



**Legislative Bulletin.....June 5, 2002**

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**S. 1372 — Export-Import Bank Reauthorization of 2002 – Conference Report (*Sen. Sarbanes*)**

**Order of Business:** The Conference Report is scheduled to be considered on June 5<sup>th</sup>, 2002, pursuant to a rule waiving all points of order.

**Summary:** The following are major changes in the conference report from the House-passed bill, H.R. 2871 (for additional information on H.R. 2871, see the RSC Legislative Bulletin of [May 1, 2002](#)).

- Extends authorization for the Ex-Im Bank until September 30, 2006. The House bill extended authorization until 2005.
- States that the purpose of the Bank is to “contribute to maintaining employment of U.S. workers.”
- Sets the outstanding loan, guarantee and insurance balance at Ex-Im Bank that may be held at any one time at \$80 billion in fiscal year 2002, with annual \$5 billion adjustments for inflation, bringing the total to \$100 billion in fiscal year 2006. The House bill set the ceiling at \$75 billion in fiscal year 2002, increasing to \$130 billion in 2005.
- Gives the President, after consultation with the Bank and the Secretary of the Treasury, final approval of Tied Aid Credit Fund grants and is silent on the ability of the Secretary to veto tied aid transactions. The House bill denied the ability of the Secretary to veto transactions.
- Removes name change of Tied Aid Credit Program and Fund to Export Competitiveness Program and Fund included in the House bill.
- Authorizes the Ex-Im Bank to match market windows financing that is inconsistent with export credit arrangements negotiated within the Organization for Economic Cooperation and Development (OECD). A match can be made if it will advance OECD negotiations or if the market windows financing is better than financing available in private markets.
- Removes the requirement that the Bank reevaluate its adverse impact test on United States industries as a result of the Benxi Iron and Steel Company Bank loan guarantee in Benxi, Liaoning, China.

- Adds socially or economically disadvantaged and women-owned small businesses to Bank outreach efforts.
- Requires technology improvements, including an annual report on progress toward making improvements. Also includes a Sense of the Congress on the importance of technology improvements at the Ex-Im Bank.
- Terminates the Sub-Saharan Africa Advisory Committee on September 30, 2006. The House bill reauthorized the Committee for 4 years and required an annual report on Sub-Saharan Africa activities of the Bank.
- Maintains a Senate provision establishing an Inspector General for the Ex-Im Bank.

**Additional Background:** Congress last authorized the Export-Import Bank in 1997 for a 4-year term, which expired on September 30, 2001. Since then, Congress has passed short-term authorizations through the FY 2002 Foreign Operations Appropriations bill and through stand-alone legislation on March 19, 2002, and April 30, 2002. H.R. 2871 passed the House by voice vote on May 1, 2002.

The mission of the Ex-Im Bank is to support export financing of U.S. goods and services. By law, the Bank is intended only to fill gaps in commercially available financing for U.S. exports by serving as a “lender of last resort,” and not competing with private lenders. Ex-Im is also required by law to work toward securing international agreements to reduce government-subsidized export financing, thereby promoting a level playing field for U.S. exporters.

Today, Ex-Im finances approximately one percent of U.S. exports annually. Examples of some of the goods that Ex-Im helped to export include U.S. civilian aircraft, electronics, energy-related products, engineering services, medical equipment, vehicles, and agricultural equipment.

**Possible RSC Concerns:** Members may view the activities of the Ex-Im Bank as questionable and a form of “corporate welfare.” Past Ex-Im Bank subsidies have gone to foreign governments, including the Communist regime in China, and to large multi-national corporations such as General Electric and Boeing. In addition, some Members may see the Ex-Im Bank as unnecessary, providing financing to countries that do not have trouble obtaining credit and, in many cases, displacing private investment by funding ventures that would otherwise have taken place.

Many RSC Members voted to strike Ex-Im Bank funding from the FY 2002 Foreign Operations Appropriations bill ([Roll Call #261, July 24, 2001](#)).

