

Report for Congress

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Appropriations for FY2003: Commerce, Justice, and State, the Judiciary, and Related Agencies

Updated January 13, 2003

Susan B. Epstein, Coordinator
Specialist in Foreign Policy and Trade
Foreign Affairs, Defense, and Trade Division

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 FY2003: Commerce, Justice, and State, the Judiciary, and Related Agencies

Summary

The Commerce, Justice, and State, the Judiciary, and other related agencies (often referred to as CJS) appropriations for FY2003 are still pending in Congress. President Bush sent the FY2003 budget request to Congress on February 4, 2002 seeking a total budget authority level for CJS appropriations of \$42,346.7 million – a mandatory level of \$649.3 million and a discretionary level of \$41,697.4 million (\$43,907 million after score keeping adjustments). The major components of the Administration's FY2003 CJS request included: Department of Justice – \$22,800.3 million; Department of Commerce – \$5,552.2 million; the Judiciary – \$5,241.6 million; and Department of State – \$8,138.9 million. The Senate Appropriations Committee reported out its CJS appropriations bill (S. 2778; S.Rept. 107-218) July 24, 2002. No House CJS bill was introduced. Congress passed a series of continuing resolutions keeping the government running through November 22, 2002, with funding based on FY2002 budget levels. The lame duck session of Congress resulted in a final CR for 2002 (H.J.Res. 124, P.L. 107-245) which continued government funding through January 11, 2003. The 108th Congress passed H.J.Res. 1/P.L. 108-2 on January 10th, keeping the government running through January 31, 2003.

In addition, Congress passed an FY2002 supplemental appropriation (H.R. 4775; H.Rept. 107-593) on July 24th, which the President signed into law on August 2nd (P.L. 107-206). Following are some key CJS issues:

Department of Justice. The FY2003 request was \$22.8 billion, nearly \$1 million below the FY2002 enacted level. The Senate Committee recommended roughly \$25.8 billion, much of the difference in the Office of Justice Programs. Key issues included: addressing terrorism, restructuring the Immigration and Naturalization Service, tightening immigration and visa rules, and improving border security.

Department of Commerce. The FY2003 request was \$5.5 billion, more than 3% below the FY2002 funding level. The decline was largely due to reduced funding for science and technology. The Senate full committee recommended \$5.9 billion, raising science and technology funds. Key issues included the funding of controversial technology programs and the enhancement of export control programs.

The Judiciary. The Senate Appropriations Committee recommended \$4.97 billion, agreeing to the Judiciary's request for cost-of-living salary increases for judges and justices, but not to an increase in the hourly pay of court-appointed attorneys representing indigent defendants in criminal cases or to emergency supplemental funds for protective coating on windows in all federal courthouses.

Department of State. The FY2003 request was more than \$7.6 billion, about 4% above the FY2002 enacted level. The Department stressed its three top priorities from the previous year: additional hiring; embassy security; and technology improvements worldwide. The Senate Appropriations Committee recommended \$7.4 billion, \$214 million lower than the request.

Key Policy Staff

Area of Expertise	Name	CRS Division	Telephone and E-Mail
Department of State and Int'l Broadcasting	Susan Epstein	FDT	7-6678 sepstein@crs.loc.gov
Department of Commerce	Ben Canada	G&F	7-0632 bcanada@crs.loc.gov
Judiciary, FCC, and State Justice Institute	Steve Rutkus	G&F	7-7162 srutkus@crs.loc.gov
Department of Justice	Denny Snook	DSP	7-7314 dsnook@crs.loc.gov
Department of Justice	Bill Krouse	DSP	7-2225 wkrouse@crs.loc.gov
NIST-Technology Programs	Wendy H. Schacht	RSI	7-7066 wschacht@crs.loc.gov
Telecommunications	Glenn McLoughlin	RSI	7-7073 gmcloughlin@crs.loc.gov
NOAA	Wayne Morrissey	RSI	7-7072 wmorrissey@crs.loc.gov
Equal Employment Opportunity	Linda Levine	DSP	7-7756 llevine@crs.loc.gov
Legal Services Corporation	Carmen Solomon-Fears	DSP	7-7306 csolomonfears@crs.loc.gov
EDA, SBA, and FTC	Bruce Mulock	G&F	7-7775 bmulock@crs.loc.gov
Maritime Industry	John Frittelli	RSI	7-7033 jfrittelli@crs.loc.gov
Trade agencies	Ian Fergusson	FDT	7-4997 ifergusson@crs.loc.gov
Bureau of the Census	Jennifer D. Williams	G&F	7-8640 jwilliams@crs.loc.gov
Patent & Trademark Office	Wendy H. Schacht	RSI	7-7066 wschacht@crs.loc.gov
Commerce Dept, Science and Technology-related agencies	Lennard G. Kruger	RSI	7-7070 lkruger@crs.loc.gov
Immigration & Naturalization Service (INS)	Lisa Seghetti	DSP	7-4669 lsegchetti@crs.loc.gov
SEC	Mark Jickling	G&F	7-7784 mjickling@crs.loc.gov
Technical Coordinator	Marietta Sharperson	RSI	7-7726 msharperson@crs.loc.gov

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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Appropriations for FY2003: Commerce, Justice, State, the Judiciary, and Related Agencies

Most Recent Developments

In its first week of business, the 108th Congress passed a continuing resolution (H.J.Res. 1/P.L. 108-2) keeping the government open through January 31, 2003. After a series of continuing resolutions to keep the government running until after the elections, the lame duck session of the 107th Congress had passed a CR (H.J.Res. 124/ P.L. 107-245) which continued FY2002 funding through January 11, 2003. While the House never had introduced CJS FY2003 appropriations, the Senate Appropriations Committee had reported its Commerce, Justice, State, Judiciary, and Related Agencies (CJS) appropriations bill (S. 2778) on July 24th, recommending a total of \$47,067 million for the agencies. Also on July 24th, Congress passed an FY2002 supplemental appropriation, which was signed into law (P.L. 107-206) on August 2, 2002.

Overview

The 107th Congress did not complete FY2003 appropriations for the Departments of Commerce, Justice, State, the Judiciary, and other related agencies (often referred to as CJS appropriations). The Administration's request for FY2003 totaled \$42,346.7 million. Of that total, \$649.3 million was mandatory and \$41,697.4 million was discretionary funding. After score keeping adjustments, such as retirement accrual and use of fees, the FY2003 budget authority request totaled \$43,907 million.

The Senate Appropriations Committee introduced and reported out its FY2003 CJS appropriation bill (S. 2778, S.Rept. 107-218) on July 24, 2002. The Committee recommended a total of \$47,067 million. The major portion of the increase over the President's request was within the Department of Justice.

For FY2002 and after the September 11th terrorist attacks, Congress reconsidered funding allocations in the conference of H.R. 2500 to bolster counter-terrorism activities within each agency's title in the bill. Congress enacted its CJS appropriation (P.L. 107-77) totaling \$41,706.6 million for FY2002. In addition, Congress passed emergency supplemental appropriations (P.L. 107-38, P.L. 107-

117), transferring a total of \$2,355.1 million from the Emergency Response Fund to the agencies within the CJS appropriation.¹

Funding Issues Resulting from the Continuing Resolution

As a result of the 107th Congress' failure to pass 11 of the 13 appropriations, nearly every agency and program in those 11 unpassed appropriations will struggle with FY2003 activities and staff levels with FY2002 funding limitations. The CJS appropriation was one of the 11 that did not get final congressional action for FY2003. Therefore, the Commerce, Justice, and State Departments, as well as the Judiciary and the numerous related agencies funded by the CJS appropriation will be challenged to adequately fund salaries and expenses given increasing demands on the agencies, in addition to inflation and exchange-rate changes. Three agencies within CJS – the Judiciary, the Securities and Exchange Commission (SEC), and the Justice Department's Office for Domestic Preparedness – will face particular hardships because of the continuing resolution.

The CR could hinder the distribution of terrorism preparedness funds to states and localities. A number of state and local officials have expressed concern that delaying such assistance, which is provided through the Justice Department's Office for Domestic Preparedness, will limit their ability to improve emergency response capabilities.

The Chief Justice of the United States, William H. Rehnquist, warned that a long-term continuing resolution (CR) would have a "significant, adverse impact" on the federal judicial system. In an October 3, 2002 letter to the President and to House and Senate leaders, the Chief Justice said that it is "problematic that, at a time when the Judiciary faces significant workload and related cost increases for the most part mandated by the Congress, the courts would be forced to reduce staffing levels" as a result of a long-term CR.²

The Judiciary, the Chief Justice added, required additional funds above FY2002-enacted appropriations "simply to maintain pace with existing workload" — a workload, he explained, caused by the war on terrorism, continued increases in criminal caseload, "skyrocketing" bankruptcy filings, and a steady growth in the number of released felons requiring supervision by the court system's probation offices. The Chief Justice also expressed special concern about the impact of a long-term CR on court security. "Because federal courts are such an inviting target for terrorists," he said, "Congress funded a number of new security initiatives in 2002 to protect the judges, staff, jurors, and public entering our courthouses." Under the

¹ The President signed the first emergency supplemental appropriation (P.L. 107-38) on September 18, 2001; he signed legislation that provides additional emergency response funds to some agencies on January 10, 2002 (P.L. 107-117).

² "Chief Justice Asks for Full-Year Appropriation," *The Third Branch*, vol. 34, October 2002, p. 1. Also available at [<http://www.uscourts.gov/ttb/oct02ttb/oct02.html#justice>].

terms of a long-term continuing resolution, however, the “need to fund these initiatives for a full year in FY2003 could not be met.”³

Accordingly, the Chief Justice proposed, in his letter, that Congress provide the Judiciary with a “full year appropriation” for FY2003, “at a funding level sufficient to allow the courts to continue operations at FY2002 levels of service.” The request, he said, was \$242 million less than the Judiciary’s initial request for the courts in January 2002.⁴

In response to corporate scandals, the 107th Congress passed the Sarbanes-Oxley Act (P.L. 107-204) to strengthen regulation of corporate accounting and auditing. Sarbanes-Oxley authorized \$776 million for the SEC for FY2003, a 77% increase over FY2002’s \$438 million appropriation. Without the increase, the SEC will be hard-pressed to carry out the mandates of the new law, which require it to oversee the creation of a new auditor oversight body, step up its inspections of corporate financial statements, and enhance certain corporate disclosure programs.

FY2002 Supplemental

In addition to the President’s regular FY2003 budget request, the Administration submitted an FY2002 supplemental funding request on March 21, 2002. Out of the total \$28.4 billion supplemental request, \$427.7 million was for agencies within the CJS appropriation bill. The House passed \$753.6 million; the Senate passed \$1,280.2 million for the CJS supplemental funds. The final supplemental for CJS-related agencies, which was signed on August 2, 2002 (P.L. 107-206), totaled about \$900 million, some of which was designated as contingent emergency funds. (For more detail, see CRS report RL31406, *Supplemental Appropriations for FY2002: Combating Terrorism and Other Issues*, by Amy Belasco and Larry Nowels.)

Recent-Year Funding Trends

On November 14, 2001, Congress approved total FY2002 CJS funding of \$41.6 billion. The President signed this measure into law on November 28th. Although the CJS funding legislation was at the conference stage on September 11th, Congress scrutinized security and anti-terrorism funding at the conference level and reallocated funding because of the terrorist attacks. In addition, the FY2002 budget levels for the Departments of Commerce, Justice, State and the Judiciary include the emergency supplemental funding passed by Congress September 18, 2001.

³ Ibid. The newsletter of the federal courts, *The Third Branch*, explained, in an untitled article appearing along-side the Chief Justice’s letter, that the Judiciary was asking Congress to fund court services at \$285 million over the FY2002-enacted court services level. Among the consequences of a long-term CR, the article, said, would be the following: “Additional security measures implemented post 9-11 in courthouses would be severely curtailed”; payments to private Criminal Justice Act attorneys retained for indigent defendants “would fall short”; and more than a month’s worth of civil jury trials “would be halted because of insufficient money to pay juror fees.” Ibid., p. 2.

⁴ Ibid., p. 2.

The table below shows funding trends for the major agencies included in CJS appropriations over the period FY1998-FY2002, including supplemental appropriations. As seen in the table below, funding increased, in current dollars, for the Department of Justice by \$2,655 million (12.6%); for the Department of Commerce by \$591 million (11.3%); for the Judiciary by \$452 million (10.6%); and for the Department of State by \$761 million (11.5%). Every agency except the Department of Commerce has seen a continual increase in funds between FY1998 and FY2002. 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. Its FY2001 level is comparable to its pre-census level. The Department of State had a significant increase in its funding level from FY1999 to FY2000, reflecting the increase in costs associated with the reorganization of the foreign policy agencies into State. Of the 4 primary agencies within the CJS appropriations, the Department of Justice received the greatest nominal increase of \$5,940 million from FY1998 to FY2002. The Department of State funding trend since FY1998 shows the greatest percent increase of 82.4%; Justice budget grew by 33.4%, Commerce by 36.9%, and the Judiciary by 35.9%. Much of the State Department increase has been attributable to increases in embassy security funding, improvements in technology and staffing, along with the consolidation of the U.S. Information Agency (USIA) and the Arms Control and Disarmament Agency (ACDA) into the Department of State in 1999.

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

Department or Agency	FY1998	FY1999	FY2000	FY2001	FY2002
Justice	17,764	18,207	18,647	21,049	23,704
Commerce	4,251	5,098	8,649	5,153	5,739
Judiciary	3,464	3,652	3,959	4,255	4,707
State	4,037	4,359	5,880	6,601	7,362

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

FY2003 Appropriation

President Bush's FY2003 budget request for new budget authority totaled \$43,907 million (after score keeping adjustments) for Commerce, Justice, State, Judiciary, and Related Agency mandatory and discretionary spending. The FY2003 request for actual appropriations was \$42,346.7 million—\$640 million above the FY2002 appropriation total of \$41,706.6 million (after adjustments, but not including use of fees).⁵ The Senate Appropriations Committee recommended \$47,067 million

⁵ For more details on FY2002 appropriations see CRS Report RL31009, *Appropriations for FY2002: Commerce, Justice, and State, Judiciary, and Related Agencies*, by Susan B. Epstein et. al.

for new budget authority in FY2003. Table 2 presents appropriations for the four major agencies within the CJS appropriation bill.

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

Department or Agency	FY2001	FY2003 Request	House	Senate Bill S. 2887	FY2003 Enacted
Justice	21,049	22,800		25,780	
Commerce	5,153	5,552		5,877	
Judiciary	4,255	5,242		4,965	
State	6,601	8,139		7,418	

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

Brief Survey of Key Issues

In addition to heightened interest in counter-terrorism and security-related activities since the September 11th attacks, some other contentious issues and proposals that surfaced in the House and Senate debate over CJS appropriations for FY2003 include:

- Restructuring the Federal Bureau of Investigation to improve counter terrorism, intelligence collection and analysis, and internal agency security.
- Restructuring the Immigration and Naturalization Service, by separating the agency's services and enforcement functions, to improve application processing and increase border security.
- Reassessing the Department of Justice's role in providing domestic preparedness training and assistance to state and local first responders, and possibly shifting related programs to the Federal Emergency Management Agency.
- Streamlining community policing and crime prevention programs administered by the Department of Justice's Office of Justice Programs.

