



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

November 8, 2001

### **S. 1319** **21st Century Department of Justice Appropriations Authorization Act**

*As reported by the Senate Committee on the Judiciary on October 30, 2001*

#### **SUMMARY**

S. 1319 would authorize the appropriation of funds for fiscal year 2002 for many programs and agencies in the Department of Justice (DOJ), including the Federal Bureau of Investigation, the Immigration and Naturalization Service, the United States Attorneys, and the Bureau of Prisons. Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 1319 would cost \$17.6 billion over the 2002-2006 period. (Spending by the four agencies listed above would account for almost \$13 billion of that total.)

CBO also estimates that enacting of S. 1319 would increase direct spending by \$155 million over the next five years, primarily by allowing DOJ to spend certain collections that are not available for spending under current law.

S. 1319 would authorize DOJ to retain and spend 6 percent of the federal civil debt that the agency seeks to recover on behalf of other agencies. Currently, DOJ may retain and use 3 percent of such funds. CBO estimates that this provision would increase direct spending by \$65 million in fiscal year 2002 and by \$25 million in each year thereafter. In addition, the bill would eliminate federal interest payments to states related to reimbursement for costs to incarcerate certain illegal aliens. CBO estimates that this provision would decrease direct spending by \$3 million annually. Finally, enacting this legislation would increase direct spending by about \$1 million annually to fund eight federal district judges that would be authorized by the bill. Because this legislation would affect direct spending, pay-as-you-go procedures would apply.

S. 1319 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of this mandate would be well below the threshold established in UMRA. The threshold is \$56 million in 2001; (it is adjusted annually for inflation). S. 1319 contains no private-sector mandates as defined UMRA.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1319 is shown in the following table. The cost of this legislation falls within budget functions 750 (administration of justice), 050 (national defense), and 150 (international affairs).

	By Fiscal Year, in Millions of Dollars				
	2002	2003	2004	2005	2006
<b>SPENDING SUBJECT TO APPROPRIATION</b>					
Spending Under Current Law					
Budget Authority <sup>a</sup>	0	0	0	0	0
Estimated Outlays	3,023	1,315	292	131	79
Proposed Changes					
Estimated Authorization Level	17,698	0	0	0	0
Estimated Outlays	13,471	2,589	1,205	259	58
Spending Under S. 1319					
Estimated Authorization Level <sup>a</sup>	17,698	0	0	0	0
Estimated Outlays	16,494	3,904	1,497	390	137
<b>CHANGES IN DIRECT SPENDING</b>					
Estimated Budget Authority	63	23	23	23	23
Estimated Outlays	63	23	23	23	23

a. The programs that would be authorized by the bill received a total appropriation of \$15.6 billion in fiscal year 2001. A full-year appropriation for 2002 for these agencies has not yet been provided.

## BASIS OF ESTIMATE

CBO estimates that implementing S. 1319 would cost \$17.6 billion over the next five years assuming appropriation of the necessary funds. We also estimate that enacting the bill would increase direct spending by \$155 million over the next five years.

### Spending Subject to Appropriation

For the purposes of this estimate, CBO assumes that the amounts authorized by the bill will be appropriated near the start of fiscal year 2002 and that spending will follow the historical

spending rates for the authorized activities. We expect a few programs to spend additional funds more slowly than the historical rates because the bill would authorize substantial increases in funding, relative to the amounts appropriated for 2001.

Under current law, the Antitrust Division of DOJ is authorized to collect pre-merger filing fees and spend such collections without further appropriation action. CBO assumes that the amounts authorized to be appropriated in S. 1319 for the Antitrust Division are in addition to this current authority.

Section 102 of the bill would authorize the transfer of 200 positions within DOJ to create additional assistant U.S. attorneys. Under the bill, the new positions would be filled by current litigation attorneys, and those positions would be eliminated. Based on information from DOJ, we estimate that implementing this provision would cost \$6 million in 2002 to pay for increases in salaries, benefits, and travel costs.

### **Direct Spending**

Under current law, DOJ seeks to collect civil debts owed to federal agencies and is authorized to retain 3 percent of such collections to cover its administrative costs. The agency has retained and spent about \$25 million annually in recent years. S. 1319 would authorize the agency to retain and spend 6 percent of funds collected. CBO estimates that DOJ would retain and spend an additional \$25 million annually under S. 1319. Because these funds would otherwise be returned to the Treasury, this authority would cause an increase in direct spending.

In addition, some of the debts that DOJ collects under current law stem from obligations of borrowers participating in federal credit programs. By authorizing DOJ to retain and spend additional funds from such collections, S. 1319 would modify the expected costs of existing loans and loan guarantees. The Federal Credit Reform Act requires that the costs of modifying loans and loan guarantees be recorded in the year the legislation authorizing such modifications is enacted. Based on collections in recent years, CBO estimates that the cost of the loan modification that would be authorized by for S. 1319 would be about \$40 million 2002.

Under current law, DOJ makes payments to states under the State Criminal Alien Assistance Program to reimburse them for costs to incarcerate illegal aliens. When such payments are not made in a timely manner, the Department of the Treasury makes interest payments to the affected states. S. 1319 would eliminate those federal interest payments. Based on the amounts of such payments in recent years, CBO estimates that enacting this provision would reduce direct spending by \$3 million annually.

Finally, S. 1319 would authorize eight additional federal district judges. Based on information from the Administrative Office of the United States Courts, CBO estimates that this provision would cost about \$1 million annually for salaries and expenses.

**PAY-AS-YOU-GO CONSIDERATIONS**

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The changes in direct spending that would be subject to pay-as-you-go procedures are shown in the following table. For the purposes of pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	63	23	23	23	23	24	24	24	24	24
Changes in receipts	Not applicable									

**ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

Section 205(f) would eliminate federal interest payments to states related to reimbursement for costs to incarcerate certain illegal aliens. Interest payments are made by the Treasury Department when reimbursements under DOJ’s State Criminal Alien Assistance Program are not made in a timely manner. Because any reduction in interest payments would increase states’ net incarceration costs, the provision constitutes an intergovernmental mandate as defined in UMRA. CBO estimates that the costs of this mandate would be well below the threshold established in UMRA. The threshold is \$56 million in 2001; (it is adjusted annually for inflation.)

**ESTIMATED IMPACT ON THE PRIVATE SECTOR**

This bill contains no new private-sector mandates as defined in UMRA.

## **PREVIOUS CBO ESTIMATE**

On July 6, 2001, CBO transmitted a cost estimate for H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act, as ordered reported by the House Committee on the Judiciary on June 20, 2001. The two pieces of legislation authorize very similar 2002 funding levels for DOJ, but H.R. 2215 would not affect direct spending.

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