

# CRS Report for Congress

## **Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries**

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**Prepared for Members and  
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# Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries

## Summary

Leaders and Members of the Senate and the House of Representatives, the Vice President, individuals in positions on the Executive Schedule (EX), and federal justices and judges — all hereafter referred to as federal officials — receive an annual pay adjustment under the Ethics Reform Act of 1989, P.L. 101-194 (103 Stat. 1716, at 1769, 5 U.S.C. §5318 note). The percentage change in the wages and salaries for the private industry workers element of the Employment Cost Index (ECI), minus 0.5% (December indicator) provides the basis for the pay adjustment. In January 2007, the Vice President and individuals paid on the EX schedule received a 1.7% salary increase. The Continuing Appropriations Resolution for FY2007, P.L. 109-383, enacted on December 9, 2006, which expired on February 15, 2007, delayed the 1.7% pay increase for Members of Congress until February 16, 2007. Section 115 of P.L. 110-5, the Revised Continuing Appropriations Resolution for FY2007, enacted on February 15, 2007, denies the Members a pay adjustment in 2007. Federal justices and judges cannot receive the 1.7% pay adjustment until Congress specifically authorizes it. To date, Congress has not enacted authorizing legislation. S. 197, to provide the authorization, passed the Senate by unanimous consent on January 8, 2007, and was referred to the House Committee on the Judiciary where it is pending. H.R. 2829, the Financial Services and General Government Appropriations Act for FY2008, as reported in the Senate on July 13, 2007, authorizes a judicial pay adjustment at Section 305.

The Federal Judicial Salary Restoration Act of 2007, S. 1638 and H.R. 3753, currently pending in the 110<sup>th</sup> Congress would provide pay increases of 50% (Senate bill) and 41.3% (House bill) to district court judges, courts of appeals judges, Associate Justices of the Supreme Court, and the Chief Justice of the United States. The Senate bill also would provide a 50% pay adjustment to Court of International Trade judges. The House bill also would repeal the provision of law that requires Congress to specifically authorize any salary increases for justices and judges.

EX pay rates provide limitations on maximum basic pay rates for Members of the Senior Executive Service (SES) and employees in senior-level (SL) and scientific and professional (ST) positions. EX pay rates also provide limitations on basic pay, basic pay and locality pay combined, and total compensation for employees in General Schedule (GS) positions.

This report includes five tables which provide the January 2004, January 2005, January 2006, and January 2007 salaries for federal officials, members of the SES, and employees in SL, ST, and GS-15 positions in the Washington, DC, and the “Rest of the United States” locality pay areas. It will be updated as more information about future pay increases becomes available.

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# Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries

## Legislative, Executive, and Judicial Officials

A provision in the Ethics Reform Act of 1989 provides for an annual salary adjustment for leaders and Members of the Senate and House of Representatives, the Vice President, individuals in positions on the Executive Schedule (EX), and federal justices and judges.<sup>1</sup> The adjustment is based on the percentage change in the wages and salaries (not seasonally adjusted) for the private industry workers element of the Employment Cost Index (ECI), minus 0.5% (December indicator).<sup>2</sup> It becomes effective at the same time as, and at a rate no greater than, the annual base pay rate adjustment for federal white-collar civilian employees under the General Schedule (GS).<sup>3</sup> The adjustment cannot, however, be less than zero or greater than 5%.<sup>4</sup> While this provision of the Ethics Reform Act sets the rate of the judicial pay adjustment, a 1981 law provides that any salary increase for justices and judges must be “specifically authorized by Act of Congress hereafter enacted.”<sup>5</sup>

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<sup>1</sup> P.L. 101-194, §704, November 30, 1989; 103 Stat. 1716, at 1769; 5 U.S.C. 5318 note. The law amended 2 U.S.C. §31(2), 3 U.S.C. §104, 5 U.S.C. §5318, and 28 U.S.C. §461(a). For an analysis of pay adjustments for Members of Congress, see CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments*, by Paul Dwyer. See also CRS Report RS20388, *Salary Linkage: Members of Congress, Certain Federal Officials, and Certain Federal Judges*, by Barbara L. Schwemle.

<sup>2</sup> The term “base quarter” means the three-month period ending on December 31 of a year. The ECI for the last base quarter is reduced by the ECI for the second to last base quarter, the resulting difference is divided by the ECI for the second to last base quarter, and the quotient is multiplied by 100.

<sup>3</sup> Footnote 1 and Government Management Reform Act of 1994, P.L. 103-356, Title I, §101(4), October 13, 1994; 108 Stat. 3410, at 3411. Under 5 U.S.C. §5318(a), salaries are rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100).

