

The original documents are located in Box 64, folder “10/17/76 S2923 Revision of Salary Ceiling for United States Magistrates” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library

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APPROVED
OCT 17 1976

810/17/76

THE WHITE HOUSE
WASHINGTON
October 16, 1976

ACTION
Last Day: October 19

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *Jim Cannon*
SUBJECT: S. 2923 - Revision of Salary Ceiling for
United States Magistrates

Attached for your consideration is S. 2923, sponsored by
Senator Burdick.

The enrolled bill authorizes United States magistrates to
receive the same pay as referees in bankruptcy and authorizes
the appointment of magistrates by the district court of the
Virgin Islands in the same manner as magistrates are appointed
by U.S. district courts.

Additional information is provided in OMB's enrolled bill
report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg) and I
recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 2923 at Tab B.



OCT 17 1976



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2923 - Revision of salary
ceiling for United States magistrates
Sponsor - Sen. Burdick (D) North Dakota

Last Day for Action

October 19, 1976 - Tuesday

Purpose

Authorizes United States magistrates to receive the same pay as referees in bankruptcy; authorizes the appointment of magistrates by the district court of the Virgin Islands.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Administrative Office of the United States Courts	Approval
Department of Justice	No objection

Discussion

S. 2923 empowers the Judicial Conference of the United States to fix pay for United States magistrates at rates not to exceed the rates provided for referees in bankruptcy, and eliminates the present restriction that pay for full-time magistrates may not exceed 75 percent of the pay for district judges. The bill also changes maximum pay for part-time magistrates from the present \$15,000 to one-half the pay for a full-time magistrate and authorizes the appointment of magistrates by the district court of the Virgin Islands in the same manner as magistrates are appointed by United States district courts.

Until recently, the salaries of full-time magistrates and referees in bankruptcy were set by the Judicial Conference and could not exceed 75-80 percent of the salary received by Federal district judges. The present salary of a magistrate is \$31,500. The salaries of referees and magistrates were on a parity prior to the enactment earlier this year of P.L. 94-217, which increased the salary of full-time referees to \$37,800, subject to future adjustment under the procedures prescribed by law for executive, legislative and judicial salaries. P.L. 94-217 also repealed the authority of the Judicial Conference to fix the salaries of full-time referees, although it continued the Conference's authority to fix the salaries of part-time referees. P.L. 94-217 was enacted in part because of Congressional disagreement with the policy of the Judicial Conference in keeping salaries of referees substantially lower than the statutory maximum in order to maintain what it considered to be an appropriate alignment between the salaries of referees and other officers and employees of the judicial branch, including district judges.

S. 2923 is essentially a companion bill to P.L. 94-217 in that it restores parity between the salaries of referees and magistrates. It differs from P.L. 94-217 by continuing the authority of the Judicial Conference to set magistrates' salaries. According to the report of the Senate Committee on the Judiciary, the difference is required "because the magistrate system unlike the referee in bankruptcy system, has been in existence only 7 years." The Senate Committee also stated that the Judicial Conference should continue to have discretion to fix magistrates' salaries because of the fluctuation in the volume and nature of the matters handled by a magistrate.

Although S. 2923 is intended to equalize the salaries of magistrates and referees, the Civil Service Commission (CSC) points out that the enrolled bill, in combination with a provision in the 1977 Legislative Branch Appropriations Act, could have the effect of allowing magistrates to be paid more than referees. While the October 1, 1976 adjustment of Federal salaries increased the scheduled rate for full-time referees from \$37,800 to \$39,600, the Legislative Branch Appropriations Act rider bars use of funds to pay referees more than their previous salary of \$37,800. This restriction on funds will not apply to magistrates, however, and the Judicial Conference, if it

wished, could fix the pay for full-time magistrates up to the full \$39,600 scheduled rate for full-time referees.

The provision authorizing the appointment of magistrates by the district court in the Virgin Islands does not automatically create a magistrate's position there, but allows the district court to request the Judicial Conference for the authorization. Depending on the case-load of the district court, the Conference could approve a full or part-time position. There is currently no magistrate's position.