Other issues or concerns receiving attention included the following:

Department of Justice:

- Reducing firearms-related violence through enforcement of existing laws.

- Reducing the supply and use of illicit drugs.
- Improving juvenile justice, reducing violence against women, and providing legal assistance to victims of crime.
- Addressing civil rights violations, including racial profiling and infringement of voter rights.
- Establishing new efforts and capacities to fight cybercrime.
- More efficiently managing contract detention space.
- Establishing an entry/exit control system to track non-citizens admitted temporarily to the United States.

Department of Commerce:

- The Administration's proposal to eliminate National Telecommunications and Information Administration's (NTIA's) Technology Opportunities Program (TOP), as well as significantly reduce funding for NTIA's program to support construction of public broadcast facilities.
- 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) and the Manufacturing Extension Partnership (MEP).
- The Administration's proposal to transfer the National Sea Grant Program from the National Oceanic and Atmospheric Administration (NOAA) to the National Science Foundation, amid opposition from state Sea Grant partners and institutions.
- Funding for full implementation of the Census Bureau's American Community Survey, which will produce detailed demographic data for every U.S. community by 2008 and replace the decennial census long form in 2010, and for improved quality and timeliness of economic statistics collected by the Bureau.
- Increasing funding for the Bureau of Export Administration (to be renamed the Bureau of Industry and Security) to better enforce U.S. export regulations, specifically with regard to strategically-sensitive information.

Department of State:

- Visa issuance policies and the Homeland Security proposals.

- Expanded public diplomacy activities focusing on Muslim/Arab populations.
- Increased hiring of foreign, civil service, and security experts.
- Improved information/communication technology.

The Judiciary:

- Whether to increase the hourly rate of pay to court-appointed “panel attorneys” representing indigent defendants in federal criminal cases.
- Whether, as the Judiciary contends, federal judges and justices should receive a cost-of-living salary increase.
- Whether, in the interests of court security, to provide emergency supplemental funding for protective film on windows in all of the nation’s federal courthouses.

Other Agencies:

- adequacy of funding for the Securities and Exchange Commission (SEC) to investigate corporate fraud.
- Whether to end federal funding for the State Justice Institute.
- 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 individual agencies within this report.

Legislative Status

On February 4, 2002, President Bush submitted the FY2003 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 March, April, and May. The Senate Appropriations Committee reported out S. 2778 on July 24, 2002. No other congressional action occurred on the CJS appropriation. The table below shows the key legislative steps that occurred for the enactment of FY2003 CJS appropriations legislation.

Table 3. Status of CJS Appropriations, FY2003

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conference Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
	-			S.Rept. 107-218					

Department of Justice

Background

Title I of the CJS bill typically covers appropriations for the Department of Justice (DOJ). Established by an Act of 1870 (28 U.S.C. 501) with the Attorney General at its head, DOJ provides counsel for citizens and protects them through effective law enforcement. It represents the federal government in all proceedings, civil and criminal, before the Supreme Court. And in legal matters generally, the Department provides legal advice and opinions, upon request, to the President and executive branch department heads. Agencies in the departmental budget include:

- *United States Attorneys* prosecute criminal offenses against the United States, represent the federal government in civil actions, and initiate proceedings for the collection of fines, penalties, and forfeitures owed to the United States.
- *United States Marshals Service* provides security for the federal judiciary, protects witnesses, executes warrants and court orders, manages seized assets, and detains and transports unsentenced prisoners.
- *Federal Bureau of Investigation (FBI)* investigates violations of federal criminal law; protects the United States from terrorism and hostile intelligence efforts; provides assistance to other federal, state and local law enforcement agencies; and shares jurisdiction with Drug Enforcement Administration (DEA) over federal drug violations.
- *Drug Enforcement Administration (DEA)* investigates federal drug law violations; coordinates its efforts with state, local, and other federal law enforcement agencies; develops and maintains drug intelligence systems; regulates legitimate controlled substances

activities, and conducts joint intelligence-gathering activities with foreign governments.

- *Immigration and Naturalization Service (INS)* administers and enforces immigration law by admitting or excluding aliens at the border, investigating immigration law violations, apprehending and processing for removal aliens illegally residing in the United States, and processing immigration- and naturalization-related applications.
- *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)* manages and coordinates the activities of 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.

FY2003 Funding Issues

Defending the Nation against future terrorist attacks has become the principal focus of the Department of Justice. To this end, the Department is increasing its efforts to disrupt and dismantle terrorist organizations, provide greater border security to prevent terrorists from entering the country, and bring to justice those persons who carry out terrorist attacks against American interests at home and abroad. With the approval of the Attorney General, the Federal Bureau of Investigation has completed phase 1 of a reorganization, realigning and centralizing FBI assets for more effective counterterrorism, counterintelligence, and internal agency security. The Immigration and Naturalization Service is also undergoing an internal reorganization to separate the agency's service and enforcement functions to improve the processing of immigration-related applications and provide enhanced border security.

Crime control has traditionally been viewed as a state and local responsibility. Beginning with the passage of the Crime Control Act of 1968 (P.L. 90-351), the federal role in the administration of criminal justice has increased incrementally. Since 1984, Congress has enacted five major omnibus crime control bills, establishing new crimes, penalties, and additional law enforcement assistance programs for state and local governments. Crime control is one of the few areas of the federal budget where discretionary spending has increased over the past two decades.

FY2003 Budget Request and Authorization. For the Department of Justice (DOJ), the Senate provided DOJ with \$25.78 billion for FY2003, a nearly 9% increase over the department's FY2002 enacted budget of \$23.7 billion. The Senate amount included funding enhancements to improve the department's information management platforms and narrowband communications that were not requested by

the Administration. Unlike the Administration request, the Senate bill did not envision a transfer of the Office of Domestic Preparedness from DOJ to the Federal Emergency Management Agency, nor did it eliminate the Byrne Grants programs.

The Administration requested \$22.8 billion, or 4% less than the department's FY2002 enacted budget. While representing a net decrease, the Administration's FY2003 request included about \$2.0 billion in funding enhancements for counterterrorism activities focused on disrupting terrorist networks, preventing terrorist attacks, and bringing offenders to justice; according to the Administration, these increases were to be offset by projected reductions in non-recurring costs and other offsets in the agency and program budgets.

Related initiatives for which the Administration requested funding included the more timely and effective use of intelligence by the FBI and INS, new resources for FBI cybercrime initiatives, and revamping the FBI's outdated information technology infrastructure. Border security initiatives included doubling the number of Border Patrol agents and immigration inspectors on the northern border, developing an effective alien entry/exit control system, and INS restructuring. The Senate bill provided the same amounts as requested by the Administration for these initiatives. In addition, the Senate bill provided additional funding to merge and revamp INS's information systems and to increase departmental narrowband communications.

In regard to state and local law enforcement assistance, the Administration proposed realigning justice assistance grant programs with a stronger emphasis on accountability and establishing a new grant program for election reform. Also, to improve financial accountability and coordination, the Administration proposed consolidating the disbursement of detention funding for certain Justice agencies in the Office of the Federal Detention Trustee. The Senate bill provided the same amounts as requested by the Administration for this office. It funded some grant programs marked for elimination by the Administration, but not others.

Meanwhile, the House and Senate passed different versions of a bill to authorize the making of appropriations for the Department of Justice for FY2003 (H.R. 2215). The last fiscal year for which Congress completed legislation authorizing the DOJ budget was 1981.

Department of Justice Accounts. The DOJ budget account structure roughly mirrors the departmental organizational structure. Congress appropriates funding for each account. The activity, agency, and program account structure, however, is not uniform. Some accounts represent a single agency, e.g., the Drug Enforcement Administration account. The Legal Activities account, by comparison, includes multiple activity, agency, and program accounts. The Office of Justice Programs account includes a series of law enforcement assistance grant programs, in addition to departmental office and bureau accounts. (For an overview of departmental accounts, see Table 1.)

In the table and text below, the amounts recommended by the Senate Appropriations Committee are given by account, and are compared to last year's funding in terms of percent increase or decrease. From accompanying report language, amounts for specific initiatives and programs are given as well. Where

possible comparisons are made to the amounts requested by the Administration. Also, the Administration's FY2003 request is compared to last year's enacted funding level or appropriation. In regard to the Administration's request, some major requested budget increases over the activity or agency base budgets are also given. Base budgets reflect the Administration's estimate of the level of funding necessary to conduct FY2002's anticipated level of activities and services in FY2003. Hence, increases "over base" are amounts requested by the Administration to carry out new or additional activities and services.

Title I. Department of Justice Budget Accounts
(millions of dollars)

Accounts	FY2001 enacted	FY2002 enacted ^a	FY2003 request	FY2003 House	FY2003 Senate	FY2003 Confer.
General Administration	718.1	442.9	1,985.3		2,135.9	
U.S. Parole Commission	8.8	9.9	10.9		10.1	
Legal Activities	3,143.4	3,539.7	3,060.8		2,992.3	
<i>General legal activities</i>	534.6	561.7	645.3		579.5	
<i>U.S. Attorneys</i>	1,247.6	1,410.3	1,506.4		1,474.8	
<i>U.S. Marshals Service</i>	602.9	668.0	715.5		744.3	
<i>Prisoner detention</i>	596.1	706.2	–		–	
<i>Other</i>	162.1	193.5	193.5		193.5	
Radiation Exposure Compensation	12.8	2.0	2.0		–	
Interagency Law Enforcement	325.2	338.6	362.1		347.1	
Federal Bureau of Investigation	3,245.1	4,269.9	4,203.8		4,203.8	
<i>Salaries, expenses, construction</i>	2,808.4	3,810.6	3,731.1		3,728.5	
<i>Counterintelligence; nat. security</i>	436.7	459.2	472.7		475.3	
Drug Enforcement Administration	1,360.1	1,481.8	1,545.9		1,530.5	
Immigration & Naturalization Service (direct appropriations)	3,252.0	4,049.3	4,032.4		4,030.7	
<i>enforcement; border affairs</i>	(2,541.5)	(3,189.5)	(3,158.2)		–	
<i>citizenship, benefits; support</i>	(577.5)	(631.7)	(88.6)		–	
<i>fee accounts</i>	(1,549.5)	(2,142.9)	(2,311.1)		(2,311.1)	
<i>construction</i>	(133.0)	(228.1)	–		(265.4)	
<i>support; administration</i>	–	–	(785.6)		–	
<i>Total: INS net budget authority with fees</i>	(4,801.5)	(6,192.2)	(6,343.5)		(6,341.8)	
Federal Prison System	4,306.4	4,625.6	4,480.4		4,586.9	
Office of Justice Programs	4,657.5	4,944.4	3,116.7		5,942.8	
<i>Justice assistance</i>	417.3	837.0	214.0		2,242.1	
<i>State and local law enforcement</i>	2,842.7	2,654.5	751.9		1,827.7	
<i>Weed and seed program</i>	33.9	58.9	58.9		58.9	

Accounts	FY2001 enacted	FY2002 enacted ^a	FY2003 request	FY2003 House	FY2003 Senate	FY2003 Confer.
<i>Community policing services</i>	1,030.1	1,050.4	1,381.0		1,062.6	
<i>Juvenile justice programs</i>	297.9	305.9	257.8		298.4	
<i>Election reform grants</i>	–	–	400.0		400.0	
<i>Public safety officers benefits</i>	35.6	37.7	53.1		53.1	
Total: Justice Department	21,029.5	23,704.0	22,800.3		25,780.0	

Source: H.Rept. 107-139 for FY2001 enacted, S.Rept. 107-218 for FY2002 enacted, FY2003 request, and FY2003 Senate recommendations.

^aThe FY2002 enacted figures include supplemental funding provided by the FY2002 Department of Defense Appropriations Act (P.L. 107-117).

For *General Administration*, the Senate-reported bill provided \$2.136 billion, a 382% increase over the \$443 million appropriated for FY2002. The FY2003 request included \$1.985 billion, a 348% increase over the FY2002 amount. As in the Administration's request, the bulk of this increase would go to the Detention Trustee account to better manage departmental funding for contracted detention space. Besides the Detention Trustee, the General Administration account funds the Attorney General's office, senior departmental management, a counter terrorism fund, and the Inspector General's office. The Senate bill also provided increased funding to: 1) continue development of the Joint Automated Booking System (JABS), 2) integrate of the FBI and INS biometric fingerprint identifications systems (IAFIS and IDENT), 3) upgrade and merge INS databases into an "interoperable law enforcement and intelligence data system (Chimera), and 4) increase narrowband communications.

For the *Federal Detention Trustee's office*, the Senate bill provided \$1.386 billion for FY2003, nearly the same amount as requested by the Administration. The Detention Trustee's office was established in FY2001, with a \$1 million appropriation, to manage contractual detention funding for the Department. For FY2003, the contractual detention resources of the Immigration and Naturalization Service (\$611 million) and the U.S. Marshals Service (\$706 million) would be consolidated under this office. While these agencies would remain responsible for daily detention operations, the Detention Trustee's Office would manage the disbursement of funds, which were previously carried under separate accounts. The FY2003 request also included \$5 million for the creation of a National Clearinghouse for Detention Space within this office to serve as a repository of available detention space in the United States (state, local, and private). The office would also oversee a study to improve the Joint Prisoner and Alien Transportation System (JPATS).

For the *counter terrorism fund*, the Senate bill provided no funding. The FY2003 request included \$35 million, as compared to \$5 million provided last year, to detect, investigate, and prosecute domestic or international terrorism. Senate report language pointed out that these monies were previously appropriated to reestablish agency operations damaged or destroyed as a result of a terrorist incident and to provide the DOJ with flexibility following such an incident. The monies requested for FY2003 were for the FBI to reimburse the DEA. According to report language, this funding was included in the FBI account (described below).

The *Office of the Inspector General (OIG)* is responsible for investigating departmental misconduct. In FY2001, the Attorney General ordered the OIG to investigate allegations of misconduct at the Federal Bureau of Investigation and the Drug Enforcement Agency. Previously such responsibility resided with the respective agency offices of professional responsibility.⁶ The Senate Committee on the Judiciary reported a measure, the Federal Bureau of Investigation Reform Act of 2002 (S. 1974), that included a provision to make such oversight statutory. To assume these new responsibilities, the FY2003 request included \$64 million for the OIG, as compared to an enacted funding level of \$51 million in FY2001, a 25% increase. The Senate-reported bill provided \$55 million for the OIG, an 8% increase over the FY2002 budget.

The *U.S. Parole Commission* adjudicates parole requests by federal and D.C. Code prisoners who are serving felony sentences. For the commission, the FY2003 request was \$11 million as compared to the enacted FY2002 funding level of \$10 million. The authorization for the parole commission was due to expire in November 2002, but the 21st Century Department of Justice Appropriations Authorization Act (P.L. 107-273) has authorized to be appropriated \$10 and \$11 million for the commission for FY2002 and FY2003, respectively. The Senate bill provided \$10 million for the parole commission for FY2003.

