

# CRS Report for Congress

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## Immigration and Naturalization Service's FY1999 Budget

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### Summary

The House-passed Commerce, Justice, State (CJS), and the Judiciary Appropriations Act (H.R. 4276) would provide the Immigration and Naturalization Service (INS) with \$4.1 billion, an increase of \$340 million over the agency's FY1998 budget, while the Senate-passed measure (S. 2260) would provide the agency with \$3.9 billion for the upcoming fiscal year, an increase of \$142 million over this fiscal year. By comparison, the Administration's FY1999 budget request for INS was \$4.2 billion.

Both the Senate and House Appropriations Committees earmarked \$103 million to increase the Border Patrol by 1,000 additional agents. For interior enforcement of immigration laws, the House earmarked an increase of \$49 million, while the Senate earmarked \$13 million. Both Committees earmarked a transfer of \$5 million in immigration fees from INS to the Department of Justice Management Division to continue efforts to revamp the naturalization process. In addition, the House Committee earmarked nearly \$80 million in immigration examination fee receipts to continue efforts to improve the integrity of naturalization process.

The Senate bill, S. 2260, includes a number of noteworthy provisions. One provision would remove a limitation Congress placed on adjustments of status for potential immigrants who had either entered without inspection or overstayed the terms of their nonimmigrant visa (Section 245(i)). The second provision would repeal a requirement of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C, P.L. 104-208) that requires the development of an entry/exit control system to track non-citizen arrivals and departures. The third provision would amend another provision of P.L. 104-208 to provide for the replacement of border crossing cards incrementally over a four year period, rather than in their entirety by the end of FY1999. A fourth provision, the result of a floor amendment, would provide for an expanded temporary agricultural worker program.

## Introduction

The Immigration and Naturalization Service (INS), a branch of the Department of Justice (DOJ), is the principal federal agency charged with administering the Immigration and Nationality Act. Congress funds INS through the Commerce, Justice, State (CJS), and the Judiciary appropriations bill. From FY1993 to FY1998, Congress has more than doubled the INS budget, from \$1.5 to \$3.8 billion. During these years, INS staffing has increased from just over 18,000 to nearly 29,000 permanent positions — a 60% increase. INS now makes up the largest corps of federal civilian employees (12,403) empowered to make arrests and carry a firearm.

**Table 1. Immigration and Naturalization Service Funding**  
(budget authority in millions)

Sources of Funding	FY1998 <sup>a</sup>	FY1999 base <sup>b</sup>	FY1999 request	FY1999 Senate-passed	FY1999 House-passed
Salaries & expenses appropriation	\$1,659 <sup>c</sup>	\$1,688	\$1,867	\$1,169	\$1,620
Violent crime reduction trust fund	608	670	738	1,100	866
Examinations fee account	785	800	826	906	906
User fee account	427	444	486	444	486
Breached Bond/Detention Fund	235 <sup>d</sup>	145 <sup>d</sup>	145 <sup>d</sup>	202 <sup>d</sup>	170 <sup>d</sup>
Other off-setting fee receipts	8	8	8	8	8
Construction appropriation	76	20	118	110	82
<b>Total INS funding<sup>e</sup></b>	<b>\$3,799</b>	<b>\$3,776</b>	<b>\$4,189</b>	<b>\$3,940</b>	<b>\$4,138</b>

**Sources:** H.Rept. 105-636 (H.R. 4276); S.Rept. 105-105-235 (S. 2260); Budget for the U.S. Government, FY1999; Department of Justice FY1999 Budget Summary; P.L. 105-119; H.Rept. 105-405 (H.R. 2267); H.Rept. 105-207 (H.R. 2267); S. Rept. 105-48 (S. 1022); INS FY1998 Congressional Budgets; Budget for the U.S. Government, FY1998; P.L. 104-208; H.Rept 104-863 (H.R. 3610); H.Rept 104-676 and S.Rept. 104-353 (H.R. 3814).

<sup>a</sup> Anticipated because of the uncertainties of projected fee receipts and future budget reprogrammings.

