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Proposals to Eliminate the U.S. Department of Commerce: An Issue Overview

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Proposals to Eliminate the U.S. Department of Commerce: An Issue Overview

SUMMARY

The 104th Congress considered several legislative proposals that called for the elimination of the Department of Commerce. It gave active consideration to legislation introduced by Representative Chrysler (H.R. 1756) that would dismantle the Department, terminate programs considered unnecessary, consolidate programs considered duplicative, privatize programs better performed by the private sector, and streamline other programs. A virtually identical bill, S. 929, was introduced in the Senate by Senator Abraham. This bill, approved by the Senate Committee on Governmental Affairs, would have eliminated the Department of Commerce, terminated many of its functions, created three independent agencies, and transferred its remaining functions to other federal agencies. The House-passed version of the budget reconciliation bill, H.R. 2491, incorporated many of the ideas contained in the Chrysler bill and other legislative proposals reported out by House committees having jurisdiction over various Department of Commerce programs. The dismantling language of the bill (Title XVII of the House bill), however, was not included in the final bill approved by Congress on November 20, 1995.

The Concurrent Resolution on the Budget for FY1997 passed by the House recommended the elimination of the Department of Commerce (H.Con.Res. 178). The conference report approved by Congress on June 13, 1996, made a different pronouncement, stating that the conferees "agree to disagree on the future status of the Department of Commerce [the House assumed its elimination, but the Senate did not]" and they "recognize that ultimately the committees of jurisdiction will determine whether the Department is or is not terminated." This measure was passed the House on June 12, 1996, and the Senate on June 13, 1996. No other action was taken on the abolition issue during the rest of the 104th Congress. So far in the 105th Congress, one bill (H.R. 1319) has been introduced by Representative Royce calling for the elimination of Commerce, which is virtually identical to the Chrysler bill. This proposal has been referred to the House Commerce Committee and 10 other House committees. Representative Kasich, Chairman of the House Budget Committee, continues to support the abolition of Commerce. However, the final version of the Budget Resolution (H.Con.Res. 84; H.Rept. 105-116) passed by Congress on June 5, 1997, made no recommendations regarding the abolition of the Department. Also the legislation now being acted on by the House and Senate regarding the Department's appropriations for FY1998 does not explicitly advocate abolition.

Those that have favored the abolition of the Department argue that it "is an unwieldy conglomeration of marginally related programs, nearly all of which duplicate those performed elsewhere in the federal government." The Administration has strongly opposed such action arguing that "it would result in the needless shuffling of governmental functions while eliminating successful activities that clearly benefit the American people" especially in areas that promote economic growth, increase the international competitiveness of U.S. firms in global markets, and advance U.S. technology.

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The 104th Congress considered several legislative proposals that called for the elimination of the Department of Commerce. Generally, these proposals would have terminated certain departmental functions and allowed other functions to operate as independent agencies or be transferred to other federal agencies. Similar legislation has been introduced in the 105th Congress. This report describes the basic functions of the Department, reviews the various legislative proposals considered to date, and reviews the arguments that favor or oppose such action.

Background

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

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

Economic Development Administration (EDA) provides loans, grants and technical assistance 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) information on the state of the economy through preparation, development, and interpretation of economic data; and (2) analytical support to Department officials in meeting their policy responsibilities.

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

Export Administration enforces U.S. export control laws consistent with national security, foreign policy, and short-supply objectives.

United States Travel and Tourism Administration is responsible for planning, developing, and executing programs to promote increased foreign tourism to the United States and to facilitate the entry of medium and small U.S. travel firms into the international tourism business.

National Oceanic and Atmospheric Administration (NOAA) provides scientific, technical, and management expertise to (1) promote safe and efficient marine and air navigation; (2) assess the health of coastal and marine resources; (3) monitor and predict the coastal, ocean, and global environments (including weather forecasting); and (4) protect and manage the nation's coastal resources.

Patent and Trademark Office examines and approves applications for patents for claimed inventions and registration of trademarks.

Technology Administration advocates integrated policies that seek to maximize the impact of technology on economic growth, conducts technology development and deployment programs, and disseminates technological information.

National Institute of Standards and Technology (NIST) assists industry in developing technology to improve product quality, modernize manufacturing processes, ensure product reliability, and facilitate rapid commercialization of products based on new scientific discoveries.

National Telecommunications and Information Administration (NTIA) advises the President on domestic and international communications policy, manages the federal government's use of the radio frequency spectrum, and performs research in telecommunications sciences.

The total appropriation for the Department of Commerce in FY1997 is $3.7 billion, or slightly over 2% of the total Federal budget for FY1997 ($1,653 billion)

Legislation in 104th Congress

Congress considered a number of legislative proposals that called for the abolition of the Department of Commerce, eliminating certain departmental functions and allowing others to operate as independent agencies or be transferred to other federal agencies (the Patent and Trademark Office, Bureau of the Census, National Oceanic and Atmospheric Administration, the standards bureau in National Institute of Standards and Technology, and most of the Export Administration). These included: H.R. 1756 and S. 929 (virtually identical bills), H.R. 1923, a more comprehensive government restructuring bill that incorporates all of the provisions of H.R. 1756, the Roth substitute amendment to S. 929, and Title XVII of H.R. 2491, the House reconciliation bill. In addition, the Concurrent Budget Resolution for FY1996 (H.Con.Res. 67; H.Rept. 104-159) expressed the sense of Congress that the Department of Commerce should be eliminated. This measure, which served as a blueprint for fiscal spending for the next 5 years, was passed by both Houses of Congress on June 29, 1995. The FY1996 budget request of the Clinton Administration made no such recommendation, instead requesting a substantial increase in the Department's appropriation from FY1995.

