CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 18, 2017

H.R. 2266
Bankruptcy Judgeship Act of 2017

As passed by the House of Representatives on May 17, 2017

SUMMARY

H.R. 2266 would authorize 18 permanent bankruptcy judgeships—4 judgeships would be new and 14 temporary judgeships would become permanent. Under current law, any vacancies that occur among those temporary judgeships after May 25, 2017, cannot be filled. Under the act, such vacancies could be filled at any time in the future. The act also would adjust the formula used to set certain quarterly fees paid by businesses involved in ongoing Chapter 11 bankruptcy cases and would change the budgetary treatment of a portion of those fees.

CBO estimates that enacting H.R. 2266 would increase direct spending by about $21 million and would increase revenues by about $21 million over the 2018-2027 period. CBO also estimates that implementing the act would reduce net discretionary spending by about $1 action over the 2018-2027 period.

Because enacting H.R. 2266 would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting H.R. 2266 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2266 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

H.R. 2266 would impose a new mandate, as defined in UMRA, by increasing fees paid to DOJ by entities that are currently in Chapter 11 bankruptcy and that have disbursements of more than $1 million per quarter. CBO estimates that the cost of the mandates would fall below the annual threshold established in UMRA for private-sector mandates ($156 million in 2017, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2266 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017-2022	2017-2027
INCREASES IN DIRECT SPENDING													
Judicial Salaries and Benefits													
Estimated Budget Authority	0	*	1	1	1	2	3	3	3	3	3	6	21
Estimated Outlays	0	*	1	1	1	2	3	3	3	3	3	6	21
INCREASES IN REVENUES													
Chapter 11 Bankruptcy Quarterly Fees													
Estimated Revenues	0	5	5	4	4	4	0	0	0	0	0	21	21
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM INCREASES IN DIRECT SPENDING AND REVENUES													
Impact on Deficit	0	-5	-4	-3	-3	-2	3	3	3	3	3	-15	0
INCREASES OR DECREASES (-) IN SPENDING SUBJECT TO APPROPRIATION													
Judicial Administrative Costs													
Estimated Authorization Level	0	1	3	3	4	6	8	8	8	8	8	16	56
Estimated Outlays	0	1	3	3	4	6	8	8	8	8	8	16	56
Chapter 11 Bankruptcy Quarterly Fees													
Estimated Authorization Level	0	-144	-135	-126	-117	-109	-106	-99	-93	-86	-81	-631	-1,096
Estimated Outlays	0	-144	-135	-126	-117	-109	-106	-99	-93	-86	-81	-631	-1,096
Net Changes													
Estimated Authorization Level	0	-143	-132	-123	-113	-103	-99	-91	-85	-78	-72	-614	-1,039
Estimated Outlays	0	-143	-132	-123	-113	-103	-99	-91	-85	-78	-72	-614	-1,039

Notes: Amounts may not sum to totals because of rounding; * = between zero and $500,000.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2266 will be enacted near the end of fiscal year 2017 and that the necessary amounts will be appropriated each year.

Judicial Salaries and Benefits

The salaries and benefits for bankruptcy judges—about $232,000 in 2017 for each judge—are considered direct spending.

New Bankruptcy Judgeships. H.R. 2266 would authorize four new permanent bankruptcy judgeships. Incorporating the effects of anticipated inflation, CBO estimates that the salaries and benefits for those judges would increase direct spending by $11 million over the 2018-2027 period.

Temporary Bankruptcy Judgeships Converted to Permanent Judgeships. H.R. 2266 would convert 14 temporary bankruptcy judgeships to permanent judgeships. Under current law, those 14 judgeships expire on May 25, 2017. After that date, all judges currently serving in the districts where those temporary judgeships are assigned can continue to serve until their term expires, they retire, or they die. After May 25, 2017, if any bankruptcy judge currently serving in such a district vacates a seat that vacancy cannot be filled if the number of remaining judges in that district equals or exceeds the number of permanent judgeships authorized for that district. Under H.R. 2266, any vacancies after May 25, 2017, could be filled because those judgeships would be extended indefinitely.

CBO cannot predict the timing of vacancies among judgeships in the affected districts; however, based on an analysis of information from the Administrative Office of the U.S. Courts (AOUSC) about the age of the relevant judges, the amount of time remaining in the judges' terms, and the judges' likelihood of reappointment, we expect that six vacancies (from more than 50 sitting judges) will probably occur during the ten years following the enactment of H.R. 2266. Those vacancies will occur at different points over the next 10 years. CBO estimates that filling those six vacancies would increase direct spending for salaries and benefits by $10 million over the 2018-2027 period.