**Cost to Taxpayers:** Although no cost estimate for the Conference Report is available, CBO estimated that implementing H.R. 2871 would cost \$215 million in 2002 and \$3.1 billion over fiscal years 2002-2006, subject to annual appropriations. In addition, the bill contained provisions increasing obligations from available balances in the Tied Aid Credit Fund. CBO estimated implementing those provisions would increase direct spending by \$9 million in 2002 and \$128 million over 2002-2006.

**Does the Bill Create New Federal Programs or Rules?:** Yes, as described above.

**Constitutional Authority:** A previous committee report cited constitutional authority in Article 1, Section 8, Clause 1 (relating to the general welfare of the United States) and Clause 3 (relating to the power to regulate interstate and foreign commerce).

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## H.R. 4664—Investing in America’s Future Act (National Science Foundation Authorization) (Smith of Michigan)

**Order of Business:** The bill is scheduled to be considered on Wednesday, June 5<sup>th</sup>, subject to an open rule (no amendments were pre-printed in the *Congressional Record*).

**Summary:** H.R. 4664 would authorize appropriations for the National Science Foundation (NSF) for fiscal years 2003, 2004, and 2005. In total, the bill would authorize **\$19.15 billion** over the FY2003-2005 period (\$5.5 billion in FY2003, \$6.3 billion in FY2004, and \$7.3 billion in FY2005). Each total annual authorization is a 15% increase over the previous year’s authorization. The FY2003 total authorization is almost 10% above the Administration’s request. More detailed authorizations are provided in the chart below:

### NATIONAL SCIENCE FOUNDATION FY2003, 2004, AND 2005 BUDGET REQUEST (In Millions of Dollars)

	FY02	FY03 Budget Request	FY03 Auth	Percent Change FY02-FY03	FY04 Auth	Percent Change FY03-FY04	FY05 Auth	Percent Change FY04-FY05
<b>Research and Related Activities</b>	<b>\$3,598.64</b>	<b>\$3783.21</b>	<b>\$4138.44</b>	<b>15.0%</b>	<b>\$4735.60</b>	<b>14.4%</b>	<b>\$5445.94</b>	<b>15.0%</b>
Information Technology	\$676.00	\$678.00	\$704.00	4.1%	\$774.00	9.9%		
Nanotechnology	\$198.71	\$221.25	\$238.45	20.0%	\$286.14	20.0%		
Mathematical Sciences	\$30.00	\$60.09	\$60.09	100.3%	\$90.09	49.9%		
Major Research Instrumentation	\$75.9	\$54.00	\$75.90	0.0%	\$85.00	12.0%		
<b>Education and Human Resources</b>	<b>\$875.00</b>	<b>\$908.08</b>	<b>\$1006.25</b>	<b>15.0%</b>	<b>\$1157.19</b>	<b>15.0%</b>	<b>\$1330.77</b>	<b>15.0%</b>
Major Research Equipment and Facilities Construction	\$138.80	\$126.28	\$152.35	9.8%	\$225.00	47.7%	\$285.71	27.0%
Salaries and Expenses	\$176.40	\$210.16	\$210.16	19.1%	\$216.46	3.0%	\$222.96	3.0%
Inspector General	\$7.04	\$8.06	\$8.06	14.5%	\$8.30	3.0%	\$8.55	3.0%
<b>TOTAL</b>	<b>\$4795.88</b>	<b>\$5035.79</b>	<b>\$5515.26</b>	<b>15.0%</b>	<b>\$6342.55</b>	<b>15.0%</b>	<b>\$7293.93</b>	<b>15.0%</b>

*Chart prepared by the House Committee on Science*

The Committee on Science states on its website that this bill would set “the government’s premier research agency on the path to doubling its budget over the next five years.” The NSF was last authorized in 1998 (covering up to and including FY2000). Since FY2000, the NSF has not been officially authorized, though its funding has continued.

**Earmarks of note:**

- In FY2003, of the funds available for Education and Human Resources, \$50 million would be earmarked for the Advanced Technological Education Program, and \$30 would be earmarked for the Minority Serving Institutions Undergraduate Program.

- In FY2004, of the funds available for Education and Human Resources, \$55 million would be earmarked for the Advanced Technological Education Program.