H.R. 1756 (Chrysler)

H.R. 1756, introduced by Representative Chrysler, provided for a step-by-step plan that will dismantle the Department by terminating programs considered unnecessary, consolidating programs considered duplicative, privatizing programs better performed by the private sector, and streamlining other programs. This legislation (hereafter often referred to the Chrysler bill), entitled the Department of Commerce Dismantling Act of 1995, was introduced June 7, 1995, and has been referred to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, Banking and Financial Services, International Relations, National Security, Agriculture, Ways and Means, Government Reform and Oversight, the Judiciary, Science, and Resources. A virtually identical bill, S. 929, was introduced by Senator Abraham on June 15, 1995, and referred to the Committee on Governmental Affairs.

All of the provisions of this legislation was also incorporated into H.R. 1923, introduced by Representative Solomon on June 22, 1995, which is a more comprehensive government restructuring bill. This bill was referred to the Committee on Government Reform and Oversight and the Committees on National Security, Banking and Financial Services, International Relations, Science, Commerce, Resources, Rules, Transportation and Infrastructure, Agriculture, Small Business, the Judiciary, Ways and Means, Economic and Educational Opportunities, the Budget, Veterans Affairs, House Oversight, and Intelligence.

More specifically the Chrysler bill would have carried out the dismantling of the Department as follows. It would have:

- Abolished the Commerce Department and established a Commerce Programs Resolution Agency to phase out the activities over the course of 3 years.

- Terminated the Office of the Secretary, General Counsel, Inspector General, and other administrative functions.

- Terminated the Economic Development Administration and transfers outstanding obligations (i.e., loans and grants) to the Treasury Department for management or sale.

- Terminated the Minority Business Development Agency, including its 98 field offices.

- It terminates the United States Travel and Tourism Administration.

- Terminated the Technology Administration, including Offices of Technology Policy, and the Industrial Technology Service Programs, including the Advanced Technology Program (ATP) and the Manufacturing Extension Partnerships. It also would transferred the weights and measures functions of the National Institute for Standards and Technology (NIST) to the National Science Foundation, and sells NIST laboratories to the private sector.

- Terminated the National Telecommunications and Information Administration and transfers its federal spectrum management functions to the Federal Communications Commission.

- Transferred the Patent & Trademark Office (PTO) to the Department of Justice, requiring the PTO to be supported solely through fee collections.

- Eliminated the Economics and Statistics Administration and transfers the Bureau of the Census to the Department of the Treasury and the Bureau of Economic Analysis to the Federal Reserve System.

- Transferred many of the functions of the National Oceanic and Atmospheric Administration, which accounts for more that 46% of the Commerce Department budget, to several different agencies and departments; terminates State fisheries grants and commercial fisheries promotion programs, coastal and water pollution research activities, and the Office of Oceanic & Atmospheric Research; and privatizes certain other NOAA functions.

- Eliminated the Bureau of Export Administration and transfers its export licensing functions to the Department of State and its export enforcement functions to the Customs Service.

- Eliminated the International Trade Administration (ITA) and transfers the Import Administration to the Office of the United States Trade Representative (USTR), the foreign component of the U.S. and Foreign Commercial Service to the USTR (the domestic component would be eliminated). Other international economic policy and trade development functions of ITA would be terminated.

Finally, Section 310 of the bill would have placed a funding limitation on annual expenditures for each of the agency functions (i.e., those agency functions formerly performed by the Department of Commerce) that would continue to exist after the enactment of this legislation. Expenditures for each of these functions could not exceed 75% of the total amount expended for the performance of each function during FY1994.

Roth Substitute Amendment to S. 929

On September 7, 1995, the Senate Committee on Governmental Affairs reported out Senator Roth's substitute amendment to S. 929 (the Abraham bill) that would eliminate the Department of Commerce, terminate many of its functions, and disperse many of its functions to three newly created and independent federal government agencies (the United States Trade Administration, National Oceanic and Atmospheric Administration (NOAA), and the Office of Patents, Trademarks and Standards) and to other federal agencies. This bill, entitled the "Commerce Department Termination and Government Reorganization Act of 1995," would have:

- Abolished the Department of Commerce and terminate several of its subagencies: U.S. Travel and Tourism Administration (USTTA); Economic Development Administration (EDA); National Telecommunications and Information Administration (NTIA); Minority Business Development Administration (MBDA); National Technical Information Service (NTIS); Office of the Chief Economist; Technology Administration; Advanced Technology Program; and the Manufacturing Extension Program.

- Transferred all functions of the Bureau of Census and Bureau of Economic Analysis to the Department of Labor. The Secretary of Labor would consolidate the functions of these agencies with the Bureau of Labor Statistics within the Department of Labor.

- Consolidated and streamlined the trade functions within an newly established independent United States Trade Administration (USTA) to be headed by the United States Trade Representative (USTR) who retains cabinet status and ambassadorial rank. The USTR would continue to be responsible for trade policy and negotiations, while assuming export promotion, trade policy analysis, trade law administration and other current responsibilities of the International Trade Administration (ITA) and the Bureau of Export Administration (BXA). In addition the Export Import Bank (Exim Bank) and the Overseas Private Investment Corporation would become a part of the new USTA. This differed from the Chrysler bill (H.R. 1756) by combining trade functions in one agency rather than dispersing them among several agencies.

