

BREACHED BOND/DETENTION FUND

(Dollars in thousands)

Permanent Indefinite Special Fund

	<u>Perm. Pos. 1/</u>	<u>FTE</u>	<u>Amount</u>
2000 actuals.....	21	64	\$70,300
2001 availability	21	63	80,600
Adjustments to base:			
Increases (See p. 96).....	...	...	167
Decreases (See p. 96).....	...	...	(4)
2002 base.....	21	63	80,763
Program changes (detailed below).....	...	...	40,000
2002 estimate	21	63	120,763

1/ Permanent positions reflect positions funded from program revenues, and are not included in the Department's positions total.

<u>Comparison by activity and program</u>	<u>2001 Availability</u>			<u>2002 Base</u>			<u>2002 Estimate</u>			<u>Program Changes</u>		
	<u>Perm Pos.</u>	<u>FTE</u>	<u>Amount</u>	<u>Perm Pos.</u>	<u>FTE</u>	<u>Amount</u>	<u>Perm Pos.</u>	<u>FTE</u>	<u>Amount</u>	<u>Perm Pos.</u>	<u>FTE</u>	<u>Amount</u>
1. Enforcement												
Detention and Removals.....	6	44	\$78,457	6	44	\$78,576	6	44	\$118,576	...	...	\$40,000
2. Immigration Support												
Legal Proceedings.....	4	3	421	4	3	433	4	3	433	...	...	...
3. Program Direction												
Management & Administration.....	11	16	1,722	11	16	1,754	11	16	1,754	...	...	...
Total.....	21	63	80,600	21	63	80,763	21	63	120,763	...	...	40,000

Program Description

The Breached Bond/Detention Fund was authorized in Section 112 of the Department of Justice Appropriations Act of 1993 (P.L. 102-395). The Act amended Section 286 of the Immigration and Nationality Act (INA) of 1952, as amended, by establishing, in the General Fund of the Treasury, a separate account to be called the Breached Bond/Detention Fund. The first \$8,000,000 in breached cash and surety bonds collected goes to the General Fund of the U.S. Treasury. All collections in excess of \$8,000,000 posted under the INA, which are recovered by the Department of Justice, are deposited as offsetting collections into this fund. Amounts deposited into the fund, which remain available until expended, can be used for expenses incurred in the collection of breached bonds, bond management, litigation activities to obtain compliance from surety companies found to be delinquent in meeting their obligations to the INS, and for expenses associated with the detention of criminal and illegal aliens.

BREACHED BOND/DETENTION FUND

(Dollars in thousands)

In 1998, the Immigration Detention account receipts were merged into this account. These receipts are derived from the penalty portion of the receipts collected under Section 245(i) of the INA. Section 245(i) allows a person who qualifies for permanent residency, but is ineligible to adjust status in the United States because of an immigration status violation, to pay a \$1,000 penalty to continue processing in the United States. Congress did not renew the provision for filing new 245(i) adjustments in FY 1998, but did pass an extension of eligibility for certain aliens who had begun the immigrant visa process prior to January 14, 1998. The filing of appropriate paperwork prior to January 14, 1998, may have preserved an individual's eligibility to apply for adjustment of status in the future, and, as such, receipts generated by 245(i) applications under the 1998 extension will still be collected for the next several years.

In addition to the FY 1998 extension of 245(i), in December 2000, Congress enacted the Legal Immigration and Family Equity Act (LIFE Act) into law. The LIFE Act extends the date of eligibility for 245(i) temporarily for people physically present in the United States on the date of enactment (December 21, 2000). In order to be eligible for 245(i) adjustment under the LIFE Act, a person must be the beneficiary of an immigration petition or application for labor certification filed on or before April 30, 2001.

<u>Program Changes</u>	<u>Perm. Pos.</u>	<u>FTE</u>	<u>Amount</u>
Detention Beds	\$40,000

The President's FY 2002 budget includes increased receipts resulting from the temporary reinstatement of 245(i) under the LIFE Act. INS estimates that this recent reauthorization of 245(i) will result in approximately \$80 million in receipts in the Breached Bond/Detention Fund across fiscal years 2001 and 2002. (In addition to the Breached Bond/Detention Fund, receipts generated from 245(i) will be deposited in the Examinations Fee Account.)

The growth of INS' enforcement efforts, along with the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which requires INS to detain aliens subject to mandatory detention, have increased INS' need for detention bed space in recent years. INS' average daily bed space usage has more than doubled from 8,279 average daily detention beds in FY 1996 to 18,518 in FY 2000. To better predict future detention needs, in FY 2000, INS developed an improved detention bed space model. The model uses historical information to make assumptions about apprehensions, length of stay in detention, and criminality of detainees to forecast detention bed needs at the district office level. The outcome of modeling done at the district office level was used to generate the FY 2002 national detention bed space estimate for INS.

The President's FY 2002 budget proposes using the new receipts deposited into this account to provide an increased number of detention beds and associated vehicle costs. Specifically, **\$38,517,000** is requested to fund 1,407 additional detention beds. When this increase is combined with the 200 new beds for which FY 2002 funding is requested in the User Fee account, INS intends to increase detention beds by a total of 1,607 beds, for a total funded bed level of 21,262 in FY 2002. Additionally, **\$1,483,000** is requested to fund vehicles to transport the increased number of detainees. Additional bed space support is requested in the Salaries and Expenses account, including funding for staff, removals, transportation, medical costs, and additional vehicles.

Total Program Changes, Breached Bond/Detention Fund.....	40,000
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