

**US Senate Committee on
Environment and Public Works**

Testimony

Provided by

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Executive Director

Nueces River Authority

Uvalde, Texas

November 8, 2023

Honorable Chair and Distinguished Members,

I bring you greetings from the citizens of the Nueces River Basin located in Southwest Texas. I am honored to serve as the Executive Director of the Nueces River Authority, created by the Texas Legislature in 1935 to protect, preserve, plan, and develop the resources of the 17,500 square mile Nueces River Basin. The Authority is governed by a 21-member Board of Director's appointed by the Texas Governor with advice from the Senate.

The Authority's general office is in Uvalde, Texas the final resting place of "Catus Jack" former Vice-President John Nance Garnder, the birth state of Presidents Dwight D. Eisenhower, and Lyndon B. Johnson, and the home of George H.W. Bush, and George W. Bush. Those are just a few of the good memories from the Lone Star State. The site of our worst memory sits 3 blocks down the road from our general offices, which is the site of Robb Elementary School, where the horrific shooting took place just over a year ago. The lives of these twenty-one people live in our hearts as we meet here today.

Today I am here to speak with you about the State Revolving Loan Funding (SRF) Programs.

The Clean Water State Revolving Fund was established as part of the Clean Water Act in 1987, and the Drinking Water State Revolving Fund was established in 1997 by the Safe Drinking Water Act. Both programs are much needed and, for the most part, have functioned well.

I am not here today to find fault with the programs, in fact I energetically support them, however there is one group that does not have fair access to the grants and loans offered through these programs. So, I am here today to request an amendment to the programs to address the inequity realized by the rural and small water systems throughout the US.

If I may, I would like to begin with some background on how I have knowledge and experience with the programs. I began working for municipal water utilities in September of 1979. Since 1979, I have worked for municipal utilities and had some experience with companies that serve local governments.

Of my municipal utility career, all but 5 years of that time was employed with small and rural water providers. Today, as Executive Director of the Nueces River

Authority, we are engaged and highly focused with assisting small and rural utilities as they struggle to meet the needs of their customers and the requirements of the federal and state regulations.

So, thirty-eight of the 43 years of my municipal utility experience has been with small and rural systems.

The Safe Drinking Water and the Clean Water Acts impose requirements regarding drinking water quality and wastewater treatment in both rural and urban areas. The requirements apply to public water supply systems, whether publicly (government) or privately owned. EPA regulates the quality of drinking water provided by community water supply systems which are defined by the Acts as systems having at least fifteen service connections. These community water systems serve approximately three hundred million people. So, water systems regulated by the act provide drinking water to 97% of all Americans. Although approximately 70% of Americans are customers of large drinking water systems, the vast majority of community systems in the US are or the systems serving these 97% of all Americans, are small systems. So, what the research finds is that small water systems (those systems serving 3, 300 people or less) account for 77% of all water systems in the US.

To recap, approximately 19% of the U.S. population lives in areas defined by the Census Bureau as rural, but water service to these areas accounts for 77% of the total number of water systems in the US.

There are not only more small systems, but these small water systems often have higher rates of noncompliance than larger systems. In addition, because small systems generally lack economies of scale, their customers face a particularly heavy financial burden to meet needs for clean water investments. They need projects to improve the public health and environmental conditions of the people they serve, and these projects are currently estimated at more than \$130 billion, according to state surveys.

Although the State Revolving Loan Programs mentioned previously are programs aimed at assisting community water systems in meeting the requirements of the federal and state regulations, they do not provide enough focus and allot enough of the funding for rural areas to overcome the number of small systems needing assistance.

Of the 1210 cities in Texas, 834 or 68.9% have a population of less than 5,000. There is simply not enough money allocated in Texas for rural and small cities to meet these needs.

In addition to the discrepancy in the numbers the programs place a hardship on small systems is the application and the requirements necessary to apply. To apply, an application detailing copious financial information and background and a preliminary engineering report must be submitted.

Most very small systems have limited credit history, and they face challenges in trying to raise capital in financial markets even if they are in an area where the Median Household Income is at least near or equal to the national average to cover the cost of developing a preliminary engineering report for the project.

Larger cities are more capable than smaller systems in putting together the funds needed to pay for the preparation of a preliminary engineering report, the cost of retaining financial advisors and bond counsel. In addition, the small cities have limited access to financial markets and their creditworthiness is more sensitive to local economic conditions than larger systems.

In many states, like Texas, the financial information required with the application far exceeds that required by the regulations and guidelines for the program. Very detailed information about the utility, the largest customers of the utility, along with background of the financial audits usually the last 3 to 5 years of audits, must be submitted. The entity is “encouraged” to have their financial advisor and bond counsel at the pre-application meeting.

In Texas, before an entity can apply for SRF funding, they must be invited after a Project Information Sheet (PIF) has been ranked by outside contractors. Then the applicant is required to have a pre-application meeting with the Texas Water Development Board (TWDB) project staff.

In 2021, the Nueces River Authority submitted a PIF for a small city within the Basin. The project was ranked the #2 most needed project in the state after the PIF’s were ranked. The River Authority received notice that the TWDB would accept an application for funding this project. The River Authority made several requests for the pre-application meeting. The meeting was finally held two working days prior to the due date for applications. Assembling the required

information for the application was impossible. This move by the TWDB, basically disqualified the project rated as the #2 most needed project in Texas, in an area where the median household income was less than half of the state average. The project is still not funded and today the effluent from this city's outdated facility is contributing to the pollution of Baffin Bay, an extraordinary area that brings in approximately fifty-nine million dollars per year to the local economy through sport fishing, commercial fishing, and tourism. This area of the watershed also contains other small cities just like the one that applied for funding with median household incomes at less than 50% of the state and national average. Many of which are contributing to the high contaminant levels found in Baffin Bay.

So, the #2 most needed project in 2021 ranking was not funded and is still without funding today.

I am also aware of a water system in Angelina County, Texas that was successful in obtaining a grant and loan from the State Revolving Fund through the assistance from their local river authority. The assistance was provided in the form of a 70% grant, and 30% loan.

They are not able to accept the funding due to the utility rate increase that will be needed to amortize the loan. The increase would make their monthly water bills approximately \$88.00 per month. The median household income in the area they serve is \$38,000 per year. Not enough money to maintain a household and pay a \$88.00 per month water bill.

Another item that prevents small cities and districts from applying is the massive amount of financial information required by the funding agencies. The requirements far exceed the requirements of the act. The Act requires information congruent with local governmental financing requirements. The agency's requirements are like those required by private industry. This places an even higher hurdle in the path of small cities receiving grants from the programs.

In the Nueces River Basin almost all small cities have a median household income that is well below the national and state levels. In most cases, they are not able to compete for loan dollars. When they do compete for grant dollars, it is usually through a private company that offers grant writing services for a percentage of the grant. Although these small cities with the limited staff find that the paperwork required for the application is beyond their capabilities, when grant

writers are used, these cities find themselves in fierce competition for grant dollars and if successful, find owning the grant writer a significant amount of the money awarded.

An example of how the system is flawed is evident in a recent application for funds for the Duval County, Texas - Reclamation and Conservation District. The district serves the communities of Realitos and Concepcion with a total combined population of 360 people.

The median household income is only 44.4% of the average for the State of Texas.

The water system serving these communities has been cited since 2015 for grossly exceeding the maximum containment level for arsenic in every sample taken. Their request for \$1,665,000 to improve the arsenic removal to the water supply was not accepted due to the application not containing a preliminary engineering report.

They had a study detailing the levels of arsenic in the source water and drinking water, and how they proposed to improve the treatment to comply with the maximum contaminate limit, however today, these people are still drinking and bathing in water that is much higher than the maximum limit for arsenic.

I believe the requirement of a preliminary engineering report that follows rigid guidelines established in excess of the program requirements is an overreach and a vivid example of the program misses the mark of for small systems throughout the US. This is why small systems today still need in excess of \$130 billion to meet the needs of their customers and satisfy the requirements of the Safe Drinking Water and the Clean Water Acts.

The Duval County Reclamation and Conservation District has one part time employee. He works 4 hours per day operating the district and has another part time job for the other 4 hours. His 4 hours at the district are barely enough to check the systems, take care of accounts payables and receivables, read water meters, send bills, take monthly samples, and complete the required monitoring reports, much less complete applications for grants and loans.

The Duval County District is just one example of the type of utilities in the Nueces River Basin, the State of Texas, and the US where the State Revolving Programs, even with set-a-sides for small systems, are not working. This is why small systems

need improvements in excess of \$130 billion dollars to meet the requirements of the Safe Drinking and Clean Water Acts.

The USDA programs available are good programs, however they do not provide the amount of funding needed for these small systems to gain compliance.

My ask today is that the overreaching of the State agencies administering the State Revolving Loan Programs be audited and forced to comply with the minimum requirements of the program.

During the 43 years of my professional career, and as a proud holder of Class "A" Water and Wastewater Operator licenses, I have not heard of any entity defaulting on a loan or grant in Texas. I believe like many of my colleagues that the requirements in the Acts are stringent enough to protect the Federal and State Governments of the Country and State I love and feel privileged to be a citizen of.

I also ask that a greater percentage of the total money become available for small systems.

Even with the inflation act, the amount of federal outlays for environmental and water spending is at the lowest year of the Reagan Administration, which was 1.3% of total federal outlays, and below the JFK, LBJ, Nixon, Ford, Carter, George H.W. Bush, and Clinton Administrations overall. (Please see Attachment A)

We must increase the level of spending and address the infrastructure issues in our water and wastewater systems, and we must find a way to increase the amount of funding of the small water systems which represent 77% of all water systems in the US.

I feel honored to be here today, however I feel a great sense of responsibility.

A responsibility shared by each of us testifying, as well as you, the leaders of our great Country. I am here today because I love my Country, and I believe in our form of government, and I believe in you, and this Committee's capability to amending that act to help small cities receive the monies they need to service their customers and include high levels of funding into the buckets for our water and wastewater utilities.