<sup>4</sup> Article III, Section 1 of the *Constitution of the United States* provides that “The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.” The pay adjustment set under the Ethics Reform Act would not apply to the extent that it would reduce the salary of any individual whose compensation may not be diminished under Article III, Section 1. (28 U.S.C. §461(b).)

<sup>5</sup> P.L. 97-92, §140, December 15, 1981; 95 Stat. 1183, at 1200; 28 U.S.C. 461 note. The law (continued...)

The legislative, executive, and judicial officials are all hereafter referred to as federal officials. The Vice President and individuals paid on the EX schedule received a 1.7% salary increase in January 2007. The 1.7% pay increase for Members of Congress was delayed until February 16, 2007, by Section 137 of the Continuing Appropriations Resolution, P.L. 109-383, which was enacted on December 9, 2006, and expired on February 15, 2007.<sup>6</sup> Section 115 of P.L. 110-5, the Revised Continuing Appropriations Resolution for FY2007, enacted on February 15, 2007, denies the Members a pay adjustment in 2007.<sup>7</sup> Until Congress specifically authorizes it, the 1.7% pay adjustment for federal justices and judges cannot be provided.

## Pay Adjustments Since 1991

Federal officials received pay adjustments in 11 of the 16 years (1991-2006) since the enactment of the Ethics Reform Act. The adjustments follow:

**1991.** Adjustment was 3.6%.<sup>8</sup> P.L. 101-520, Title III, §321, November 5, 1990; 104 Stat. 2254, at 2285, authorized the judicial pay adjustment.

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<sup>5</sup> (...continued)

provides “[t]hat nothing in this limitation shall be construed to reduce any salary which may be in effect at the time of enactment of this joint resolution nor shall this limitation be construed in any manner to reduce the salary of any Federal judge or of any Justice of the Supreme Court.” Congress enacted this provision of law in the wake of a court decision (U.S. v. Will, 449 U.S. 2000 (1980)) brought by several judges on behalf of the entire Judiciary which resulted in the restoration of two (1976 and 1979) of four (1976-1979) judicial pay adjustments that Congress had rejected. The provision was made permanent in the Departments of Commerce, Justice, and State, The Judiciary, and Related Agencies Appropriations Act, 2002, P.L. 107-77, Title VI, §625, November 28, 2001; 115 Stat. 748, at 803.

<sup>6</sup> The law provides that, “Notwithstanding any other provision of this division and notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), the percentage adjustment scheduled to take effect under such section for 2007 shall not take effect until February 16, 2007.” (120 Stat. 2678, at 2679.)

<sup>7</sup> P.L. 110-5, §115, February 15, 2007, 121 Stat. 8, at 12; 2 U.S.C. §31 note. H.J.Res. 20 was introduced by Representative David Obey on January 29, 2007, and referred to the House Committee on Appropriations. The House passed the resolution on a 286 to 140 vote (Roll No. 72) on January 31, 2007. (The rule on consideration of the resolution was passed on a 225 to 191 vote (Roll No. 67) the same day.) The Senate passed H.J.Res. 20 on an 81 to 15 vote (No. 48) on February 14, 2007. The resolution continues appropriations through September 30, 2007.

<sup>8</sup> Under the Ethics Reform Act of 1989 (P.L. 101-194, §703, November 30, 1989; 103 Stat. 1716, at 1768, 5 U.S.C. 5318 note), federal officials (but not Senators) also received a 25% pay adjustment which was compounded with the 3.6% annual pay adjustment. The Senate later passed legislation (Legislative Branch Appropriations Act, 1992, P.L. 102-90, August 14, 1991; 105 Stat. 450-451) which became effective on the day of enactment and provided Senators with the same pay as Representatives. For a discussion of the Senate action, see, CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments*, by Paul Dwyer.

**1992.** Adjustment was 3.5%. P.L. 102-140, Title III, §305, October 28, 1991; 105 Stat. 782, at 810, authorized the judicial pay adjustment.

**1993.** Adjustment was 3.2%. P.L. 102-395, Title III, §304, October 6, 1992; 106 Stat. 1828, at 1859, authorized the judicial pay adjustment.

**1994.** Projected adjustment was 2.1%. Congress passed legislation freezing salaries for Members of Congress (P.L. 103-6, §7, March 4, 1993; 107 Stat. 33, at 35). Federal officials did not receive a pay adjustment because GS base pay was not adjusted (P.L. 103-123, §517B, §615, October 28, 1993; 107 Stat. 1226, at 1253-1254, 1261-1263).

**1995.** Projected adjustment was 2.6%, but would have been limited to GS base pay adjustment of 2.0%. Federal officials did not receive a pay adjustment (P.L. 103-329, §630(a)(2), September 30, 1994; 108 Stat. 2382, at 2424).