- Established the National Oceanic and Atmospheric Administration as an independent Agency. The Chrysler bill would have transferred, privatized, or eliminated existing NOAA functions.

- Established the Office of Patents, Trademarks and Standards (OPTS) as an independent agency, consisting of the standard-setting functions performed by the National Institute for Standards and Technology (NIST) and the existing functions of the Patents and Trademarks Office. The other operations of NIST and its technology subsidy programs would have been terminated. This new agency would have also administered the Baldridge Quality program currently administered by NIST. This differed from the Chrysler bill, which would have attempted to sell NIST laboratories to the private sector, and transferred standards functions to the National Science Foundation.

- Established a bipartisan "Government 2000 Commission," which would develop a comprehensive reorganization plan for the government that will have the goals of reducing the number of cabinet departs from 14 to 10; reducing costs of administration by 35%; a ten-fold improvement in timely delivery of services to the public; a compound annual improvement in productivity of 6% and responsiveness and customer-service levels comparable to those achieved in the private sector. The commission would be composed of 9 appointed members, have a life span of one year and make a final report to Congress. The Chrysler bill did not contain a similar provision.

H.R. 2124 (Mica)

H.R. 2124 was introduced on July 27, 1995, as the Trade Reorganization Act of 1995. It is similar to the Roth substitute for S. 929 in that it would have consolidated the functions of ITA and BXA with the Office of the USTR, along with the Trade and Development Agency, under a newly created United States Trade Administration. The bill also called for the appointment of a Deputy Administrator to be responsible for the trade functions transferred from the Commerce Department and the appointment of two Deputy United States Trade Representatives -- one for overall trade negotiations and the other to be the U.S. representative at the World Trade Organization. Unlike the Roth substitute, however, H.R. 2124 would not change the status of the Export-Import Bank or OPIC.

H.R. 2491, Title XVII of the House Reconciliation Bill

After considering the ideas contained in the Chrysler bill and the various legislative proposals reported out by 11 House committees having jurisdictions over certain Commerce Department programs, the House Government Reform and Oversight Committee reported out draft legislation entitled the "Department of Commerce Dismantling Act" to be included as Title XVII of the House FY1996 reconciliation bill, H.R. 2491. The major provisions of this title would have done the following:

- Abolish the Department of Commerce within 6 months after the enactment of this legislation. The Director of the Office of Management and Budget (OMB) would be made responsible for resolving the affairs of the Department through an Office of Programs Resolution, a newly established unit within OMB. The remaining functions of Commerce, not transferred elsewhere, would be abolished no later than 3 years after the enactment of this legislation.

- Terminate several agencies including the Economic Development Administration (EDA), the U.S. Travel and Tourism Administration, the Technology Administration, and the minority Business Development Administration. Several of the programs of EDA, however, would be modified and/or retained, and transferred to the Small Business Administration. These would include grants for infrastructure projects at the community level, assistance to communities adversely affected by sudden and severe dislocations, and technical assistance and economic planing grants to eligible communities.

- Eliminate the programs of the Office of Technology Policy, the Advanced Technology Program, the Manufacturing Extension Partnership, the General Laboratory Consortium for Technology Transfer, the National Institutes for Standards and Technology's metric program, the National Oceanographic and Atmospheric Administration's corps and fleet, 3 grant programs in the National Telecommunication and Information Administration, and more than 30 ocean and atmospheric programs.[1]

- Establish the National Institute for Science and Technology. The National Institute of Standards and Technology would be redesignated as the National Bureau of Standards (NBS) and its functions transferred to the National Institute for Science and Technology (NIST). Also transfers the core functions of NOAA, such as the Weather Service and weather satellites to NIST. The Office of Space Commerce would also be transferred to NIST. The

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[1] Bureau of National Affairs, Inc. *Daily Executive Report.* October 15, 1995, no. 199, p. A-20.

total amount of funds for NIST would be limited to 75% of total FY1995 funding for all functions performed by the former NIST, the Office of Space Commerce and NOAA, except those NOAA functions transferred to agencies other than NIST.

- Transfer the Bureau of the Census temporarily to OMB for one year. The Bureau would then be transferred to the Department Labor.

- Transfer the Bureau of Economic Analysis (BEA) to the Department of Labor. BEA functions would be consolidated with those of the Bureau of Labor Statistics. Would require the Secretary of Labor, in consultation with the Director of OMB, to report to Congress within 18 months on the feasibility of (l) privatizing BEA functions and (2) implementing a system of user fees to defray the costs of BEA services performed for the private sector. Would also limit future funding to not more than 75% of total BEA funding for FY1995.

- Establish the Patent and Trademark Office as a wholly owned government corporation. Funding for the Office would be from user fees and obligations issued to the U.S. Treasury.

- Transfer of essential trade functions to a new trade agency to be administered by the Office of the U.S. Trade Representative (USTR). The activities to be included would be those of the International Trade Administration, the Bureau of Export Administration, the Trade and Development Agency, and the U.S. and Foreign Commercial Service. Would limit the total amount of future funding for all functions assigned to the new Office of USTR to not more than 75% of the total appropriated for FY1995 for these functions.