Thank you, John J. Byrum II Attachments: A: Federal Outlays for Water Infrastructure Over the Last 60 Years

FUNCTION 300 AND WATER SPENDING STATS 1962-2022

Prepared for Nueces River Authority by TRPR

JFK/LBJ's eight years rank second in overall Function 300 at 1.87% of total federal outlays and score **highest in the 60 years 1962-22 in water investments** percent of federal outlay at 1.02%. The modern environmental era was born during this era.

Carter was the **highest in Function 300** at 2.4% in six decades and third place in water investment percentage of total federal outlays at .72%.

Nixon/Ford are third in Function 300 at 1.77% and second in water at .78%. **Ford spent 28% more than Nixon** on Function 300 averaging 2.2% compared to Nixon's five years of 1.72% Function 300. Ford enacted the **highest environmental spending rate increase** during the six decades.

Reagan was fourth in Function 300 at 1.48% of total federal outlays and fourth in water at .48%. Both spending categories quickly declined through the eight years, but **the water percent drop over 8 years was 33% below Carter and 53% below the JFK/LBJ** highwater mark.

Clinton was **5th in Function 300** at 1.46% of total federal outlays rising one spot above Bush 1 and almost matching Reagan's 1.48% but **6th in water** at .28% the first level below .3% of total federal outlays and a whopping **75% below JFK/LBJ**. "The era of big government is over (especially for water)."

Bush 1 was 6th in Function 300 spending of 1.37% of total federal outlays but **rose to 5th place in water** allocation at .34% of total federal outlays. His “no net loss of wetlands policy was another strength.”

Bush 2 was 7th in Function 300 at 1.22% and 7th in water at .24% almost unchanged from Clinton.

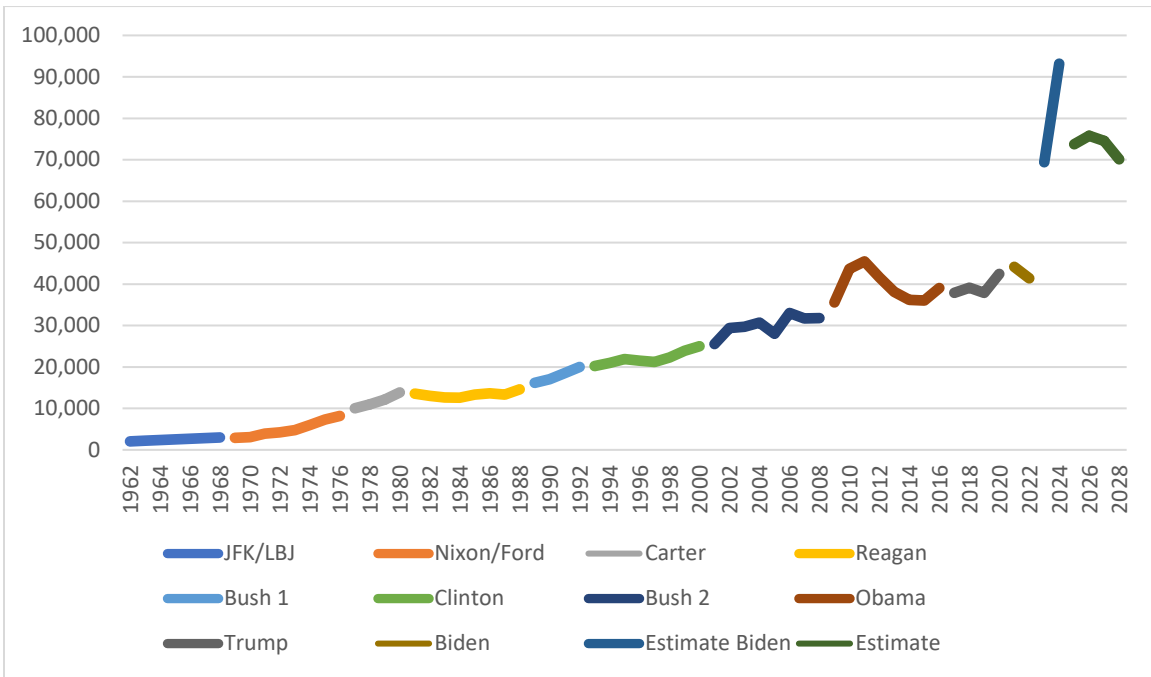
Obama was 8th in Function 300 at 1.06% and tied for 7th with Bush 2 at .24% for water, the ***only time that there was no loss in water funding allocation***. However, Obama’s 2015 Function 300 budget dipped below 1% to .9% for the first time since 1962.

Trump averaged under 1% in Function 300 at .8% average over four years. That was a first. Water investments were also the lowest over 60 years at .15%.

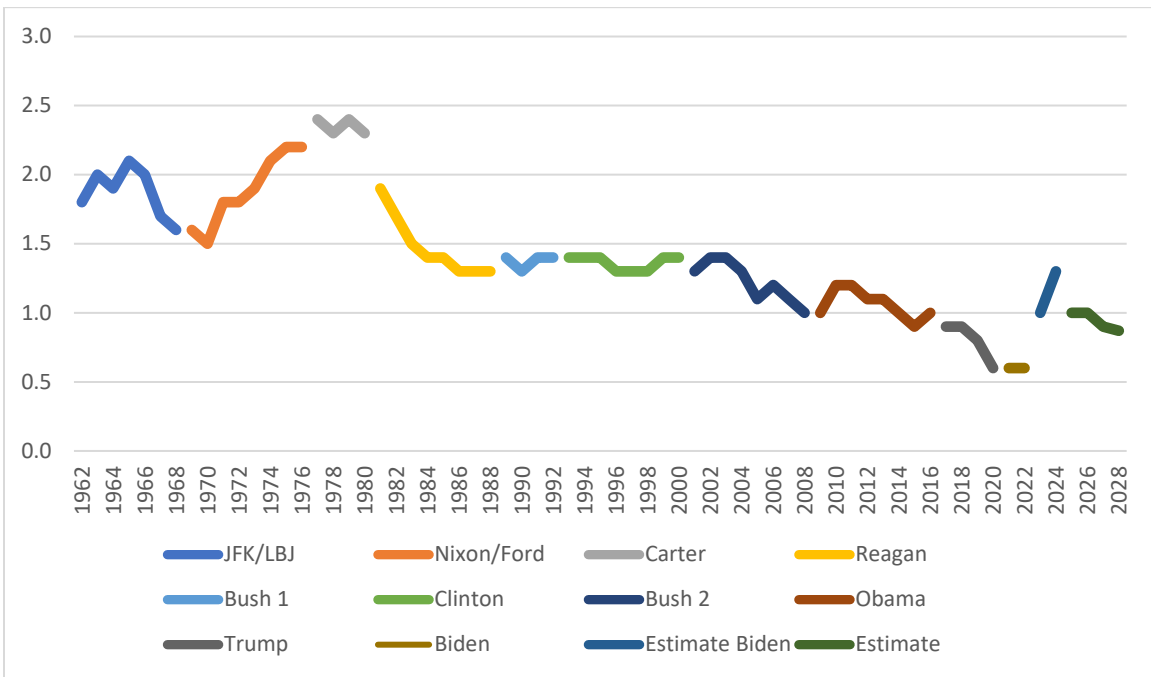
Biden began at Trump’s last year level of Function 300 which was lowest ever at .6% and that was repeated in 2022. The 2023 Function 300 rose to 1% of total federal outlays reversing the decline. In 2024 a 1.3% level is projected for Function 300 which would be the highest since 2004, which was Bush 2’s fourth year in office. Also, the 1.3% in Function 300 in 2024 matches Reagan’s lowest during his last three years. Budget projections at .9% Function 300 for 2025-28 would put Biden lowest except for Trump. On water spending Biden’s four-year level would be .18% of federal outlays and Trump averaged .15%.

Bottom line: Biden’s budget represents a modest increase in Function 300 and water funding putting his record into the mid-to-lower tier of environmental and water spending. Biden’s highest Function 300 at 1.3% of total federal outlays in 2024 matches Bush 1’s lowest year and Reagan’s lowest 3 years.

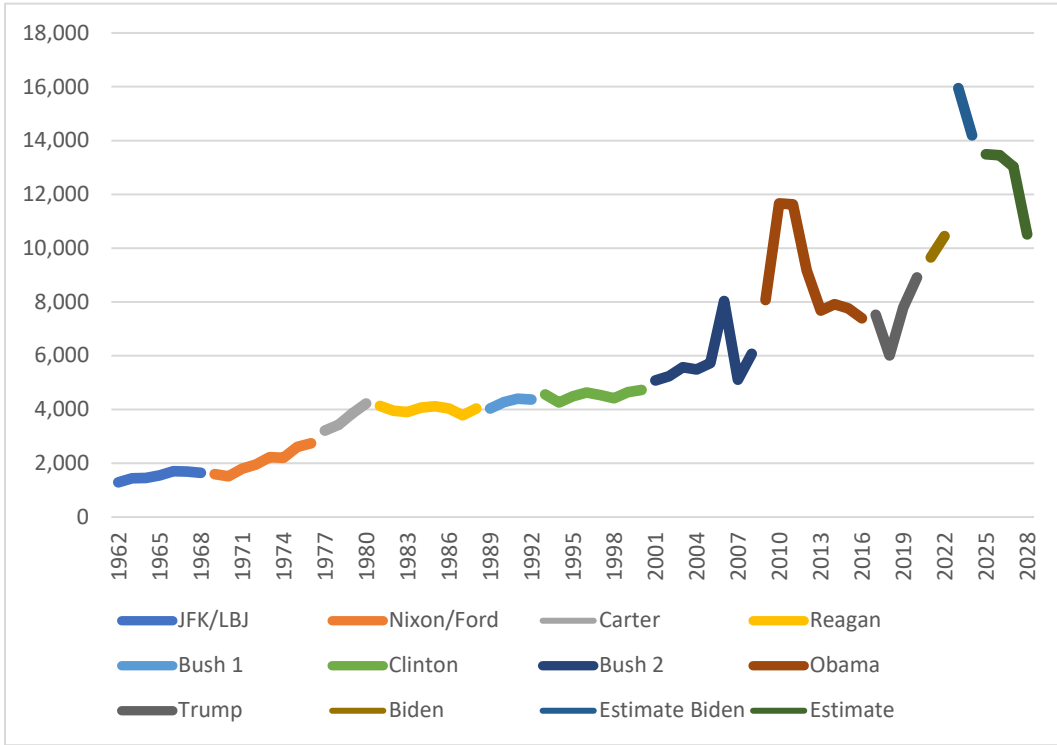
Function 300 Funding 1962-2022 by Presidential Administration (Millions)