**1996.** Projected adjustment was 2.3%, but would have been limited to GS base pay adjustment of 2.0%. Federal officials did not receive a pay adjustment (P.L. 104-52, §633, November 19, 1995; 109 Stat. 468, at 507).

**1997.** Projected adjustment was 2.3%. Federal officials did not receive a pay adjustment (P.L. 104-208, §637, September 30, 1996; 110 Stat. 3009, at 3009-364).

**1998.** Projected adjustment was 2.9%. Adjustment was 2.3%, the same as the GS base pay adjustment. P.L. 105-119, Title III, §306, November 26, 1997; 111 Stat. 2440, at 2493, authorized the judicial pay adjustment.

**1999.** Projected adjustment was 3.4%, but would have been limited to GS base pay adjustment of 3.1%. Federal officials did not receive a pay adjustment (P.L. 105-277, §621, October 21, 1998; 112 Stat. 2681, at 2681-518).

**2000.** Adjustment was 3.4%. P.L. 106-113, Div. B, §1000(a)(1) [Title III, §304], November 29, 1999; 113 Stat. 1501, at 1535, 1501A-36-A37, authorized the judicial pay adjustment.

**2001.** Projected adjustment was 3.0%. Adjustment was 2.7%, the same as the GS base pay adjustment. P.L. 106-553, §1(a)(2) [Title III, §309], December 21, 2000; 114 Stat. 2762 at, 2762A-89, authorized the judicial pay adjustment.

**2002.** Adjustment was 3.4%. P.L. 107-77, Title III, §305, November 28, 2001; 115 Stat. 748, at 783, authorized the judicial pay adjustment.

**2003.** Projected adjustment was 3.3%. Adjustment was 3.1%, the same as the GS base pay adjustment. P.L. 108-6, §1, February 13, 2003; 117 Stat. 10, authorized the judicial pay adjustment.

**2004.** Adjustment was 2.2%. Adjusted temporarily at 1.5% pending enactment of P.L. 108-199. P.L. 108-167, §1, December 6, 2003; 117 Stat. 2031, authorized the judicial pay adjustment.

**2005.** Adjustment was 2.5%. P.L. 108-447, §306, December 8, 2004; 118 Stat. 2809, at 2895, authorized the judicial pay adjustment.

**2006.** Adjustment was 1.9%. P.L. 109-115, §405, November 30, 2005; 119 Stat. 2396, at 2470 authorized the judicial pay adjustment.

**2007.** Projected adjustment was 2.0%. Adjustment was 1.7%, the same as the GS base pay adjustment.<sup>9</sup> Section 115 of P.L. 110-5 denies the Members a pay adjustment in 2007. The judicial pay adjustment has not yet been authorized. S. 197, to provide the authorization, passed the Senate by unanimous consent on January 8, 2007, and was referred to the House Committee on the Judiciary where it is

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<sup>9</sup> U.S. President (Bush), “Adjustments of Certain Rates of Pay,” Executive Order 13420, *Federal Register*, vol. 71, December 26, 2006, pp. 77569-77580.

pending.<sup>10</sup> Section 305 of H.R. 2829, the Financial Services and General Government Appropriations Act for FY2008, as reported in the Senate on July 13, 2007, authorizes a judicial pay adjustment.<sup>11</sup>

**2008.** Projected adjustment is 2.7%, but may be lowered depending on the size of the GS pay adjustment.<sup>12</sup>

**Table 1** below shows the January 2004, January 2005, and January 2006 salaries for federal officials.

**Table 1. Legislative, Executive, and Judicial Salaries, January 2004 to January 2006**

Position	January 2004	January 2005	January 2006
<b>Legislative Branch</b>			
Vice President of the United States (President of the Senate)	\$203,000	\$208,100	\$212,100
Speaker of the House of Representatives	203,000	208,100	212,100
President Pro Tempore of the Senate	175,700	180,100	183,500
Majority and Minority Leaders — House and Senate	175,700	180,100	183,500
Senators, Representatives, Resident Commissioner of Puerto Rico, and Delegates	158,100	162,100	165,200
Comptroller General of the United States	158,100	162,100	165,200
Deputy Comptroller General	145,600	149,200	152,000

<sup>10</sup> S. 197 was introduced on January 8, 2007, by Senator Patrick Leahy, for himself, and Senators John Cornyn, Dianne Feinstein, Harry Reid, and Arlen Specter.

<sup>11</sup> H.R. 2829, as reported in the Senate, p. 189. U.S. Congress, Senate Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2008*, report to accompany H.R. 2829, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., S.Rept. 110-129 (Washington: GPO, 2007), p. 56.

