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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, 2001

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Mr. GREGG, from the Committee on Appropriations, submitted the following
REPORT
[To accompany H.R. 4690]

The Committee on Appropriations, to which was referred the bill (H.R. 4690) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 2001, and for other purposes, reports the same to the Senate with amendments and recommends that the bill as amended do pass.

Amount in new budget (obligational) authority	
Total bill as reported to Senate	\$36,689,965,000
Amount of appropriations, 2000	39,630,967,000
Amount of budget estimates, 2001, as amended	50,924,815,000
The bill as reported to the Senate:	
Below the appropriations for 2000	2,941,002,000
Below the estimates for 2001	14,234,850,000

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BACKGROUND

PURPOSE OF THE BILL

This bill makes appropriations for the functions of the Departments of Commerce, Justice, State, the Judiciary and Related Agencies for the period October 1, 2000, through September 30, 2001. Functional areas include the pay, allowances, and support of personnel, operation and maintenance, procurement of equipment and systems, and research.

The bill provides funds for fighting crime, enhancing drug enforcement, responding to the threat of terrorism, addressing the shortcomings of the immigration process, continuing the judicial process, conducting commerce within the United States, improving State Department operations, and fulfilling the needs of various independent agencies.

HEARINGS

The Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies Appropriations began hearings on the fiscal year 2001 budget request on February 16, 2000, and concluded them on March 21, 2000, after holding 6 separate sessions. The subcommittee heard testimony from representatives of the Departments of Commerce, Justice, State, and various commissions.

SUMMARY OF THE BILL

The budget estimates for the departments and agencies included in the accompanying bill are contained in the budget of the United States for fiscal year 2001 submitted on February 7, 2000 and budget amendments submitted March 27, March 31, May 18, and June 6.

The total amount of new budget authority recommended by the Committee for fiscal year 2001 is \$36,689,965,000. This amount is a decrease of \$2,941,002,000 below appropriations enacted for fiscal year 2000 for these departments and agencies. The Committee recommendation is \$14,234,850,000 below the budget estimates as amended. This significant difference is partly a result of the Committee's decision not to approve advanced appropriations.

Highlights of the bill include:

INTERNET INITIATIVE

The Internet continues to change the face of global communications and commerce. As this technology becomes more ingrained into every facet of life, the ability of criminals, terrorists, and hackers to launch electronic attacks against individuals, businesses, and countries grows as vulnerabilities in computer infrastructures are exploited. It is a global network that connects approximately 155 million worldwide users to a vast array of electronic commerce. It has changed the securities industry as well as how goods and services are acquired. The Internet has also created an efficient medium by which fraud and other crimes are being committed. Perpetrators can remain anonymous, reach victims in their homes, and commit these crimes from outside the United States so that law enforcement and regulatory agencies can be eluded. In fact, the FBI reports that losses at U.S. companies more than doubled last year to \$266,000,000 as a result of cybercrime. Also, as many as 7 out of 10 U.S. corporations, banks, and government agencies suffered serious breaches of security last year.

Securities fraud is not just the sale of unregistered securities. For example, an on-line broker dealer has had its website copied with a different address. Investors then sent funds to the perpetrators instead of the broker. This scam continued for 10 months before they moved on to copy another website. The education of investors includes understanding that investment decision should not be made solely on information obtained over the Internet. A number of independent steps must be taken to ensure the accuracy of information being provided. They include contacting companies in question and reviewing financial information. The Committee recognizes that these threats are genuine and has, therefore, attempted to provide the agencies under its purview with the tools and resources they need including the following grants and programs.

The Committee is providing an \$11,400,000 increase to the Federal Trade Commission (FTC) to allow the agency to expand its monitoring of consumer fraud. The growth of Internet fraud has required the agency to increase its domestic and international monitoring in order to protect consumers. To date, the FTC has brought 100 cases against 300 companies and individuals for Internet fraud. These cases are expected to increase as consumers step up the pace of on-line purchasing. The increase for the FTC will also permit the agency to expand its Consumer Sentinel database to make it available to international law enforcement agencies in an effort to create data-sharing arrangements. The Committee created this database in fiscal year 1998, and it has proven to be a useful tool in tracking and prosecuting consumer fraud. The Internet is not governed by borders; nor is the fraud committed on consumers.

