

To: Kevin Valentine (Senate Committee on the Judiciary)
From: Paul Cullinan (CBO)
Date: February 3, 2006
RE: Preliminary Staff Estimate for S. 2076

This memo is in response to your request for a cost estimate of S. 2076, the Assistant United States Attorney Retirement Benefits Equity Act of 2005. This bill would give Assistant United States Attorneys (AUSAs) the same treatment as law enforcement personnel under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). The estimated costs of the legislation are based on the assumption of an October 1, 2006, enactment date.

The estimated budgetary effects of S. 2076 are shown in the table on the attached page. I estimate that the bill would increase discretionary outlays by \$51 million in 2007 and by \$944 million over the 2007-2016 period. The bill would also increase direct spending by \$5 million in 2007 and \$259 million for the 2007-2016 period, while revenues into the Civil Service Retirement and Disability Fund (CSRDF) would increase by \$10 million in 2007 and by \$44 million over the 2007-2016 period.

If AUSAs were treated like law enforcement personnel for retirement purposes, their retirement annuities would be calculated using a more generous formula. S. 2076 would apply automatically to all AUSAs hired after the bill's enactment and to current AUSAs who elect to be covered by the bill's provisions. I assume for this estimate that 90 percent of current AUSAs (about 5,450 total) would elect to receive the higher benefits. Those who opt for the higher benefits would also have the choice of contributing a makeup payment for previous service. Under S. 2076, AUSAs would not be subject to the mandatory retirement age of 57 that applies to most other federal law enforcement officers.

Discretionary Spending

Agency Retirement Contributions. Under S. 2076, retirement contributions that the Department of Justice (DoJ) would make to the CSRDF would be higher than they are under current law. Agency retirement contributions for law enforcement personnel is about 7.5 percent of basic pay under CSRS and 23.3 percent under FERS, compared to 7 percent and 10.7 percent, respectively, for regular employees. This assumes that the agency contribution rate for AUSAs who participate in FERS would be the same rate that is charged for other law enforcement officers. Because this rate is based on actuarial calculations, it is possible that OPM would charge DoJ a different, lower rate. Assuming that OPM uses the regular law enforcement rate, I estimate that DoJ retirement contributions would increase by \$51 million over the 2007-2016 period and by \$944 million over the 2007-2016 period. Almost all of these additional contributions would be for AUSAs covered by FERS.

Direct Spending

Federal Retirement Benefits. As noted above, S. 2076 would provide more generous retirement annuities to AUSAs who retire once the bill is in effect (with an assumed enactment date of October 1, 2006, with implementation 120 days later). Information provided by DoJ indicates that, in recent years, about 30 AUSAs retire each year. In 2005, when there was a buyout which was effective at the start of the fiscal year, that number swelled to 122 retirements, 75 of whom received separation payments. I anticipate that retirements, under current law, would rise significantly over the next ten years, from about 50 in 2006 to about 135 in 2016, as a large share of the current AUSAs are either currently eligible for retirement or will become eligible during that time span. Although retirement rates for AUSAs covered under CSRS are relatively low, I assume that they will gradually rise to the overall CSRS rate by the end of the period.

In addition, I assume that because of the higher annuities, some AUSAs would decide to start collecting retirement benefits sooner than they would have otherwise. (This assumption is consistent with previous estimates CBO has provided for bills which would increase retirement benefits.) As described above, the spike in retirements during 2005 in part reflects a response to the payment of a separation bonus. Sixty-five percent of the CSRS retirees and more than one-half of the FERS retirees received a separation bonus. I would expect that the benefit increase that would result from S. 2076, which would have a much larger effect on retiree income, would have a significantly larger effect on retirements in 2007 and 2008 than the separation bonus had in 2005. Overall, I assume that retirees after that would accelerate their retirement dates by one year on average. I estimate spending on retirement benefits under S. 2076 would increase by \$4 million in 2007 and by \$244 million during the 2007-2016 period.

Federal Health Care Benefits. The assumption that some AUSAs would speed up their retirements also results in higher estimated spending on the Federal Employee Health Benefits program (FEHBP), as more annuitants qualify for retiree health coverage than was assumed under the current baseline. (The federal payments for the health insurance coverage for annuitants is categorized as direct spending.) I estimate the resulting increases in direct spending for FEHBP would be \$1 million in 2007, and \$15 million over the 10-year period.

Revenues

Employee Retirement Contributions. AUSAs currently contribute either 7.0 percent (under CSRS) or 0.8 percent (under FERS) of their basic pay towards retirement. This bill would increase the amount that AUSAs in each retirement system contribute towards retirement by one-half of a percentage point. I estimate the additional employee retirement

contributions would increase revenues by \$2 million in 2007 and \$16 million over the 2007-2016 period.

Employee Makeup Retirement Contributions. S. 2076 would give current employees the option of having work performed as an AUSA prior to passage of the bill treated under the higher benefit formula. If they contribute a makeup payment for that time, their benefit would be computed as if they always had been law enforcement officers. These payments represent the difference between what the worker actually contributed to CSRDF and what the worker would have contributed if the employee had been treated like a law enforcement officer, plus interest. If they do not pay the make-up contributions, their benefits would be reduced by an amount estimated to account for the present-value of the absent make-up contributions. (That is, they would receive payments based on the so-called alternative annuity calculations.) Based on data for the period in the late 1980s and early 1990s when the alternative annuity was widely available, I assume that 20 percent of all current AUSAs opt to contribute the makeup payment with the resulting payments totaling \$8 million, all of which will be made in 2007.

Intergovernmental Collections

This estimate also contains a memorandum line which illustrates anticipated collections the CSRDF will receive from DoJ. These collections equal the estimated increase in agency retirement contributions. The anticipated collections are not counted as offsetting receipts because they depend on future appropriations. Under CBO's treatment of such payments, discretionary accounts cannot be used to offset direct spending in any year for which the agency's appropriation bill has not already cleared the Congress.

This estimate is preliminary and subject to change. If you have any questions, please feel free to call me at 6-2930.

PRELIMINARY STAFF ESTIMATE OF S. 2076

Outlays and Revenues by Fiscal Year, in Millions of Dollars

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
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Spending Subject to Appropriation

Agency Retirement Contributions	0	51	82	87	91	95	99	103	107	112	116
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Direct Spending

Federal Retirement Benefits	0	4	19	22	22	22	23	26	31	36	41
Federal Retiree Health Benefits	<u>0</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
Total Direct Spending	0	5	20	23	23	23	25	28	32	38	42

Revenues

Employee Retirement Contributions	0	2	3	3	4	4	4	4	4	4	4
Employee Makeup Contributions	<u>0</u>	<u>8</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Revenues	0	10	3	3	4	4	4	4	4	4	4

Memorandum:

Intergovernmental Collections from Agency Payments	0	-51	-82	-87	-91	-95	-99	-103	-107	-112	-116
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Notes: This estimate assumes that S. 2076 would be enacted on October 1, 2006.

Components may not sum to totals because of rounding

* = Less than \$500,000.