<sup>12</sup> The January 2008 pay adjustment provided for by the Ethics Reform Act would be 2.7% (3.2% minus 0.5%) according to U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index — December 2006* (Washington, DC: January 31, 2007), p. 17. The pay adjustment, however, can be no greater than the annual base pay rate adjustment for federal white-collar civilian employees under the General Schedule (GS). For January 2008, the GS base pay adjustment required by law is 2.5% according to U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index — September 2006* (Washington, DC: October 31, 2006), pp. 2, 17.

<b>Position</b>	<b>January 2004</b>	<b>January 2005</b>	<b>January 2006</b>
General Counsel, Government Accountability Office	136,900	140,300	143,000
Librarian of Congress	158,100	162,100	165,200
Deputy Librarian	145,600	149,200	152,000
Register of Copyrights	145,600	149,200	152,000
Director, Congressional Research Service	145,600	149,200	152,000
Public Printer	158,100	162,100	165,200
Deputy Public Printer	145,600	149,200	152,000
<b>Executive Branch</b>			
President of the United States	\$400,000	\$400,000	\$400,000
Vice President of the United States	203,000	208,100	212,100
Executive Schedule (EX) Level I: Cabinet-level officials	175,700	180,100	183,500
EX Level II: Deputy secretaries of departments, secretaries of military departments, and heads of major agencies	158,100	162,100	165,200
EX Level III: Under secretaries of departments and heads of middle-level agencies	145,600	149,200	152,000
EX Level IV: Assistant secretaries and general counsels of departments, heads of smaller agencies, members of certain boards and commissions	136,900	140,300	143,000
EX Level V: Administrators, commissioners, directors, and members of boards, commissions, or units of agencies	128,200	131,400	133,900
<b>Judicial Branch</b>			
Chief Justice of the United States	\$203,000	\$208,100	\$212,100
Associate Justices of the Supreme Court	194,300	199,200	203,000
Judges, U.S. Courts of Appeal	167,600	171,800	175,100



Position	January 2004	January 2005	January 2006
Judges, U.S. Court of Appeals for the Armed Services	167,600	171,800	175,100
Judges, U.S. District Courts	158,100	162,100	165,200
Judges, United States Court of Federal Claims	158,100	162,100	165,200
Judges, United States Court of International Trade	158,100	162,100	165,200
Judges, Tax Court of the United States	158,100	162,100	165,200
Judges, U.S. Court of Appeals for Veterans Claims	158,100	162,100	165,200
Bankruptcy Judges	145,500	149,132	151,984
Magistrate Judges	145,500	149,132	151,984
Director, Administrative Office of U.S. Courts	158,100	162,100	165,200
Deputy Director, Administrative Office of U.S. Courts	145,500	149,132	151,984
Director, Federal Judicial Center	158,100	162,100	165,200
Deputy Director, Federal Judicial Center	145,500	149,132	151,984
Administrative Assistant to the Chief Justice	up to 158,100	up to 162,100	up to 165,200
Circuit Executives	up to 136,900	up to 140,300	up to 143,000

**Notes:** Salaries for the Comptroller General of the United States (31 U.S.C. §703(f)(1)), the Deputy Comptroller General (31 U.S.C. §703(f)(2)), the General Counsel of the Government Accountability Office (31 U.S.C. §731(c)), the Librarian of Congress (2 U.S.C. §136a-2(1)), the Deputy Librarian (2 U.S.C. §136a-2(2)), the Register of Copyrights (17 U.S.C. §701(f)), the Director of the Congressional Research Service (2 U.S.C. §166(c)(1)), the Public Printer (44 U.S.C. §303), and the Deputy Public Printer (44 U.S.C. §303) are tied to the Executive Schedule by law. For an analysis of congressional staff salaries which are tied to Member of Congress pay rates, see CRS Memorandum, *Effect of Congressional Pay Freeze on Officer and Staff Salaries*, by Ida A. Brudnick (available to Members of Congress and their staff from the author).

The President's current salary became effective at noon on January 20, 2001, and was established by the Treasury and General Government Appropriations Act, 2000, P.L. 106-58, Title VI, §644, Sept. 29, 1999; 113 Stat. 430, at 478; 3 U.S.C. §102. For a discussion of the President's salary, see CRS Report RS20115, *President of the United States: Compensation*, by Barbara L. Schwemle.

The salary for the Director of the Administrative Office (AO) of U.S. Courts is the same as that of U.S. District Court Judges (28 U.S.C. §603). The salary for the Deputy Director of the AO is 92% of the AO Director's salary (28 U.S.C. §603). The salary for the Director of the Federal Judicial Center (FJC) is the same as the AO Director's salary (28 U.S.C. §626). The salary for the Deputy

Director of the FJC is the same as the Deputy AO Director's salary (28 U.S.C. §626). The salary for the Administrative Assistant to the Chief Justice cannot exceed the AO Director's salary (28 U.S.C. §677). Salaries for Circuit Executives cannot exceed EX Level IV (28 U.S.C. §332(f)(1)).