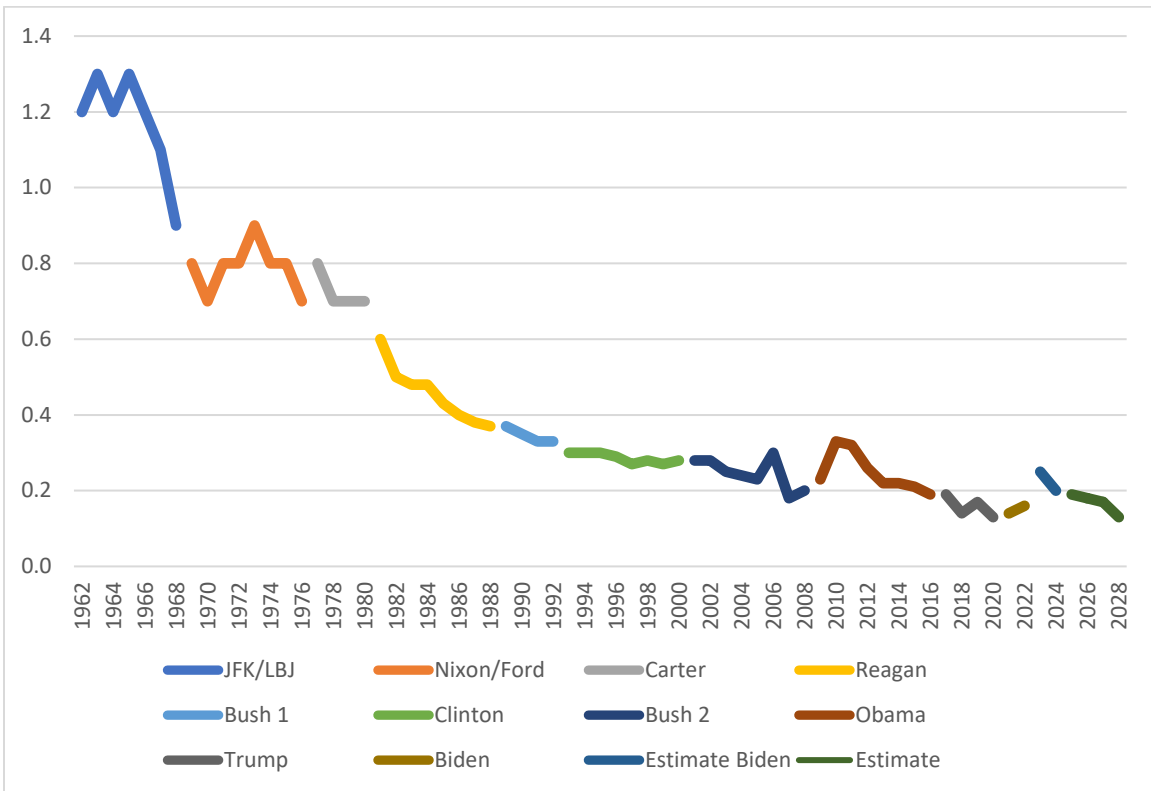
Function 300 PERCENTAGE of Federal Outlays by President 1962-22

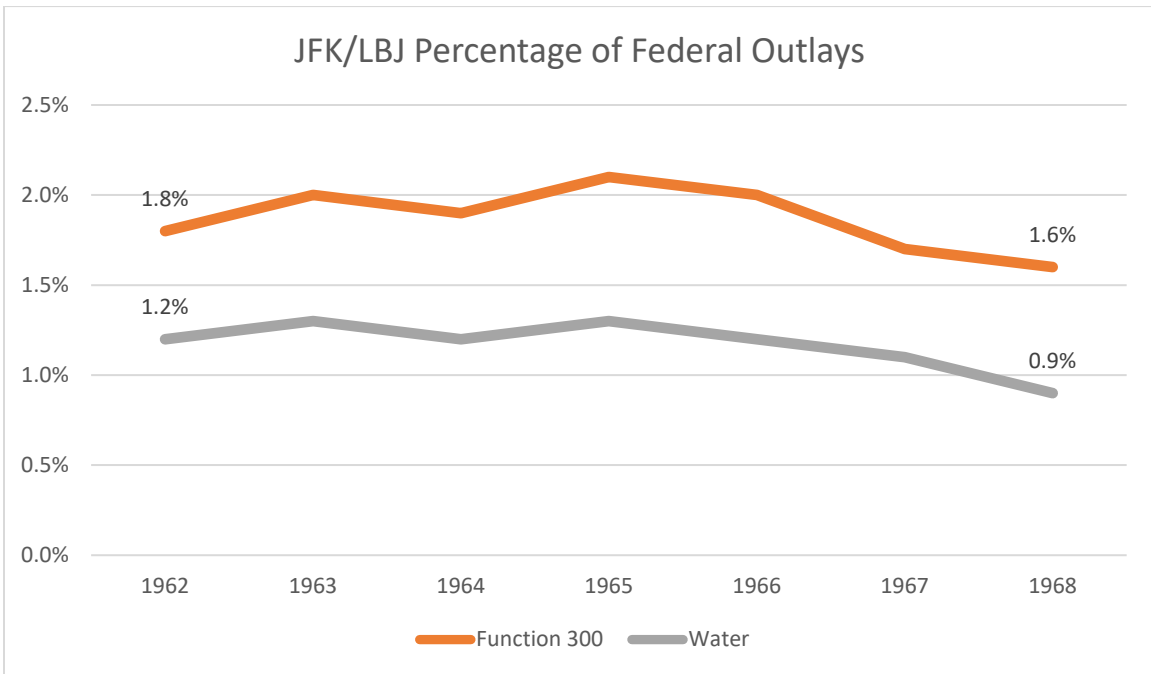
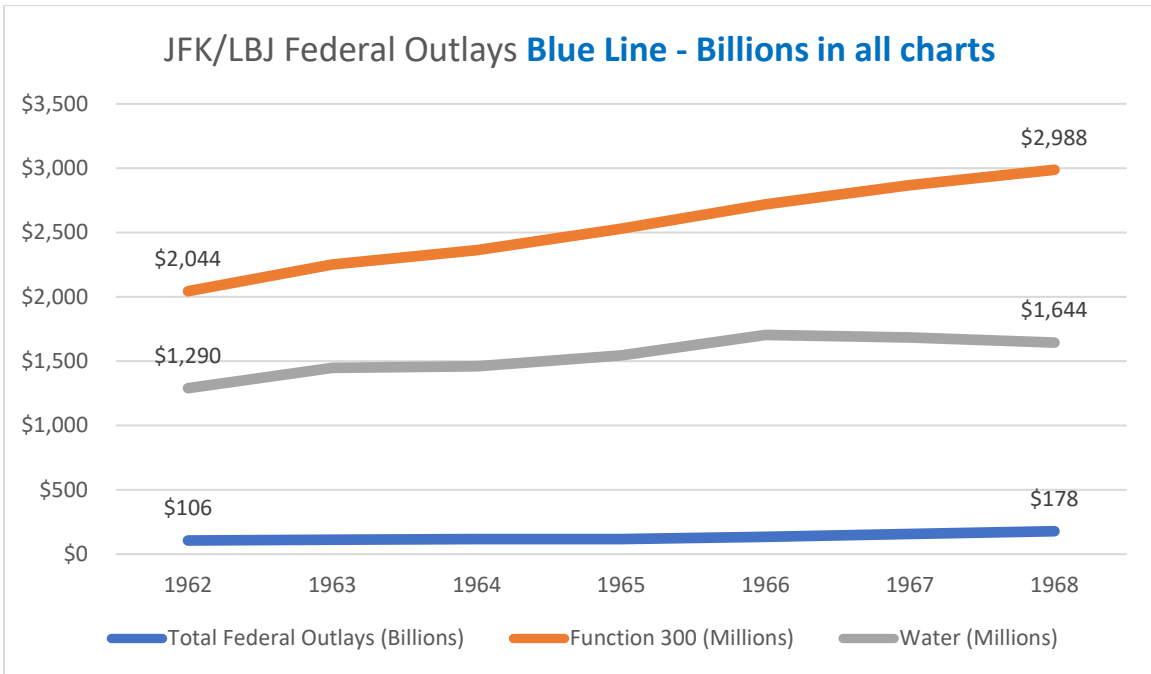