The Committee has provided funding for the Bureau of Justice Statistics to initiate the operation of the National Computer Crime Statistics Program (NCCS). This program will gather information on changes over time in the incidence and prevalence of computer crime offenses including statistical data on the costs and consequences to victims of computer crime, data on prosecutions, convictions, and sentencing of persons convicted of computer crime.

Grants are provided to State and local law enforcement to continue specialized cyberunits to investigate and prevent child sexual exploitation on the Internet.

Funding is provided for the National Center for Missing and Exploited Children for a study regarding the patterns of victimization of children on the Internet, and for the Center's CyberTipline which collects leads from Internet Service Providers on incidences of child pornography and exploitation.

Additional funding is included for the Jimmy Ryce Law Enforcement Training Center to train law enforcement officers, judges, and prosecutors on Internet crimes against children and child exploitation.

Finally, added resources are provided to the National Institute of Standards and Technology to develop new tools to better protect the information technology elements of the Nation's critical infrastructures

through research and development of new measurements, test methods, and guidelines that will identify and remedy potential infrastructure vulnerabilities.

SOUTHWEST BORDER STRATEGY

If the preamble to the Constitution literally reflects the priorities of its authors, then 'establish[ing] Justice' and 'ensur[ing] domestic tranquility' were second only to 'form[ing] a more perfect Union' in the minds of the Founding Fathers. Nowhere does the Federal Government face a greater challenge to live up to these Constitutional priorities than the Southwest border. Border security is solely and wholly a Federal responsibility. The tidal wave of humanity crashing across the Southwest border poses a law enforcement challenge that demands the strongest and most closely coordinated response possible by the Justice Department. The Committee recommendation supports a broad array of initiatives to bring order to the border.

The INS, DEA, and the Judiciary are being asked to do increasingly more along the border, yet these agencies face critical shortfalls in funding in nearly every area. The Committee is concerned that with these severe shortfalls the administration has instead focused its response to the drug war on providing \$1,600,000,000 in aid to Colombia. 'Plan Colombia', as outlined by the administration, will further drain funding from the agencies fighting the drug war here at home. Providing for unfunded capital needs along the Southwest border should be the first priority of any serious effort to stem the tide of drugs and illegal immigrants coming into the United States. The Committee has attempted to address these shortfalls by providing new funding when available and by redirecting funding from areas of low priority.

The lack of resources faced by the subcommittee in fiscal year 2001 brings home the opportunity costs of 'Plan Colombia'. The President's fiscal year 2001 request for the agencies under our purview is \$50,924,815,000. The subcommittee recommendation is \$36,689,965,000, a \$14,234,850,000 difference. Thus, it is in the face of real austerity that the subcommittee has developed a plan to deal with the highest priorities on the Southwest border.

First, the recommendation, building upon successes last year, continues to expand centralized development of certain key technologies, such as the Justice Automated Booking System and narrowband communications, to maximize information sharing, interoperability, efficiency, and economy across components. Nowhere are the benefits of centralization more obvious than the Southwest border where overlapping operations by every Justice component call for mission coordination and deconfliction. Fully 20 percent of all Federal law enforcement officers are concentrated in an area running from Presidio, TX, to the Pacific Ocean.

Second, in select instances, existing manpower has been redirected to the border. Because shifting patterns of crime are not always reflected in the distribution of Federal law enforcement resources, the Committee has transferred staff from quieter sectors to Southwest border States. This brings seasoned personnel to the area of greatest need in the shortest possible time.

Third, for fiscal year 2001, the President's budget request for the Drug Enforcement Administration [DEA] provides only a \$4,600,000 increase for the actual enforcement operations of the agency. Shortchanging the Nation's preeminent drug fighting agency is not a strategy this Committee supports nor is it a proper response to the drug war. To address the DEA's requirements the Committee has provided the agency with increased funding for methamphetamine enforcement, training, and cleanup, and funding to address critical programs like DEA Regional Enforcement Teams and the agency's Special Operations Division. The Committee has also directed the DEA, INS, and FBI to coordinate its

operations along the Southwest border. To facilitate this cooperation the Committee has also directed that these agencies co-locate their Southwest border offices in the States of California, Arizona, New Mexico, and Texas which will encourage operational efficiency and cost savings.