Total compensation for Circuit Executives, the AO Director, and the Deputy AO Director may be up to the Vice President's salary. (Homeland Security Act of 2002, P.L. 107-296, Title XIII, §1322, Nov. 25, 2002; 116 Stat. 2135, at 2297-2298; 5 U.S.C. §5307(d)). This provision also applies to employees paid under 28 U.S.C. §604 which authorizes the AO Director to set compensation for clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants, and other employees of the courts whose compensation is not otherwise fixed by law. Performance appraisal systems for employees, "as designed and applied," must make "meaningful distinctions based on relative performance." The AO Director is responsible for any regulations (which must be consistent with the Office of Personnel Management and Office of Management and Budget regulations for members of the SES and SL and ST employees), certifications, or other measures necessary to implement the provision. Certification is for a period of two calendar years, but may be terminated at any time upon a finding of nonconformance with applicable requirements. This provision is under study by the Judicial Conference Committee on Judicial Resources.

The January 2006 salaries remain in effect for federal justices and judges because the 1.7% pay adjustment for January 2007 has not been authorized by Congress.

**Table 2. Legislative and Executive Salaries,  
January 2007**

Position	January 2007
<b>Legislative Branch*</b>	
Vice President of the United States (President of the Senate)	\$215,700
Speaker of the House of Representatives*	212,100
President Pro Tempore of the Senate*	183,500
Majority and Minority Leaders — House and Senate*	183,500
Senators, Representatives, Resident Commissioner of Puerto Rico, and Delegates*	165,200
Comptroller General of the United States	168,000
Deputy Comptroller General	154,600
General Counsel, Government Accountability Office	145,400
Librarian of Congress	168,000
Deputy Librarian	154,600
Register of Copyrights	154,600
Director, Congressional Research Service	154,600
Public Printer	168,000
Deputy Public Printer	154,600

Position	January 2007
<b>Executive Branch</b>	
President of the United States	\$400,000
Vice President of the United States	215,700
Executive Schedule (EX) Level I: Cabinet-level officials	186,600
EX Level II: Deputy secretaries of departments, secretaries of military departments, and heads of major agencies	168,000
EX Level III: Under secretaries of departments and heads of middle-level agencies	154,600
EX Level IV: Assistant secretaries and general counsels of departments, heads of smaller agencies, members of certain boards and commissions	145,400
EX Level V: Administrators, commissioners, directors, and members of boards, commissions, or units of agencies	136,200

**Notes:** The January 2007 pay adjustment provided for by the Ethics Reform Act was 2.0% (2.5% minus 0.5%) according to U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index — December 2005* (Washington, DC: Jan. 31, 2006), p. 14. The pay adjustment, however, can be no greater than the annual base pay rate adjustment for federal white-collar civilian employees under the General Schedule (GS). For January 2007, the GS base pay adjustment required by law is 1.7% according to U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index — September 2005* (Washington, DC: Oct. 28, 2005), pp. 2, 14.

\*Section 115 of P.L. 110-5 denies a pay adjustment in 2007 to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Majority and Minority Leaders of the House and Senate, and the Senators, Representatives, Resident Commissioner of Puerto Rico, and Delegates. (P.L. 110-5, §115, Feb. 15, 2007, 121 Stat. 8, at 12; 2 U.S.C. §31 note.)

Until Congress specifically authorizes it, the 1.7% pay adjustment for federal justices and judges cannot be provided. If the authorization is not provided, the salaries for federal justices and judges will remain at the January 2006 levels shown in **Table 1** above. S. 197, to provide the authorization, passed the Senate by unanimous consent on January 8, 2007, and was referred to the House Committee on the Judiciary where it is pending. H.R. 2829, the Financial Services and General Government Appropriations Act for FY2008, as reported in the Senate on July 13, 2007, authorizes a judicial pay adjustment at Section 305. (H.R. 3753, currently pending in the House of Representatives and discussed below, would repeal the provision of law that requires Congress to specifically authorize any salary increases for justices and judges.)

