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Appropriations for FY2002: Commerce, Justice, and State, the Judiciary, and Related Agencies

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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 bound 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 considers each year. It is designed to supplement information provided by the House and Senate Commerce, Justice, State Appropriations Subcommittees. 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 FY2002: Commerce, Justice, and State, the Judiciary, and Related Agencies

Summary

This report tracks action by the 107th Congress on FY2002 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and other related agencies (often referred to as CJS appropriations). President Bush's FY2002 budget request totals $40.81 billion, about one billion dollars (2.6%) above the FY2001 total. The House agreed to $41.46 billion, the committee total, and passed the bill (H.R. 2500) on July 18th. The Senate Appropriations Committee recommended a total of $41.53 billion (S. 1215). The Senate passed its version of H.R. 2500, as amended, on September 13, 2001. Conferees met on November 8th and agreed to a total funding level of $39.3 billion. Conferees also agreed to file the conference report on the following day. Continuing resolutions have kept the government running into the new fiscal year: H.J.Res. 65 (P.L. 107-44) expired October 16th, H.J.Res. 68 (P.L. 107-48) expired October 23rd, H.J.Res. 69 (P.L. 107-53) expired October 31st, H.J.Res. 70 (P.L. 107-58) expired November 16th, and H.J.Res. 74 expired December 7, 2001. The bill was signed into law (P.L. 107-77) on November 28th, prior to the expiration of the continuing resolution.

Department of Justice. The FY2002 request was $21.11 billion, less than 1% above the FY2001 enacted level. Key issues included: addressing terrorism, reducing gun crimes through enforcement of existing laws; combating drug abuse; funding for community policing programs under the Office of Justice Programs; restructuring the Immigration and Naturalization Service, reducing pending immigration and naturalization caseloads, and increasing border enforcement. Congress passed $21.7 billion for this agency.

Department of Commerce. The FY2002 request was $5.1 billion, 2% below the FY2001 funding level. Congress debated such issues as funding for: NOAA's next-generation weather satellites, local economic development activities, and the Technology Opportunities Program (TOP) grants. The enacted FY2002 budget for Commerce totals $5.4 billion.

Department of State. The FY2002 request was $7.5 billion, nearly 14% above the FY2001 enacted level. The Department had three top priorities in its FY2002 budget: hiring about 600 new staff in Foreign and Civil Service, as well as security professionals; continuing increases in embassy security; and more than doubling its current funds for information technology improvements worldwide. Congress passed $7.4 billion.

The Judiciary. The FY2002 request was $4.9 billion, 14.5% above the FY2001 funding level. The Judiciary request included funds for cost-of-living salary increases for federal judges and justices, as well as $117 million for the first major renovation of the Supreme Court building since its opening in 1935. Congress approved $4.61 billion, an 8.4% increase over FY2001, including $37.5 million for the Supreme Court building and $8.6 million for a cost-of-living pay adjustment for judges and justices.

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

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Most Recent Developments

The CJS conferees met on November 8, 2001 and agreed to a total budget authority (after scorekeeping adjustments) of $39.3 billion. The conference report was filed on November 9th. In the absence of signed appropriations, the following continuing resolutions have kept the government running into the new fiscal year: H.J.Res. 65 (P.L. 107-44) which expired October 16th, H.J.Res. 68 (P.L. 107-48) which expired October 23rd, H.J.Res. 69 (P.L. 107-53) which expired October 31st, H.J.Res. 70 (P.L. 107-58) which expired November 16th, and H.J.Res. 74 (P.L. 107-70) which expired December 7, 2001. The House adopted the conference report on November 14th and the Senate adopted it the following day. The President signed the CJS appropriation into law (P.L. 107-77) on November 28th, 2001 with a total budget authority of $41.6 billion.

Overview

This report tracks legislative action by the first session of the 107th Congress on FY2002 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and other related agencies (often referred to as CJS appropriations). P.L. 106-553 (H.R. 5548 as contained in the conference report on H.R. 4942) appropriated $40 billion ($38.1 billion after adjustments) for these agencies for FY2001. The Administration's request for FY2002 totaled $40.8 billion. The House CJS Subcommittee and full House Appropriations Committee approved a total of $41.46 billion in funding for these agencies in FY2002. The Senate Appropriations Committee and full Senate approved $41.5 billion, $700 million higher than the administration's request and slightly higher than the House version. After the September 11th terrorist attacks, Congress reconsidered funding allocations in conference to bolster counter-terrorism activities within each agency's title in the bill. Congress enacted its CJS appropriation totaling $41.6 billion for FY2002. Total funding after adjustments was $39.3 billion–$38.7 billion in discretionary funding and $627.5 million in mandatory funding.

Recent Funding Trends

On October 27, 2000, Congress approved total FY2001 CJS funding of $40.0 billion which was about $400 million above both President Clinton's request and the total enacted for FY2000. H.R. 4690 was included in the Conference Report approved by Congress in H.R. 4942 (H.Rept. 106-1005: *Making Appropriations for the Government of the District of Columbia and Other Activities Changeable in Whole or in Part Against Revenues of Said District for the Fiscal Year Ending September 30, 2001, and for Other Purposes*). Subsequently, the District of Columbia appropriations portion of the measure was separated from the bill and approved by Congress (H.R. 5663) on November 15. The President signed this measure into law on November 22. On December 21, President Clinton signed the remaining portion of H.R. 4942 contained in H.R. 5548, the FY2001 CJS appropriations bill, into law on December 21, 2000 (P.L. 106-553). On December 15, 2000, Congress approved additional funding of about $103 million for CJS appropriations in the miscellaneous funding section of H.R. 4577 (H.Rept. 106-1033). This bill was signed into law by the President on December 21, 2000 (P.L. 106-554). Agency totals affected by this additional funding have been adjusted in this report to reflect this action.

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 $650 million (28.3%); for the Department of Commerce by $1,360 million (35.8%); for the Judiciary by $1,003 million (30.7%); and for the Department of State by $2,636 million (66%).[1] Every agency except the Department of Commerce has seen a continual increase in funds between FY1997 and FY2001. The Department of Commerce budget generally increased over these years, with a greater than $3.5 billion increase in FY2000, largely due to funding the cost of the 2000 decennial census. The FY2001 level is comparable to its pre-census level. Of the CJS and related agencies, the Department of Justice received the greatest nominal increase of $4.65 billion from FY1997 to FY2001. The Department of State funding trend since FY1997 shows the greatest percent increase of 66%. Much of the State Department increase was attributable to increases in embassy security funding and the consolidation of the U.S. Information Agency (USIA) and the Arms Control and Disarmament Agency (ACDA) into the Department of State.

[1] 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 1. Funding Trends for Departments of Commerce, Justice, and State, and the Judiciary
(in millions of current dollars)

Department or Agency	FY1997	FY1998	FY1999	FY2000	FY2001
Justice	16,425	17,764	18,207	18,647	21,049
Commerce	3,804	4,251	5,098	8,649	5,153
Judiciary	3,260	3,464	3,652	3,959	4,255
State	3,974	4,037	4,359	5,880	6,601

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

FY2002 Appropriation

President Bush's FY2002 budget request totaled $37.9 billion for discretionary spending for Commerce, Justice, State, Judiciary, and Related Agencies. It is $373 million above the FY2001 appropriation which totaled $37.6 billion (after adjustments).[2] Government-wide rescissions of discretionary budget authority (except for certain defense activities) were passed by the 106th Congress in H.R. 4577 (P.L. 106-554). The FY2002 total CJS budget authority requested was $40.8 billion; the House total budget authority was $41.5 billion; the Senate budget authority was $41.5 billion; and the enacted total CJS budget authority for FY2002 is set at $41.6 billion.

Table 2. Departments of Commerce, Justice, and State, and the Judiciary Appropriations
(in millions of dollars)

Department or Agency	FY2001	FY2002 Request	House H.R. 2500	Senate H.R. 2500	FY2002 Enacted
Justice	21,049	21,107	21,723	21,545	21,662
Commerce	5,153	5,089	5,109	5,597	5,430
Judiciary	4,255	4,872	4,681	4,492	4,612
State	6,601	7,506	7,388	7,175	7,362

Sources: U.S. House Committee on Appropriations. This table does not include funds for related agencies in the CJS legislation.

[2] For more details on FY2001 appropriations see CRS Report RL30509, *Appropriations for FY2001: Commerce, Justice, and State, Judiciary, and Related Agencies*, by Edward Knight, et. al.

Brief Survey of Major Issues

In addition to heightened interest in counter-terrorism and security activities since the September 11th attacks, some other contentious issues and proposals that surfaced in the House and Senate debate over CJS appropriations for FY2002 included:

- Restructuring the Immigration and Naturalization Service; reducing pending immigration and naturalization caseloads; and increasing border enforcement.
- Funding for community policing initiatives and crime programs under the Office of Justice Programs.
- Combating the drug war.
- Reducing gun crimes through enforcement of existing laws and other initiatives.

Other issues or concerns receiving attention included the following:

Department of Justice:

- Combating terrorism.
- Reducing violence against women.
- Providing legal assistance for victims of crime.
- Protecting against worker exploitation.
- Addressing civil rights violations, including racial profiling and voting rights.
- Combating cybercrime.
- Combating drug abuse.

Department of Commerce:

- Funding needs of the Bureau of the Census for processing, tabulating, and disseminating detailed Census 2000 results; evaluating the quality and coverage of the census; completing the orderly closeout of census activities; and beginning to plan for the 2010 census.
- 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 (ATP).

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

- The extent to which federal funds should support local economic development activities, specifically in the areas of public works and economic adjustment assistance.

- Funding needs of the National Oceanic and Atmospheric Administration (NOAA) to procure the next generation of weather satellites, mainly for the National Polar-orbiting Operational Environmental Satellite System (NPOESS); and to ensure the continuity of environmental satellite observations.

- The extent to which funding is needed for Technology Opportunities Program (TOP) Grants in FY2002. Congressional policymakers agreed with President Bush's request to reduce the NTIA's Technology Opportunities Program (TOP) grants, from $45.5 million in FY2001 to $15.5 million for the current fiscal year.

Department of State:

- Overseas embassy security.

- Creation of a deputy secretary for management at State.

- More than double the funding for technology upgrades worldwide.

- A major push toward increased hiring of foreign, civil service and security experts.

The Judiciary:

- Whether to substantially increase the hourly rate of pay to court-appointed "panel attorneys" representing defendants in federal criminal cases.

- Whether, as the Judiciary contended, federal judges and justices should receive a cost-of-living salary increase (as they had the previous two fiscal years);

- Whether, or to what extent, to provide funding for the first major renovation of the Supreme Court building since its opening in 1935.

Other Agencies:

- Adequacy of funding for the Legal Services Corporation.

- Adequacy of funding for the Equal Employment Opportunity Commission.

- Adequacy of funding for programs of the Small Business Administration (SBA).

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 FY2002 budget requests of individual agencies included in this report.

Legislative Status

On April 9, 2001, President Bush submitted the FY2002 budget request for appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies. The House and Senate CJS Appropriations Subcommittees held hearings throughout April, May, and June. The House Subcommittee marked up and passed its CJS appropriation on June 27, 2001. The House Appropriations Committee reported out the CJS appropriations on July 10, 2001. The House passed the bill (H.R. 2500) on July 18th, 2001. The Senate Appropriations Committee passed the CJS appropriations (S. 1215) on July 19th. On September 13th, 2001, the Senate substituted S. 1215 for House language in H.R. 2500 and passed its version of H.R. 2500, as amended. After numerous continuing resolutions, the CJS appropriations was signed into law (P.L. 107-770) on November 28, 2001.

The table below shows the key legislative steps that occurred for the enactment of FY2002 CJS appropriations legislation.

Table 3. Status of CJS Appropriations, FY2002

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conference Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
6-27-01	–	H.Rept. 107-139	7-18-01	S.Rept. 107-42	9-13-01	H.Rept. 107-278	11-14-01	11-15-01	11-28-01 P.L. 107-77

Department of Justice

Background

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 was $18.6 billion and $21.1 billion in FY2001. (For more details on the funding of individual programs, see the Appendix.)

Current Issues

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.

FY2002 Budget Request. For DOJ for FY2002, President Bush's budget request was $21.11 billion compared to FY2001 enacted funding of $21.03 billion. FY2002 funding was to address major concerns such as gun violence, violence against women, drug crimes, worker exploitation, civil rights violations, the Voting Rights Act, redistricting provisions, racial profiling, cybercrime, terrorism, and restructuring the Immigration and Naturalization Service. The Administration's budget included a shift in spending from state and local law enforcement to what it described as DOJ's core federal law enforcement mission particularly in the areas of detention and incarceration, anti-terrorism, cybercrime and counter-intelligence.

In keeping with this funding approach, the FY2002 budget request for the ***Office of Justice Programs*** (OJP) was $3.67 billion, about a billion dollars less than the funding level of $4.7 billion for FY2001. DOJ sought funding of $855 million for Community Oriented Policing Services (COPS) compared to FY2001 funding of $1.03 billion. The Administration stated that the budget proposal would not affect any pending COPS grants. Reportedly, nearly 74,000 officers were hired under COPS; President Clinton had pledged that 100,000 new officers would be hired. This request retargeted resources for hiring 1,500 additional officers for security in public schools, for law enforcement technology and for reducing DNA backlogs. Specifically, for public safety and community policing grants the President requested $272 million in direct appropriations compared to FY2001 funding of $535 million. For crime identification technology, the President requested $255 million compared to FY2001 funding of $130 million.

President Bush's budget proposed a decrease in funding for some programs: the FY2002 budget request for the state criminal alien assistance program was $265 million compared to enacted funding of $400 million in FY2001; local law enforcement block grants request was $400 million for FY2002 compared to $523 million in FY2001; and for state prison grants the FY2002 request was $35 million while funding in FY2001 was $687 million. The President's request for Byrne formula grants (block grants for which individual states apply) for FY2002 was $500 million; in FY2001, total Byrne grant funding was $569 million ($500 million for formula grants and $69 million for discretionary grants). There was no request for funding for discretionary grants in FY2002, because the President believed that the original purpose of discretionary grants, which was to fund anti-drug activities, has not been possible in recent years due to the level of earmarking within the program. Drug Courts' budget request for FY2002 was $50 million, the same funding level as in FY2001.

Areas receiving increased focus by the Bush Administration was violence against women and victims of crime. President Bush proposed a slight increase in FY2002 funding for Violence Against Women Act grants (VAWA), $310 million compared to FY2001 funding of $289 million. The FY2002 request for new programs was: $10 million for Violent Crimes Against Women on Campus, $15 million for Safe Havens for Children pilot program, $5 million for Protection for older and disabled women, $7.5 million for education and training to end violence against and abuse of women with disabilities, and $40 million for the legal assistance for victims program.

Weed and Seed is an established program in which communities in partnership with federal, state, and local law enforcement agencies "weed" criminals out of their neighborhoods with speedy prosecutions, and then reclaim houses, schools, and recreational centers that make the communities safe places to live. Viewing the Weed and Seed program as a success, the Administration's budget request for FY2002 for Weed and Seed was $60 million, a $26 million dollar increase over FY2001 funding of $34 million.

A major programmatic emphasis of the Bush Administration was reduction of gun crime. For FY2002, President Bush requested $3.46 billion for ***Legal Activities***, compared to FY2001 funding of $3.15 billion. The request included $9 million for Project Sentry, a new federal-state law enforcement partnership to identify and prosecute both juveniles who violate firearms laws and adults who supply them with guns. This funding request was for 94 U.S. Attorneys' Offices to hire a prosecutor whose major attention would have been devoted to gun crimes involving juveniles. Funding requests for gun programs within OJP were: $49.78 million for Project Exile and Project Ceasefire, programs that seek to increase arrests and prosecutions of gun criminals and increase public awareness to deter gun crime; and $75 million for Child Safe, a new program to provide child safety locks for every handgun in the nation.

Under this program, state and local governments on a dollar-for-dollar matching basis were to receive $65 million each year. Organizations that seek through private contributions to provide locks for every handgun in the United States were also eligible for federal matching funds. The remaining $10 million were for administrative and advertising costs. The Counterterrorism Fund received $4.99 million for reimbursing a DOJ organization for the cost of reestablishing the operational capability of an office or facility that has been damaged or destroyed as a result of a terrorist act and to support efforts to counter, investigate or prosecute domestic or international terrorism, including paying rewards.

