aliens into the country and applications to become citizens, the prevention of illegal entry into the United States, and the investigation, apprehension, and removal of aliens who are in this country in violation of the law.
- *Federal Prison System* provides for the custody and care of the federal prison population, the maintenance of prison-related facilities, and the boarding of sentenced federal prisoners incarcerated in state and local institutions.

- *Office of Justice Programs (OJP)* carries out policy coordination and general management responsibilities for the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, Community Oriented Policing Services (COPS), and the Office of Victims of Crime, including administering programs, awarding grants, and evaluating activities.
- *United States Attorneys* prosecute criminal offenses against the United States, represent the government in civil actions in which the United States is concerned, and initiate proceedings for the collection of fines, penalties, and forfeitures owed to the United States.
- *United States Marshals Service* is primarily responsible for the protection of the federal judiciary, protection of witnesses, execution of warrants and court orders, management of seized assets, and custody and transportation of unsentenced prisoners.
- *Interagency Law Enforcement* consists of 13 regional task forces composed of federal agents working in cooperation with state and local investigators and prosecutors to target and destroy major narcotic trafficking and money laundering organizations.

The total appropriation for the Department of Justice in FY2000 is \$18.6 billion. (For more details on the funding of individual programs, see Table 1A in the Appendix.)

Appropriators also considered funding for criminal justice programs under the Violent Crime Reduction Trust Fund (VCRTF), which was established in the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322). The VCRTF provides authorization for criminal justice spending over a 6-year period, from FY1995 through FY2000. Trust Fund monies were to be derived in part from projected savings to be realized by eliminating over 250,000 federal jobs as required by the Federal Workforce Restructuring Act (P.L. 103-226). Spending was provided in the annual appropriations bills, extending indefinitely authorizations of appropriations not fully appropriated. Across-the-board sequestration of spending from the VCRTF is required, if outlays exceed the outlay limits set for the Trust Fund.

The fund authorizes \$30.2 billion in spending from FY1995 through FY2000. The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY1999 (P.L. 105-277) provided a total of \$5.5 billion for DOJ's anti-crime initiatives from the VCRTF. Legislation has been offered in the 106<sup>th</sup> Congress to extend the VCRTF beyond FY2000.

## **Department of Commerce**

Title II typically includes the appropriations for the Department of Commerce and related agencies. The Department was established on March 4, 1913 (37 Stat.7365; 15 U.S.C. 1501). The origins of the Department of Commerce date back

to 1903 with the establishment of the Department of Commerce and Labor (32 Stat. 825). In 1913, a separate the Department of Commerce was designated (37 Stat. 7365; 15 U.S.C. 1501). Though the responsibilities of the Department are numerous and quite varied, it has five basic missions: promoting the development of American business and increasing foreign trade; improving the nation's technological competitiveness; fostering environmental stewardship and assessment; encouraging economic development; and compiling, analyzing, and disseminating statistical information on the U.S. economy.

These missions are carried out by the following agencies of the Department:

- *Economic Development Administration (EDA)* provides grants for economic development projects in economically distressed communities and regions.
- *Minority Business Development Agency (MBDA)* seeks to promote private and public sector investment in minority businesses.
- *Bureau of the Census* collects, compiles, and publishes a broad range of economic, demographic, and social data.
- *Economic and Statistical Analysis Programs* provide (1) timely information on the state of the economy through preparation, development, and interpretation of economic data; and (2) analytical support to Department officials in meeting their policy responsibilities.
- *International Trade Administration (ITA)* seeks to develop the export potential of U.S. firms and to improve the trade performance of U.S. industry.
- *Export Administration* enforces U.S. export control laws consistent with national security, foreign policy, and short-supply objectives.
- *National Oceanic and Atmospheric Administration (NOAA)* provides scientific, technical, and management expertise to (1) promote safe and efficient marine and air navigation; (2) assess the health of coastal and marine resources; (3) monitor and predict the coastal, ocean, and global environments (including weather forecasting); and (4) protect and manage the nation's coastal resources.
- *Patent and Trademark Office* examines and approves applications for patents for claimed inventions and registration of trademarks.
- *Technology Administration* advocates integrated policies that seek to maximize the impact of technology on economic growth, conducts technology development and deployment programs, and disseminates technological information.

- *National Institute of Standards and Technology (NIST)* assists industry in developing technology to improve product quality, modernize manufacturing processes, ensure product reliability, and facilitate rapid commercialization of products based on new scientific discoveries.
- *National Telecommunications and Information Administration (NTIA)* advises the President on domestic and international communications policy, manages the federal government's use of the radio frequency spectrum, and performs research in telecommunications sciences.

The total appropriation for the Department of Commerce in FY2000 is \$8.6 billion. A very large share of the total reflects a special appropriation, designated an emergency appropriation (\$4.5 million), to fund final preparations for and implementation of the year 2000 decennial census. (For more details on the funding of individual programs, see Table 1A in the Appendix.)

## **The Judiciary**

Typically, Title III of a Commerce, Justice, State-Judiciary appropriations bill covers funding for the Judiciary. By statute (31 U.S.C. 1105 (b)) the judicial branch's budget is accorded protection from presidential alteration. Thus, when the President transmits a proposed federal budget to Congress, the President must forward the judicial branch's proposed budget to Congress unchanged. That process has been in operation since 1939. The total appropriation for the Judiciary in FY2000 was \$3.96 billion.

The Judiciary budget consists of more than 10 separate accounts. Two of these accounts fund the Supreme Court of the United States -- one covering the Court's salary and operational expenses and the other covering expenditures for the care of its building and grounds. Traditionally, in a practice dating back to the 1920s, one or more of the Court's Justices appear before either a House or Senate appropriations subcommittee to address the budget requirements of the Supreme Court for the upcoming fiscal year, focusing primarily on the Court's salary and operational expenses. Subsequent to their testimony, the Architect of the Capitol appears to request a funding amount for the Court's building and grounds account.<sup>4</sup> Although it is at the apex of the federal judicial system, the Supreme Court represents only a very small share of the Judiciary's overall funding. The Consolidated Appropriations Act for FY2000 (PL. 106-113), for instance, provided a total of \$43.5 million for the Supreme Court's two accounts, which was 1.1% of the Judiciary's overall appropriation of \$ 3.96 billion.

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<sup>4</sup> By authority of the Act of May 7, 1934 (PL. 73-211), the Architect of the Capitol is responsible for the structural and mechanical care of the Supreme Court building, including care of its grounds. The Architect, however is not charged with responsibility for custodial care, which is under the jurisdiction of the Marshal of the Supreme Court.

The rest of the Judiciary's budget provides funding for the "lower" federal courts and for related judicial services. Among the lower court accounts, one dwarfs all others — the Salaries and Expenses account for the U.S. Courts of Appeals and District Courts. The account, however, covers not only the salaries of circuit and district judges (including judges of the territorial courts of the United States), but also those of retired justices and judges, judges of the U.S. Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the federal Judiciary not specifically provided for by other accounts.

Other accounts for the lower courts include Defender Services (for compensation and reimbursement of expenses of attorneys appointed to represent criminal defendants), Fees of Jurors, the U.S. Court of International Trade, the Administrative Office of the U.S. Courts, the Federal Judicial Center (charged with furthering the development of improved judicial administration), and the U.S. Sentencing Commission (an independent commission in the judicial branch, which establishes sentencing policies and practices for the courts).

The annual Judiciary budget request for the courts is presented to the House and Senate appropriations subcommittees after being reviewed and cleared by the Judicial Conference, the federal court system's governing body. These presentations, typically made by the chairman of the Conference's budget committee, are separate from subcommittee appearances a Justice makes on behalf of the Supreme Court's budget request.

The Judiciary budget does not appropriate funds for three "special courts" in the U.S. court system: the U.S. Court of Appeals for the Armed Forces (funded in the Department of Defense appropriations bill), the U.S. Tax Court (funded in the Treasury, Postal Service appropriations bill), and the U.S. Court of Appeals for Veterans Claims (funded in the Department of Veteran Affairs and Housing and Urban Development appropriations bill). Construction of federal courthouses is not funded within the Judiciary's budget. The usual legislative vehicle for funding federal courthouse construction is the Treasury, Postal Service appropriations bill. (For more details on individual appropriations for Judiciary functions, see Table 1A in the Appendix.

## **Department of State and Related Agencies**

The State Department, established July 27, 1789 (1 Stat.28; 22 U.S.C. 2651), has a mission to advance and protect the worldwide interests of the United States and its citizens. Currently, the State Department represents the activities of 38 U.S. agencies operating at over 250 posts in 163 countries. As covered in Title IV, the State Department funding categories include Administration of Foreign Affairs, International Operations, International Commissions, and Related Appropriations. The total FY2000 State Department appropriation is \$5.9 billion. Typically, more than half of State's budget (about 70% in FY1999) is for Administration of Foreign Affairs, which consists of salaries and expenses, diplomatic security, diplomatic and consular programs, and security/maintenance of overseas buildings.



The Foreign Relations Authorization within P.L. 105-277 provides for the consolidation of the foreign policy agencies. As of the end of FY1999, the Arms Control and Disarmament Agency (ACDA) and the United States Information Agency (USIA) were abolished and their budgets and functions were merged into the Department of State.

International broadcasting, which had been a primary function of the USIA prior to 1999, will remain as an independent agency referred to as the Broadcasting Board of Governors (BBG). The BBG includes the Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), Cuba Broadcasting, Radio Free Asia (RFA), Radio Free Iraq and Radio Free Iran. The BBG's FY2000 appropriation is \$421.8 million with just under 2,700 positions.

### **Other Related Agencies**

Title V covers several related agencies. FY2000 appropriations for these agencies are as follows:<sup>5</sup>

- *Maritime Administration* administers programs to aid in the development, promotion, and operation of the nation's merchant marine: \$178.1 million.
- *Small Business Administration* provides financial assistance to small business and to victims of physical disasters: \$ 877.0 million.
- *Legal Services Corporation* provides financial assistance to local, state, and national non-profit organizations that provide free legal assistance to persons living in poverty: \$305 million.
- *Equal Employment Opportunity Commission (EEOC)* enforces laws relating to race, sex, religion, national origin, age, or handicapped status: \$282 million.
- *Commission on Civil Rights* collects and studies information on discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, and national origin: \$8.9 million.
- *Federal Communications Commission (FCC)* regulates interstate and foreign communications by radio, television, wire, satellite, and cable: \$24.2 million.<sup>6</sup>

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<sup>5</sup> Figures are for direct appropriations only; in some cases, agencies supplement these amounts with offsetting fee collections, including collections carried over from previous years.

<sup>6</sup> Offsetting fee collections were \$185.8 million, bringing total FY2000 funding to \$210 million.

- *Federal Maritime Commission (FMC)* regulates the domestic offshore and international waterborne commerce of the United States: \$14.1 million.
- *Federal Trade Commission (FTC)* administers laws to prevent the free enterprise system from being fettered by monopolies or restraints on trade and to protect consumers from unfair and deceptive trade practices: No appropriation.<sup>7</sup>
- *Securities and Exchange Commission (SEC)* administers laws providing protection for investors and ensuring that securities markets are fair and honest: No appropriation.<sup>8</sup>
- *State Justice Institute* is a private, non-profit corporation that makes grants and undertakes other activities designed to improve the administration of justice in the United States: \$6.85 million.
- *Office of the United States Trade Representative (USTR)* is located in the Executive Office of the President and is responsible for developing and coordinating U.S. international trade and direct investment policies. The USTR is also the chief trade negotiator for the United States: \$25.6 million.
- *U.S. International Trade Commission* is an independent, quasi-judicial agency that advises the President and the Congress on the impact of U.S. foreign economic policies on U.S. industries and is charged with implementing various U.S. trade remedy laws. Its six commissioners are appointed by the President for 9-year terms: \$44.5 million.

The CJS appropriations also cover funding for several relatively small governmental functions, including several special government commissions. (For additional information on the funding of other related agencies covered by this measure, see: *Budget of the United States Government, Fiscal Year 2001—Appendix* (106<sup>th</sup> Cong., 2<sup>nd</sup> sess.)

## Major Legislative and Policy Issues

The second session of the 106th Congress will likely address a number of issues during the CJS appropriations process for FY2001. Major issues or concerns include: building more prisons, extending the 1994 Crime Act funding authorization beyond September 30, 2000; increasing funding for drug-related efforts among the Department of Justice (DOJ) agencies; increasing funding for community law enforcement; combating cybercrime; funding of DOJ's legal action against the

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<sup>7</sup> The FTC is fully funded by the collection of premerger filing fees.

<sup>8</sup> The SEC is fully funded by transaction fees and securities registration fees.

tobacco industry; changing the focus and levels of appropriations for DOJ's Office of Juvenile Justice and Delinquency Prevention; providing funding for programs that would reduce gun and youth violence; reducing pending caseloads in immigration-related claims, particularly green card and naturalization applications; meeting the statutory mandate that the Border Patrol be increased by 1,000 agents in FY2001, and accounting for the shortfall in hiring in FY1999; determining the level of detention capacity necessary to comply with the statutory mandate that certain criminal aliens be detained until deported; and restructuring INS internally as proposed by the Administration or dismantling or restructuring the agency by legislation; the downsizing of Commerce Department programs, implementing the 2000 decennial census and evaluating the results, the use of federal funds to support industrial technology, implementing the modernization of the National Weather Service, and the monitoring of foreign compliance with trade agreements and U.S. trade laws; improving embassy security through a doubling of funding as well as a request for an advance appropriation to cover the period FY2002 to FY2005; the level of funding needed to maintain essential services, operations and court security in the lower courts; whether to increase funding to compensate court-appointed defense attorneys in federal criminal cases; how to contain the growing costs of the Judiciary's Defender Services account; and the merits of providing a cost-of-living pay increase for federal judges.

## **Department of Justice**

Traditionally, state and local governments have primary responsibility for crime control. Especially within the last decade, a greater federal role has developed. Congress has enacted five major omnibus crime control bills since 1984, establishing new penalties for crimes and providing increased federal assistance for law enforcement efforts by state and local governments. Federal justice-related expenditure is one of the few areas of discretionary spending that has increased its share of total federal spending over the last two decades.

***FY2001 Budget Request.*** For FY2001, President Clinton's budget request for DOJ is \$20.3 billion compared to the Senate Appropriations Committee recommendation of \$18.7 billion, and the House's \$20.2 billion. DOJ received funding of \$18.65 billion in FY2000. DOJ's request for FY2001 is intended to address major concerns such as fighting crime and gun and youth violence, building prisons, checking drug abuse, improving the department's information resources and improving the border management of INS.

On July 18, the Senate Appropriations Committee recommended \$18.7 billion in funding for FY2001 for the Department of Justice. The Senate Committee rejected by a tie vote, 14-14, Senator Ernest Hollings's amendment to spend \$20.5 million to finance a federal lawsuit against tobacco companies to offset the federal government's expenses of treating veterans and Medicare and Medicaid patients for smoking-related illnesses.

The CJS bill, H.R. 4690, passed by the House on June 26, would provide \$20.2 billion. On June 23, Representative Henry A. Waxman offered an amendment to H.R. 4690, the CJS Appropriations bill, which would allow the Veterans Administration

to reimburse DOJ for its lawsuit against tobacco companies. The House passed the amendment by a vote of 215 ayes to 183 noes.

Under the Telecommunications Carrier Compliance Fund of the *General Administration* account, the Senate Appropriations Committee does not recommend additional funds for FY2001 for the Communications Assistance for Law Enforcement Act (CALEA). In January 2000, the Senate Committee denied a reprogramming request of DOJ for an additional \$100 million in FY2000 for this account based on the source of funds the Department chose to use as an offset for these funds. Congress recently passed a FY2000 supplemental appropriation, which upon enactment, will provide \$183 million for CALEA. This amount exceeds DOJ's request for the program in FY2000 and FY2001. With enactment of the supplemental appropriation for FY 2000, a total of \$301 million has been appropriated for CALEA. For FY2001, the House approved the Appropriations Committee's recommendation of \$278 million for the Telecommunications Carrier Compliance Fund to reimburse equipment manufacturers and telecommunications carriers and providers of telecommunications support service for implementing the Communications Assistance for Law enforcement Act of 1994 (CALEA). Of this amount, \$141.3 million is for national security purposes. The Senate Committee would recommend \$205 million for the Narrowband Communications account for FY2001 compared to \$95.4 million which the House would provide for this account.

The Clinton administration requests a total of \$240 million for the Telecommunications Carrier Compliance Fund, of which \$225 million is new funding to reimburse the telecommunications industry for costs associated with modifying their networks (Communications Assistance for Law Enforcement Act). The total funding would be divided between DOJ and the Department of Defense (DOD) as follows: \$120 million for DOJ and \$120 million for DOD. DOJ will implement all of the funds. For its program to convert to narrowband radio communications, DOJ requests \$205 million. In the FY2000 appropriations cycle, this program was controversial as the Administration requested \$86 million for narrowband conversion, but received \$10.6 million in direct funding and was directed to transfer \$92.5 million for the program from other departmental components.

To address terrorism, the Senate Committee recommends \$5 million for FY2001 for the counterterrorism fund compared to the \$10 million which the House would provide and the \$10 million which the President requested. The Senate Committee reports that there will be carryover balances available in FY 2001 of more than \$36 million for this account. The Senate Committee expressed concern that DOJ was using funds in this account for any effort associated with countering terrorism instead of for extraordinary costs for providing support to counter, investigate or prosecute domestic or international terrorism. To insure that counterterrorism funds are used appropriately, the Senate Committee directs DOJ to notify House and Senate Appropriations Committees prior to obligation of all funds in this account. Under presidential Decision Directive 62, the President designated a National Coordinator for Security, Infrastructure Protection, and Counterterrorism (DAG-CT) to coordinate interagency terrorism policy issues and review ongoing terrorism-related activities. The Senate Committee recommends an additional \$23 million for this office. Funding to combat terrorism is also recommended under the Office of Justice Programs, Justice Assistance account.

The Senate Appropriations Committee for FY2001 for the *Office of Justice Programs* (OJP) recommends \$3.07 billion, while the House would provide \$4.08 billion. The President requests for OJP is \$3.74 billion compared with FY2000 funding of \$4.08 billion. To address gun and youth violence, the Administration has requested \$215.9 million, of which new funding of \$150 million would be to hire 1,000 local prosecutors in jurisdictions designated by DOJ as High Gun Violence areas.

For the Justice Assistance account for FY2001, the Committee recommends \$426.4 million, of which \$25.5 million would be for the Missing Children Program to combat crimes against children, including \$6 million for state and local law enforcement for continuation of specialized cyberunits and for units that investigate and prevent child sexual exploitation on the internet; \$13.5 million for the National Center for Missing and Exploited Children, with \$2 million of that amount for the operation of the CyberTipline (which collects leads from Internet Service Providers on incidences of child pornography and exploitation) and for Cyberspace training; and \$3 million for the Jimmy Ryce Law Enforcement Training Center to train state and local law enforcement officials in investigating missing and exploited children cases. Also, to address incidents of domestic terrorism, the Committee recommends \$257.5 million for the Office for State and Local Domestic Preparedness Support, of which \$35 million is for the National Domestic Preparedness Consortium, and \$120 million for equipment block grants to states and the District of Columbia for the purchase of specialized equipment needed to respond to terrorist incidents involving chemical, biological, radiological, and explosive weapons of mass destruction.

The Senate Committee recommends for FY2001, \$812 million for COPS which is \$523 million less than the President requested; the House would provide \$595 million for COPS. Of these funds, \$423 million would be for the following police hiring initiatives: \$180 million for school resource officers; \$183 million in direct appropriations for the universal hiring program (UHP); \$20 million from unobligated carryover balances from FY2000 to be used for UHP; and \$40 million for Indian Country. The Safe Schools Initiative would receive \$20 million. For non-hiring initiatives, the Senate Committee recommends: \$100 million for the COPS technology program for development of technologies and automated systems to assist state and local law enforcement agencies in investigating, responding to, and preventing crime; \$130 million for the Crime Identification Technology Program of which \$20 million would be for Safe Schools technology to fund National Institute of Justice's development of new more effective safety technologies such as less obtrusive weapons detection and surveillance equipment and information that allows communities quick access to information to identify potentially violent youth; \$33 million for states to upgrade criminal history records, and \$30 million for state and local units of government crime laboratories to develop or improve the capability to analyze DNA in a forensic laboratory and other forensic science capabilities; \$41.7 million for the COPS Methamphetamine/Drug 'Hot Spots' program to fight the manufacture, distribution, and use of methamphetamine, and for proper removal and disposal of hazardous materials at clandestine meth labs; and \$15 million for the COPS Safe Schools Initiative/School Prevention Initiatives to provide grants to policing agencies and schools to address violence in public schools and to allow the

assignment of officers to work in collaboration with schools and community-based organizations concerning crime, gangs, and drug activities.

The House would provide \$595 million for the COPS program, including \$130 million for crime identification technology, \$41.7 for manufacturing and trafficking in methamphetamine, and \$389.5 million for public safety and community policing grants.

The Administration seeks to continue improving community law enforcement. It requests FY2001 funding of \$1.3 billion for the Community Oriented Policing Services (COPS) compared to FY2000 funding of \$595 million. For Public Safety and Community Policing grants, the funding request is \$225 million, which includes \$67.9 million to fund additional officers and to stay on course to hire 150,000 officers by the end of 2005. Earmarks would provide \$45 million for Indian country law enforcement, \$25 million for the bullet-proof vest program, \$20 million for school safety problem-solving partnerships, and \$20 million for National Police scholarships, among other programs.

Under the COPS account for FY2001, the Administration requests \$350 million for the Crime Identification Assistance Program, an increase of \$220 million over FY2000 funding to support crime-fighting technologies efforts. This includes \$70 million for upgrading criminal history, criminal justice and identification record systems, promoting compatibility among systems at the federal, state, and local levels, and obtaining information for statistical and research programs. Another \$50 million would be used to improve forensic laboratories, of which \$35 million would be for grants to state, tribal and local laboratories for improving their DNA and general forensic capabilities and \$15 million in grants to state and local laboratories to reduce their convicted offender DNA sample backlog.