**Judicial Pay Legislation.** S. 1638, the Federal Judicial Salary Restoration Act of 2007, is currently pending in the Senate Committee on the Judiciary. The bill, introduced by Senator Patrick J. Leahy on June 15, 2007, would provide a 50% pay adjustment to justices and judges. Specifically, it would increase the salary for district court judges and Court of International Trade judges to \$247,800, the salary for courts of appeals judges to \$262,700, the salary for Associate Justices of the Supreme Court to \$304,500, and the salary for the Chief Justice of the United States to \$318,200. The legislation would authorize to be appropriated such sums as necessary to carry out the act and would become effective on the first applicable pay

period beginning on or after the act's enactment. Senator Leahy's statement upon introduction of the bill expressed his views that "[t]he independence of the judiciary is compromised ... if judges leave the bench for financial reasons" and "[t]he quality of the judiciary is threatened if judges' salaries are inadequate to attract and retain our best legal minds."<sup>13</sup>

H.R. 3753, the Federal Judicial Salary Restoration Act of 2007, is currently pending in the House Committee on the Judiciary. The bill, introduced by Representative John Conyers on October 4, 2007, would provide a 41.3% pay adjustment to justices and judges. Specifically, it would increase the salary for district court judges to \$233,500, the salary for courts of appeals judges to \$247,500, the salary for Associate Justices of the Supreme Court to \$286,900, and the salary for the Chief Justice of the United States to \$299,800. The legislation also would repeal the provision of law, codified at 28 U.S.C. §461 note, that requires Congress to specifically authorize any salary increases for justices and judges. It would authorize to be appropriated such sums as necessary to carry out the act and would become effective upon enactment.

## **Senior Executive Service and Certain Senior-Level Positions**

Maximum basic pay rates for members of the Senior Executive Service (SES) and certain senior-level positions are tied to the Executive Schedule. An individual in an SES position: (1) directs the work of an organizational unit; (2) is held accountable for the success of one or more specific programs or projects; (3) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals; (4) supervises the work of employees other than personal assistants; or (5) otherwise exercises important policy-making, policy-determining, or other executive functions.<sup>14</sup> Salaries for members of the SES are determined annually by agency heads "under a rigorous performance management system," and range from the minimum rate of basic pay for a senior level (SL) employee (120% of the minimum basic pay rate for GS-15; \$111,676, as of January 2007) to either EX Level III (\$154,600 as of January 2007), in agencies whose performance appraisal systems have not been certified by the Office of Personnel Management (OPM) as making "meaningful distinctions based on relative performance," or EX Level II (\$168,000, as of January 2007), in agencies whose performance appraisal systems have been so certified.<sup>15</sup> Total compensation<sup>16</sup> for

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<sup>13</sup> Statement of Senator Patrick Leahy, *Congressional Record*, daily edition, vol. 153, June 15, 2007, p. S7793.

<sup>14</sup> 5 U.S.C. §3132(a)(2).

<sup>15</sup> National Defense Authorization Act for Fiscal Year 2004, P.L. 108-136, Div. A, Title XI, §1125(a)(2), November 24, 2003; 117 Stat. 1392, at 1638-1639; 5 U.S.C. §5382. The Office of Personnel Management published interim regulations on January 13, 2004, proposed regulations on July 29, 2004, and final regulations on December 6, 2004, to implement the pay system. U.S. Office of Personnel Management, "Senior Executive Service Pay and (continued...)"

members of the SES in agencies whose performance appraisal systems “as designed and applied” have been certified by OPM may be up to the Vice President’s salary (\$215,700, as of January 2007)<sup>17</sup> and up to EX Level I (\$186,600, as of January 2007) in agencies whose performance appraisal systems have not been so certified.<sup>18</sup> **Table 3** below shows January 2004 through January 2007 salaries for the SES.

**Table 3. Senior Executive Service (SES) Pay**

Effective January 2004		
Minimum	Maximum	
\$104,927	\$145,600	Agencies without a certified performance appraisal system
\$104,927	\$158,100	Agencies with a certified performance appraisal system
Effective January 2005		
\$107,550	\$149,200	Agencies without a certified performance appraisal system
\$107,550	\$162,100	Agencies with a certified performance appraisal system

<sup>15</sup> (...continued)

Performance Awards,” *Federal Register*, vol. 69, no. 8, January 13, 2004, pp. 2047-2052. U.S. Office of Personnel Management, “Senior Executive Service Pay and Performance Awards and Aggregate Limitation on Pay,” *Federal Register*, vol. 69, no. 145, July 29, 2004, pp. 45535-45546. U.S. Office of Personnel Management, “Senior Executive Service Pay and Performance Awards; Aggregate Limitation on Pay,” *Federal Register*, vol. 69, no. 233, December 6, 2004, pp. 70355-70367. See CRS Report RL33128, *Senior Executive Service Pay for Performance System*, by L. Elaine Halchin, for an analysis of the SES pay adjustment process.

<sup>16</sup> The term total compensation as used in this report refers to the aggregate of allowances, differentials, bonuses, awards, or other similar cash payments, and basic pay. It does not include advance payments, payments to missing employees, or back pay. The term also does not include travel and transportation allowances, except for recruitment, relocation, and retention bonuses, supervisory differentials, and expenses to obtain professional credentials, or allowances, generally, except for foreign area post differentials and danger pay, nonforeign area post differentials, and physicians comparability allowances. (5 U.S.C. §5307(a)).