The House passed this proposal as part of its version of H.R. 2491 on October 26, 1995 (H.Rept. 104-280). The Senate version of the reconciliation bill, passed on October 28, 1995, did not contained such a provision. The dismantling language was subsequently dropped from the reconciliation conference report approved by the House and Senate on November 20, 1995. The President vetoed the bill on December 6, 1995. It should be noted that a similar version of the proposal was also introduced in the Debt Limit Extension bill for FY1996, H.R. 2586. However, the Senate-passed version of this bill deleted this provision and the President subsequently vetoed this bill.

H.Con.Res. 178, Concurrent Resolution on the Budget for FY1997

The Concurrent Resolution on the Budget for FY1997 passed by the House on June 7, 1996, recommended the elimination of the Department of Commerce (H.Con.Res. 178; H.Rept. 104-575, p. 85). The conference report for the resolution (H.Rept. 104-612, p. 69) made a different pronouncement, stating that the conferees "agree to disagree on the future status of the Department of Commerce [the House assumed its elimination, but the Senate did not]" and they "recognize that ultimately the committees of jurisdiction will determine whether the Department is or is not terminated." This measure, which served as a blueprint for fiscal spending for the next 5 years, was passed the House on June 12, 1996, and the Senate on June 13, 1996. No other action was taken on the abolition issue during the remainder of the 104th Congress.

The Policy Debate

Those in Congress favoring the abolition of the Department have argued that it "is an unwieldy conglomeration of marginally related programs, nearly all of which duplicate those performed elsewhere in the federal government." They also contend that many of the Department's functions provide unnecessary subsidies to firms that pursue risky technologies, pork barrel funding for questionable economic development projects at the community level, and a confusing and redundant array of trade programs. The Clinton Administration has strongly opposed such action arguing that "it would result in the needless shuffling of governmental functions while eliminating successful activities that clearly benefit the American people" especially in areas that promote economic growth, increase the international competitiveness of U.S. firms in global markets, and advance U.S. technology.

Elimination of the Economic Development Administration (EDA). The EDA provides public works grants to help build or expand public facilities deemed essential to industrial and commercial growth; technical assistance and grants to enable communities and firms to find solutions to problems that stifle economic growth; planning grants to states and localities to help pay the cost of economic development programs; special economic adjustment programs to help communities adversely affected by abrupt and serious job losses; and trade adjustment assistance to industries hurt by increased imports.

The proponents of H.R. 1756, S. 929, and H.R. 2941 in the 104th Congress believed that the functions of EDA were duplicative of the community development activities of other agencies, including the Departments of Agriculture, HUD, and Interior; the Small Business Administration; the Tennessee Valley Authority; and, the Appalachian Regional Commission. Moreover, they asserted the agency often provides assistance to healthy local economies that do not need assistance. On the other hand, the Clinton Administration as well as others who support the agency believe that EDA programs engage in an effective partnership with local communities and the private sector to carry out a comprehensive, long-term economic development strategy to restore health to economically distressed communities. EDA also plays an important role, its supporters maintain, in assisting communities that are feeling the economic effects of the closure or realignment of military bases that have been approved by the base closure process since 1988.[2]

Elimination of the Minority Business Development Agency (MBDA). MBDA seeks to promote private and public sector investment in minority businesses. Proponents of this proposal believe that functions of this agency are already duplicated by the programs of the Small Business Administration. The Administration, on the other hand, has argued that it serves a very valuable function in promoting the development of minority business enterprise. Moreover, it has claimed that MBDA is already essentially "privatized" since all 100 of the minority business centers through which assistance is extended are non-federal; most of these centers are operated by private entrepreneurs, with others operated by local governments and universities. Federal assistance is provided on a cost-sharing basis and user fees are assessed.

Termination of the United States Travel and Tourism Administration (USTTA). This agency was responsible for planning, developing, and executing programs that promote increased foreign tourism to the United States. Proponents of this action argued that the federal government should not be involved in the international tourism business. Such activity should be left to States, localities and the private sector. The Administration, on the other hand, believed that a national tourism office was crucial to the continued economic success of the tourism industry. The Administration, however, was not opposed to converting the USTTA into a public/private partnership to promote tourism. It argued that eliminating the agency could preclude an orderly transition to privatization. The agency, however, was subsequently terminated by Congress as of December 31, 1995 (Omnibus Consolidated Rescissions and Appropriations Act of 1996, P.L. 104-134). This was the only activity of the Department to have been eliminated by the 104th Congress.

Elimination of the Economics & Statistics Administration (ESA). The ESA advises the Secretary of Commerce and other government officials on matters relating to economic development and forecasting and on the development of macroeconomic and microeconomic policy. Proponents of this action have contended that ESA is an unneeded bureaucracy in the federal statistical system, and that its two constituent agencies, the Bureau of the Census and Bureau of Economic Analysis (BEA), could be readily housed in other federal agencies without adversely affecting the integrity of the statistical data and analyses prepared by these agencies. The Clinton Administration has opposed such changes because it would dramatically "change the way in which our society's basic data are produced." The transfer of BEA[3] to the Federal Reserve System,

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[2] For more information see: U.S. Library of Congress. Congressional Research Service. *Economic Development Administration: Reinvention or Elimination*, by Bruce K. Mulock. CRS Issue Brief 95100. (Updated regularly).

[3] The BEA measures the performance of the U.S. economy through the preparation, development, and interpretation of the national income and product accounts and the balance-of-payment accounts. The Bureau also engages in the preparation and analysis (continued...)

which is independent of the executive branch, is not a good idea, the Administration argues, because it raises serious questions about the Fed playing the principal role in preparing such key economic indicators as Gross Domestic Product, leading and lagging indicators of the business cycle, and trade statistics on international trade.