Fourth, the Committee recommendation also continues the systematic refocusing of Federal law enforcement resources on the Southwest border toward the build-up of critical infrastructure. The single greatest deficiency continues to be the appalling inadequacy of Border Patrol facilities. Stations designed to house several score of agents now serve hundreds. Similarly, detention facilities in Federal courthouses and at Immigration and Naturalization Service [INS] processing centers on the border tend to be antiquated, cramped, and unsafe. Increases for both continue the long process of bringing these facilities up to standard while expanding capacity to meet the mission.

Fifth, the Committee tries to address the problems of the Federal Judiciary which has been hit hard by a staggering number of drug offenses and illegal immigration cases. These cases have produced a record number of Federal prosecutions and stretched an already overburdened workforce. The Committee attempts to provide relief to the border courts by redirecting funds from Judiciary administrative accounts to the five Federal districts on the border that now handle 26 percent of all criminal court filings in the United States.

Finally, the Committee recommends a \$413,940,000 contingent emergency package, under title VIII, to address longstanding shortfalls and backlogs on the Border.

The Committee knows this effort will not solve all the many challenges we have on the Southwest border. However, it is intended to help move the United States back to a time when we had control of our borders and had the ability to stop drugs and illegal aliens from entering our communities.

METHAMPHETAMINE

The illegal drug culture in our country is continually changing, and we must adapt the ways we combat it. A major concern today is the surge in methamphetamine use. Organized Mexican crime groups are becoming increasingly successful in their distribution of the drug by providing the resources for clandestine labs within the United States as well as bringing methamphetamine across our borders. In addition to having sophisticated cartels trafficking the drug, users can make it for themselves. Methamphetamine is distinctive because it is a chemical based drug, not a naturally grown one. This makes it easy for any addict or dealer who does not want to go through a middle man to find the recipe and chemical process on the Internet and make it at home.

Clandestine labs are particularly dangerous because the byproducts of methamphetamine production are hazardous and often the process results in explosions and fires. The DEA has reported increasing numbers of clandestine lab seizures nationwide. In 1997, 3,327 labs were seized by Federal, State, and local law enforcement. By 1999, that number had escalated to 7,060. More disturbing is the fact that the National Clandestine Laboratory database showed there were 877 documented incidents of children being present at labs and related sites. The Committee has made the reduction of methamphetamine production, trafficking, and use a priority, especially since the President's budget included no resources to address this serious problem.

For fiscal year 2001, the Committee recommends a total of \$77,709,000 for this particular threat. The Committee recommendation includes an increase for Drug Enforcement Administration (DEA) personnel specifically dealing with methamphetamine cases, bringing the funding level to \$27,459,000. These funds are to be used for investigations; to maintain the National Clandestine Laboratory database;

to reduce availability of precursor chemicals diverted to clandestine laboratories; and to pay for the daily operations encountered in dealing with methamphetamine activity. In addition, the Committee recommends that the DEA Special Operations Division receive an increase of \$950,000 for their efforts in this area.

Since DEA must deal with the hazardous waste materials created by clandestine labs, \$4,100,000 is available to DEA from the Assets Forfeiture Fund, and \$20,000,000 is available through the COPS Methamphetamine/Drug 'Hot Spots' Program to reimburse the DEA for cleanup costs. An additional \$21,700,000 is provided to State and local law enforcement programs to combat methamphetamine production and use. Lastly, \$3,500,000 is for DEA to train State and local law enforcement on how to deal with methamphetamine cleanups.

REPROGRAMMINGS, REORGANIZATIONS, AND RELOCATIONS

As in previous years, the Committee is inserting section 605 under title VI of the general provisions of the bill. This section restates previous law with regard to the reprogramming of appropriated funds between agency programs or activities.

The House and Senate reports accompanying the appropriations bills of the Departments of Commerce, Justice, and State, the judiciary, and related agencies for several years contained sections concerning the reprogramming of funds between programs or activities. The Committee expects each department and agency to follow closely the reprogramming procedures listed below which are similar to provisions that applied in statute during fiscal year 1997.