<sup>b</sup> The base budget is the Administration's estimate of the amount of funding necessary to carry this year's level of activities and services next year.

<sup>c</sup> Reflects \$1.28 million transfer from the Department of State.

<sup>d</sup> Includes 245(i) penalty fee receipts.

<sup>e</sup> Columns may not total due to rounding.

As **Table 1** shows, Congress appropriates funding for INS from several sources: appropriations from general revenues, a trust fund, and off-setting fee receipts. Approximately one-third of INS's budget is derived from fees. User fees are generated principally by the \$6.00 inspection fee included in the cost of an airline ticket for an arriving international flight with an international point of origin, and an assortment of fines levied against airlines and other carriers for not complying with immigration regulations. In addition, examination fees are collected by INS for processing immigration and naturalization claims. INS has recently proposed raising examination fees (see *Federal Register*, January 12, 1998, pp. 1775-97). The proposed fee increases are calculated into projected examinations fee receipts for FY1999.

Regarding fee receipts, the Senate bill would repeal a limitation on a provision of immigration law, Section 245(i) of the Immigration and Nationality Act, that allows potential immigrants who have either overstayed the terms of their temporary nonimmigrant admission or entered without inspection to adjust status to legal permanent resident provided they pay a \$1,000 penalty fee. Under current law, this penalty fee is deposited into the Breached Bond/Detention Fund. P.L. 105-119 limited eligibility to those aliens whose sponsors had filed a petition by January 14, 1999. By striking this date, the Senate bill would reopen eligibility under Section 245(i) (see CRS Report 97-946, *Immigration: Adjustment to Permanent Residence Status under Section 245(i)*).

In its annual budget submission, INS treats each funding source as a separate budget. **Table 2** is a CRS analysis of the FY1999 INS budget submission in which total funding from all sources was compiled by program allocation. Congress does not appropriate funding for INS by program, rather Congress earmarks increases for specific programs (usually in report language).

**Table 2. Immigration and Naturalization Service Budget Allocations by Program**

(budget authority in millions)

Programs	FY1997 actual	FY1998 anticipated <sup>a</sup>	FY1999 base <sup>b</sup>	FY1999 request
<b><i>ENFORCEMENT</i></b>				
Border Patrol	\$730	\$877	\$898	\$998
Inspections	392	472	490	527
Investigations	261	275	283	312
Intelligence	12	14	14	21
Detention & deportation	540	733	707	771
<b>SUBTOTAL</b>	<b>1,935</b>	<b>2,370</b>	<b>2,393</b>	<b>2,630</b>
<b><i>CITIZENSHIP &amp; IMMIGRATION BENEFITS</i></b>				
International affairs	87	102	105	114
Adjudication & nationality	310	392	390	389
<b>SUBTOTAL</b>	<b>396</b>	<b>494</b>	<b>495</b>	<b>503</b>
<b><i>IMMIGRATION SUPPORT</i></b>				
Training	45	24	24	24
Data & communications	361	366	356	393
Information & records mgmt.	172	227	237	242
Construction & engineering	31	77	21	119
Legal proceedings	73	78	81	89
<b>SUBTOTAL</b>	<b>682</b>	<b>772</b>	<b>719</b>	<b>867</b>
<b><i>PROGRAM DIRECTION</i></b>				
Management & Administration	165	162	170	189
<b>Total</b>	<b>\$3,179</b>	<b>\$3,799</b>	<b>\$3,776</b>	<b>\$4,189</b>

**Source:** Table prepared by the Congressional Research Service (CRS) based on data from Immigration and Naturalization Service 1999 Congressional Budgets.

<sup>a</sup> Anticipated because of the uncertainties of projected fee receipts and budget reprogrammings.

<sup>b</sup> The base budget is the Administration's estimate of the amount of funding necessary to carry out this year's level of activities and services next year.

As **Table 2** shows, the INS budget is divided into four activities: *Enforcement*, which includes the Border Patrol, Inspections, Investigations, Intelligence, and Detention and Deportation programs; *Citizenship and Immigration Benefits*, which includes the International Affairs, and Adjudication and Nationality programs; *Immigration Support*, which includes the Training, Data and Communications, Information and Records Management, Construction and Engineering, and Legal Proceedings programs; and, finally, *Program Direction*, which provides for overall agency management.

