



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

November 18, 2002

S. 3070

A bill to authorize appropriations for the Merit Systems Protection Board and the Office of Special Counsel, and for other purposes

*As ordered reported by the Senate Committee on Governmental Affairs
on October 9, 2002*

SUMMARY

S. 3070 would authorize appropriations for the Merit Systems Protection Board (MSPB) and the Office of Special Counsel (OSC) for fiscal years 2003 through 2007. The bill also would make several amendments to the laws governing the MSPB and the OSC and would clarify the employment protections and rules that apply to employees who disclose government waste, fraud, and abuse.

Based on the amounts appropriated for these agencies in 2002 and assuming adjustments for anticipated inflation, CBO estimates that implementing this legislation would cost \$242 million over the 2003-2007 period. Enacting S. 3070 would not affect direct spending or revenues. The bill 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 S. 3070 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By Fiscal Year, in Millions of Dollars				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ^a					
Merit Systems Protection Board					
Estimated Authorization Level	32	33	34	34	37
Estimated Outlays	31	31	33	34	36
Office of Special Counsel					
Estimated Authorization Level	12	13	13	14	14
Estimated Outlays	12	13	13	14	14
Compensatory Damage Awards					
Estimated Authorization Level	1	2	2	2	2
Estimated Outlays	1	2	2	2	2
Total Changes					
Estimated Authorization Level	45	48	49	50	53
Estimated Outlays	44	48	48	50	52

a. A full-year appropriation has not yet been enacted for the MSPB and the OSC. In fiscal year 2002, MSPB received an appropriation of \$31 million and OSC received an appropriation of \$12 million.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted in fiscal year 2003 and that the amounts necessary to operate the MSPB and OSC at the same level provided in 2002 will be appropriated for each fiscal year, including adjustments for anticipated inflation. Outlay estimates are based on historical spending patterns for the agencies.

When implementing corrective actions to settle an employment dispute between the federal government and its employees regarding prohibited personnel practices, federal agencies are required to spend appropriated funds to pay for an employee's attorney's fees, back pay, and any associated travel and medical costs. Under S. 3070, federal employees would be authorized to receive additional compensatory damages, including pain and suffering, for employment disputes brought under the Whistleblower Protection Act.

CBO cannot estimate the cost of compensatory damage awards in such cases because the amount awarded would depend on the particular circumstances of each case and the frequency of cases involving such damages. The OSC is involved in settling an average of 75 disputes under the Whistleblower Protection Act each year. Settlement amounts range

from about \$20,000 to \$200,000. While it is uncertain how often compensatory damages would be awarded in such cases, the OSC expects such awards could more than double the cost of some settlements. Hence, CBO expects this provision would add a few million dollars each year to the cost of agency settlements, which are paid from individual agency appropriations.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill 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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