The Administration also believes that transferring the Bureau of the Census[4] to the supervision of the Treasury Department, as proposed in H.R. 1756, raises serious questions regarding the long standing confidentiality standards applied to the collection of statistical information from businesses and individuals and the extent to which this process might be compromised by being in too close proximity to other sensitive Treasury functions such as the Internal Revenue Service. Finally, the rearrangement of statistical programs proposed in the Chrysler bill, in the Administration's view, would work against current Administration efforts to improve the operations and coordination of federal statistical programs and thereby jeopardize the quality and integrity of economic and demographic data that business and policymakers rely on to make decisions about the future. Concerning this question, the late Secretary of Commerce Ronald H. Brown expressed the view that "we should be looking at consolidating our statistical system, not further atomizing or dismembering it."[5]

Other House and Senate proposals (H.R. 2491 -- Title XVII of the House reconciliation bill and S. 929 -- the Roth substitute amendment) would have moved the Census Bureau and Bureau of Economic Analysis (BEA) to the Department of Labor. The Administration takes the position that such a change could adversely affect the quality and integrity of the economic and demographic data that are used by business firms and policymakers in making decisions about the future. It also expresses concern that such action could result in the subordination of the broad economic focus of BEA and Census to the narrower concerns of the Bureau of Labor Statistics and the Department of Labor.

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[3](...continued)
of other measures of economic activity, including various tools for forecasting economic developments such as surveys of investment outlays and a system of leading, coincident, and lagging economic indicators.

[4] The Bureau is a general-purpose statistical agency that collects, tabulates, and publishes a wide variety of statistical data about the people and the economy of the nation. The law establishing the Bureau (32 Stat. 51) provides that information collected by the Bureau from individual persons, households, or establishment (especially business firms) be kept strictly confidential and be used only for statistical purposes.

[5] Secretary of Commerce Ronald H. Brown. Keeping Statistics at Commerce. *The Journal of Commerce*. June 20, 1995. p. 12.

Termination of the Technology Administration (TA).[6] The Technology Administration consists of three component parts: an Office of Technology Policy (OTP); the National Technical Information Service (NTIS); and the National Institute of Standards and Technology (NIST). Both the House and Senate proposals in the 104th Congress would have eliminated the Technology Administration as an entity within DOC, eliminated the functions of the OTP, and privatized the NTIS.

The legislation's dispensation of NIST, by far the largest organizational component of the Technology Administration (with a FY1997 budget of $572 million), was complex. NIST conducts in-house R&D and standards service activities, as well as external grant programs that are geared towards supporting the technological competitiveness of U.S. industry.[7] The House and Senate legislation would eliminate NIST's external grant programs, called Industrial Technology Services. These consist primarily of the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership (MEP). NIST's in-house program, called Scientific and Technical Research and Services (STRS) includes seven laboratories which perform R&D on measurements, standards, evaluated data, and test methods. In the House proposal (H.R. 2491, NIST would reclaim its original name, the National Bureau of Standards (NBS). Standards functions, including the laboratories, would be consolidated into a new independent Executive Branch agency, the National Institute for Science and Technology, which would also have jurisdiction over NOAA and the Office of Space Commerce. Future funding for the new science and technology agency is limited to 75% of the FY1995 funding of its component parts. The House proposal would have also specifically abolished NIST's metric program. The Senate proposal (S. 929) would have incorporated NIST's standards functions (including the NIST laboratories) and the Malcolm Baldridge Quality Award program into a newly established independent Office of Patents, Trademarks, and Standards.

Supporters of the NIST reorganization proposals cite the need to reduce the size and cost of government by terminating non-essential government programs that may be more appropriately performed by the private sector, and by consolidating essential government functions into a streamlined bureaucracy. Proponents of terminating NIST's Industrial Technology Services cite these programs as prime examples of "corporate welfare," whereby the federal government invests in applied research programs that should more appropriately be conducted in the private sector. The Administration has defended these

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[6] Prepared by Lennard G. Kruger, Specialist in Science and Technology, Science Policy Research Division. For additional reading, see: U. S. Library of Congress. Congressional Research Service. *Department of Commerce Science and Technology Programs: Impacts of Dismantling proposals.* CRS Report 96-537 SPR, by Lennard G. Kruger. Washington, 1996. 30 p.

[7] For further information on NIST see: U.S. Library of Congress. Congressional Research Service. *The National Institute of Standards and Technology: An Overview.* CRS Report 95-30 SPR, by Lennard Kruger and Wendy Schacht. Washington, April 18, 1997. 6 p.

programs, arguing that they help industry (including small manufacturers) develop generic technologies that, while crucial to industrial competitiveness, would not or could not be developed by the private sector alone.

Proposals to reorganize NIST's standards activities and laboratories into a National Institute for Science and Technology, or into an Office of Patents, Trademarks, and Standards, are also controversial. The arguments supporting such an action hinge on the efficiencies of consolidation and the reduction of Federal bureaucracy. The House proposal to consolidate NIST and NOAA into a science and technology agency originated in the House Science Committee. According to the committee, incorporating Department of Commerce science and technology activities into a new science and technology agency would eliminate five presidential appointee positions, while laying the foundation for further restructuring of the federal scientific establishment.