The Senate Committee for FY2001 recommends \$400 million for local law enforcement grants, \$123 million less than the House; the Administration did not request funding for this program. The Senate Committee recommends \$40 million for drug courts and \$63 million for state prison drug treatment, the same funding that the House would provide, while the President requests \$10 million more in funding for drug courts and \$2 million more for state prison drug treatment. For Violence Against Women grants, the Senate Committee recommends \$284.9 million compared to \$283.8 the House would provide and \$12 million less than the Administration's request. These funds would be used to develop and implement effective arrest and prosecution policies for the prevention, identification, and response to violent crimes against women, to strengthen programs that address stalking, and to provide victim services such as specialized domestic violence court advocates who obtain protection orders, among other purposes. In FY2000, drug courts received funding of \$40 million, state prison drug treatment, received \$63 million, and VAWA received \$284 million.

For FY2001, the Senate Appropriations Committee recommends \$452 million for the Byrne grant programs (\$400 million for formula grants and \$52 million for discretionary grants) compared to the House which would provide \$552 million, the same amount appropriated in FY2000 (\$500 million for formula grants and \$52

million for discretionary grants). The President requests \$459.5 million for Byrne grants (\$400 million for formula grants and \$59.5 million for discretionary grants).

The Senate Committee recommends \$40 million for the Weed and Seed program for FY2001 compared \$33.5 million that the House would provide; the President requested \$42 million for the program.

The Senate Appropriations Committee recommends \$1.35 billion for the *Drug Enforcement Agency* (DEA) for FY2001, which would provide for drug education and training programs and technical equipment. For the Methamphetamine Initiative, the Senate Committee recommends \$27.5 million for the agency to target and investigate methamphetamine trafficking, production, and use and to clean-up hazardous waste associated with the manufacture of the drug. This compares with total FY2000 funding for DEA of \$1.28 billion. Funds would be for purchase of 1,358 passenger motor vehicles of which 1,079 would be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year. Also, the Senate Committee recommends additional emergency spending for the Southwest Border Initiative for DOJ under Salaries and Expenses of \$22.5 million for one plane, a helicopter, a forensic laboratory, equipment, and upgrades to and maintenance of the El Paso Intelligence Center's Information System. On the other hand, the House would provide \$1.37 billion for DEA. President Clinton requests \$1.37 billion for the agency. To support the enforcement of federal law and investigations, DEA requests \$864 million. DEA requests \$56 million for FY2001 for FIREBIRD, its primary office automation infrastructure. FIREBIRD supports DEA's global operations and these funds would allow its continued high quality operation.

The President requests funding of \$215 million, for drug prevention programs, including \$171.39 million in new funding for programs designed to break the cycle of drug use and its consequences by providing support services for drug abusers to enable them to reenter the community. The Administration requests \$75 million for FY2001 for OJP'S Zero Tolerance Drug Supervision program to provide discretionary grants to states, local governments, Indian tribes, and courts to plan and enforce comprehensive drug testing and treatment programs and graduated sanctions for persons within the criminal justice system. Of this amount, \$60 million is for an Offender Reentry program that would combine surveillance, sanctions, and support services to provide more protection for communities that have high returns of inmates.

For FY2001, the Senate Appropriations Committee recommends \$4.30 billion for the *Federal Prison System*, of which \$724 million would be for buildings and facilities compared to the House which would provide \$4.27 billion for the Federal Prison System, including \$836 million for buildings and facilities. The President's FY2001 budget request for the Federal Prison System is \$5.71 billion compared to \$3.67 billion enacted in FY2000. The Bureau of Prisons would use these funds to reduce overcrowding and to accommodate future prison needs, including the long-term housing needs of Immigration and Naturalization Service detainees. This request includes \$2 billion for FY2001 through FY2003 for construction of prisons (\$791 million in advance appropriations are requested for FY2002 and \$535 million in FY2003 for construction of 6 more prisons); \$80.18 million to activate prison facilities and address the 54% overcrowding in high security prisons and provide

needed detention bed space; and, \$84.46 million to provide contract beds to accommodate the needs of short and long term non-U.S. citizen inmates, as well as the increase in other sentenced offender contract population.

FY2000 funding for the *Federal Bureau of Investigations* was \$3.04 billion. For FY2001, the Senate Appropriations Committee recommends \$3.12 billion for the FBI, of which \$222 million would be for Criminal Justice Services, including \$72 million for the National Instant Criminal Background Check System (NICS) and \$43 million to construct or acquire buildings. The Senate Committee recommends additional emergency spending funding of \$62.9 million for the United States Marshals Service under the Southwest Border Initiative, of which \$5.3 million would be for salaries and expenses, \$5.6 million for construction, and \$52 million for the Justice Prisoner and Alien Transportation System Fund. The House, on the other hand, would provide \$3.23 billion for the FBI, of which \$68 million in direct appropriations would be for NICS. President Clinton's FY2001 budget request for the Federal Bureau of Investigations (FBI) is \$3.28 billion. With the number and complexity of computer crime increasing, DOJ requests \$37 million to create a permanent network of experts to prevent and prosecute computer crime. By FY2001, the FBI expects cases involving computer forensic examination to more than double those in FY1999. DOJ requests \$19 million for its Technology Crimes Initiative of which \$11.4 million would be for its Computer Analysis and Response Team to support 100 response team members who will be sent to help investigations of computer related crimes and \$7 million would further law enforcement counter-encryption capabilities. In OJP, the National White Collar Crime Center would receive \$8.75 million to expand training initiatives for state and local law enforcement and regulatory agencies to meet the rising incidences of computer crime by acting as a clearinghouse, providing information on federal computer crime training and offering a "directory" of resources available in forensic computer science.

The *Immigration and Naturalization Service* (INS) is the principal federal agency charged with enforcing and administering the Immigration and Nationality Act (INA). From FY1993 to FY2000, Congress has increased the INS budget from \$1.5 to \$4.3 billion. During these years, INS staffing has increased from just over 18,000 to nearly 33,000 funded permanent positions. For FY2001, according to the CBO's revised scoring, the Administration has requested \$4.85 billion in total funding for INS (\$3.31 billion in direct funding and \$1.54 billion in offsetting fee receipts).<sup>9</sup> In terms of direct funding, the Administration's request is nearly \$296 million over the FY2000 appropriation. In terms of offsetting receipts, the request is \$274 million over the FY2000 appropriation. In addition, the Administration's FY2001 request also included four fee proposals: 1) a "premium service fee" for businesses, 2) a renewed penalty fee under a permanent section 245(i) adjustment of status program<sup>10</sup>,

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<sup>9</sup> It was previously reported that the Administration's FY2001 request was \$5.0 billion; this amount was taken from CBO tables.

<sup>10</sup> Section 245(i) of the Immigration and Nationality Act allows certain aliens, who are unauthorized to be in the United States, to adjust to immigrant status, provided they meet all other qualifications. In the FY1998 CJS appropriations act (P.L. 105-119), however, Congress limited the availability of relief under this provision to those aliens whose sponsors

(continued...)



3) an increase in the user fee for airport inspections, and 4) an end to the cruise ship user fee exemption.

For FY2001, the Senate Appropriations Committee recommends \$4.6 billion in funding for the INS (\$3.03 billion in direct funding and \$1.55 billion in offsetting receipts). In terms of direct funding, the Senate bill provides an increase of \$19 million over the FY2000 appropriation, but \$276 less than the Administration request. The Senate recommendation, however, also includes \$414 million in emergency funding for the Southwest border initiative, of which \$322 million is earmarked for INS. In terms of offsetting receipts, the Senate bill provides \$255 million more than in FY2000 appropriation, but \$19 million less than the Administration's request. The Senate-reported bill would reinstate section 245(i), but it is silent on the proposed H-1B premium service fee or the proposed increase in the user fee. In addition, the bill includes provisions to repeal sections 110 and 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C; P.L. 104-208).

The House-passed bill would provide INS with \$4.67 billion (\$3.23 billion in direct funding and \$1.44 billion in offsetting receipts). In terms of direct funding, this amount includes an increase of \$223 million over the FY2000 appropriation, but it is \$73 million less than the Administration's request. This amount includes funding increases to hire 430 additional Border Patrol agents, increase detention and removal capacity, continue interior enforcement, and continue reduction of pending application caseloads. In terms of offsetting receipt, the House bill provides \$169 million more than the FY2000 appropriation, but \$105 million less than the Administration's request. The House-passed bill includes a provision to authorize an H-1B premium service fee, but it does not include provisions to reinstate section 245(i), raise the airport user fee, or an end the cruise ship user fee exemption.

Emerging INS budget issues for FY2000 and FY2001 include: 1) reducing pending caseloads in immigration-related claims, particularly green card and naturalization applications; 2) meeting the statutory mandate that the Border Patrol be increased by 1,000 agents in FY2001, and accounting for the shortfall in hiring in FY1999; 3) determining the level of detention capacity necessary to comply with the statutory mandate that certain criminal aliens be detained until deported; and 4) restructuring INS internally as proposed by the Administration or dismantling or restructuring the agency by legislation.

Large pending caseloads continue to plague INS despite increased funding. From FY1992 to FY2000, funding for the adjudications and nationality program increased from \$137 to \$496 million. In FY1999, INS processed over 1.2 million naturalization applications; however, as of the end of the first quarter of FY2000, the pending caseload for naturalization applications (Form N-400) was 1.3 million, and the pending caseload for green card applications (Form I-485) was over 1 million. In addition, there was a pending caseload of over 1.7 million for all other applications.

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<sup>10</sup> (...continued)

had petitioned on their behalf before January 14, 1998. (For background, see CRS Report 97-946, *Immigration: Adjustment to Permanent Residence Status under Section 245(i)*.)

For FY2001, the Administration requested \$152 million to improve service, reduce pending caseloads, and prevent fraud. This funding would have been derived from several sources: 1) \$25 million from the voluntary H-1B visa premium service fee (to be deposited into the examinations fee account); 2) another \$55 million from the H-1B premium service fee; 3) \$37.5 million from section 245(i) fees; and 4) \$34.8 million in a direct appropriation.

While the Senate-reported bill would reinstate section 245(i), the House Appropriations Committee strongly rejected the Administration's proposal to reinstate provision. On the other hand, the House accepted the H-1B premium service fee proposal, but the Senate-reported bill does not include such a provision. In report language, the House Committee also noted that over the past 3 years INS has been provided with \$463 million to reduce pending caseloads and improve the integrity of the naturalization process. Indeed, except for the detention and deportation program, the adjudications and nationality program's budget increased at a greater rate (262%) than any other INS program budget from FY1993 to FY2000. For FY2001, House report language earmarks an increase of \$87 million, including \$44 million in a direct appropriation, to continue the backlog reduction.

Border control and security continues to be an ongoing issue for Congress. From FY1992 to FY2000, funding for the Border Patrol has increased from \$362 million to over \$1 billion. For FY1999, Congress provided INS with \$97 million to hire 1,000 additional agents. The agency, however, was unable to hire a full contingent of new agents, citing a lack of qualified candidates due to a strong labor market and high wash-out rates at the Border Patrol Academy. At the end of FY1999, there were 8,225 Border Patrol agents who were on duty and deployed, as compared to 7,856 at the end of FY 1998. For FY2000, Congress provided \$50 million to hire an additional 1,000 agents. The Administration, meanwhile, only requested \$52 million to hire 430 agents for FY2001, rather than the 1,000 agents mandated in the Illegal Immigration Reform and Immigrant Responsibility Act (P.L. 104-208).

Given hiring shortfalls in FY1999 and the current fiscal year, House report language includes an earmark, matching the Administration's FY2001 request, rather than funding 1,000 new agent positions.<sup>11</sup> As requested by the Administration, \$20 million is earmarked for deployment of the integrated surveillance intelligence system, on both the southern and northern land borders. House report language also includes earmarks of \$22 million for border patrol information management, and \$50 million for construction projects.

Meanwhile, the Senate-reported measure would provide funding to hire an additional 1,000 Border Patrol agents in FY2001. In addition, the bill includes \$414

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<sup>11</sup> For FY2000, conference report language earmarked \$50 million to hire and train an additional 1,000 Border Patrol agents, rather than \$100 million earmarked in both the House and Senate reports. For FY1999, Congress provided INS with \$94 million to hire 1,000 new agents, but the agency was only able to hire 369 new agents citing a lack of qualified applicants in a strong labor market and a high attrition rate among candidates. With this increase, there were 8,225 agents on duty at the end of FY1999.

million in emergency funding for the Southwest border initiative. This amount includes \$67 million for 26 new border patrol helicopters and other equipment, and \$254 million for INS construction for the Border Patrol and the detention and deportation programs.

In recent years, INS has come under intense criticism for failing to deport criminal aliens in an expeditious manner. From FY1993 to FY2000, funding for the detention and deportation program increased from \$193 to \$879 million. INS officials continue to report that the agency does not possess the detention capacity to fully comply with statutory mandates set out in the Antiterrorism and Effective Death Penalty Act (P.L. 104-132) and the Illegal Immigration Reform and Immigrant Responsibility Act (P.L. 104-208). To improve and expand detention facilities and increase efforts to identify and remove criminal aliens, the Administration has requested \$120 million in increased funding for FY2001, which would increase the detention and deportation budget to over \$1 billion.

Nearly matching the Administration's request, House report language includes earmarks of \$87 million to increase INS detention space to 19,702 beds (daily average), including 120 juvenile beds; \$16 million for the Justice Prisoner Alien Transportation System; \$8 million to enter criminal alien records into the National Criminal Information Center; and \$25 million for detention construction projects. Also, there is an earmark for an additional \$5 million and 46 positions to expand the criminal alien apprehension program, and \$11 million and 100 positions to form 23 additional quick response teams that work with state and local law enforcement to identify and remove deportable aliens. Neither of these increases were requested by the Administration.

Regarding section 110, this provision as originally enacted would have required the development of a system that would record the entry and exit of every alien arriving and departing from the United States. Many congressional delegations from northern border states strongly opposed the implementation of section 110 at the northern land border, since it would have represented a significant departure from the status quo. Canadians who enter the United States through land border ports were and are not required to present a passport, and are usually not required to obtain a visa. Similarly, U.S. citizens who enter Canada through land border ports are not required to present a passport or visa in most cases. Some feared that, if Section 110 were implemented at northern land border ports of entry, additional documents would be required. The Immigration and Naturalization Service Data Management Improvement Act of 2000 (P.L. 106-215), enacted on June 15, 2000, amended and rewrote section 110 to require the development of a system that would record an integrated entry and exit data system that would use available data to record alien arrivals and departures, without establishing additional documentary requirements. The law was viewed by many as a compromise; nevertheless, the Senate-reported bill would repeal section 110, as amended. (For further information, see CRS Report RS 20627, *Immigration: Integrated Entry and Exit Data System*, by William J. Krouse.)

In addition, the Senate-reported measure would repeal section 641 of P.L. 104-208. This provision required INS to implement a foreign student data collection reporting program by January 1, 1998. Academic administrators have lobbied for this

provision's repeal, principally because it requires them to collect fees from foreign students for INS.

Regarding INS restructuring, FY2000 conference report language stressed that "a lack of resources is no longer an acceptable response to INS's inability to adequately address its mission responsibilities." On March 22, 2000, the House Judiciary Committee's Immigration and Claims Subcommittee approved a bill to split INS, establishing a bureau of immigration services and a bureau of immigration enforcement within the Department of Justice (H.R. 3918). This bill is identical to H.R. 2528, the "Immigration Reorganization and Improvement Act of 1999," as introduced by Representative Harold Rogers in July 1999. Previously, the House Immigration Subcommittee had amended and approved H.R. 2528 on November 4, 1999. The amended version of H.R. 2528 represented a compromise negotiated with Attorney General Janet Reno. Late in the session last year, however, the Administration pulled its support for H.R. 2528 as amended, stalling full committee markup of that bill. Representative Lamar Smith, the Immigration Subcommittee chair, asserted during the March 22<sup>nd</sup> markup that the reintroduction of H.R. 2528 as H.R. 3918 was necessary, because the Administration had negotiated in "bad faith."

Last year, the Senate Judiciary's Immigration Subcommittee held a hearing on another INS restructuring proposal (S. 1563) on September 23, 1999, but so far this session the Senate has not addressed this issue. The Administration, meanwhile, is moving forward with plans to restructure INS internally. (See CRS Report RS20279, *Immigration and Naturalization Service Reorganization and Related Legislative Proposals*, and CRS Report RL30257, *Proposals to Restructure the Immigration and Naturalization Service*, both by William J. Krouse.)

The *Government Performance and Results Act (GPRA)* requires the Department of Justice, along with other federal agencies, to prepare a 5-year strategic plan which contains a mission statement, a statement of long-range goals in each of the Department's core functions and a description of information to be used to assess program performance. The DOJ submitted its Strategic Plan for 1997-2002 to Congress in September 1997. During the FY1999 budget process, the Senate Appropriations Committee commended the Assistant Attorney General for Administration for preparing DOJ's FY1999 performance plan, finding it timely, with objective, measurable performance goals. The committee found the strength of the performance plan in its clear strategies for meeting performance goals. DOJ was urged to follow the recommendations of the General Accounting Office (GAO) in preparing a plan for fiscal year 2000, because the committee's recommendations for fiscal year 2000 would be based on the GAO model.

The DOJ FY2000 Summary Performance Plan describes what the Department of Justice plans to accomplish in FY2000, consistent with the long-term strategic goals, and complements the Department's budget request. It provides a summary statement of themes and priorities of DOJ for seven core functional areas (investigation and prosecution of criminal offenses, assistance to tribal, state, and local governments, legal representation, enforcement of federal laws, and defense of U.S. interests; immigration; detention and incarceration; protection of the federal judiciary and improvement of the justice system; and management). It summarizes and synthesizes detailed performance plans of specific Justice component organizations

such as the Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Attorneys, the United States Marshals Service, and others.

## **Department of Commerce**

In his FY2001 budget request to Congress, the President has requested total funding for the Department of Commerce and related agencies<sup>12</sup> of \$5.5 billion, about a \$3.2 billion decrease (or 36.7%) from the \$8.7 billion appropriated by Congress for FY2000. The much higher appropriation for FY2000 reflects primarily a large special appropriation to cover the expenses of preparing for and implementing the 2000 decennial census.

The amount requested for the Department for FY2001 is \$5.4 billion, which is about \$3.2 billion (or 37%) below the \$8.6 billion appropriated for FY2000. Again, virtually all of this additional money for FY2000 is being used to cover the cost of year 2000 decennial census. All agencies within the Department, including the Bureau of the Census (excluding the costs of the decennial census), would receive increases in funding from FY2000 levels under the President's FY2001 request.

On June 14, 2000, the House Appropriation Committee approved a recommended level of funding for the Department which totals \$4.3 billion, which is about \$1.1 billion below what the President has requested. The full House essentially approved the same level of funding on June 26.

On July 18, 2000, the Senate Appropriations Committee recommended a funding total for the Department of about \$4.7 billion, which is about \$800 million below the President's request and about \$400 million above the amount approved by the House passed bill.

The major funding issues that are being considered during congressional deliberations on the President's request for Commerce appropriations include:

- the progress made in the streamlining and downsizing the Department's programs and operations;
- the needs of the Bureau of the Census in conducting the 2000 decennial census and evaluating the census results; and
- the extent to which federal funds should be used to support industrial technology development programs at the National Institute of Standards and Technology (NIST), particularly the Advanced Technology Program.
- the completion of National Weather Service Modernization and the extent to which the National Oceanographic and Atmospheric Administration (NOAA) would implement a number of Presidential

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<sup>12</sup> Related agencies include the Office of the U.S. Trade Representative and the International Trade Commission.

initiatives to protect the environment and foster research and development in the 21<sup>st</sup> century.

- the extent to which foreign countries comply with trade agreements and U.S. trade laws.

The President's FY2001 budget request for the Department calls for \$74.1 million for *Departmental Management*, which is about \$22.6 million above the \$51.5 million appropriated for FY2000. This total also includes the request for the Inspector General's office, amounting to \$22.7 million-- about \$2.7 million above the \$20.0 million appropriated for FY2000. The House Appropriations Committee recommended a level of \$52.4 million which is \$900 thousand below the FY2000 appropriation and about \$21.7 million below the amount requested by the Administration for FY2001. The House approved an amendment by Rep. English which decreased the Committee's recommendation for General Administration by \$3 million to \$28.4 million. This amount would be transferred to the office of the U.S. Trade Representative. Hence, the total for Departmental Management (formerly referred to as General Administration) would be reduced from the Committee's figure of \$52.4 million to \$49.4 million. This total includes \$21 million for the office of Inspector General, which is less than that requested by the President and appropriated for FY 2000.

The Senate Appropriations Committee recommends total funding of \$67.1 million, which is \$7 million below the President's request, \$15.6 million above the FY2000 appropriation, and \$17.7 million above the amount approved by the House. The total includes \$19 million for the Office of the Inspector General, which is lower than the amounts recommended by the House and requested by the President. It is also less than the amount appropriated for FY2000.

To fund the Department's *Economic and Statistical Analysis* programs, the President requests \$54.7 million, which was about \$5.2 million above the total appropriated for FY2000--\$49.5 million. The House Appropriations Committee recommends \$49.5 million which is the same level appropriated for FY2000 and \$5.2 million below the President's request. The full House approved the same amount. The House approved the Committee recommendation.

The Senate Appropriations Committee has recommended \$54 million, about \$.7 less than the President's request and \$4.5 million more than that approved in the House-pass bill and that appropriated in FY2000.

For the *Bureau of the Census*, the President requests a total of \$719.2 million for FY2001, an amount about \$4.0 billion lower than the almost \$4.8 billion appropriated for FY2000. Most of this larger total for FY2000 reflects a special appropriation, designated an emergency appropriation, to fund final preparations for and implementation of the year 2000 decennial census.<sup>13</sup> The FY2001 budget request

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<sup>13</sup> The FY2000 request of \$4.5 billion for the decennial census was in response to a decision by the Supreme Court (525 U.S. 316 (1999)) that no data from a sample survey can be  
(continued...)

for the decennial census is \$421 million. The House Appropriations Committee recommended \$670.9 million for the Bureau, which is \$48.3 million below the Administration's request. For the decennial census in FY2001, the Committee recommends \$392.9 million. The House approved the Committee recommendation.