The Committee directs that both the House and Senate chairmen of the Subcommittees on the Departments of Commerce, Justice, and State, the judiciary, and related agencies will be notified by letter at least 15 days prior to:

--Reprogramming of funds, whether permanent or temporary, in excess of \$500,000 or 10 percent, whichever is more, between programs or activities. This provision is also applicable in cases where several activities are involved with each receiving less than \$500,000. In addition, the Committee desires to be notified of reprogramming actions which are less than these amounts if such actions would have the effect of committing the agency to significant funding requirements in future years;

--Increasing funds or personnel by any means for any project or activity for which funds have been denied or restricted;

--Creation of new programs, offices, agencies, or commissions, or substantial augmentations of existing programs, offices, agencies, or commissions;

--Relocations of offices or employees;

--Reorganization of offices, programs, or activities; and

--Contracts out or privatizes any functions or activities presently performed by Federal employees.

The Committee directs each department or agency to notify the Committee when the amount of political appointees rises above 10 percent from either of the previous 2 years or when five or more political

appointees are added in a given year. The Committee should be notified 30 days before either of these situations occurs. Similar notification should be provided when the same number of personnel positions are converted from political appointments to civil service positions.

In addition, the Committee directs departments or agencies funded in the accompanying bill that are planning to conduct a reduction in force to notify the Committees by letter 30 days in advance of the date of the proposed personnel action. Also, the Committee directs that any items which are subject to interpretation will be reported.

BUDGETARY IMPACT OF BILL

PREPARED IN CONSULTATION WITH THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SEC. 308(a)

[In millions of dollars]

Comparison of amounts in the bill with Committee allocations to its subcommittees of

General purpose, defense discretionary

General purpose, non-defense discretionary

Mandatory

Projection of outlays associated with the recommendation:

2001

2002

2003

2004

2005 and future years

Financial assistance to State and local governments for 2001

TITLE I--DEPARTMENT OF JUSTICE

The Committee has made funding for law enforcement the centerpiece of the fiscal year 2001 appropriations bill. The Committee recommends \$18,734,623,000 in new budget (obligational) authority in the accompanying bill for the Department of Justice with a strong emphasis on law enforcement

Section 101 makes up to \$45,000 of the funds appropriated to the Department of Justice available for reception and representation expenses.

Section 102 makes permanent certain authorities included with Public Law 96-132.

Section 103 eliminates automated entry and exit control and student tracking requirements.

Section 104 restores fee revenue essential to maintaining INS operations.

Section 105 makes resources available should a judgment be lodged against the Justice Department for lost wages.

Section 106 allows the Department of Justice to spend up to \$10,000,000 for rewards for information regarding acts of terrorism against U.S. citizens or property at levels not to exceed \$2,000,000 per reward.

Section 107 allows the Department of Justice, subject to the Committee's reprogramming procedures, to transfer up to 5 percent between appropriations, but limits to 10 percent the amount that can be transferred into any one appropriation.

Section 108 authorizes the Assistant Attorney General for the Office of Justice Programs to have final authority over all grants, cooperative agreements, and contracts for OJP and its component organizations.

Section 109 increases the amount available for civil debt collection activities.

Section 110 funds 112 victim/witness specialists nation-wide.

Section 111 amends 42 U.S.C. 5633(a)(14) to assist rural States.

Section 112 allows for the proper placement of Federal prisoners.

Section 113 treats Justice Department attorneys as professionals for the purpose of pay.

Section 114 allows the Department of Justice to provide additional funds for training and technical assistance.

Section 115 provides a transfer of funds to address critical offender incarceration needs.

Section 116 prohibits formula or discretionary grants to certain municipal jails.

TITLE II--DEPARTMENT OF COMMERCE AND RELATED AGENCIES

The Committee recommends a total of \$5,941,608,000 for the U.S. Trade Representative, the International Trade Commission, and the Department of Commerce for fiscal year 2001. This amount is \$818,568,000 below the total request. The fiscal year 2001 request contained advance appropriations for systems acquisitions which the Committee does not recommend. Also, the recommendation is \$2,817,425,000 below the total amount appropriated for these programs for fiscal year 2000.

