U. S. Senate Republican Policy Committee

Larry E. Craig, Chairman Jade West, Staff Director

Legislative Notice

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S. 2740 — Treasury and General Government Appropriation Bill, FY 2003

Calendar No. 498

Reported as an original bill from the Senate Appropriations Committee on July 17, 2002, by a 29-0 vote. S. Rept. 107-212

NOTEWORTHY

- S. 2740 provides $34.77 billion in new budget authority (including $16.3 billion in mandatory spending) for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President, and various independent agencies for FY 2003. The total amount is $1.05 billion above the FY 2002 enacted amount, and $490.2 million above the budget request. [See attached chart.]

- President Bush indicated he would veto the House bill if it contained either of two provisions that are also in the Senate bill. The first is a provision limiting the use of funds in the bill to enforce the ban on travel to Cuba. The second is a prohibition on funds used to establish or enforce numerical quotas on contracting out of federal jobs with the private sector. [See Administration Position of the House-reported bill, p. 9 of this Notice.]

- The bill includes a 4.1-percent pay adjustment for federal civilian employees (the President requested a 2.6-percent raise).

- The bill does not block the cost-of-living pay increase for Members of Congress; Senator Feingold is expected to offer an amendment to deny this COLA.

- S. 2740 is silent on the issue of abortion coverage in federal employees' healthcare plans (FEHBP); the House bill continues a provision prohibiting federal funds for abortions in FEHB plans, with exceptions for life of the mother, rape, and incest. S. 2740 provides a continuation of the current-law mandate that contraceptive drugs be included in any FEHB plan offering prescription drug benefits.

- The House passed its version of the bill on July 24, 2002, by a vote of 308-121. That bill provides a total of $34.8 billion in budget authority.

HIGHLIGHTS

The funding level in the House-passed bill is acceptable to the President, but two provisions added as floor amendments are not, and suggest a possible veto if they remain in the final bill. Both currently are in the Senate bill as reported.

– The first is regarding current-law Cuba prohibitions. Despite the veto threat, the House passed an amendment offered by Rep. Jeff Flake (R-AZ), by a vote of 262-167, prohibiting the use of funds in the bill to enforce the ban on travel to Cuba. (Additionally, the House approved an amendment by Rep. Moran (R-KS) by voice vote that would provide that no funds could be used to implement any sanction on private commercial sales of agricultural commodities or medicines to Cuba. However, the House did reject the Rangel (D-New York) amendment that would have prevented any funds in the bill from being used to enforce the overall economic embargo of Cuba.) The Senate-reported bill contains language similar to the Flake amendment.

– The second item possibly inviting a veto is the adoption of the Moran (D-VA) amendment to prohibit any funding for establishing or enforcing any numerical goal or quota for subjecting the employees of an agency to public-private competitions or converting the employees or the work they perform to private contractor performance under OMB Circular A-76 or any other administrative regulation, directive, or policy. That amendment was agreed to by a vote of 261-166. The Senate bill as reported, contains identical language. [The portions of the Administration's Statement of Policy on the House bill which addressed these items is reprinted on pages 8 to 10 of this Notice.]

In addition to items highlighted on page 1, the bill also provides the following:

- The Customs Service, which is recommended for transfer to the new Department of Homeland Security, receives a $54.3 million increase in funding over the FY02 bill. The total funding for Customs is $3.14 billion, which is $307.5 million more than requested, in part because the Committee rejected the Administration's request for $167 million in offsetting user fees.

- The bill provides the requested amount, $40 million, for the Treasury Department's Counterrorism Fund, designed to fund unanticipated costs.

- The bill does not include an Administration proposal to charge individual agencies for the fully accrued costs of retirement under the Civil Service Retirement System and for the accrued costs of retiree health benefits for all civilian employees. Also, the bill does not include an

Administration proposal to charge individual agencies with the administrative costs of the Federal Employees Compensation Act (FECA) program.