The Senate Appropriations Committee recommends \$693.6 million, which is \$25.6 million below the President's request and \$22.7 million more than the House approved amount. The Senate Committee recommends about \$390 million for the decennial Census in FY2001, which is \$2.9 million less than the amount approved by the House.

In the area of international trade, the Senate Appropriations Committee recommended \$318.7 million (\$315.7 million in appropriations plus \$3 million from fee collections) for the *International Trade Administration (ITA)*. This amount is \$7.2 million more than the FY2000 appropriation (\$308.5 million in direct appropriation plus \$3 million from fee collections). It is \$36.5 million less than the Administration's FY2001 request of \$355.1 million (includes \$3 million in offsetting fees). The Administration has asked for funding of a trade compliance initiative, where additional staff would monitor trade compliance and market access problems facing U.S. exporters, with special attention to Asia, and would conduct verifications in antidumping and countervailing duty cases. The amount recommended by the Senate Committee is \$2.7 million less than the House-approved level for FY2001 (\$321.4 million, including \$3 million in offsetting fee collections). It increases funding for compliance but decreases funding for Export Assistance Centers.

The Senate Committee recommended \$61.0 million for the *Bureau of Export Administration (BXA)* for FY2001. This amount is \$7 million more than the amount appropriated in FY2000 (\$54.0 million) and is \$10.5 million less than the President's request of \$71.6 million. The increase under the President's request would fund additional inspections under the new Chemical Weapons Convention and support a joint counter-terrorism program with the U.S. Customs Service. The Senate Committee recommendation is \$7.2 million more than the amount approved by the House (\$53.8million).

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<sup>13</sup> (...continued)

incorporated into the population count used to reapportion seats in the House of Representatives. The case was brought under P.L. 105-119, FY1998 CJS Appropriations, which also established the Census Monitoring Board to seek an accurate and objective census. In accordance with the Court's ruling, the Census Bureau canceled its plan to use a sample survey for nonresponse followup after Census 2000. Instead of surveying a representative sample of households that did not complete their census questionnaires, the Bureau attempted to collect data from all those households, a more expensive operation than sampling. For further information about this topic, see: CRS Report RL30284, *Census 2000: the Sampling Debate*, by Jennifer D. Williams, and CRS Report RL30182, *Census 2000: Sampling as an Appropriations Issue in the 105<sup>th</sup> and 106<sup>th</sup> Congresses*, by Jennifer D. Williams.

The *Economic Development Administration (EDA)* has experienced a tumultuous appropriations history over the past few years.<sup>14</sup> Its funding level was sharply reduced by the 104<sup>th</sup> Congress, then partially restored by the 105<sup>th</sup>. In the 106<sup>th</sup> Congress, appropriators placed EDA programs in jeopardy until the last possible moment. In the end, P.L. 106-113 reduced the agency's funding by \$4 million compared to its FY1999 level. More specifically, for FY2000 the agency received a total adjusted appropriation of \$387 million – \$26.5 million for Salaries and Expenses (S&E) and \$360.5 million for Economic Development Assistance Programs (EDAP).

For FY2001, the Administration has requested \$27.7 million for S&E and \$409.3 million for EDAP, for a total appropriation of \$436.9 million. The House bill, following the recommendation of the Appropriations Committee, provides \$26.5 million for S&E and \$361.9 million for economic development and adjustment programs (EDAP), for a total CJS appropriation of \$388.4 million for FY2001, or \$48.5 million less than requested. This recommendation is the same level as the FY2000 appropriation.

The Senate Appropriations Committee, provides \$31.5 million for S&E and \$218 million for EDAP, for a total recommended appropriation of \$249.5 million for FY2001, or \$187.5 million less than requested and \$138.9 less than the total approved by the House. This recommendation is also \$138.9 million less than the level appropriated for FY2000.

The President has requested \$28.2 million for the *Minority Business Development Agency (MBDA)*, which is about \$1 million above the \$27.3 million appropriated for FY2000. The House Appropriations Committee recommends the same amount appropriated for FY2000. The House approved this amount. The Senate Appropriations Committee has recommended a slightly lower level of \$27.0 million.

The *Patent and Trademark Office (PTO)* is fully funded by user fees collected from customers. The Consolidated Appropriations Act, P.L. 106-113, provided the PTO with the authority to spend \$871 million for FY2000 (although there are no direct appropriations from the General Fund). Included in this figure are \$755 million from current year fees and \$116 million in carryover fees. This is an increase of 11% over FY1999 (when funds were returned to the Treasury to balance the budget).

For FY2001, the President has requested that the PTO be given budget authority to spend \$1038.7 million; \$783.8 million derived from fees expected to be paid to the Office during FY2001, \$229 million from FY2000 carry over fees, and \$25.9 million in fees originally collected in FY1999. The estimated total of patent and trademark charges to be collected in FY2001 is \$1151.5 million, of which \$367.7 million can not be spent until FY2002.

H.R. 4690, as passed by the House, provides the Patent and Trademark Office with the authority to spend \$904.9 million of which \$650 million is to be derived

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<sup>14</sup> For background, see: *Economic Development Administration: Overview and Issues*, CRS Issue Brief 95100, by Bruce K. Mulock.



from fees collected in FY2001 (\$501.5 million less than the estimated \$1151.5 million) and \$254.9 million from funds carried over since FY1999 and FY2000. The version of this bill reported to the Senate from the Committee on Appropriations would permit the PTO to spend \$1038.7 million, the same as the President's budget request. Included in this is \$783.8 million from FY2001 fees (\$112.8 million less than the expected collections) and \$254.9 million from prior fiscal years.

Appropriation measures that limit the Patent and Trademark Office's use of the full amount of fees collected in the current fiscal year remain an area of controversy. Opponents argue that since agency operations are supported by fees for services, the total amount of the fees collected should be available to provide for those services in the year the expenses are incurred. They claim that the fees not used instead fund other, non-related programs. Proponents maintain that fees generated in past years and made available in the current fiscal year make up any difference.

The President requested \$2.76 billion in budget authority for the *National Oceanic and Atmospheric Administration (NOAA)* for FY2001.<sup>15</sup> This amount is \$435 million greater than FY2000 appropriations, an increase of 19%, and is 12% greater than the \$2.5 billion requested by the President for FY2000. Of the FY2001 request total, nearly \$1.9 billion (68%) was slated for Operations Research and Facilities (ORF), and \$635 million (22%) for Procurement, Acquisition, and Construction (PAC). Other NOAA funding would total \$281 million (10%). The request included \$160 million for Pacific Coastal Salmon Recovery (PCSR), and related treaty implementation; \$100 million for a newly proposed Coastal Impact Assessment Fund; and \$10 million for a Fisheries Assistance Fund. NOAA requested new budget authority of \$30 million through collection Navigation Services and Fisheries Management and Enforcement fees. The President requested increased funding for NOAA's part in Committee on Environment and Natural Resources (CENR) initiatives including National Disaster Reduction (\$110 million); Land Legacy (\$265.8 million); South Florida Ecosystems Restoration Initiative (\$1.6 million); Clean Water (\$6.9 million); DOC Minority Serving Institutions (\$17 million); and grants under the Coastal Zone Management Act (\$92.7 million). New in the FY2001 request were a Climate Observation and Services Initiative (\$28 million) and America's Ocean Future Initiative (former "Ocean 2000" initiative increased by \$52 million).

Funding for traditional line offices at NOAA were requested as follows: National Ocean Service (NOS) \$517 million (\$11 million of that PAC), includes \$100 million for Coastal Impact Assessment Fund; National Marine Fisheries Service (NMFS) \$657 million (\$22 million PAC), includes \$160 million for Pacific Salmon Recovery and \$10 million for Fisheries Assistance Fund; Oceanic and Atmospheric Research (OAR) \$319 million (\$11 million PAC), includes \$32 million for Climate Observation and Services and \$59 million for Sea Grant; National Weather Service (NWS) \$710 million (\$75 million PAC); National Environmental Satellite Data and Information Service (NESDIS) \$613 million (\$505 million PAC), includes funding for

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<sup>15</sup> This figure reflects a new FY2001 base, originally reported as \$2,77.8 million, but adjusted for a federal spending cut of 0.38 percent that was negotiated between Congress and the President as part of the final CSJ spending agreement for FY2000.

a new satellite operation facility in Suitland, MD; Program Support (PS) \$87 million (\$16 million PAC), includes \$17 million for Minority Serving Institutions and \$15.8 million for a Commerce Administrative Management System; Facilities (FAC) \$9 million (\$3 million PAC); and Office of Marine and Aviation Operations (OMAO), formerly Fleet Planning and Maintenance and Aircraft Services under PS), \$21 million (\$200,000 PAC).

The House passed H.R. 4690 on June 26, 2000, approving funding levels recommended by the House Appropriations Committee On June 14, 2000 (H.Rept. 106-680), with one amendment. This amounted to \$2.23 billion for NOAA, which is about 5% less than that appropriated by Congress for FY2000, and about 19% less than the President's request of \$2.761 billion for FY2001. The House approved ORF funding at \$1.607 billion, about \$30 million less than the President's request. PAC funding was approved with an amendment for additional funding for NMFS at \$566 million for FY2001, which was \$1.2 million more than House Appropriations Committee recommendations. The balance of other NOAA appropriations totaled \$63.4 million. Major funding differences between final House approved levels and the President's request include a \$145 million reduction for NOS and a \$50 million reduction for NMFS. In addition, the House approved \$58 million of the \$160 million requested for PCSR. Most NOAA programs were funded at, or slightly below, FY2000 appropriations levels, with few exceptions. Some CENR initiatives were not funded because the committee cited that many of these programs were not authorized. The House funded NOAA line offices as follows: NOS-\$260.6 million; NMFS; \$405.4 million; OAR-\$264.6 million; NWS-\$621.7 million; NESDIS-\$106.6 million; PS-\$58.1 million (includes aircraft services); FM&P-\$7 million; FAC-\$11 million; for an ORF Total \$1,607 million. PAC was approved at \$ million but, the House did not approve advanced appropriations for PAC of \$6,417.5 million through FY2019. No funding was approved for GLOBE or Climate Observations and Services (OAR), nor was the \$100 million for Coastal State Grants to mitigate the impacts of offshore drilling activities and other purposes, for which the House cited \$1 billion of mandatory funding passed previously in H.R. 701. The House did not approve an increase in NOAA budget authority of \$30 million from collection of proposed offsetting fees.

On September 8, 2000, the Senate Appropriations Committee reported H.R. 4960 (S. Rept. 106-404). The Committee approved a total of \$2.687 billion for NOAA. This amount was 21% higher than House passed levels for H.R. 4690, about 3% below the Clinton Administration's request, and about 15% greater than FY2000 appropriations. Of this amount, \$1,961 million in budget authority was approved for ORF, with \$66.2 million of that to be derived from PDAF. This amount was 22% greater than the House approved levels, and 6% greater than the President's request for ORF for FY2001. PAC funding was approved at \$669.5 million, which is 5% greater than levels requested by the President, but 16% above House approved levels.

Committee line totals for NOAA are as follows: \$321.3 million for NOS, which is 23% greater than House levels and 21% less than the FY2001 request; \$543.9 million for NMFS, which is 34% greater than House levels and 20% greater than the request; \$318.2 million for OAR, which is 20% greater than House levels and about 5% greater than the request for FY2001; \$632.5 million for NWS, 1.7% below the House and 0.7% less than the FY2001 request; \$112.1 million for NESDIS; \$71.3

million for PS; \$19 million for FM&P; \$35.3 million for FAC. PAC would receive \$669.5 million which is about 5% greater than the President's request of \$635 million for FY2001, but 18.5% greater than House approved levels of \$565 million. PCSR would be funded at \$58 million, the same as House approved levels. CZMF was approved at \$3.2 million, \$0.8 million below the House and President's request. Other fisheries supporting accounts were approved at \$1.5 million, slightly higher than House and President's request for FY2001. No funding was approved for GLOBE. The Senate Appropriations Committee concurred with the House and did not approve \$100 million for a coastal assessment fund or \$30 million in new budget authority from proposed offsetting fees. However, the Committee did approve \$14 million of the \$32 million requested for Climate Observation and Services initiative for ocean observations. Sea Grant was funded \$64.8 million and underwater research at \$17 million, significantly higher than the President's request. Increases were also realized for aircraft services, fleet maintenance and planning, and \$15 million was included for construction of a new NOAA facility in Suitland, MD.

The *National Institute of Standards and Technology (NIST)* received an appropriation of \$639.0 million in FY2000 after the rescission mandated in P.L. 106-113. This is fundamentally the same support as the previous year but 13% below the President's request. Funding includes \$282.1 million for the Scientific and Technical Research and Services (STRS) account (with \$4.9 million for the Baldrige Quality Program); \$246.8 million for Industrial Technology Services (ITS), including \$142.6 million for the Advanced Technology Program (ATP) and \$104.2 million for the Manufacturing Extension Partnership (MEP); and \$106.9 million for construction.

Continued financing of the Advanced Technology Program has been a major funding issue. ATP provides seed financing, matched by private sector investment, to businesses or consortia (including universities and government laboratories) for development of generic technologies that have broad applications across industries. Opponents of the program cite it as a prime example of "corporate welfare," whereby the federal government invests in applied research activities that, they maintain, should be conducted by the private sector. The Administration has defended ATP, arguing it assists businesses (and small manufacturers) develop technologies that, while crucial to industrial competitiveness, would not or could not be developed by the private sector alone. For FY2000, the appropriations bill passed by the Senate included a 15% increase in funding for ATP. However, H.R. 2670, as passed by the House, contained no appropriation for ATP. The accompanying House Committee report stated that the program has not produced a body of evidence to overcome those fundamental questions about whether the program should exist in the first place. While the Advanced Technology Program was ultimately funded in the version of the bill that became law, the support provided, \$142.6 million, reflects a 28% decrease from FY1999. As passed by the House, H.R. 4690 does not include any ATP funding for FY2001.

The President's FY2001 budget requests \$713 million for NIST. This amount is 12% above the current fiscal year. Included in this is \$337.5 million for the STRS account (with \$5 million for the Quality Program). Support for ITS would total \$339.6 million of which \$175.5 million is for ATP (an increase of 23%) and \$114.1 is for MEP (9.5% above FY2000). In addition, a new program under ITS, the Institute for Information Infrastructure Protection (IIIP), is funded at \$50 million. This effort will support R&D designed to protect information and telecommunications

infrastructures from attack or other failures. The construction budget would be \$35.9 million.

H.R. 4690, as passed by the House, provides funding for NIST at \$422.9 million for FY2001, a decrease of 34% from the previous year and 41% below the President's request. Most of the decrease in support is due to the absence of funding for the Advanced Technology Program and a decrease in the construction budget as the building of the new measurement laboratory progresses. Included in this figure is \$292.1 million for the STRS account, \$104.8 million for the Manufacturing Extension Program under ITS, and \$26 million for construction.

The version of H.R. 4690 reported from the Senate Appropriations Committee would make available \$596.6 million for NIST. Included in this FY2001 funding is \$305 million for STRS activities (an 8% increase over FY2000), \$109.1 million for MEP (a 5% increase), \$153.6 million for ATP (8% above the previous year), and \$28.9 million for construction. The decrease in support for construction reflects activities to complete building the new advanced measurement laboratory.

The *Office of the Undersecretary for Technology and the Office of Technology Policy (OTP)* was funded at \$7.9 million in FY2000, a 21% decrease from the previous fiscal year. Part of the decline in support was due to the decision to cease the awarding of grants under the Experimental Program to Stimulate Competitive Technology (EPSCoT) and perform an evaluation of the project. This activity is designed to strengthen the technological infrastructure in states that are "... traditionally under-represented in federal R&D funding." For FY2001, the President has requested \$8.7 million for OTP, 9.3% above the current funding levels. H.R. 4690, as passed by the House, would provide support at \$7.9 million, the same as FY2000. The version reported by the Senate Appropriations Committee funds OTP at \$8.2 million, a 4% increase.

The *National Technical Information Service (NTIS)* currently receives no direct federal appropriation -- it is funded solely through revenue generated from publications sales and other services. On August 12, 1999, the Department of Commerce announced its intention to close NTIS, citing decreased sales revenue and the increasing availability of government information online. DOC proposed transferring NTIS collections to the Library of Congress, and developed legislation to direct the transfer and require that technical information from federal agencies remain available to the public. Many in the library community and others have urged against the immediate shutdown of NTIS, arguing that the public's access to government technical information could be impaired. A preliminary assessment of the proposed closure of NTIS, conducted by the U.S. National Commission on Libraries and Information Services (NCLIS), was released on March 16, 2000. The NCLIS report recommended that NTIS be retained in the DOC through FY2001, while NCLIS, in association with public and private stakeholders, conducts an in-depth analysis of NTIS's status and future. For FY2001, NCLIS recommended that Congress appropriate \$5 million in order to sustain NTIS operations.

The Administration's FY2001 budget proposal requested a supplemental appropriation of \$4 million in FY2000 funds for the purpose of shutting down NTIS. Congress has not approved the Administration's request for a FY2000 supplemental

appropriation. For FY2001, neither the House Appropriations nor the Senate Appropriations committees have recommended any direct appropriation for NTIS.

The *National Telecommunications and Information Administration (NTIA)* provides guidelines and recommendations for domestic and global communications policy, manages the use of the electromagnetic spectrum for public broadcast, and awards grants to industry-public sector partnerships for research on new telecommunications applications and development of information infrastructure. For the current fiscal year, the budget for NTIA includes funding for its operations, administration, salaries, and expenses; support for the Technology Opportunity Program (TOP), formerly called the Technology Information Infrastructure Assistance Program; and continued development and construction of public broadcast facilities. In addition, for FY2001, the Clinton Administration has requested that NTIA's budget include programs to address the perceived "digital divide" separating the Internet "haves" from the Internet "have nots."

For FY2001, the Clinton Administration has requested an overall budget for NTIA of \$423 million, well above its FY2000 funding of \$52.9 million. While the House Appropriations committee recommended \$57.4 million for NTIA in FY2001, the Senate Appropriations has recommended \$76.9 million for NTIA's overall budget in FY2001. Among the most significant increases within the NTIA budget would come from the Administration's request for public broadcast facilities, planning, and construction. For FY2001, the Clinton Administration has requested \$110.1 million for public broadcast facilities, planning, and construction, well above the \$26.5 million appropriated for this program for FY2000. The House approved \$31 million for this NTIA activity in FY2001, while the Senate Appropriations has approved \$50 million for this program. For NTIA salaries and expenses, the Clinton Administration has recommended \$20.3 million for FY2001, an increase over FY2000 appropriations of \$10.9 million; the House approved funding of \$10.9 million for salaries and expenses while the Senate Appropriations approved \$11.4 million. FY2001. For the TOP, the Administration has requested: \$45.1 million for FY2001, an increase from the FY2000 appropriation of \$15.5 million. The House and Senate Appropriations both approved \$15.5 million for TOP in FY2001.

The Clinton Administration has recommended the creation of several new NTIA programs to address the issue of the future of the Internet and their concerns about a "digital divide." A new grant program, the Home Internet Access program, would provide Internet access for low-income families and individuals. The Administration has recommended \$50 million in FY2001 to start this program. The Clinton Administration also has requested \$2 million for NTIA to help develop broadband technology for the Next Generation Internet. The Administration also is requesting new funding for the agency's participation in the government-wide effort to provide critical information infrastructure protection, at \$6.3 million. The Administration also requests \$400,000 in permanent funding for NTIA to participate in its annual nationwide survey on Internet use, *Falling Through the Net*, and \$200,000 for NTIA's participation in digital spectrum management. The House Appropriations committee did not recommend any funding for this program in its FY2001 recommendation, the House followed the committee's action when approving H.R. 4690, and the Senate Appropriations action has been consistent with the House bill.

The **Government Performance and Results Act (GPRA)** enacted by Congress in 1993 (P.L. 103-62; 107 Stat 285) requires that agencies develop strategic plans that contain goals, objectives, and performance measures for all major programs. The strategic plan issued by the Department of Commerce in 1997 enunciated three strategic themes:

- Theme 1. Build for the future and promote U.S. competitiveness in the global marketplace, by strengthening and safeguarding the nation's economic infrastructure.
- Theme 2. Keep America competitive with cutting edge science and technology and a world class information base.
- Theme 3. Provide effective management and stewardship of the nation's resources and assets to ensure sustainable economic opportunity.

As stated by the Department:

The Themes within the Commerce Strategic Plan help identify and capitalize on relationships among bureaus and on partnerships with other agencies and external groups. The Strategic Plan supports the concept that strong working relationships will serve to strengthen the effectiveness of the Department as a whole, as well as demonstrate how individual bureaus logically and critically support the core mission of the Department.

The Commerce Strategic Plan provides the framework for strengthening existing relationships among bureaus and with external partners. Success for Commerce programs in the changing technological world and global economy will depend increasingly on alliances with businesses and industry, universities, State and local governments, and international parties.<sup>16</sup>

In its *Budget in Brief for FY2001*, the Department stated that:

With the publication of the first Annual Program Performance Report in March 2000, the Department will have completed the first full cycle of GPRA mandated activities involving the Strategic Plan, the Annual Performance Plan, and the Annual Performance Report. The revised Commerce Strategic Plan (FY2000-FY2005) will be submitted to Congress in September 2000, and it will replace the first Strategic Plan (FY1997-2002) that was issued in September 1997.

***Commerce Department Abolition Issue*** Since the beginning of the 104th Congress, several legislative proposals have been considered that called for the abolition of the Department of Commerce by eliminating certain departmental

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<sup>16</sup> For more information on the strategic plan's goals, objectives and performance measures see The Department of Commerce Budget in Brief, Fiscal Year 2000 (pp. vii-ix).

functions and allowing others to operate as independent agencies or be transferred to other federal agencies. Those in Congress who have favored the abolition of the Department argued that it “is an unwieldy conglomeration of marginally related programs, nearly all of which duplicate those performed elsewhere in the federal government.” The Clinton Administration, on the other hand, has strongly opposed abolishing the Commerce Department, arguing that “it would result in the needless shuffling of governmental functions while eliminating successful activities that clearly benefit the American people,” especially in areas that promote economic growth, increase the international competitiveness of U.S. firms in global markets, and advance U.S. technology. None of these proposals passed 104th Congress.