The *Legal Activities* account includes several accounts: (1) general legal activities, (2) U.S. Attorneys, (3) the U.S. Marshals Service, (4) prisoner detention, and (5) other legal activities. Among other things, the *general legal activities* account funds the Solicitor General's supervision of the department's conduct in proceedings before the Supreme Court. It also funds several departmental divisions (tax, criminal, civil, environment and natural resources, legal counsel, civil rights, and antitrust). For FY2003, the Senate bill provided \$2.992 billion for this account, or 15% less than the amount provided for this account for FY2002. The Senate amount reflected a \$706 million transfer to the Detention Trustee's office (discussed above), an additional \$20 million for the U.S. Attorneys' Anti-terrorism Task Forces to coordinate a port security pilot project, and an increase of nearly \$29 million more than the Administration's request for the Marshals Service. By comparison, the Administration's request included \$3.061 billion for this account, or nearly 14% less than the \$3.540 billion provided for FY2002.

The *general legal activities* account funds the Solicitor General's supervision of the department's conduct in proceedings before the Supreme Court. It also funds several departmental divisions (tax, criminal, civil, environment and natural resources, legal counsel, civil rights, and antitrust). For FY2003, the Senate bill provided \$579 million for this account, or 3% more than the \$562 million provided for FY2002. The Administration requested \$645 million for this account, a 15% increase over the FY2002 amount.

The *U.S. Attorneys* and the *U.S. Marshals Service* are present in all of the 94 federal judicial districts. The U.S. Attorneys prosecute criminal cases and represent

⁶ For further information, see CRS Report RS20944, *Statutory Inspector General for the FBI: Overview and Issues*, by Frederick M. Kaiser and Diane T. Duffy.

the federal government in civil actions. For the U.S. Attorneys, the Senate bill provided \$1.475 billion for FY2003, nearly 5% more than the \$1.410 billion provided for FY2002. The Administration's request included \$1.506 billion, or nearly 7% more than FY2002 amount. The U.S. Marshals are responsible for the protection of the Federal Judiciary, protection of witnesses, execution of warrants and court orders, and custody and transportation of unsentenced federal prisoners. The Senate bill provided the Marshals account with \$744 million, or 11% more than the \$668 million provided for FY2002. The Administration's request included \$715 million, or 7% more than the FY2002 amount.

For *other legal activities*. e.g., the Community Relations Service, the Independent Counsel, the U.S. Trustee Fund, and the Asset Forfeiture program, the FY2003 request included \$211 million, slightly more than for FY2002. The Senate bill provided \$194 million for these purposes.

The ***Radiation Exposure Compensation*** account funds a program to compensate individuals exposed to radiation during atmospheric nuclear tests or uranium production. To administer programs under this account, the FY2003 request included \$2 million, the same amount as appropriated for FY2002. The Senate bill provided no additional funding for this account.

The ***Interagency Law Enforcement*** account reimburses departmental agencies for their participation in the *Organized Crime Drug Enforcement Task Force (OCDETF)* program. Organized into 9 regional task forces, this program combines the expertise of federal agencies⁷ with the efforts of state and local law enforcement to disrupt and dismantle major narcotics trafficking and money laundering organizations. The FY2003 request included \$362 million for OCDETF, as compared to an enacted funding level of \$339 million in FY2002, a 7% increase. This requested increase included \$15 million over base to increase counter-narcotics trafficking efforts. The Senate bill provided \$347 million for this account, \$15 million less than the Administration's request.

The ***Federal Bureau of Investigation (FBI)***, as the lead federal investigative agency, has recently reorganized to focus on counter terrorism. For FY2003, the Senate bill provided nearly the same amount as requested by the Administration for the FBI. It provided \$4.204 billion, as compared to the agency's FY2002 appropriation of \$4.270 billion, or a 2% decrease. According to the Administration, however, the FY2003 request included \$446 million in budget increases for counter terrorism, offset by projected reductions in non-recurring costs and other offsets in the agency's budget. These counter terrorism increases included: (1) \$218 million for related criminal investigations, (2) \$25 million for forensics services, (3) \$148 million for information management and telecommunications, (4) \$37 million for technical field support, and (5) \$17 million for management and administration.

⁷ The federal agencies that participate in OCDETF are the Drug Enforcement Administration; Federal Bureau of Investigation; U.S. Customs Service; Internal Revenue Service; Bureau of Alcohol, Tobacco and Firearms; U.S. Coast Guard; U.S. Marshals Service; Immigration and Naturalization Service; the Justice Tax and Criminal Divisions; and the U.S. Attorneys.

The *Drug Enforcement Administration* (DEA) is the lead federal agency tasked with reducing the illicit supply and abuse of dangerous narcotics and drugs. For FY2003, the Senate bill provided DEA with \$1.53 billion, a 3% increase over the \$1.482 provided for FY2002. This amount was \$15 million less than the Administration's request. The FY2003 request included a \$29 million increase over base: (1) nearly \$11 million for domestic enforcement, (2) \$7 million for foreign cooperative investigations, (3) \$10 million for management and administration, and (4) smaller amounts for intelligence and the DEA lab.

For the *Immigration and Naturalization Service* (INS), the FY2003 request included \$4.032 billion in direct funding as compared to an enacted FY2002 funding level of \$4.049 billion, a slight decrease. In addition, the Administration anticipated that the agency would receive \$2.311 billion in fee receipts in FY2003 as compared to \$2.143 billion in FY2002. As Congress appropriates projected fee receipts for obligation by INS, the total requested FY2003 budget for INS was \$6.343 billion, as compared to the agency's enacted FY2002 budget of \$6.192 billion, a 2% increase.

Congress has passed the Homeland Security Act of 2002 (P.L. 107-296). This Act dismantles INS, splits the agency's service and enforcement functions, and transfers them to the Department of Homeland Security as separate bureaus. Prior to the homeland security debate, the Administration had already initiated a restructuring plan to split these functions within INS.⁸ In line with these plans, the Administration's FY2003 request would allocate direct funding and projected fee receipts for the following functions: \$3.977 billion to enforcement, \$1.464 billion for services, and \$883 million for support and administration. Over the agency's base budget, the FY2003 request includes \$976 million in budget increases: \$781 million for enforcement, \$50 million for services, and \$144 million for support and administration. The increase for enforcement includes \$362 million for the continued development of entry/exit control and, for the northern border, \$76 million for 570 additional border patrol agents, and \$34 million for 460 additional immigration inspectors. The \$50 million for services is requested to reduce the average processing time for all immigration-related applications to 6 months. The increase for shared services included \$83 million for electronic information management upgrades and \$40 million for restructuring, among other things.

For FY2003, the Senate bill, which did not anticipate the passage of the Homeland Security Act, provided INS with \$6.342 billion in total funding, slightly below the Administration's request. This amount included \$4.031 in direct funding and \$2,311 billion in anticipated fee receipts. Senate report language did not include budget breakouts for immigration enforcement, services, and administration. The Senate bill provided the same amounts as requested by the Administration for entry/exit control, additional border patrol agents, a transfer of agents from the southern to the northern border, and additional land border inspectors. To address high attrition rates in the ranks of the Border Patrol and Inspections, the Senate bill also provided \$37 million to increase the Border Patrol and Inspections journey level from GS-9 to GS-11. In addition, the bill sets user fee receipts at \$51 million to hire

⁸ For additional information, see CRS Report RL31388, *Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress*, by Lisa Seghetti.

700 additional air and sea port inspectors, and \$265 million in direct funding for construction of INS facilities on the border. As requested by the Administration, the Senate bill provided \$50 million in examination fee receipts to reduce application processing times down to a national average of 6 months.

The *Federal Prison System* maintains 106 penal institutions nationwide, and contracts with state, local, and private concerns for additional detention space. The Administration projected that this system will house an average daily population of 143,197 sentenced offenders in federal institutions, and another 28,043 in contract facilities, in FY2003. For FY2003, the Senate bill provided the Federal Prison System with \$4.587 billion, a slight decrease as compared to the \$4.626 billion provided for FY2002, but \$106 million more than the Administration's request of \$4.480 billion. Under the salaries and expenses account, the Administration's FY2003 request included the following increases over base: (1) \$67 million for inmate care and programs and (2) \$73 million for inmate security and administration. Under the buildings and facilities account, the FY2003 request included \$205 million for new construction (a net increase of 2,095 beds): one secure facility for females, one medium security federal correctional institution, and expansion of three other facilities.

The *Office of Justice Programs (OJP)* manages and coordinates the National Institute of Justice, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, Office of Victims of Crimes, Bureau of Justice Assistance, and several grant programs. The Senate bill provided OJP with \$5.943 billion, or 20% more than the \$4.944 billion provided for FY2002. The Administration's request included \$3.117 billion, or 37% less than the FY2002 amount. The Senate amount included funding for the Byrne grant programs and for the Office of Domestic Preparedness. By comparison, the Administration proposed transferring \$1.2 billion in funding from OJP to the Federal Emergency Management Agency (FEMA) to fund and consolidate domestic preparedness programs by eliminating about \$1.8 billion in state and local assistance grant programs.

The *Justice Assistance* account funds the operations of OJP bureaus and offices. Besides funding OJP management and administration, this account funds research, evaluation, and demonstration programs; technology centers; criminal justice statistical programs; and other cooperative efforts that address missing children, regional drug intelligence, and white collar crime. For this account, the Senate bill provided \$2.242 billion for FY2003. This amount was \$2.028 billion more than the Administration's request. Unlike the Administration's request, the Senate bill did not assume that the Office of Domestic Preparedness (ODP) would be transferred from OJP to FEMA, as part of a wider initiative to streamline and centralize all federal terrorism-related activities. ODP provides assistance to state and local emergency responders (firefighters, emergency medical technicians, law enforcement, and other public officials charged with emergency management). For FY2003, the Senate bill would provide ODP with \$2.038 billion. Senate report language maintained that there are "fundamental differences between the national security/law enforcement response to terrorism and the emergency management response to terrorism." The Homeland Security Act of 2002 (P.L. 107-296), however, transfers ODP to the Department of Homeland Security's Directorate of

Border and Transportation Security, and the Department of Justice has frozen all domestic preparedness grants in anticipation of this transfer.⁹

OJP administers a number of grant programs to assist state and local governments with law enforcement and other justice-related issues. As part of the FY2003 request, these programs include (1) State and Local Law Enforcement Assistance, (2) Weed and Seed crime prevention efforts, (3) Community Oriented Policing Services, (4) Juvenile Justice Formula Grants, (5) a proposed Election Process Improvement Program, and (6) Public Safety Officers Benefits.

Under *State and Local Law Enforcement Assistance*, the Senate bill provided \$1.828 billion for these programs for FY2003, or 31% less than the \$2.654 billion appropriated for FY2002. The Administration's request included \$752 million, or 72% less than the FY2002 amount. The request included no funding for the Byrne Grants (\$846 million in FY2002), the Local Law Enforcement Block Grants (\$400 million in FY2002), Indian Country Tribal Prison Construction (\$35 million in FY2002), and the State Criminal Alien Assistance Program (\$565 million in FY2002). For state and local law enforcement, the FY2003 request was \$751 million, as compared to an enacted funding level of \$2.654 billion in FY2002, a 72% decrease. The FY2003 request included \$719 million for 4 of the largest remaining programs: Violence Against Women Act grants (\$375 million), Juvenile Incentive Block grants (\$215 million), Residential Substance Abuse (\$77 million), and Drug Courts (\$52 million). The Senate bill, in addition to funding these programs at nearly the same amounts as requested by the Administration, continued the Byrne and Local Law Enforcement Block Grants at the same levels as last year. However, the Senate bill did not include funding for either the Indian Country Tribal Prison Construction or the State Criminal Alien Assistance programs.

The *Weed and Seed* program was designed to "weed out" crime in selected neighborhoods, and "seed" them with coordinated crime prevention and human service programs. For FY2003, the Senate bill set funding at the same amount as requested by the Administration for Weed and Seed at \$59 million, the same amount as appropriated for FY2002.

To enhance public safety, the *Community Oriented Policing Services (COPS)* provides grants to state, local, and Indian Tribal governments to expand community policing and cooperation between law enforcement agencies and the members of the community. The authority for the COPS grant programs lapsed at the end of FY2000. For the last two years, however, Congress continued to appropriate funding for these programs.¹⁰ For COPS, the Senate bill provided \$1.063 billion for FY2003, slightly more than the \$1,050 billion provided for FY2002. By comparison, the Administration's request included \$1.381 for these programs. The Administration had proposed that a Justice Assistance Grant program be establish in place of the Byrne Grants programs (described below), which were too often earmarked by

⁹ For further information on the current status of the Office of Domestic Preparedness, click on [http://www.ojp.usdoj.gov/fy03ojpfunding_aagletter.htm].

¹⁰ For further information, see CRS Report 97-196, *The Community Oriented Policing Services (COPS) Program: An Overview*, by David Teasley and JoAnne O'Bryant.

Congress according to the Administration. The Senate bill provided no funding for the proposed Justice Assistance Grant program.

Under the *Juvenile Justice Formula Grants program*, OJP provides funding to improve juvenile justice and corrections. Under this program, the Administration's FY2003 budget proposes funding Project ChildSafe (\$75 million), to advance the goal of ensuring that child safety locks are available for every handgun in the United States. The overall FY2003 request for juvenile justice grants included \$258 million, 16% less than the \$306 million provided for FY2002. For FY2003, the Senate bill provided \$298 million for the Juvenile Justice Formula Grants Program, nearly 3% less than the FY2002 program budget.

The FY2003 request included \$400 million to establish a new *Election Process Improvement Grant program*. Based on recommendations made by the National Commission on Federal Electoral Reform, this program would provide state and local governments with annual grants to fund improvements in voting administration, machines, registration, education, and poll worker training. In addition, the FY2003 request included \$53 million for *Public Safety Officer Benefits (PSOB)* as compared to \$38 million appropriated for FY2002, a 39% increase. The PSOB program provides death benefits to survivors of public safety officers who die in the line of duty, and disability benefits to those officers injured and disabled in the line of duty. Benefits provided by this program were increased by the USA Patriot Act of 2001 (P.L. 107-56). The Senate bill would provide the same amounts as requested by the Administration for both these programs.

The *Government Performance and Results Act (GPRA)* required the Department of Justice, along with other federal agencies, to prepare a 5-year strategic plan, including a mission statement, long-range goals, and program assessment measures. In September 2000, the Department submitted its Strategic Plan for 2000-2005 to Congress. Building upon the strategic plan, the Department's FY2003 performance plan includes eight goals:

- protect the United States from the threat of terrorism;
- enforce federal criminal laws;
- prevent and reduce crime and violence by assisting state, tribal, local, and community-based programs;
- defend and protect the rights and interests of the American people by providing legal representation and enforcement of federal laws;
- administer immigration and naturalization laws fairly and effectively;
- protect American society by providing for the safe, secure, and humane confinement of persons in federal custody;
- protect the federal judiciary and support the federal justice system; and
- ensure professionalism, excellence, accountability, and integrity in the management and conduct of the Department of Justice.¹¹

¹¹ US. Department of Justice, Office of the Attorney General, *Fiscal Year 2001 Performance* (continued...)

Detailed performance plans for individual activities, agency, and program accounts were included in the departmental budget submission to Congress as well.