<sup>17</sup> Homeland Security Act of 2002, P.L. 107-296, Title XIII, §1322, November 25, 2002; 116 Stat. 2135, at 2297-2298; 5 U.S.C. §5307(d) provided for OPM certification of agency performance appraisal systems with the concurrence of the Office of Management and Budget (OMB). See footnote 15 for the regulations implementing the provision. An agency’s certification is for a period of two calendar years, but may be terminated at any time upon a finding that the agency has not conformed with applicable requirements.

<sup>18</sup> 5 U.S.C. §5307(a)(1).

Effective January 2006		
\$109,808	\$152,000	Agencies without a certified performance appraisal system
\$109,808	\$165,200	Agencies with a certified performance appraisal system
Effective January 2007		
\$111,676	\$154,600	Agencies without a certified performance appraisal system
\$111,676	\$168,000	Agencies with a certified performance appraisal system

Basic pay for certain senior-level positions — positions classified above GS-15 (SL pay schedule) and scientific or professional positions (ST pay schedule) — ranges from 120% of the minimum rate of basic pay for GS-15 (\$111,676, as of January 2007) to EX Level IV (\$145,400, as of January 2007).<sup>19</sup> SL and ST employees (unlike individuals in positions on the EX schedule or members of the SES) receive locality-based comparability payments. The total of base pay and locality pay cannot exceed EX Level III (\$154,600, as of January 2007).<sup>20</sup> Total compensation for SL and ST employees in agencies whose performance appraisal systems “as designed and applied” have been certified by OPM may be up to the Vice President’s salary (\$215,700, as of January 2007)<sup>21</sup> and up to EX Level I (\$186,600, as of January 2007) in agencies whose performance appraisal systems have not been so certified.<sup>22</sup> **Table 4** below shows January 2004 through January 2007 salaries for SL and ST employees in the Washington, DC, and “Rest of the United States” locality pay areas.<sup>23</sup>

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<sup>19</sup> Treasury, Postal Service and General Government Appropriations Act, 1991, P.L. 101-509, Title V, §529 [Title I, §102(a)(1)], November 5, 1990; 104 Stat. 1389, at 1427, 1443; 5 U.S.C. §5376.

<sup>20</sup> 5 U.S.C. §5304(g)(2).

<sup>21</sup> Homeland Security Act of 2002, P.L. 107-296, Title XIII, §1322, November 25, 2002; 116 Stat. 2135, at 2297-2298; 5 U.S.C. §5307(d) provided for OPM certification of agency performance appraisal systems with the concurrence of the Office of Management and Budget (OMB). See footnote 15 for the regulations implementing the provision. An agency’s certification is for a period of two calendar years, but may be terminated at any time upon a finding that the agency has not conformed with applicable requirements.

<sup>22</sup> 5 U.S.C. §5307(a)(1).

<sup>23</sup> There are 32 locality pay areas for the purposes of the locality-based comparability payments — 31 discrete pay areas and a “Rest of the United States” pay area covering all employees not in one of the 31 areas. Salary information for SL and ST employees in all 32 locality pay areas is available on the Internet at [<http://www.opm.gov>].

**Table 4. Pay For Senior-Level (SL) and Scientific and Professional (ST) Employees**

Washington, DC Pay Area		“Rest of the United States” Pay Area	
Minimum	Maximum	Minimum	Maximum
<b>Effective January 2004</b>			
Basic Pay		Basic Pay	
\$104,927	\$136,900	\$104,927	\$136,900
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$120,278	\$145,600	\$116,364	\$145,600
<b>Effective January 2005</b>			
Basic Pay		Basic Pay	
\$107,550	\$140,300	\$107,550	\$140,300
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$124,736	\$149,200	\$120,155	\$149,200
<b>Effective January 2006</b>			
Basic Pay		Basic Pay	
\$109,808	\$143,000	\$109,808	\$143,000
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$129,024	\$152,000	\$123,556	\$152,000
<b>Effective January 2007</b>			
Basic Pay		Basic Pay	
\$111,676	\$145,400	\$111,676	\$145,400
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$132,437	\$154,600	\$125,792	\$154,600

**Note:** The Washington, DC locality pay area is officially named the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area (CSA), plus the Hagerstown-Martinsburg, MD-WV Metropolitan Statistical Area, the York-Hanover-Gettysburg, PA CSA, Culpeper County, VA, and King George County, VA.