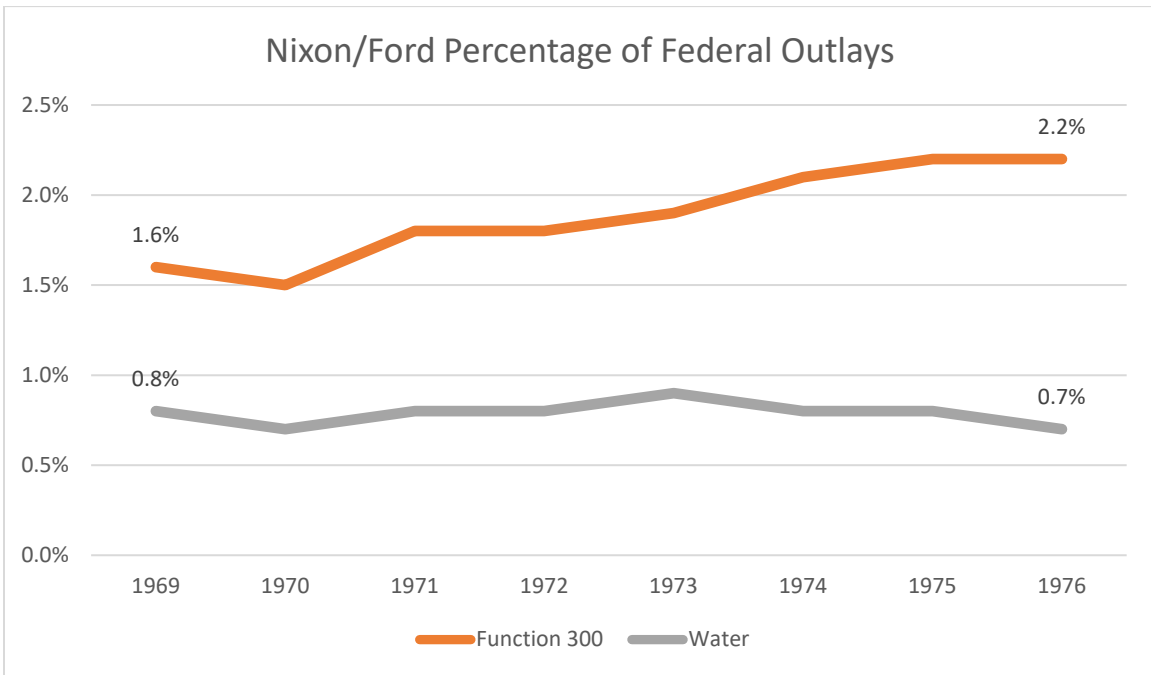
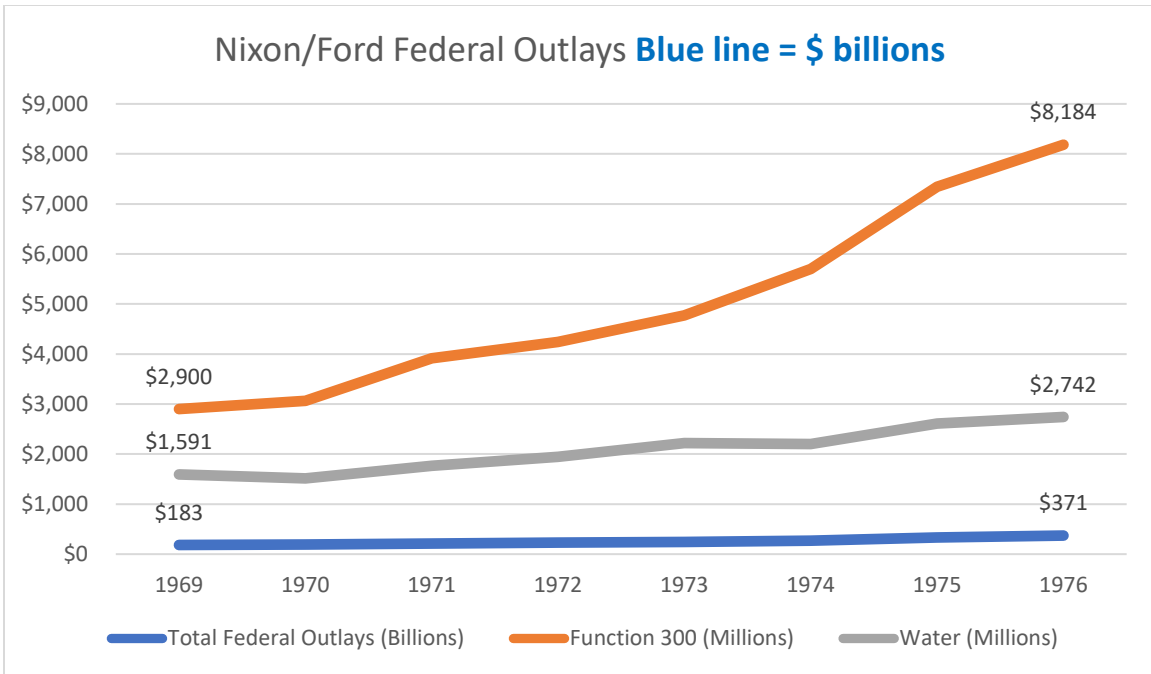
Water Spending (Millions)

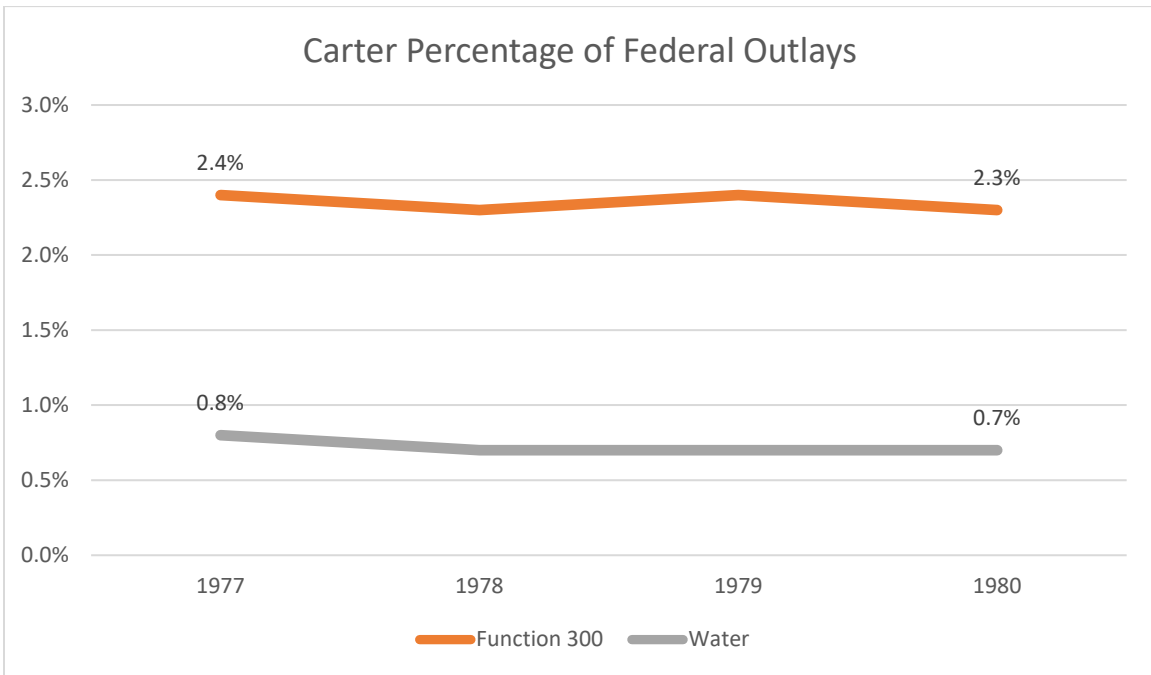
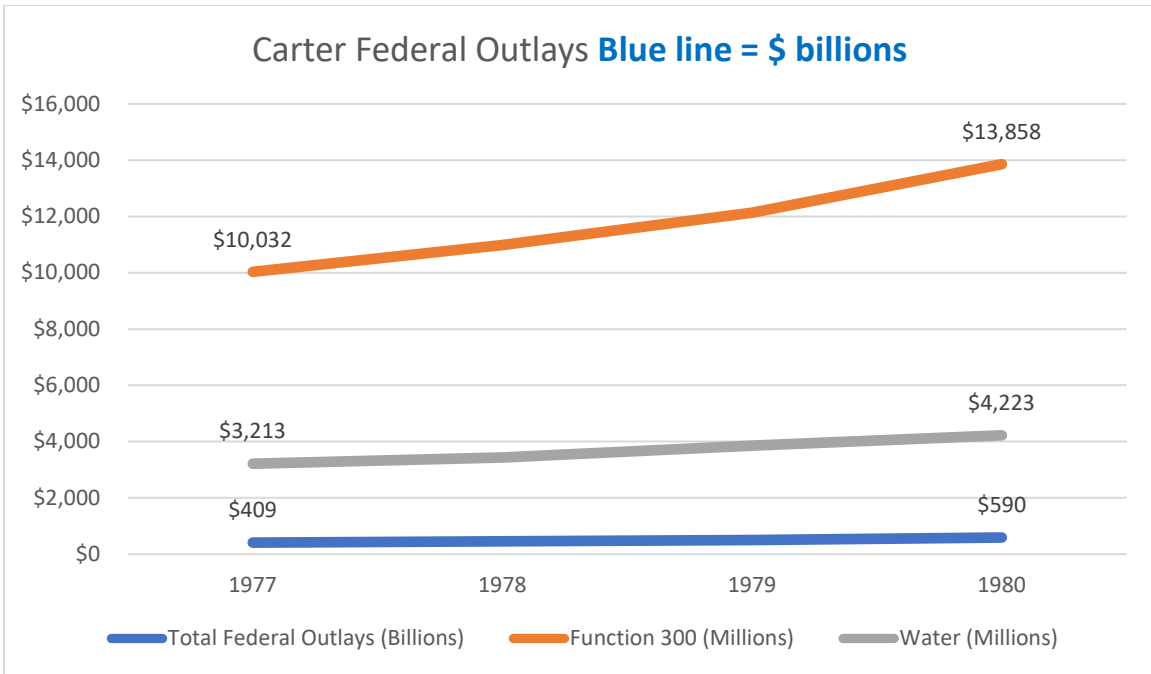


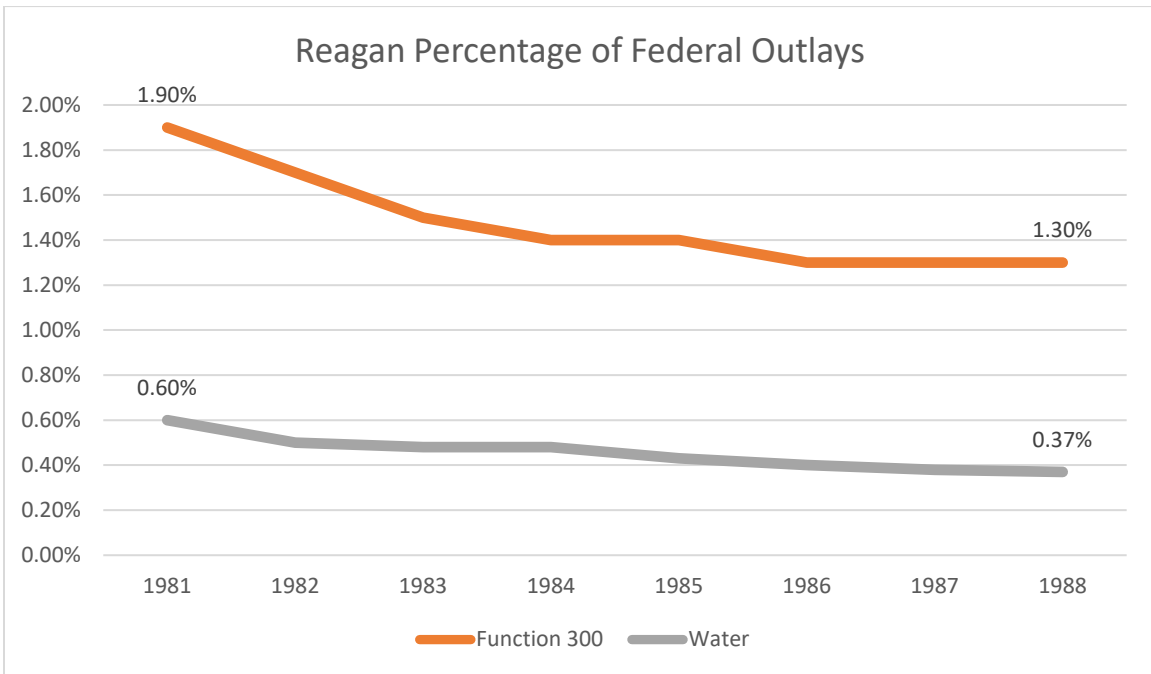
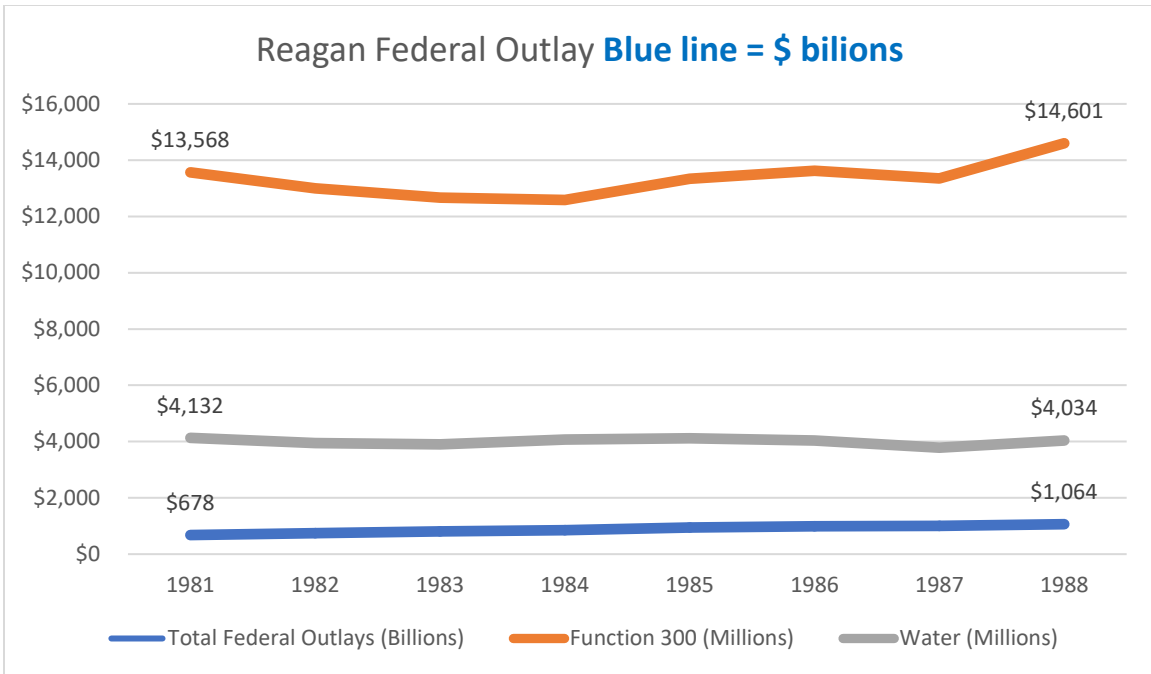
Water Spending PERCENTAGE of Federal Spending

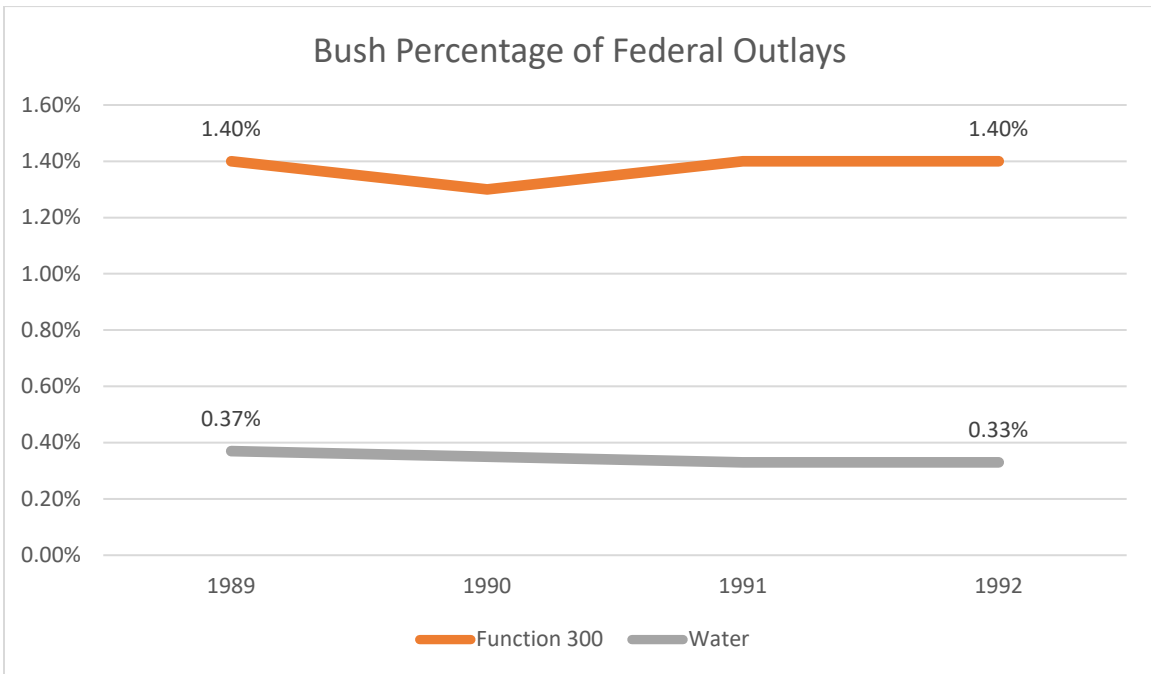
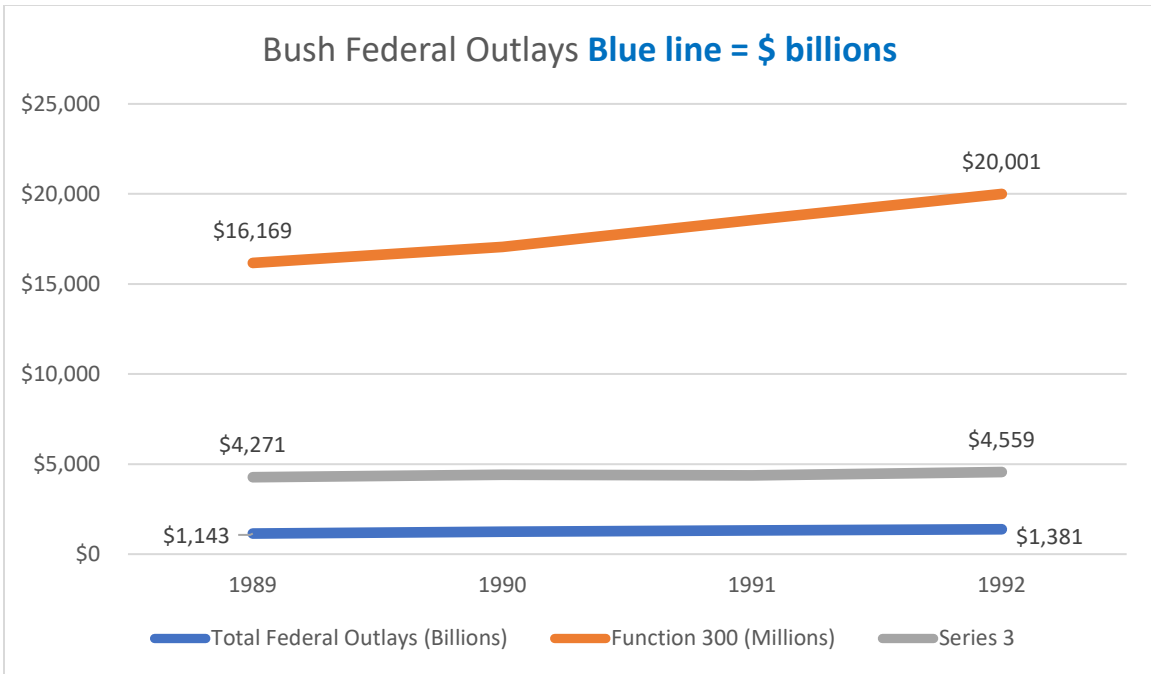


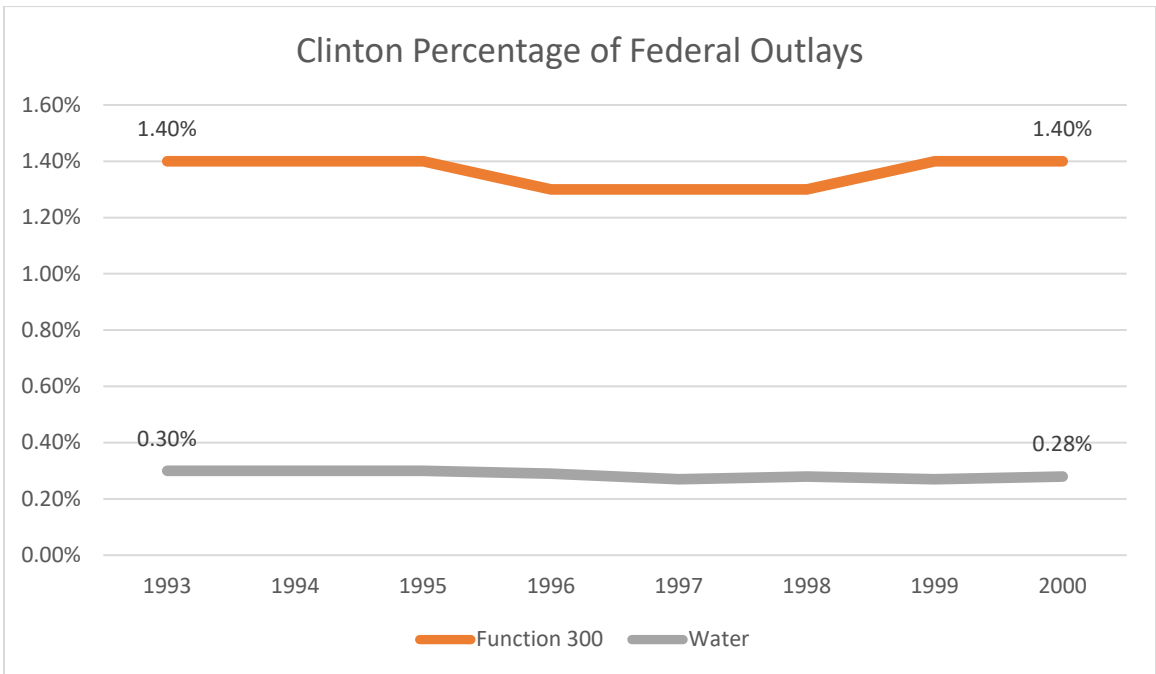
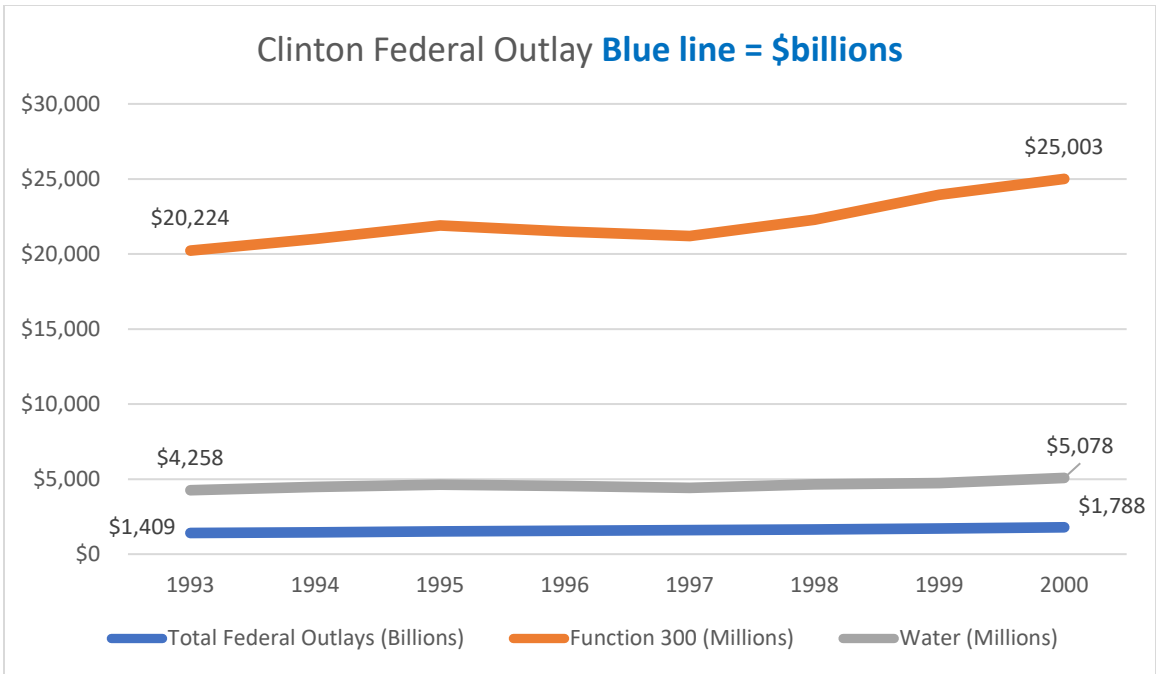


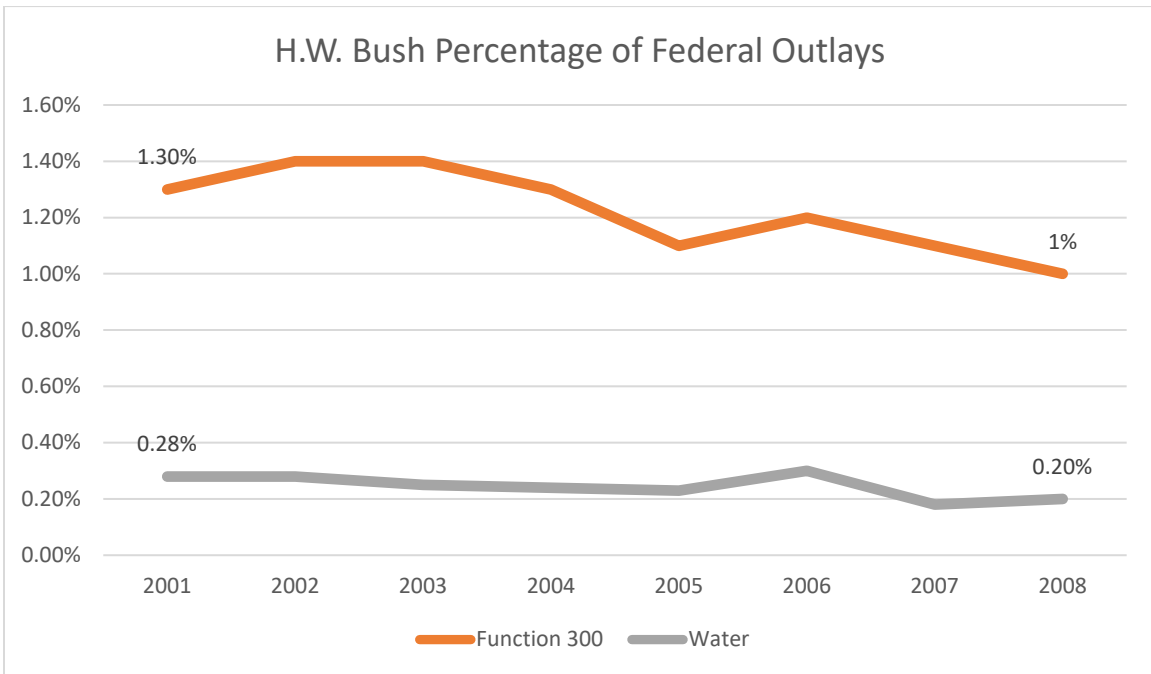
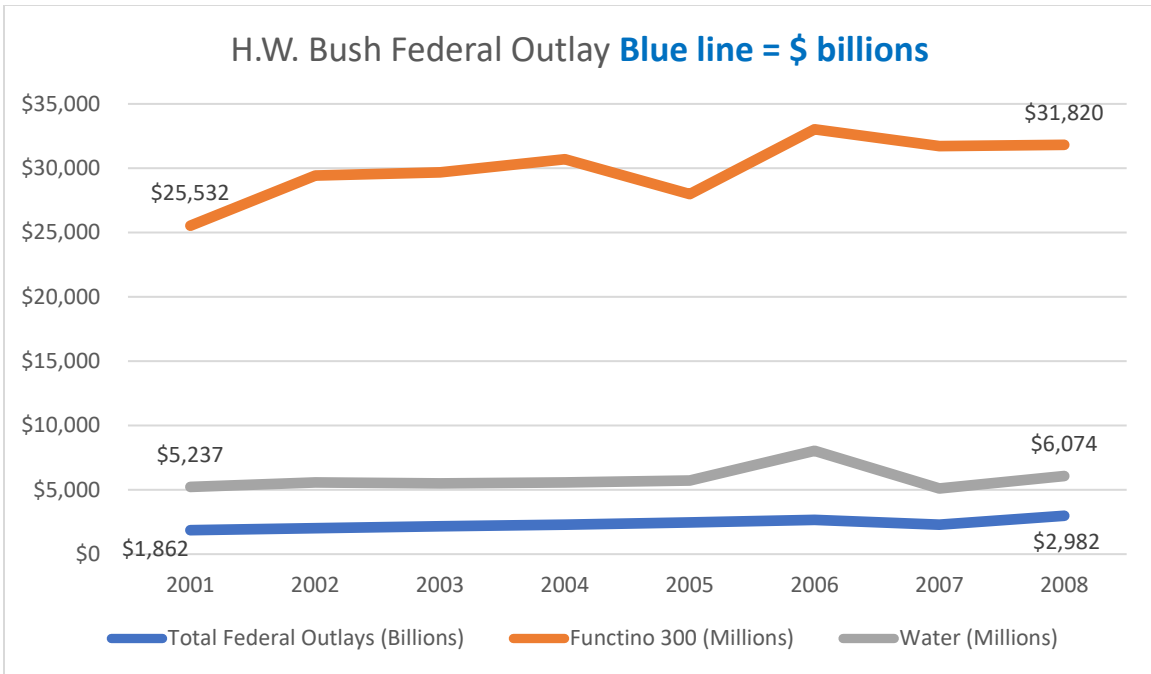


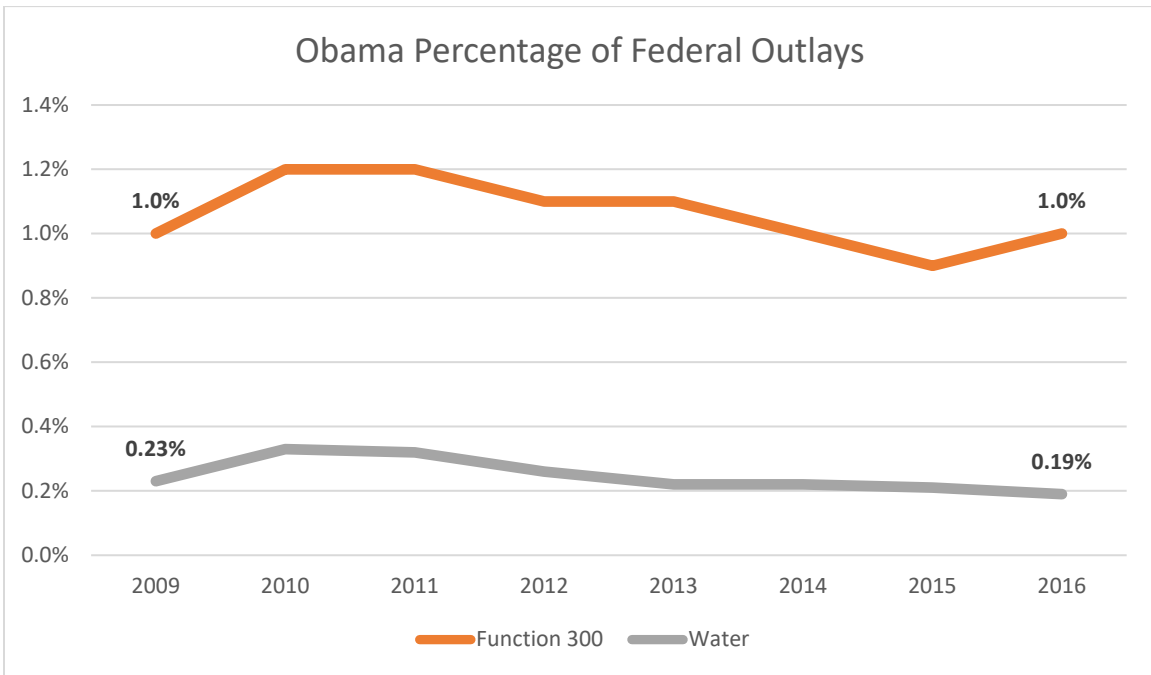
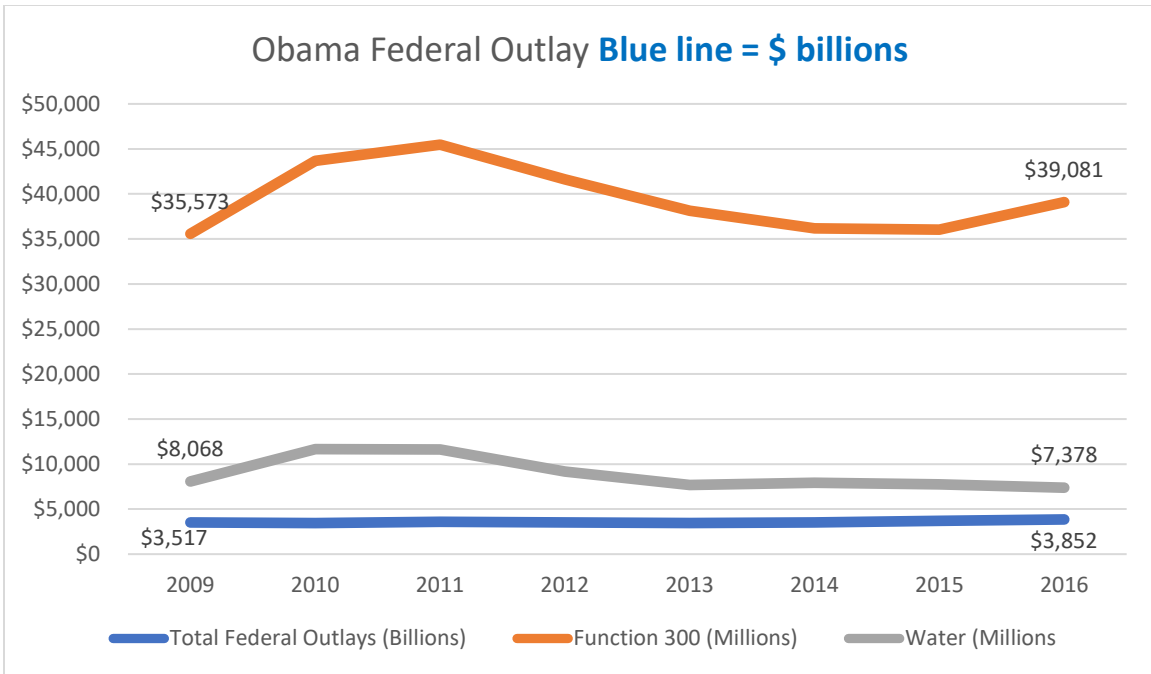


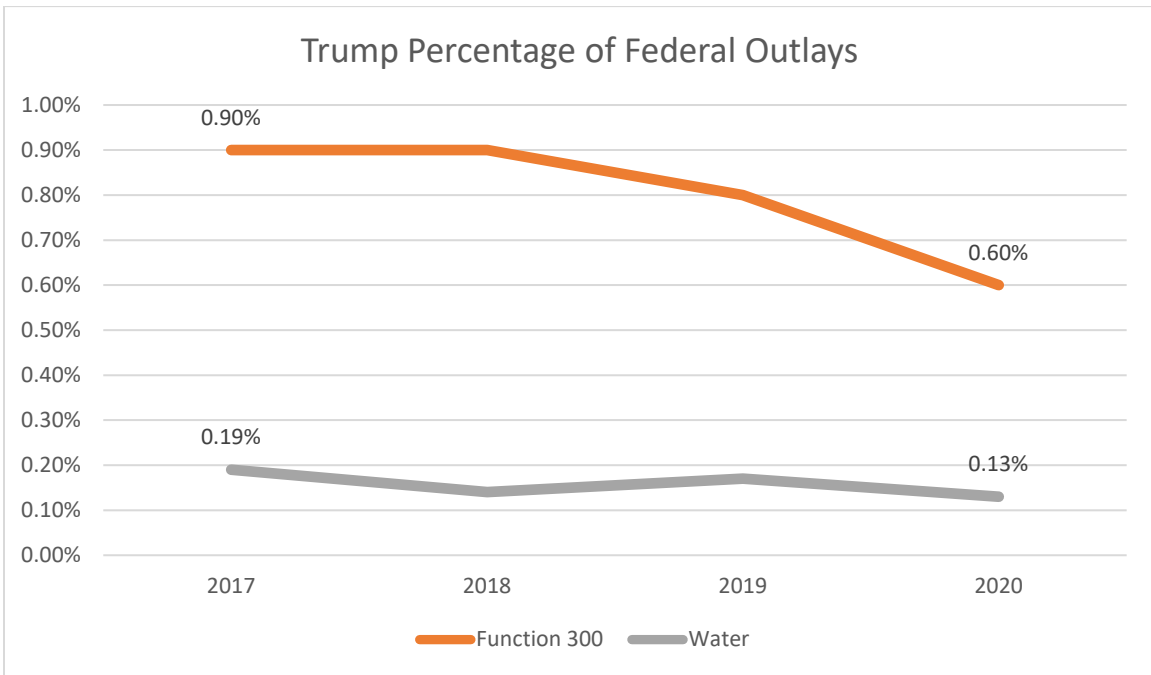
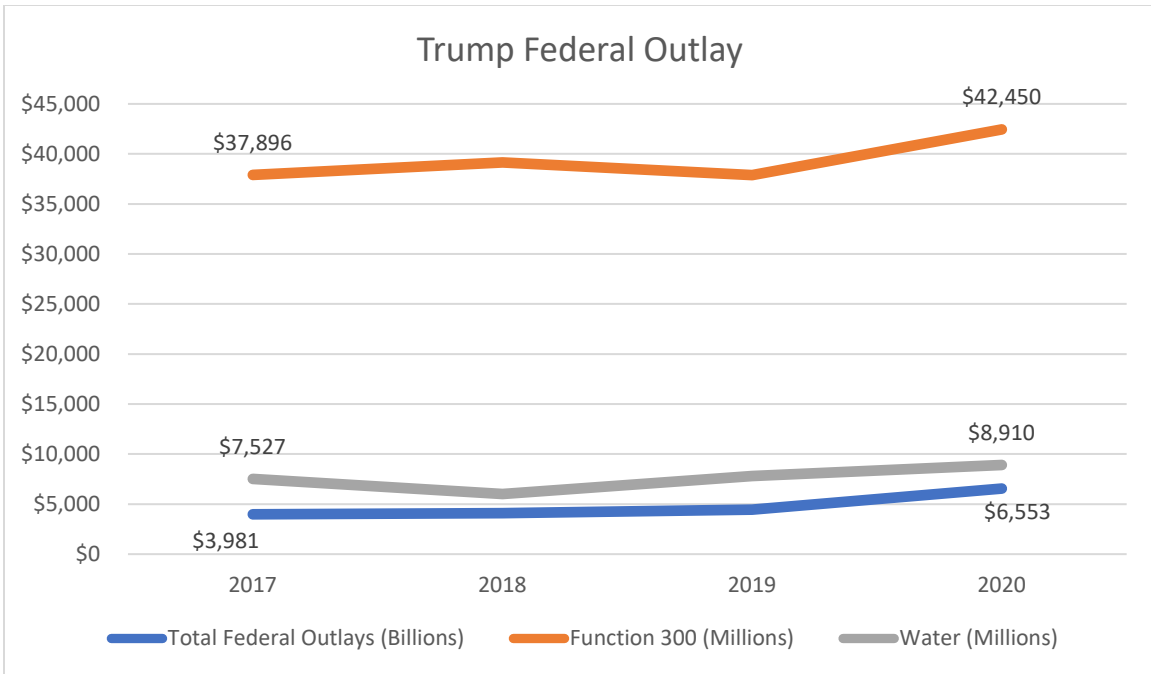