Related Legislation

P.L. 107-173 (H.R. 3525)

Enhanced Border Security and Visa Entry Reform Act of 2001. Includes multiple provisions to increase immigration enforcement and border security. Amended and passed in the House on December 19, 2001. Amended and passed in the Senate on April 18, 2002. The House passed the Senate-passed version of the bill on May 8, 2002, and the bill was cleared for the White House. Signed into law (P.L. 107-173) on May 14, 2002.

P.L. 107-273 (H.R. 2215, S. 1319)

21st Century Department of Justice Appropriations Authorization Act. Authorizes appropriations for the Department of Justice, among other things. Amended and ordered reported by the Committee on the Judiciary on June 20, 2001. Passed the House on July 23, 2001. Amended in the Senate with the text of S. 1319 and passed on December 20, 2001. Conference agreement reported on September 25, 2002. House passed the conference agreement on September 25, and the Senate on October 3, 2001. Signed into law (P.L. 107-273) on November 2, 2002.

P.L. 107-296 (H.R. 5005)

Homeland Security Act of 2002. Establishes a cabinet level Department of Homeland Security. H.R. 5005 was amended and reported (H.Rept. 107- 609) by the Select Committee on Homeland Security on July 19, 2002, which was amended and passed by the House on July 26, 2002. A similar measure (H.R. 5710) on November 12, 2002. Amended and passed in Senate on November 19, 2002. Signed into law (P.L. 107-296) on November 25, 2002.

S. 924 (Biden)

Protection Act of 2002. Reauthorizes the Community Oriented Policing Services (COPS) programs, among other things. Amended and reported without a written report by the Committee on the Judiciary on April 11, 2002.

S. 1974 (Leahy)

Federal Bureau of Investigation Reform Act of 2002. Includes provisions to reform and improve oversight of the FBI. Ordered reported by the Committee on the Judiciary on April 25, 2002. Report filed on May 10, 2002 (S.Rept. 107-148).

¹¹ (...continued)

Report & Fiscal Year 2002 Revised Final Performance Plan, Fiscal Year 2003 Performance Plan, (Washington, 2002),
[<http://www.usdoj.gov/ag/annualreports/pr2001/TableofContents.htm>].

Additional Reading

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

CRS Issue Brief IB10095. *Crime Control: The Federal Response*, by JoAnne O’Bryant and Lisa Seghetti.

CRS Report RL31549. *Department of Homeland Security: Consolidation of Border and Transportation Security Agencies*, coordinated by William J. Krouse.

CRS Report RL31388. *Homeland Security Proposals: Issues Regarding Transfer of Immigration Agencies and Functions*, by Lisa M. Seghetti and Ruth Ellen Wasem.

CRS Issue Brief IB10103: *Immigration Legislation and Issues in the 107th Congress*, by Andorra Bruno, Coordinator.

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

CRS Report RS20944. *Statutory Inspector General for the FBI: Overview and Issues*, by Frederick M. Kaiser and Diane T. Duffy.

Department of Commerce

Background

Title II typically includes the appropriations for the Department of Commerce and related agencies. The origins of the Department date back to 1903 with the establishment of the Department of Commerce and Labor (32 Stat. 825). The separate Department of Commerce was established on March 4, 1913 (37 Stat. 7365; 15 U.S.C. 1501).

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 (to be renamed the Bureau of Industry and Security).
- *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 FY2002 was \$5.43 billion, which was about \$341 million above the President's request. The enacted amount was also about \$322 million above the House-passed bill and about \$166 million below the Senate-passed bill. (For more information on funding of individual agencies, see the Appendix.)

FY2003 Funding Issues

In his FY2003 budget request to Congress, the President requested \$5.64 billion in total funding for Title II, which includes the Department of Commerce and related agencies. This amount was approximately \$180 million (3.1%) less than the \$5.82 billion Congress appropriated in FY2002. The Senate Appropriations Committee recommended \$5.96 billion, roughly \$320 million above the Administration request.

For the Department of Commerce alone, the President requested \$5.55 billion, which was about \$190 million (3.3%) below the FY2002 appropriation of \$5.74 billion. The Senate Appropriations Committee recommended \$5.88, roughly \$330 million above the Administration request.

The President's budget request called for \$70.9 million for *Departmental Management*. This figure was almost \$8.3 million (14.3%) more than the \$62.6 million appropriated for FY2002. Of this amount, \$48.2 million would go toward salaries and expenses, and \$22.7 million to the Inspector General's office. The Senate Appropriations Committee recommended \$62.1 for departmental management, roughly \$8.8 million below the President's request. The Senate bill allocated \$41.5 million to salaries and expenses, and \$20.6 million to the Inspector General's office.

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 \$73.2 million for these programs, which was about \$10.7 million (17.1%) above the \$62.5 million appropriated in FY2002. The Administration believes that the BEA's timely and accurate statistical reports are essential for providing reliable data to policymakers, industry leaders, and consumers. The Senate Appropriations Committee recommended \$63.8 million, roughly \$10 million below the Administration request.

For the *Bureau of the Census*, the President requested a total of \$705.3 million for FY2003, an amount \$214.5 million higher than the \$490.8 million appropriated for FY2002. The Senate Appropriations Committee recommended \$496.8 million, \$208.5 million less than the request.

The President's request for the *International Trade Administration* was \$377.2 million, a \$31.7 million increase over the FY2002 levels (\$345.5 million, including the FY2002 supplemental). The Senate Appropriation Committee recommended \$353.2 million. ITA is divided into four policy units.

- The administration requested \$58.3 million for the **Trade Development Unit**. In FY2002, Congress appropriated \$67.7

million, including several textile related initiatives not incorporated into the President's FY2002 request of \$52.3 million. Although these initiatives are not funded in the President's FY2003 request, the Senate Appropriations Committee sought to restore approximately \$13 million for the National Textile Center and the Textile/Clothing Technology Corporation. The Senate Committee's recommendation for Trade and Development was \$68.1 million.

- The administration requested \$37.2 million for the **Market Access and Compliance Unit (MAC)**. This request included approximately \$5 million for increased compliance monitoring and enforcement, and support for World Trade Organization and Free Trade of the Americas negotiations. The Senate Appropriations Committee provided \$28.2 million, recommending that \$23.5 million of these funds be used for compliance efforts and \$1.5 million for field officers to monitor compliance in China, Japan, the EU and other markets. Congress appropriated 27.7 million for MAC in FY2002.
- In the President's FY2003 budget, the **Import Administration (IA)** unit received a \$7.6 million increase to \$53.6 million in FY2003—up from \$46 million in 2002, including an additional \$5.9 million request for anti-dumping and countervailing duty enforcement. The Senate Appropriations Committee recommended \$44 million, and specified \$1.5 million of this amount for overseas anti-dumping and countervailing subsidy monitoring and compliance efforts; \$3.5 for the agency to monitor import surges in key sectors and to take expedited action to respond to such surges; and \$2.5 to review and evaluate the compliance of China and Japan with regard to their existing World Trade Organization (WTO) commitments on anti-dumping and countervailing subsidies.
- The administration requested \$201.8 million for the **U.S. and Foreign Commercial Service (USFCS)**, an increase of \$6 million from the \$195.8 million appropriated in FY2002. In part, this increase was designed to fund trade compliance-related training for U.S. Export Assistance Center employees and seminars for U.S. exporters. The Senate Appropriations Committee recommended \$199.6 million for USFCS. The agency has been reviewing its fee based programs with an intent to recoup more of its costs through fees. ITA's FY2003 budget justification cautioned that increased funding for several programs were dependent on receiving at least \$10 million in additional fee collections.

The President's FY2003 request for the **Bureau of Industry and Security (BIS)** (formerly the **Bureau of Export Administration**) was \$103.3 million, a \$34.4 million increase from the level Congress enacted in 2002 (\$68.9 million). This figure represents a \$14.4 million increase for BXA's principal activities including administering and enforcing the Export Administration Regulations, ensuring U.S. compliance with multilateral proliferation control regimes, and managing the Critical

Infrastructure Assurance Office (CIAO). An additional \$20 million was requested to fund the Homeland Security Information and Technology Evaluation Program within CIAO to coordinate information technology policy with the Office of Homeland Security and OMB and better utilize federal information systems for homeland security purposes.

The Senate Appropriations Committee recommended \$98.5 million, a \$4.8 million reduction from the President's FY2003 request. While the Committee recommended fully funding the CIAO, it did not fund the Technology Evaluation Project. Rather, it directed the CIAO to adopt a public-private partnership to address terrorist threats to the private sector infrastructure deemed critical to the national security. It also recommended that the CIAO spend \$6.3 on critical outreach to state and local governments; \$6.2 million to improve the agency's information technology security program; \$33.6 million for licensing; and \$29.3 million to divert exports of items that could contribute to proliferation programs of China, Russia, or India, and to terrorist capabilities of certain rogue states. The Senate Committee language referred to these activities as "export administration," and stated that "none of the funds made available in this Act or any other Act may be used to fund a Bureau of Industry and Security" (S. 2778, sec. 210).

The *Economic Development Administration (EDA)* has experienced an unsettled appropriations history over the past several Congresses.¹² The agency's funding level was sharply reduced by the 104th Congress, then partially restored by the 105th. In the first session of the 106th Congress, appropriators resolved EDA program funding at the last possible moment. During the second session, 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.

For FY2002, the Administration had requested a substantial reduction in EDA's overall funding. While the request included a small increase for Salaries and Expenses (S&E), it called for significant reductions in the agency's Economic Development Assistance Programs (EDAP). 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 recommended slightly more — \$371.6 million. The conference agreement included \$30.6 million for S&E and \$335 million for EDAP, for a total FY2002 appropriation of \$365.6 million.

For FY2003, the Administration requested a total appropriation of \$348 million for EDA. More specifically, it requested \$317.2 million for EDAP, representing a net \$17.8 million decrease from FY2002. Program decreases were requested for: Public Works, \$17.9 million; Planning, \$1.7 million, and Technical Assistance, \$.665 million. Additional funding in the amount of \$2.5 million was requested for the

¹² For background, see CRS Issue Brief IB95100, *Economic Development Administration: Overview and Issues*, by Bruce K. Mulock.

Trade Adjustment Assistance Program (TAA). The request of \$30.8 million for S&E was similar to the FY2002 level. The Senate bill reported out of committee recommended \$366.2 million—\$335 million for EDAP and \$31.2 million for S&E in FY2003.

For the *Minority Business Development Agency* (MBDA), the Bush Administration request was \$28.9 million for FY2003, about \$.5 million (1.7%) above the \$28.4 million appropriated in FY2002. The Senate Appropriations Committee recommended \$28.6 million, roughly \$200,000 above the FY2002 appropriation and \$300,000 below the Administration request.

The *U.S. Patent and Trademark Office (USPTO)* is funded by user fees collected from customers. For FY2002, P.L. 107-77 provided the USPTO with the budget authority to spend \$1,126 million. The funding includes \$843.7 million in FY2002 fee collections as well as \$282.3 million in carryover fees generated in prior years.

The Administration's FY2003 budget would have provided the USPTO with the authority to spend \$1,364.9 million of which \$1,264.9 million would be from offsetting fee collections generated in FY2003 (from the expected \$1,527 million) and \$100 million would be from fees paid in the previous fiscal year. An additional \$207 million was expected to be raised for use by the Office as the result of "...a one-year surcharge of 19.3 percent to be applied to patent statutory fees and a surcharge of 10.3 percent to be applied to certain trademark fees to cover necessary costs to fund the USPTO's long-term pendency and quality initiatives, pay the full Government share of the accruing cost of retirement for current CSRS employees and post-retirement health benefits for current civilian employees, and support initiatives such as e-Government."

S. 2778, as reported from the Senate Committee on Appropriations, offered \$1,146.6 million for the USPTO of which \$863.3 million would be derived from fees collected in FY2003 and \$282.3 million would be from fees generated in previous years. The budget authority afforded the USPTO under this bill was 19% less than that requested by the Administration.

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.¹³

For FY2003, President Bush requested a total of \$3.21 billion in appropriations for the *National Oceanic and Atmospheric Administration (NOAA)*. Of this

¹³ For more information see CRS Report RS20906, *U.S. Patent and Trademark Office Appropriations Process: A Brief Explanation*, by Wendy H. Schacht.

amount, \$2.28 billion was requested for NOAA's Operations, Research and Facilities (ORF) account; \$811.4 million for the Procurement, Acquisitions, and Construction (PAC) account; and \$114.1 million for NOAA's Other Accounts. Additional budget authority of \$75 million would be transferred from the Promote and Develop Fishery Products and Research Pertaining to American Fisheries (PDAF) account, and \$3 million in collected fees would be transferred to ORF from the Coastal Zone Management Fund (CZMF). Total Budget Authority requested for NOAA for FY2003 would be \$3.33 billion. NOAA's Office of Financial Administration (OFA) reported that \$574.8 million was requested for research and development (R&D) spending for FY2003.

The FY2003 request was 5.65% greater than the President's FY2002 request, and 1.35% less than FY2002 appropriations of \$3.38 billion. Of the total ORF funding requested, \$385.3 million was for the National Ocean Service (NOS); \$603.5 million for the National Marine Fisheries Service (NMFS); \$296.9 million for Oceanic and Atmospheric Research (OAR); \$725.3 million for the National Weather Service (NWS); \$151.9 million for the National Environmental Satellite Data and Information Service (NESDIS); and \$213.2 million for Program Support. Program Support was subsequently divided as follows: \$79.8 million for Corporate Services (NOAA Administration), \$108 million for the Office of Marine and Aviation Operation (OMAO), and \$24.6 million for NOAA Facilities (FAC). NOAA's Other Accounts include Pacific Coastal Salmon Funding (PCSF) for which \$110 million was requested; \$3 million from the CZMF, which is transferred to NOS; and \$1.1 million for other fishery-related funds.

Highlights of the FY2003 President's request included significant changes to base funding for all NOAA programs for Civil Service Retirement System expenses (CSRS). These new obligations totaled \$92.2 million in discretionary funding, expenses which were originally funded by the federal Office of Personnel Management (OPM). The OMAO request included \$815,000 for new hires for NOAA's uniformed CORPS, and \$36.7 million for the CORPS Officer's retirement fund (mandatory). Another significant change to base funding for OAR was a reduction of \$62.4 million for the Ocean and Great Lakes Research Programs, which was premised on the President's proposal to transfer the National Sea Grant College Program to the National Science Foundation (NSF). This transfer was supported by the NOAA Administrator, who is also Undersecretary of Commerce for Oceans and Atmosphere. In addition, the President requested a total of \$348.5 million for coastal conservation spending for FY2003, authorized under the Coastal and Estuarine Lands Conservation Program (CELCP) in Title VIII of Department of Interior Appropriations for FY2001 (P.L. 106-552). That funding was proposed to be divided as follows: NOS-\$184.5 million, NMFS-\$52.8 million, OAR and NESDIS-\$1.2 million, and PCSF-\$110.0 million.