Treasury, Postal Service, Executive Office of the President, and General Government Appropriations, FY2003, by Title and Major Accounts
(In millions, without CBO scorekeeping)

Title	FY2002 Enacted	FY2003 Request	House Passed	Senate Reported
I. Treasury	$15,646.2	$15,865.4	$16,168.8	$16,303.7
II. USPS	596.1	76.6	107.6	107.6
III. EOP	797.6	786.0	1,034.5	730.6
IV. Agencies	16,674.0	17,517.2	17,510.5	17,624.6
Total	$33,713.9	$34,276.3	$34,821.5	$34,766.5

Source: CRS; House Committee on Appropriations (provided July 26, 2002); S. Rept. 107-212. FY2002 figures include supplemental appropriations and emergency funding.

BILL PROVISIONS

Title I, Department of the Treasury

- **Total Title I Funding:** The bill provides $16.30 billion ($438.2 million over the request) for Title I, which includes the Bureau of Alcohol, Tobacco and Firearms (ATF), the Internal Revenue Service, the U.S. Customs Service, and the Secret Service.

- **Bureau of Alcohol, Tobacco and Firearms (ATF):** The bill provides $899.8 million for the Bureau of Alcohol, Tobacco and Firearms. The amount is $16 million above the request; $5.3 million of that difference goes to provide the additional pay adjustment, and $10 million is provided for an explosives enforcement initiative that will allow for an increase in the number of agents and inspectors enforcing existing laws and regulations. Also, the Committee provides $13 million for grants to local law enforcement organization for the Gang Resistance Education and Training (GREAT) Program.

- **Customs Service:** The Committee provides a total of $3.14 billion for the Customs Service, which is $307.5 million above the request. The President's budget included $167 million in user fees for airplanes and cruise ship passengers entering the United States. The committee did not accept that offset, but instead increased budget authority beyond the requested amounts. Of the total funding for the agency, $2.53 billion is for salaries and expenses (which is $133.5 million above the request). This increased amount provides for an additional $15.1 million for the pay adjustment, an additional $5 million for expanded intellectual property rights initiatives, an additional $5 million for forced child labor, $4 million for port technology research and development, $2.3 million for canine curriculum on chemical and biological threats, and $2 million for a bulk currency initiative. Also included is an additional $18 million for the Container Security Initiative which stations Customs inspectors at overseas ports to inspect shipping containers prior to arriving in U.S. seaports.

Of the total amount for Customs, $177.8 million is appropriated for operation, maintenance, and procurement of the Customs Air and Marine Interdiction Program to combat the illegal entry of narcotics and other goods into the United States. The Committee provides $7 million over the President's budget for the Customs National Aviation Center.

- **Bureau of the Public Debt:** An appropriation of $192.1 million is provided for the conduct of all public debt operations and the promotion of the sale of U.S. savings-type securities.

- **Internal Revenue Service:** The IRS is funded at $9.995 billion – an increase of $524.6 million over last year and an increase of $79.4 million over the budget request. The bill adds $4.4 million to the Volunteers in Tax Assistance account (for a total of $5 million) to assist lower income taxpayers in filing their returns and $9 million for the Low Income Taxpayer Clinic program. The bill includes $10 million to the Tax Law Enforcement account for an initiative to aggressively combat abusive tax shelters.

  Included in this total is $3.99 billion for processing, tax assistance, and management ($174.3 million over last year); $3.77 billion for tax law enforcement ($235.8 million over last year); and $1.64 billion for information systems ($59.5 million over last year). In addition, the Committee appropriates $450 million for business systems modernization to provide for revamping business practices and acquiring new technology.

- IRS legislative provisions include the following:

  – requiring the agency to safeguard the confidentiality of taxpayer information; and

  – directing the agency to make funds available for improved facilities and increased manpower to provide effective 1-800 telephone assistance for taxpayers.

- **U.S. Secret Service:** The bill provides $1.02 billion for the Secret Service, $6.5 million more than the budget request, most of the increase going to fund the additional pay adjustment. The Committee appropriates $899.6 million for salaries and expenses, an increase of $74.7 million over last year. The Committee includes $32.9 million for the final year of the workforce retention and workload balancing initiative and $1.6 million for operation costs of the missing and exploited child unit (plus a grant of $3.4 million). The total also includes $3.5 million to be used largely for security upgrades of existing facilities.