There continued to be some congressional interest in reorganizing or downsizing the Department in the 105<sup>th</sup> Congress, although interest in abolishing the Department was considerably less than in the 104<sup>th</sup> Congress.<sup>17</sup> A bill calling for abolition of the Department was introduced by Representatives Royce and Kasich and several other cosponsors (H.R. 2667) on October 9, 1997. This bill was referred to the House Committee on Commerce and two other House Committees that have jurisdiction over certain functions of the Department. A very similar version of the proposal was also introduced in the Senate by Senator Abraham and others on October 24, 1997 (S. 1316). This was referred to the Senate Governmental Affairs Committee. No further action was taken on this issue. In the current Congress, similar legislation was introduced by Representative Royce on July 1, 1999--H.R. 2452. The bill was referred to several committees: Commerce, Transportation and Infrastructure, Banking and Financial Services, International Relations, Armed Services, Ways and Means, Government Reform, the Judiciary, Science, and Resources. No further action has been taken in the House. No similar legislation has been introduced in the Senate.

## **The Judiciary**

For FY2001 the House has approved its Appropriations Committee recommendation of \$4.21 billion in total budget authority for the Judiciary, \$248.4 million, or 6.3%, more than the \$3.96 billion enacted for FY2000. For its part, the Senate Appropriations Committee has recommended \$ \$4.23 billion in total funding for the Judiciary. Earlier the Judiciary had requested \$4.42 billion in total budget authority, an 11.7% increase over FY2000 funding.

At the start of House floor debate on the CJS-Judiciary appropriations bill, the chairman of the House CJS Subcommittee, Representative Rogers, said that the total appropriated for the Judiciary was at a level

. . . just to allow the courts to maintain their current operations and to provide for a limited number of programmatic increases, and to allow the new judges that are being appointed and new courthouses being opened in order to staff those offices. These increases are in line with those provided

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<sup>17</sup> For information, see CRS Report 95-834, *Proposals to Eliminate the U.S. Department of Commerce: An Issue Overview*, by Edward Knight.

to maintain our commitment to law enforcement. We cannot increase the investigators without increasing the courts to handle them . . . .<sup>18</sup>

Similar to FY2000, the Judiciary's budget request for FY2001 focused primarily on total obligations as opposed to appropriated funds. For FY2001, the Judiciary had requested \$4.65 billion in total obligations, an increase of \$363 million, or 8.5%, over FY2000 obligations of \$4.28 billion. Of this requested increase \$258 million was for adjustments to base for mostly fixed costs such as building rent and cost-of-living adjustments.<sup>19</sup> The balance of \$105 million was requested to enable the courts to return to an FY1999 level of service, to provide adequate courtroom security, and to fund additional magistrate judges.

Much of the Judiciary's requested increase was traceable to the largest Judiciary account, *Salaries and Expenses for the Courts of Appeals, District Courts and Other Judicial Services*. This account funds the salaries and benefits of judges and supporting personnel and all operating expenses of the U.S. Courts of Appeals, District Courts, Bankruptcy Courts and the U.S. Court of Federal Claims. The Judiciary had requested an FY2001 appropriation of \$3.50 billion for this account—\$375.6 million, or 12.0 % more than \$3.12 billion enacted for FY2000. The House has approved, as recommended by its Appropriations Committee, an appropriation of \$3.33 billion for the account, \$169.9 million less than the Judiciary's request but 6.9% more than the FY2000 funding amount. (The Appropriations Committee noted that \$231.5 million also would be available to this account from other sources, including current year fee collections and carry-over of unobligated balances.) The Senate Appropriations Committee has recommended \$3.36 billion in total funding for this account for FY2001, which is almost the same level as that approved by the House.<sup>20</sup>

A key concern of the Judiciary for the Salaries and Expenses account has been restoring the courts to an FY1999 level of service. FY1999, according to the Judiciary, marked the first time in recent years that it did not receive an appropriation sufficient to maintain staffing at the level needed to keep up with increasing workload—with funding for FY2000 staffing in turn falling below fiscal 1999 staff levels. The Salaries and Expenses request for F2001, according to the Judiciary,

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<sup>18</sup> Rep. Harold Rogers, "Departments of Commerce, Justice, and State, the Judiciary, and related Agencies Appropriations Act, 2001," remarks in the House, *Congressional Record*, daily edition, vol. 146, June 22, 2000, p. H4962.

<sup>19</sup> The \$258 million in adjustments to the 2000 base would cover higher GSA rent for inflation, pay and benefit cost adjustments (including a proposed cost of living salary adjustments for judges in FY2001), increases in contract rates and information technology costs, annualization of the FY2000 panel attorney rate increase approved by Congress as well as a proposed FY2001 rate increase for panel attorneys, increases for judicial officer confirmations and judges taking senior status, and increases in the number of representations in the Defender Services program.

<sup>20</sup> In its amended version of H.R. 4690, the Committee, in Title VIII of the bill, also has designated an additional \$4.4 million for this account as emergency spending under the Balanced Budget and Emergency Deficit Control Act of 1985. This funding has been earmarked for "expansion, relocation, forced move and build out of existing courthouses."



included funding to restore court staffing “not to the level required to process the judiciary’s workload according to our work measurement studies, but only to the level of service provided in fiscal year 1999.”<sup>21</sup> The request also included a program increase of \$3.8 million for nine new magistrate judges and related support staff. The additional magistrate judges, according to the Judiciary, were required to assist U.S. district judges with an increased volume of civil and criminal cases before the courts.

An urgent development making the requested budget increase necessary, according to the Judiciary, was what it called the explosion of workload in judicial districts on the nation’s Southwestern border. Nationwide, criminal case filings in the federal courts continue to grow steadily. After a 15% increase in FY1998, criminal case filings increased 4% in FY1999 and were expected to grow by 8% in FY2000. (The Judiciary noted that due to the complexity of criminal prosecutions, particularly multi-defendant drug cases, criminal case filings tend to be the most time and resource consuming.) The year-to-year increases in criminal filings, the Judiciary explained, were largely attributable to an enormous growth of filings in the southwestern United States border district courts of Arizona, California Southern, New Mexico, Texas Southern and Texas Western. In FY1999, these five district courts alone accounted for 71% of the total increase in criminal case filings and “for a staggering 27% of all federal criminal case filings, mostly for drug and immigration offenses.”<sup>22</sup>

In response to workload increases in judicial districts along the nation’s Southwest border with Mexico, the Senate Appropriations Committee, in its report on H.R. 4690, recommended that funds saved in the FY2001 account of the Administrative Office of the U.S. Courts be redirected to these Southwest border area courts. Also, in a newly added Title VIII of the CJS-Judiciary bill, devoted to emergency spending for the “Southwest Border Initiative,” the committee provided for \$4.4 million in emergency spending for “expansion, relocation, forced move and build out of existing courthouses,” and \$2.6 million for Court Security—in particular, for court security officers, X-ray machines, metal detectors and radios.

One of the more sensitive parts of the Judiciary’s budget in recent years has been *Defender Services*. This account funds the operations of the federal public defender and community defender organizations, and the compensation, reimbursement and expenses of “panel attorneys.” The latter are private practice attorneys appointed by the courts under the Criminal Justice Act to serve as defense counsel to indigent individuals accused of federal crimes. For FY2001 the Judiciary requested an appropriation of \$440.4 million for Defender Services, a 14.3% increase

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<sup>21</sup> The requested increase included 74 FTE and \$5.5 million for appellate and circuit administration units, 186 FTE and \$11.9 million for district courts, 300 FTE and \$16.6 million for bankruptcy courts, and 695 FTE and \$48.7 million for probation and pretrial services units.

<sup>22</sup> The Judiciary: Congressional Budget Summary Fiscal Year 2001, p. 3. (Hereafter cited as Judiciary Budget Summary) “These increases over the past few years,” the Judiciary explained, were “attributed to increases in law enforcement resources at the border. Since 1994, the number of border patrol agents has increased by 99%; INS agents, 93%; and DEA agents, 155%. However, funding for court staffing has remained basically flat since fiscal year 1998.” Ibid., p. 41.

over FY2000 budget authority of \$385.1 million. As recommended by the House Appropriations Committee, the full House has approved an appropriation of \$420.3 million for this account, \$20.0 million less than the Judiciary's request but \$35.2 million, or 9.1%, more than total FY2000 funding. (In addition, the Appropriations Committee said, \$8.1 million would be available to Defender Services from prior year unobligated balances.) The Senate Appropriations Committee has recommended \$416.4 million in total Defender Services funding for FY2001, about \$3.9 million (or about 1 %) below the amount approved by the House.

A matter of increasing concern to the Judiciary has been the low rate of pay panel attorneys receive under the Criminal Justice Act relative to compensation paid to private counsel by other government agencies. In his 1999 Year-End Report on the Federal Judiciary, Chief Justice William H. Rehnquist asserted that the rate of pay for panel attorneys "is seriously hampering the ability of the courts to recruit and retain qualified panel attorneys to provide effective representation." The Chief Justice urged Congress to provide funding for all panel attorneys up to the maximum authorized by Congress in 1986—namely, \$75 per hour for both in-court and out-of-court time. Prior to FY2000, Congress had appropriated funds to pay the \$75 per hour maximum in portions of 16 of the nation's 94 judicial districts. Congress then approved panel attorney rates of \$70/\$50 for in-/out-of-court time, effective January 2000, for *all* judicial districts, representing a \$5 per hour increase over FY1999 rates. The Judiciary's FY2001 request for Defender Services included funds sufficient to pay all panel attorneys at the \$75 per hour rate, effective April 2001. The cost of this increase would be \$11.3 million.

The Appropriations Committees have differed in their response to the Judiciary's request for an increase in panel attorney pay rates. In its report on H.R. 4690, the House Appropriations Committee said it was "generally supportive of an increase" in panel attorney rates and proposed an increase to \$75/\$55 for in-/out-of-court time. By contrast, the Senate Appropriations Committee, in its report, explicitly stated, "No funding is provided to increase panel attorney rates of compensation beyond what was provided in fiscal year 2000."

During consideration both of the Judiciary's FY1999 and FY2000 budgets, congressional appropriators had expressed concerns about rising Defender Services costs. A continuing concern had been Defender Services costs of compensating attorneys who represent indigents in federal death penalty and death row appeal cases (often referred to as "capital cases"). In its FY2000 budget submission to Congress, the Judiciary noted various ongoing initiatives on its part to contain costs for federal capital habeas corpus cases.<sup>23</sup> The Judiciary also said it was continuing to pursue

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<sup>23</sup> These initiatives, the Judiciary said, included the establishment of case budgets at the onset of cases, training programs to improve case management, and improved procedures for reviewing attorney payment vouchers. According to the Judiciary, as a result of these initiatives, the average cost per petitioner in capital habeas corpus cases in the U.S. Court of Appeals for the Ninth Circuit had decreased by 38% from FY1996 to FY1999, from \$76,506 to \$47,675. (In recent years, it has been in the Ninth Circuit that some of the most expensive capital case representations have occurred.)

implementation of recommendations included in its January 1998 report to Congress on controlling costs associated with the Defender Services Program.

In its June 14, 2000 report on H.R. 4690, the House Appropriations Committee noted that it had received a report regarding measures undertaken by the U.S. Court of Appeals for the Ninth Circuit to reduce costs for capital habeas corpus representations in the Circuit's District Courts, particularly the District Courts in California. Those measures, the Committee noted, appeared to be working, "as evidenced by the 40 percent reduction in the average annual cost per petitioner in the Ninth Circuit." While commending the Ninth Circuit for its efforts to reduce costs, the Committee observed that the average cost in California "is still almost twice that of the national average. Accordingly the Committee urges the Ninth Circuit to continue its cost cutting efforts and to include results in its Optimal Utilization of Judicial Resources Report."

For FY2001, the Judiciary also requested funding for a 3.7% *cost-of-living increase in judges' and justices' salaries*. This adjustment, the Judiciary observed, was consistent with the expected FY2001 salary increase for the federal government's General Schedule employees. The Judiciary contended that this requested adjustment, and subsequent adjustments on an annual basis, were "essential if the judiciary is to maintain its high standards."<sup>24</sup> The cost of this increase would be \$8.8 million in FY2001. In its FY2001 budget submission, the Judiciary presented its request for salary increases in the form of "adjustments to base" in several of its Salaries and Expenses accounts, rather than as one separate appropriations request.

The House, however, has declined to include an appropriation for increased judicial salaries in FY2001. (The House Appropriations Committee, in its report on H.R. 4690, stated that it had "deferred without prejudice" the Judiciary's request for a pay adjustment).<sup>25</sup> By contrast, the Senate Appropriations Committee has approved the Judiciary's pay increase request. In its amended version of H.R. 4690, the Senate committee has both authorized a salary adjustment for justices and judges during FY2001 and appropriated \$8.8 million for that purpose. If, ultimately, the salary adjustment is agreed on by the House and Senate and becomes law, the judicial salary increase would be limited to 2.7%.<sup>26</sup> The adjustment rate of 2.7% would be based on

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<sup>24</sup> The Judiciary added, in its FY2001 budget submission to Congress, that it would prefer that these cost-of-living adjustments be automatically applied to judges, as provided for in the Ethics Reform Act of 1989, "without the necessity of a separate affirmative authorization under section 140 of P.L. 92-97."

<sup>25</sup> Earlier, in November 1999, in response to a request from the Judiciary, Congress authorized for FY2000 an upward 3.4% salary adjustment for judges, appropriating \$9.6 million for this purpose. This was the second cost-of-living adjustment for judges and justices since 1993, the other being a 2.3% increase in January 1998. The Judiciary noted that until the January 1998 salary adjustment, judges "were the only career federal employees who had not received an ECI [Employment Cost Index] adjustment in the previous four years."

<sup>26</sup> The current salaries of Article III (lifetime appointment) judges is as follows: Chief Justice of the United States—\$181,400; Associated Justices of the Supreme Court—\$173,600; U.S. Court of Appeals judges—\$149,900; U.S. District Court judges—\$141,300; and judges on  
(continued...)

a formula set by law involving the Employment Cost Index (ECI), as well as be limited by the General Schedule (GS) salary adjustment rate.<sup>27</sup>

Related to the issue of judicial salaries, the Senate Appropriations Committee has included language in its version of H.R. 4690 concerning *honoraria received by justices and judges*. (By contrast, there is no language in the House-passed version of H.R. 4690 relating to honoraria for judges.) Specifically, Section 305(a) in the General Provisions of Title III of the Senate bill provides that a statutory prohibition against Members of Congress or Government officers or employees receiving honoraria shall not apply to “any individual while that individual is a justice or judge of the United States.”<sup>28</sup> At the same time, Section 305 authorizes the Judicial Conference, if it so chooses, to set its own honoraria limits for justices and lower federal court judges.<sup>29</sup>

Section 305 also excludes honoraria received by judges from the definition of “outside earned income” in 5 U.S.C. App. Sec 501(a); thus, judicial honoraria apparently would not be subject to the statutory curb, in effect since 1989, which has limited the “outside earned income” of judges (and of officers and employees in the legislative and executive branches) to 15% of a level II in the Executive Schedule.<sup>30</sup>

The Judiciary requested a substantial increase for *Court Security*, the account which covers the expenses of security and protective services for the lower federal courts in courtrooms and adjacent areas. For FY2001, the Judiciary sought an appropriation of \$215.4 million for this account, an 11.6% increase over FY2000 funding of \$193.0 million. (\$8 million of the increase would fund 72 additional court security officer positions and court security equipment in new federal courthouses and

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<sup>26</sup> (...continued)

the U.S. Court of International Trade—\$141,300.

<sup>27</sup> For a precise explanation of the rate adjustment formula, as it affects the salary level of federal judges, see U.S. Library of Congress, Congressional Research Service, *Judicial Salaries: Current Situation*, by Sharon S. Gressle, CRS Report RS20278, updated Sept. 13, 2000 (Washington: continually updated), pp. 1-3.

<sup>28</sup> The honoraria prohibition is contained in Section 501(b) of 5 U.S.C. App., Ethics in Government Act of 1978. However, Section 501(b), it should be noted, was struck down by the Supreme Court in 1995 as a violation of the First Amendment, in *United States v. National Treasury Employees Union*, 115 S. Ct. 1003, 1018 (1995).

<sup>29</sup> Specifically, Section 305(b) directs the Judicial Conference to promulgate regulations under section 503 of the Ethics in Government Act of 1978 “to carry out the amendments made by this section, including any regulation relating to any limitation on amounts of honoraria or payments made to charitable organizations in lieu of honoraria.” By way of explanation, the Senate Appropriations Committee report on H.R. 4690 states simply that “Section 305 amends section 501 of 5 U.S.C. App. .”

<sup>30</sup> For an analysis of the status of the statutory honoraria ban and outside earned income limit, and their application to federal judges, see U.S. Library of Congress, Congressional Research Service, *Application of Statutory Ban on Honoraria and Outside Earned Income Limit to Judicial officers and Employees*, by Jack Maskell, CRS General Distribution Memorandum (Washington, September 14, 2000), 3 p.

in existing facilities with known security problems.) The House, as recommended by its Appropriations Committee, has approved \$198.3 million for this account, \$17.1 million less than the Judiciary's request but \$5.2 million, or 2.7%, more than FY2000 funding. The Senate Appropriations Committee has recommended a slightly higher amount of for Court Security in FY2001—\$199.6 million,<sup>31</sup> in addition (as noted above) to providing for \$2.6 million in emergency spending for court security as part of the “Southern Border Initiative” title of its CJS-Judiciary bill (Title VIII).

Of all of its budget accounts, the Judiciary requested the largest proportional increase in funding for the *United States Sentencing Commission*, which sets, reviews, and revises sentencing guidelines and policies for the federal criminal justice system. The Judiciary requested \$10.6 million for the Commission in FY2001, a 24.7% increase over its FY2000 appropriation of \$8.5 million. Throughout most of FY1999 and part of FY2000, all of the seats on the seven-member Sentencing Commission were vacant, and against this backdrop of disarray in the Commission, Congress decreased its FY2000 appropriation 10.4% below its FY1999 funding level of \$9.5 million. The FY2001 request sought restored funding for the Commission at a full staffing level. As recommended by the House Appropriations Committee, the House has approved \$9.6 million for this account, \$1 million less than the Judiciary's request but \$1.1 million, or 13.1%, more than FY2000 funding. The Senate Appropriations Committee has recommended \$9.9 million for the Commission in FY2001, which is slightly higher than the House total.

The Judiciary also requested an additional \$10 million in program increases for what it characterizes as small staffing increases for the Court of Appeals for the Federal Circuit, the Supreme Court of the United States, the Administrative Office of the U.S. Courts, and the Federal Judicial Center. Specifically, the Supreme Court requested \$37.7 million for its Salaries and Expenses account, a 6.2% increase over FY2000; meanwhile, a decreased appropriation of \$7.5 million for the Court's Building and Grounds account was requested, down 6.3% from FY2000 funding of \$8.0 million.<sup>32</sup> Following the recommendation of its Appropriations Committee, the House has approved \$36.8 million for the Court's Salaries and Expenses account and \$7.5 million for Buildings and Grounds. The Senate Appropriations Committee has recommended \$37.6 million for Court Salaries and Expenses and \$7.5 million for Building and Grounds.

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<sup>31</sup> In its amended version of H.R. 4690, the Committee, in Title VIII of the bill, also has designated an additional \$2.5 million for Court Security as emergency spending under the Balanced Budget and Emergency Deficit Control Act of 1985.

<sup>32</sup> The Building and Grounds request sought, among other things, \$700,000 for renovations to the telecommunications infrastructure for the Court's cabling system and \$1.5 million for further design of the building improvement and systems upgrade master plan. A total of \$2.6 million in non-recurring items, funded in FY2000 on a one-time basis, were subtracted from the account's FY2001 budget request. The largest of these non-recurring FY2000 items were \$400,000 for driveway barriers, \$100,000 for mock-up design coordination, and \$2 million “for a demonstration area of bullet-resistant glass.” The Judiciary. Budget Estimates for Fiscal Year 2001. Congressional Submission, p. 1.27.

Apart from the Judiciary's FY2001 budget request, the Judicial Conference has recommended to Congress the creation of 59 new Article III judgeships and 24 *new* bankruptcy judgeships, to handle the court's growing workload. The Judiciary's FY2000 appropriation included authorization for nine new U.S. district judgeships, the first to be created since 1990. However, neither the House-passed FY2001 CJS bill, H.R. 4690, nor the amended version of H.R. 4690 approved by the Senate Appropriations Committee, authorizes or provides funding for any additional new judgeships.<sup>33</sup>

As part of the budget process, the Government Performance and Results Act (GPRA) enacted by Congress in 1993 (P.L. 103-62; 107 Stat. 285) requires that agencies develop strategic plans that contain goals, objectives, and performance measures for all major programs. However, as noted earlier, the Judicial branch is not subject to the requirements of this Act.

## **Department of State and Related Agencies**

The Administration's FY2001 budget request for the Department of State and international broadcasting totals nearly \$7 billion, 10% above the FY2000 enacted level of \$6.3 billion. The request is comparable to the FY1999 enacted level which had included the \$1.56 billion emergency supplemental appropriation for overseas security and Y2K computer compliance. The House Appropriation Committee recommended \$6.55 billion for State and international broadcasting FY2001 budgets. The House-passed legislation reduces the Department of State total by \$10 million (to \$6.54 billion) which is transferred to an unrelated account. The Senate Appropriations Committee set a similar funding level—\$6.56 billion—for both international broadcasting and the Department of State.

Reorganization of the foreign policy agencies occurred throughout FY1999, with both the U.S. Information Agency (USIA) and the Arms Control and Disarmament Agency (ACDA) abolished, and their functions fully merged into the Department of State as of October 1, 1999. The FY2001 State Department appropriation includes ACDA and USIA funds. International broadcasting remains an independent agency, referred to as the Broadcasting Board of Governors (BBG).

The August 7, 1998 terrorist attacks on two U.S. embassies in Africa prompted the Administration and Congress to seek more funding to protect U.S. personnel overseas. An immediate response was the \$1.56 billion supplemental enacted by the end of the year. In November 1999, the Overseas Presence Advisory Panel reported its findings on embassy security needs and recommendations. Also in November 1999, Congress authorized (P.L. 106-113) \$900 million annually for

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<sup>33</sup> Two non-appropriations bills authorizing the creation of new judgeships have been introduced in the Senate during the 106<sup>th</sup> Congress, but neither has received committee consideration. One of the bills, S. 1145, would (as recommended by the Judicial Conference, the federal judiciary's governing body), create 69 Article III judgeships—7 permanent circuit, 4 temporary circuit, 33 permanent district, and 25 temporary district judgeships. The other bill, S. 2730, would create 13 new U.S. district judgeships—8 permanent and 5 temporary judgeships—in judicial districts in the Southwest border states

FY2000 through FY2004 for embassy security spending within the *embassy security, construction and maintenance account (ESCM)*, in addition to worldwide security funds in the *diplomatic and consular programs account*. The final FY2000 appropriation passed by Congress and signed by the President set the total for overseas security upgrades at \$568 million.

The Department of State FY2001 request includes more than \$1 billion for worldwide security upgrades in the *diplomatic & consular programs account* (\$410 million) and the *embassy security, construction and maintenance account* (\$648 million) with which the House concurs. In addition, the Administration is seeking advance appropriations totaling \$3.35 billion for anticipated embassy security needs; however, the House does not agree with providing funds for future years. Beyond security needs, the Administration is requesting \$431.2 million for regular ESCM spending. The House full Committee recommended \$417 million (about \$10 million less than the FY2000 level for this account) and the House passed that amount. The Senate full Committee recommends the same—\$417 million for ESCM, but would fund much less—\$364 million—for worldwide security upgrades within the ESCM account. The Senate Committee also specifies \$272.7 million within the D&CP account for worldwide security upgrades.

The President's FY2001 request of \$4,711.2 million for State's *administration of foreign affairs* is nearly \$700 million above the FY2000 enacted level. The FY2001 request includes: \$97 million for the *capital investment fund*, an increase of more than \$20 million in the *education and cultural exchanges account*, and a doubling of funds in the *emergencies in the diplomatic and consular service account* which pays for embassy evacuations and rewards regarding terrorist arrests. The House Appropriation Committee recommended slightly less—\$4,654.9 million—for State's *administration of foreign affairs*. The House reduced this amount by \$10.5 million to \$4,644.4 million, transferring out of the *diplomatic and consular programs account* \$10 million to Legal Services Corp. and \$500,000 to the International Water and Boundary Commission. The Senate Appropriations Committee recommends \$4,465.9 million—\$178 million less than the House-passed level. The reduction is largely because of the reduced level of funding for worldwide security upgrades.

The *capital investment fund*, which was established in 1994, provides for purchasing information technology and capital equipment to ensure efficient management, coordination, operation, and utilization of State's resources. The Administration request for FY2001 is \$97 million—\$17 million above the FY2000 level. Noting the need for improved communication and information technology at the Department's headquarters in Washington and in its overseas posts, Congress authorized \$150 million for this account for FY2001. The House full Committee, however, recommended funding of \$79.7 million, just under the current-year level of \$80 million. The House agreed with this amount. The Senate Committee, on the other hand, set their version of funding for the capital investment fund at \$104 million—higher than both the Administration request and the House level.

The United States contributes in two ways to the United Nations and other international organizations: voluntary payments funded in the Foreign Operations Appropriations bill and assessed contributions included in the Commerce, Justice, and State Appropriations measure. Assessed contributions are provided in two accounts,

*international peacekeeping* and *contributions to international organizations (CIO)*. Following a period of dramatic growth in the number and costs of U.N. peacekeeping missions during the early 1990s, a trend that peaked in FY1994 with a \$1.1 billion appropriation, funding requirements have declined in recent years. The FY2000 enacted appropriation for CIO was \$885 million, \$500 million for international peacekeeping, and \$351 million for U.S. arrearage payments to the U.N. if certain reform criteria are met by the United Nations. Only \$100 million of the appropriated arrearage payments have been released because of a lack of U.N. reform.

The President's FY2001 budget seeks \$946.1 million for CIO and \$738.7 million for international peacekeeping, with the bulk of funds going for peacekeeping activities in Kosovo, East Timor, and Sierra Leone. The House Appropriations Committee recommended setting both accounts below the FY2000 level: CIO—\$880.5 million; international peacekeeping—\$498.1 million. The House passed these amounts. The Senate Appropriations Committee is recommending CIO funding of \$943.9 million—closer to the Administration request—and \$500 million for international peacekeeping—the same as the FY2000 level and similar to the House level. Also, the Senate Committee would rescind \$217 million of unobligated funds in the international organizations account.

*Education and cultural exchange programs* (formerly funded within USIA) include programs such as the Fulbright, Muskie, and Humphrey academic exchanges, as well as the international visitor exchanges and Freedom Support Act programs. As a result of the foreign policy reorganization, this account is within State's Bureau for Public Diplomacy and International Exchanges. The FY2000 enacted level for this account was \$205 million, plus \$3.6 million within a supplemental for education and cultural exchanges with Kosovo. In the FY2000 enacted budget, Congress did not specify an amount for the Fulbright Educational Exchange Program.

The Administration has requested \$225 million for education and cultural exchanges in FY2001. The \$20 million increase is to meet wage and price increases, enhance the Fulbright Program, and fully implement the United States/China High School Exchange Initiative. The House agreed with the CJS subcommittee and the full House Appropriations Committee in splitting the difference between the current budget level and the President's request, setting the *education and cultural exchange account* at \$213.8 million. The Senate Appropriations Committee recommends the requested \$225 million to the exchange account for FY2001.

*USIA's international broadcasting* operations account, established after consolidation under the Broadcasting Board of Governors (BBG) in FY1995, includes Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), Cuba Broadcasting, and newer surrogate facilities: Radio Free Asia (RFA), Radio Free Iraq and Radio Free Iran. When USIA integrated into the Department of State at the end of FY1999, the BBG became an independent agency. For FY2000, Congress appropriated \$410.5 million for international broadcasting activities and \$11.3 million for capital improvements.

The Administration FY2001 request totals \$428.5 million for broadcasting (including \$23.5 million for Cuba Broadcasting) and \$19.8 million for capital improvements. The House Appropriations Committee recommended \$419.8 million



for international broadcasting and \$18.4 million for capital improvements. The House passed these amounts. Included in the international broadcasting funds are \$131.2 million for VOA, \$68 million for RFE/RL, \$23.3 million for RFA, and \$22.8 million for Broadcasting to Cuba. The Senate full Committee recommends a total of \$441.6 million for international broadcasting—\$31.1 million for capital improvements (including security upgrades), \$388.4 million for broadcasting operations, and \$22.1 million for Cuba Broadcasting.

The Government Performance and Results Act (GPRA) enacted in 1993 (P.L. 103-62; 107 stat 285) required that agencies develop strategic plans that contain goals, objectives, and performance measures for all major programs. The subsequently published reports: *U.S. Department of State FY1999-2000 Performance Plan* released February 1, 1999, and the *United States Department of State Performance Report, Fiscal Year 1999* establishes target goals and measures how successful the State Department was in attaining those goals. With most of the 27 specified goals, State was close to, or completely successful in, meeting its stated goals.

## Other Related Agencies

This section includes all other related agencies covered by the CJS appropriations bill, whose appropriations exceed \$1.5 million.<sup>34</sup>

**Maritime Administration (MARAD).** MARAD administers programs that aid in the development, promotion, and operation of the nation's merchant marine (including programs that benefit vessel owners, shipyards, and ship crews). The Administration requests \$185.1 million for MARAD for FY2001, \$7 million more than Congress appropriated to it in FY2000. The request consists of \$98.7 million for the Military Security Program (MSP), \$80.2 million for operating MARAD and training ship crews, \$2.0 million for ship construction mortgage guarantees ("Title XI Program"), and \$4.2 million for administering that guarantee program. The MSP program replaces the ODS (Operating Differential Subsidy) program. Only a few ships remained in the ODS program at the end of FY1999, and the last ship contract in the ODS expires in FY2002. The House Appropriations Committee recommended \$198 million for MARAD for FY2001, \$20 million more than was appropriated in FY2000, and about \$13 million above the Administration's request. The recommendation consists of \$98.7 million for the Military Security Program (MSP), which is \$2.5 million more than Congress appropriated for FY2000, and about \$84.8 million for operating MARAD and training ship crews. The Committee also recommended \$10.6 million for ship construction mortgage guarantees ("Title XI Program"). This amount is \$8.6 million above the Administration's request and \$4.6 million above the FY2000 amount. The House Committee's recommendation also

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<sup>34</sup> Agencies which have appropriations of less than \$1.5 million include: Commission for the Preservation of America's Heritage Abroad (FY2000 funding, \$490 thousand; \$390 thousand for FY2001); Commission on Electronic Commerce (newly created body, FY2000 funding is \$1.4 million; \$1 million for FY2001); Commission on Security and Cooperation in Europe (FY2000 funding, \$1.18 million; \$1.37 million for FY2001); and the Marine Mammal Commission (FY2000 funding, \$1.27 million; \$1.4 million for FY2001).

includes \$3.8 million to administer the guarantee program, the same amount provided in FY2000 and a reduction of \$384,000 below the Administration's request. The House passed bill approved the Committee's recommendations.

The Senate Committee on Appropriations recommends \$203.3 million for the Maritime Administration \$25.2 million more than Congress appropriated to it in FY2000, \$18.2 million more than the Administration requested and \$5.3 million more than the House's recommendation. The Senate also recommends a total of \$24.4 for loan guarantees and administration of the Title XI Program which is \$16.6 million above the amount Congress appropriated in FY 2000, \$18.2 million more than the Administration's request and \$10 million more than the House recommends.

**Census Monitoring Board.** The Administration has requested \$4 million for the Census Monitoring Board for FY2001. This body is an eight-member bipartisan oversight board charged with observing and monitoring all aspects of the preparation and implementation of the 2000 decennial census.<sup>35</sup> Congress approved \$3.5 million for the Board, as part of the overall appropriation for the Census Bureau for FY2000. The House Appropriations Committee recommended, and the full House approved, \$3.5 million for the Board in FY2001, again as part of the Bureau's total appropriation. It is unclear at this time as to whether the Senate Appropriations Committee approved funding for the Board.

**The Small Business Administration (SBA).** The SBA is an independent federal agency created by the Small Business Act of 1953. While the agency administers a number of programs intended to assist small firms, arguably its three most important functions are: to guarantee — via the 7(a) general business loan program — business loans made by banks and other financial institutions; to make long-term, low-interest loans to victims of hurricanes, earthquakes, and other physical disasters; and, to serve as an advocate for small business within the federal government.<sup>36</sup>

For FY2001, the Administration is requesting a total appropriation of \$1,057.8 million — a figure which includes \$50.5 million in an emergency supplemental appropriation to support the agency's disaster loan program. This compares to a \$847.0 million CJS appropriation for SBA for FY2000. More specifically, the FY2001 request includes \$419 million for Salaries & Expenses (S&E), an increase of \$96.3 million over the current year (FY2000) appropriation.

The House CJS bill followed the recommendation of the Appropriations Committee. An amendment, however, added \$4.5 million for the Women's Business Centers program. The result: a total FY2001 appropriation for SBA of \$860.7 million, including \$304.1 million for S&E. For its part, the Senate Appropriation

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<sup>35</sup> For additional information on the Board, see: p. 33 of this report.

<sup>36</sup> For information about the SBA, see: *Small Business Administration: Overview and Issues*, CRS Report 96-649 E, by Bruce K. Mulock

Committee recommend a total FY2001 appropriation for SBA of \$887.5 million, including \$143.5 for S&E.<sup>37</sup>

**Legal Services Corporation (LSC).** This agency is a private, non-profit, federally funded corporation that provides grants to local offices that, in turn, provide legal assistance to low-income people in civil (non-criminal) cases. The LSC has been controversial since its inception in the early 1970s, and has been operating without authorizing legislation since 1980. There have been ongoing debates over the adequacy of funding for the agency, and the extent to which certain types of activities are appropriate for federally funded legal aid attorneys to undertake. In annual appropriations laws, Congress traditionally has included legislative provisions restricting the activities of LSC-funded grantees, such as prohibiting representation in certain types of cases or conducting any lobbying activities.

For FY2001, the Administration has again requested \$340 million for the LSC. The proposal would continue all restrictions on LSC-funded activities currently in effect. The Administration has requested \$340 million every year since FY1997, in an effort to partially restore recent cutbacks in funding. The Administration's FY2001 request for LSC is \$35 million higher than the \$305 million FY2000 appropriation for the program. Historically, the Corporation's highest level of funding was \$400 million in FY1994 and FY1995. P.L. 106-113, the omnibus appropriations bill for FY2000, provided \$305 million for LSC for FY2000.

For FY2001, the House Appropriations Committee recommended a total of \$141 million for the LSC. This amount is \$164 million lower than the FY2000 appropriation and \$199 million lower than the Administration's request. The Committee recommendation of \$141 for LSC includes \$134.6 million for basic field programs, \$5.3 million for management and administration, and about \$1.1 million for the inspector general.

On June 26, 2000, the House approved \$275 million for the LSC. This amount is \$30 million lower than the FY2000 appropriation and \$65 million lower than the Administration's request. The \$275 million for LSC includes \$265 million for basic field programs and required independent audits, \$7.9 million for management and administration, and \$2.1 million for the inspector general.

For FY2001, the Senate Appropriations Committee recommended a total of \$300 million for the LSC. This amount is \$5 million lower than the FY2000 appropriation, \$40 million lower than the Administration's request, and \$25 million higher than LSC amount in the House-passed bill. The Committee recommendation

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<sup>37</sup> The Committee recommendation provides a direct appropriation of \$143.5 for S&E. This amount is \$19.5 million below the FY2001 request and \$179.3 million below the FY2000 appropriation. In FY2001, the SBA request for S&E was divided into two accounts. Those costs, which are directly attributable to some of the agency's "non-credit assistance programs", are shown in a new account with that name. The new S&E account included funds wholly devoted to the administrative operations of the agency. For SBA's non-credit assistance programs, the Committee recommends a total of \$153.7 million. This amount is \$102.4 million below the FY2001 request.

of \$300 for LSC includes \$289 million for basic field programs, \$8.9 million for management and administration, and about \$2.1 million for the inspector general.

**Equal Employment Opportunity Commission (EEOC).** The Commission enforces laws banning employment discrimination based on race, color, religion, sex, national origin, or handicapped status. The EEOC's workload has increased dramatically since the agency first was created under Title VII of the Civil Rights Act of 1964. As new civil rights laws have been enacted and employees' increased awareness of their rights has grown, the agency's budget and staffing resources have not been able to keep pace with the substantial increase in case load. The Congress increased the agency's budget for FY1999, giving it \$279 million, an increase of \$37 million over the FY1998 appropriation. The additional funds have helped to speed resolution of a large backlog cases and expand the use of alternative dispute resolution techniques. The agency's budget for FY2000 was increased only minimally to \$282 million.

For FY2001, the President requests \$322 million, an increase of \$40 million to continue the agency's effort to lower charge inventories by increasing collaboration between investigatory and legal staffs, reduce excess backlogs in hearings and appeals provide training and technical assistance to employers on how to comply with equal pay requirements, and facilitate compliance with EEO laws in the private and public sectors. The House Appropriations Committee has recommended \$290 million, or about \$9 million more the enacted FY2000 amount, but \$31 million less than the President's request. The House approved the Committee's recommendation. The Senate Appropriations Committee has recommended \$294.8 million, or \$12.8 more than the enacted FY2000 amount, \$27.2 million less than the President's request, but \$4.8 million more than the House amount.

**Commission on Civil Rights.** The Commission collects and studies information on discrimination or denials of equal protection of the laws. It received an appropriation of \$8.9 million for FY2000. The President's request for FY2001 calls for an increase to \$11 million. The House Appropriations Committee recommended the same level as that appropriated for FY2000—\$8.9 million, and \$2 million below the President's request. The House approved the Committee's recommendation. The Senate Appropriations Committee approved the same level approved by the House.

**Federal Communications Commission (FCC).** The FCC is an independent agency charged with regulation of interstate and foreign communication by means of radio, television, wire, cable and satellite. For FY2001 the Commission requested \$237.2 million in total funding, a 12.9% increase over FY2000 resources of 210.0 million. The request consisted of a direct appropriation of \$37.0 million and \$200.1 million in offsetting regulatory fee collections (compared with a direct appropriation of \$24.2 million and \$185.8 million in regulatory fees for FY2000). Following the recommendation of its Appropriations Committee, the House has approved \$207.9 million—\$2.1 million less than enacted for FY2000 and \$29.3 million less than the Commission's FY2001 request. The \$207.9 million amount passed by the House consists of a direct appropriation of \$7.8 million and \$200.1 million in offsetting regulatory fees.

Just prior to House passage of H.R. 4690, the Clinton Administration, in a policy statement, urged the House to “fully fund” the FCC. The Administration statement criticized the funding level for the commission recommended by the House Appropriations Committee, which it said . . .

. . . could seriously impair the FCC’s ability to carry out its mission by delaying implementation of necessary information technology systems and would likely require an agency-wide furlough. In turn, this would slow down the FCC’s regulatory processes leading to delays in implementation of new communication technologies.

For its part, the Senate Appropriations Committee has recommended \$237.2 million in FY2001 funding for the Commission, exactly the total requested by the FCC. The Senate committee also has approved of the funding breakdown requested by the Commission (\$37.0 million in direct appropriations and \$200.1 million from collection of regulatory fees).

H.R. 4690 as reported by the Senate Appropriations Committee contains a provision, not contained in the House-passed version, prohibiting the FCC from expending funds to grant a license or operating authority “to a corporation of which more than 25 percent of the stock is directly or indirectly owned or voted by a foreign government or its representative.”

In its report on H.R. 4690, the Senate Appropriations Committee also expressed its concern about the “declining standards of broadcast television and the impact this decline is having on American’s children.” The committee instructed the FCC to report to Congress on the issues associated with “resurrecting a broadcast industry code of conduct for content of programming” to “protect against the further erosion of broadcasting standards.” The FCC was directed to submit its report to the committee by June 1, 2001.

The committee also has directed the FCC to reconsider a portion of a recent Commission report and order (released on April 21, 2000) affecting public broadcasters. The committee said the FCC language in question (MM Docket No. 95-31 at 101-111) requires public broadcasters to engage in the competitive bidding process against commercial broadcast stations when they apply for broadcast spectrum not specifically reserved for noncommercial educational use. Congress, the committee said, “did not intend publicly funded stations to use public funds to pay for a Federal asset to provide a public service.”<sup>38</sup> The committee noted that this matter is currently pending in a federal court of appeals; accordingly, the committee urged the court to take notice of Section 309(j) of the Communications Act, which, the committee said, prohibits the FCC from utilizing competitive bidding to award a broadcast license to a non-commercial educational or public station to operate on a non-reserved channel.

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<sup>38</sup> The committee said that, according to the Congressional Budget Office, public broadcasters would have to pay approximately a quarter of a billion dollars to acquire the spectrum they will need for digital conversion through a competitive bidding process if the Commission’s decision is upheld.

For its part, House-passed H.R. 4690 contains an amendment that limits funding for the FCC's Office of Media Relations to not more than \$640,000.<sup>39</sup> The amendment's sponsor, Representative Cliff Stearns of Florida, noted during floor debate that there currently were 17 persons employed in the Office of Media Relations—four receiving an average salary of more than \$77,000, another four earning almost \$99,000 a year each, and one earning almost \$131,000 a year, with a salary total for the office of \$1.1 million. Beside the personnel in Media Relations, Representative Stearns said, each of the FCC bureaus “have their own press person,” and “when the commissioners send out their own press release, a certain person in that commissioner's office must be referred to as the press contact.” The Commission, Representative Stearns said, was “in overload with personnel” in press relations, and his amendment was “just intended to save money and to bring more fiscal responsibility.”<sup>40</sup>

Representative Jose E. Serrano rose in opposition to the Stearns amendment, asserting that congressional, public and media demand for information about FCC activities justified the present size and cost of the Media Relations Office. The FCC, he said, annually receives some 39,600 press calls about telecommunications issues and pending FCC cases. Because of “the work that the FCC does, and because of the fact that the FCC has been involved in some very serious decision in the last few years,” he maintained, “there is a need for the public to know; and the public is constantly asking on a weekly and a monthly basis of the FCC to handle more information.”<sup>41</sup>

In keeping with the requirements of the Government Performance and Results Act, the FCC, as part of its FY2001 budget request presented a strategic plan setting forth its overall mission and general and specific goals for a 5-year time frame.<sup>42</sup>

**Federal Maritime Commission (FMC).** The FMC regulates a large part of the waterborne foreign offshore commerce of the United States. The Administration requested \$16 million for the FMC for FY2001, \$2 million more than Congress

<sup>39</sup> The amendment was added as Sec. 801, at the end of H.R. 4690, under a new title, “Title VIII—Limitations.”

<sup>40</sup> “Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001,” *Congressional Record*, daily edition, vol. 146, June 26, 2000, remarks of Rep. Cliff Stearns, pp. H5138-39.

<sup>41</sup> *Ibid.*, remarks of Rep. Jose E. Serrano, p. H5139.

<sup>42</sup> The general “activity goals” of this plan, flowing from what the FCC called its five “core functions,” are as follows: promote efficient and innovative licensing and authorization of services; encourage, through policy and rule-making activities, the development of competitive, innovative and excellent communications systems, “with a minimum of regulation or with an absence of regulation where appropriate in a competitive market”; promote the public interest and pro-competitive policies by enforcing rules and regulations that ensure that all Americans are afforded efficient use of communications services and technologies; provide information services to its “customers” in the most useful formats available and in the most timely, accurate and courteous manner possible; and manage the use of the Nation's airwaves in the public interest for all non-federal government users, including private sector, and state and local government users.

appropriated to it in FY2000. The House Appropriations Committee recommended \$14.1 million, which is about the same level funded for FY2000 and \$2.1 million less than the President's request. The House passed bill approved the Committee's request. The Senate Appropriations Committee recommends \$16.2 million for the FMC for FY2001, \$2.2 million more than Congress appropriated to it in FY2000. The Senate's recommendation is slightly above the Administration's request and \$2.1 above the House's recommendation.