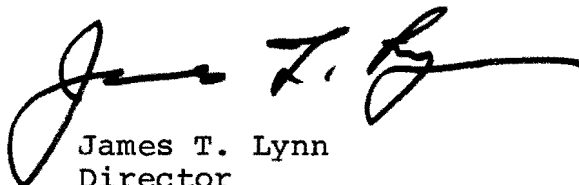
Agency Recommendations

The Civil Service Commission recommends approval of S. 2923. With respect to the problem created by the Legislative Appropriations Act, CSC stated:

"The pay restriction in the Legislative Branch Appropriation Act is creating a number of aberrations of this sort. Hopefully, these problems will be resolved early next year if the quadrennial pay adjustment procedure operates successfully."

The Administrative Office of the United States Courts points out that S. 2923 is "in large measure a recommendation of the Judicial Conference of the United States" and recommends its approval.

In February we recommended that you approve the bill increasing the maximum salary level for referees in bankruptcy. We also recommend that you approve S. 2923.



James T. Lynn
Director

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 13

Time: 900pm

FOR ACTION: David Lissy *DL*
Dick Parsons *DP*
Max Friedersdorf *MF*
Bobbie Kilberg *BK*

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey *SM*

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 500pm

SUBJECT:

S.2923-Revision of salary ceiling for U.S. magistrates

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



UNITED STATES CIVIL SERVICE COMMISSION

IN REPLY PLEASE REFER TO

WASHINGTON, D.C. 20415

October 8, 1976

YOUR REFERENCE

Honorable James T. Lynn
Director
Office of Management and Budget

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views and recommendation of the Civil Service Commission on S. 2923, an enrolled bill "To amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates."

Enrolled bill S. 2923 would empower the Judicial Conference to fix pay for United States magistrates at rates not to exceed the rates provided for referees in bankruptcy. The present restriction that pay for full-time magistrates may not exceed 75 percent of the pay for district judges would be eliminated. The maximum pay for part-time magistrates would be changed from the present \$15,000 to one-half the pay for a full-time magistrate. The enrolled bill would also authorize the appointment of magistrates by the district court of the Virgin Islands in the same manner as magistrates are appointed by United States district courts.

We understand that the judicial branch favors S. 2923, and it appears to us to be reasonable to allow the Judicial Conference to set pay for magistrates at rates equal to those for referees in bankruptcy, without the present limitation of a full-time magistrate's salary to 75 percent of the salary of a district judge. Therefore, the Civil Service Commission recommends that the President sign enrolled bill S. 2923.

However, we must point out that S. 2923, in combination with the 1977 Legislative Branch Appropriation Act, will apparently have the effect of allowing magistrates to be paid more than referees in bankruptcy. Under Public Law 94-82, the scheduled rate for full-time referees has been raised to \$39,600 by Executive Order 11941, October 1, 1976. Under the Legislative Branch Appropriation Act, however, funds are not

available to pay referees in bankruptcy more than their previous salary of \$37,800. This restriction on funds will not apply to the magistrates, though, and the Judicial Conference could, if it wished to do so, fix the pay for full-time magistrates up to the full \$39,600 scheduled rate for full-time referees. The pay restriction in the Legislative Branch Appropriation Act is creating a number of aberrations of this sort. Hopefully, these problems will be resolved early next year if the quadrennial pay adjustment procedure operates successfully.

By direction of the Commission:

Sincerely yours,


Chairman

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON, D.C. 20544

ROWLAND F. KIRKS
DIRECTOR

WILLIAM E. FOLEY
DEPUTY DIRECTOR

October 4, 1976

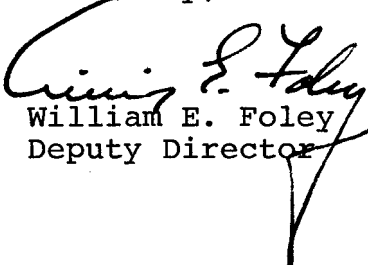
James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C.

Dear Mr. Frey:

This is in response to your enrolled bill request of October 4, 1976, requesting views and recommendations on S. 2923, "To amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates."

Inasmuch as this legislation carries out in large measure a recommendation of the Judicial Conference of the United States, Executive approval is recommended.

Sincerely,


William E. Foley
Deputy Director

Department of Justice
Washington, D.C. 20530

October 7, 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Washington, D. C. 20530

Dear Mr. Lynn:

Pursuant to your request, I have examined a facsimile of the enrolled bill, S. 2923, "To amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates."

This legislation involves issues that are of primary interest to the Administrative Office of United States Courts. The Department of Justice has no substantial interest in the bill.