In the Defense Appropriations Act for FY2002 (P.L. 107-117), NOAA received additional funding of \$2.75 million for NESDIS for satellite control operations security, and \$0.75 million for oversight and enforcement of the licensing program for satellite data and imagery. Funding was also restored under that same Act for DOD/USAF, a partner of NOAA in NPOESS, a program to consolidate all federal polar orbiting environmental observation satellites systems under one program. This funding raised total appropriations for NPOESS to levels requested for FY2002;

similar levels were requested for FY2003. The President's request for Homeland Security activities at NOAA for FY2003 was \$24.6 million. New for FY2003, \$8.7 million was requested for an "Energy Initiative" under OAR which would both manage the agency's research facilities energy use and assist the entire nation with weather advice to help conserve energy nation-wide. The President also proposed legislation to establish a Business Management Fund to manage NOAA's operating costs. For information on NOAA funding for FY2002, see CRS Report RL31117, *National Oceanic and Atmospheric Administration: a Review of the FY2002 Budget Request and Appropriations*.

The FY2003 CJS appropriations bill, reported by the Senate Committee on Appropriations (S. 2778, S.Rept. 107-218) on July 24, 2002, provided total appropriations of \$3.350 billion for NOAA, which was \$216.7 million, or about 4.4%, more than the President's request of \$3.210 billion for FY2002, and almost 7.0% more than the FY2002 funding level of \$3.133 billion. The Senate Committee set FY2003 ORF funding levels at \$2.337 billion, including \$78.2 million in transfers from Other Accounts, and ORF funding divided as follows: \$403.5 million for NOS; \$587.9 million for NMFS; \$395.7 million for OAR; \$682.0 million for NWS; \$133.8 million for NESDIS; and \$202.9 million for Program Support, including \$89.5 million for Corporate Services, \$95.9 million for the Office of Marine Aviation Operations, and \$17.5 million for FAC. Total PAC appropriations approved for FY2003 would be \$903.4 million, and include \$102.4 million for NOS, \$24.0 million for NMFS, \$17.1 million for OAR, \$66.8 million for NWS, \$608.6 million for NESDIS, and \$84.5 million total for Program Support. Further, the Committee approved \$110.1 million for NOAA's Other Accounts, including \$95 million for the Pacific Coastal Salmon Recovery Fund, an increase of \$5.0 million above the President's FY2003 request; \$20 million for Pacific Salmon Treaty obligations; and \$1.4 million for various fishery accounts. Further, the bill transferred \$3.0 million to ORF from CZMF; and reduced \$3.0 million from fisheries financing.

S. 2778 required the National Sea Grant College Program to remain in NOAA and funded it at \$63.4 million for FY2003. In addition, the bill provided \$20.0 million for exploration of the world's oceans, \$6.0 million more than FY2002 levels; created a new initiative, "Ocean Health," which it funded at \$10 million; provided \$1 million to establish a NEPA office in NMFS, and encouraged NOAA to improve its fisheries management capabilities; provided \$4.0 million for NOAA responsibilities under the National Invasive Species Act; and encouraged NOAA to develop plans for a national system of ocean observation platforms, including a relocatable underwater laboratory/habitat. The Committee further approved \$2.0 million for Arctic Research; provided \$14 million for minority colleges and universities to train future scientists; provided \$3.5 million for fisheries and shellfish restoration in the Chesapeake Bay; and established a Business Management Fund in NOAA. Conservation spending approved for FY2003 was \$480 million, with \$264.5 million of that intended for ORF; \$100.5 million for PAC, and \$115 million for PCSF.

The Committee did not approve \$18 million requested for NOAA's part in the President's Climate Change Research Initiative (CCRI), but instead noted its support for climate research activities under the U.S. Global Change Research Program. The

report did not address the proposed NOAA “Energy Initiative,” but provided a \$23.2 million increase for homeland security programs, and included funding for a NWS weather and climate supercomputing backup, and backup for other programs in NESDIS recommended under the President’s Critical Infrastructure Protection Initiative. Further, the report addressed the President’s proposal to transfer financial responsibilities for CSRS and retiree health benefits for all civilian employees to federal agencies. The Senate Appropriations Committee noted that because the Senate Government Affairs Committee—which has authorizing jurisdiction over such matters—had not considered the proposal, funding tables in S.Rept. 107-218 excluded amounts proposed for funding those benefits.

On July 19, 2002, Conferees reported out H.R. 4775, the *Homeland Security Emergency Supplemental Appropriations Act for FY2002* (H.Rept. 107-593). Appropriations for NOAA under this Act totaled \$33.5 million, including \$4.8 million in ORF funding for homeland security expenses incurred by the agency in FY2002. Of this amount, \$2.0 million was for NOS to address critical mapping and charting backlog requirements, and \$2.8 million was for NESDIS to develop backup capability for NOAA’s critical satellite products and services. \$2.5 million was provided for a coral reef mapping program and some \$25.1 million was slated for various fishery programs. In addition, \$7.2 million was for a NWS supercomputer backup, which would be funded under NOAA’s PAC account. Under the original Senate bill (S. 2551), an \$8.1 million rescission was proposed from funding provided for NPOESS in FY2002; however, H.R. 4775 (amended) rescinds \$8.1 million from funding provided by Section 817 of P.L. 106-78 (Norton Sound Fisheries agriculture transfer), instead. The President signed H.R. 4775 into law as P.L. 107-206 on August 2, 2002.

The *National Institute of Standards and Technology (NIST)* was funded at \$680.8 million in FY2002 by P.L. 107-77, an increase of 13% over FY2001. Included in this was \$321.1 million for in-house R&D financed under the Scientific and Technical Research and Services (STRS) account (3% above the previous fiscal year) and \$291 million for Industrial Technology Services (ITS). Of this latter amount, the Manufacturing Extension Partnership (MEP) was financed at \$106.5 million and the Advanced Technology Program (ATP) received \$184.5 million, a 27% increase. Construction was funded at \$62.4 million, almost twice that of FY2001. It should also be noted that the FY2002 Defense Appropriations Act added \$5 million into the STRS account for cybersecurity activities.

For FY2003, the Administration requested \$577.5 million for NIST, 15% below the previous appropriation due primarily to a decrease in support for ATP and MEP. The Administration sought \$402.2 million (an increase of 23%) for the STRS account (that supports in-house R&D). The request for the Advanced Technology Program was \$107.9 million (35% below FY2002) and the Manufacturing Extension Partnership funding level was requested at \$12.9 million. The 89% decline in support for MEP was due to the President’s recommendation that centers operating

for more than 6 years do so without federal financing.¹⁴ The funding request for construction activities was at \$54.5 million.¹⁵

S. 2778, as reported out of the Senate Committee on Appropriations, funded NIST at \$692.2 million. Of this amount, \$336.4 million was for the STRS account (3% more than the previous year), \$185.4 million was to support ATP and \$106.6 million was to finance MEP. Funding for ATP and MEP remained virtually the same as in FY2002. The Senate Committee set the FY2003 construction budget at \$63.8 million.

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, 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. In the FY2003 budget proposal, the Bush Administration included funding for ATP, although at a reduced level; the Senate Appropriations Committee bill supported the program at close to current levels.

The *Office of the Undersecretary for Technology and the Office of Technology Policy (OTP)* was funded at \$8.2 million in FY2002, a small increase over the previous fiscal year. The Bush Administration’s FY2003 budget called for funding OTP at \$8.1 million. S. 2778, as reported from the Senate Committee on Appropriations, supported OTP at \$7.9 million, a 4% decrease from FY2002.

For FY2003, the Bush Administration proposed that the *National Telecommunications and Information Administration (NTIA)* receive \$61.4 million, down from \$74 million appropriated for FY2002. Most of this reduction was to be achieved by the Bush Administration’s request to eliminate funding for NTIA’s Technology Opportunities Program (TOP) grants, which for FY2002 was funded at \$17 million. While critics of the TOP grants contend that the program has achieved its objectives of funding pilot programs in areas that do not have easy or direct access to the Internet or high-speed telecommunications, supporters maintain that the program is very important to closing the “digital divide.” Also, the Bush

¹⁴ For additional information see CRS Report 97-104, *Manufacturing Extension Partnership Program: An Overview*, by Wendy H. Schacht.

¹⁵ For more information see CRS Report 95-30, *The National Institute of Standards and Technology: An Overview*, by Wendy H. Schacht.

Administration proposed that the NTIA receive an additional \$3.3 million in new funding to improve spectrum management and telecommunications research for FY2003. NTIA also funds the public telecommunications facilities, planning, and construction program which in recent years has supported conversion of public broadcast transmission to digital. For FY2003, the Bush Administration called for \$44 million for this NTIA program, the same level as in FY2001 and down from \$51 million appropriated for FY2002. The Bush Administration cited funding in the Corporation for Public Broadcasting budget, the Rural Utilities Service, as well as in other parts of the Department of Commerce budget, to support this conversion.

The Senate Appropriations Committee bill provided \$81.69 million for the NTIA, a 35% increase over the budget request. The recommendation included \$14.35 million for salaries and expenses, \$15.56 million for TOP grants and \$51.78 million for public telecommunications facilities, planning and construction.

The *Government Performance and Results Act (GPRA)* enacted by Congress 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 latest Strategic Plan issued by the Department of Commerce for years FY2000-FY2005 listed three strategic goals:

- Strategic Goal 1. 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, the Department's FY2001 Annual Program Performance Report and FY2003 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/>].

Title II. Department of Commerce and Related Agencies

(millions of dollars)

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Departmental Management	55.8	62.6	70.9		62.1
Bureau of the Census	432.7	490.8	705.3		496.8
Economic and Statistical Analysis	53.6	62.5	73.2		63.8
International Trade Administration	333.7	344.5	363.7		350.2

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Bureau of Export Administration	64.7	70.6	100.2		98.5
Minority Business Development Agency	27.2	28.4	28.9		28.6
National Oceanic and Atmospheric Administration	3,040.8	3,258.8	3,130.6		3,345.9
Patent and Trademark Office ^a	(1,037.0)	(1,127.5)	(1,304.4)		(1,146)
Technology Administration	8.1	8.2	7.9		7.9
National Institute of Standards and Technology	597.0	680.8	563.1		692.5
National Telecommunications and Information Administration	100.2	81.3	60.3		81.7
Economic Development Administration	438.9	365.6	348.0		366.2
<i>Subtotal: Commerce Department</i>	<i>5,152.8</i>	<i>5,739.0</i>	<i>5,552.2</i>		<i>5,876.7</i>
Office of the U.S. Trade Representative	29.5	30.1	32.3		30.8
International Trade Commission	48.0	51.4	54.0		54.9
<i>Subtotal: Related Agencies</i>	<i>77.4</i>	<i>81.5</i>	<i>86.3</i>		<i>85.7</i>
Total: Dept. of Commerce and Related Agencies	5,230.2	5,820.5	5,638.5		5,962.1

^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. The prior-year carryover funds count against the FY2003 total appropriation for the Dept. of Commerce. The Administration requested \$100 million in prior-year carryover funds for FY2003. The Senate Appropriations Committee recommends \$282.3 million in prior-year carryover funds.

Related Legislation

S. 149 (Enzi et al.); H.R. 2581 (Gilman)

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; passed the Senate on Sept. 6, 2001; H.R. 2581 introduced, July 20, 2001; reported by the House International Relations Committee with amendments, August 1, 2001; reported by the House Armed Services Committee with amendments, March 6, 2002.

H.R. 1158 (Thornberry)

National Homeland Security Agency Act. Bill establishes a National Homeland Security Agency. It requires several departments, including Commerce, to transfer specified programs and authorities to the new agency. Commerce would transfer the Critical Infrastructure Assurance Office and the Institute of Information Infrastructure Protection.

H.R. 4687 (Boehlert)

National Construction Safety Team Act. Bill provides for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential loss of life.

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 FY2002 was \$4.71 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.¹⁶ 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. For FY2002, the total appropriations enacted for the Supreme Court's two accounts, \$107.5 million, were less than 2.3% of the Judiciary's overall appropriation of \$4.71 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. 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.)

¹⁶ 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.

FY2003 Funding Issues

Overview of the Judiciary's Budget Request for FY2003. For FY2003, the Senate Appropriations Committee recommended \$4.97 billion in total budget appropriations for the Judiciary, a 5.4% increase over \$4.71 billion enacted for FY2002. The Judiciary had requested \$5.24 billion, an 11.4% increase.¹⁷ Almost 80% of the requested increase, \$418.0 million, was to be in the Judiciary's largest account, Salaries and Expenses for the Courts of Appeals, District Courts and Other Judicial Services. The Senate Appropriations Committee approved \$3.81 billion for this account, a 6.1% increase over total FY2002 funding of 3.59 billion. The Judiciary had requested \$4.01 billion, an 11.7% increase, including \$102.7 million for 1,297 additional full-time equivalent (FTE) court support staff. According to the Judiciary, 647 of the new FTEs would be required to bring the courts up to staff and operating levels required for FY2002.¹⁸

In keeping with the Judiciary's request, the Senate Appropriations Committee recommended increases for all of the other Judiciary accounts, except for two—the Supreme Court's Building and Grounds account and Judicial Retirement Funds.¹⁹ The Senate committee also agreed to the Judiciary's request for a cost-of-living salary adjustment for federal judges and justices. That request, as well as those for the Supreme Court, and for two of the Judiciary's other larger accounts, Court Security and Defender Services, are discussed in the following paragraphs.

Supreme Court. The budget request of the Supreme Court for FY2003, as customary, is in two parts. For its first account, Salaries and Expenses, the Senate Appropriations Committee recommended \$44.4 million, a 10.9% increase over budget authority of \$40.0 million for FY2002. (The Court had requested \$46.3 million—15.8% over FY2002 budget authority. Most of the requested increase, \$4.0 million, the Court said, was to fund adjustments to base and maintain current services. The rest of the increase, \$2.3 million, was for program increases, including \$1.6 million for automation enhancements.)

¹⁷ In testimony before the House and Senate CJS Appropriations subcommittees, Judiciary officials stated that three quarters of the requested increase—\$375 million—was needed to continue current operations in the federal courts, such as pay and benefit adjustments, inflationary adjustments, increases in GSA space rental costs, an increase in filled Article III judgeships, as well as the enhanced security measures taken since the September 11, 2001 terrorist attacks and the subsequent anthrax threat. The remainder of the request—\$132 million—would address programmatic and workload-related needs, including additional bankruptcy court staff to process an all-time high number of bankruptcy filings, additional probation staff to supervise a record number of offenders released from prisons, and increased district court staff to handle projected growth in criminal filings.

¹⁸ By court program, 230 additional FTEs are for probation and pretrial services, 200 additional FTEs are for district courts, 54 additional FTEs are for circuit courts of appeals, and 163 FTEs are for bankruptcy courts.

¹⁹ The Appropriations Committee recommended the identical amount for Judicial Retirement Funds as that requested by the Judiciary, \$35.3 million, a 4.6% decrease from FY2002..

For the Court's second account, Care of the Building and Grounds, the Senate Appropriations Committee approved \$53.3 million, a 21.1% decrease from FY2002 funding of \$67.5 million, but almost exactly the same as the \$53.6 million requested by the Court for FY2003. The committee, in its report, stated that \$49.7 million was being made available to complete funding for "critical upgrades to the Supreme Court building."