**The Federal Trade Commission (FTC).** The FTC, an independent agency, is responsible for enforcing a number of federal antitrust and consumer protection laws. Last fall, Congress approved a total FY2000 appropriation for the agency of \$125 million, a reduction of \$8.4 million from the agency's FY1999 figure. More specifically, the \$125 million is comprised of \$104 million in offsetting fee collections and \$21 million in prior-year collections; as a result, no net direct appropriations were required.

For FY2001, the Administration has requested an increase in its program level from \$125 million to \$164.6 million. The FY2001 request includes \$7 million derived from estimated FY2000 carryover fee balances and an anticipated \$157.6 million from premerger filing fees under the Hart-Scott-Rodino Act; therefore, as was the case last year, for FY2001 the FTC is requesting no net direct appropriation. The House Appropriations Committee recommended a CJS appropriation of \$134.8 million for the agency for FY2001. The request included \$13.7 million derived from estimated FY2000 carryover fee balances and an anticipated \$121.1 million for premerger filing fees.

The House approved the committee's recommendation. The Senate Appropriations Committee recommended a program level for the agency for FY2001 of \$159.5 million, to be derived exclusively from the collection of premerger filing fees.

**Securities and Exchange Commission (SEC).** The SEC administers and enforces federal securities laws in order to protect investors and to maintain fair and orderly markets. Last fall, Congress approved a total operating level of \$367.8 million for the SEC for FY2000, an increase of \$43.8 million over FY1999. The figure was comprised of \$173.8 million in offsetting fee collections for FY2000 and \$194 million in prior-year fee collections. The result: no direct appropriations were required for the agency for FY2000.

For FY2001, the Administration has requested a total operating level of \$422.8 million for the SEC, an increase of \$55 million over FY2000. This figure would be comprised of \$282.8 million in offsetting fee collection for FY2001 and \$140 million in prior-year collections. As was the case last year, no direct appropriations would be needed.

The House Appropriations Committee has recommended FY budget authority of \$392.6 million, \$30.2 million less than the Administration's request. This figure would consist of \$252.6 million in FY2001 offsetting fees and \$140.0 million in prior-year fees. No direct appropriations would be needed. The House approved the Appropriations Committee's recommendation.

The Senate Appropriations Committee has recommended \$489.7 million for the SEC, or \$66.9 million more than the Administration's request. (S. 2107, reported by the Senate Banking Committee on July 14, 2000, contains provisions that would raise salaries of certain SEC employees to levels comparable to federal bank examiners.) This would consist of \$194.6 million in fees collected during FY2001, and \$295 million from fees collected during FY1999. No direct appropriations would be needed.

**The State Justice Institute.** The Institute is a private, non-profit corporation that makes grants and conducts other activities to further the development of judicial administration in State courts throughout the United States. Under the terms of its enabling legislation, SJI is authorized to present its request directly to Congress, apart from the President's budget. For FY2001, the President requested the same funding amount for SJI as appropriated for FY2000—\$6.85 million. The President's budget request stated that appropriations for SJI in FY2001 were "intended to provide for continuation of Institute operations at a reduced level."<sup>43</sup> For its part, however, the Institute requested \$15.0 million for FY2001, more than double its FY2000 funding amount.<sup>44</sup> As recommended by its Appropriations Committee, the House has approved an FY2001 appropriation of \$4.5 million. The Senate Appropriations Committee has approved total funding resources of \$14.85 million for the Institute—consisting of \$6.85 million in direct appropriations and \$8.0 million to the Institute in the form of a transfer from the Judiciary title in H.R. 4690 (Title III).<sup>45</sup>

**Office of the U.S. Trade Representative (USTR).** The Senate Appropriations Committee recommended \$29.6 million for appropriations for FY2001, which is a \$4.0 million increase over the FY2000 level of \$25.6 million and the same as the Administration request (\$29.6 million). The Senate Committee recommendation is \$0.2 million more than the House-approved level of \$29.4 million. The House-approved level would add 25 new employees for negotiations, monitoring, and enforcement of trade agreements.

**U.S. International Trade Commission (ITC).** For FY2001, the Senate Appropriations Committee recommended \$49.1 million, which is \$4.6 million more than the FY2000 level of \$44.5 million and the same as the level requested by the Administration (\$49.1 million). The Senate Committee recommendation is \$2.1 million more than the amount approved by the House (\$47.0 million).

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<sup>43</sup> Appendix, Budget of the United States Government, Fiscal Year 2001, p. 1210.

<sup>44</sup> In its FY2001 budget submission to Congress, the Institute stated that the financial assistance it provides "is an especially appropriate form of Federal assistance because it enables all 50 state court systems, as well as the Federal courts, to benefit from the innovations and improvements made in any one State's court system." The Institute noted that prior to its creation in 1984, most State court systems "were unable to obtain more than a minuscule share of the substantial Federal anti-crime grants awarded . . . to the Governor of each State."

<sup>45</sup> Specifically, H.R. 4690 as reported by the Senate Appropriations Committee provides that the transfer of \$8.0 million to the Institute come from funding appropriated to the Judiciary under the heading "Court of Appeals, District Courts, and Other Judicial Services."



**U.S. Commission on International Religious Freedom.** The President asks for \$3 million for this body for FY2001. The Commission, established in Public Law 105-292, is an independent agency charged with the annual and ongoing review and reporting of the facts and circumstances of violations of religious freedom. The appropriation for FY1999 was \$3 million. No additional funds were appropriated for FY2000. The House Appropriations Committee did not recommend additional funding for FY2001. The House took no further action. The Senate version of the CJS bill makes no reference to this Commission.

## Compliance with GPRA Requirements

As noted earlier in this report, the Government Performance and Results Act (GPRA) passed by Congress in 1993 (P.L. 103-62) requires that agencies develop strategic plans that contain goals, objectives, and performance measures for all major programs. In its report on the CJS appropriations bill (S. 2260; S.Rept. 105-235, pp. 5-6), the Senate Appropriations Committee made the following evaluation regarding agency compliance with GPRA requirements:

The Committee has received a number of strategic plans from different organizations receiving appropriated funds within the bill. The Committee found weaknesses with the fiscal year 1999 performance plans of the Departments of Commerce and State and the Small Business Administration. The Committee was especially troubled by the lack of results-oriented, measurable goals in the performance plans. The Committee is also concerned that the plans did not uniformly display clear linkages between performance goals and the program activities in agencies' budget requests. Also, some plans did not sufficiently describe approaches to produce credible performance information. The Committee considers the full and effective implementation of the Results Act to be a priority for all agencies under its jurisdiction. We recognize that implementation will be an interactive process, likely to involve several appropriations cycles. The Committee will consider agencies' progress in addressing weaknesses in strategic and annual performance plans in tandem with their funding requests in light of their strategic goals. This effort will help determine whether any changes or realignments would facilitate a more accurate and informed presentation of budgetary information. Agencies are encouraged to consult with the Committee as they consider such revisions prior to finalizing any requests.

The plan prepared by the Department of Justice was given high marks by the committee. It stated that: "The plan was received in a timely fashion and contained objective, measurable performance goals. The strength of the performance plans was its presentation of reasonably clear strategies for its intended performance goals."<sup>46</sup>

In its report on its version of the CJS bill, the House Appropriations Committee in 1998 noted that "performance plans have generally been of mixed utility in considering the fiscal year budget request." The committee requests that each agency consult with it early in the process of formulating the budget and performance

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<sup>46</sup> S.Rept. 105-235, p. 8.

plan for FY2000, to improve the plan's usefulness to the committee when it examines the FY2000 request (H.Rept. 105-636, p. 8.).

In its report on the FY2000 CJS appropriations, the Senate Appropriations Committee stated that it had "...sent a memorandum to all organizations subject to GPRA funded within this Act. It requested information about the agencies' experiences resulting from the Act. The Committee reiterates that all responses be provided no later than July 1, 1999."<sup>47</sup> Brief descriptions of the latest versions of the Strategic plans of the *major* agencies covered by CJS appropriations are contained in the discussions of the FY2000 budget requests of individual agencies included in this CRS report.

In his budget for FY2001, the President made the following observations regarding the GPRA process, stating that it:

...requires agencies to measure performance and results—not just funding levels—so that we can better track what taxpayers are getting for their dollars. Agencies are not only working to develop and use performance measures in program management but are also working to integrate this information into budget and resource allocations, so that we can better determine the cost of achieving goals. The task is not simple. The agencies must define the specific goals, determining the proper level of resources, assess which programs are working, and fix those that are not. Progress will depend on GPRA becoming more than a paper exercise. Over the next year, OMB will work with all agencies to better integrate planning and budgeting and systematically associate costs with programs.<sup>48</sup>

## Major Funding Trends

The table below shows funding trends for the major agencies included in CJS appropriations over the period FY1997-FY2001. As seen in the table below, funding increased, in current dollars, for the Department of Justice by \$4,022 million ( or 27.5%); for the Department of Commerce by \$5,009 million ( or 37.6%);<sup>49</sup> for the Judiciary by \$906 million (or 29.7%); and for the Department of State by \$1,930 million (or 49%).<sup>50</sup>

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<sup>47</sup> U. S. Congress. Senate Appropriations Committee. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 2000. (106<sup>th</sup> Cong., 1<sup>st</sup> session, S.Rept. 106-76), p. 6.

<sup>48</sup> Budget of the United States Government, Fiscal Year 2001 (106 Cong, 2<sup>nd</sup> sess), p. 294.

<sup>49</sup> Funding for FY2000 was substantially increased by a special appropriation of \$4.7 billion to fund the decennial census to be conducted in 2000. If this amount is subtracted from the FY2000 appropriation total for the Department, the funding increase over the FY1996-2000 period would have been 10.5%.

<sup>50</sup> The substantial increase in funding for the State Department from FY1999 to FY2000 reflects the absorption of the functions of USIA and ACDA into the Department, as the result of reorganization in FY2000.

**Table 2. Funding Trends for Departments of Commerce, Justice, and State, and the Judiciary**  
(in millions of current dollars)

Department or Agency	FY1996	FY1997	FY1998	FY1999	FY2000
Justice	14,625	16,425	17,764	18,207	18,647
Commerce	3,640	3,804	4,251	5,098	8,649
Judiciary	3,053	3,260	3,464	3,652	3,959
State	3,950	3,974	4,037	4,359	5,880

**Sources:** Funding totals provided by Budget Offices of CJS and Judiciary agencies, and U. S. House of Representatives. Committee on Appropriations.

## Current Funding Status

The President's FY2001 budget requests about \$39.6 billion for these agencies, about a \$51 million increase or 0.1 % above the FY2000 total. On June 14, 2000, the House Appropriations Committee approved its version of the CJS appropriations bill (H.R. 4690, H.Rept. 106-680). It recommends funding totaling \$37.4 billion—\$2.2 billion below the President's request and about \$2.2 billion below the FY2000 appropriation. The House approved the bill on June 26 by a vote of 214-195, with 1 voting present.<sup>51</sup> It approved the same overall funding total recommended by the Appropriations Committee. The House, however, did make a few funding changes (that differ from the Committee's recommendations) for certain individual agencies covered by the bill. These are reflected in this report.

On July 18, 2000, the Senate Appropriations Committee approved its version of the bill. It approved total funding of \$36.7 billion which is about \$700 million below the House version and about \$2.9 billion below both the President's request and the actual FY2000 appropriation (S. Rept. 106-404). The bill is awaiting floor action in the Senate.

It is important to note that the Consolidated Appropriations Act passed by the House includes a provision which mandates a 0.38% government-wide rescission of discretionary budget authority for FY2000. For more details see page 1 of this Report

Table 3 shows the FY2000 appropriations totals and the President's request for the major agencies covered by the FY2001 CJS Appropriations bill. Similar information for other agencies covered by the bill, but not shown in this table, are included in the Appendix of this report.

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<sup>51</sup> The floor debate in the House is contained in the Congressional Record, vol 146 on June 23, 2000, pp. H5039-72; and June 26, 2000, pp. H5103-62.

**Table 3. Departments of Commerce, Justice, and State, and the Judiciary Appropriations**  
(in millions of dollars)

<b>Department or Agency</b>	<b>FY2000</b>	<b>FY2001 Request</b>	<b>House Bill, H.R. 4690</b>	<b>Senate Bill, H.R. 4690</b>	<b>Final Bill, H.R.4690</b>
Justice	18,647	20,325	20,237	18,727	-
Commerce	8,649	5,445	4,277	4,837	-
Judiciary	3,959	4,422	4,208	4,237	-
State	5,880	6,515	6,110	6,117	-

**Sources:** U. S. House of Representatives. Committee on Appropriations; U.S. Senate Committee on Appropriations.

## **Related Legislative Action**

### **Department of Justice and Related Agencies**

#### **H.R. 12 (Delay)**

Limits the jurisdiction of the federal courts with respect to prison release orders. Introduced January 6, 1999; referred to Committee on Judiciary.

#### **H.R. 357 (Conyers)**

Combats violence against women by providing for law enforcement and prosecution grants, for education and training grants to promote appropriate responses to victims of violence, for a National Domestic Violence Hotline, for counseling services and for transitional compensation for victims of violence. Introduced January 19, 1999; referred to Committee on Judiciary.

#### **H.R. 1501 (McCollum)**

Juvenile Justice Reform Act of 1999. Contains several drug-related provisions, including but not limited to, increased mandatory minimum penalties for using a firearm to commit a violent crime or drug trafficking offense, using minors to distribute drugs, selling drugs to minors, and engaging in drug trafficking near a school or other protected location. Includes reauthorization language for the Juvenile Justice and Delinquency Prevention Act of 1974, amended, through FY2003; provides for the establishment of Juvenile Delinquency Block Grant Program to eligible states for various purposes including drug use reduction; and renews the Juvenile

Accountability Block Grants, amended, to provide grants for various purposes including juvenile drug courts. Introduced April 21, 1999; referred to Committee on Judiciary. Passed House, amended, June 17. (Related bills: H.R. 988, H.R. 2987.)

**H.R. 3918 (Rogers)**

Immigration Reorganization and Improvement Act of 1999. This bill is identical to H.R. 2528, as introduced. It would dismantle INS and create two new bureaus at the Department of Justice, one for Immigration services, the other for enforcement. Introduced on March 14, 2000. Approved by the House Judiciary Committee's Immigration and Claims Subcommittee on March 22, 2000.

**S. 5 (DeWine)**

Drug Free Century Act. Includes provisions to reduce the transportation and distribution of illegal drugs and strengthen domestic demand reduction. Provides for international reduction of drugs by denying safe havens to international criminals, promotion of global cooperation to fight international crime, money laundering deterrence, increased penalties by raising mandatory minimum sentencing for powder cocaine offenses and drug offenses committed in the presence of a child. Authorizes additional funding for drug eradication and interdiction operations and confirms funding goals set by the Western Hemisphere Drug Elimination Act (P.L. 105-277, Title VIII). Contains provisions to protect children and teachers from drug-related school violence. Provides for drug education, prevention and treatment programs. Introduced January 19, 1999; referred to Committee on Judiciary.

**S. 9 (Daschle)**

Safe Schools, Safe Streets, and Secure Borders Act. Addresses violent crime in schools, reforms the juvenile justice system, combats gang violence, penalizes the sale and use of illegal drugs, enhances the rights of crime victims, and provides assistance to law enforcement officers in their battle against street crime, international crime, and terrorism. Authorizes funding to hire or deploy 25,000 additional police officers, and for other crime and drug programs by extending the Violent Crime Reduction Trust Fund through FY2002. Permits federal prosecution of juveniles only when the Attorney General certifies that the state cannot or will not exercise jurisdiction, or when the juvenile is alleged to have committed a violent, drug, or firearm offense. Contains provisions allowing prosecutors sole, nonreviewable authority to prosecute as adults 16- and 17-year-olds who are accused of committing the most serious violent and drug offenses. Enumerates prevention programs to reduce juvenile crime and includes grants to youth organizations and 'Say No to Drugs' Community Centers. Increases penalties for selling drugs to children, for drug trafficking in or near schools, and for use of "club drugs." Encourages pharmacotherapy research to develop medications for the treatment of drug addiction, and funds drug courts, which subject eligible drug offenders to programs of intensive supervision. Contains provisions to fight drug money laundering. Introduced January 19, 1999; referred to Committee on Judiciary.

**S. 254 (Hatch)**

Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act. Contains various drug-related provisions: increases the penalties for using minors to distribute controlled substances. Authorizes \$1 billion for selected crime and drug

programs by extending the Violence Crime Reduction Trust Fund through FY2001. Introduced January 20, 1999; placed on Senate Legislative Calendar under General Orders; passed Senate with amendments, May 20, 1999.

## **Department of Commerce**

### **H.R. 1553 (Calvert)**

A bill to authorize appropriations for fiscal year 2000 and fiscal year 2001 for the National Weather Service, Atmospheric Research, and National Environmental Satellite, Data and Information Service activities of the National Oceanic and Atmospheric Administration, and for other purposes. Introduced April 26, 1999; referred to House Committee on Science. Reported by Committee, May 18, 1999 (H.Rept. 106-146). Passed House by voice vote, May 19, 1999.

### **H.R. 1744 (Morella)**

A bill to authorize appropriations for the National Institute of Standards and Technology for fiscal years 2000 and 2001, and for other purposes. Introduced May 10, 1999; referred to the House Committee on Science. Mark-up session held, May 26, 1999.

### **H.R. 1907 (Coble)**

Patent and Trademark Office Efficiency Act. Establishes the PTO as an independent agency under the policy direction of the Secretary of Commerce. Provides that all revenues collected by PTO will be for the exclusive use of the PTO. Introduced May 24, 1999; referred to House Committee on Judiciary. Ordered to be reported May 26, 1999.

### **H.R. 2452 (Royce)**

A bill to dismantle the Department of Commerce. Introduced on July 1, 1999. Referred to the Committees on Commerce, Transportation and Infrastructure, Banking and Financial Services, International Relations, Armed Services, Ways and Means, Government Reform, the Judiciary, Science, and Resources.

## **The Judiciary**

### **H.R. 698 (Wicker)**

A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes. Referred to House Committee on Judiciary, February 10, 1999; referred to Subcommittee on Courts and Intellectual Property, February 25, 1999.

### **H.R. 833 (Gekas)**

A bill to amend title 11 of the United States Code. Among many provisions of this bankruptcy reform bill, Section 128 (Bankruptcy Judgeship Act of 1999) creates 18 new temporary bankruptcy judgeships and extends temporary bankruptcy judgeships in five districts. Referred to House Committee on Judiciary and in addition to Committee on Banking and Financial Services, February 24, 1999; referred to Subcommittee on Commercial and Administrative Law, March 11, 1999.

Subcommittee hearings held March 16, 17 and 19, 1999; subcommittee markup, March 25, 1999. Committee consideration and markup, April 21, 22, 27 and 28, 1999. Reported to House (Amended), April 29, 1999. Committee on Banking and Financial Services discharged, April 29, 1999. Passed House by roll call vote, 313-108, May 5, 1999. Received in Senate, May 6, 1999; read twice and placed on Senate Legislative Calendar under General Orders, May 12, 1999. Measure laid before Senate by unanimous consent, all after Enacting Clause is struck with Senate substituting language of S. 625 as amended, and by 83-14 roll call vote measure is passed in lieu of S. 625 with an amendment, with Senate, insisting on its amendment, requesting a conference, February 2, 2000.

**H.R. 1752 (Coble)**

Federal Courts Improvement Act of 1999. Bill would effect various changes in federal court jurisdiction, authority of judicial officers, judicial financial administration, and judicial personnel administration. Referred to House Committee on Judiciary, May 11, 1999; referred to Subcommittee on Courts and Intellectual Property, May 25, 1999. Subcommittee hearings held June 16, 1999; subcommittee markup, July 15, 1999. Committee consideration and markup, July 27, 1999. Reported to House (Amended) and placed on Union Calendar, September 9, 1999. Considered in House under suspension of the rules, passed as amended by voice vote, May 22, 2000. Received in the Senate and referred to the Committee on the Judiciary, May 23, 2000.

**S. 159 (Moynihan)**

A bill to amend chapter 121 of title 28, United States Code, to increase fees paid to federal jurors, and for other purposes. Bill would increase fee federal jurors are paid for the first thirty days of a trial from \$40 per day to \$45 per day. Referred to Senate Committee on Judiciary, January 19, 1999; referred to Subcommittee on Oversight and Courts, March 24, 1999.

**S. 253 (Murkowski)**

Federal Ninth Circuit Reorganization Act of 1999. Bill organizes U.S. Court of Appeals for Ninth Circuit into three regional divisions, as recommended by the Commission on Structural Alternatives for Federal Courts of Appeals. Referred to Senate Committee on Judiciary, January 19, 1999; referred to Subcommittee on Oversight and Courts, March 24, 1999; Subcommittee hearings held July 16, 1999.

**S. 625 (Grassley)**

Companion bill to H.R. 833, above, including among its provisions Section 1126, Bankruptcy Judgeship Act of 1999, which creates new temporary bankruptcy judgeships and extends temporary bankruptcy judgeships in five districts. Referred to Senate Committee on the Judiciary, March 16, 1999. Committee consideration and markup, April 15 and 22, 1999. Reported to Senate and placed on Senate Legislative Calendar under General Orders, May 11, 1999. Laid before Senate and cloture motion presented, September 16, 1999. Cloture not invoked in Senate by roll call vote, 53-45, September 21, 1999. Measure laid before Senate by unanimous consent, November 5, 1999. Considered by Senate, November 5, 8, 9, 10, 16 and 17, 1999. Cloture motion presented in Senate, November 19, 1999. Cloture motion withdrawn by unanimous consent in Senate, January 24, 2000. Considered by Senate, January 26 and 31, February 1 and 2, 2000. By 83-14 roll call vote, incorporated by Senate in H.R. 833 as an amendment, which in turn is passed by Senate in lieu of S. 625, February 2, 2000.

**S. 1145 (Leahy)**

Federal Judgeship Act. Creates 69 new federal circuit or district judgeships. Referred to the Senate Committee on the Judiciary, May 27, 1999.

**S. 1564 (Cochran)**

Federal Courts Budget Protection Act. Bill would allow the Judiciary to submit its annual budget, including buildings, directly to Congress, without going through the Office of Management and Budget. Referred jointly to Senate Committees on Budget and Governmental Affairs, August 5, 1999.

**Department of State****S. 886 (Helms)**

A bill to authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at U.S. diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for the reform of the United Nations; and for other purposes. Introduced April 21, 1999; original measure ordered reported by Senate Foreign Relations Committee April 27, 1999. (S.Rept. 106-43).



The second session of the 106th Congress will likely address a number of issues during the CJS appropriations process for FY2001. Major issues or concerns include: building more prisons, extending the 1994 Crime Act funding authorization beyond September 30, 2000; increasing funding for drug-related efforts among the Department of Justice (DOJ) agencies; increasing funding for community law enforcement; combating cybercrime; funding of DOJ's legal action against the tobacco industry; changing the focus and levels of appropriations for DOJ's Office of Juvenile Justice and Delinquency Prevention; providing funding for programs that would reduce gun and youth violence; reducing pending caseloads in immigration-related claims, particularly green card and naturalization applications; meeting the statutory mandate that the Border Patrol be increased by 1,000 agents in FY2001, and accounting for the shortfall in hiring in FY1999; determining the level of detention capacity necessary to comply with the statutory mandate that certain criminal aliens be detained until deported; and restructuring INS internally as proposed by the Administration or dismantling or restructuring the agency by legislation; the downsizing of Commerce Department programs, implementing the 2000 decennial census and evaluating the results, the use of federal funds to support industrial technology, implementing the modernization of the National Weather Service, and the monitoring of foreign compliance with trade agreements and U.S. trade laws; improving embassy security through a doubling of funding as well as a request for an advance appropriation to cover the period FY2002 to FY2005; the level of funding needed to maintain essential services, operations and court security in the lower courts; whether to increase funding to compensate court-appointed defense attorneys in federal criminal cases; how to contain the growing costs of the Judiciary's Defender Services account; and the merits of providing a cost-of-living pay increase for federal judges.

## **Department of Justice**

Traditionally, state and local governments have primary responsibility for crime control. Especially within the last decade, a greater federal role has developed. Congress has enacted five major omnibus crime control bills since 1984, establishing new penalties for crimes and providing increased federal assistance for law enforcement efforts by state and local governments. Federal justice-related expenditure is one of the few areas of discretionary spending that has increased its share of total federal spending over the last two decades.

***FY2001 Budget Request.*** For FY2001, President Clinton's budget request for DOJ is \$20.3 billion compared to the Senate Appropriations Committee recommendation of \$18.7 billion, and the House's \$20.2 billion. DOJ received funding of \$18.65 billion in FY2000. DOJ's request for FY2001 is intended to address major concerns such as fighting crime and gun and youth violence, building prisons, checking drug abuse, improving the department's information resources and improving the border management of INS.

On July 18, the Senate Appropriations Committee recommended \$18.7 billion in funding for FY2001 for the Department of Justice. The Senate Committee rejected by a tie vote, 14-14, Senator Ernest Hollings's amendment to spend \$20.5 million to finance a federal lawsuit against tobacco companies to offset the federal government's

expenses of treating veterans and Medicare and Medicaid patients for smoking-related illnesses.

The CJS bill, H.R. 4690, passed by the House on June 26, would provide \$20.2 billion. On June 23, Representative Henry A. Waxman offered an amendment to H.R. 4690, the CJS Appropriations bill, which would allow the Veterans Administration to reimburse DOJ for its lawsuit against tobacco companies. The House passed the amendment by a vote of 215 ayes to 183 noes.

Under the Telecommunications Carrier Compliance Fund of the *General Administration* account, the Senate Appropriations Committee does not recommend additional funds for FY2001 for the Communications Assistance for Law Enforcement Act (CALEA). In January 2000, the Senate Committee denied a reprogramming request of DOJ for an additional \$100 million in FY2000 for this account based on the source of funds the Department chose to use as an offset for these funds. Congress recently passed a FY2000 supplemental appropriation, which upon enactment, will provide \$183 million for CALEA. This amount exceeds DOJ's request for the program in FY2000 and FY2001. With enactment of the supplemental appropriation for FY 2000, a total of \$301 million has been appropriated for CALEA. For FY2001, the House approved the Appropriations Committee's recommendation of \$278 million for the Telecommunications Carrier Compliance Fund to reimburse equipment manufacturers and telecommunications carriers and providers of telecommunications support service for implementing the Communications Assistance for Law enforcement Act of 1994 (CALEA). Of this amount, \$141.3 million is for national security purposes. The Senate Committee would recommend \$205 million for the Narrowband Communications account for FY2001 compared to \$95.4 million which the House would provide for this account.

The Clinton administration requests a total of \$240 million for the Telecommunications Carrier Compliance Fund, of which \$225 million is new funding to reimburse the telecommunications industry for costs associated with modifying their networks (Communications Assistance for Law Enforcement Act). The total funding would be divided between DOJ and the Department of Defense (DOD) as follows: \$120 million for DOJ and \$120 million for DOD. DOJ will implement all of the funds. For its program to convert to narrowband radio communications, DOJ requests \$205 million. In the FY2000 appropriations cycle, this program was controversial as the Administration requested \$86 million for narrowband conversion, but received \$10.6 million in direct funding and was directed to transfer \$92.5 million for the program from other departmental components.

To address terrorism, the Senate Committee recommends \$5 million for FY2001 for the counterterrorism fund compared to the \$10 million which the House would provide and the \$10 million which the President requested. The Senate Committee reports that there will be carryover balances available in FY 2001 of more than \$36 million for this account. The Senate Committee expressed concern that DOJ was using funds in this account for any effort associated with countering terrorism instead of for extraordinary costs for providing support to counter, investigate or prosecute domestic or international terrorism. To insure that counterterrorism funds are used appropriately, the Senate Committee directs DOJ to notify House and Senate Appropriations Committees prior to obligation of all funds in this account. Under

presidential Decision Directive 62, the President designated a National Coordinator for Security, Infrastructure Protection, and Counterterrorism (DAG-CT) to coordinate interagency terrorism policy issues and review ongoing terrorism-related activities. The Senate Committee recommends an additional \$23 million for this office. Funding to combat terrorism is also recommended under the Office of Justice Programs, Justice Assistance account.

The Senate Appropriations Committee for FY2001 for the *Office of Justice Programs* (OJP) recommends \$3.07 billion, while the House would provide \$4.08 billion. The President requests for OJP is \$3.74 billion compared with FY2000 funding of \$4.08 billion. To address gun and youth violence, the Administration has requested \$215.9 million, of which new funding of \$150 million would be to hire 1,000 local prosecutors in jurisdictions designated by DOJ as High Gun Violence areas.

For the Justice Assistance account for FY2001, the Committee recommends \$426.4 million, of which \$25.5 million would be for the Missing Children Program to combat crimes against children, including \$6 million for state and local law enforcement for continuation of specialized cyberunits and for units that investigate and prevent child sexual exploitation on the internet; \$13.5 million for the National Center for Missing and Exploited Children, with \$2 million of that amount for the operation of the CyberTipline (which collects leads from Internet Service Providers on incidences of child pornography and exploitation) and for Cyberspace training; and \$3 million for the Jimmy Ryce Law Enforcement Training Center to train state and local law enforcement officials in investigating missing and exploited children cases. Also, to address incidents of domestic terrorism, the Committee recommends \$257.5 million for the Office for State and Local Domestic Preparedness Support, of which \$35 million is for the National Domestic Preparedness Consortium, and \$120 million for equipment block grants to states and the District of Columbia for the purchase of specialized equipment needed to respond to terrorist incidents involving chemical, biological, radiological, and explosive weapons of mass destruction.

The Senate Committee recommends for FY2001, \$812 million for COPS which is \$523 million less than the President requested; the House would provide \$595 million for COPS. Of these funds, \$423 million would be for the following police hiring initiatives: \$180 million for school resource officers; \$183 million in direct appropriations for the universal hiring program (UHP); \$20 million from unobligated carryover balances from FY2000 to be used for UHP; and \$40 million for Indian Country. The Safe Schools Initiative would receive \$20 million. For non-hiring initiatives, the Senate Committee recommends: \$100 million for the COPS technology program for development of technologies and automated systems to assist state and local law enforcement agencies in investigating, responding to, and preventing crime; \$130 million for the Crime Identification Technology Program of which \$20 million would be for Safe Schools technology to fund National Institute of Justice's development of new more effective safety technologies such as less obtrusive weapons detection and surveillance equipment and information that allows communities quick access to information to identify potentially violent youth; \$33 million for states to upgrade criminal history records, and \$30 million for state and local units of government crime laboratories to develop or improve the capability to analyze DNA in a forensic laboratory and other forensic science capabilities; \$41.7

million for the COPS Methamphetamine/Drug 'Hot Spots' program to fight the manufacture, distribution, and use of methamphetamine, and for proper removal and disposal of hazardous materials at clandestine meth labs; and \$15 million for the COPS Safe Schools Initiative/School Prevention Initiatives to provide grants to policing agencies and schools to address violence in public schools and to allow the assignment of officers to work in collaboration with schools and community-based organizations concerning crime, gangs, and drug activities.

The House would provide \$595 million for the COPS program, including \$130 million for crime identification technology, \$41.7 for manufacturing and trafficking in methamphetamine, and \$389.5 million for public safety and community policing grants.

The Administration seeks to continue improving community law enforcement. It requests FY2001 funding of \$1.3 billion for the Community Oriented Policing Services (COPS) compared to FY2000 funding of \$595 million. For Public Safety and Community Policing grants, the funding request is \$225 million, which includes \$67.9 million to fund additional officers and to stay on course to hire 150,000 officers by the end of 2005. Earmarks would provide \$45 million for Indian country law enforcement, \$25 million for the bullet-proof vest program, \$20 million for school safety problem-solving partnerships, and \$20 million for National Police scholarships, among other programs.

Under the COPS account for FY2001, the Administration requests \$350 million for the Crime Identification Assistance Program, an increase of \$220 million over FY2000 funding to support crime-fighting technologies efforts. This includes \$70 million for upgrading criminal history, criminal justice and identification record systems, promoting compatibility among systems at the federal, state, and local levels, and obtaining information for statistical and research programs. Another \$50 million would be used to improve forensic laboratories, of which \$35 million would be for grants to state, tribal and local laboratories for improving their DNA and general forensic capabilities and \$15 million in grants to state and local laboratories to reduce their convicted offender DNA sample backlog.

The Senate Committee for FY2001 recommends \$400 million for local law enforcement grants, \$123 million less than the House; the Administration did not request funding for this program. The Senate Committee recommends \$40 million for drug courts and \$63 million for state prison drug treatment, the same funding that the House would provide, while the President requests \$10 million more in funding for drug courts and \$2 million more for state prison drug treatment. For Violence Against Women grants, the Senate Committee recommends \$284.9 million compared to \$283.8 the House would provide and \$12 million less than the Administration's request. These funds would be used to develop and implement effective arrest and prosecution policies for the prevention, identification, and response to violent crimes against women, to strengthen programs that address stalking, and to provide victim services such as specialized domestic violence court advocates who obtain protection orders, among other purposes. In FY2000, drug courts received funding of \$40 million, state prison drug treatment, received \$63 million, and VAWA received \$284 million.

For FY2001, the Senate Appropriations Committee recommends \$452 million for the Byrne grant programs (\$400 million for formula grants and \$52 million for discretionary grants) compared to the House which would provide \$552 million, the same amount appropriated in FY2000 (\$500 million for formula grants and \$52 million for discretionary grants). The President requests \$459.5 million for Byrne grants (\$400 million for formula grants and \$59.5 million for discretionary grants).

The Senate Committee recommends \$40 million for the Weed and Seed program for FY2001 compared \$33.5 million that the House would provide; the President requested \$42 million for the program.

The Senate Appropriations Committee recommends \$1.35 billion for the *Drug Enforcement Agency* (DEA) for FY2001, which would provide for drug education and training programs and technical equipment. For the Methamphetamine Initiative, the Senate Committee recommends \$27.5 million for the agency to target and investigate methamphetamine trafficking, production, and use and to clean-up hazardous waste associated with the manufacture of the drug. This compares with total FY2000 funding for DEA of \$1.28 billion. Funds would be for purchase of 1,358 passenger motor vehicles of which 1,079 would be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year. Also, the Senate Committee recommends additional emergency spending for the Southwest Border Initiative for DOJ under Salaries and Expenses of \$22.5 million for one plane, a helicopter, a forensic laboratory, equipment, and upgrades to and maintenance of the El Paso Intelligence Center's Information System. On the other hand, the House would provide \$1.37 billion for DEA. President Clinton requests \$1.37 billion for the agency. To support the enforcement of federal law and investigations, DEA requests \$864 million. DEA requests \$56 million for FY2001 for FIREBIRD, its primary office automation infrastructure. FIREBIRD supports DEA's global operations and these funds would allow its continued high quality operation.

The President requests funding of \$215 million, for drug prevention programs, including \$171.39 million in new funding for programs designed to break the cycle of drug use and its consequences by providing support services for drug abusers to enable them to reenter the community. The Administration requests \$75 million for FY2001 for OJP'S Zero Tolerance Drug Supervision program to provide discretionary grants to states, local governments, Indian tribes, and courts to plan and enforce comprehensive drug testing and treatment programs and graduated sanctions for persons within the criminal justice system. Of this amount, \$60 million is for an Offender Reentry program that would combine surveillance, sanctions, and support services to provide more protection for communities that have high returns of inmates.

For FY2001, the Senate Appropriations Committee recommends \$4.30 billion for the *Federal Prison System*, of which \$724 million would be for buildings and facilities compared to the House which would provide \$4.27 billion for the Federal Prison System, including \$836 million for buildings and facilities. The President's FY2001 budget request for the Federal Prison System is \$5.71 billion compared to \$3.67 billion enacted in FY2000. The Bureau of Prisons would use these funds to reduce overcrowding and to accommodate future prison needs, including the long-term housing needs of Immigration and Naturalization Service detainees. This request

includes \$2 billion for FY2001 through FY2003 for construction of prisons (\$791 million in advance appropriations are requested for FY2002 and \$535 million in FY2003 for construction of 6 more prisons); \$80.18 million to activate prison facilities and address the 54% overcrowding in high security prisons and provide needed detention bed space; and, \$84.46 million to provide contract beds to accommodate the needs of short and long term non-U.S. citizen inmates, as well as the increase in other sentenced offender contract population.

FY2000 funding for the *Federal Bureau of Investigations* was \$3.04 billion. For FY2001, the Senate Appropriations Committee recommends \$3.12 billion for the FBI, of which \$222 million would be for Criminal Justice Services, including \$72 million for the National Instant Criminal Background Check System (NICS) and \$43 million to construct or acquire buildings. The Senate Committee recommends additional emergency spending funding of \$62.9 million for the United States Marshals Service under the Southwest Border Initiative, of which \$5.3 million would be for salaries and expenses, \$5.6 million for construction, and \$52 million for the Justice Prisoner and Alien Transportation System Fund. The House, on the other hand, would provide \$3.23 billion for the FBI, of which \$68 million in direct appropriations would be for NICS. President Clinton's FY2001 budget request for the Federal Bureau of Investigations (FBI) is \$3.28 billion. With the number and complexity of computer crime increasing, DOJ requests \$37 million to create a permanent network of experts to prevent and prosecute computer crime. By FY2001, the FBI expects cases involving computer forensic examination to more than double those in FY1999. DOJ requests \$19 million for its Technology Crimes Initiative of which \$11.4 million would be for its Computer Analysis and Response Team to support 100 response team members who will be sent to help investigations of computer related crimes and \$7 million would further law enforcement counter-encryption capabilities. In OJP, the National White Collar Crime Center would receive \$8.75 million to expand training initiatives for state and local law enforcement and regulatory agencies to meet the rising incidences of computer crime by acting as a clearinghouse, providing information on federal computer crime training and offering a "directory" of resources available in forensic computer science.

The *Immigration and Naturalization Service* (INS) is the principal federal agency charged with enforcing and administering the Immigration and Nationality Act (INA). From FY1993 to FY2000, Congress has increased the INS budget from \$1.5 to \$4.3 billion. During these years, INS staffing has increased from just over 18,000 to nearly 33,000 funded permanent positions. For FY2001, according to the CBO's revised scoring, the Administration has requested \$4.85 billion in total funding for INS (\$3.31 billion in direct funding and \$1.54 billion in offsetting fee receipts).<sup>52</sup> In terms of direct funding, the Administration's request is nearly \$296 million over the FY2000 appropriation. In terms of offsetting receipts, the request is \$274 million over the FY2000 appropriation. In addition, the Administration's FY2001 request also included four fee proposals: 1) a "premium service fee" for businesses, 2) a

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<sup>52</sup> It was previously reported that the Administration's FY2001 request was \$5.0 billion; this amount was taken from CBO tables.

renewed penalty fee under a permanent section 245(i) adjustment of status program<sup>53</sup>, 3) an increase in the user fee for airport inspections, and 4) an end to the cruise ship user fee exemption.

For FY2001, the Senate Appropriations Committee recommends \$4.6 billion in funding for the INS (\$3.03 billion in direct funding and \$1.55 billion in offsetting receipts). In terms of direct funding, the Senate bill provides an increase of \$19 million over the FY2000 appropriation, but \$276 less than the Administration request. The Senate recommendation, however, also includes \$414 million in emergency funding for the Southwest border initiative, of which \$322 million is earmarked for INS. In terms of offsetting receipts, the Senate bill provides \$255 million more than in FY2000 appropriation, but \$19 million less than the Administration's request. The Senate-reported bill would reinstate section 245(i), but it is silent on the proposed H-1B premium service fee or the proposed increase in the user fee. In addition, the bill includes provisions to repeal sections 110 and 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C; P.L. 104-208).

The House-passed bill would provide INS with \$4.67 billion (\$3.23 billion in direct funding and \$1.44 billion in offsetting receipts). In terms of direct funding, this amount includes an increase of \$223 million over the FY2000 appropriation, but it is \$73 million less than the Administration's request. This amount includes funding increases to hire 430 additional Border Patrol agents, increase detention and removal capacity, continue interior enforcement, and continue reduction of pending application caseloads. In terms of offsetting receipt, the House bill provides \$169 million more than the FY2000 appropriation, but \$105 million less than the Administration's request. The House-passed bill includes a provision to authorize an H-1B premium service fee, but it does not include provisions to reinstate section 245(i), raise the airport user fee, or an end the cruise ship user fee exemption.

Emerging INS budget issues for FY2000 and FY2001 include: 1) reducing pending caseloads in immigration-related claims, particularly green card and naturalization applications; 2) meeting the statutory mandate that the Border Patrol be increased by 1,000 agents in FY2001, and accounting for the shortfall in hiring in FY1999; 3) determining the level of detention capacity necessary to comply with the statutory mandate that certain criminal aliens be detained until deported; and 4) restructuring INS internally as proposed by the Administration or dismantling or restructuring the agency by legislation.

Large pending caseloads continue to plague INS despite increased funding. From FY1992 to FY2000, funding for the adjudications and nationality program increased from \$137 to \$496 million. In FY1999, INS processed over 1.2 million naturalization applications; however, as of the end of the first quarter of FY2000, the

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<sup>53</sup> Section 245(i) of the Immigration and Nationality Act allows certain aliens, who are unauthorized to be in the United States, to adjust to immigrant status, provided they meet all other qualifications. In the FY1998 CJS appropriations act (P.L. 105-119), however, Congress limited the availability of relief under this provision to those aliens whose sponsors had petitioned on their behalf before January 14, 1998. (For background, see CRS Report 97-946, *Immigration: Adjustment to Permanent Residence Status under Section 245(i)*.)

pending caseload for naturalization applications (Form N-400) was 1.3 million, and the pending caseload for green card applications (Form I-485) was over 1 million. In addition, there was a pending caseload of over 1.7 million for all other applications.

For FY2001, the Administration requested \$152 million to improve service, reduce pending caseloads, and prevent fraud. This funding would have been derived from several sources: 1) \$25 million from the voluntary H-1B visa premium service fee (to be deposited into the examinations fee account); 2) another \$55 million from the H-1B premium service fee; 3) \$37.5 million from section 245(i) fees; and 4) \$34.8 million in a direct appropriation.

While the Senate-reported bill would reinstate section 245(i), the House Appropriations Committee strongly rejected the Administration's proposal to reinstate provision. On the other hand, the House accepted the H-1B premium service fee proposal, but the Senate-reported bill does not include such a provision. In report language, the House Committee also noted that over the past 3 years INS has been provided with \$463 million to reduce pending caseloads and improve the integrity of the naturalization process. Indeed, except for the detention and deportation program, the adjudications and nationality program's budget increased at a greater rate (262%) than any other INS program budget from FY1993 to FY2000. For FY2001, House report language earmarks an increase of \$87 million, including \$44 million in a direct appropriation, to continue the backlog reduction.

Border control and security continues to be an ongoing issue for Congress. From FY1992 to FY2000, funding for the Border Patrol has increased from \$362 million to over \$1 billion. For FY1999, Congress provided INS with \$97 million to hire 1,000 additional agents. The agency, however, was unable to hire a full contingent of new agents, citing a lack of qualified candidates due to a strong labor market and high wash-out rates at the Border Patrol Academy. At the end of FY1999, there were 8,225 Border Patrol agents who were on duty and deployed, as compared to 7,856 at the end of FY 1998. For FY2000, Congress provided \$50 million to hire an additional 1,000 agents. The Administration, meanwhile, only requested \$52 million to hire 430 agents for FY2001, rather than the 1,000 agents mandated in the Illegal Immigration Reform and Immigrant Responsibility Act (P.L. 104-208).