Critics of the proposed reorganization of NIST, including the Administration, question whether there are any efficiencies, cost savings, or benefits to be gained by consolidating NIST and NOAA into a new science agency, or by combining NIST with the Patent and Trademark Office. Furthermore, the Administration argues, because NIST provides valuable technical expertise to industry and because NIST activities contribute a technological component to complex trade issues, separating NIST from the Department of Commerce trade mission could be detrimental to U.S. competitiveness.

National Telecommunications and Information Administration (NTIA).[8] NTIA provides the Administration's policy guidelines and recommendations for domestic and global telecommunications and information policy, sets policy for the management of the electromagnetic spectrum for broadcasts within the United States, and awards grants to industry for research on new telecommunications and related information infrastructure. The House proposal (H.R. 2491) would have terminated NTIA telecommunications grant programs. NTIA and its spectrum management functions would have been transferred to the Office of the U.S. Trade Representative. The Roth amendment to S. 929 would also eliminate the telecommunications infrastructure grants program, while shifting spectrum management to the General Services Administration (GSA) and NTIA's international activities to a newly established trade administration. The FY1996 budget resolution called for the elimination of the NTIA over a 3-year period.

Proponents of legislation to eliminate NTIA believe that the NTIA's role of supporting telecommunications development is neither efficient nor appropriate. According to this argument, this responsibility is better left to the private sector, which will build the nation's information infrastructure. State and local governments should have the primary responsibility for assisting schools and libraries, they argue, not Washington. They also contend that the spectrum

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[8] Prepared by Glenn J. McLoughlin, Specialist in Science and Technology, Science Policy Research Division.

eventually should be completely privatized, thereby eliminating NTIA's role of setting policy for the FCC, as well as bringing the government revenue from sales of the spectrum.

On the other hand, supporters of NTIA, including the Administration, argue that its policymaking and funding of technology development fill crucial holes which the private sector may not or will not support, and that its policy role provides a national perspective not found elsewhere. NTIA advocates argue that it has implemented policies to achieve development of the National Information Infrastructure (NII), part of the building block for the Information Superhighway of tomorrow.[9] The NTIA, according to the Administration, is the logical place for providing coordination of telecommunications standards, policy, and applications. Supporters also contend that the NTIA's grant program allows certain non-profit organizations, such as schools and libraries in rural and urban areas, to be included in the information technology future. Finally, the Administration argues that NTIA's authority to manage the government's spectrum enhances greater competition by ensuring accessible (and affordable) broadcasting bandwidths for all citizens.

Termination of the National Oceanic and Atmospheric Administration (NOAA).[10] NOAA functions through five major line organizations: the National Weather Service (NWS); the National Ocean Service (NOS); the National Marine Fisheries Service (NMFS); the National Environmental Satellite, Data and Information Service (NESDIS); and the Office of Oceanic and Atmospheric Research (OAR); plus program support units. NOAA research and operational activities are carried out by the nation's seventh uniformed service, the NOAA Corps, a commissioned officer corps of 400 men and women who operate NOAA ships and aircraft and serve in scientific and administrative posts.

The 1995 House-passed budget resolution called for dismantling the Department and for a "refocusing" of NOAA on its core mission, through budget reduction, as part of terminating the Department. The Senate-passed budget resolution called for the gradual elimination of the Department but cited NOAA as one of the Commerce units that would need to be kept in operation as either a separate agency or as parts of other agencies. The conference version of H.Con.Res. 67 passed by both Chambers assumed the elimination of the Department but lacked any details regarding disposition of NOAA functions, except to say that House-planned reductions for NOAA would be adopted.

The Chrysler bill (H.R. 1756) became the first of legislative proposals, independent of the budget process, which sought to abolish the U.S. Department

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[9] See: U.S. Library of Congress. Congressional Research Service. *The National Information Infrastructure: The Federal Role*, by Glenn McLoughlin. CRS Issue Brief 95051. (Updated regularly)

[10] Prepared by John Justus, Specialist in Earth and Ocean Sciences, and Wayne Morrissey, Science and Technology Information Analyst, Science Policy Research Division.

of Commerce and reorganize some of its administrative and programmatic components. This proposal was very ambitious and its potential impact on NOAA was determined to be far reaching. NOAA would have been dissolved and its various functions spread out among other federal government agencies. Proponents of the original H.R. 1756 viewed the associated issues as a subset of the larger effort by the Republican majority in the Congress to engage in a serious debate on two bedrock questions: What should government do, and what level of government should do it?

The Republican Task Force, which issued a white paper to accompany H.R. 1756, maintained that the activities of NOAA were only tangentially related to the promotion of commerce and, consequently, in the interests of reducing government bureaucracy, waste, and duplication, NOAA functions would fare better if placed in agencies or departments whose missions are a closer match. According to the justification statement, a large portion of research activities conducted by NOAA would be targeted for termination, because these activities are duplicative of those performed by other federal agencies or could be served better by the private sector. Similarly, the statement targeted the functions and operations of NOAA's laboratories as the province of the private sector and identified them as commodities whose properties ought to be sold to and operated by private sector entities. Administration critics of H.R. 1756 have charged that the Republican Task Force's decisions regarding the disposition of NOAA functions reflect an incomplete understanding and misinterpretation of the basic mission and responsibilities of NOAA, labeling its current interpretation as oversimplified and completely reductionist. The Administration also questioned savings brought about by this particular disposition of NOAA functions, pointing out that the figures do not seem to add up if one acknowledges that components of the agency are simply transferred around the federal system or privatized (not commercialized).