- Among other accounts for Treasury, $195.1 million is for salaries and expenses for departmental offices; $68.8 million is available for technology investment; $40 million is for the counterterrorism fund; and $35.7 million is for the Treasury Department's Office of the Inspector General.

The Committee adds the following new provisions:

- **Section 122:** Directs the Federal Law Enforcement Training Center to establish an accrediting body to set standards for measuring the quality of federal law enforcement training (as requested).

- **Section 123:** Provides a permanent extension of the Treasury Franchise Fund.

- **Section 124:** Provides for licensing procedures for the Office of Foreign Assets Control.

- **Section 125:** Requires a report from the U.S. Mint on the marketing and distribution of the Golden Dollar.

- **Section 126:** Authorizes a pilot project concerning reverse inspections for the Customs Service.

- **Section 127:** Allows the John C. Stennis Center for Public Service Development Trust Fund and the James Madison Memorial Fellowship Trust Fund to invest in par value special securities issued by the Department of the Treasury.

Title II, U.S. Postal Service

- **Payments to the Postal Service Fund:** The bill provides $60 million for payment to the Postal Service Fund, of which nearly $49 million is for providing free mail to the blind and overseas voters. The Committee includes language to assure that mail for overseas voting and mail for the blind shall continue to be free; that six-day delivery and rural delivery of mail continue at the 1983 level; and that none of the funds shall be used to consolidate or close small post offices.

  In December 2001, the Committee appropriated an additional $500 million to further assist the Postal Service's response to protect the mail. An additional $87 million was provided in the recently enacted FY02 supplemental bill. Although the Postal Service has requested an additional $799.8 million for FY03 mail safety activities, the official request has not been transmitted to Congress and the committee report states the Committee does not have the funds to meet this request.

Title III, Executive Office of the President; Funds Appropriated to the President

- **Total Funding for Title III:** A total of $730.6 million is provided for the 17 accounts funded under this Title ($67 million below last year and $55.4 million below the budget request). The Committee rejected the Administration's proposal to consolidate the accounts funded under this title. This funding includes $450,000 for the President's annual salary, and $60.2 million for additional salaries and expenses in the Executive Office. The bill establishes a separate account for the Office of Homeland Security (requested as part of the Executive Office account), and provides it an additional $25.3 million. Other accounts provided for include: $71.4 million for the Office of Management and Budget; $70.3 million for the Office of Administration; and $12.3 million for operating expenses of the Executive Residence.

- **Office of National Drug Control Policy (ONDCP):** The Committee includes $26.6 million for salaries and expenses of the Office of National Drug Control Policy and $40 million for the Counterdrug Technology Assessment Center (CTAC, the federal government's central counterdrug research and development organization). The Committee fully supports the counterdrug technology transfer program to state and local law enforcement and recommends that $22 million of the CTAC funds go to continue this program. Further, the Committee requests a report from ONDCP on the program's effectiveness and the interest of participating state and local law enforcement communities.

- **Federal Drug Control Programs:**

  — **HIDTA's**: The Committee provides $226.4 million – $20 million more than the request – for High-Intensity Drug Trafficking Areas (HIDTA's), and it directs that funding shall be provided for the existing HIDTA's at not less than the FY02 level. Further, the Committee includes a new provision to prohibit the use of funds to consolidate management of the California, Arizona, New Mexico, and Texas partnerships in the El Paso Office. The Committee report states its concern over ONDCP actions concerning the HIDTA program over the past year and directs ONDCP to provide information by September 30, 2002, on how the additional $20 million provided in FY02 was obligated, as well as providing to the Committee a spending plan for the additional $20 million in FY03 funds.

  — **Special Forfeiture Fund:** This is the only account in Title III that is funded below the requested amount. An amount of $172.7 million is provided ($251.3 million was requested) for this fund that was established by the Anti-Drug Abuse Act of 1988, to be administered by the Director of the Office of National Drug Control Policy. The Committee reduces funding for the National Youth Anti-Drug Media Campaign to $100 million ($80 million less than requested). The report explains the reason for the difference: Since FY1998, Congress has provided over $928.9 million for this national media campaign, yet drug use among the target audience has continued to increase.