In the area of civil rights, the President proposed several initiatives. The Trafficking Victims Protection Act of 2000 would have expanded protection and services for trafficking victims and would have created new crimes for which the Civil Rights Division would have been responsible. DOJ requested $2 million in FY2002 for the Civil Rights Division to hire additional prosecutors and to conduct a community outreach program in enforcing the Trafficking Victims Protection Act of 2000. The FY2002 budget requested $1.2 million for three studies by OJP to: research police initiated stops of motorists for routine traffic violations; address deaths of persons while in law enforcement custody as required by the Deaths in Custody Act, and measure victimization of persons with disabilities in the United States.

For FY2002, Congress provided funding to combat terrorism in both the Department of Justice and the Department of Defense (DOD). Funding to combat terrorism was provided in a number of DOJ accounts in FY2002. See discussion below on FY2002 appropriations for DOJ.[3] In the **Department of Defense Appropriations Act for FY2002** (P.L. 107-117), Congress provided $5 million for transfer from DOD to DOJ's General Administration account for responses to terrorist attacks on the United States under "Patriot Act Activities" (P.L. 107-38). Also to be transferred to DOJ's Administrative Review and Appeals account was $3.5 million for response to terrorist attacks on the United States. Following are funds to be transferred from DOD to DOJ accounts for response to terrorist attacks: $12.5 million for the Salaries and Expenses, General Legal Activities; $56.4 million for the Salaries and Expenses, the United States Attorneys; $745 million for Salaries and Expenses, the Federal Bureau of Investigation; and $10.2 million for Salaries and Expenses, United States Marshals Service and $9.1 million for Construction, U. S. Marshals Service.

Congress, in FY2002, transferred $400 million from DOD to the Office of Justice Programs' Justice Assistance account for grants, cooperative agreements, and other assistance authorized by the Antiterrorism and Effective Death Penalty Act of 1996 and the USA Patriot Act (P.L. 107-56). Of this funding, $9.8 million was for aircraft for counterterrorism and activities for the City of New York identified in the

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[3] Also see the following: CRS Report RL31173, *Terrorism Funding: Emergency Supplemental Appropriations–Distribution of Funds to Departments and Agencies* by James Riehl and CRS Report RL31187, *Terrorism Funding: Congressional Debate on Emergency Supplemental Allocations* by Amy Belasco and Larry Nowels.

Emergency Supplemental Appropriations Act for FY2001 (P.L. 107-38). Another OJP account, State and Local Law Enforcement Assistance, received $251.1 million for discretionary grants, including equipment, under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. The Crime Victims Fund had $68.1 million transferred to it for responses to terrorist attacks on the United States.

Congress provided $21.7 billion for the **Department of Justice** for FY2002, an increase of $612 million above FY2001 funding. The ***Office of Justice Programs*** received $4.3 billion for FY2002. Under OJP's state and local law enforcement assistance account $2.4 billion was distributed as follows: $565 million for the state criminal alien assistance program, $594 million for the Byrne grant programs ($500 million for formula grants and $94 million for discretionary grants), $400 million for the local law enforcement block grant program, $70 million for state prison drug treatment, and $50 million for drug courts. Of $249.5 million for the Juvenile Accountability Incentive Block Grants program, $38 million was for the Project Child Safe Initiative. Also, the Violence Against Women grant program received $391 million.

In FY2002, Congress provided funding for the following OJP accounts: $59 million for Weed and Seed; $306 million for Juvenile Justice Programs; and $28 million for Public Safety Officers Benefits. Under the Justice Assistance account, Congress provided $251 million for the counterterrroism program which includes funding for equipment grants ($122.7 million); and training and technical assistance ($72 million).

DOJ requested $20.7 million for Crime Identification Technology (CITA); $35 million to reduce the backlog of state convicted offender DNA and crime scene DNA samples in the nation (CITA); $35 million to improve the forensic science capabilities of laboratories; and $35 million to upgrade the Criminal Records Upgrade Program to make criminal history, criminal justice, and identification record systems in the nation more compatible; and $100 million for technology grants under the COPS account.

Congress appropriated $1.05 billion for the OJP's COPS account for FY2002, of which $496 million was for Public Safety and Community Policing Grants, $352 million for crime technology, $100 million for prosecution assistance ($50 million for a national program to reduce gun violence and $50 million for the Southwest Border Prosecutor Initiative), and $70 million for grants, technical assistance and other expenses, including $15 million for Project Sentry and $23 million for the Safe Schools Initiative. Under the COPS account for FY2002 the $352 million appropriated for crime technology was for the following distribution: $154.3 for a law enforcement technology program; $35 million for grants to upgrade criminal records; $40 million for DNA analysis and backlog reduction; $87.33 million for grants, contracts and other assistance to states under provisions of CITA; $99.8 million for prosecution assistance and $70.2 million for grants, training, technical assistance, and other expenses to support community crime prevention efforts.

For FY2002, Congress provided $3.47 billion for ***Legal Activities*** compared to FY2001 funding of $3.14 billion. Of this funding, $649 million was for the U.S. Marshals Service, of which $619 million was for salaries and expenses of the U.S.

Marshals Service and $15 million the construction account. This was $8 million more than the President's request and a $46 million increase over FY2001 enacted funding. Congress provided $1.35 billion for U.S. Attorneys, $86 million below the President's request. Congress provided $706.2 million for the Federal Prisoner Detention account, which allows U.S. Marshals to contract with state and local jails, and private facilities to house unsentenced federal prisoners before and during trial and after conviction until transference to federal institutions.

To improve coordination between federal, state, tribal, and local law enforcement agencies in combating crime, law enforcement agencies must have accurate and timely information. In its focus on systems integration, upgrades, network reliability, efficient processes, and the latest technologies, DOJ request for FY2002 for ***Federal Bureau of Investigation*** (FBI) was $3.51 billion, a $255 million increase over FY2001 funding of $3.25 billion. In addition, DOJ requested $31.6 million both to improve FBI's assessment and to defeat foreign intelligence threats to national security and to continue the Criminal Division's assistance in counterintelligence, especially involving espionage and violations of laws on export of high technology. The budget request included $67.7 million for the second year of FBI's 3-year information technology upgrade plan called Trilogy, and $6.5 million for communication circuits for quicker transmission of data and improved network reliability. To continue integration of the INS's Automated Biometrics Identification System (IDENT) and FBI's Automated Fingerprint Identification System (IAFIS), the President requested $28 million — $1 million in direct appropriations and $27 million from the Working Capital Fund.

In FY2002, Congress provided total funding of $3.5 billion for the FBI, an increase of $280 million over FY2001 funding. Congress appropriated $142.4 million for Trilogy in FY2002; $24 million for the counterterrorism initiative of which $12 million was for the FBI's participation in the 2002 Salt Lake City Winter Olympics; and $31.3 million for the counterintelligence initiative to allow the agency to be more effective in addressing foreign intelligence threats. Funding of $318.1 million was also provided for forensic, training, and investigative assistance and $247.1 million for investigative and information technology. Under the FBI Construction account Congress provided $33.8 million for an annex at the Engineering Research Facility to support consolidation of various high technology programs at the FBI Academy in Quantico, Virginia.

President Bush proposed more funding for the war on drugs for FY2002. For the ***Drug Enforcement Administration*** (DEA), he requested $1.48 billion compared to $1.36 billion that was enacted in FY2001. Methamphetamine (meth) laboratories have been seized in all but 3 states. Drug dealers and organizations have targeted rural communities where the knowledge and resources of law enforcement agencies to combat the problem are lacking. The manufacturing process for meth produces material that is hazardous to the environment and to persons trying to remove it. President Bush proposed a continuation of the funding level, $48 million for FY2002, to OJP to help state and local officials with meth enforcement and cleanup efforts.

Congress for FY2002 provided $1.5 billion for the DEA, nearly $122 million above FY2001 funding. Funding included $33 million to combat methamphetamine and the abuse of other drugs such as heroin, Oxycontin, and Ecstasy.

President Bush's budget request for the ***Federal Prison System*** was $4.67 billion; FY2001 funding was $4.32 billion. Although nearly $5 billion has been spent on prison construction in the past decade, the federal prison system is presently operating at 35% over its rated capacity. In light of this, the Administration requested $809.27 million for the Bureau of Prisons to address the current problem and accommodate future growth: $669.97 million for construction of 3 federal corrections institutions and 4 penitentiaries; partial site and planning funds for 4 facilities (2 female and 2 male); $139.3 million to activate the Federal Corrections Institute in Petersburg, Virginia and the U.S. Penitentiary and work camp in Lee County, Virginia; and contract confinement costs associated with the anticipated increase in the prison population.

Congress appropriated $4.63 billion for FY2002 for the Federal Prison System, of which $814 million was for building construction, modernization, and maintenance and repair of housing for prisoners under the Buildings and Facilities account. Specifically, $72.8 million in funding was for new prisons and $47 million was for an additional 1,500 contract beds for the growing criminal alien prison population as well as for 1,499 general contract inmate beds, of which 85 are for juveniles.

The ***Immigration and Naturalization Service*** (INS) is the principal federal agency charged with administering the Immigration and Nationality Act (INA). From FY1993 to FY2001, Congress had more than tripled the INS budget, from $1.5 to nearly $5.0 billion. During the same years, the number of funded permanent positions supported by the agency's budget has grown from 18,133 to 33,537, an increase of 85%. Regarding counter-terrorism, the INS plays an integral role in the Nation's efforts to ensure an adequate level of border security by excluding "undesirable" persons from the United States, including suspected international terrorists and their supporters.[4]

For FY2002, the Administration requested $5.5 billion and 34,901 full time-funded positions for INS. This amount included $3.5 billion in direct funding and an anticipated $2 billion in offsetting receipts. It included budget enhancements of nearly $380 million and 1,364 permanent positions over the agency's base budget.[5] The requested budget enhancements included 1) $172 million for border management, 2) $89 million for detention and removal, 3) $45 million for backlog reduction, and 4) nearly $75 million for construction. The Administration's request also included legislative proposals to increase the airport inspection fee to $7 (an increase of $1), and to levy a cruise ship fee of $3 for journeys that originate in Mexico, Canada, or the United States, which were exempt from such fees.

For FY2002, Congress has provided funding for INS in two measures. Total funding for the agency is likely to exceed $6 billion. The CJS Appropriations Act for FY2002 (P.L. 107-77) includes $5.6 million in funding for INS. This amount includes

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[4] For more information, see CRS Report RL31019, *Terrorism: Automated Lookout Systems and Border Security Options and Issues*, by William J. Krouse.

[5] The agency's base budget was the Administration's estimate of the level of funding that would be necessary to achieve the same level of activities and services in FY2002 that the agency anticipated that it would achieve in the FY2001.

$3.5 million in direct funding and $2.1 million in anticipated offsetting receipts. This amount is $132 million more than the Administration's request. Conference report language includes earmarked budget enhancements of 1) $80 million in base adjustments that were not requested by the Administration, 2) $178 million for border management, 3) $81 million for detention and removal, 4) $51 million for pending caseload reduction, and 5) $128 million for new construction projects.

In addition, the Department of Defense (DOD) Appropriations Act for FY2002 (P.L. 107-117) includes another $549 million in emergency counter-terrorism supplemental appropriations funding for INS. Among other things, this amount includes $56 million for additional inspectors and support staff for the northern border, $34 million to redeploy and hire additional Border Patrol agents, and $37 million to continue the development of a system to monitor nonimmigrant students and exchange visitors.

The FY2002 CJS Appropriations Act also includes several substantive immigration provisions that: 1) raise existing and establish new inspection fees as requested by the Administration, 2) provide posthumous citizenship to victims of the September 11th attacks, 3) authorize 90 additional accelerated inspection programs at land border ports, 4) authorize the INS Commissioner to waive the $30 thousand overtime cap for inspectors during immigration emergencies, and 5) require all air and sea carriers to provide electronic manifests. The conference agreement does not include a provision to extend or make permanent §245(i) of the INA.[6]

By comparison, the House-passed CJS appropriations bill would have provided $5.6 billion in funding for INS. This amount includes $3.5 billion in direct funding and $2.1 billion in anticipated offsetting receipts, and it was $130 million more than the Administration's request. House report language included earmarked budget enhancements totaling 1) $136 million for border management, 2) $89 million for detention and removal, 3) $65 million for backlog reduction, and 4) $75 million for new construction projects. The Senate-passed CJS appropriations bill would have provided $5.5 billion. This amount included $3.4 billion in direct funding and $2.1 billion in offsetting fee receipts, and was $4 million less than the Administration's request. Senate report language included earmarked budget enhancements totaling 1) $168 million for border management, 2) $10 million for legal services for INS detainees, 3) $67 million to reduce pending caseloads, and 4) $139 million for new construction projects. Both the House and Senate measures included provisions to raise the airport inspection fee and establish a cruise ship inspection fee. In addition, the Senate measure included provisions to authorize 90 additional accelerated inspection lanes at land border ports of entry and to make permanent §245(i).

[6] This provision allows certain unauthorized aliens who are otherwise eligible for an immigrant visa to adjust status here in the United States provided they pay a $1,000 penalty fee. Prior to FY1994, such aliens were required to leave the United States to undergo background checks and obtain a visa abroad. Current law limits eligibility under this provision to aliens whose sponsors had filed an immigrant petition or labor certification on or prior to April 30, 2001.

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 2000-2005 to Congress in September 2000.

The DOJ FY2000 Performance Report and FY2002 Performance Plan combines the agency's report on past accomplishments with its plans for the upcoming year to provide a complete and integrated picture of the Department's performance. The report describes what the Department of Justice plans to accomplish in FY2002, 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). While 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, it does not reflect every program or activity of the Department. That comprehensive and detailed information would be in the budget submissions of the individual component organizations.

Related Legislation

H.R. 45 (Biggert)
Federal Telephone Abuse reduction Act of 2001. Would have amended title 18, United States Code concerning prison commissaries, among other purposes. Introduced January 3, 2001; referred to the House Committee on the Judiciary.

H.R. 196 (Sweeney)
Anti-Drug Legalization Act. Would have prohibited any federal department or agency from conducting or financing any study or research on the legalization of any controlled substance. Introduced January 3, 2001; referred to the House Committee on Government Reform.

H.R. 213 (Sweeney)
Drug Importer Death Penalty Act of 2001. Would have amended the Controlled Substances Import and Export Act to direct the court to sentence a person to life imprisonment without possibility of release or under certain conditions to death if the person is convicted of bringing into the United States a proscribed quantity of a mixture or substance containing a controlled substance in a specified amount. Introduced January 3, 2001; referred to the House Committee on the Judiciary.

H.R. 417 (Andrews)
Open Air Drug Market Penalty Act of 2001. Would have amended the Controlled Substances Act to impose an additional 5 year's imprisonment for knowingly committing a federal offense which includes the distribution of a controlled substance for which the maximum prison term equals or exceeds 5 years, within 500

feet of the place where such an offense occurred within the preceding 48 hours. Introduced February 6, 2001; referred to the House Committee on the Judiciary.

H.R. 503 (Graham, L.)

Unborn Victims of Violence Act of 2001. Would have made it a federal crime to harm or kill an "unborn child" in utero during the commission of a violent crime, and would have exempted those who perform an abortion with the consent of the pregnant woman and women whose own actions harmed their fetuses. Would have permitted federal prosecutors to seek the death penalty, but they could also have filed separate charges for the woman and the fetus. Introduced Feb. 7, 2001; referred to Committees on the Judiciary and on Armed Services. Ordered to be reported by Judiciary Committee, March 28 (H.Rept. 207-42, Part 1 filed on April 20). Discharged by Armed Services Committee, April 24. Passed the House, April 26. Referred to Senate, April 24. Placed on Senate Legislative Calendar Under General Orders on June 8, 2001. Calendar No. 72.

H.R. 696 (Rangel)

Second Chance for Ex-offenders Act of 2001. Would have permitted the expungement of records of certain nonviolent criminal offenders. Introduced February 14, 2001; referred to the House Committee on the Judiciary.

H.R. 863 (Smith, L.)