An identical bill to H.R. 1756, S. 929, was introduced by Senator Abraham in the first session of the 104th Congress; however, the Government Organization and Oversight Committee, then chaired by Senator Roth, soon offered an amendment to S. 929 in the form of a substitute bill. Section 301 of S. 929, as amended, is entitled the "National Oceanic and Atmospheric Administration Act of 1995." The committee found that "the establishment of an independent agency for ocean, coastal, and atmospheric programs would facilitate the development of a single agency and unified means for research concerning ocean, coastal and atmospheric programs." Budgetary reductions would also be realized with a 10% funding cut for FY1996, and a second larger cut of 35%, taking effect after NOAA became an independent agency. As an independent agency, NOAA would fall under the authority of Section 104, of Title V, of the U.S. Code. All executive level appointees would be subject to confirmation by the U.S. Senate. Distinguishing the Roth proposal from all other proposals, the NOAA Corps would remain an integral part of the new NOAA. Moreover, NOAA would be directed to consult and coordinate its environmental policies through the White House Council on Environmental Quality (CEQ). The Roth proposal also directed OMB to report on the feasibility of eventually folding NOAA into a newly created Department of

Natural Resources, and also to report on potential savings from privatizing seafood inspection, certain weather services, data processing and dissemination, charting, and marine navigation services, including those currently performed by NOAA Corps and NOAA fleet. The Administration has opposed the Roth proposal arguing on the grounds that NOAA should remain in the Department of Commerce because of its important contributions to the nation's economic growth.

Chairman Walker of the House Science Committee offered a substitute for the original Chrysler bill. The revised H.R. 1756, substantially modified by the committee, called for the creation of a National Institute of Science and Technology that initially would house an "essentially intact" NOAA, the National Bureau of Standards (formerly NIST), and the Office or Air and Space Commercial Services. Most of the other provisions that affect NOAA were in H.R. 2491, a substitute issued by the Committee on Government Reform. The House Science Committee substitution would have terminated 30 NOAA programs, including the NOAA fleet and NOAA Corps Officers. NOAA's authority to make fisheries grants and support fisheries promotion would be terminated.

The Elimination and Transfer of International Trade Functions.[11] The Department of Commerce has two agencies principally responsible for U.S. trade matters, the International Trade Administration (ITA) and the Bureau of Export Administration (BXA). Among other things, ITA is responsible for much of the federal government's programs to promote U.S. exports of manufactured goods. The U.S. and Foreign Commercial Service (US&FCS), a unit within ITA, administers these programs through district offices throughout the United States and foreign offices throughout the world. ITA also is responsible for identifying export market opportunities for American companies, which it does through the US&FCS, through its Market Access and Compliance (MAC) unit -- a group of regional specialists -- and through its Trade Development (TD) unit -- a group of industry specialists. It conveys this information to its clients, which are primarily small and medium-sized companies. In addition, ITA is tasked with providing analytical support to the U.S. Trade Representative (USTR) for trade negotiations and monitoring the implementation of multilateral and bilateral trade agreements.

An additional unit within ITA, the Import Administration, administers U.S. statutes pertaining to antidumping and countervailing duty actions and renders judgments on whether foreign trade practices constitute dumping or subsidies (countervailing duty) as defined under U.S. laws. The Import Administration also monitors imports that come under special arrangements, such as voluntary restraint arrangements (VRAs).

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[11] Prepared by William H. Cooper, Specialist in International Trade and Finance, Economics Division.

BXA is charged with implementing controls on U.S. exports for foreign policy, national security, and short-supply objectives. BXA also implements U.S. trade policy regarding Arab boycotts of Israel.[12]

During the 104th Congress, one version of the Commerce Department Dismantling Act that was attached to the House version of the budget reconciliation bill would have transferred to the Office of the USTR all of the Department of Commerce's trade functions now handled by ITA and BXA plus the Trade and Development Agency. This version would have removed the revamped USTR from the Executive Office of the President and make it an independent federal agency with cabinet status. Similarly, the Roth substitute for S. 929 would have placed the functions of ITA and BXA in a newly formed United States Trade Administration (USTA) combining them with the current functions of the Office of the USTR. The USTA would have been an independent agency with cabinet status, headed by the USTR. Unlike the House version, the Roth substitute would have also placed the Export-Import Bank and OPIC operationally within the USTA.

The Clinton Administration has argued that changing the structure of the trade agencies would decrease the efficiency of federal trade efforts. Among other things, Administration officials stated that expanding the Office of the USTR would defeat its original purpose to be a small group headed by the President's chief trade negotiator and trade-policy spokesman. They also have argued that separating ITA from Commerce would dilute the opportunity for U.S. industry to have its concerns raised in the trade policymaking process.

Congressional Funding of the Department

In his FY1997 budget request to Congress, the President requested that total funding for the Department of Commerce and related agencies[13] amount to $4.28 billion, a $648 million increase over the $3.63 billion appropriated by Congress for FY1996. Most of this 18% increase would have been allocated to five agencies: $206 million to NIST; $163 million to National Oceanic and Atmospheric Administration (NOAA);[14] $15 million to the Bureau of the Census; and $33 million to the Patent and Trademark Office, and $34 million to the National Telecommunications and Information Administration (NTIA). The Clinton Administration requested slight increases in funding for Economic

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[12] U.S. export control authority had come under the Export Administration Act (EAA), which expired on August 20, 1994. Legislation to reauthorize export controls is pending in the 105th Congress. The President exercises authority under the International Economic Emergency Powers Act (IEEPA) to maintain export controls while the Congress considers reauthorization legislation.