H.R. 4664 would direct the NSF Director to submit to Congress (within two months of this bill's enactment) a plan for allocating the funds authorized each fiscal year by this bill. Specifically, the plan would have to focus on how the Director's allocation of funding would affect the average size and duration of NSF grants, would impact research trends for science, math, and engineering, and would aim to achieve a balance among the major fields and subfields of science, math, and engineering.

The NSF Director would be required to develop and transmit to Congress a list of priorities for funding Major Research Equipment and Facilities Construction. None of the funds for Major Research Equipment and Facilities Construction could be obligated in any fiscal year until 30 days after the transmission to Congress of this list (annually) and of the criteria for formulating the list (based on the six-point *minimum* criteria outlined in the legislation).

The NSF Director would also be directed to include as part of the annual budget request to Congress a plan (including cost estimates and funding levels for grants) for the proposed construction of, and repair and upgrades to, national research facilities.

The bill would instruct the NSF to review and assess the Major Research Instrumentation Program and report the findings (including estimates of funding needs) to Congress.

The NSF would be directed to establish (in a joint effort with NASA) a 13-member Astronomy and Astrophysics Advisory Committee to coordinate the astronomy and astrophysics programs of the two agencies. No member of the Committee could be a federal employee.

The National Science Board would be directed to comply with Section 552b of Title 5 of the U.S. Code, which requires that all federal agency meetings regarding agency activities (with a few narrow exceptions) be open to the public. The NSF's Inspector General would be instructed to ensure such compliance via annual audit and report to Congress.

**Additional Background:** The NSF is an independent agency of the federal government, established by the National Science Foundation Act of 1950 and additional legislation subsequently. NSF is led by the National Science Board, which consists of 24 part-time members and a director, each appointed by the President and confirmed by the Senate.

The NSF's mission, established in 1950, is: "To promote the progress of science; to advance the national health, prosperity, and welfare; and to secure the national defense." Through the original Act and subsequent legislation, the NSF's mission became more detailed, including such mandates as:

- "Initiate and support, through grants and contracts, scientific and engineering research and programs to strengthen scientific and engineering research potential, and education programs at all levels, and appraise the impact of research upon industrial development and the general welfare;

- “Award graduate fellowships in the sciences and in engineering;
- “Maintain a current register of scientific and technical personnel, and in other ways provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and technical resources in the United States, and provide a source of information for policy formulation by other Federal agencies;
- “Determine the total amount of Federal money received by universities and appropriate organizations for the conduct of scientific and engineering research, including both basic and applied, and construction of facilities where such research is conducted, but excluding development, and report annually thereon to the President and the Congress;
- “Initiate and support specific scientific and engineering activities in connection with matters relating to international cooperation, national security, and the effects of scientific and technological applications upon society; and
- “Support activities designed to increase the participation of women and minorities and others under-represented in science and technology.”

To learn more about the NSF, go to this website: <http://www.nsf.gov/>

**Possible RSC Concerns**: Some offices have expressed concern about the annual 15% increases in authorized appropriations for the NSF while federal budget deficits continue to grow.

Rep. Nick Smith (R-MI), sponsor of this legislation, asserts that the NSF has been turning down more and more grant applications—even ones rated “very good” or “excellent”—due to lagging funding. Further, because many grants are of short duration, researchers are forced to spend more time writing grant applications and less time conducting actual research. Rep. Smith points out that the National Institutes of Health (NIH) has received major funding increases recently and that NSF also deserves such increases in order to bring the government’s research and development portfolio back into balance somewhat.

Rep. Smith notes that the NSF supports *basic* science research and claims that the private sector doesn’t do as much of this type of research (as opposed to *applied* science research).

**Cost to Taxpayers**: H.R. 4664 would authorize appropriations of \$5.5 billion in FY2003, \$6.3 billion in FY2004, and \$7.3 billion in FY2005—for a grand three-year total of **\$19.152 billion**.

**Does the Bill Create New Federal Programs or Rules?**: The bill would require the creation of a 13-member Astronomy and Astrophysics Advisory Committee and mandate several new reporting requirements for the NSF. Otherwise, the bill would increase the authorized funding levels for the NSF as a whole and for the existing accounts within the NSF appropriation.

**Constitutional Authority:** The Committee on Science, in House Report 107-488, cites constitutional authority in Article I, Section 8, but does not cite a specific clause.

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