  An amount of $60 million is provided for matching grants to drug-free communities, and $1 million for the National Drug Court Institute. Under this fund, $5.9 million is provided for the U.S. Anti-Doping Agency.

Title IV, Independent Agencies

- **General Services Administration:** The Committee recommends a total of $620.7 million for the GSA, an amount which is $104 million above the request. It recommends new obligational authority of $995.6 million for repairs and alterations. The committee provides $97 million more than the $556.6 million requested for the Construction and Acquisition account. GSA is directed to update its study of infrastructure needs for ports of entry and submit it to Congress by March 14, 2003. (The previous study indicated a backlog of $784 million in needed improvements.) Also, the Committee recommends a limitation of $3.15 billion for rental space and a limitation of $1.97 billion for building operations. The Committee provides $45 million to remain available through FY04 for the electronic government (e-gov) fund to allow the Administration to work on this effort to provide simpler and more timely public access to federal information via the Internet.

- **Office of Personnel Management:** The Committee provides $129.7 million for salaries and expenses, an amount which is $882,000 more than requested. Additionally, under OPM, mandatory funding in the amount of $16.3 billion for federal health, life insurance, and disability payments, is provided. The mandatory categories are as follows: payment for annuitants/employee health benefits: $6.85 billion; payment for annuitant/employee life insurance: $34 million; and payment to Civil Service Retirement and Disability Fund: $9.41 billion.

  The bill does not include an Administration proposal to charge individual agencies for the fully accrued costs of retirement under the Civil Service Retirement System and for the accrued costs of retiree health benefits for all civilian employees. The bill also does not include an Administration proposal to charge individual agencies with the administrative costs of the Federal Employees Compensation Act (FECA) program.

- Funding for other independent agencies:

  – $249.9 million for the **National Archives and Records Administration**, including $14 million for the repair and improvement of facilities and Presidential Libraries nationwide. The Committee did not include funding for Homeland Security records activities because the funds cannot be obligated during FY03;

  – $45.7 million for the **Federal Election Commission** ($2.0 million above last year); and

  – $29.0 million for the **Federal Labor Relations Authority** ($2.4 million above last year).

Key Provisions

The Committee added the following new provisions:

- **Section 515:** Increases the size of the endowment for presidential libraries from 20 to 40 percent, starting with the next President.

- **Section 516:** Adds a new provision prohibiting the use of funds to enforce the ban on travel to Cuba.

- **Section 637:** Adds language regarding federal employee pay adjustments to require an increase of 4.1 percent.

- **Section 640:** Adds language prohibiting funds from being used to establish or enforce numerical quotas for the purpose of contracting out federal jobs to the private sector.

In addition, the bill contains a number of general provisions that have been carried in the bill in prior years.

ADMINISTRATION POSITION

At press time, no Statement of Administration Policy (SAP) on the bill as reported to the Senate was available. However, the July 18 SAP on the House bill, as it was reported, is valuable because it addresses provisions that are similar to those in the Senate bill. The SAP notes the President's senior advisers would recommend he veto the bill if the Cuba travel ban is lifted or if the final bill contains the numerical quotas on contracting out.

The following are excerpts only from the July 18 SAP that address provisions that likely also will be areas for concern in the Senate-reported bill:

H.R. 5120 – TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 2003, as reported to the House

The Administration supports House passage of the FY 2003 Treasury, Postal Service, General Government Appropriations Bill, as reported by the House Committee. . . .

The Administration also applauds the House Committee for reporting a bill that is fiscally responsible. The President supports a discretionary spending total of $759.1 billion – consistent with the House-passed Budget Resolution – and this bill falls acceptably within that total allocation. Such a total provides for needed resources for national defense and homeland security while restraining overall government spending. Only within such a fiscal environment can we encourage continued economic growth and a quick return to a balanced budget. The Committee's actions strongly endorse these principles.

The Administration would like to take this opportunity to share additional views and highlight specific concerns with the Committee version of the bill. . . .