## General Schedule GS-15 Positions

The General Schedule (GS) is the basic pay schedule for federal white-collar employees. It is divided into grades of difficulty and responsibility of work. There

are 15 grades and 10 steps within each grade. The duties attached to positions at each grade are stated in statute at 5 U.S.C. §5104. Those for a GS-15, the top level of the schedule, are these:

- (A) to perform, under general administrative direction, with very wide latitude for the exercise of independent judgment, work of outstanding difficulty and responsibility along special technical, supervisory, or administrative lines which has demonstrated leadership and exceptional attainments;
- (B) to serve as head of a major organization within a bureau involving work of comparable level;
- (C) to plan and direct or to plan and execute specialized programs of marked difficulty, responsibility, and national significance, along professional, scientific, technical, administrative, fiscal, or other lines, requiring extended training and experience which has demonstrated leadership and unusual attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or
- (D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.<sup>24</sup>

GS employees receive an annual adjustment to basic pay and a locality-based comparability payment. EX pay rates provide limitations on GS pay. Basic pay cannot exceed EX Level V (\$136,200, as of January 2007), basic pay and locality pay combined cannot exceed EX Level IV (\$145,400, as of January 2007), and total compensation cannot exceed EX Level I (\$186,600, as of January 2007).<sup>25</sup> GS-15 employees at the upper end of that pay grade in nine areas are currently affected by the EX Level IV cap on basic pay and locality pay combined as follows:

- employees at step 10 in the (1) Boston-Worcester-Manchester, MA-NH Combined Statistical Area (CSA), plus the Providence-New Bedford-Fall River, RI-MA Metropolitan Statistical Area (MSA), Barnstable County, MA, and Berwick, Eliot, Kittery, South Berwick, and York towns in York County, ME; (2) Chicago-Naperville-Michigan City, IL-IN-WI CSA; (3) Detroit-Warren-Flint, MI, CSA, plus Lenawee County, MI; (4) Hartford-West Hartford-Willimantic, CT CSA, plus the Springfield, MA MSA and New London County, CT; and (5) San Diego-Carlsbad-San Marcos, CA MSA;
- employees at steps 9 and 10 in the (1) Houston-Baytown, Huntsville, TX CSA; (2) Los Angeles-Long Beach-Riverside, CA CSA, plus the Santa Barbara-Santa Maria-Goleta, CA MSA and all of Edwards Air Force Base, CA; and (3) New York-Newark-Bridgeport, NY-NJ-CT-PA CSA, plus Monroe County, PA and Warren County, NJ;

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<sup>24</sup> 5 U.S.C. §5104(15).

<sup>25</sup> 5 U.S.C. §5303(f), 5 U.S.C. §5304(g)(1), and 5 U.S.C. §5307(a)(1). See CRS Report RL33158, *Federal White-Collar Pay: FY2006 and FY2007 Salary Adjustments*, by Barbara L. Schwemle, for an analysis of the pay adjustment process for General Schedule positions.



- employees at steps 7, 8, 9, and 10 in the San Jose-San Francisco-Oakland, CA CSA, plus the Salinas, CA MSA and San Joaquin County, CA.

**Table 5** below shows January 2004 through January 2007 salaries for employees at GS grade 15 in the Washington, DC and “Rest of the United States” locality pay areas.<sup>26</sup>

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<sup>26</sup> Salary tables for GS-15 employees in all 32 locality pay areas are available on the Internet at [<http://www.opm.gov>].

**Table 5. Pay For General Schedule Grade GS-15**

<b>Washington, DC Pay Area</b>		<b>“Rest of the United States” Pay Area</b>	
Minimum (Step 1)	Maximum (Step 10)	Minimum (Step 1)	Maximum (Step 10)
<b>Effective January 2004</b>			
Basic Pay		Basic Pay	
\$87,439	\$113,674	\$87,439	\$113,674
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$100,231	\$130,305	\$96,970	\$126,064
<b>Effective January 2005</b>			
Basic Pay		Basic Pay	
\$89,625	\$116,517	\$89,625	\$116,517
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$103,947	\$135,136	\$100,129	\$130,173
<b>Effective January 2006</b>			
Basic Pay		Basic Pay	
\$91,507	\$118,957	\$91,507	\$118,957
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$107,521	\$139,774	\$102,964	\$133,850
<b>Effective January 2007</b>			
Basic Pay		Basic Pay	
\$93,063	\$120,981	\$93,063	\$120,981
With Locality Pay Adjustment		With Locality Pay Adjustment	
\$110,363	\$143,471	\$104,826	\$136,273

**Note:** The Washington, DC locality pay area is officially named the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area (CSA), plus the Hagerstown-Martinsburg, MD-WV Metropolitan Statistical Area, the York-Hanover-Gettysburg, PA CSA, Culpeper County, VA, and King George County, VA.