Consequences for Juvenile Offenders Act of 2001. Would have authorized the Juvenile Accountability Block Grants program, would have provided an authorization of $1.5 billion, $500 million each fiscal year, FY2002-FY2004. Introduced March 6, 2001; referred to the House Committee on the Judiciary. Reported, amended, by the House Judiciary Committee, April 20 (H.Rept. 107-46). Passed House by voice vote, October 16. Received in Senate and referred to Committee on the Judiciary, October 17, 2001.

H.R. 1885 (Gekas)

Section 245(i) Extension Act of 2001. Would have extended the date of enactment the filing deadline for an immigration provision (Section 245(i) of the Immigration and nationality Act) that allows aliens who are unauthorized to be in the United States to adjust status, provide they meet all other qualifications. Passed House on May 21, 2001. Passed the Senate amended on September 6, 2001.

S. 16 (Daschle)

21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act. Omnibus crime bill including provisions that: would have expanded the community policing grant program by hiring more police and prosecutors; would have provided a $6.9 billion authorization, $1.15 billion for each fiscal year, FY2002 through FY2007; would have strengthened the Violence Against Women Act, would have increased funding for shelters, and would have increased fairness and respect with which crime victims are treated. Introduced January 22, 2001; referred to the Senate Committee on the Judiciary.

S. 146 (Lugar)

Would have amended part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow certain funds to assist jail-based substance treatment programs, among other purposes. Introduced January 23, 2001; referred to the Senate Committee on the Judiciary.

S. 184 (Dorgan)
100 Percent Truth-in-Sentencing Act. Would have amended title 18, United States Code, to eliminate good time credits for prisoners serving a sentence for a crime of violence, among other purposes. Introduced January 25, 2001; referred to the Senate Committee on the Judiciary.

S. 185 (Dorgan)
Stop Allowing Felons Early Release (SAFER) Act. Would have provided incentives to encourage stronger truth-in-sentencing of violent offenders, among other purposes. Introduced January 25, 2001; referred to the Senate Committee on Judiciary.

S. 194 (Biden)
Offender Reentry and Community Safety Act of 2001. Would have required the Attorney General to establish the Federal Reentry Center Demonstration project to assist federal prisoners in preparing for and adjusting to reentry into the community after their release; would have amended the Omnibus Crime Control and Safe Streets Act of 1968 to direct the Attorney General to make grants to states, territories, and Indian tribes to establish adult reentry demonstration projects; state and local courts to establish reentry courts, and states to establish juvenile offender reentry programs; and to conduct state reentry program research, development, and evaluation. Introduced January 29, 2001; referred to the Senate Committee on the Judiciary.

S. 317 (Schumer)
Prosecution Drug Treatment Alternative to Prison Act of 2001. Would have established grants for state or local prosecutors to develop, implement, or expand drug treatment alternatives to prison programs that meet specified requirements. Introduced February 13, 2001; referred to the Senate Committee on the Judiciary.

S. 715 (Baucus)
Would have designated 7 counties in Montana as High Intensity Drug Trafficking areas and would authorize funding for drug control activities in those areas. Introduced March 5, 2001; referred to the Senate Committee on the Judiciary.

Additional Reading

CRS Report 97-196. *Community Oriented Policing Services (COPS) Program: An Overview*, by JoAnne O'Bryant.

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

CRS Report RS20539. *Federal Crime Control Assistance to State and Local Governments: Department of Justice*, by Edith Fairman Cooper and David Teasley.

CRS Issue Brief IB10071. *Gun Control Legislation in the 107th Congress*, by William J. Krouse.

CRS Report RS20908. *Immigration and Naturalization Service's FY2002 Budget*, by William J. Krouse.

CRS Report RS20279. *Immigration and Naturalization Service Reorganization and Related Legislative Proposals*, William J. Krouse.

CRS Report RL30852. *Immigration of Agricultural Guest Workers: Policy, Trends, and Legislative Issues*, by Ruth Ellen Wasem.

CRS Report RS20627. *Immigration: Integrated Entry and Exit Data System*, by William J. Krouse.

CRS Report RL30780. *Immigration Legalization and Status Adjustment Legislation*, by Ruth Ellen Wasem.

CRS Report 96-871. *Inmate Privileges in State and Federal Prisons*, by JoAnne O'Bryant.

CRS Report RL30741. *Juvenile Justice Legislation: Overview and the Legislative Debate*, by Edith Fairman Cooper and David Teasley.

CRS Report RS20576. *Juvenile Justice: Legislative Activity and Funding Trends for Selected Programs*, by Edith Fairman Cooper and David Teasley.

CRS Report 97-460. *Police Officers' Bill of Rights*, by JoAnne O'Bryant.

CRS Report 97-248. *Prison Grant Programs*, by JoAnne O'Bryant.

CRS Report RL30257. *Proposals to Restructure the Immigration and Naturalization Service*, by William Krouse.

CRS Report RL30890. *Sex Offender Registration: Issues and Legislation*, by Alison Siskin and David L. Teasley.

CRS Report RL31173. *Terrorism Funding: Emergency Supplemental Appropriations–Distribution of Funds to Departments and Agencies*, by James Riehl.

CRS Report RL31187. *Terrorism Funding: Congressional Debate on Emergency Supplemental Allocations*, by Amy Belasco and Larry Nowels.

CRS Report RL30871. *Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation*, by Alison Siskin.

CRS Report 97-621. *Women in Prison*, by JoAnne O'Bryant.

Department of Commerce

Background

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, Congress designated a separate Department of Commerce. The Department's responsibilities are numerous and quite varied, but its activities center around five basic missions: 1) promoting the development of American business and increasing foreign trade; 2) improving the nation's technological competitiveness; 3) encouraging economic development; 4) fostering environmental stewardship and assessment; and 5) compiling, analyzing and disseminating statistical information on the U.S. economy and population.

The following agencies within the Commerce Department carry out these missions:

- *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. Much of the analysis is conducted by the Bureau of Economic Analysis (BEA).

- *International Trade Administration (ITA)* seeks to develop the export potential of U.S. firms and to improve the trade performance of U.S. industry.

- *Bureau of Export Administration (BXA)* 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 (PTO)* examines and approves applications for patents for claimed inventions and registration of trademarks.

- *Technology Administration*, through the Office of Technology Policy, 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 FY2001 was $5.2 billion, which was about $220 million below the President's request. The enacted amount was also about $950 million above the House-passed bill and about $400 million above the Senate-passed bill. (For more information on funding of individual agencies, see the appendix.)

Current Issues

In his FY2002 budget request to Congress, the President requested $5.17 billion in total funding for Title II, which included the Department of Commerce and related agencies. This amount was approximately $60 million (1.5%) less than the $5.23 billion Congress appropriated in FY2001. The House approved approximately $5.19 billion for Title II, which is about $19 million more than the President's request. The Senate agreed to $5.68 billion for Title II, over $500 million above the President's request and approximately $490 million above the House version. The Conference agreed upon a total of $5.11 billion, which is higher than the Administration's request and the House figure, but lower than the Senate figure.

For the Department of Commerce alone, the President requested $5.09 billion, which was about $63 million (1.2%) below the FY2001 appropriation of $5.15 billion. Most of the agencies within the Department would have received a modest increase in funding. The overall request for the Department of Commerce was below the FY2001 appropriation, however, because three agencies – the Economic Development Agency (EDA), National Telecommunications and Information Administration (NTIA), and National Institute of Standards and Technology (NIST)

– would have received less funding. For the Commerce Department alone, the House approved approximately $5.11 billion, which is about $19 million above the President's request. The Senate agreed to $5.6 billion, which is approximately $500 million above the President's request and the House version. The Conference agreed upon $5.43 billion for the Department of Commerce, which is higher than the request and the House figure, but lower than the Senate figure.

The President's budget request called for $58.8 million for ***Departmental Management***. This figure was almost $3 million (5.2%) more than the $55.8 million appropriated for FY2001. The majority of Departmental Management funds go toward salaries and expenses. This component included a request of $21.2 million for the Inspector General's office, which is about $1.2 million above the $20 million appropriated for FY2001. The House approved $57 million for management funds for FY2002. The House's amount was decreased by $2 million in an amendment (H.Amdt. 176, Rep. Velazquez) aimed at providing more funding to the Small Business Administration. The Senate agreed to $63.2 million for this account, which is $6.2 million above the amount approved by the House. Both the full House and the Senate Appropriations Committees approved the Administration's request for $21.2 for the Inspector General's office. The Conference agreed upon $57.8 million for Departmental Management. In its accompanying report, the Senate Appropriations Committee had expressed concern over the Commerce Department's use of the "Working Capital Fund" for new department initiatives and the lack of congressional oversight of this practice. The Committee requested the Department to seek congressional approval before reprogramming funds.

The Department's ***Economic and Statistical Analysis*** programs are conducted by the Bureau of Economic Analysis (BEA) and the Bureau of the Census. The President requested $62.5 million for these programs, which was about $8.8 million (16.4%) above the $53.6 million appropriated in FY2001. The Administration believed that with the growth in electronic commerce and expanding use of stock options, Commerce's timely and accurate statistical reports are essential for providing reliable data to policymakers. Both the House and the Senate agreed with the President's request. The Conference also agreed with the amount of $62.5 million.

For the ***Bureau of the Census***, the President requested a total of $543.4 million for FY2002, an amount $109.8 million higher than the $433.6 million appropriated for FY2001. The total FY2002 request included $141 million for continuing decennial census (2000) activities; $65 million for Census 2010 planning; and $27 million for continuous measurement operations, including further development of the American Community Survey, which is intended to replace the census long form in 2010.

The House Committee reported, and the full House approved, $519.8 million in new FY2002 appropriations for the Bureau of the Census. In considering H.R. 2500, the House agreed to an amendment offered by Representative Carolyn Maloney to designate $2.5 million of the $519.8 million for a plan to count private American citizens living overseas in the 2010 census. The $519.8 million was $23.6 million below the President's budget request, but an approximately $25 million carryover of balances from previous years was to give the Bureau total FY2002 funding of $544.8

million. All of the $25 million was designated for activities related to the 2000 decennial census.

The Senate Committee recommended $517.1 million in new FY2002 appropriations for the Census Bureau, an amount $2.7 million lower than the House approved and $26.3 million lower than the President requested. The Committee also estimated, however, a $27 million carryover of funds from prior years, for a total of $544.1 million available to the Bureau in FY2002. The full Senate approved the Committee's recommendation of $517.1 for the Bureau.

House and Senate conferees agreed to a total spending level of $544.8 million for the Bureau in FY2002. Of this amount, $54 million was from prior year unobligated balances. The conferees designated $139.2 million of the total amount for expenses related to the 2000 census and $65 million for 2010 census planning, but without explicit reference to the Maloney amendment to H.R. 2500.

The President's FY2002 request for the ***International Trade Administration*** was $329.6 million. (The FY2001 enacted level was $336.7 million–$333.7 million in appropriations plus $3 million in fee collections.) The House approved $344.7 million in appropriations, a $15.1 million increase over the FY2002 request. The Senate passed $344.1 million in appropriations, $14.5 million more than the President's request. Both the House and the Senate Committees' bills restored funding in the Trade Development Unit to export promotion programs for textiles and apparel, an export database, and an international competitiveness program. The conference report approved $67.7 million for the Unit, $15.3 million over the President's request. The House also increased funding for the U.S. and Foreign Commercial Service (USFCS) by $3.0 million to restore funding for the Rural Export Initiative and the Global Diversity Initiative. The Senate Committee's bill maintained the President's request for USFCS and expressed concern with the pace of the Service's consolidation of Export Assistance Centers in certain metropolitan areas. The conference report allotted $195.8 million, $1 million less than the House version, but retained the initiatives added by the House. The conference report also provided $27.7 million for the Market Access and Compliance Unit and $43.3 million for the Import Administration Unit.

The FY2002 request for the ***Bureau of Export Administration (BXA)*** was $68.9 million. (Congress had enacted $64.7 million in FY2001.) The House and Senate approved the full amount of the President's request for FY2002, an amount reflected in the conference report. This figure includes $7.3 million for inspections under the Chemical Weapons Convention (CWC) conducted in conjunction with the Department of State. The Administration requested increases, in part, to complete the redesign of the Export Control Automated Support System (ECASS) in order to provide license applicants with more timely information on their applications.

The ***Economic Development Administration (EDA)*** has experienced a tumultuous appropriations history over the past few years.[7] Its funding level was

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[7] For background, see CRS Issue Brief IB95100, *Economic Development Administration:* (continued...)

sharply reduced by the 104th Congress, then partially restored by the 105th. In the first session of the 106th Congress, appropriators placed EDA programs in jeopardy until the last possible moment. Last year, the Senate Appropriations Committee recommended a total appropriation of $249.5 million for FY2001, or $187.5 million less than the agency requested, and $138.9 million less than the total approved by the House. In the end, however, the conference agreement provided a total adjusted appropriation of $439.8 million, about 3 million more than the agency requested.

The FY2001 CJS appropriations bill included nearly $411.9 million for EDA's Economic Development Assistance Programs (EDAP) and slightly less than $28 million for Salaries and Administration (S&E), giving the agency a total appropriation of $439.8 million. The funding for EDAP increased by more than $51 million over the previous year's (FY2000) level.

For FY2002, the Administration requested a substantial reduction in EDA's overall funding. While the request included a small increase for S&E, it called for significant reductions in EDAP. Specifically, EDA's request of $335 million for EDAP represented a $76 million decrease from the FY2001 EDAP adjusted appropriation of $411 million. The agency did *not* request any funding for the Defense Economic Adjustment program which received $31.4 million in FY2001. The proposed elimination of funding for this program was consistent with the continued phase down of defense adjustment activity, particularly base closures, according to EDA's budget submission. The requested funding level for the Public Works Program was $250 million, which represented a program reduction of $36 million from the FY2001 appropriation. The amount requested for the Economic Adjustment Program was $40.9 million, or $8.6 million less than it received in FY2001.

The agency's FY2002 request for funding its other programs reflected only minor changes. EDA requested $24 million for Planning, $9.1 million for Technical Assistance, $500,000 for Research and Evaluation, and $10.5 million for Trade Adjustment Assistance.

The House set funding for FY2002 at the Administration's requested level, i.e., $30.6 million for S&E and $335 million for EDAP, for a total EDA appropriation of $365.6 million. The Senate-passed bill recommends slightly more — $371.6 million.

The conference agreement provides $30.6 million for S&E and $335 million for EDAP, for a total FY2002 appropriation of $365.6 million.

For the ***Minority Business Development Agency*** (MBDA), the Bush Administration requested $28.4 million for FY2002. The request was about $1.1 million (4.0%) above the $27.3 million appropriated in FY2001. Both the House and the Senate agreed with the President's request. Congress concurred and passed $28.4 million.

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[7] (...continued)
Overview and Issues, by Bruce K. Mulock.

The ***U.S. Patent and Trademark Office (USPTO)*** is funded by user fees collected from customers. For FY2001, P.L. 106-533 provided the Office with the budget authority to spend $1,038.7 million. According to the legislative language, included in this figure was $783.8 million from fees collected by the USPTO in FY2001 and $254.9 million in fees collected during prior fiscal years. The appropriation represented a 19% increase over the FY2000 funding level.

The Bush Administration's FY2002 budget requested $1139 million for the USPTO, an increase of almost 10% over FY2001. This included $856.7 million derived from offsetting collections generated by fees in FY2002 and $282.3 million from fees collected in prior fiscal years. H.R. 2500, as originally passed by the House, would have provided the USPTO with a total funding level of $1129 million in FY2002; $846.7 million from FY2001 fees and $282.3 million derived from fees generated in earlier fiscal years. The Committee report to accompany the bill also noted that an additional $10 million in unobligated balances from FY2001 was expected to be available for use by the USPTO for a total spending level of $1139 million. The version of H.R. 2500 first passed by the Senate provided budget authority for the USPTO to spend $1139 million including $856.7 million from fees collected during FY2002 and $282.3 million from fees paid in prior fiscal years. P.L. 107-77 provided a total funding level of $1,126 million, consisting of $843.7 million from FY2002 fee collections, and $282.3 million from carryover of prior year fees. According to the conference report, the FY2002 level falls below the Administration's requested level due to the decrease in the filing of trademark applications.