Given hiring shortfalls in FY1999 and the current fiscal year, House report language includes an earmark, matching the Administration's FY2001 request, rather than funding 1,000 new agent positions.<sup>54</sup> As requested by the Administration, \$20 million is earmarked for deployment of the integrated surveillance intelligence system, on both the southern and northern land borders. House report language also includes

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<sup>54</sup> For FY2000, conference report language earmarked \$50 million to hire and train an additional 1,000 Border Patrol agents, rather than \$100 million earmarked in both the House and Senate reports. For FY1999, Congress provided INS with \$94 million to hire 1,000 new agents, but the agency was only able to hire 369 new agents citing a lack of qualified applicants in a strong labor market and a high attrition rate among candidates. With this increase, there were 8,225 agents on duty at the end of FY1999.



earmarks of \$22 million for border patrol information management, and \$50 million for construction projects.

Meanwhile, the Senate-reported measure would provide funding to hire an additional 1,000 Border Patrol agents in FY2001. In addition, the bill includes \$414 million in emergency funding for the Southwest border initiative. This amount includes \$67 million for 26 new border patrol helicopters and other equipment, and \$254 million for INS construction for the Border Patrol and the detention and deportation programs.

In recent years, INS has come under intense criticism for failing to deport criminal aliens in an expeditious manner. From FY1993 to FY2000, funding for the detention and deportation program increased from \$193 to \$879 million. INS officials continue to report that the agency does not possess the detention capacity to fully comply with statutory mandates set out in the Antiterrorism and Effective Death Penalty Act (P.L. 104-132) and the Illegal Immigration Reform and Immigrant Responsibility Act (P.L. 104-208). To improve and expand detention facilities and increase efforts to identify and remove criminal aliens, the Administration has requested \$120 million in increased funding for FY2001, which would increase the detention and deportation budget to over \$1 billion.

Nearly matching the Administration's request, House report language includes earmarks of \$87 million to increase INS detention space to 19,702 beds (daily average), including 120 juvenile beds; \$16 million for the Justice Prisoner Alien Transportation System; \$8 million to enter criminal alien records into the National Criminal Information Center; and \$25 million for detention construction projects. Also, there is an earmark for an additional \$5 million and 46 positions to expand the criminal alien apprehension program, and \$11 million and 100 positions to form 23 additional quick response teams that work with state and local law enforcement to identify and remove deportable aliens. Neither of these increases were requested by the Administration.

Regarding section 110, this provision as originally enacted would have required the development of a system that would record the entry and exit of every alien arriving and departing from the United States. Many congressional delegations from northern border states strongly opposed the implementation of section 110 at the northern land border, since it would have represented a significant departure from the status quo. Canadians who enter the United States through land border ports were and are not required to present a passport, and are usually not required to obtain a visa. Similarly, U.S. citizens who enter Canada through land border ports are not required to present a passport or visa in most cases. Some feared that, if Section 110 were implemented at northern land border ports of entry, additional documents would be required. The Immigration and Naturalization Service Data Management Improvement Act of 2000 (P.L. 106-215), enacted on June 15, 2000, amended and rewrote section 110 to require the development of a system that would record an integrated entry and exit data system that would use available data to record alien arrivals and departures, without establishing additional documentary requirements. The law was viewed by many as a compromise; nevertheless, the Senate-reported bill would repeal section 110, as amended. (For further information, see CRS Report RS 20627, *Immigration: Integrated Entry and Exit Data System*, by William J. Krouse.)

In addition, the Senate-reported measure would repeal section 641 of P.L. 104-208. This provision required INS to implement a foreign student data collection reporting program by January 1, 1998. Academic administrators have lobbied for this provision's repeal, principally because it requires them to collect fees from foreign students for INS.

Regarding INS restructuring, FY2000 conference report language stressed that "a lack of resources is no longer an acceptable response to INS's inability to adequately address its mission responsibilities." On March 22, 2000, the House Judiciary Committee's Immigration and Claims Subcommittee approved a bill to split INS, establishing a bureau of immigration services and a bureau of immigration enforcement within the Department of Justice (H.R. 3918). This bill is identical to H.R. 2528, the "Immigration Reorganization and Improvement Act of 1999," as introduced by Representative Harold Rogers in July 1999. Previously, the House Immigration Subcommittee had amended and approved H.R. 2528 on November 4, 1999. The amended version of H.R. 2528 represented a compromise negotiated with Attorney General Janet Reno. Late in the session last year, however, the Administration pulled its support for H.R. 2528 as amended, stalling full committee markup of that bill. Representative Lamar Smith, the Immigration Subcommittee chair, asserted during the March 22<sup>nd</sup> markup that the reintroduction of H.R. 2528 as H.R. 3918 was necessary, because the Administration had negotiated in "bad faith."

Last year, the Senate Judiciary's Immigration Subcommittee held a hearing on another INS restructuring proposal (S. 1563) on September 23, 1999, but so far this session the Senate has not addressed this issue. The Administration, meanwhile, is moving forward with plans to restructure INS internally. (See CRS Report RS20279, *Immigration and Naturalization Service Reorganization and Related Legislative Proposals*, and CRS Report RL30257, *Proposals to Restructure the Immigration and Naturalization Service*, both by William J. Krouse.)

The *Government Performance and Results Act (GPRA)* requires the Department of Justice, along with other federal agencies, to prepare a 5-year strategic plan which contains a mission statement, a statement of long-range goals in each of the Department's core functions and a description of information to be used to assess program performance. The DOJ submitted its Strategic Plan for 1997-2002 to Congress in September 1997. During the FY1999 budget process, the Senate Appropriations Committee commended the Assistant Attorney General for Administration for preparing DOJ's FY1999 performance plan, finding it timely, with objective, measurable performance goals. The committee found the strength of the performance plan in its clear strategies for meeting performance goals. DOJ was urged to follow the recommendations of the General Accounting Office (GAO) in preparing a plan for fiscal year 2000, because the committee's recommendations for fiscal year 2000 would be based on the GAO model.

The DOJ FY2000 Summary Performance Plan describes what the Department of Justice plans to accomplish in FY2000, consistent with the long-term strategic goals, and complements the Department's budget request. It provides a summary statement of themes and priorities of DOJ for seven core functional areas (investigation and prosecution of criminal offenses, assistance to tribal, state, and local governments, legal representation, enforcement of federal laws, and defense of U.S.

interests; immigration; detention and incarceration; protection of the federal judiciary and improvement of the justice system; and management). It summarizes and synthesizes detailed performance plans of specific Justice component organizations such as the Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Attorneys, the United States Marshals Service, and others.

**H. R. 2415 (C. Smith)**

The American Security Act of 1999. Provides authorization for State Department and related agencies and for increases overseas security. Introduced July 1, 1999. Passed by voice vote on July 21, 1999.

**H.R. 1211 (Smith, C.)**

A bill to authorize appropriations for the Department of State and related agencies for fiscal year 2000, and for other purposes. Introduced March 22, 1999; subcommittee marked-up and forwarded to full committee on March 23; Committee International Relations reported it out April 29, 1999. (H.Rept. 106-122).

## **Other Related Agencies**

**S. 414 ( Hutchinson); P.L. 105-258**

Ocean Shipping Reform Act of 1998. To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes. This law is administered by the Federal Maritime Commission. Signed into law October 14, 1998.

## **For Additional Reading**

### **Department of Justice**

#### **CRS Issue Briefs**

CRS Issue Brief IB90078. *Crime Control: The Federal Response*, by David Teasley.

CRS Issue Brief IB95025. *Drug Supply Control: Current Legislation*, by David Teasley.

CRS Issue Brief IB92061. *Prisons: Policy Options for Congress*, by JoAnne O'Bryant.

CRS Issue Brief IB98049. *Police and Law Enforcement: Selected Issues*, by JoAnne O'Bryant.

CRS Issue Brief IB10014. *Gun Control*, by William Krouse.

#### **CRS Reports**

CRS Report 97-265. *Crime Control Assistance through the Byrne Programs*, by Garrine Laney.

CRS Report 98-622. *Federal Crime Control Assistance to State and Local Governments: Department of Justice*, by Suzanne Cavanagh and David Teasley

CRS Report 98-95. *Juvenile Justice Act Reauthorization: The Current Debate*, by Suzanne Cavanagh and David Teasley.

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## Appendix

**Table 1A. Appropriations Funding for Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY2000 and FY2001**

(in millions of dollars)\*

Department or Agency	FY2000	FY2001 Request	House Bill H.R. 4690	Senate Bill H.R. 4690	Final Bill, H.R. 4690
<b>Title I. Department of Justice</b>					
Office of Justice Programs <i>(VCRTF funds only)</i> <sup>2</sup>	4,084.7 <i>(1,239.5)</i>	3,737.5 <i>(0.0)</i>	4,080.4 <i>(0.0)</i>	3,066.6 <sup>1</sup> <i>(0.0)</i>	- -
Legal Activities <i>(VCRTF funds only)</i> <sup>2</sup>	2,871.7 <i>(357.5)</i>	3,230.3 <i>(0.0)</i>	3,065.0 <i>(0.0)</i>	3,058.6 <i>(0.0)</i>	- -
Interagency Law Enforcement	316.8	328.9	328.9	316.8	-
Federal Bureau of Investigation (FBI) <i>(VCRTF funds only)</i> <sup>2</sup>	3,091.2 <i>(753.0)</i>	3,307.1 <i>(0.0)</i>	3,230.8 <i>(0.0)</i>	3,120.3 <i>(0.0)</i>	- -
Drug Enforcement Administration (DEA) <i>(VCRTF funds only)</i> <sup>2</sup>	1,281.8 <i>(343.3)</i>	1,373.3 <i>(0.0)</i>	1,367.8 <i>(0.0)</i>	1,345.7 <i>(0.0)</i>	- -
Immigration and Naturalization Service (INS) <i>(VCRTF funds only)</i> <sup>2</sup>	3,009.3 <i>(1,267.2)</i>	3,305.1 <i>(0.0)</i>	3,231.9 <i>(0.0)</i>	3,028.7 <i>(0.0)</i>	- -
Federal Prison System <i>(VCRTF funds only)</i> <sup>2</sup>	3,671.9 <i>(22.5)</i>	5,710.9 <i>(0.0)</i>	4,269.7 <i>(0.0)</i>	4,301.5 <i>(0.0)</i>	- -
General Provisions	0.0	0.0	0.0	0.0	-
Other <i>(VCRTF funds only)</i> <sup>2</sup>	319.3 <i>(50.3)</i>	658.4 <i>(0.0)</i>	685.9 <i>(0.0)</i>	488.4 <i>(0.0)</i>	- -
<b>Total: Justice Department</b>	<b>18,646.5</b>	<b>20,325.3</b>	<b>20,237.3</b>	<b>18,726.6</b>	-
<i>(VCRTF funds only)</i> <sup>2</sup>	<i>(4,033.2)</i>	<i>(0.0)</i>	<i>(0.0)</i>	<i>(0.0)</i>	-
<b>Title II. Department of Commerce and Related Agencies</b>					
General Administration	51.5	74.1	49.4	67.1	-
Bureau of Census	4,758.5	719.2	670.9	693.6	-
Economic and Statistical Analysis	49.5	54.7	49.5	54.0	-
International Trade Administration	308.5	352.1	318.4	315.7	-
Bureau of Export Administration	54.0	71.5	53.8	61.0	-



<b>Department or Agency</b>	<b>FY2000</b>	<b>FY2001 Request</b>	<b>House Bill H.R. 4690</b>	<b>Senate Bill H.R. 4690</b>	<b>Final Bill, H.R. 4690</b>
Minority Business Development Agency	27.3	28.2	27.3	27.0	-
National Oceanic and Atmospheric Administration	2,343.7	2,761.2	2,231.0	2,687.0	-
Patent and Trademark Office <sup>3</sup>	(871.0)	(1,038.7)	(904.9)	(824.5)	-
Technology Administration	7.9	8.7	7.9	8.2	-
National Institute of Standards and Technology	639.0	713.0	423.0	596.6	-
National Telecommunications and Information Administration	52.9	225.5	57.5	76.9	-
Economic Development Administration	388.4	436.9	388.4	249.5	-
<i>Subtotal: Commerce Department</i>	<i>8,649.3</i>	<i>5,445.2</i>	<i>4,277.0</i>	<i>4,836.8</i>	-
<i>Related Agencies</i>					
Office of the U.S. Trade Representative	25.6	29.6	29.4	29.6	-
International Trade Commission	44.5	49.1	47.0	49.1	-
<i>Subtotal: Related Agencies</i>	<i>70.1</i>	<i>78.7</i>	<i>76.4</i>	<i>78.7</i>	-
<b>Total: Dept. of Commerce and Related Agencies</b>	<b>8,719.4</b>	<b>5,523.9</b>	<b>4,353.4</b>	<b>4,915.5</b>	-
<b>Title III. Judiciary</b>					
Supreme Court — salaries and expenses	35.5	37.7	36.8	37.6	-
Supreme Court — building and grounds	8.0	7.5	7.5	7.5	-
U.S. Court of Appeals for the Federal Circuit	16.8	19.5	17.8	17.9	-
U.S. Court of International Trade	12.0	12.5	12.3	12.4	-
Courts of Appeals, District Courts, other judicial services — salaries and expenses	3,114.7	3,498.7	3,328.8	3,359.7	-
<i>(VCRTF funds only)<sup>2</sup></i>	<i>(156.5)</i>	<i>(0.0)</i>	<i>(0.0)</i>	<i>(0.0)</i>	-

Department or Agency	FY2000	FY2001 Request	House Bill H.R. 4690	Senate Bill H.R. 4690	Final Bill, H.R. 4690
Vaccine Injury Act Trust Fund	2.5	2.6	2.6	2.6	-
Defender Services <i>(VCRTF funds only)</i> <sup>2</sup>	385.1 (26.2)	440.4 (0.0)	420.3 (0.0)	416.4 (0.0)	-
Fees of Jurors and Commissioners	60.9	60.8	60.8	59.6	-
Court Security	193.0	215.4	198.3	199.6	-
Administrative Office of the U.S. Courts	55.0	61.2	58.3	50.0	-
Federal Judicial Center	18.0	19.3	18.8	19.2	-
Retirement Funds	39.7	35.7	35.7	35.7	-
U.S. Sentencing Commission	8.5	10.6	9.6	9.9	-
General Provisions – Judges’ Pay Raise	9.6	0.0	0.0	8.8	-
<b>Total: Judiciary</b> <i>(VCRTF funds only)</i> <sup>2</sup>	<b>3,959.3</b> (182.8)	<b>4,422.0</b> (0.0)	<b>4,207.7</b> (0.0)	<b>4,237.0</b> (0.0)	-
<b>Title IV. Department of State and International Broadcasting</b> <sup>4</sup>					
Administration of Foreign Affairs	4,043.1	4,711.2	4,644.4	4,465.9	-
International Organizations and Conferences	1,736.2	1,684.7	1,378.6	1,545.9	-
International Commissions	46.8	62.2	47.1	61.0	-
Related Appropriations	54.4	57.2	39.9	44.5	-
<i>Subtotal: State Department</i> <sup>5</sup>	5,880.4	6,515.3	6,110.0	6,117.3	-
International Broadcasting	421.8	448.3	438.1	441.6	-
<b>Total: State Department, and International Broadcasting</b>	<b>6,302.1</b>	<b>6,963.6</b>	<b>6,548.1</b>	<b>6,558.9</b>	-

Department or Agency	FY2000	FY2001 Request	House Bill H.R. 4690	Senate Bill H.R. 4690	Final Bill, H.R. 4690
<b>Title V. Other Related Agencies</b>					
Maritime Administration	178.1	185.1	197.9	203.3	-
Census Monitoring Board	- <sup>6</sup>	4.0	(3.5) <sup>6</sup>	--	-
Small Business Administration	877.0	1,057.8	860.7	887.5	-
Legal Services Corporation	305.0	340.0	275.0	300.0	-
Equal Employment Opportunity Commission (EEOC)	282.0	322.0	290.9	294.8	-
Commission on Civil Rights	8.9	11.0	8.9	8.9	-
Federal Communications Commission (FCC)	24.2 <sup>7</sup>	37.0 <sup>7</sup>	7.8 <sup>7</sup>	37.0 <sup>7</sup>	-
Federal Maritime Commission	14.1	16.2	14.1	16.2	-
Federal Trade Commission <sup>8</sup>	0.0	0.0	0.0	0.0	-
Securities and Exchange Commission (SEC) <sup>9</sup>	367.8	422.8	392.6	489.7	-
State Justice Institute	6.9	15.0 <sup>10</sup>	4.5	14.8	-
U.S. Commission on International Religious Freedom	0.0	3.0	0.0	0.0	-
Other	3.8 <sup>11</sup>	2.8 <sup>11</sup>	2.9 <sup>11</sup>	3.1 <sup>11</sup>	-
<b>Total: Related Agencies</b>	<b>2,068.4</b>	<b>2,409.0</b>	<b>2,055.7</b>	<b>2,248.8</b>	<b>-</b>
<b>Title VI. General Provisions</b>					
<b>Section 604</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>23.0</b>	<b>-</b>
<b>Title VII. Rescissions</b>					
Department of Justice	-	-	-	-	-
Working capital fund	0.0	-10.0	0.0	-76.7	-
Legal Activities	-	-	-	-	-
Asset forfeiture fund	0.0	0.0	0.0	-96.4	-
Federal Bureau Investigation	-	-	-	-	-
Information sharing	0.0	0.0	0.0	-40.0	-

Department or Agency	FY2000	FY2001 Request	House Bill H.R. 4690	Senate Bill H.R. 4690	Final Bill, H.R. 4690
Drug Enforcement Administration					
Drug diversion fund	0.0	0.0	0.0	-40.0	-
Immigration and Naturalization Service					-
Immigration emergency fund	-1.1	0.0	0.0	0.0	-
Department of State and Related Agencies					-
Contributions for International Peacekeeping activities	0.0	0.0	0.0	-212.7	-
Broadcasting Board of Governors					-
International broadcasting operations	-15.5	0.0	0.0	0.0	-
Maritime Administration					-
Maritime guaranteed loan (Title XI program)	0.0	0.0	-7.6	0.0	-
Small Business Administration					-
Business Loans Program Account	-13.1	0.0	0.0	0.0	-
<b>Total, Title VII, Rescissions</b>	<b>-64.7</b>	<b>-10.0</b>	<b>-7.6</b>	<b>-433.8</b>	<b>-</b>
<b>Title VIII. Southwest Border Capital Initiative</b>					
United States Marshal Service	0.0	0.0	0.0	62.9	-
Immigration and Naturalization Service	0.0	0.0	0.0	321.6	-
Judiciary	0.0	0.0	0.0	6.9	-
<b>Total, Title VIII, Southwest Boarder Initiative</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>413.9</b>	<b>-</b>
<b>GRAND TOTAL:</b>	<b>39,631.0</b>	<b>39,633.8</b>	<b>37,394.6</b>	<b>36,690.0</b>	<b>-</b>
<i>(VCRTF funds only)<sup>2</sup></i>	<i>4,216.0</i>	<i>0.0</i>	<i>0.0</i>	<i>0.0</i>	<i>-</i>

\*Figures are for *direct* appropriations only; in some cases, agencies supplement these amount with offsetting fee collections, including collections carried over from previous years. These agencies include: Immigration and Naturalization Service, Patent and Trademark Office, Small Business Administration, Federal Communications Commission, Federal Trade Commission, and the

Securities and Exchange Commission. Information on such fees are contained in the background and issues sections of this report.

Note: Details may not add to totals due to rounding.

<sup>1</sup> This is a provisional total for OJP appropriations; this is based in part on the amounts approved by the Senate in the FY2000 appropriations for this account. Final totals for FY2001 have not yet been released by the Senate Appropriations Committee.

<sup>2</sup>Funds from the Violent Crime Reduction Programs (VCRTF) are provided as a subtotal in parentheses. These are included in the overall total for each federal agency.

<sup>3</sup>The Patent and Trademark Office (PTO) is fully funded by user fees. The fees collected, but not obligated during the current year, are available for obligation in the following fiscal year.

<sup>4</sup>As of October 1, 1999 both USIA and ACDA were consolidated into the Department of State. International Broadcasting will remain an independent agency.

<sup>5</sup>In addition to appropriations, State has authority to spend certain collected fees from machine readable visas, expedited export fees, etc. For FY2000 this amount equals \$404.7 million; the estimated amount for such fees for FY2000 in the President's FY2001 request is \$76.2 million.

<sup>6</sup>Appropriation of \$3.5 million for FY2000 is contained in the appropriation for the Bureau of the Census. The appropriation of \$3.5 million for FY2001 is contained in the appropriation total for the Bureau of the Census in the House bill.

<sup>7</sup>For FY2000, Congress approved \$210 million in overall funding resources for the FCC, consisting of a direct appropriation of \$24.2 million and \$185.8 million in offsetting regulatory fee collections. The President has requested \$237.2 million in overall FY2001 funding resources, consisting of a direct appropriation of \$37.0 million (as shown in the above table) and \$200.1 million in offsetting regulatory fee collections. The House Appropriations Committee has recommended \$207.9 million in overall FY2001 funding, consisting of a direct appropriation of \$7.8 million and \$200.1 million in offsetting regulatory fee collections. The Senate Appropriations Committee has recommended \$237.1 million in overall FY2001 funding, consisting of a direct appropriation of \$37.0 million and \$200.1 million in offsetting regulatory fee collections.

<sup>8</sup>The FTC is fully funded by the collection of premerger filing fees.

<sup>9</sup>The SEC is fully funded by transaction fees and securities registration fees.

<sup>10</sup>Under the terms of its enabling legislation, the State Justice Institute is authorized to present its budget request directly to Congress. For FY2001, the Institute has requested \$15.0 million—as distinguished from the President's request, which calls for \$6.9 million.

<sup>11</sup>Other includes agencies receiving appropriations of less than \$1.7 million in FY1999 and FY2000. These agencies include Commission for the Preservation of American Heritage Abroad; Commission on Security and Cooperation in Europe; Commission on Electronic Commerce; the Marine Mammal Commission, and the Commission on Ocean Policy (in Senate bill only).

**Sources:** U. S. House of Representatives. Committee on Appropriation; U.S. Senate. Committee on Appropriations.