The Department of Justice has no objection to Executive approval of this bill.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 13

Time: 900pm

FOR ACTION: David Lissy
Dick Parsons
Max Friedersdorf
Bobbie Kilberg

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 500pm

SUBJECT:

S.2923-Revision of salary ceiling for U.S.
magistrates

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston,ground floor west wing

No objection

R. Lozano 10/14

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

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WASHINGTON

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Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Approve. RR

please return to judy johnston, ground floor west wing

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James M. Cannon
For the President

THE WHITE HOUSE

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REMARKS:

please return to judy johnston, ground floor west wing

*Approved
WMD*

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James M. Cannon
For the President

THE WHITE HOUSE

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For Necessary Action

For Your Recommendations

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For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend approval.

[Signature]

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If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

AMENDING THE STATUTORY CEILING ON SALARIES PAYABLE TO UNITED STATES MAGISTRATES

FEBRUARY 3, 1976.—Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 2923, an original bill]

The Committee on the Judiciary, having investigated and studied the salary levels of U.S. magistrates, reports favorably upon an original bill prepared by the committee and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to amend title 28 of the United States Code to provide that full-time U.S. magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates.

STATEMENT

When the 90th Congress established the magistrate system (Public Law 90-578) it granted discretion to the Judicial Conference of the United States to fix the salary of full-time magistrates up to a limit of \$22,500 and \$11,000 for a part-time magistrate.

Hearings in the 90th Congress on this act reflect that it was the intention to equate the salaries of magistrates to that of referees in bankruptcy. At the time the act was passed, the referees were receiving \$22,500 per year. Subsequent to the passage of the Magistrate Act, but prior to the actual appointment of U.S. magistrates the salaries of referees in bankruptcy were brought under the coverage of the Commission on Executive, Legislative and Judicial Salaries. That Commission issued a report which was the basis for setting the maximum salaries of full-time referees at \$36,000 and of part-time referees at \$18,000. The Judicial Conference, which has discretion to fix the

salary of bankruptcy referees, as well as magistrates, subsequently set the salary of full-time referees at \$30,000.

In 1972 Congress amended the provisions pertaining to magistrates' salary to equate it to that received by bankruptcy judges. This amendment contained, however, the provision that the salary level was not to exceed 75 percent of that received by federal district judges. This percentage in effect limited the magistrates' salary to \$30,000. Because this salary level has been tied to that of district judges no cost of living was granted to magistrates, as has been the case with other Federal employees, until the fall of 1975.

The effect of this limitation has caused a number of resignations from the office of magistrate. While no resignations were tendered during the first 9 months of 1974, seven occurred during the 15-month period ending December 1975.

The Judicial Conference has been reluctant to raise the bankruptcy referees' salaries beyond the amount received by magistrates to the \$36,000 ceiling authorized for referees. The conference has gone on record as indicating it believes that a parity should exist between the salary levels of referees and magistrates.

The subject bill by removing the provision tying magistrates' salary to a fixed percentage of the salary of Federal district judges would clear the way for the Judicial Conference to raise the magistrates' salaries up to \$36,000, the congressionally authorized salary level of bankruptcy referees.

The committee, in the course of hearings on the Magistrates Jurisdiction bill, S. 1283, and the Bankruptcy Referees bill, S. 582, has received testimony in this past year pertaining to the salary level of magistrates.

In 1972 when this committee last processed legislation, H.R. 7375, to adjust the magistrates' salary level, it was noted that the duties and responsibilities of magistrates are comparable to those of referees in bankruptcy and of the attorneys employed by the Federal Government. For example, the most common grade for a hearing examiner in the executive branch is GS-16 (\$36,338-\$37,549); and U.S. attorneys earn \$32,000 to \$39,700 per year, depending upon the size of their district. Although a magistrate is often called upon to review a finding of a hearing examiner or to decide an issue argued by a U.S. attorney, he is by the present statute limited to a considerably lower salary than either of these Federal employees.

Most administrative law judges begin at GS-16.

While their expertise is normally limited to a single speciality, magistrates must cover the entire spectrum of the law, from environmental matters to criminal cases. Magistrates perform such important judicial acts as issuing search and arrest warrants, fixing bail and holding initial hearings of persons accused of criminal offenses. They may be authorized to hold pre-trial conferences, review social security appeals, review Narcotics Addict Rehabilitation Act matters and serve as special masters.