Judicial Administrative Costs

Implementing H.R. 2266 would increase administrative expenses for each judge appointed. Such expenses include supporting personnel, security costs, and court operations and maintenance. According to the AOUSC, expenses in 2017 are about $700,000 per judge. Based on that information and adjusting for anticipated inflation, CBO estimates that administrative costs associated with the 10 additional judges would be $56 million over the 2018-2027 period; subject to the availability of appropriated funds.

Chapter 11 Bankruptcy Quarterly Fees

H.R. 2266 would change the formula that determines the amount of quarterly fees paid by debtors in Chapter 11 bankruptcy cases. Chapter 11 of the Bankruptcy Code is typically used to reorganize a business that is in bankruptcy. Once a business owner or corporation files for bankruptcy under Chapter 11 they are required to pay a fee to the Department of Justice (DOJ) at the end of each quarter until their case is closed or dismissed. The quarterly fee is set in accordance with a formula that takes account of the amount of funds disbursed by the debtor for salaries, operating expenses, and other expenses in a given quarter. In 2016, DOJ collected $91 million from such quarterly fees. H.R. 2266 would increase the quarterly fee for debtors with disbursements over $1 million in a quarter.

Under current law, those quarterly fees are deposited into the U.S. Trustee System Fund and recorded as offsets to the annual appropriation to the U.S. Trustee Program (USTP). The fees are collected under permanent law thus their collection is not subject to appropriation action. (The USTP oversees the administration of bankruptcy cases.) Based on historic trends in bankruptcy filings and on an analysis of information from DOJ about the amounts collected from the quarterly fees, CBO estimates that enacting H.R. 2266 would increase collections by about $1.1 action over the 2018-2027 period.

Under H.R. 2266, 2.5 percent of those quarterly fees would be deposited into the general fund of the Treasury during fiscal years 2018 through 2022 and would not be available to be spent. Those amounts would be recorded in the budget as additional revenues. The gross increase in revenues would be $26 million over the 2018-2027 period. Because excise taxes and other indirect business taxes (such as bankruptcy quarterly fees) reduce the base of income and payroll taxes for individuals employed by or serviced by the affected businesses, higher amounts of those indirect business taxes would lead to reductions in revenues from income and payroll taxes. As a result, the increase in fees would be partially offset by a loss of revenues of about 26 percent each year.

That 26 percent offset would normally apply to all of the increase in the bankruptcy fees (the estimated $1.1 action), but the underlying law directs that those bankruptcy fees be treated as offsetting collections. Long-standing conventions dictate that CBO not score any foregone revenues to fees that are recorded as offsetting collections. The loss in revenues from increasing the bankruptcy fees would total about $0.3 action over the 2018-2027 period. Thus, only the offsetting effects to the fees that would be treated as revenues are subject to the offset. CBO estimates that enacting the fee provisions would increase net revenues by $21 million over the 2018-2027 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 2266 as ordered reported by the House Committee on the Judiciary on May 3, 2017

	By Fiscal Year, in Millions of Dollars												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017-2022	2017-2027
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	-5	-4	-3	-3	-2	3	3	3	3	3	-15	0
Memorandum:													
Changes in Outlays	0	0	1	1	1	2	3	3	3	3	3	6	21
Changes in Revenues	0	5	5	4	4	4	0	0	0	0	0	21	21

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 2266 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2266 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2266 would impose a new mandate, as defined in UMRA, by increasing the amount of fees paid to the DOJ by entities that are already in bankruptcy and that have disbursements (salaries, operating expenses, etc. paid by the entity) of more than $1 million per quarter. Once an entity files for bankruptcy under Chapter 11, they must pay a fee to DOJ at the end of each quarter until their case is closed or dismissed. As noted above, CBO estimates that new fee collections would total $144 million in the first year after enactment and decline to $109 million by the fifth year. Some portion of those collections would be from entities already in bankruptcy that have quarterly disbursements of more than $1 million, and those are the entities that would face a mandate under the act. In total, CBO estimates that the cost of the mandate would fall below the annual threshold established in UMRA for private-sector mandates ($156 million in 2017, adjusted annually for inflation).

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