Since 1990, appropriation measures have limited the Patent and Trademark Office's use of the full amount of fees collected in each fiscal year. This is an area of controversy. Opponents argue that since agency operations are supported by payments for services, the total amount of these collections should be available to provide for those services in the year the expenses are incurred. Proponents of the current approach maintain that the fees are necessary to balance the budget and that the level of fees appropriated back to the USPTO are sufficient to cover operating expenses.[8]

For FY2002, President Bush requested a total of $3.063 billion for the ***National Oceanic and Atmospheric Administration (NOAA)***.[9] This amount was about $22 million or 0.7% greater than FY2001 appropriations of $3.041 billion. Of that total, $2.180 billion was requested for Operations, Research and Facilities (ORF). Budget authority of $68 million would be derived from the Promote and Develop Fishery Products and Research Pertaining to American Fisheries (PDAF) account, and $3

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[8] For a more information see: Congressional Research Service, *U.S. Patent and Trademark Office Appropriations Process: A Brief Explanation*, by Wendy H. Schacht, CRS Report RS20906.

[9] House Appropriations Committee-provided numbers are used in this analysis. It should be noted that NOAA reported the President's request for FY2002 to be $3.152 billion, a difference of about $98 million from OMB figures. This discrepancy may be accounted as different accounting methods and changes from adjustments to base funding, *e.g.*, emergency appropriations, rescissions, authorized carry-over funding from previous fiscal years, and authorized offsets and collection of fees.

million in collected fees would be transferred to ORF from the Coastal Zone Management Fund (CZMF). A total of $764.8 million was requested for the Procurement, Acquisitions and Construction (PAC) account. In addition, $118.4 million was requested for Other Accounts to be allotted as follows: $90 million for the Pacific Coastal Salmon Recovery (PCSR) program; $20 million for PCSR treaty obligations; and $1.4 million for U.S. fisheries financing and liability obligations. Another $10.4 million pass-through was requested for the Environmental Improvement and Restoration Fund (EIRF) for NOS and NMFS ($5.2 million each), which was included in the ORF request. The President did not request funding for "Coastal Impact Assistance" appropriated by Congress in FY2001.[10]

President Bush requested funding for NOAA's ORF budget lines as follows: National Ocean Service (NOS) - $364.5 million; National Marine Fisheries Service (NMFS) - $598.0 million; Oceanic and Atmospheric Research (OAR) - $330.2 million; National Weather Service (NWS) - $658.5 million; National Environmental Satellite Data and Information Service (NESDIS) - $142.4 million; and Program Support - $182.5 million. The President's request for Research and Development (R&D) at NOAA for FY2002, was reported by NOAA's Office of Financial Administration (OFA) to be $762 million. This amount represented an increase of 8.4% above FY2001 funding for R&D of $703 million, and was 25% of the FY2002 funding request for NOAA.

Highlights of President Bush's FY2002 budget request for NOAA included: 1) funding for Stellar Sea Lion research ($29 million) - NMFS; 2) full funding for the National Undersea Research Program (NURP) for FY2002 ($13.9 million) as the centerpiece for a 2002 Ocean Exploration initiative ($14 million requested) - OAR; 3) decreases in Great Lakes coastal community protection programs (-$30 million) - OAR; 4) restoration of base funding for Forecast & Warning Services ($16.7 million) - NWS; 5) funding for the Cooperative Weather Observer Program ($2.3 million) - NWS; 6) transfer of research data acquisition funding lines from NOS, OAR, and NMFS to Marine Services under Program Support ($62.0 million) - PS/OMAO; 7) funding for a Telecommunications Gateway Backup and other data communications improvements, under a Critical Infrastructure Protection initiative to provide backup for critical weather data and information managed by the agency ($73.3 million) - NWS; 8) funding for a Comprehensive Large-Array [data] Stewardship System (CLASS) to expand, coordinate and centralize climate services data ($3.6 million) - OAR; and 9) funding increases for Satellite Programs (NPOESS and GOES), including backup hardware and new sensors ($712.3 million) - NESDIS. The

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[10] Congress added $150 million to NOAA's regular annual (CJS) appropriations for FY2001 to fund "Coastal Impact Assessment." (See P.L. 106-553 §1(a)(2)) Total additional funding for NOAA for FY2001 included $420 million appropriated under §903 of P.L. 106-553 (Coastal and Ocean Activities, pp. 117-118, H. Rept. 106-1033, December 21, 2000.), and $17.5 million appropriated for NOAA (NMFS) by Title II, of the Omnibus Appropriations Act for FY2001 (P.L. 106-534). For FY2002, the President requested $284 million in "Conservation Spending," as authorized in Title VIII of P.L. 106-552, Department of Interior Appropriations for FY2001. The House approved $440 million and the Senate approved $251 million; however Conferees approved $223.3 million for this activity (H.Rept. 107-278)..

President proposed a 47% decrease for the National Estuarine Research Reserve System (NERRS), whose funding had doubled in FY2001.

The House-passed version of H.R. 2500 appropriated a total of $3.093 billion for NOAA. This amount was 1.7% greater than FY2001 appropriations of $3.041 billion, and 0.95% greater than President Bush's FY2002 request of $3.064 billion. Of this total, $2.2 billion was appropriated for Operations, Research and Facilities (ORF), about $20 million more than the request. In addition, $749 million was appropriated for Procurement, Acquisitions, and Construction (PAC), 2% less than that requested by President Bush and 10% more than the FY2001 appropriations. Another $143 million was appropriated for NOAA's Other Accounts, including PCSR, CZMF, and fishery-related obligations.

The House approved $12 million more for NWS and $25 million more for PCSR than the President's request. The House also approved $20 million for Oceans, Coastal, and Great Lakes programs in OAR, less than that requested by the President. The House supported transfer of data acquisitions funding (for ship time) to Marine Services under Program Support; it also transferred $10.8 million requested by the President's for NESDIS PAC to NESDIS ORF. House appropriations for NOAA budget lines were as follows: NOS - $375.6 million; NMFS - $542.4 million; OAR - $317.5 million; NWS - $659.3 million; NESDIS - $149.6 million; and PS - $176.1 million. The PAC account was funded a total of $749.0 million; and Other Accounts would total $143.4 million including $135 million for PCSR, a transfer of $3 million to ORF, and $1.43 million for fishery funding, financing, and liability accounts.

The Senate-passed version of H.R. 2500 appropriated a total of $3.363 billion for NOAA. Amendments resulted in an increase of $13 million above Senate Appropriation Committee recommendations for S. 1215. Senate totals included $2.276 billion appropriated for ORF, $940.6 million for PAC, and $146.4 million for Other Accounts (fishery funding and financing), including $137.9 million for the PCSR fund and $10 million for EIRF. Highlights of Senate amendments included $33.7 million appropriated instead of $30 million for conservation activities defined in §250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985. The SAC managers' amendment approved $23.9 million, rather than $54.3 million for NOAA Executive Direction and Administration, the same as the President's request. The Senate authorized $22.0 million in budget authority from FY2001 deobligations, from which $5.0 million was intended for establishment of a NOAA "Business Management Fund" for operating expenses. The Senate also directed that no NOAA funding be provided for DOC's Commerce Administrative Management System (CAMS). Directions were also given to obligate $0.5 million dollars of NWS PAC funding to the International Trade Administration processing center in OK. Of PCSR funding, $3 million was earmarked for disaster assistance, "for ground fish fishermen suffering economic hardship." Another $1.5 million in budget authority was targeted to NOAA to occupy a coastal and fishery research facility in Lafayette, LA (at the discretion of the Secretary of Commerce). In addition, $29 million was appropriated for Alaskan Stellar seal lion research, same as the President's request.

Conferees approved a total of $3.26 billion for NOAA. The conference report (H.Rept. 107-278) was adopted by the House on November 14, and by the Senate on November 15, 2001, and H.R. 2500 was signed into law by President Bush as P.L.

107-77, on November 28, 2001. Total appropriations for NOAA were 6.5% greater than the President's request of $3.06 billion, 5.5% greater than the House-passed total of $3.09 billion, and 10% less than the Senate approved levels of $3.36 billion. Of total appropriations, $2.25 billion was provided for ORF; $836.6 million for the PAC account; $157.4 million for Pacific Coastal Salmon Recovery (PCSR); and $8.3 million for NOAA's Other Accounts, including a pass through of $10 million to NOS for EIRF, and a $3.0 million transfer to NOS from the Coastal Zone Management Fund. The balance of $1.43 million was appropriated for administrative fishery-related funds. Of the NOAA total, $439.2 million was provided for conservation activities, including $223.3 million under ORF for Coastal Assistance programs; $58.5 million under PAC for a new Coastal and Estuarine Lands Conservation Program (CELCP); and $157.4 million under Other Accounts for PCSR obligations.

NOAA line offices were funded as follows: NOS - $413.9 million; NMFS - $579.2 million; OAR - $366.1 million; NWS - $672.4 million; NESDIS - $139.6 million; and Program Support - $180.5 million, including $71.8 million for Corporate Services, $89.6 million for OMAO, and $19.1 million for Facilities. Within NOAA's PAC account, $87.8 million was appropriated for NOS, $37.2 million for NMFS, $19.7 million for OAR, $70.7 million for NWS, $561.9 million for NESDIS, and $62.4 million for Program Support. Mandatory funding of $7 million is also included in the ORF total for agency overhead and operating expenses.

Highlights of the committee's agreement included $58.5 million provided to establish CELCP, "[F]or the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses," and to fund the promulgation of regulations for this program in accordance with the Coastal Zone Management Act. The conference agreement adopted Senate report language about NOAA's FY2003 budget structure, and House report language requiring the agency to report quarterly on the status of obligations *vis a vis* the new budget structure. In addition, House report language was adopted that required NOAA's budget lines totals be reported under the section on ORF appropriations.

The conference committee did not approve the "Business Management Fund" approved by the Senate, but did direct NOAA to report what management services might be improved at the agency if they were to be centralized. The conference agreement also funded NOAA's portion of expenses for CAMS at $17.1 million. The committee directed NOAA to design and implement performance measures for the Coastal Zone Management program; and directed the Office of Marine and Aviation Operations to provide detailed quarterly reports on its operations. Funding was not included for the proposed for GOES-R satellite which, the committee reported, had experienced scheduling delays. In addition, Conferees approved $15 million for Minority Serving Institutions. For more detailed information on NOAA Appropriations for FY2002, see CRS Report RL31117: *National Oceanic and Atmospheric Administration: Review of FY2002 Budget Request and Appropriations*.

The ***National Institute of Standards and Technology (NIST)*** received an appropriation of $598.3 million in FY2001. The total included $312.6 million for the Scientific and Technical Research and Services (STRS) account (with $5.9 million for the Baldrige Quality Program); $250.9 million for Industrial Technology Services (ITS), consisting of $145.7 million for the Advanced Technology Program (ATP) and $105.1 million for the Manufacturing Extension Partnership (MEP); and $34.9 million for construction. While this was a 6% decrease in overall funding for NIST, primarily due to a smaller construction budget, support for the laboratory's internal research and development activities increased by 11% over the previous fiscal year.

In his FY2002 budget proposal, President Bush requested $487.5 million in funding for NIST, 19% less than the FY2001 appropriation. Support for the STRS account would have been $347.3 million, including $5.4 million for the Quality Program. This represented an 11% increase over FY2001. The Manufacturing Extension Program would have been financed at $106.3 million, while the Advanced Technology Program was to be suspended pending an evaluation, although $13 million would have been available to support on-going project commitments. Construction efforts would have been funded at $20.9 million.

The FY2002 appropriations bill, H.R. 2500, as originally passed by the House, would have provided $490 million for NIST, an 18% decrease in support due primarily to an absence of funding for the Advanced Technology Program. The STRS account would have received $348.6 million while funding for ITS would total $119.5 million, with the major portion going to the Manufacturing Extension Program. The construction budget would have been $20.9 million. H.R. 2500, as initially passed by the Senate, would have funded NIST at $696.5 million, 42% above the figure contained in the House bill and 16% more than FY2001. Internal R&D under the STRS account would have received $343.3 million while ITS would have been financed at $309.3 million, including $105.1 million for MEP and $204.2 million for ATP. The Committee report to accompany the bill stated that the ATP activity should be continued contrary to the President's budget proposal. Funding for construction at NIST would total $43.9 million, more than double that contained in the House bill and the Administration request.

The final legislation, P.L. 107-77, funds NIST at $674.5 million, an increase of 13% over FY2001. Included in this is $321.1 million for the STRS account (3% above the previous fiscal year) and $291million for ITS. Of this latter amount, MEP is financed at $106.5 million and ATP receives $184.5 million, a 27% increase. Construction is funded at $62.4 million, triple the figure in the budget request and the House bill and almost twice that of FY2001.[11]

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 Clinton Administration defended ATP, arguing it assisted businesses (and small manufacturers) develop technologies that,

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[11] For more information see: Congressional Research Service, *The National Institute of Standards and Technology: An Overview*, by Wendy H. Schacht, CRS Report 95-30.

while crucial to industrial competitiveness, would not or could not be developed by the private sector alone. For the previous two fiscal years (FY2000 and FY2001), the initial appropriation bills passed by the House, contained no funding for ATP, although the program did receive support in the final legislation. Similarly, the FY2002 appropriation bill originally passed by the House also suspended financing for the program. However, ATP was ultimately funded at a figure that represented a 27% increase over the previous fiscal year.

The ***Office of the Undersecretary for Technology and the Office of Technology Policy (OTP)*** was funded at $8.1 million for FY2001, an increase of less than 3% over the previous fiscal year. The Bush Administration requested $8.2 million for FY2002. H.R. 2500, as initially passed by the House, would have funded the Office at $8.1 million. The first version of H.R. 2500 as passed by the Senate included $8.2 million for OTP. The conference agreement settled on the Administration-requested and Senate-passed level of $8.2 million.

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. The TOP grants provides matching merit-based grants to areas either underserved or not served at all by the Internet. The NTIA budget also includes the continued development and construction of public broadcast facilities, including funding for transition of broadcasting facilities to digital transmissions. Some policymakers support a stronger role for NTIA to close the divide between the nation's digital "haves" and "have-nots." They contend that NTIA's TOP grants and public facilities programs would be appropriate avenues for helping bridge this divide.

For FY2001, the Congress provided $100.4 million for the entire NTIA budget. Of this amount, $11.4 million is for salaries and expenses; $45.5 million for the Technology Opportunities Program (TOP) grants; and $43.5 million for public telecommunications facilities, planning and construction. Both the TOP and public telecommunications facilities, planning, and construction programs received substantial increases over their FY2000 appropriations of $15.5 million and $26 million, respectively.

For FY2002, the Bush Administration proposed: $73 million for the overall NTIA budget; $15.5 million for TOP; $43.5 million for public telecommunications facilities, planning and construction; and $14 million for salaries. The Bush Administration contends that the TOP program should be funded closer to levels it was at before FY2001, and that the public facilities planning and construction budget should continue to support conversion of broadcast transmissions to digital technologies. The House-passed appropriations bill approved the following: $72 million for the NTIA budget; $13 million for salaries and expenses; $15.5 million for TOP grants; and $43.5 million for public telecommunications facilities, planning, and construction. The Senate-passed appropriation approves an NTIA budget of $73 million, with $15.5 million for TOP, $43.5 million for public telecommunications facilities, and $14 million for salaries. Conference Report 107-278 included the Senate-approved marks for the overall budget, TOP, public telecommunications facilities, and salaries. The conference agreement provided $73 million – the Administration request – for the overall NTIA FY2002 budget.

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 latest Strategic Plan issued by the Department of Commerce for years FY2000-FY2005 enunciates three strategic goals:

- Strategic Goal l. Provide the information and the framework to enable the economy to operate efficiently and equitably.

- Strategic Goal 2. Provide infrastructure for innovation to enhance American competitiveness.

- Strategic Goal 3. Observe and manage the Earth's environment to promote sustainable growth.

As mandated by GPRA, DOC's FY2000 Annual Program Performance Report and FY2002 Annual Performance Plan were released with the FY2002 budget proposal. Both the program plan and report are available at: [http://www.doc.gov/bmi/budget/].

Related Legislation

S. 149 (Enzi et al.); H.R. 2557 (Menendez et al.); H.R. 2568 (Dreier, et al.)

Export Administration Act of 2001. A bill to provide authority for national security and foreign policy export controls. S. 149 introduced January 23, 2001; reported from the Senate Banking Committee with amendments, March 22, 2001; pass the Senate on Sept. 6, 2001; H.R. 2557 introduced July 18, 2001, and H.R. 2568 introduced July 19, 2001; referred to House International Relations Committee, House Armed Services Committee.

Additional Reading

CRS Report 95-36. *The Advanced Technology Program*, by Wendy H. Schacht.

CRS Report 97-104. *Manufacturing Extension Partnership: An Overview*, by Wendy H. Schacht.

CRS Report 95-30. *The National Institute of Standards and Technology: An Overview*, by Wendy H. Schacht.

CRS Report RL31117. *National Oceanic and Atmospheric Administration (NOAA): Review of FY2002 Budget Request and Appropriations*, by Wayne A. Morrissey.

CRS Report RL30169. *Reauthorization of the Export Administration Act*, coordinated by Ian F. Fergusson.

CRS Report RS20906. *U.S. Patent and Trademark Office Appropriations Process: A Brief Explanation*, by Wendy H. Schacht.

The Judiciary

Background

Typically, Title III of the CJS appropriation 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, he 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 FY2001 was $4.25 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 submits a request for the Court's building and grounds account.[12] 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 CJS appropriations act for FY2001 (P.L.106-553), for instance, provided a total of $45.1 million for the Supreme Court's two accounts, which was less than 1.1% of the Judiciary's overall appropriation of $4.26 billion.

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, U.S. Court of Federal Claims, bankruptcy and 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.

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[12] By authority of the Act of May 7, 1934 (P.L. 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.

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 also 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 the appendix.)

Current Issues

The Judiciary's Response to the Terrorist Attacks. Apart from its FY2002 budget request, the Judiciary wrote letters to the Office of Management and Budget (OMB) on September 13, 2001, identifying the immediate security needs of the federal courts in light of the September 11, 2001 terrorist attacks on the United States.[13] The letters were sent to OMB at the same time that emergency supplemental appropriations legislation, H.R. 2888, was being considered by Congress. That bill, creating an Emergency Response Fund totaling $40 billion, was subsequently passed by both the House and Senate on September 14, 2001, and signed into law as P.L. 107-38.

In a letter on behalf of the Supreme Court, the Court's director of budget and personnel listed "four security items that address preparedness and mitigation of risk of terrorist incidents," totaling $47 million. These items specifically included: perimeter security improvements, $10 million; visitor screening, $3 million; construction of police facilities, $20 million; and window protection, $14 million. A separate letter on behalf of the rest of the lower federal courts requested $20.7 million annually for an additional 414 courts security officers to enhance perimeter security

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[13] Also, a week after the September 11 terrorist bombings in New York City and Washington, the director of the Administrative Office of the U.S. Courts, Leonidas Ralph Mecham, presented the security needs of the federal judiciary to House members at a briefing convened by Rep. Frank R. Wolf (R-VA), chairman of the House CJS-Judiciary appropriations subcommittee. See U.S. Administrative Office of the United States Courts, "Judiciary Looks to Security Following Attacks," *The Third Branch*, vol. 33, October 2001, at [http://www.uscourts.gov/ttb/oct01ttb/oct01.html].

at federal courthouses; $10.6 million annually for an additional 106 deputy U.S. Marshals, who would have full-time supervisory responsibility for court security; and $62.1 million in one-time costs for purchase of "state-of-the-art" X-Ray machines for use in courthouse mail rooms and loading docks.

Subsequently, pursuant to P.L. 107-38, the President took three actions in response to the Judiciary requests for emergency funding:

- On September 21, 2001, he authorized the transfer from the Emergency Response Fund of $1.25 million to the Supreme Court's Building and Grounds budget account, to be used to install protective window film for the Supreme Court building.

- On September 28, 2001, he authorized the transfer of $19.7 million in emergency funds to the Judiciary's Court Security budget account). These funds would be used for heightened security in courthouses, including converting part-time court security officers to full-time as well as covering the costs required to maintain enhanced perimeter patrols and visual inspection of vehicles that enter courthouse facilities.

- On October 17, 2001, he submitted to Congress legislation to allocate $20 billion for various disaster recovery and security needs, $31.5 million of which would go to the federal government's judicial branch. Of the $31.5 million, $17.5 would cover the costs of additional court security officer hours, $10.0 million would be used to enhance the security posture of the Supreme Court building, and $4.0 million would support a supervisory deputy marshal responsible for coordinating security in each judicial district and circuit.

The President's September 21 and 28 funding transfers to the Judiciary were made pursuant to his authority, under P.L. 107-38, to spend the first $20 billion of the $40 billion Emergency Response Fund total without additional congressional action. By contrast, the President's allocation of the second $20 billion, including the $31.5 million designated for the Judiciary, was in the form of a supplemental appropriation measure requiring congressional passage. That measure was attached, as Division B, to the FY2002 Department of Defense appropriations bill (H.R. 3338), which was signed into law as P.L. 107-117 on January 10, 2002.

The funding transfers approved by Congress in Division B of P.L. 107-117 included significantly more funding for the Judiciary than proposed by the President. Specifically, the anti-terrorism funding approved by Congress in this law included:

- $30.0 million for the Supreme Court's Building and Grounds budget account, for security enhancements (instead of $10.0 million proposed by the President and provided for in the House-passed version of H.R. 3338);

- $57.5 million for the Judiciary's Court Security account, to address security requirements of the lower courts, including not less than $4.0 million to reimburse the U.S. Marshals Service for a supervisory deputy marshal responsible for coordinating security in each judicial district. (The President had proposed, and the House-passed version of H.R. 3338 had provided, that a total of $21.5 million of the anti-terrorism funding be transferred to the lower courts.)

- $5.0 million for emergency communications equipment in the Salaries and Expenses account of the courts of appeals and district courts, plus $2.9 million for the Administrative Office of the U.S. Courts, to enhance security at the Thurgood Marshall Federal Judiciary Building in Washington, D.C. (Neither of these funding amounts was included in the President's proposal or in the House-passed version of H.R. 3338.)

The Judiciary's Budget Request for FY2002. Congress approved $4.61 billion in total FY2002 budget appropriations for the Judiciary, an 8.4% increase over FY2001 funding of $4.25 billion. The enacted FY2002 level is $69.4 million less than what the House approved earlier and $111.5 million more than the Senate-passed amount. At the start of the appropriations process, the Judiciary had requested $4.87 billion, a 14.5% increase over FY2001 funding.

For the Judiciary's largest account, ***Salaries and Expenses for the Courts of Appeals, District Courts and Other Judicial Services***,[14] Congress approved $3.59 billion, a 7.1% increase over $3.35 billion enacted for FY2001. The enacted FY2002 level is $40.8 million less than what the House approved earlier and $32.1 million more than the Senate-passed amount. The Judiciary had requested $3.74 billion, an 11.4% increase over FY2001 funding. For this account, House-Senate conferees adopted by reference House report language regarding non-appropriated funds and workload.[15] The conference agreement also adopted by reference Senate report

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[14] This account, as explained above, 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.

[15] In its report on H.R. 2500, the House Appropriations Committee noted that the Judiciary's budget request for FY2002 estimated that $226 million would be available in fee collections and carryover balances. The committee stated that if additional non-appropriated funds became available in FY2002, either through savings in fiscal year 2001 or increased fee collections, the committee expected the Judiciary to apply these funds to its FY2002 financial plan to meet the highest priority needs of the courts.

Also, the House committee said it understood that the workload of the courts was continuing to escalate, due largely to the expanding jurisdiction of the federal courts through legislation passed by the Congress, as well as to significant increases in funding provided to the Department of Justice in recent years for investigating and prosecuting crimes. In FY2001, the committee noted, it was able to fully fund the staffing needs of the courts for the first time in three years. The committee cited approvingly the Judiciary's allocation of staffing resources based on formulas recently updated by the Administrative Office of the U.S. Courts which, according to the committee, "equitably allocated staff based on the actual

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language requesting that the Judiciary conduct a study for the Appropriations Committees on whether changes in the jury system may be necessary.[16]

For the Judiciary's ***Defender Services*** account, Congress approved the House-passed amount of $500.7 million, a 15.3% increase over FY2001 funding of $434.0 million. Earlier the Senate had approved $463.8 million, a 6.8% increase, while the Judiciary had requested $521.5 million, a 20.1% increase. The Defender Services 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 (CJA) to serve as defense counsel to indigent individuals accused of federal crimes.

While most of the Defender Services increase requested by the Judiciary consisted of mandatory adjustments to base,[17] $35.1 million was sought to fund an increase in the rate of pay for panel attorneys to $113 an hour. For FY2001 Congress had funded hourly pay rates for panel attorneys of $75 in-court and $55 out-of-court in most locations, which the Judiciary said were well below the amounts the attorneys need just to cover their overhead costs. In response, House-Senate conferees, following the recommendation of both Appropriations Committees, agreed on an FY2002 increase in panel attorney pay to $90 per hour both in and out of court, effective no later than May 1, 2002.

The budget request of the ***Supreme Court*** for FY2002, as customary, was in two parts. For its first account, Salaries and Expenses, Congress, as provided in the Senate bill, approved $40.0 million, a 6.6% increase over budget authority of $37.5 million for FY2001. Earlier, the Court had requested, and the House approved, $42.1 million.[18]

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[15] (...continued)
workload of each [judicial] district," and it said it expected the Judiciary to allocate its FY2002 staffing resources using the formulas approved by the Judicial Conference.

[16] In its report on the Senate CJS bill, S. 1215, the Senate Appropriations Committee said it was concerned about increased plea bargaining, limits on jury awards, new powers of judges to screen evidence presented to jurors, and the increasing number of jury verdicts being overturned by federal appeals courts. These developments, the committee said, were diminishing the traditional role of the jury and were part of a trend which "promises to undermine individual confidence in the jury system and in the courts themselves." The committee directed that the Judiciary's study, to be prepared by the Administrative Office of the U.S. Courts no later than February 1, 2002, include recommendations for judicial reform "to ensure that juror and citizen confidence are not eroded."

[17] These mandatory adjustments included pay and benefit adjustments for federal defender organization personnel and funding for increased case representation workload of federal defender organizations and panel attorneys.

[18] More precisely, the Court requested $42.114 million, a 12.3% increase over FY2001 funding, while the House Administration Committee has approved $42.066 million, a 12.1% increase. Most of the requested FY2002 increase represented base adjustments — i.e., required increases in salary and benefit costs and inflationary increases in fixed costs. In (continued...)

In their report, House-Senate conferees directed that the Court continue to provide the Appropriations Committees with information regarding the Court's hiring practices in selecting law clerks and to "make efforts to expand its pool of applicants in a manner to ensure fairness in hiring." The conference report, however, said it did not adopt language in the Senate report "regarding the containment of mandatory costs and additional personnel."[19]

For the Court's second account, Care of the Building and Grounds, Congress approved $37.5 million, instead of $70.0 million as provided in the House bill and $7.5 million in the Senate bill.[20] At the beginning of the appropriations process, the Court had requested $117.7 million for this account, $110.2 million over FY2001 funding of $7.5 million. The purpose of this extraordinary increase, as requested, was to modernize the Court's building by upgrading its basic life safety, security and utility systems. This would be the first major renovation of the Court building since its opening in 1935.[21]

The conference agreement, while reducing the earlier-approved House amount by almost 50%, adopted by reference language in the House report related to the security and renovation needs of the Court building.[22] The conferees noted that their

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[18] (...continued)
addition, $2.2 million over base adjustments has been requested to fund eleven positions and three program increases, with most of these increases related to technological improvements in automation and security.

[19] In its report, the Senate Appropriations Committee had noted disapprovingly that "[v]arious offices, a theatre, a gift shop, and mail handling have all been built out into the hallways of the Court in direct violation of fire codes." The Court's "expected renovation," the Committee continued, would "only exacerbate space problems for the foreseeable future." Therefore, the Committee said, its recommendation "defers" staffing increases for the Court "until it is clear that there is room for additional personnel."

[20] Separate from this $37.5 million appropriation, it should be noted, the Supreme Court's Building and Grounds account received $31.25 million from the Emergency Response Fund established by Congress in response to the September 11, 2001 terrorist attacks on the United States. See preceding discussion in this report under the heading, "The Judiciary's Response to the Terrorist Attacks."

[21] In prepared testimony before the House Appropriations Subcommittee on Commerce, Justice and State on March 21, 2001, Justice Anthony M. Kennedy explained that modernization of the building would include the "installation of protective life safety systems such as fire detection and sprinklers and the ability to purge smoke from the building in the event of a fire. The mechanical, electrical and plumbing systems are so out of date that a disruptive and possibly dangerous system failure is more likely every year that the proposed modernization is postponed."

[22] In its report on H.R. 2500, the House Appropriations Committee stated that the Court building "has serious deficiencies in its life safety, security, mechanical, electrical, and plumbing systems. These obsolete systems create the risk of an emergency to the health and a safety of the Justices, the court staff, the Supreme Court policy and the nearly one million visitors to the building each year. To correct these deficiencies, the Architect has proposed the building's first significant upgrade in its 65-year history. The Committee believes that
(continued...)

agreement did not include language in the Senate report regarding building renovations.[23] The conference report also noted that the entire amount of $37.5 million shall remain available until expended.[24]

Congress also approved $220.7 million in funding for the Judiciary's ***Court Security*** account, a 10.8% increase over FY2001 budget authority of $199.1 million.[25] The House and Senate bills respectively had provided $224.4 million and $209.8 million, while the Judiciary had requested $228.4 million.[26] The House-Senate conference report said that it adopted language in the House bill and report clarifying the responsibilities of the Court Security Program.[27]

Congress also authorized, as requested by the Judiciary, a ***cost-of-living increase in judges' and justices's salaries*** and appropriated $8.6 million for that purpose.

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[22] (...continued)
each day this project is delayed dramatically increases the potential for the building's outdated systems to fail, placing human life and safety at risk as well as increasing the costs required to perform the necessary modernization."

[23] In its report, the Senate Appropriations Committee had completely rejected the Court's requested increase for this account, instead approving the FY2001 level of $7.5 million. The committee said it favored retaining the FY2001 amount for FY2002 in order to fund "the routine maintenance of existing building systems in anticipation of a construction start in 2003," under a revised building upgrade plan acceptable to the committee. The committee explained that it was "entirely supportive" of the proposal to replace building systems which "have been maintained long past the end of their useful service lives," but that it was "very concerned by the linchpin of the Court's construction approach: the digging out of an underground annex as swing space for displaced staff."

[24] The Court had requested its $110 million increase for this account on a one-time "no year" basis, rather than make the first of several annual funding requests to defray costs incurred as the renovation proceeded. While not agreeing to the full amount of the Judiciary's request, the House Appropriations Committee in its report said that budget authority was being made available until the appropriated amount was expended to give the Architect of the Capitol maximum flexibility in structuring the building renovation contract.

[25] Separate from this $220.7 million appropriation, it should be noted, the Court Security account received $77.2 million from the Emergency Response Fund established by Congress in response to the September 11, 2001 terrorist attacks on the United States. See preceding discussion in this report under the heading, "The Judiciary's Response to the Terrorist Attacks."

[26] The amount requested for FY2002, the Judiciary said in its budget submission, would make possible the replacing of inadequate and out-dated court security equipment, and fund court security officers for new buildings.

[27] In its report on H.R. 2500, the House Appropriations Committee noted that language in the bill clarified the "current responsibilities of the Court Security Program to provide protective guard service for United States courthouses, the installation and maintenance of security equipment in all buildings housing judiciary operations and the inspection of mail and packages."

While the House bill declined to authorize a judicial pay adjustment,[28] such a provision in the Senate-passed bill[29] was approved in conference, paving the way for a judicial pay increase, based on the Employment Cost Index (ECI), of 3.4%, effective January 2002.[30] The Judiciary had called for a pay adjustment for judges in its FY2002 budget submission to Congress. Judiciary compensation, it was argued, lagged far behind both inflation and the increasing salaries of private attorneys, with judges' purchasing power having declined by over 13% over the past eight years.[31]

The CJS conference agreement on a pay adjustment for federal judges and justices was reached against the backdrop of an imminent 2002 calendar year cost-of-living pay increase for Members of Congress and executive branch officials. Annual cost-of-living adjustments for the latter are automatic, effective January of each year (as provided by the Ethics Reform Act of 1989), unless Congress adopts language barring a particular annual adjustment from taking effect. By January 1, 2002, no legislation had been enacted to withhold the pay adjustment.[32] In contrast to automatic cost-of-living pay adjustments for Members of Congress and executive branch officials, an annual pay increase for judges must be specifically authorized by Congress, and the legislative vehicle for that authorization in recent years has been the CJS-Judiciary appropriations bill At no time since judicial pay adjustments have required statutory authorization have judges received lower pay adjustments than Members of Congress and executive branch officials. Hence, in keeping with that

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[28] In its report on H.R. 2500, the House Appropriations Committee said the bill deferred "without prejudice" the proposed salary adjustment for federal justices and judges.

[29] Although the Senate Judiciary Committee's CJS bill, as reported, was silent on the issue, the Senate, on September 10, 2001, adopted an amendment to its version of HR 2500 which, among other things, provided for a cost-of-living pay adjustment for judges. The provision was part of an amendment introduced by Senators Ernest F. Hollings and Judd Gregg, which, the Senate approved by voice vote, making various technical and clarifying corrections to the bill.

[30] The salary adjustment, effective January 2002, increased the annual salaries of Article III judges as follows: for Chief Justice of the United States, from $186,300 to $192,600; for Associate Justices of the Supreme Court, from $178,300 to $184,400; for U.S. Courts of Appeals judges, from $153,900 to $159,100; and for U.S. District Court judges and judges on the U.S. Court of International Trade, from $145,100 to $150,000.

[31] In addition to securing an ECI adjustment in judicial salaries for FY2002, the Judiciary called for, but, as of this report's writing, failed to persuade Congress to make, more sweeping changes affecting judicial pay rates and the process for setting future pay levels for judges. Specifically, at the start of the 107th Congress, the Judiciary urged Congress to make future cost-of-living adjustments for judges automatic, authorize a Presidential commission to periodically advise the Congress and the President on appropriate compensation for government officials, and enact legislation giving judges and other high level federal officials a "catch-up" pay adjustment of 9.6% to recapture previous "lost" ECI adjustments, i.e., adjustments over the last decade which Congress did not statutorily authorize. Congress had authorized ECI cost-of-living increases in judges' and justices' salaries for fiscal years 2001, 2000, 1998 and 1993, but not for 1999 or 1994 through 1997.

[32] During debate on their respective FY2002 Treasury appropriations bills, the House and Senate declined to adopt amendments which would have denied a pay adjustment for Members of Congress and executive officials.

custom, the conferees' action on the FY2002 CJS appropriations bill as enacted allowed cost-of-living pay increases for justices and judges to keep apace with those for Members of Congress and executive branch officials.[33]

Also, without requesting FY2002 funding for this purpose, the Judiciary called for the creation of 54 "Article III" judgeships—judgeships created under Article III of the Constitution and having lifetime, as opposed to fixed-term, appointments.[34] The Judiciary noted that since Congress last enacted a major judgeship bill in 1990,[35] increases in federal jurisdiction and law enforcement resources had contributed to a more than 25% increase in the workload of the federal courts. However, increased judgeships ultimately were not provided for by Congress in H.R. 2500 as enacted, nor was provision for them included earlier in either the House or Senate CJS appropriations bill.

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.

Related Legislation

S. 147 (Feinstein)

Southwest Border Judgeship Act of 20001. Creates, in federal judicial districts in four southwest border States, nine permanent district judgeships and nine temporary district judgeships. Introduced, and referred to Judiciary Committee, January 23, 2001.

S. 1162 (Feinstein)

Companion bill to H.R. 570 (below). Introduced, and referred to Judiciary Committee, July 11, 2001.

H.R. 272 (Gonzalez)

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[33] See "Pay" section under "Federal Personnel Issues," in U.S. Library of Congress, Congressional Research Service, *Appropriations for FY2002: Treasury, Postal Service, Executive Office of the President, and General Government,* by Sharon S. Gressle, CRS Report RL31002 (Washington: Jan. 16, 2002).

[34] Specifically, the Judicial Conference had requested the addition of 6 permanent and 4 temporary court of appeals judgeships and 23 permanent and 21 temporary district court judgeships.

[35] Although giving the Judiciary far fewer new judgeships than had been requested, Congress included in the Judiciary's FY2001 appropriations title the creation of ten new district judgeships; prior to that, in the Judiciary's FY2000 appropriations title, Congress created nine new district judgeships.

Companion bill to S. 147. Introduced and referred to Judiciary Committee, January 30, 2001; referred to Subcommittee on Courts, the Internet, and Intellectual Property, February 12, 2001.

H.R. 570 (Biggert)

Federal Judicial Fairness Act of 2001. Repeals Federal statute limiting salary increases for Federal judges or Supreme Court Justices to those specifically authorized by Act of Congress, increases judicial pay immediately by 9.6%, and provides for automatic annual cost-of-living increases in judicial salaries. Introduced, and referred to Judiciary Committee, February 13, 2001; referred to Subcommittee on Courts, the Internet and Intellectual Property, February 23, 2001.

H.R. 2522 (Coble)

Federal Courts Improvement Act of 2001. Sets forth or modifies various provisions regarding judicial process (including bankruptcy administrator authority to appoint trustees) and judicial personnel administration, benefits, and protections, (including provisions concerning disability retirement and cost-of-living adjustments of annuities for territorial judges, compensation for Federal Judicial Center employees; annual leave limit for judicial branch executives; and supplemental benefits for judicial branch employees). Introduced, and jointly referred to Judiciary Committee and Committee on Education and the Workforce, July 17, 2001. Referred to Judiciary Subcommittee on Courts, the Internet, and Intellectual Property, July 20, 2001; subcommittee hearings held, July 26, 2001. Jointly referred to Education and Workforce Subcommittee on Employer-Employee Relations and Subcommittee on 21st Century Competitiveness, October 9, 2001.

Additional Reading

CRS Report 98-527. *Federal Courthouse Construction*, by Stephanie Smith.

CRS Report RS20278. *Judicial Salary-Setting Policy*, by Sharon S. Gressle.

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Department of State and International Broadcasting

Background

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 more than 50 U.S. agencies and organizations operating at 257 posts in 180 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 FY2001 State Department appropriation was $6.6 billion. Typically, more than half of State's budget (about 72% allocated for FY2001) 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 provided 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, remains 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 FY2001 appropriation was $441.4 million with just under 2,700 positions.

Security issues have remained a top priority since the August 7, 1998 terrorist attacks on two U.S. embassies in Africa. An immediate response was a $1.56 billion supplemental enacted by the end of that 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 FY2000 through FY2004 for embassy security spending within the ***embassy security, construction and maintenance*** (ESCM) account, in addition to worldwide security funds in the ***diplomatic and consular programs*** (D&CP) account.

Current Issues

The State Department's Response to the Terrorist Attacks. Immediately after the September 11, 2001 terrorist attacks on the United States, the Department of State announced that 50 of its 260 embassies and consulates worldwide temporarily closed. Three U.S. embassies—in Pakistan, Yemen, and Turkmenistan—were evacuated. Reportedly since then, State recommended embassies stock up on antibiotics, and may close facilities on a case-by-case basis if the local population gets out of control and dangerous to U.S. personnel.

The Emergency Supplemental Appropriations Act (P.L. 107-38) provided State with $390,000 for Diplomatic and Consular Programs for added security salaries and expenses, $7.5 million for Capital Investment Fund for improved communications at domestic and overseas facilities, and $41 million for Emergencies in the Diplomatic and Consular Service account for reward money and evacuation of personnel at high threat embassies, should it be necessary. The supplemental also provided $12.25 million to the Broadcasting Board of Governors (BBG) for expanded broadcasting to Muslim audiences in and around Afghanistan.

The Administration's FY2002 budget request for the Department of State and international broadcasting totaled nearly $8 billion, more than 13% above the FY2001 enacted level of $6.6 billion. The request was comparable to the FY1999 enacted level which had included the $1.56 billion emergency supplemental appropriation for overseas security and Y2K computer compliance. Secretary of State Colin Powell testified before the House Appropriations Committee on April 26, 2001 that the Administration's State Department budget request for FY2002 had 3 top priorities: 1) embassy construction and security; 2) information technology; and 3) hiring additional Foreign and Civil Service staff. The House Appropriations Committee recommended $7.88 billion, slightly less than the Administration request, for State and international broadcasting for FY2002. The House-passed funding level was reduced by $15 million to $7.867 billion. The Senate agreed to $7.63 billion, about $236 million below the House level. The final enacted FY2002 appropriation for both State and international broadcasting is $7.84 billion–about 11% higher than the FY2001 funding level.

The President's FY2002 request of $5,665.8 million for State's ***administration of foreign affairs*** was nearly 20% above the FY2001 enacted level. The ***administration of foreign affairs*** request included: $3.705 billion for ***D&CP***, $210 million for the ***capital investment fund (CIF)***; $242 million for the ***education and cultural exchanges account***; nearly $1.3 billion for ***ESCM***; and $15.5 million for ***emergencies in the diplomatic and consular services*** account. The House Appropriations Committee set funding for State's administration of foreign affairs at $5,595.7 million. House floor action reduced this amount by $15 million to $5,580.7 million, transferring the funds to the Small Business Administration.

The Senate Appropriations Committee recommended $5,224.1 million for Administration of Foreign Affairs, nearly $357 million below the House level and $442 million less than the President's request. The full Senate reduced this amount to $5,196.9 million. The entire reduction was from the Diplomatic and Consular

Programs account. Congress passed an FY2002 budget of $5,549.2 million for State's **administration of foreign affairs** account.

Continuing an emphasis on overseas security even before the September 11th attacks, the Administration requested a total of $1.3 billion for worldwide security upgrades. Of this total, $487.7 million was requested within ***D&CP***, primarily for ongoing expenses of past actions such as salaries of increased guards and maintenance of security technology. In addition, the Administration requested $816 million within ***ESCM***, largely for upgrading overseas facilities, improving perimeter security, and relocating highest risk posts. The ***ESCM account*** request represented an increase of nearly 20% over the FY2001 enacted funding for both construction-related, as well as security-related activities. The House agreed with these funding levels and recommended nearly the same amount. The Senate recommended less for security–$409.4 million within ***D&CP*** and $661.6 million within ***ESCM*** . Congress enacted the House and White House-requested levels.

The nonsecurity-related funding request within ***D&CP*** was primarily for salaries and expenses of personnel. Secretary Powell testified in early 2001 before congressional committees that the Department has ignored warning signs in staffing gaps, both in the Foreign and Civil Service. In addition, near term problems may include anticipated retirements, difficulty in attracting applicants, and the need for float staff to fill in when personnel attend training classes. The Administration hoped to hire approximately 600 new employees in FY2002, including 360 general staff, 186 security professionals, and technical experts.

The House-passed bill would provide $3,645.7 million for ***D&CP*** — reducing the full Committee-recommended level by $8 million and transferring that amount to the Small Business Administration. In addition, the House expressed concerns about management problems at State, as well as interest in right-sizing overseas posts.

The Senate Appropriations Committee recommended $3,498.4 million for ***D&CP***, offering less than the House or the FY2002 requested amount for worldwide security. The Senate Appropriations Committee had stated that $50 million of unobligated funds would be added to worldwide security funds. The Committee also noted that it would not recommend funds for hiring 186 Diplomatic Security (DS) agents, contending that a disproportionate number of rookies-to-seasoned agents could hamper DS effectiveness. The Senate reduced its ***D&CP*** funding to $3,471.2 million. Congressional action resulted in a total funding for ***DC&P*** FY2002 budget at $3,630 million, including the full request for new hires.

The ***capital investment fund (CIF)***, 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. For many years, State Department officials have testified that the Department's technology problems — ranging from archaic telephones and copy machines to lack of computers and Internet access — have received inadequate funding. The FY2001 request was $97 million — $17 million above the previous year's level. The Bush Administration requested $210 million for State's ***CIF*** account in FY2002. This represented a 117% increase over the FY2001 level. Secretary Powell's goal was to put full Internet capability on every desktop and improve communication equipment in all State

Department offices around the world. The House Appropriations Committee agreed with the Administration request for $210 million; however, the funding was reduced by a floor amendment, transferring $7 million from CIF to the Small Business Administration. Both the Senate Appropriations Committee and the full Senate agreed with the House level and Administration request of $210 million for ***CIF***. Congress enacted $203 million noting that additional funds were provided to ***CIF*** in the emergency supplemental.

Education and cultural exchange programs include programs such as the Fulbright, Muskie, and Humphrey academic exchanges, as well as the international visitor exchanges and some Freedom Support Act programs. Secretary of State Powell testified on Capitol Hill that he believes exchange programs are critical to promoting American ideals and democracy abroad. Therefore, the Bush Administration requested $242 million for the exchange account, an increase of more than $10 million (4.5%) over the FY2001 level. This amount would be the highest level for exchanges since the mid-1990s when the Freedom Support and SEED programs were first funded. The FY2002 request is 21% higher than funding in the late 1990s when the education and cultural exchange programs were administered through the U.S. Information Agency (USIA) at funding levels hovering around $200 million. The House bill set funding at $237 million, $5 million less than the request. The Senate passed the requested level of $242 million. The enacted FY2002 funding level is the House-passed level of $237 million including $118 million for the Fulbright programs.

The United States contributes in two ways to the United Nations and other international organizations: (1) voluntary payments funded in the Foreign Operations Appropriations bill and (2) 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. After the United States was voted off the U.N. Human Rights Commission earlier this year, the Foreign Relations Authorization bill added a provision (Sec. 601, H.R. 1646) that would restrict payment of $244 million of U.S. arrearage payments to the U.N. After the September 11th attacks, Congress passed S. 248/P.L. 107-46 which authorized arrearage payments to the U.N. (For more detail, see CRS Issue Brief IB86116, *U.N. System Funding: Congressional Issues*, by Vita Bite).

The Bush Administration requested $878.8 million for ***CIO*** which represents full funding of U.S. assessed contributions to 44 U.N. organizations. The FY2002 request of $844.1 million for ***international peacekeeping*** would provide funding for ongoing peacekeeping activities in Kosovo, East Timor, and Sierra Leone, to name a few. The Administration had asked that 15% of these funds be two-year funding because of the unpredictability of money for this account from year-to-year.

The House-passed bill provided $850 million for ***CIO*** and $844.1 million for ***peacekeeping***. The Senate passed $1,091.3 million for ***CIO***; the $241 million difference is largely for accounting issues. For ***international peacekeeping***, the Senate approved $773.2 million, $71 million less than the House level. Congress enacted the House levels of $850 million for ***CIO*** and $844.1 million for ***international peacekeeping***.

The ***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.

The Administration's FY2002 request totaled $470 million for broadcasting, including $24.9 million for Cuba Broadcasting and $16.9 million for capital improvements. The request included funding for a "wholesale revamping" of VOA's current Arabic service, as well as actions to counter massive broadcast jamming, particularly of RFA by China and of Cuba Broadcasting by Cuba. The ***capital improvements*** funding request provided for technical improvements and maintenance of existing facilities, as well as new medium wave transmission capability in the Middle East. The House-passed bill provided $9 million more than requested for international broadcasting–a total of $479 million. The Senate passed a total of $456.5 million. The enacted FY2002 appropriation set funding at the House level of $479 million.

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* established target goals and measured 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. *The Department of State Performance Plan, Fiscal Year FY2001* was released March 2000. In 2001, the Bush Administration released *U.S. Department of State Performance Plan, Fiscal Years 2001-2002.*

Related Legislation

H.R. 1646 (Hyde)/S. 1401 (Biden)

The Foreign Relations Authorization Act, Fiscal Years 2002 and 2003. Would authorize State Department spending of appropriations and other foreign relations activities. Introduced April 27, 2001. Committee reported bill to House (H.Rept. 107-57). Passed by the House (352-73) May 16, 2001. Referred to Senate Foreign Relations Committee May 17, 2001. Senate Foreign Relations Committee markup held July 26. Committee reported bill to the Senate (S.Rept. 107-60) on September 4th.

Additional Reading

State Department Issues

CRS Report RL30662. *Embassy Security: Background, Funding, and the Budget*, by Susan B. Epstein.

CRS Report RS20855. *Foreign Policy Budget for FY2002*, by Susan Epstein and Larry Nowels.

CRS Report RL31046. *Foreign Relations Authorization, FY2002/2003: An Overview*, by Susan B. Epstein.

CRS Report RL30926. *State Department and Related Agencies FY2002 Appropriations*, by Susan B. Epstein.

CRS Issue Brief IB86116. *U.N. System Funding: Congressional Issues*, by Vita Bite.

Other

CRS Report RL31011. *Appropriations for FY2002: Foreign Operations, Export Financing, and Related Programs*, by Larry Nowels.

Other Related Agencies

Background and Current Issues

This section includes all other related agencies covered by title V of the CJS appropriations bill whose FY2001 appropriations exceeded $1.8 million.[36] 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 legislation, see: *Budget of the United States Government, Fiscal Year 2001–Appendix* (106th Cong., 2nd sess.))

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 requested $103 million for MARAD for FY2002, $116.5 million less

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[36] Agencies which have received appropriations of less than $1.8 million include: Commission for the Preservation of America's Heritage Abroad ($490 thousand in FY2001; $489 thousand requested for FY2002); Commission on Electronic Commerce (newly created body, FY2000 funding was $1.4 million; no additional funding in FY2001or FY2002 request); Commission on Security and Cooperation in Europe ($1.37 million for FY2001; $1.5 million requested for FY2002t); the Marine Mammal Commission ($1.7 million for FY2001; $1.7 million requested for FY2002), Commission on Ocean Policy ($1 million for 2001; nothing requested for FY2002), and the newly created Congressional/Executive Commission on China ($500 thousand for 2001; $500 thousand requested for FY2002).

than Congress appropriated in FY2001. MARAD's proposed budget for FY2002 is less than half of its enacted FY2001 budget because the Administration's budget calls for the Department of Transportation (DOT) to shift $98 million to the Department of Defense (DOD) for the Maritime Security Program (MSP). MSP consists of privately-owned, U.S. flag, and U.S. crewed liner fleet in international trade that are available to support DOD sustainment in a contingency. Zero funding for FY2002 was recommended for the Title XI Guaranteed Loan Program which insures financing for construction of U.S. built ships and U.S. shipyard modernization and improvement. No new commitments for loan guarantees are projected for the Federal Ship Financing Fund as this Fund is used only to underwrite guarantees made under the Title XI loan guarantee program prior to 1992. The Administration recommended $89.1 million for operating MARAD and training ship crews for FY2002, which is $2.3 million more than Congress appropriated in FY2001. The Administration proposed $10 million for a new category – Ship Disposal, which is intended to dispose of at least three obsolete vessels in the National Defense Reserve Fleet.

The House Appropriations Committee recommended $231.7 million for MARAD for FY 2002, $12.6 million more than was appropriated in FY 2001. The House's funding level was $128.7 million more than the Administration's request because the House budget maintains the MSP program ($98.7 million) under DOT and includes $30 million for the Title XI Guaranteed Loan Program (versus the Administration's zero funding). The House Committee's recommendation also included $89.1 million for operations and training, and $10 million for ship disposal, both equal to the President's request. The House-passed bill approved the Committee's recommendations.

The Senate Committee recommended $291.7 million for MARAD for FY 2002, which was $72.6 million more than was appropriated in FY 2001, $60 million more than the House's recommendation and $188.7 more than the President requested. The Senate recommended $100 million for the Title XI Guaranteed Loan Program, $70 million more than the House recommended and $100 million more than the President's request. The Senate recommended zero funding for the Ship Disposal Program versus the House and President's recommendation of $10 million. The Senate recommended $98.7 million for the MSP program and that the program remain under DOT rather than be shifted to the DOD as the Administration requested. The Senate recommended $89.1 million for operations and training, equal to the House and Administration's request. The Senate-passed bill approved the Committee's recommendations.

The conference agreement included $98.7 million for MSP, $89.1 million for operations and training, and $33 million for the Title XI Guaranteed Loan Program. The conference agreement provided no funding for ship disposal.

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 — principally through the agency's 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, other physical disasters, and acts of terrorism; and to serve as an advocate for small business within the federal government.[37]

For FY2001, the Administration had requested a total appropriation of $1,057.8 million — a figure which included $50.5 million in an emergency supplemental appropriation to support the agency's disaster loan program. This compared to a $847 million CJS appropriation for SBA for FY2000. More specifically, the FY2001 request included $419 million for Salaries & Expenses (S&E), an increase of $96.3 million over the FY2000 appropriation.[38]

For FY2001, 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 Committee recommended a total FY2001 appropriation for SBA of $887.5 million, including $143.5 for S&E. The conference agreement did not split funding for non-credit business assistance programs into a separate account, as proposed in the budget request and the Senate-reported amendment, but rather included funding for such programs under this account.

For FY2002, the Administration requested a total appropriation for SBA of $539 million (and an additional carryover balance of $37.9 million in the agency's Disaster Loan Programs account). In December 2000, Congress approved a total FY2001 appropriation for SBA of $899.5 million. Thus, the FY2002 request represented a decrease of $360.5 million from the previous year. SBA's FY2002 budget request, however, asserted that the agency would be able to maintain or increase its assistance to small business with reduced resources, mainly by increasing user fees and restructuring disaster relief funding.

The House Appropriations Committee recommended a $727.9 million CJS appropriation for the SBA for FY2002, which included $303.6 million for S&E. Notably, the recommendation included $77 million for the guaranteed loan subsidy for the 7(a) program, whereas — as noted above — the Administration sought to offset the subsidy cost by increasing user fees. The full House increased SBA's funding to $744.9 million with transfers from the Department of State and the Department of Commerce. The Senate-passed bill recommended $773.5 million, $28.6 million more than the House-passed level and $231.5 million more than was requested.

The conference agreement provided the SBA with a total appropriation of $768.5 million for FY2002, including $308.5 million for S&E.

SBA's Response to the Terrorist Attack. Following the terrorist attacks on the World Trade Center, the SBA dispatched employees to New York City. The

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[37] For information about the SBA, see *Small Business Administration: Overview and Issues*, CRS Report 96-649, by Bruce K. Mulock

[38] For the SBA, the category "Salaries and Expenses" includes a host of non-credit programs and initiatives.

SBA worked in partnership with the Federal Emergency Management Agency (FEMA), the American Red Cross and other federal, state and local agencies in support of the New York City Mayor's Office of Emergency Management (NYOEM) to assist the residents of New York City who were stricken by the terrorist attacks.

SBA loan officers were available in Disaster Recovery Centers located throughout the disaster area to assist business owners and individuals. SBA disaster assistance was available not only to small firms; the agency made loans to businesses of all sizes, nonprofit organizations, homeowners and renters. In addition to Physical Disaster Loans to repair or replace disaster damage to property and Economic Injury Disaster Loans (EIDL) to cover operating expenses businesses could have afforded to pay if the disaster had not occurred, the agency also administered a Military Reservists EIDL program.[39] The purpose of the MREIDL program was to provide funds to eligible small businesses to meet their ordinary and necessary operating expenses they could have met, but were unable to meet, because of essential employees being "called-up" to active duty in their role as military reservists.[40] Details on SBA's response to the September 11 terrorist attacks can be accessed from the agency's home page at [http://www.sba.gov/]. These programs fell within the funding purposes enumerated in the emergency supplement appropriations bill (H.R. 2888) passed by Congress in response to the terrorist attacks of September 11, 2001

Legal Services Corporation. LSC 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.

P.L. 106-553 included $330 million for LSC for FY2001. This is $25 million higher than the FY2000 LSC appropriation and $10 million lower than the Clinton Administration's FY2001 budget request. The LSC appropriation includes $310 million for basic field programs and independent audits, $10.8 million for management and administration, $2.2 million for the inspector general, and $7 million for client self-help and information technology. It should be noted that P.L. 106-554 mandated

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[39] In response to the need of victims of September 11, SBA officials acted administratively to provide greater access to the EIDL program. Previously, only business located in declared disaster ares were eligible for the EIDL program. Under the new regulations, EIDL assistance is available nationwide to eligible small businesses that have suffered substantial economic injury as a direct result of the September 11 attacks or a federal action taken in response to the attacks.

[40] For information on the impact of the terrorist attacks on small business, an overview of the SBA's disaster assistance programs, and summaries of proposed legislation, see CRS Report RS21061, *Small Business Disaster Assistance: Responding to the Terrorist Attacks*, by Bruce K. Mulock.

a 0.22 percent government-wide rescission of discretionary budget authority for FY2001 for almost all government agencies. Thus, the $330 million appropriation for LSC for FY2001 was reduced to $329.3 million.

For FY2002, the Bush Administration requested $329.3 million for the LSC, which included $310 million for basic field programs, $12.4 million for management and administration, $4.4 million for client self-help and information technology, and $2.5 million for the inspector general. The budget request also continued all restrictions on LSC-funded activities currently in effect. The Administration's FY2002 request for LSC ($329.3 million) was the same as the amount currently obligated for the program for FY2001. Historically, the Corporation's highest level of funding was $400 million in FY1994 and FY1995.

For FY2002, the House and Senate also recommended a total of $329.3 for LSC and included existing provisions restricting the activities of LSC grantees. In carrying out LSC's vision of an effective and efficient statewide system of delivering legal services to the poor, grantees have been merging and reconfiguring their legal services programs to better use every federal dollar allocated to them. The House Committee report indicated concern about the LSC overruling, without appeal, certain configurations implemented by grantees via the state planning process. The House Committee report directed the LSC to review the state planning process and the concerns raised and report back to the Committee by September 4, 2001, with a proposal (that includes input from the stakeholders) that outlines the reconfiguration standards and the process for states to appeal LSC's decisions.[41]

P.L. 107-77 included $329.3 million for LSC for FY2002. This is identical to the FY2001 appropriation for LSC (after the rescission) and the Bush Administration's FY2002 budget request for LSC. The LSC appropriation for FY2002 included $310 million for basic field programs, $12.4 million for management and administration, $4.4 million for client self-help and information technology, and $2.5 million for the inspector general. P.L. 107-77 also included existing provisions restricting the activities of LSC grantees.

Equal Employment Opportunity Commission (EEOC). The Commission enforces laws banning employment discrimination based on race, color, national origin, sex, age or disability. The EEOC's workload has increased dramatically since the agency first was created under Title VII of the Civil Rights Act of 1964. Passage of the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991, as well as employees' growing awareness of their rights, have made it difficult for the agency's budget and staffing resources to keep pace with its heightened caseload.

Congress approved $279 million for the agency's FY1999 budget, an increase of $37 million. The following year the appropriation rose minimally to $282 million. Although the Commission received $21 million more for FY2001 ($303 million), the increase was about half of that requested by the Clinton Administration. Nonetheless,

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[41] In response to the request made by the House, the following report was prepared by LSC: Legal Services Corporation. A Special Report to Congress. *State Planning and Reconfiguration*. September 2001.

the funding increases of the last few years enabled the EEOC to cut by 69% the backlog of private sector charges from a high of 111,000 in mid-1995 and reduce the average processing time for private sector charges to 216 days. (The latter was largely due to the Commission's expanded use of alternative dispute resolution procedures, e.g. mediation).

President Bush requested $310.4 million for FY2002 – an increase of $7.2 million – to allow the agency to further enhance its record in its private sector program and make improvements in its federal sector program, among other things. The House approved the President's request for $310.4 million to fund the EEOC. The House Committee directed the Commission to continue reducing the backlog of private sector discrimination charges and continue at least its current spending level ($1.8 million) on contract mediation, which is in addition to the mediation performed by EEOC staff. It expressed concern about the still high level of these charges and expects the agency to exceed the small (6%) backlog reduction that was assumed in the Administration's budget request. The Senate version of CJS provided the same level of funding–$310.4 million–as requested by the Administration and passed by the House for the EEOC. Congress enacted that level for EEOC in FY2002.

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 in FY2001 and FY2000. The President's request for FY2002 called for a slight increase to $9.1 million. The House and the Senate agreed to provide the Administration's request which Congress enacted.

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 FY2002 Congress approved total funding for the FCC of $245.1 million, a 6.8% increase over FY2001 resources of $229.5 million. The amount enacted was $6.5 million more than the $238.6 million approved by the House and $7.5 million less than the Senate bill amount of $252.5 million.[42] Of the $245.1 million total, $218.8 million is to be derived from offsetting fee collections, as provided in both the House and Senate bills, resulting in a net direct appropriation of $26.3 million. The Commission had requested $248.5 million in total funding, an 8.3% increase over FY2001 resources.[43]

In their report, House-Senate conferees reiterated concerns, expressed earlier by both Appropriations Committees, about "the declining standards of broadcast televison and the impact of this decline on Americas's children."[44] The conferees

[42] The House and Senate-passed amounts both included $218.8 million in offsetting regulatory fees as requested by the Commission, while the House provided for a direct appropriation of $19.8 million and the Senate approved a direct appropriation of $33.8 million.

[43] The FCC request consisted of $218.8 million in offsetting regulatory fees and a direct appropriation of $29.8 million.

[44] The House Committee said it hoped the Commission would take "greater steps toward carrying out its responsibilities" under Title 18 of the U.S. Code, Section 1464. The procedures developed by the FCC for addressing "obscene, indecent, or profane, language by

(continued...)

added that they expected the FCC to "continue in its efforts to address these concerns."

The conference agreement said that it did not include Senate report language which had recommended $4 million for the Commission's Excellence in Engineering program. Instead, the conferees recommended that the FCC pursue a "modified approach to an 'Excellence in Engineering' effort."[45]

In keeping with the requirements of the Government Performance and Results Act, the FCC, as part of its FY2002 budget request, set forth its overall mission and general and specific goals for a five-year time frame.

Federal Maritime Commission (FMC). The FMC regulates a large part of the waterborne foreign commerce of the United States. The Administration requested $16.5 million for the FMC for FY2002, $1 million more than Congress appropriated in FY 2001. The House Appropriations Committee recommended $15.5 million, which was equal to the amount enacted for FY 2001 and $1 million less than the President's request. The House-passed bill approved the Committee's recommendations. The Senate Committee on Appropriations recommended $17.5 million, which was about $2 million more than Congress appropriated in FY 2001 and $1 million more than the President's request. The Senate-passed bill approved the Committee's recommendations. The conference agreement provided $16.5 million for the FMC, equal to the Administration's request.

The Federal Trade Commission (FTC). The FTC, an independent agency, is responsible for enforcing a number of federal antitrust and consumer protection laws. In recent years the FTC has used pre-merger filing fees collected under the Hart-Scott-Rodino Act to entirely fund its operations; Zero ($0) direct appropriations have been required.

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[44] (...continued)
means of radio communication," the Committee said, "are cumbersome and reactive only." The Committee, at the same time, commended "recent FCC efforts to take a more aggressive stance in curbing an assault of obscene matter over the airwaves while remaining cognizant of the constitutional rights of our citizens."

In a similar vein, the Senate Appropriations Committee expressed its concern about "the declining standards of broadcast television and the impact this decline is having on America's children." The Committee referred to an analysis of all prime-time programming which, it said, had found a tripling in overall sexual content, foul language and violence over the past decade. The Committee directed the FCC to continue to report to Congress on the issues associated with "resurrecting a broadcast industry code of conduct for content of programming that, if adhered to by the broadcast industry, would protect against the further erosion of broadcasting standards."

[45] "The purpose of this effort," the conference report said, "would be to reestablish the engineering preeminence of the Commission which must be more fluent in technology than the entities it regulates. The conferees recommend that the Commission establish a means by which colleges and universities may submit proposals to advance cooperative efforts towards excellence in engineering." The conferees directed the Commission, before taking any action in this regard, to first submit a report to the House and Senate Appropriations Committees.

For FY2001, the Administration requested an increase in the FTC's program level from $125 million to $164.6 million. The FY2001 request included $7 million derived from estimated FY2000 carryover fee balances and an anticipated $157.6 million from pre-merger filing fees; therefore, as was the case the previous year, for FY2001 the FTC requested no net direct appropriation. The House Appropriations Committee recommended a CJS appropriation of $134.8 million for the agency for FY2001. That request included $13.7 million derived from estimated FY2000 carryover fee balances and an anticipated $121.1 million for pre-merger filing fees. The House bill mirrored 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 pre-merger filing fees.