The committee is of the mind that magistrates should be compensated at a level comparable to those Government attorneys who appear before them and those hearing examiners and administrative judges whose decisions they may be called upon to review.

When this committee acted on the 1972 salary bill, it noted that the magistrate system had been in existence only 2 years. The committee felt that subsequent re-evaluation of the salary level would be in order as the magistrate system became more established. The committee has received information that during 1975 the 482 full-time and part-time magistrates handled some 255,061 matters. Evidence reviewed by this committee indicates that the magistrate system has become a virtually indispensable supplement to the overworked Federal judiciary. The committee believes that the performance of the magistrates system well justifies the salary increase proposed by the subject bill.

Upon enactment of this bill the Judicial Conference of the United States would have the authority to fix the salary of full-time magistrates at \$36,000 per year, the current statutory maximum for the salary of referees in bankruptcy. The committee has also reported favorably S. 582 under which the Congress (not the Judicial Conference) would fix the salary of full-time referees at \$36,000, plus the same percentage adjustment enacted for Members of Congress, Federal judges and the so-called supergrades by Public Law 94-82, August 9, 1975, or a total of \$37,800 per annum.

The bill reported herewith, while it provides for parity between the salary of referees and magistrates, nevertheless continues the authority of the Judicial Conference to set the salary of the magistrates. This difference seemed to be required in the judgment of the committee because the magistrate system unlike the referee in bankruptcy system, has been in existence only 7 years. While the Magistrates Act (Public Law 90-578; title 28 United States Code sec. 636) required magistrates to perform the duties formerly assigned to U.S. Commissioners, it also vested in the district courts the discretion to assign additional duties to a magistrate. These additional duties may include the conduct of pretrial or discovery proceedings in both civil and criminal cases, a review of habeas corpus and other prisoner petitions for posttrial relief, and review of certain appeals under the Social Security Act and other similar proceedings. Hearings conducted by the committee on legislation to provide additional district court judgeships and the annual statistical reports on the Federal courts indicate that full-time magistrates have not been used by some courts to perform these additional duties. It was the intent of Congress by passage of the Magistrates Act, and as further indicated by the committee's action in reporting favorably S. 1283, that the district courts should make a maximum use of the services of magistrates in preliminary proceedings in order to free the district judge's time for the actual trial of cases. Section 634(a) of title 28 United States Code directs the Judicial Conference, in fixing the salary of magistrates, to give consideration to the volume and the nature of the matters handled by a magistrate. The committee believes that among the factors to be considered by the conference is whether or not the magistrate handles a significant number of cases as additional duties assignable under section 636(b) of title 28. Therefore, the committee felt that the Judicial Conference should continue to have a discretionary authority to fix the salary of magistrates.

COST

Based upon a maximum permissible compensation of \$36,000 per annum for 142 full-time magistrates, and assuming a pro rata adjustment in the compensation of 340 part-time magistrates, the annual cost of this legislation is \$823,700. It should be noted that if the salary of referees is raised to \$37,800 under other legislation now pending (S. 582), the maximum permissible compensation payable under this bill would be \$1,152,700.

SECTION-BY-SECTION ANALYSIS

The bill amends the first sentence contained in section 634(a) of title 28 of the United States Code by deleting the provision which limits the full-time magistrates' salary level to 75 percent of the amount received by United States Federal district judges. The bill also specifies that part-time magistrates receive up to one-half of the amount received by full-time magistrates, rather than the fixed amount of \$15,000 specified in present law.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURES

§ 634. Compensation.

[(a) Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended, except that the salary of a part-time United States magistrate shall not be less than \$100 nor more than \$15,000 per annum, and except that the salary of a full-time United States magistrate shall not exceed 75 percent of the salary now or hereafter provided for a judge of a district court of the United States referred to in section 135 of title 28 of the United States Code.**]**

(a) Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act [11 U.S.C. 68(a)], as amended, except that the salary of a part-time United States magistrate shall not be less than \$100.00 nor more than one-half the maximum salary payable to a full-time magistrate. In fixing the

amount of salary to be paid to any officer appointed under this chapter, consideration shall be given to the average number and the nature of matters that have arisen during the immediately preceding period of five years, and that may be expected thereafter to arise, over which such officer would have jurisdiction and to such other factors as may be material. Disbursement of salaries shall be made by or pursuant to the order of the Director.