### **Border Enforcement: Border Patrol and Inspections**

Preventing illegal entry and facilitating legal entry of persons is largely the responsibility of the Border Patrol and INS Inspections. INS inspectors manage the admission of both citizens and foreign nationals through air, land, and sea ports of entry. INS inspectors also intercept inadmissible persons, including those who seek to enter the United States with altered or fraudulent documents, or by making false claims of U.S. citizenship. In FY1997, INS Inspectors conducted over 499 million inspections. From FY1993 to FY1998, the Inspections budget has grown from \$249 million to \$472 million.

For FY1999, the Senate did not include funding to increase INS inspections staff. However, House report language earmarks an increase of \$16 million in user fees to hire 100 additional inspectors for airports, 60 asylum officers, and other staff to expedite the removal of aliens who arrive with fraudulent documentation or willfully misrepresent themselves at ports of entry. House report language also matches the Administration's request with an increase of \$20 million earmarked to continue development of an automated arrival-departure control system at airports of entry that will enable INS to identify nonimmigrants (e.g., tourists and foreign students) who overstay their visas. Conversely, the Senate bill would repeal the statutory provision requiring that such a system be developed — Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA; Division C of P.L. 104-208) — and would amend Section 104 of that law to phase in the replacement of border crossing cards (laser visas) incrementally by the end of FY2003, instead of requiring that they be replaced entirely by the end of FY1999. (For further detail on both these provisions, see CRS Report 98-89, *Immigration: Visa Entry/Exit Control System*.)

The Border Patrol's major objectives are to prevent illegal entry into the United States, interdict drug smugglers and other criminals, and compel those persons seeking admission to present themselves legally at ports-of-entry for inspection. Between FY1993 and FY1998, the Border Patrol's budget has more than doubled from \$362 million to \$877 million. Both Senate and House report language earmarks \$103 million (as requested by the Administration) to increase the Border Patrol by 1,000 agents and 140 support staff, bringing the total number of agents to over 8,700. (See also CRS Report 97-989, *U.S. Border Patrol Operations*.)

### **Interior Enforcement: Investigations, Detention, and Removal**

INS investigators are responsible for criminal alien cases, immigration-related document and benefit application fraud, alien smuggling, and employer sanctions violations. Employer sanctions prohibit employers from knowingly hiring aliens who are unauthorized to work in the United States. In recent years, much of the Investigations'

budget increases were used to step up employer sanctions enforcement; however, identifying and removing criminal aliens from the U.S. accounts for the largest percentage of the Investigation program's workload. In FY1997, INS investigations staff (1,889 investigators and 230 agents) completed 32,521 criminal alien cases, 4,648 employer sanctions cases, 2,242 fraud cases, and 442 smuggling cases. From FY1993 to FY1998, the Investigation program's budget has grown from \$149 million to \$275 million.

For FY1999, Senate report language earmarks an increase of \$10 million to hire 46 new investigators, 15 new agents, and 39 detention, legal, and support personnel for anti-smuggling and interdiction operations along major highway corridors in the mid-west. Senate language also earmarks another \$3 million for a law enforcement support center in Nebraska. Meanwhile, House report language earmarks increases of \$25 million to provide for the formation of 50 INS quick response teams and a 24-hour 1-800 number to assist state and local law enforcement officers in identifying and transferring criminal and other removable aliens to INS custody, and \$3 million to fund INS participation in federal antiterrorism task force operations.

INS has come under intense criticism for not expeditiously identifying and deporting criminal aliens. At the end of FY1997, the Bureau of Prisons (BOP) estimated that out of approximately 113,000 inmates in federal and federally contracted correctional facilities, 27% were non-citizens — many of whom are subject to removal proceedings. From FY1993 to FY1998, funding for the Detention and Deportation program has grown from \$193 million to \$733 million — an increase of 280%. In FY1997, INS removed nearly 50,165 criminal and 61,629 non-criminal aliens. Senate report language directs INS to designate Salt Lake City, UT as a hub location for a criminal alien county jail removal program and a future site for an INS detention facility. House report language earmarks an increase of \$21 million to expand INS detention capacity.