In its FY2003 budget submission, the Court had specified that \$49.8 million of its \$53.6 million request would be carried forward from FY2002 and retained in the budget base on a "No Year" basis for the Supreme Court Building modernization project.²⁰ The request for a decreased appropriation for this account in FY2003 followed the FY2002 enacted appropriation of \$37.5 million and an emergency supplemental of \$30.0 million provided for security. The two separate appropriations, according to the Judiciary, allowed \$63.8 million to be made available for the Court building's modernization project in FY2002. In addition, the Court has requested a second emergency FY2002 appropriation of \$10 million for its Building and Grounds account, to pay for Court perimeter security enhancements. The \$10 million as requested is included in the supplemental appropriations bill, H.R. 4775, which was signed into law (P.L. 107-206) on August 2, 2002.

Court Security. For this account in FY2003, the Senate Appropriations Committee recommended \$290.4 million, a 4.4% increase over \$278.2 million enacted for FY2002. The Judiciary had requested \$298.2 million, a 7.2% increase, which, it explained, included \$45.6 million for the annualized, recurring costs associated with increased court security officer hours, additional deputy U.S. marshals, and enhanced screening (all of which were implemented subsequent to the September 11, 2001 terrorist attacks in New York City and Washington, D.C.) The largest requested program increase would be \$5.4 million to fund perimeter security improvements at federal court courthouses.

Besides seeking funding for Court Security in its regular annual appropriation, the Judiciary, since September 11, 2001, has obtained emergency supplemental funding. Of \$278.2 million appropriated for Court Security in FY2002, \$77.2 million came from emergency supplemental funding to enhance security at federal court facilities nationwide. Of the \$77.2 million, \$19.7 million was provided by the President through an emergency allocation on October 17, 2001, and \$57.5 million came from the supplemental signed by the President on January 10, 2002, P.L. 107-117.

Subsequently, on July 19, 2002, another emergency supplemental bill, H.R. 4775, was approved by House-Senate conferees, which included additional funding for court security measures, though not in the Judiciary's Court Security account. (Following its approval in conference, H.R. 4775 was passed by the House and

²⁰ To date, Congress has made \$72.6 million available for the Court's building modernization project, which began in FY1998, when \$225,000 was appropriated on an annual basis to provide for a study on improvements to the Court's building and systems. The Judiciary has said that a total of \$122.3 million will be required for the project. The construction phase of the project is set to begin in April 2003 and end in March 2009.

Senate on July 23 and 24, 2002, respectively, and signed into law (P.L. 107-206) on August 2, 2002.) As noted above, H.R. 4775 included \$10.0 million to address the Supreme Court building's perimeter security needs. In addition, the supplemental bill included \$7.1 million for increased costs associated with terrorist-related trials in Alexandria, VA; Boston; and New York City. (The \$7.1 million appropriation was to go to the Judiciary's Courts of Appeals, District Courts, and Other Judicial Services—Salaries and Expenses account.) Of the \$7.1 million, \$5.2 million was for perimeter security enhancements such as protective window film for courts with terrorist trials, and \$1.9 million for costs associated with the closed circuit transmission of the criminal trial of Zacarias Moussaoui to victims of the September 11, 2001 attacks.

The \$7.1 million amount appropriated in H.R. 4775 specifically for federal courts with terrorist-related trials was much less than what the Judiciary sought for its Court Security account in the supplemental legislation. Specifically, the Judiciary requested \$240 million for protective film or laminate for windows in federal courthouses throughout the country. Conferees for H.R. 4775 also declined to approve the Judiciary's request for \$857,000 for security improvements at the U.S. Court of Appeals for the Federal Circuit in Washington, D.C. The conferees said they strongly support the security needs of the Federal Circuit court and understand that the General Services Administration (GSA) was working with the court to provide for its security needs.

Defender Services. This account funds the operations of the federal public defender and community defender organizations, and the compensation, reimbursement and expenses of private practice "panel attorneys" appointed by the courts to serve as defense counsel to indigent individuals accused of federal crimes. The Senate Appropriations Committee recommended \$531.8 million for Defender Services in FY2003, a 6.2% increase over FY2002 funding.

Earlier, the Judiciary had sought \$588.8 million, a 17.6% increase. Nearly all of the requested increase, \$87.5 million, according to the Judiciary, consisted of adjustments to base to maintain current services. Specifically, of that overall amount, \$30.1 million would "annualize" in FY2003 the hourly increase in the pay rate of panel attorneys approved by Congress in the FY2002 CJS-Judiciary bill.²¹ Another \$17.1 million in requested funding would increase the hourly panel attorney rate from \$90 to \$113 effective April 1, 2003. In its FY2003 budget submission to Congress, the Judiciary termed the requested \$17.1 million increase as an adjustment to base "rate adjustment" rather than a program increase. The Judiciary explained that under the Criminal Justice Act, as revised in 1986, the Judicial Conference is authorized to make annual adjustments to the panel attorney hourly pay rate. Accordingly, funding to increase the hourly rate to \$113, the Judiciary said, would ensure that it would not be "further eroded by inflation." The Senate Appropriations

²¹ For FY2001, the pay rate for panel attorneys was \$75 in-court and \$55 out-of-court in most locations, which the Judiciary said was well below the amount the attorneys needed just to cover their overhead costs. In response, Congress 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.

Committee, however, declined to agree to this request, stating in its report that it continued to support the \$90 hourly pay rate for panel attorneys.

Cost-of-Living Increase in Judges' and Justices' Salaries. The continuing resolution passed by Congress in November 2002 (H.J.Res. 123, P.L. 107-245) — continuing funding through January 11, 2003 — was without language authorizing a January 1, 2003 cost-of-living pay adjustment for lower federal court judges and Supreme Court justices. Hence, any legislative authorization of a pay adjustment for federal judges for FY2003, if it is to occur, will have to await action by the 108th Congress.

Earlier, in July 2002, the Senate Appropriations Committee had recommended, and provided \$8 million in funding for, a 4.1% cost-of-living increase in the salaries of lower federal court judges and Supreme Court justices. Prior to the Senate committee action, the Judiciary, in its FY2003 budget submission, had requested \$7.0 million to fund a 2.6% cost-of-living increase for judges and justices, consistent with the expected 2003 salary adjustment for federal employees. The Judiciary request came on the heels of the 2001 Year-End Report on the Federal Judiciary of Chief Justice William H. Rehnquist, who maintained that more than a cost-of-living adjustment was needed in the way of a judicial salary increase. The Chief Justice cited the “relatively low pay that federal judges receive, compared to the amount that a successful, experienced practicing lawyer can make.” This, he said, along with the “often lengthy and unpleasant nature of the confirmation process,” makes it “increasingly difficult to find qualified candidates for federal judicial vacancies.”²²

The FY2002 CJS bill as enacted (P.L. 107-77) authorized a 3.4% cost-of-living pay increases for federal judges, effective January 1, 2002.²³ In his year-end report, Chief Justice Rehnquist said federal judges were grateful for the pay adjustment, but added that “a COLA only keeps judges from falling further behind the median income of the profession.” The FY2002 cost-of-living pay adjustment followed similar upward adjustments in judges' and justices' salaries which Congress approved in fiscal years 2001, 2000, 1998, and 1993. Congress, however, declined to authorize such adjustments for FY1999 or for fiscal years 1994 through 1997.

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.

²² U.S. Administrative Office of the U.S. Courts, “2001 Year-End Report on the Federal Judiciary,” *The Third Branch*, vol. 34, January 2002, p. 2.

²³ The salary adjustment 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.

Title III. Judiciary
(millions of dollars)

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Supreme Court — Salaries and Expenses	37.5	40.0	46.3		44.4
Supreme Court — Building and Grounds	7.5	67.5	53.6		53.3
U.S. Court of Appeals for the Federal Circuit	17.9	19.3	21.9		20.1
U.S. Court of International Trade	12.4	13.1	13.8		13.5
Courts of Appeals, District Courts, Other Judicial Services — Salaries and Expenses	3,352.9	3,596.1	4,014.1		3,814.2
Vaccine Injury Act Trust Fund	2.6	2.7	2.8		2.8
Defender Services	434.0	500.7	588.7		531.8
Fees of Jurors and Commissioners	59.4	48.1	57.8		54.6
Court Security	199.1	278.2	298.2		290.4
Administrative Office of the U.S. Courts	58.2	64.5	66.9		64.7
Federal Judicial Center	18.7	19.7	21.9		20.2
Retirement Funds	35.7	37.0	35.3		35.3
U.S. Sentencing Commission	9.9	11.6	13.2		11.8
General Provisions – Judges' Pay Raise	8.8	8.6	7.0		8.0
Total: Judiciary	4,254.8	4,707.2	5,241.6		4,965.2

Related Legislation

P.L. 107-273 (H.R. 2215)

21st Century Department of Justice Appropriations Authorization Act. Includes provision for eight new permanent district judgeships, seven new temporary district judgeships, and conversion of four temporary district judgeships to permanent judgeships. Introduced in House, June 19, 2001; reported by Judiciary Committee (H.Rept. 107-125), July 10, 2001; passed House on voice vote, July 23, 2001. Reported by Senate Judiciary Committee with an amendment in nature of a substitute (without written report), October 30, 2001; passed Senate with amendments by Unanimous Consent, December 20, 2001. Conference report (H.Rept. 107-685) filed, September 25, 2002; report agreed to in House, September 25, 2002, by 400-4

vote; report agreed to in Senate by Unanimous Consent, October 3, 2002. Bill signed into law by President (P.L. 107-273).

S. 147 (Feinstein)

Southwest Border Judgeship Act of 2000. 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)

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.

H.R. 4125 (Coble)

Federal Courts Improvement Act of 2002. Makes various administrative changes to federal judiciary procedures and allows for the establishment of a supplemental benefits program for officers and employees of the judicial branch. Introduced and referred to Judiciary Committee, April 10, 2002; referred to Judiciary Subcommittee on Courts, the Internet, and Intellectual Property, April 26, 2002; approved and reported to full Judiciary Committee, May 1, 2002; reported as amended by full Judiciary Committee (H.Rept. 107-700), September 30, 2002; passed House by 370-21 vote, October 1, 2002. Received in Senate, Oct. 2, 2002.

Additional Reading

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

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

U.S. Administrative Office of the United States Courts. “[Chief Justice’s] 2001 Year-End Report on the Federal Judiciary,” *The Third Branch*, vol. 34, January 2002, pp. 1-2.

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 supports 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 enacted FY2002 State Department appropriation is \$7.9 billion. Typically, more than half of State’s budget (about 71% allocated for FY2002) is for Administration of Foreign Affairs, which consists of salaries and expenses, diplomatic security, diplomatic and consular programs, technology, and security/maintenance of overseas buildings.

The Foreign Relations Authorization for FY1998-1999 (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.

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.

After the September 11, 2001 terrorist attack, Congress passed emergency supplemental funds (P.L. 107-38 and P.L. 107-117) which included a total of \$254.9 million for counter-terrorist and emergency response activities within the Department of State and \$47.9 million for international broadcasting. In addition, Congress passed an FY2002 supplemental (H.R. 4775; H.Rept. 107-593) which provided \$303 million for the Department of State and \$15.1 million for international broadcasting.

(For an account-by-account presentation, see CRS Report RL31370, *State Department and Related Agencies: FY2003 Appropriations*.)

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 (CIPA)* 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 were met. Only \$100 million of the appropriated arrearage payments had been released because the reforms had not been implemented. After the United States lost its seat on the U.N. Human Rights Commission in 2001, the Foreign Relations Authorization bill added a provision (Sec. 601, H.R. 1646) that would have restricted payment of \$244 million of U.S. arrearage payments to the U.N. until the United States regained its seat. After the September 11th attacks, however, 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).

International broadcasting, which had been a primary function of the USIA prior to 1999, is now carried out by 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, Radio Free Iran and the newly-authorized Radio Free Afghanistan. The BBG's FY2002 appropriation was \$498.2 million including funds for over 3,400 staff positions. In FY2002 the BBG began a pilot project to create a new Middle East Radio Network (MERN) by reallocating base funds. The emergency supplementals passed in 2001 and 2002 included funding for expanded broadcasting by VOA and RFE/RL to Muslim audiences in and around Afghanistan and the creation of Radio Free Afghanistan.

FY2003 Funding Issues

The Administration's FY2003 budget request for the Department of State and international broadcasting totaled \$8.1 billion, 3.5% above the FY2002 enacted level of \$7.9 billion. The request was comparable to the FY1999 enacted level which also included the \$1.56 billion emergency supplemental appropriation for overseas security and Y2K computer compliance. Secretary of State Colin Powell testified before House and Senate committees in February, March and April that the Administration's State Department budget request for FY2003 continues to have the same 3 top priorities as last year: 1) embassy construction and security; 2) information technology; and 3) hiring additional Foreign and Civil Service staff. In early summer 2002, Congress debated whether to keep the authority of overseas visa issuance within the Department of State or move it into a new Department of Homeland Security. Since some visa fees are authorized for use by the Department of State, the decision could have an impact on State's funding needs. (For more

detail the State Department budget, see CRS Report RL31370, *State Department and Related Agencies: FY2003 Appropriations*, by Susan B. Epstein.)

The Administration sent a supplemental request to Congress on March 21, 2002, seeking an additional \$51.05 million for D&CP, \$2.5 million for CIF, \$10 million for educational and cultural exchanges, \$200.516 million for ESCM and \$8 million for emergencies in diplomatic and consular service. Congress passed H.R. 4775 (H.Rept. 107-593) which provided FY2002 supplemental funding of \$47.5 million for diplomatic and consular programs; \$15 million for educational and cultural exchanges; \$210.5 million for ESCM security; \$7 million for U.S. contributions to international organizations; \$23 million for U.S. contributions to international peacekeeping; and \$15.1 million to international broadcasting accounts.

The President's FY2003 request of \$5,886.7 million for State's *administration of foreign affairs* was about 6% above the FY2002 enacted level. The *administration of foreign affairs* request included: \$3,937 million for *D&CP*, \$177 million for the *capital investment fund (CIF)*; \$245 million for *educational and cultural exchanges* account; \$1,305 million for *ESCM*; and \$15 million for *emergencies in the diplomatic and consular services* account. The Senate Appropriations Committee recommended \$5,764.3 million for the *administration of foreign affairs*: \$3,803 million for *D&CP*; \$210 for *CIF*; \$237.8 million for *educational and cultural exchanges*; \$1,608 million for *ESCM*; and \$6.5 million for *emergencies in the diplomatic and consular services*.

Continuing an emphasis on overseas security particularly after the September 11th attacks, the Administration requested a total of \$1,308 million for worldwide security upgrades, similar to last year's funding. Of this total, \$553 million was within *D&CP*, primarily for ongoing expenses of past actions such as salaries for more guards, maintenance of security technology, and hiring of 134 additional security professionals. In addition, the Administration requested \$755 million within *ESCM*, largely for upgrading overseas facilities, improving perimeter security, and meeting the needs of the most urgent embassy security projects. The Senate bill recommended \$579.1 million for worldwide security upgrades within D&CP and \$770 million for worldwide security upgrades within ESCM. (For more detail, see CRS Report RL30662, *Embassy Security: Background, Funding, and the Budget*, by Susan B. Epstein.)

The nonsecurity-related funding request of \$3,383.8 million within *D&CP* was primarily for salaries and expenses of personnel, as well as support for U.S. diplomatic activities around the world. Secretary Powell testified that, while the Department did get congressional approval and funding last year to increase hiring by 360 general staff, 186 security professionals, and technical experts in 2002, staffing gaps continue to exist. The FY2003 State Department request included funding for 631 new positions. That would amount to an increase in new hires of more than 1,100 within two years. The Senate bill provided \$3,223.9 million, noting that supplemental funds also were provided for this account.