RECOMMENDATION

Therefore, the Committee favorably reports S. 2923 and recommends that it do pass.

○

MAGISTRATE SALARIES AND MAGISTRATE POSITION FOR VIRGIN ISLANDS

SEPTEMBER 17, 1976.—Committee to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. DANIELSON, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 2923]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (S. 2923) to amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, after line 7, insert the following:

SEC. 2. Section 631 of title 28 of the United States Code is amended—

(1) in the first sentence of subsection (a), by inserting “and the district court of the Virgin Islands” immediately after “United States district court”;

(2) by inserting immediately after the first sentence of subsection (a) the following: “In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court.”; and

(3) in subsection (b)(1)(B), by inserting immediately before the semicolon the following: “, and in the Virgin Islands of the United States, a member in good standing of the bar of the district court of the Virgin Islands”.

PURPOSE

The bill has two purposes. The first is to amend title 28 of the United States Code to provide that full-time U.S. Magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates. The second purpose, as incorporated in the amendment adopted by the Committee, is to amend title 28 of the United States Code to authorize the establishment of U.S. Magistrate positions in the district court of the Virgin Islands.

STATEMENT

The magistrate system was established by the 90th Congress (Public Law 90-578) to assist judges in their many duties. For the past five years the program has developed so that magistrates increasingly are being assigned additional projects and are a highly respected group of judicial officers. Even if new judgeships are created, the need for competent magistrates will still be a very great one. See, Report of the Comptroller General on Magistrates, No. B133322 (Sept. 19, 1974). For example, recent implementation of the Speedy Trial Act of 1974 (Public Law 93-619) will increase the time pressures on judges. The assistance of magistrates in pretrial matters will be very essential to keep pace with the requirements of that act. S. 1283 which has also been reported favorably from the Committee on the Judiciary would clarify and expand magistrates' duties.

It is appropriate and necessary that the position of magistrate attract a competent group of judicial officers. In the past it has, and it is expected to continue, attracting bright lawyers who are eager to serve the public. However, the recent ceiling on magistrate salaries has created a hardship for magistrates, many of whom have family responsibilities, and who have left more lucrative positions. The present salary of a full-time magistrate is \$31,500. Prior to the recent passage of Public Law 94-217 (Feb. 27, 1976) which increased full-time bankruptcy referees to a salary of \$37,800 per annum, the salaries of bankruptcy referees and magistrates were on a parity. The Judicial Conference expressed its support for that continued parity and refused to raise the bankruptcy referees' salaries above that of magistrates, and wanted both to be raised simultaneously. Public Law 94-217 removed the bankruptcy referees salaries from the Conference's discretion.

At hearings in the Senate and in the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice,¹ the Administrative Office of the U.S. Courts speaking for the Judicial Conference, continued to stress that parity between the two judicial officers was important.

Presently approximately six magistrate positions remain unfilled, largely due to inability to recruit a competent lawyer at that salary level. The attrition rate has disturbed the Judicial Conference, which has continually urged an increase in magistrate's salaries, irrespective of whether judges' salaries are increased.

¹ June 20 and July 18, 1975. Hearings on H.R. 6150.

Section 634(a) of 28 U.S.C. limits magistrates' salaries to 75 percent of that of a judge of a federal district court. Presently, such a judge receives \$42,000 per annum. S. 2923 would eliminate the 75 percent restriction, and would key the magistrates' salaries into those of bankruptcy referees. It would not automatically raise the salaries but rather would authorize the Judicial Conference of the United States to adjust the magistrates' salary accordingly. A sixty-day hiatus would occur between the time the Judicial Conference actually voted to increase that salary, and the effective date of the increase. Therefore, the earliest the increase could be received would be December 1976.

The Senate passed S. 2923 on Feb. 5, 1976. See Senate Report 94-624. The important responsibilities of the magistrate were stressed in recommending the increase in salaries. Magistrates cover the spectrum of environmental law to criminal matters. They perform such judicial acts as issuing search and arrest warrants, fixing bail, and holding initial hearings of persons accused of criminal offenses. They may be authorized to hold pretrial conferences, review social security appeals, review Narcotics Addict Rehabilitation Act matters and serve as special masters. If S. 1283 is enacted, their jurisdiction will be further expanded.