<u>**Executive Office of the President (EXOP)**</u>

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The Administration continues to strongly support the proposed consolidated appropriation for EXOP and greatly regrets that the House Committee failed to adopt it. The Administration urges the House, as a matter of comity between the branches and efficient use of resources, to adopt the Administration's consolidation proposal. This proposal would have consolidated the current 16 separate EXOP appropriations into one and would enable the President to effectively manage and align EOP resources consistent with decision-making in an efficient and straightforward manner, while enhancing the accuracy of the financial systems and reducing the administrative volume and cost of processing transactions through the U.S. Treasury.

* * *

Government-wide Language Provisions

The Administration strongly opposes the provision in the bill that provides a 4.1 percent pay raise for Federal civilian employees. The President's budget proposes a pay raise of 2.6 percent for Federal civilian employees, and the Administration continues to believe that proposal is both reasonable and responsible. We urge the Congress to adopt the President's budget policy. The additional cost of this increased pay level is $1.5 billion over the President's request. This congressional policy would divert critical resources from programs across the Government.

We are disappointed that the House has not embraced the Administration's proposal for full cost budgeting for retirement pension costs and post-retirement health benefits and would like to take this opportunity to reaffirm the importance of the proposal. At a time when corporate financial statements are being questioned, we need to ensure that the Federal Government reports its costs appropriately. The Administration's proposal would be a major step in more accurately measuring program costs in the federal budget -- agency by agency, account by account, and program activity by program activity. This proposal does not affect the budget surplus or deficit. Including these costs where they are generated provides a more transparent and full budgeting for federal programs.

The Administration is disappointed that the House Committee does not include the proposal to amend the Federal Employees' Compensation Act (FECA) to allow the Department of Labor to add an administrative surcharge to the amount billed to agencies for their workers' compensation costs. By allocating the cost of administering FECA to customer agencies in proportion to their program usage, this proposal would strengthen incentives to monitor and reduce FECA costs and improve workplace safety. The Administration urges the House to adopt this important reform to strengthen management of the FECA program.

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Potential Floor Amendments

The Administration understands that an amendment may be offered on the Floor that would effectively shut down the Administration's Competitive Sourcing initiative to fundamentally improve the performance of the government's many commercial activities. Last week, the Senate Appropriations Subcommittee adopted a similarly egregious amendment. Now is the wrong time to short-circuit implementation of the common sense principle of competition -- a proven prescription for reaping significant cost savings and performance enhancements -- especially since numerous agencies are starting to make real progress. The principle of competition was unanimously adopted by the recent congressionally-mandated Commercial Activities Panel. Prohibiting the funding for public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill would contain such a provision, the President's senior advisers would recommend that he veto the bill.

The Administration understands that an amendment may be offered on the House floor that would weaken current sanctions against the Cuban government. The Administration believes it is vitally important to maintain these sanctions. The function of the travel sanctions is to prevent unlicensed tourism to Cuba that provides economic resources to the Castro regime while doing nothing to help the Cuban people, and these sanctions should not be removed. Sanctions also help ensure that humanitarian and cultural exchanges are genuine, reaching out to the Cuban people and especially to civil society and democracy activists and not become activities whose main effect is to strengthen the regime. Lifting the sanctions now would provide a helping hand to a desperate and repressive regime, whereas the President's policy calls for reaching out to help the Cuban people. As noted in the July 11 letter from Secretaries Powell and O'Neill, the President's senior advisors would recommend that he veto a bill that contained such changes.

Infringement on Executive Authority

The Administration objects to a number of provisions in the bill that would require Committee approval before Executive Branch execution. For example, section 403 would require that any transfers for Federal Buildings Fund activities "shall be approved in advance by the Committees on Appropriations". The Administration will interpret these provisions to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.

COST

The following amounts are projected in outlays: FY03: $29.89 billion; FY04: $3.01 billion; FY05: $979 million; FY06: $369 million; and FY07: $270 million.

POSSIBLE AMENDMENTS

Only a handful of amendments were known as of press time. It is likely Senators will offer amendments to address the contracting-out and the Cuba travel provisions (see Administration position, above). In addition, we may see the following, among others:

Feingold. Reject the automatic COLA for Members of Congress.

Landrieu. Block Treasury Department rule that would permit banks to act as real estate brokers.

Unknown. Prevent FEHB plans from providing coverage for abortions.

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