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. This point was evident after the September 11th terrorist attacks when the embassies did not have the ability worldwide to communicate with each other or with State Department headquarters in Washington, D.C. The FY2003 request equaled \$177 million. The Senate Committee recommended \$33 million more, for a total of \$210 million.

Educational 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. The Administration requested \$245 million for the FY2003 exchange account, an increase of about \$8 million (3.3%) over the FY2002 level. This amount would be the highest level for exchanges since the mid-1990s when the Freedom Support and the Support for East European Democracy (SEED) programs were first funded. The supplemental request sought an additional \$10 million to increase exchanges with Muslim populations. The Senate bill set funding at \$237.8 million, noting that exchanges received \$15 million within the FY2002 supplemental appropriation.

The Bush Administration requested \$891.4 million for contributions to international organizations (*CIO*). The request provided full funding of U.S. assessed contributions to 43 international organizations including the World Health Organization, the North Atlantic Treaty Organization, the International Atomic Energy Agency, and the Organization for Economic Cooperation and Development. In addition, the Administration requested (and received) \$7 million within the supplemental request to meet U.S. assessed obligations of costs of the U.N. Special Representative's operation in Afghanistan. The Senate Appropriations Committee recommended continuing this account at the FY2002 level of \$850 million for FY2003.

The Administration requested \$726 million for *international peacekeeping* (\$118.2 million less than the FY2002 level) which would provide funding for ongoing peacekeeping activities in Kosovo, East Timor, Africa, and the Middle East. Funds would also support War Crimes Tribunals for Yugoslavia and Rwanda. The lower request reflected a lower peacekeeping assessment rate, and project terminations or reduction of operations in specified areas. The Administration requested that 15% of CIPA funds be provided as two-year funding because of the unpredictability of requirements for this account from year-to-year. Within the supplemental request, the Administration sought an additional \$43 million for CIPA to meet the U.S. share of projected increases in U.N. peacekeeping operations. Congress provided \$23 million for the supplemental request for this account. The Senate Appropriations Committee recommended \$666.8 million for CIPA's FY2003 funding level.

The Administration's FY2003 request for *international broadcasting* totaled \$507 million or about 2% above the FY2002 level including the emergency supplemental. The request included \$25.4 million for Cuba Broadcasting and \$13.7 million for capital improvements. The request sought funding for surge broadcasting

to South/Central Asia and the Middle East, AM transmitting facilities in Egypt and Djibouti, and broadcasting in Arabic and other languages among Muslim populations. The *capital improvements* funding request of \$13.7 million would provide continued financial support for technical improvements and maintenance of existing facilities, as well as medium wave transmission capability in the Middle East. In addition, the Administration requested supplemental funding of \$7.4 million for expanding broadcasting services in the Dari and Pashto languages; Congress provided 15.1 million for expanding those services and for infrastructure-related needs. The Senate Appropriations Committee approved of FY2003 funding levels of \$480.2 million total for international broadcasting—\$441.5 million for broadcasting operations, \$13.7 million for capital improvements, and \$25 million for Cuba broadcasting.

The *Government Performance and Results Act (GPRA)* enacted by Congress in 1993 (P.L. 103-62; 107Stat 285) required that agencies develop strategic plans that contain goals, objectives, and performance measures for all major programs. State's most recent GPRA report : *U.S. Department of State Performance Plan, Fiscal Years 2001 - 2002*, September 2001, established the following 8 categories of performance goals: 1) National Security, including weapons of mass destruction and regional stability; 2) Economic prosperity, such as open markets, U.S. exports, global economic growth, and economic development; 3) American citizens and U.S. borders with subcategories—American citizens, and travel and migration; 4) Law enforcement with emphasis on international crime, illegal drugs, and countering terrorism; 5) Democracy; 6) Humanitarian response; 7) Global issues including environment, population, and health; 8) Diplomatic readiness—mutual understanding, human resources, information resources, and infrastructure and operations.

Title IV. Department of State and International Broadcasting (millions of dollars)

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Administration of Foreign Affairs	4,777.2	5,549.2	5,886.7		5,764.3
International Organizations and Conferences	1,713.1	1,694.1	1,617.4		1,516.8
International Commissions	56.1	60.5	67.3		61.1
Related Appropriations	54.4	57.7	60.5		75.7
<i>Subtotal: State Department^a</i>	<i>6,600.8</i>	<i>7,361.5</i>	<i>7,631.9</i>		<i>7,417.9</i>
International Broadcasting	440.5	498.2	507.0		480.2
Total: State Department, and International Broadcasting	7,041.3	7,859.7	8,138.9		7,898.1

^a In addition to appropriations, State has authority to spend certain collected fees from machine readable visas, expedited export fees, etc. For FY2001, this amount equals \$469.4 million; the estimated amount for such fees for FY2002 is \$542.7 million. The President's FY2003 request includes use of \$744.4 million in collected fees.

Related Legislation

H.R. 1646 (Hyde)/S. 1401 (Biden)/S. 1803 (Biden)/P.L. 107-228

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 4. Senate added S. 1803 as an amendment to H.R. 1646 and passed it May 1, 2002. Conference was held September 18; the House passed the conference report by voice vote on September 25; the Senate passed it by unanimous consent on September 26. It was signed into law (P.L. 107-228) on September 30, 2002.

H.R. 3969 (Hyde)

The Freedom Promotion Act of 2002. Would promote U.S. public diplomacy activities, exchange programs with predominately Muslim countries, and reorganize international broadcasting. Introduced March 14, 2002. Committee markup and ordered reported April 25, 2002. Passed in the House by voice vote on July 22, 2002.

Additional Reading

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

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

CRS Report RL31370. *State Department and Related Agencies FY2003 Appropriations*, by Susan B. Epstein.

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

Other Related Agencies

Background and Current Issues

This section includes all other related agencies covered by Title V of the CJS appropriations bill whose FY2002 appropriations exceeded \$1.8 million.²⁴ The CJS

²⁴ 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 FY2001 or FY2002 request); Commission on Security and Cooperation in Europe (\$1.37 million for FY2001; \$1.5 million requested for FY2002); the Marine Mammal Commission (\$1.7 million for FY2001; \$1.7 million requested for FY2002), Commission on Ocean Policy (\$1 million for (continued...)

appropriations also cover funding for several relatively small governmental functions, including several special government commissions. (See table below.) (For additional information on the funding of other related agencies covered by this legislation, see: *Budget of the United States Government, Fiscal Year 2003—Appendix*, 107th Cong.)

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 \$207 million for MARAD for FY2003, \$17.6 million less than Congress appropriated in FY2002. The President's budget request includes \$93 million for operations and training and \$98.7 million for the Maritime Security Program (MSP). MSP is a fleet of 47 privately-owned U.S. flag commercial vessels engaged in international trade that are available to support the Department of Defense in a contingency. The Administration requested \$11 million for the disposal of four obsolete ships in the National Defense Reserve Fleet. Congress appropriated no funds for ship disposal in FY2002. Title XI, the Maritime Guaranteed Loan Program, provides guaranteed loans for purchasing ships from U.S. shipyards and for the modernization of U.S. shipyards. The President requested no funds for loan guarantees for FY2003. The DOT Inspector General is auditing the Title XI program at the request of the Senate Commerce and House Appropriations Committees. The audit is to examine the impact of American Classic Voyages Co. (AMCV) bankruptcy on its Title XI loan guarantees. AMCV has approved loans totaling \$367 million for the building of two cruise ships. In FY2002, Congress appropriated \$33 million for Title XI loan guarantees.

The Senate Committee recommended \$225 million for MARAD, which was about \$18 million more than the President's request. The Committee recommended \$98.7 million for the MSP, the same amount as the President's request. It recommended \$89.5 million for operations and training, which was \$3.6 million below the President's request. For the Title XI program, the Committee recommended about \$37 million versus the President's request to zero out the program. For ship disposal, the Senate bill provided no funds versus the President's request of \$11 million.

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.²⁵

²⁴ (...continued)

2001; nothing requested for FY2002), and the newly created Congressional/Executive Commission on China (\$500 thousand for 2001; \$500 thousand requested for FY2002).

²⁵ For information about the SBA, see CRS Report 96-649, *Small Business Administration*: (continued...)

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

For FY2003, the President requested a total appropriation of \$783 million for SBA, including \$352 million for S&E. The Senate full committee provided \$788.5 million for SBA's FY2003 funding level.

Legal Services Corporation (LSC). 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.

Congress appropriated \$329.3 million for LSC for FY2002. This was 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. (For more detail, see CRS Report 95-178. *Legal Services Corporation: Basic Facts and Current Status*, by Carmen Solomon-Fears.)

For FY2003, the Bush Administration requested \$329.3 million for the LSC, which included \$310 million for basic field programs, \$13.3 million for management and administration, \$3.4 million for client self-help and information technology, and \$2.6 million for the inspector general. The budget request also continued all restrictions on LSC-funded activities currently in effect. The Administration's FY2003 request for LSC (\$329.3 million) was the same as the amount currently obligated for the program for FY2002. Historically, the Corporation's highest level of funding was \$400 million in FY1994 and FY1995.

²⁵ (...continued)

For FY2003, the Senate Appropriations Committee recommended a total of \$329.4 million for the LSC. This was \$97,000 above the FY2002 appropriation for LSC and the Bush Administration's FY2003 budget request.

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 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, but the Commission received a \$21 million increase for FY2001 (\$303 million). Despite this funding pattern, the EEOC was able to reduce by about 70% the backlog of private sector charges from a high of 111,000 in mid-1995 and to 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).

The Congress complied with President Bush's request for \$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 to make improvements in its federal sector program, among other things. The House Committee directed the Commission to continue reducing the backlog of private sector discrimination charges; it expressed concern about the still high level of these charges (32,481 in FY2001) and expected the agency to exceed the small (6%) backlog reduction assumed in the Administration's budget request. The Committee also stated that the Commission should continue spending at least \$1.8 million on contract mediation, which is in addition to the EEOC staff's mediation.

The Bush Administration's budget for the EEOC for FY2003 appeared to partly follow the House Committee's recommendations. The Commission had anticipated achieving a 12.1% reduction in the backlog of private sector charges and had intended to devote \$2.6 million to the contract mediation program. The budget request of \$323.5 million included \$14.7 million to fund the agency's full share of federal employee retirement costs as part of the Administration's government-wide proposal; without this cost, the FY2003 budget request was \$308.8 million. The Commission had expected to deal with the \$1.6 million decrease from its FY2002 appropriation through efficiencies realized from workforce restructuring.

The Senate Appropriations Committee approved a \$317.2 million budget for the EEOC for FY2003. It represented a \$6.8 million increase from the agency's FY2002 appropriation. The Committee, as a reflection of the importance it places on the work of state and local fair employment practice agencies, recommended that \$33.0 million be used to fund them which would permit the EEOC to raise the contract rate for cases closed.

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 FY2000 and FY2001. The FY2002 enacted level is \$9.1 million. The President's request for FY2003 was to continue funding at \$9.1 million.

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. The Senate Appropriations Committee recommended \$247 million in total FCC funding for FY2003, which was \$1.9 million above FY2002 resources of \$245.1 million. The entire amount, the committee noted, would be derived from regulatory fee collections, with none derived from a direct appropriation. (The Commission had requested \$268.3 million in total funding, a 9.5% increase.²⁶) The committee said its recommended funding amount would provide for continued support and critical improvements for existing systems and "ensure compliance with government-wide standards pertaining to system security, accessibility and financial management."

The Senate committee also expressed its concern about "the declining standards of broadcast television and the impact this decline is having on America's children." The committee directed the Commission to "continue to report to Congress on the issues associated with resurrecting a broadcast industry code of conduct" for television program content.

In keeping with the requirements of the Government Performance and Results Act, the FCC, as part of its FY2003 budget request, set forth its overall mission and general and specific goals.²⁷

Federal Maritime Commission (FMC). The FMC regulates the international waterborne commerce of the United States and has responsibility for licensing and bonding ocean transportation intermediaries. The Administration requested \$17.4 million for the FMC for FY2003, about \$1 million more than Congress appropriated in FY2002. The Senate Committee set an appropriation of \$16.5 million for FY2003, about \$1 million below the President's request.

²⁶ The request consisted of a direct appropriation of \$20.1 million and \$248.2 million in offsetting regulatory fees (compared with a direct appropriation of \$26.3 million and \$218.8 million in regulatory fees for FY2002). The request included \$9.8 million to fund the President's government-wide legislative proposals to fully fund all retirement costs at the agency level and \$268.3 million for Commission operational requirements to maintain existing programs.

²⁷ "Our most immediate challenge," the Commission stated, "is to integrate the changing character of the industry into our core functions of (1) licensing; (2) competition; (3) enforcement; (4) consumer information services; and (5) spectrum management" U.S. Federal Communications Commission. *Fiscal Year 2003 Budget Estimates to Congress*, p. 18, available at [http://www.fcc.gov/Reports/fcc2003budget_complete.pdf], visited May 3, 2002.

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.

For FY2002 the Administration requested a program level of \$156.3 million for the FTC, an increase of \$9.1 million over the previous appropriation. All of the funding comes 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 conference agreement provided the FTC with \$156 million for FY2002. This action resulted in a final direct appropriation of zero (\$0).

For FY2003, the President's requested \$171.6 million for the FTC, an increase of approximately \$15.6 million over the agency's current appropriation. As in the recent past, all funding is to come from offsetting fee collections, so as to result in a final direct appropriation of zero (\$0). The Senate full committee recommended \$159.1 million in FY2003.

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 passed by the 107th Congress (H.R. 1088, P.L. 107-123.) reduced these fees.

In 2001, Congress approved a total operating level of \$437.9 million for the SEC, an increase of \$15.1 million over FY2001. Of the total, \$109.5 million was to come from fees collected in FY2002 and the remaining \$324.4 million from prior-year fees. As was the case in FY2001, no direct appropriations were needed – the SEC was funded entirely by current and prior year fee collections. Under P.L. 107-206, the SEC received a supplemental appropriation of \$40.2 million for FY2002.

For FY2003, the Administration requested \$466.9 million for the SEC, an increase of 6.6% over FY2002. In the wake of Enron and other corporate accounting scandals, there was broad support in Congress for a much larger increase in the SEC's budget.²⁸ P.L. 107-204, the Sarbanes-Oxley Act, authorized appropriations of \$776.0 million. The Senate Appropriations Committee approved \$750.5 million, 60% more than requested. The SEC will have difficulty carrying out the Sarbanes-Oxley provisions on FY2002 funding levels, according to experts.

The State Justice Institute (SJI). The Institute is a private, non-profit corporation that makes grants to state courts and conducts other activities to further the development of judicial administration in state courts throughout the United

²⁸ For more information on the SEC's role in issues of corporate financial integrity, see RS21257, *Auditing and Accounting Regulation: Key SEC Powers*, by Gary Shorter; and RS20707, *Auditor Independence: The SEC's 2000 Rulemaking*, by Mark Jickling.