[13] Related agencies include the Office of the U.S. Trade Representative and the International Trade Commission.

[14] For FY1996, NOAA's funding accounts for over 46% of the Commerce Department's total budget.

and Statistical Analysis, the International Trade Administration, the Bureau of Export Administration, the Minority Business Development Agency, and the National Telecommunications and Information Administration. It requested a moderate decrease in funding for the Economic Development Administration.

The final version of the Commerce, Justice and State appropriations bill approved by Congress for FY1997 (H.R. 3610; H.Rept. 104-863) appropriated total funding of $3.8 billion for the Department. This is $557 million below the President's FY1997 request, $246 million above the bill originally approved by the House, $141 million above approved by the Senate Appropriations Committee, and $93 million below FY1996 appropriation. Most of the cuts from the President's request affect NIST ($238 million), NOAA ($103 million), Bureau of the Census ($54 million), the Patent and Trademark Office ($54 million), and NTIA ($36 million).

In his FY1998 budget request to Congress, the President has requested that total funding for the Department of Commerce and related agencies[15] amount to $4.3 billion, a $494 million increase over the $3.8 billion appropriated by Congress for FY1997. Most of this 12% increase would be allocated to five agencies: $316 million to the Bureau of the Census; $104 million to the National Institute of Standards & Technology (NIST); and $60 million to National Oceanic and Atmospheric Administration (NOAA).[16] The Administration requests moderate to slight increases in appropriations for Economic and Statistical Analysis, the International Trade Administration, the Bureau of Export Administration, the National Telecommunications and Information Administration, and General Administration for the Department. It requests a substantial decrease in funding for the Patent and Trademark Office.[17] The request also calls for slight decreases for the Economic Development Administration, the Minority Business Development Agency and the Office of Technology.

The President's request is now awaiting final action in the Congress. Both the House and Senate Appropriations have recommended a total appropriation of about $4.2 billion for the Department, which is slightly below the $4.3 billion requested by the Administration. The Senate bill (S. 1022) passed on July 29, 1997, approved the same level of funding as well. The House plans to take action on this appropriation, as part of its consideration of the FY1998 CJS appropriations bill (H.R. 2267).

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[15] Related agencies include the Office of the U.S. Trade Representative and the International Trade Commission.

[16] For FY1997, NOAA's funding accounts for about 47% of the Commerce Department's total budget.

[17] It is important to note, however, that the Patent and Trademark Office's (PTO) operations are mostly funded by user fees. The Office collects more in fees from non-federal source than it actually spends, producing outlays--a surplus in the PTO account. The surplus (cash) is returned to the general fund of the U.S. Treasury.

Legislative Outlook in the 105th Congress

Although there continues to be some congressional interest in reorganizing or downsizing the Department, interest in abolishing the Department appears to be less widespread at this time than it was in the past Congress. On April 14, legislation was introduced by Representative Royce (H.R. 1319), which calls for the abolition of the Department of Commerce. This proposal, which is virtually identical to the bill introduced by Representative Chrysler in the 104th Congress (H.R. 1756) has been referred to the House Committee on Commerce and 10 other House committees that have jurisdiction over certain functions of the Department.[18] Meanwhile, in a recent speech before the National Republican Committee on April 12, 1997, Representative Kasich, Chairman of the House Budget Committee, stated that Republicans will push for the elimination of the Department in their forthcoming budget proposal.[19]

Subsequently, the House committee in its report on the Concurrent Resolution on the Budget for FY1998 (H.Con.Res. 84; H.Rept. 105-100) did not explicitly recommend the abolition of the Department of Commerce. However, in the section of the report containing additional views of Chairman Kasich on behalf of the committee's majority members, it was stated that "The Budget Committee majority again urges the committees of jurisdiction to once again examine the next means of terminating the Department of Commerce and reallocating those functions that need to be maintained" (pp. 100-101). The Senate Committee on the Budget in its report on its version of the Concurrent Resolution on the Budget (S.Con.Res. 27; S.Print 105-27) did not make such a recommendation. The final version of the Resolution passed by Congress on June 5, 1997, (H.Con.Res. 84; H.Rept. 105-116), made no recommendations regarding the abolition of Commerce.

In conclusion, it should also be noted that neither the report language (H.Rept. 105-207; S.Rept. 105-48) nor the final legislation being considered by the House and Senate regarding the Department's appropriations for FY1998 explicitly call for the abolition of the Department. Nonetheless, the House version of the FY1998 Commerce, Justice and State appropriations bill (H.R. 2267) does contain a contingency provision in section 206 of Title II which provides that:

> Should legislation be enacted to dismantle or reorganize the Department of Commerce, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to appropriate successor organizations: *Provided*, That the plan shall include a proposal for transferring

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[18] For more information see: CRS Report 95-83, *Proposals to Eliminate the U.S. Department of Commerce: An Issue Overview,* by Edward Knight.

[19] Ralph Z. Hallow. "Kasich to Seek Closure of Department of Commerce." *Washington Times,* April 13, 1997. p. A1.

> or rescinding funds appropriated herein for agencies or programs terminated under such legislation....

The appropriations bill (S. 1022) passed by the Senate on July 29, 1997, does not contain this contingency provision.