The conference agreement approved by Congress in December 2000 included a total operating level of $147.2 million for the FTC for FY2001. The conference agreement assumed that, of the amount provided, $145.3 million would be derived from fees collected in FY2001 and $1.9 million would be derived from estimated unobligated fee collections available from FY2000. These actions resulted in a final direct appropriation of zero ($0).

For FY2002 the Administration requested a program level of $156.3 million for the FTC, an increase of $9.1 million over the current year appropriation. All of the funding would come from offsetting collections derived from fees collected for pre-merger filings during FY2002, so as to result in a final direct appropriation of zero ($0). The House approved a slightly smaller funding level: $156 million. The Senate-passed bill recommended $156.3 million. This amount, too, would be entirely derived from fees collected by the agency.

Congress provided the FTC with $156 million for FY2002.

Securities and Exchange Commission (SEC). The SEC administers and enforces federal securities laws in order to protect investors and to maintain fair and orderly stock and bond markets. The SEC collects fees on various securities market transactions. In recent years, these collections have exceeded the agency's budget by a wide margin. Legislation before the 107th Congress (S. 143 and H.R. 1088) proposed reducing these fees.

In 2000, Congress approved a total operating level of $422.8 million for the SEC for FY2001, an increase of $55.0 million over FY2000. The figure was comprised of $127.8 million in offsetting fee collections for FY2001 and $295 million in FY1999 collections. The result: no direct appropriations were required for the agency for FY2001.

For FY2002, the Administration requested a total operating level of $437.9 million for the SEC, an increase of $15.1 million over FY2001. As was the case in FY2001, no direct appropriations would be needed – instead, the SEC would be funded entirely by current and prior year fee collections.

The House approved SEC spending at the level of the Administration's request: $437.9 million, of which $109.5 million would come from fees collected in FY2002 and the remaining $324.4 million from prior-year fees. The Senate approved a higher amount - $514.0 million ($109.5 million from current year fees and $404.5 million from FY2000 fees). The conference agreement adopted the House proposal. No direct appropriations would be needed.

The State Justice Institute (SJI). 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. The Institute requested $15.0 million for FY2002, more than double its FY2001 funding amount of $6.835 million.[46] Congress, however, scaled back the SJI appropriation for FY2002 significantly, approving $3.0 million, instead of $6.835 million and $6.2 million approved by the House and Senate respectively. (Separate from the Institute's request, the President had requested the same funding amount for SJI as appropriated for FY2001—$6.835 million.[47])

The conference report stated that the $3.0 million appropriated for the SJI is "available for fiscal year 2002 only" and that the conferees did not recommend continued federal support for the Institute beyond FY2002. "The termination of funding for this program," the report explained, "does not necessarily mean the dissolution of the Institute. The conferees encourage the Institute to solicit private donations and resources from State and local agencies."

Office of the U.S. Trade Representative (USTR). USTR is located in the Executive Office of the President. USTR is the chief trade negotiator for the United States and is responsible for developing and coordinating U.S. international trade and direct investment policies. The President's FY2002 request was $30.1 million, just slightly above the amount ($29.5 million) approved by Congress for FY2001. The House and Senate approved funding the President's full FY2002 request, which was enacted by Congress.

U.S. International Trade Commission (ITC). ITC is an independent, quasi-judicial agency that advises the President and 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-

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[46] In its FY2002 budget submission to Congress, the Institute stated that the financial assistance it provided "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's grants spark those innovations and transfer information about them to every other court system in the country. No Federal agency can match the scope of the Institute's authority, and no state can fulfill its national mission."

[47] The President's budget request stated that appropriations for SJI in FY2002 were "intended to provide for continuation of Institute operations at a reduced level." *Appendix; Budget of the United States Government; Fiscal Year 2002,* p. 1222.

year terms. Its budget request was submitted to Congress by the President without revision. For FY2002, ITC requested $51.4 million, a $3.4 million increase over the FY2001 level ($48.1 million). The House and Senate approved funding the full FY2002 request, and Congress passed that amount.

U.S. Commission on International Religious Freedom. The Commission, established in P.L. 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 or FY2001. The Bush Administration requested $3 million for this Commission for FY2002 with which the House agreed. The Senate bill provided no funding. Congress passed the requested amount of $3 million.

Related Legislation

H.R. 518 (Regula et al.)

Amends the Trade Act of 1974 to revise the injury threshold the International Trade Commission must consider to determine the risk of increased imports to a domestic industry producing like or directly competitive articles in escape clause (Sec.201) actions. Introduced February 7, 2001; referred to House Ways and Means Committee.

H.R. 1988 (English et al.); S. 979 (Durbin et al.)

Amends the Trade Act of 1974 to revise the injury threshold the International Trade Commission must consider to determine the risk of increased imports to a domestic industry producing like or directly competitive articles in escape clause (Sec.201) actions. Amends the Tariff Act of 1930 to revise various factors that the Commission must consider in making material injury determinations in countervailing duty and antidumping duty proceedings. H.R. 1988 introduced May 24, 2001; referred to House Ways and Means Committee. S. 979 introduced May 26, 2001; referred to Senate Finance Committee.

S. 422 (Wellstone); H.R. 837 (Oberstar et al.)

Directs the International Trade Commission to consider U.S. produced taconite pellets to be like or directly competitive with semifinished steel slab for purposes of: (1) Section 201 injury determinations, and (2) antidumping or countervailing duty determinations. S. 422 introduced March 1, 2001; referred to Senate Finance Committee. H.R. 837 introduced March 7, 2001; referred to House Ways and Means Committee.

S. 187 (Snowe et al.); H.R. 1782 (Manzullo et al.)

Small Business Export Enhancement Act of 2001 - Amends the Trade Act of 1974 to establish in the Office of the United States Trade Representative (USTR) the position of Assistant USTR for Small Business to promote the trade interests of small businesses, remove foreign trade barriers that impede small business exporters, and enforce existing trade agreements beneficial to small businesses. S. 187 introduced January 25, 2001; referred to the Senate Budget and Senate Governmental Affairs Committee. H.R. 1782 introduced May 9, 2001; referred to House Committee on Ways and Means.

S. 714 (Snowe et al.)

Expresses the sense of Congress that the U.S. Trade Representative should pursue the establishment of a small business advocate at the World Trade Organization (WTO) to safeguard the interests of small firms and represent those interests in trade negotiations involving the WTO. Introduced April 5, 2001; referred to the Senate Finance Committee.

S. 19 (Daschle et al.)

Protecting Civil Rights for All Americans Act. Would authorize $400 million for the Legal Services Corporation for FY2002. Introduced January 22, 2001; referred to S. Judiciary Committee.

Additional Reading

CRS Report 95-178. *Legal Services Corporation; Basic Facts and Current Status*, by Carmen Solomon-Fears.

Appendix. Appropriations Funding for Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY2001 and FY2002

Title I. Department of Justice

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Office of Justice Programs	4,657.4	3,673.0	4,333.9	4,147.1	4,293.3
Legal Activities	3,143.4	3,457.8	3,460.8	3,410.8	3,467.3
Interagency Law Enforcement	325.1	338.1	340.2	337.0	338.6
Federal Bureau of Investigation (FBI)	3,245.1	3,507.1	3,492.3	3,469.1	3,524.9
Drug Enforcement Administration (DEA)	1,360.1	1,480.9	1,476.0	1,489.8	1,481.8
Immigration and Naturalization Service (INS)	3,252.0	3,516.4	3,499.9	3,381.1	3,499.9
Federal Prison System	4,306.4	4,666.1	4,648.0	4,689.5	4,625.6
Other	759.7	468.3	472.1	620.3	430.5
Total: Justice Department	**21,049.5**	**21,107.8**	**21,723.3**	**21,544.7**	**21,661.9**

Title II. Department of Commerce and Related Agencies

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Departmental Management	55.8	58.8	57.0	63.2	57.8
Bureau of the Census	432.7	543.4	519.8	517.1	490.8
Economic and Statistical Analysis	53.6	62.5	62.5	62.5	62.5
International Trade Administration	333.7	329.6	344.7	344.1	344.5
Bureau of Export Administration	64.7	68.9	68.9	68.9	68.9
Minority Business Development Agency	27.2	28.4	28.4	28.4	28.4
National Oceanic and Atmospheric Administration	3,040.8	3,063.6	3,092.7	3,363.3	3,256.1
Patent and Trademark Office[a]	(1,037.0)	(1,139.0)	(1,129.0)	(1,139.0)	(1,126.0)
Technology Administration	8.1	8.2	8.1	8.2	8.2
National Institute of Standards and Technology	597.0	487.4	489.0	696.5	674.5
National Telecommunications and Information Administration	100.2	73.0	72.0	73.0	73.0
Economic Development Administration	438.9	365.5	365.6	371.6	365.6

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Subtotal: Commerce Department	*5,152.8*	*5,089.4*	5,108.7	5,596.8	5,430.4
Office of the U.S. Trade Representative	29.5	30.1	30.1	30.1	30.1
International Trade Commission	48.0	51.4	51.4	51.4	51.4
Subtotal: Related Agencies	*77.4*	81.5	81.5	81.5	81.5
Total: Dept. of Commerce and Related Agencies	**5,230.2**	**5,171.0**	**5,190.2**	**5,678.3**	**5,511.9**

Title III. Judiciary

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Supreme Court — salaries and expenses	37.5	42.1	42.1	40.0	40.0
Supreme Court — building and grounds	7.5	117.7	70.0	7.5	37.5
U.S. Court of Appeals for the Federal Circuit	17.9	20.4	19.3	19.4	19.3
U.S. Court of International Trade	12.4	13.1	13.1	13.1	13.1
Courts of Appeals, District Courts, other judicial services — salaries and expenses	3,352.9	3,735.8	3,631.9	3,559.0	3,591.1
Vaccine Injury Act Trust Fund	2.6	2.7	2.7	2.7	2.7
Defender Services	434.0	521.5	500.7	463.8	500.7
Fees of Jurors and Commissioners	59.4	50.1	48.1	50.1	48.1
Court Security	199.1	228.4	224.4	209.8	220.7
Administrative Office of the U.S. Courts	58.2	63.0	60.0	58.2	61.7
Federal Judicial Center	18.7	20.3	20.2	19.7	19.7
Retirement Funds	35.7	37.0	37.0	37.0	37.0
U.S. Sentencing Commission	9.9	12.4	11.6	11.3	11.6
General Provisions – Judges' Pay Raise	8.8	8.0	0.0	8.6	8.6
Total: Judiciary	**4,254.8**	**4,872.7**	**4,681.1**	**4,500.2**	**4,611.8**

Title IV. Department of State and International Broadcasting

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Administration of Foreign Affairs	4,777.2	5,665.8	5,580.7	5,196.9	5,549.2
International Organizations and Conferences	1,713.1	1,722.9	1,694.1	1,864.5	1,694.1
International Commissions	56.1	63.2	60.3	59.3	60.5
Related Appropriations	54.4	54.6	53.1	53.9	57.7
Subtotal: State Department[c]	*6,600.8*	7,506.5	7,388.2	7,174.6	7,361.5
International Broadcasting	440.5	470.0	479.0	456.5	479.0
Total: State Department, and International Broadcasting	**7,041.3**	**7,976.5**	**7,867.2**	**7,631.1**	**7,840.5**

Title V. Other Related Agencies

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Maritime Administration	219.1	103.0	231.7	291.7	224.7
Small Business Administration	857.6	542.0	744.9	773.5	738.5
Legal Services Corporation	329.3	329.3	329.3	329.3	329.3
Equal Employment Opportunity Commission (EEOC)	303.2	310.4	310.4	310.4	310.4
Commission on Civil Rights	8.9	9.1	9.1	9.1	9.1
Federal Communications Commission (FCC)	29.3[d]	29.8[d]	19.8[d]	33.8[d]	26.3[d]
Federal Maritime Commission	15.5	16.5	15.5	17.5	16.5
Federal Trade Commission[e]	0.0	0.0	0.0	0.0	0.0
Securities and Exchange Commission (SEC)[f]	421.9	437.9	437.9	514.0	437.9
State Justice Institute	6.8	15.0[g]	6.8	6.2	3.0
U.S. Commission on International Religious Freedom	-.-	3.0	3.0	0.0	3.0
Other	1.9[h]	11.2	13.8	14.8	15.5
Total: Related Agencies	**2,196.5**	**1,804.2**	**2,119.2**	**2,300.4**	**2,114.2**

Title VI. General Provisions

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Section 604	**0.0**	–	–	–	–

Title VII. Rescissions

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Department of Justice	–	–	–	–	–
Working capital fund	0.0	0.0	0.0	0.0	0.0
Legal Activities	0.0	0.0	0.0	0.0	0.0
Asset forfeiture fund	0.0	0.0	0.0	0.0	-40.0
Federal Bureau of Investigation	0.0	0.0	0.0	0.0	0.0
Information sharing	0.0	0.0	0.0	0.0	0.0
Drug Enforcement Administration	–	–	–	0.0	0.0
Drug diversion fund	8.0	0.0	0.0	0.0	0.0
Immigration and Naturalization Service	0.0	0.0	0.0	0.0	0.0
Immigration emergency fund	0.0	0.0	0.0	0.0	0.0
Department of Commerce, Departmental Management	-114.8	-125.0	-125.0	0.0	-5.2
Department of State and Related Agencies	0.0	0.0	0.0	0.0	0.0
Contributions for International Peacekeeping activities	0.0	0.0	0.0	126.6	0.0
Broadcasting Board of Governors	0.0	0.0	0.0	0.0	0.0
International broadcasting operations	0.0	0.0	0.0	0.0	0.0
Maritime Administration	0.0	0.0	0.0	0.0	0.0
Maritime guaranteed loan (Title XI program)	7.6	0.0	0.0	0.0	0.0
ship construction	0.0	0.0	0.0	0.0	-4.4
Small Business Administration	0.0	0.0	0.0	0.0	0.0
Business Loans Program Account	0.0	0.0	0.0	0.0	-5.5
Securities and Exch.Commission	0.0	0.0	0.0	0.0	-50.0
Total: Rescissions	**-130.4**	**-125.0**	**-125.0**	**-126.6**	**-105.1**

Title IX.

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
Wildlife Conservation and Restoration Planning	**50.0**	**0.0**	**0.0**	**0.0**	**0.0**

Total Appropriation Funding, Titles I-IX, FY2001 and FY2002

Department or Agency	FY2001 Enacted	FY2002 Request	House (H.R. 2500)	Senate (H.R. 2500)	FY2002 Enacted
GRAND TOTAL:	**39,786.7**	**40,806.8**	**41,456.0**	**41,529.7**	**41,635.2**

Sources: U.S. House of Representatives. Committee on Appropriation.

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

[a] 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.

[b] As of October 1, 1999 both USIA and ACDA were consolidated into the Department of State. International Broadcasting remains an independent agency.

[c] 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 $322.1 million; the estimated amount for such fees for FY2001 is $390.9 million. The President's FY2002 request includes use of $414.2 million in collected fees.

[d] For FY2001, Congress approved $229.5 million in overall funding resources for the FCC, consisting of a direct appropriation of $29.3 million and $200.1 million in offsetting regulatory fee collections. The President requested $248.5 million in overall FY2002 funding resources, consisting of a direct appropriation of $29.8 million and $218.8 million in offsetting fee collections. The House approved $238.6 million in overall FY2002 funding resources, consisting of a direct appropriation of $19.8 million and $218.8 million in offsetting collections. The Senate approved $252.5 million in overall FY2002 funding resources, consisting of a direct appropriation of $33.8 million and $218.8 million in offsetting collections. Congress enacted $245.1 million for FY2002, consisting of a direct appropriation of $26.3 million and $218.8 million in offsetting collections.

[e] The FTC is fully funded by the collection of pre-merger filing fees.

[f] The SEC is fully funded by transaction fees and securities registration fees.

[g] Under the terms of its enabling legislation, the State Justice Institute is authorized to present its budget request directly to Congress. For FY2002, the Institute requested $15 million—as distinguished from the President's request, which called for $6.8 million.

[h] Other includes agencies receiving appropriations of less than $1.8 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, the Commission on Ocean Policy, and the Congressional/Executive Commission on China.