Budget estimate, 2001	45,119,000
House allowance	15,500,000
Committee recommendation	15,500,000

The Committee recommends \$15,500,000 for the Information Infrastructure Grant [IIG] Program in fiscal year 2001, a decrease of \$29,619,000 from the fiscal year 2001 request and identical to the fiscal year 2000 appropriation. The Committee expects NTIA to limit eligibility for this program. The administration's fiscal year 2001 request changes the name of this program to Technology Opportunity Grants. By either name, the program has never been authorized by Congress.

The regional information sharing system [RISS] under the Department of Justice provides funding for law enforcement entities which have traditionally obtained funding from the IIG Program. The Committee recommendation excludes law enforcement entities eligible for the RISS Program from applying for IIG funds. The Committee expects NTIA to give preference to applications from consortia and for purposes such as public safety or other uses for which there is no other funding source available.

The Committee is aware of several proposals for information infrastructure grants and strongly urges NTIA to consider applications for the following proposals within applicable procedures and guidelines and provide a grant, if warranted: (1) an electronic commerce initiative at the University of Missouri-Columbia; (2) phase III of the Marshall University, WV infrastructure program; (3) North Dakota State University education technology partnership program; (4) a technology and training initiative proposal by Morgan State University; and (5) Vermont Interactive Television.

HOME INTERNET ACCESS

Appropriations, 2000
Budget estimate, 2001	\$50,000,000
House allowance
Committee recommendation

The Committee does not recommend funding for the fiscal year 2001 request for \$50,000,000 for Home Internet Access. Funds for this program were not requested or appropriated in fiscal year 2000. There is no authorization for this program.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

Appropriations, 2000	\$871,000,000
Budget estimate, 2001	1,038,732,000
House allowance	904,924,000
Committee recommendation	1,038,732,000

The Committee recommends the administration's request of \$1,038,732,000 for the Patent and

Trademark Office [PTO] in fiscal year 2001. This amount is \$167,750,000 above the fiscal year 2000 appropriation.

The Patent and Trademark Office [PTO] is charged with administering the patent and trademark laws of the United States. PTO examines patent applications, grants patent protection for qualified inventions, and disseminates technological information disclosed in patents. PTO also examines trademark applications and provides Federal registration to owners of qualified trademarks. The Patent and Trademark Office Efficiency Act was enacted on November 29, 1999 and under its provisions, PTO is subject to the policy direction of the Secretary of Commerce, but the agency has independent control of its budget, expenditures, personnel, procurement and other administrative and management functions of the agency.

The PTO has experienced significant growth in recent years due to the increase in applications for patents and trademarks. Trademark applications have exploded due to the number of Internet entities seeking to register their website names, and the high technology and biotechnology industries have accounted for the growth in patent applications. The Committee has provided the amount requested by the administration for the PTO in fiscal year 2001, but there is some concern that this funding level may be inadequate for the agency's needs. The Office of Management and Budget has determined that some of the fees collected by the agency should be withheld for 1 fiscal year and unavailable for expenditure. The withholding of fees has increased over the past 5 years, and in fiscal year 2001, it is estimated that 32 percent of the agency's fee collections will be unavailable for expenditure until fiscal year 2002.

The ability of the administration to formulate an adequate budget for PTO is further complicated by the failure of PTO to forecast its workload. The President's budget has underestimated the annual growth for patent and trademark applications for each of the past five fiscal years. The PTO has informed the Committee that they expect trademark applications to increase 40 percent over the number of applications received in 1999. In order to improve the accuracy of these critical forecasts and to ensure that an adequate funding level is requested for the agency, the Committee directs PTO to work in conjunction with the Office of Management and Budget to develop a workload forecast for the agency with advice from a representative sample of industry and the inventor community. The Committee directs that this forecast be used as a benchmark for future PTO budget forecasts just as OMB now uses the average of the 50 blue-chip economic forecasts as the benchmark for economic assumptions contained in the President's budget.

The PTO recently completed a study entitled 'Official Insignia of Native American Tribes.' The study recommended that PTO create, maintain and update an accurate and comprehensive database containing official insignias of all State- and Federally-recognized Native American tribes. The Committee directs that the PTO comply with its own recommendations and create such a database.

SCIENCE AND TECHNOLOGY

The Committee has included under this section of Title II the Department of Commerce agencies involved in technology research and development, scientific assessment and prediction of environmental phenomena, and the administrative and policy functions providing oversight for these activities.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY