



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 1, 2008

H.R. 3753 **Federal Judicial Salary Restoration Act of 2007**

As ordered reported by House Committee on the Judiciary on December 12, 2007

SUMMARY

H.R. 3753 would increase the salaries and change certain retirement benefits for some judges and justices of the United States. The bill also would allow those judges and justices to receive annual cost-of-living adjustments (COLAs) without further Congressional approval.

CBO estimates that enacting H.R. 3753 would increase direct spending by \$37 million in 2008 and by \$1.5 billion over the 2009-2018 period for salaries and benefits of judges appointed under Article III of the Constitution (Article III judges) and bankruptcy judges. In addition, the bill would increase revenues related to retirement benefits by \$1 million in 2008 and by \$26 million over the 2009-2018 period.

In addition, based on information from the Administrative Office of the United States Courts (AOUSC), CBO estimates that implementing H.R. 3753 would cost \$418 million over the next 10 years for increases in the salaries of magistrate and Court of Federal Claims (CFC) judges, assuming appropriation of the necessary amounts.

H.R. 3753 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3753 is shown in the following table. The costs of this legislation fall within budget functions 750 (administration of justice) and 600 (income security).

By Fiscal Year, in Millions of Dollars

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009- 2013	2009- 2018
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CHANGES IN DIRECT SPENDING

Salary Increase and COLA for Article III and Bankruptcy Judges													
Estimated Budget Authority	41	90	102	113	124	135	147	160	172	184	198	564	1,425
Estimated Outlays	37	86	101	112	123	134	146	158	171	183	197	556	1,411
Retirement Benefits for Judges													
Estimated Budget Authority	*	1	1	2	3	5	6	7	9	11	14	12	59
Estimated Outlays	*	1	1	2	3	5	6	7	9	11	14	12	59
Total Changes													
Estimated Budget Authority	41	91	103	115	127	140	153	167	181	195	212	576	1,484
Estimated Outlays	37	87	102	114	126	139	152	165	180	194	211	568	1,470

CHANGES IN REVENUES

Estimated Revenues	1	2	2	2	2	3	3	3	3	3	3	11	26
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CHANGES IN SPENDING SUBJECT TO APPROPRIATION

Salary Increases and COLA for Magistrate and CFC Judges													
Estimated Authorization Level	12	27	30	33	37	40	43	47	50	54	58	167	419
Estimated Outlays	11	26	30	33	37	40	43	47	50	54	58	166	418

Notes: COLA = Cost-of-living adjustment; CFC = Court of Federal Claims.
 * = less than \$500,000.

BASIS OF ESTIMATE

CBO estimates that enacting H.R. 3753 would increase direct spending by about \$1.5 billion over the 2009-2018 period for salary increases, cost-of-living adjustments, and additional retirement benefits for Article III and bankruptcy judges. CBO also estimates that implementing the bill would cost \$418 million over the 2009-2018 period, subject to appropriation of the necessary amounts, for salaries and benefits of other federal judges and magistrates. For this estimate, CBO assumes that the number of vacant judgeships and the number of senior judges would not significantly change over the 10-year period. CBO also assumes that the bill will be enacted near the middle of fiscal year 2008.

Direct Spending

Salaries and benefits of Article III and bankruptcy judges are provided annually without the need for discretionary appropriations. Increases in such compensation thus would increase direct spending. In 2007, total compensation paid to those judges totaled \$319 million. (CBO estimates that \$282 million of that amount was for salaries.)

Salary Increase and COLA for Judges Appointed Under Article III of the Constitution and Bankruptcy Judges. H.R. 3753 would increase the current salaries of Article III judges, including the Chief Justice and associate justices of the Supreme Court, judges of the circuit and district courts, and judges on the Court of International Trade, by approximately 29 percent. Under current law, bankruptcy judges' pay is set at 92 percent of district judges' pay; thus, bankruptcy judges also would receive a salary increase of nearly 29 percent under the bill. Based on information from the AOUSC, CBO estimates that enacting the salary increase would increase direct spending by \$37 million for the remainder of 2008 and by about \$80 million each year thereafter.

In addition, the bill would allow those judges and justices to receive an annual COLA without further Congressional approval. The bill also would change the way a COLA for judges is calculated to match adjustments made to the General Schedule under the Federal Employees Pay Comparability Act. Using CBO's forecast for the employment cost index, we estimate that annual COLAs would range from 2.5 percent to 3.0 percent over the next 10 years.

Together, CBO estimates that the salary increase and annual COLA for Article III and bankruptcy judges would increase direct spending by \$556 million over the 2009-2013 period and by \$1.4 billion over the 2009-2018 period.

Judicial Retirement Benefits. The salary increase provided under H.R. 3753 would result in increased retirement benefits for both active and senior Article III judges, bankruptcy judges, and certain surviving spouses. H.R. 3753 also would change the retirement rules for Article III judges who are not yet eligible for retirement benefits (active judges). In total, CBO estimates that enacting the bill would have an insignificant effect on direct spending for retirement benefits for the remainder of 2008 but would increase direct spending by \$59 million over the 2009-2018 period.

The increase in pay under H.R. 3753 would automatically increase retirement benefits for Article III judges and bankruptcy judges because their retirement benefits are based on the most recent salary at retirement. In order to receive increased retirement benefits based on the higher pay, H.R. 3753 would require active judges to continue working past age 65—to age 67—and would require an additional four years of service at all retirement ages.

CBO expects that all judges who are currently eligible to retire or who will become eligible over the next 10 years would delay retirement in order to receive that increased benefit. (Retirement eligibility for those currently eligible to retire and for all bankruptcy judges would remain unchanged.) Thus, based on information from the AOUSC and the actuarial valuation for the plan, CBO estimates that raising the salaries of these judges and justices and changing the eligibility for active judges would decrease direct spending for retirement benefits by less than \$500,000 in 2008 but increase such spending by \$20 million over the 2009-2018 period.

All judges and justices can elect to participate in a retirement plan that provides survivor benefits. Those benefits are based on the average salary or retirement benefits of the judges or justices prior to death. Under the bill, survivors of active Article III judges would be able to receive a death benefit based on the judges' higher salary if the judge dies prior to reaching the higher age and meeting the length-of-service criteria. Based on information from the actuarial valuation for the plan, CBO expects that 60 percent of judges would participate in the plan that provides survivor benefits. We estimate that raising the salaries of those judges would increase direct spending for survivor benefits by less than \$500,000 in 2008 and by \$39 million over the 2009-2018 period.

Revenues

Under current law, all participants in the plan that pays benefits to survivors are required to contribute 2.2 percent of their pay prior to retirement and 3.5 percent of their earnings after retirement. Bankruptcy judges are required to contribute 1 percent of their pay to participate in the Judicial Officers' Retirement Plan. Such contributions are treated as revenues in the budget. Thus, CBO estimates that the increase in pay under H.R. 3753 would increase revenues by \$2 million in 2008 and by \$26 million over the 2009-2018 period.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 3753 would cost \$418 million over the next 10 years to provide a salary increase and annual COLAs for CFC and magistrate judges, subject to appropriation of the necessary amounts. Under current law, the salary of CFC judges is equal to that of district judges, while the salary of magistrate judges is 92 percent of district judges' pay. Accordingly, both CFC and magistrate judges would receive a salary increase of about 29 percent and an annual COLA under the bill. Current salaries for the judges affected by this provision total about \$80 million annually.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3753 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

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