States. The Senate Appropriations Committee recommended \$3.1 million for SJI's FY2003 funding level, a \$100,000 increase over the FY2002 appropriation. The committee's recommendation was the first positive official development for SJI in the FY2003 appropriations process where, prior to that point, continued federal funding for SJI looked uncertain at best. Although the Institute had requested an appropriation of \$13.55 million for FY2003, the President had proposed nothing for SJI in his FY2003 budget, in accord with congressional language, in a FY2002 conference committee report, stating an intent that federal funding for the Institute not go beyond FY2002. (Under the terms of its enabling legislation, SJI is authorized to present its request directly to Congress, apart from the President's budget.)

In the previous annual appropriations cycle, Congress scaled back the Institute's funding significantly, approving \$3.0 million for FY2002, instead of \$6.835 million and \$6.2 million approved earlier by the House and Senate respectively. (The Institute's FY2001 appropriation had been \$6.835 million.) The action to reduce SJI funding occurred at the conference committee stage. In their report, conferees stated that the \$3.0 million appropriated for the SJI was "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 encouraged the Institute to solicit private donations and resources from State and local agencies.²⁹ No additional information explaining the decision to end federal funding for SJI after FY2002 was provided in the conference report.

In requesting an increased FY2003 appropriation of \$13.55 million, the chairman of SJI's board of directors said the Institute is mindful of the FY2002 conference report language expressing the intent to end federal funding for SJI after FY2002. In a letter to Congress, however, he maintained there is "a continuing need for the assistance that only SJI can provide to our nation's courts and to the people who rely on them for justice." He pointed to "new burdens that continue to fall on state courts—including the challenges of coping with new technology, the surge of people appearing in court without lawyers, and the myriad requirements being imposed by Congress and state legislatures," which he said have created "greater demands than ever" for SJI grant projects.³⁰

²⁹ U.S. Congress, Conference Committee, *Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 2002, and for Other Purposes*, report to accompany H.R. 2500, 107th Cong, 1st sess., H.Rept. 107-278 (Washington: GPO, 2001), p. 167.

³⁰ Robert A. Miller, Chairman, Board of Directors, State Justice Institute, letter to Hon. Frank R. Wolf, Chairman, Subcommittee on Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. House of Representatives, Feb. 4, 2002. The SJI Board chairman said that efforts to solicit private donations from state and local agencies, as well as from foundations, had not been promising. SJI, he said, had been told that it was "very unlikely that any foundation would give money to another grant-giver to give to other organizations that the foundation could have funded directly. In addition, very few private grantors have demonstrated an interest in court-related projects." Apart from the unlikelihood of receiving funding support from these other sources, the principal reason that SJI was turning again to the federal government (continued...)

Separate from the appropriations process, Congress recently approved legislation, H.R. 2048, solely concerned with the State Justice Institute. The bill, which the Senate approved without amendment, was signed by the President on May 20, 2002–P.L. 107-179). It requires the Attorney General to submit to the House and Senate Judiciary Committees a report regarding the effectiveness of SJI by October 1, 2002.

Office of the U.S. Trade Representative (USTR). USTR is the chief trade negotiator for the United States and is located in the Executive Office of the President (EOP). It is responsible for developing and coordinating U.S. international trade and direct investment policies. The President's FY2003 request was \$32.3 million, \$2.2 million above the amount (\$30.1 million) approved by Congress in FY2002. The Senate Appropriations Committee bill provides \$30.8 million to USTR, approximately \$1.5 million under the President's request. This figure represents the FY2002 funding level (\$30.1 million) plus a 4.1% pay increase for Federal employees.

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-year terms. As a matter of policy, its budget request is submitted to Congress by the President without revision. For FY2003, ITC requested \$54 million (excluding full funding of Federal retiree costs), an approximately \$2.6 million increase over the FY2002 request (\$51.4 million). The Senate Appropriations Committee recommends \$54.6 million. The increase will be used to fund a mandatory 4.6% pay increase, to fund several information technology projects to increase public access to information, to improve electronic transaction capability, and to develop more accurate trade information for affected constituents.

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. No additional funds were appropriated for FY2000 or FY2001. Congress passed the requested amount of \$3 million for FY2002. The Administration's FY2003 request and Senate Committee recommendation is for \$3 million.

³⁰ (...continued)

for funding, he said, "is that we continue to believe that there is a substantial federal interest in assisting state courts through SJI." *Ibid.*

Title V. Other Related Agencies
(millions of dollars)

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Maritime Administration	219.1	224.7	207.1		225.2
Small Business Administration	857.6	888.5	783.0		788.5
Legal Services Corporation	329.3	329.3	329.3		329.4
Equal Employment Opportunity Commission (EEOC)	303.2	311.7	308.8		317.2
Commission on Civil Rights	8.9	9.1	9.1		9.1
Federal Communications Commission (FCC)	29.3 ^a	26.3 ^a	20.1 ^a		0.0 ^a
Federal Maritime Commission	15.5	16.5	17.4		16.5
Federal Trade Commission ^b	0.0	0.0	18.6		9.1
Securities and Exchange Commission (SEC) ^c	421.9	458.6	466.9		750.5
State Justice Institute	6.8	3.0	13.6 ^d		3.1
U.S. Commission on International Religious Freedom	-.-	3.0	3.0		3.0
Other	1.9 ^e	15.5	21.4		10.1
Total: Related Agencies	2,196.5	2,286.2	2,184.7		2,461.7

^a 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. For FY2002, Congress enacted \$245.1 million for FY2002, consisting of a direct appropriation of \$26.3 million and \$218.8 million in offsetting collections. For FY2003, the President requested \$268.3 million in overall funding resources, consisting of a direct appropriation of \$20.1 million and \$248.2 million in offsetting fee collections. The Senate Appropriations Committee recommends that no FY2003 funding be derived from a direct appropriation, but that \$247 million be derived from fee collections.

^b The FTC is fully funded by the collection of pre-merger filing fees.

^c The SEC is fully funded by transaction fees and securities registration fees.

^d Under the terms of its enabling legislation, the State Justice Institute is authorized to present its budget request directly to Congress. For FY2003, the Institute requested \$13.6 million—as distinguished from the President, who has requested no funding for SJI.

^e Other includes agencies receiving appropriations of less than \$2.0 million in FY2002. 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, the National Veterans Business Development Corp, the Pacific Charter Commission, and the U.S. Canada Alaska Rail Commission.

Related Legislation

H.R. 2048 (Coble)

Requires the Attorney General to submit by October 2, 2002 to House and Senate Judiciary Committees a report regarding the effectiveness of the State Justice Institute. Introduced June 5, 2001; referred to the House Judiciary Committee. Reported by Judiciary Committee, August 2, 2001. Agreed to by voice vote of House, under suspension of the rules, Sept. 5, 2001. Received in the Senate, Sept. 6, 2001; referred to the Judiciary Committee. Reported by the Judiciary Committee, without amendment, September 13, 2001. Passed Senate without amendment by unanimous consent, May 7, 2002. Presented to President, May 8, 2002. PL 107-179, May 20, 2002.

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.

**Appendix. Appropriations Funding for Departments
of Commerce, Justice, State, the Judiciary, and
Related Agencies – FY2001, FY2002, and the
FY2003 Request**

(millions of dollars)

Title I. Department of Justice

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Office of Justice Programs	4,657.5	4,944.4	3,116.7		5,942.8
Legal Activities	3,143.4	3,539.7	3,060.8		2,992.3
Interagency Law Enforcement	325.1	338.6	362.1		347.1
Federal Bureau of Investigation (FBI)	3,245.1	4,269.9	4,203.8		4,203.8
Drug Enforcement Administration (DEA)	1,360.1	1,481.8	1,545.9		1,530.5
Immigration and Naturalization Service (INS)	3,252.0	4,049.3	4,032.4		4,030.7
Federal Prison System	4,306.4	4,625.6	4,480.4		4,586.9
Other	739.7	454.8	1,998.2		2,146.0
Total: Justice Department	21,029.5	23,704.0	22,800.3		25,780.0

Title II. Department of Commerce and Related Agencies

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Departmental Management	55.8	62.6	70.9		62.1
Bureau of the Census	432.7	490.8	705.3		496.8
Economic and Statistical Analysis	53.6	62.5	73.2		63.8
International Trade Administration	333.7	344.5	363.7		353.2
Bureau of Export Administration	64.7	70.6	100.2		98.5
Minority Business Development Agency	27.2	28.4	28.9		28.6
National Oceanic and Atmospheric Administration	3,040.8	3,258.8	3,130.6		3,345.9
Patent and Trademark Office ^a	(1,037.0)	(1,127.5)	(1,304.4)		(1,145.6)
Technology Administration	8.1	8.2	7.9		7.9
National Institute of Standards and Technology	597.0	680.8	563.1		692.5

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
National Telecommunications and Information Administration	100.2	81.3	60.3		81.7
Economic Development Administration	438.9	365.6	348.0		366.2
<i>Subtotal: Commerce Department</i>	<i>5,152.8</i>	<i>5,739.0</i>	<i>5,552.2</i>		<i>5,876.7</i>
Office of the U.S. Trade Representative	29.5	30.1	32.3		30.8
International Trade Commission	48.0	51.4	54.0		54.9
<i>Subtotal: Related Agencies</i>	<i>77.4</i>	<i>81.5</i>	<i>86.3</i>		<i>85.7</i>
Total: Dept. of Commerce and Related Agencies	5,230.2	5,820.5	5,638.5		5,962.1

Title III. Judiciary

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Supreme Court — salaries and expenses	37.5	40.0	46.3		44.4
Supreme Court — building and grounds	7.5	67.5	53.6		53.3
U.S. Court of Appeals for the Federal Circuit	17.9	19.3	21.9		20.1
U.S. Court of International Trade	12.4	13.1	13.8		13.5
Courts of Appeals, District Courts, other judicial services — salaries and expenses	3,352.9	3,591.1	4,014.1		3,814.2
Vaccine Injury Act Trust Fund	2.6	2.7	2.8		2.8
Defender Services	434.0	500.7	588.7		531.8
Fees of Jurors and Commissioners	59.4	48.1	57.8		54.6
Court Security	199.1	278.2	298.2		290.4
Administrative Office of the U.S. Courts	58.2	64.5	66.9		64.7
Federal Judicial Center	18.7	19.7	21.9		20.2
Retirement Funds	35.7	37.0	35.3		35.3
U.S. Sentencing Commission	9.9	11.6	13.2		11.8
General Provisions – Judges' Pay Raise	8.8	8.6	7.0		8.0
Total: Judiciary	4,254.8	4,707.2	5,241.6		4,965.2

Title IV. Department of State and International Broadcasting

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Administration of Foreign Affairs	4,777.2	5,549.2	5,886.7		5,674.3
International Organizations and Conferences	1,713.1	1,694.1	1,617.4		1,516.8
International Commissions	56.1	60.5	67.3		61.1
Related Appropriations	54.4	57.7	60.5		75.6
<i>Subtotal: State Department^c</i>	<i>6,600.8</i>	<i>7,361.5</i>	<i>7,631.9</i>		<i>7,417.8</i>
International Broadcasting	440.5	498.2	507.0		480.2
Total: State Department, and International Broadcasting	7,041.3	7,859.7	8,138.9		7,898.0

Title V. Other Related Agencies

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Maritime Administration	219.1	224.7	207.1		225.2
Small Business Administration	857.6	888.5	783.0		788.5
Legal Services Corporation	329.3	329.3	329.3		329.4
Equal Employment Opportunity Commission (EEOC)	303.2	311.7	308.8		317.2
Commission on Civil Rights	8.9	9.1	9.1		9.1
Federal Communications Commission (FCC)	29.3 ^d	26.3 ^d	20.1 ^d		0.0 ^d
Federal Maritime Commission	15.5	16.5	17.4		16.5
Federal Trade Commission ^e	0.0	0.0	18.6		9.1
Securities and Exchange Commission (SEC) ^f	421.9	458.6	466.9		750.5
State Justice Institute	6.8	3.0	13.6 ^g		3.1
U.S. Commission on International Religious Freedom	-.-	3.0	3.0		3.0
Other	1.9 ^h	15.5	21.4		10.1
Total: Related Agencies	2,196.5	2,286.2	2,184.7		2,461.7

Title VI. General Provisions

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Section 604	0.0	-	-		-

Title VII. Rescissions

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Department of Justice					
Working capital fund	0.0	0.0	0.0		0.0
Legal Activities	0.0	0.0	0.0		0.0
Asset forfeiture fund	0.0	-40.0	0.0		0.0
Federal Bureau of Investigation	0.0	0.0	0.0		0.0
Information sharing	0.0	0.0	0.0		0.0
Drug Enforcement Administration	-	0.0	0.0		0.0
Drug diversion fund	8.0	0.0	0.0		0.0
Immigration and Naturalization Service	0.0	0.0	0.0		0.0
Immigration emergency fund	0.0	0.0	0.0		0.0
Department of Commerce, Departmental Management	-114.8	-5.2	-96.9		0.0
Department of State and Related Agencies	0.0	0.0	0.0		0.0
Contributions for International Peacekeeping activities	0.0	0.0	0.0		0.0
Broadcasting Board of Governors	0.0	0.0	0.0		0.0
International broadcasting operations	0.0	0.0	0.0		0.0
Maritime Administration	0.0	0.0	0.0		0.0
Maritime guaranteed loan (Title XI program)	7.6	0.0	0.0		0.0
ship construction	0.0	-4.4	0.0		0.0
Small Business Administration	0.0	0.0	0.0		0.0

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Business Loans Program Account	0.0	-5.5	0.0		0.0
Securities and Exch. Commission	0.0	-50.0	0.0		0.0
Total: Rescissions	-130.4	-105.1	-96.9		0.0

Title IX.

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
Wildlife Conservation and Restoration Planning	50.0	0.0	0.0		0.0

Total Appropriation Funding, Titles I-IX, FY2001-FY2003 Request

Department or Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Request	House Bill	Senate Bill S. 2778
GRAND TOTAL:	39,786.7	44,272.5	43,907.1		47,067.0

Source: 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. Data for FY2002 include Emergency Response Funds from the supplemental appropriation P.L. 107-117).

^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. The prior-year carryover funds count against the FY2003 total appropriation for the Dept. of Commerce. The Administration requested \$100 million in prior-year carryover funds for FY2003. The Senate Appropriations Committee recommends \$282.3 million in prior-year carryover funds.

^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 FY2001, this amount equals \$469.4 million; the estimated amount for such fees for FY2002 is \$542.7 million. The President's FY2003 request includes use of \$744.4 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. For FY2002, Congress enacted \$245.1 million for FY2002, consisting of a direct appropriation of \$26.3 million and \$218.8 million in offsetting collections. For FY2003, the President requested \$268.3 million in overall funding resources, consisting of a direct appropriation of \$20.1 million and \$248.2 million in offsetting fee collections. The Senate Appropriations Committee recommends that no FY2003 funding be derived from a direct appropriation, but that \$247 million be derived from fee 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 FY2003, the Institute requested \$13.6 million—as distinguished from the President, who has requested no funding for SJI.

^h Other includes agencies receiving appropriations of less than \$2.0 million in FY2002. 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, the National Veterans Business Development Corp, the Pacific Charter Commission, and the U.S. Canada Alaska Rail Commission.