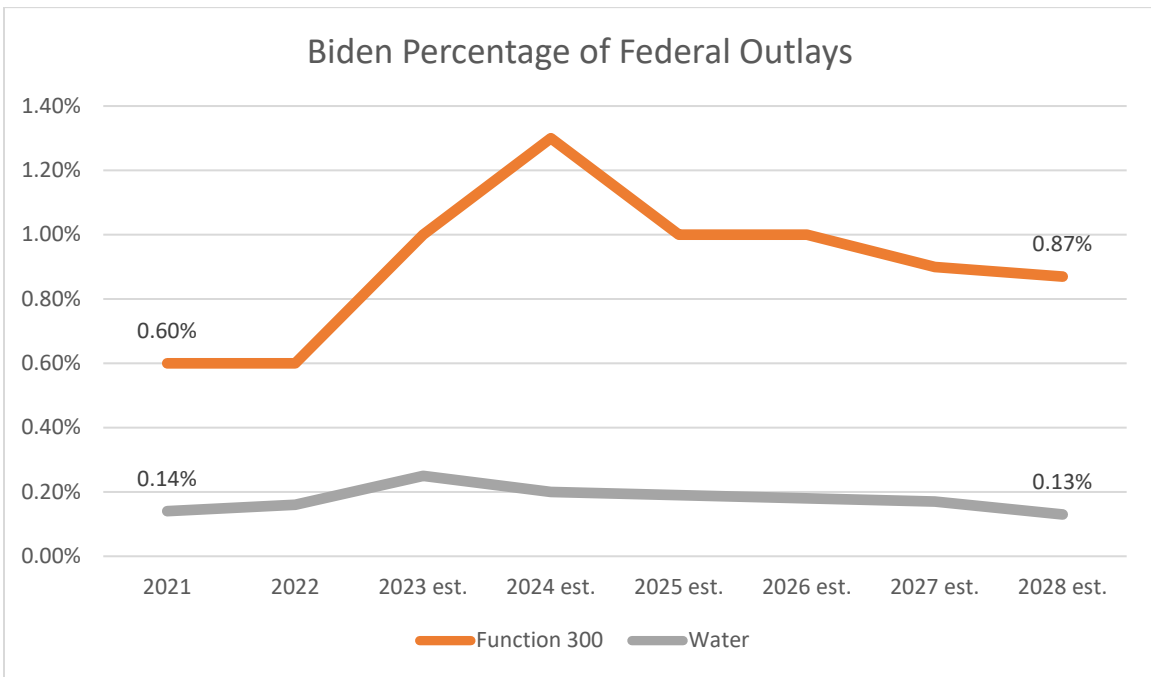
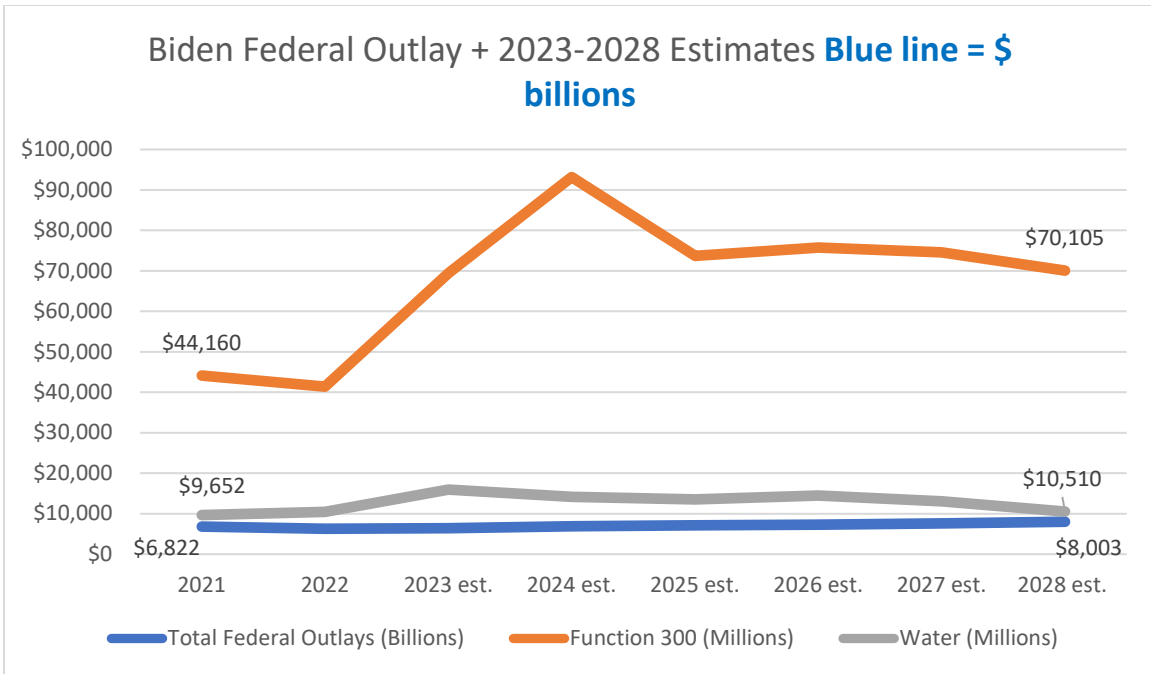












Total Federal Outlays			Function 300 - %		Water \$ - %	
	Billions \$		Millions \$	% of fed. outlays	Millions \$	%
1962	106	JFK	2,044	1.8	1,290	1.2
1963	111		2,251	2	1,448	1.3
1964	118	LBJ	2,364	1.9	1,461	1.2
1965	118		2,531	2.1	1,546	1.3
1966	134		2,719	2	1,704	1.2
1967	157		2,869	1.7	1,685	1.1
1968	178		2,988	1.6	1,644	.9
1969	183	Nixon	2,900	1.6	1,591	.8
1970	195		3,065	1.5	1,514	.7
1971	210		3,915	1.8	1,768	.8
1972	230		4,241	1.8	1,948	.8
1973	245		4,775	1.9	2,221	.9
1974	269	Ford	5,697	2.1	2,200	.8
1975	332		7,346	2.2	2,608	.8
1976	371		8,184	2.2	2,742	.7
1977	409	Carter	10,032	2.4	3,213	.8
1978	458		10,983	2.3	3,431	.7
1979	504		12,135	2.4	3,853	.7
1980	590		13,858	2.3	4,223	.7

1981	678	Reagan	13,568	1.9	4,132	.6
1982	745		12,998	1.7	3,948	.5
1983	808		12,672	1.5	3,904	.48
1984	851		12,586	1.4	4,070	.48
1985	946		13,345	1.4	4,122	.43
1986	990		13,628	1.3	4,041	.4
1987	1,004		13,355	1.3	3,783	.38
1988	1,064		14,601	1.3	4,034	.37
1989	1,143	Bush 1	16,169	1.4	4,271	.37
1990	1,252		17,055	1.3	4,401	.35
1991	1,324		18,544	1.4	4,366	.33
1992	1,381		20,001	1.4	4,559	.33
1993	1,409	Clinton	20,224	1.4	4,258	.3
1994	1,461		21,000	1.4	4,488	.3
1995	1,515		21,889	1.4	4,625	.3
1996	1,560		21,503	1.3	4,536	.29
1997	1,601		21,201	1.3	4,411	.27
1998	1,652		22,278	1.3	4,647	.28
1999	1,701		23,943	1.4	4,725	.27
2000	1,788		25,003	1.4	5,078	.28
2001	1,862	Bush 2	25,532	1.3	5,237	.28
2002	2,010		29,426	1.4	5,570	.28
2003	2,159		29,667	1.4	5,492	.25
2004	2,292		30,694	1.3	5,571	.24
2005	2,471		27,983	1.1	5,726	.23
2006	2,655		33,025	1.2	8,033	.3
2007	2,728		31,721	1.1	5,104	.18
2008	2,982		31,820	1	6,074	.2

2009	3,517	Obama	35,573	1	8,068	.23
2010	3,457		43,667	1.2	11,662	.33
2011	3,603		45,473	1.2	11,621	.32
2012	3,526		41,631	1.1	9,178	.26
2013	3,454		38,145	1.1	7,675	.22
2014	3,506		36,171	1	7,912	.22
2015	3,691		36,033	.9	7,760	.21
2016	3,852		39,081	1	7,378	.19
2017	3,981	Trump	37,896	.9	7,527	.19
2018	4,109		39,141	.9	6,009	.14
2019	4,446		37,884	.8	7,793	.17
2020	6,553		42,450	.6	8,910	.13
2021	6,822	Biden	44,160	.6	9,652	.14
2022	6,273		41,389	.6	10,446	.16
2023 est.	6,371		69,400	1	15,949	.25
2024 est.	6,882	election	93,175	1.3	14,192	.2
2025 est.	7,090		73,738	1	13,490	.19
2026 est.	7,293		75,787	1	13,452	.18
2027 est.	7,589		74,539	.9	13,028	.17
2028 est.	8,003		70,105	.87	10,510	.13

Presidential Rankings by **Function 300** and **Water** percent of Total Outlays

Carter	2.4	JFK/LBJ	1.02
JFK/LBJ	1.87	Nixon/Ford	.78
Nixon/Ford	1.77	Carter	.72
Reagan	1.48	Reagan	.48
Clinton	1.46	Bush 1	.34
Bush 1	1.37	Clinton	.28
Bush 2	1.22	Bush 2	.24
Obama	1.06	Obama	.24
Trump	.80	Trump	.15
Biden 2021-23	.71	Biden 2021-23	.16
Estimate 2024-28	1.01	Estimate 2024-28	.17