The Committee believes that magistrates should be compensated at a level comparable to those Government attorneys who appear before them and those hearing examiners and administrative judges whose decisions they may be called upon to review. Presently many hearing examiners earn a GS-16 salary (\$36,338-\$37,800) and U.S. attorneys earn \$32,000 to \$39,700 per year. Presently there are 150 full-time magistrate positions at a salary level of \$31,500 and 316 part-time magistrates, whose salaries range from \$100 to \$15,705. There are also 16 combination positions, which include the position of a part-time magistrate at \$15,750, plus another part-time position such as clerk of the court, deputy clerk, or bankruptcy referees. During 1975 the 482 full-time and part-time magistrates handled 225,061 matters. The Committee believes that their performance well deserves an increase.

The second section of S. 2923, as amended, was a Committee amendment to the act to authorize the district court of the Virgin Islands to request a magistrate position. Correspondence from the Bar Association of the Virgin Islands and the Hon. Ron de Lugo indicated a great need for that authority. According to Mr. de Lugo, the caseload for two judges in the district court of the Virgin Islands has increased from 1,050 cases in 1971 to 2,382 cases in 1975. This is far in excess of the average federal judge's caseload of 400 years. The Administrative Office of the U.S. Courts supports this amendment to Section 631(a) of 28 U.S. Code. This amendment would not automatically create a magistrate's position there, but would allow that district court to request the Judicial Conference for the authorization. The Conference would then have the Administrative Office of the U.S. Courts conduct a survey to document and measure the need. Then next spring, the Conference at its semi-annual meeting could request a full or part-time position. No position would be funded until October 1, 1977.

OVERSIGHT

Oversight of the administration of the federal courts and the federal magistrate systems is the responsibility of the Committee on the Judiciary. The hearings on June 20 and July 18, 1975, on H.R. 6150, included the subjects of magistrate's salaries and jurisdiction. This legislation and S. 1283, on magistrate's jurisdiction, is a response to that responsibility.

STATEMENT OF THE COMMITTEE ON GOVERNMENT OPERATIONS

No statement has been received on the legislation from the House Committee on Government Operations.

STATEMENT OF THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 7, rule XIII of the Rules of the House of Representatives, and Section 403 of the Congressional Budget Act of 1974, the Committee estimates the following costs of the legislation.

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 10, 1976.

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary, U.S. House of Representatives,
Rayburn Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2923, a bill to amend Title 28 of the United States Code to provide full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES BLUM,
For ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE, SEPTEMBER 10, 1976

1. Bill No. S. 2923.
2. Bill title: To amend Title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates.
3. Purpose of bill: The bill amends Section 634 of Title 28 of the U.S. Code by increasing the statutory ceiling on salaries payable to full-time and part-time magistrates. If enacted, the bill would permit the Judicial Conference to raise magistrate salaries to a level equivalent to that of bankruptcy

judges. The bill would also allow the appointment of a full or part-time magistrate for the District Court of the Virgin Islands, depending on the extent of the need as determined by the Judicial Conference.

4. Cost estimate: The costs associated with this bill are presented in the table below.

(Million of dollars)

Fiscal year:	
1977	1.2
1978	1.3
1979	1.4
1980	1.5
1981	1.5

These costs all fall within function 750.

5. Basis for estimates: The cost estimate is based on a \$6,300 increase in salary for the 150 full-time magistrates in fiscal year 1977, assuming that the Judicial Conference will increase the salaries of full-time magistrates to the statutory ceiling (i.e., from \$31,500 to \$37,800). For part-time magistrates, it was assumed that the Judicial Conference would increase all salaries proportionately, based on the 20 percent increase in the statutory ceiling (i.e., from \$15,750 to \$18,900). On the basis of a fiscal year 1976 average salary of \$3,860, it was estimated that the 316 part-time magistrates would receive an average salary increase of \$770 in fiscal year 1977. In addition, it was assumed that one full-time magistrate would be hired in the Virgin Islands by fiscal year 1978, at the projected salary ceiling for that year of \$40,000. All costs are assumed to increase by 6 percent per year based on projected increases in federal pay.