## **International Affairs, Adjudications, and Naturalization**

Under the International Affairs program, INS processes refugees and parolees, and conducts background and record checks related to immigration petitions at overseas offices. This program also oversees the Asylum Officer Corps, whose members interview and screen political asylum applicants in the U.S. In FY1997, INS processed over 91,000 applications for asylum, granting that status in over 10,000 cases. On the other hand, there were nearly 399,000 backlogged asylum cases at the end of FY1997 compared to nearly 454,000 cases at the end of FY1996. From FY1993 to FY1998, funding for this program has increased \$39 million to \$102 million.

Under the INS Adjudications and Nationality program, INS adjudicates applications and petitions for immigration-related benefits, e.g., applications and petitions for nonimmigrant visas, extensions of temporary stays, refugee travel documents, reentry permits, family- and employment-based immigrant petitions, adjustments to legal permanent residence, and naturalizations. In FY1996, the last year for which these statistics are available, INS admitted over 916,000 immigrants, 67,000 refugees, and 25 million nonimmigrant visitors to the United States.

INS also naturalized nearly 650,000 immigrants in FY1997 compared to 1.1 million immigrants in FY1996. This decline was largely the result of DOJ/INS efforts to restructure the naturalization process after a number of serious problems were uncovered

during congressional oversight hearings on the INS naturalization initiative, Citizenship USA. Among other things, the agency failed to ensure that all fingerprint checks on applicants were completed by the FBI, allowing some with criminal records to naturalize. As a result, INS is reviewing over 6,000 naturalization cases and initiated proceedings to revoke citizenship from nearly 1,500 people. Meanwhile, the number of naturalization applications pending with INS increased to nearly 1.6 million at the end of FY1997.

The FY1998 appropriation included an increase of \$163 million to reduce naturalization caseloads and “restore the integrity of the naturalization process.” From FY1993 to FY1998, funding for the Adjudications and Naturalization program has increased from \$137 million to \$392 million. This program is usually funded entirely from the examinations fee account. The Administration’s requested total allocation for this program is \$389 million, more than \$2 million under the FY1998 anticipated program allocation. For FY1999, both Senate and House report language earmarks a \$5 million transfer from the examinations fee account to the Justice Management Division to continue efforts to revamp the naturalization process. In addition, House report language earmarks nearly \$80 million in immigration examination fee receipts to continue ongoing efforts to improve the integrity of the naturalization process. (For further detail, see CRS Report 98-190, *Naturalization Trends, Issues, and Legislation*.)

During Senate floor consideration, there were a number of successful floor amendments. Of these, the largest in scope would provide for an expanded temporary agricultural workers program and farm-worker registry. (For background, see CRS Report 97-714, *Immigration: The "H-2A" Temporary Agricultural Worker Program*). Other amendments would: eliminate potential for fraud in the investor visa program, waive processing fees for laser visas, exempt orphans adopted by U.S. citizens from the immigration-related grounds for removal, extend temporary protected status for Liberians through FY1999, provide adjustment of status for certain Iraqi asylees, provide greater access to discretionary relief to noncitizen battered spouses and children, and provide for a temporary health care worker visa.

## **Immigration Support**

Under the Immigration Support budget activity, Data and Communications and Information and Records Management are the two largest programs. From FY1993 to FY1998, Data and Communications funding increased from \$120 million to \$366 million. For the same years, Information and Records Management funding increased from \$89 million to \$227 million. Nevertheless, INS has been criticized for backlogs in processing immigration-related petitions and applications. Although these difficulties reflect growing information management workloads, they have also been attributed to the agency’s slowness in fully automating information management. Moreover, provisions included in the IIRIRA and welfare reform act (P.L. 104-193) placed new demands on INS in the areas of verification of eligibility for social welfare benefits and employment.