6. Estimate comparison: None.
7. Previous CBO estimate: None.
8. Estimate prepared by: James V. Manaro.
9. Estimate approved by:

C. G. NUCKOLS
for James L. Blum,
*Assistant Director
for Budget Analysis.*

INFLATIONARY IMPACT STATEMENT

The legislation will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

COMMITTEE VOTE

S. 2923 was ordered to be reported favorably with an amendment by voice vote of the Committee on September 9, 1976. Twenty-seven members were present.

SECTIONAL ANALYSIS

Section 1 of S. 2923 amends the first sentence contained in section 634(a) of title 28 of the United States Code by deleting the provision which limits the full-time magistrate's salary level to 75 percent of the amount received by United States Federal district judge. The bill also specifies that part-time magistrates receive up to one-half of the amount received by full-time magistrates, rather than the fixed amount of \$15,750 specified in the present law.

Section 2 which is the Committee amendment adds to Section 631(a) of 28 United States Code the authority of the district court of the Virgin Islands to request and subsequently appoint a magistrate.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

TITLE 28, UNITED STATES CODE

* * * * *

§ 631. Appointment and tenure.

(a) The judges of each United States district court and the district court of the Virgin Islands shall appoint United States magistrates in such numbers and to serve at such locations within the judicial district as the conference may determine under this chapter. *In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court.* Where there is more than one judge of a district court, the appointment, whether an original appointment or a reappointment, shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge. Where an area under the administration of the National Park Service, or the United States Fish and Wildlife Service, or any other Federal agency, extends into two or more judicial districts and it is deemed desirable by the conference that the territorial jurisdiction of a magistrate's appointment include the entirety of such area, the appointment or reappointment shall be made by the concurrence of a majority of all judges of the district courts of the judicial districts involved, and where there is no such concurrence by the concurrence of the chief judges of such district courts.

(b) No individual may be appointed or serve as a magistrate under this chapter unless:

(1) He is a member in good standing of the bar of the highest court of the State in which he is to serve, or, in the case of an individual appointed to serve—

(A) in the District of Columbia, a member in good standing of the bar of the United States district court for the District of Columbia;

(B) in the Commonwealth of Puerto Rico, a member in good standing of the bar of the Supreme Court of Puerto Rico, *and in the Virgin Islands of the United States, a member in good standing of the bar of the district court of the Virgin Islands;* or

(C) in an area under the administration of the National Park Service, the United States Fish and Wildlife Service, or any other Federal agency that extends into two or more States, a member in good standing of the bar of the highest court of one of those States;

except that an individual who does not meet the bar membership requirements of the first sentence of this paragraph may be appointed and serve as a part-time magistrate if the appointing court or courts and the conference find that no qualified individual who is a member of the bar is available to serve at a specific location;

(2) He is determined by the appointing district court or courts to be competent to perform the duties of the office;

(3) In the case of an individual appointed to serve in a national park, he resides within the exterior boundaries of that park, or at some place reasonably adjacent thereto;

(4) He is not related by blood or marriage to a judge of the appointing court or courts at the time of his initial appointment.

* * * * *

§ 634. Compensation.

(a) Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended, except that the salary of a part-time United States magistrate shall not be less than \$100 nor more than ~~[\$15,000~~ per annum, and except that the salary of a full-time United States magistrate shall not exceed 75 percent of the salary now or hereafter provided for a judge of a district court of the United States referred to in section 135 of title 28 of the United States Code] *one-half the maximum salary payable to a full-time magistrate.* In fixing the amount of salary to be paid to any officer appointed under this chapter, consideration shall be given to the average number and the nature of matters that have arisen during the immediately preceding period of five years, and that may be expected thereafter to arise, over which such officer would have jurisdiction and to such other factors as may be material. Disbursement of salaries shall be made by or pursuant to the order of the Director.

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Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 634(a) of title 28 of the United States Code is amended by changing the first sentence of said subsection to read as follows:

“(a) Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended, except that the salary of a part-time United States magistrate shall not be less than \$100 nor more than one-half the maximum salary payable to a full-time magistrate.”.

SEC. 2. Section 631 of title 28 of the United States Code is amended—

(1) in the first sentence of subsection (a), by inserting “and the district court of the Virgin Islands” immediately after “United States district court”;

(2) by inserting immediately after the first sentence of subsection (a) the following: “In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court.”; and

(3) in subsection (b) (1) (B), by inserting immediately before the semicolon the following: “, and in the Virgin Islands of the United States, a member in good standing of the bar of the district court of the Virgin Islands”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*