

108TH CONGRESS  
1ST SESSION

# S. 787

To provide for the fair treatment of the Federal judiciary relating to compensation and benefits, and to instill greater public confidence in the Federal courts.

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## IN THE SENATE OF THE UNITED STATES

APRIL 3, 2003

Mr. LEAHY (for himself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for the fair treatment of the Federal judiciary relating to compensation and benefits, and to instill greater public confidence in the Federal courts.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair and Independent  
5 Federal Judiciary Act of 2003”.

6 **SEC. 2. SALARY ADJUSTMENTS.**

7 (a) RESTORATION OF STATUTORY COST-OF-LIVING  
8 ADJUSTMENTS.—The annual salaries for justices and  
9 judges are the following:

1 (1) Chief Justice of the Supreme Court,  
2 \$211,300.

3 (2) Associate Justices of the Supreme Court,  
4 \$202,100.

5 (3) Judges, Court of Appeals, \$174,600.

6 (4) Judges, Court of Military Appeals,  
7 \$174,600.

8 (5) Judges, District Court, \$164,700.

9 (6) Judges, Court of Federal Claims, \$164,700.

10 (7) Judges, Court of International Trade,  
11 \$164,700.

12 (8) Judges, Tax Court, \$164,700.

13 (9) Judges, Bankruptcy, \$151,524.

14 (b) EFFECTIVE DATE.—This section shall take effect  
15 on the first day of the first applicable pay period beginning  
16 on or after the date of enactment of this Act.

17 **SEC. 3. REPEAL OF ANNUAL CONGRESSIONAL AUTHORIZA-**  
18 **TION FOR COST OF LIVING ADJUSTMENT.**

19 Section 140 of Public Law 97–92 (28 U.S.C. 461  
20 note) is repealed.

21 **SEC. 4. SURVIVOR BENEFITS UNDER JUDICIAL SYSTEM**  
22 **AND OTHER SYSTEMS.**

23 (a) CREDITABLE YEARS OF SERVICE.—Section 376  
24 of title 28, United States Code, is amended—

1 (1) in subsection (k)(3), by striking the colon  
2 through “this section”; and

3 (2) in subsection (r), by striking the colon  
4 through “other annuity”.

5 (b) NOTIFICATION PERIOD FOR SURVIVOR ANNUITY  
6 COVERAGE.—

7 (1) IN GENERAL.—Section 376 (a)(1) of title  
8 28, United States Code, is amended in the matter  
9 following subparagraph (G) by striking “six months”  
10 and inserting “1 year”.

11 (2) EFFECTIVE DATE.—This subsection shall  
12 take effect on the date of enactment of this Act and  
13 apply only to written notifications received by the  
14 Director of the Administrative Office of the United  
15 States Courts after the dates described under clause  
16 (i) or (ii) in the matter following subparagraph (G)  
17 of section 376 (a)(1) of title 28, United States Code.

18 **SEC. 5. CITIZENS’ COMMISSION ON PUBLIC SERVICE AND**

19 **COMPENSATION.**

20 (a) APPOINTMENTS.—

21 (1) IN GENERAL.—Not later than 60 days after  
22 the date of enactment of this Act, the President  
23 shall appoint members to the Citizens’ Commission  
24 on Public Service and Compensation under section

1 225 of the Federal Salary Act of 1967 (2 U.S.C.  
2 351 et seq.).

3 (2) MEMBERSHIP.—Section 225(b) of the Fed-  
4 eral Salary Act of 1967 (2 U.S.C. 352) is amend-  
5 ed—

6 (A) by striking paragraph (1) and insert-  
7 ing the following:

8 “(1) The Commission shall be composed of 11  
9 members, who shall be appointed from private life by  
10 the President. No more than 6 members of the Com-  
11 mission may be affiliated with the same political  
12 party.”;

13 (B) by striking paragraph (4); and

14 (C) by redesignating paragraphs (5)  
15 through (8) as paragraphs (4) through (7), re-  
16 spectively.

17 (3) QUADRENNIAL APPLICATION.—Section  
18 225(b)(8)(B) of the Federal Salary Act of 1967 (2  
19 U.S.C. 352(8)(B)), is amended in the first sentence  
20 by striking “1993” each place that term appears  
21 and inserting “2006” in each such place.

22 (b) REPORT.—The Citizens’ Commission on Public  
23 Service and Compensation shall prepare a report in ac-  
24 cordance with section 225 of the Federal Salary Act of

1 1967 (2 U.S.C. 351 et seq.) with respect to fiscal year  
2 2003 and every fourth fiscal year thereafter.

3 **SEC. 6. JUDICIAL EDUCATION FUND.**

4 (a) ESTABLISHMENT.—Chapter 42 of title 28,  
5 United States Code, is amended by adding at the end the  
6 following:

7 **“§ 630. Judicial Education Fund**

8 “(a) In this section, the term—

9 “(1) ‘institution of higher education’ has the  
10 meaning given under section 101(a) of the Higher  
11 Education Act of 1965 (20 U.S.C. 1001(a));

12 “(2) ‘private judicial seminar’—

13 “(A) means a seminar, symposia, panel  
14 discussion, course, or a similar event that pro-  
15 vides continuing legal education to judges; and

16 “(B) does not include—

17 “(i) seminars that last 1 day or less  
18 and are conducted by, and on the campus  
19 of, an institute of higher education;

20 “(ii) seminars that last 1 day or less  
21 and are conducted by national bar associa-  
22 tions or State or local bar associations for  
23 the benefit of the bar association member-  
24 ship; or

1                   “(iii) seminars of any length con-  
2                   ducted by, and on the campus of an insti-  
3                   tute of higher education or by national bar  
4                   associations or State or local bar associa-  
5                   tions, where a judge is a presenter and at  
6                   which judges constitute less than 25 per-  
7                   cent of the participants;

8                   “(3) ‘national bar association’ means a national  
9                   organization that is open to general membership to  
10                  all members of the bar; and

11                  “(4) ‘State or local bar association’ means a  
12                  State or local organization that is open to general  
13                  membership to all members of the bar in the speci-  
14                  fied geographic region.

15                  “(b) There is established within the United States  
16                  Treasury a fund to be known as the ‘Judicial Education  
17                  Fund’ (in this section referred to as the ‘Fund’).

18                  “(c) Amounts in the Fund may be made available for  
19                  the payment of necessary expenses, including reasonable  
20                  expenditures for transportation, food, lodging, private ju-  
21                  dicial seminar fees and materials, incurred by a judge or  
22                  justice in attending a private judicial seminar approved  
23                  by the Board of the Federal Judicial Center. Necessary  
24                  expenses shall not include expenditures for recreational ac-  
25                  tivities or entertainment other than that provided to all

1 attendees as an integral part of the private judicial sem-  
2 inar. Any payment from the Fund shall be approved by  
3 the Board.

4 “(d) The Board may approve a private judicial sem-  
5 inar after submission of information by the sponsor of that  
6 private judicial seminar that includes—

7 “(1) the content of the private judicial seminar  
8 (including a list of presenters, topics, and course  
9 materials); and

10 “(2) the litigation activities of the sponsor and  
11 the presenters at the private judicial seminar (in-  
12 cluding the litigation activities of the employer of  
13 each presenter) on the topic related to those ad-  
14 dressed at the private judicial seminar.

15 “(e) If the Board approves a private judicial seminar,  
16 the Board shall make the information submitted under  
17 subsection (d) relating to the private judicial seminar  
18 available to judges and the public by posting the informa-  
19 tion on the Internet.

20 “(f) The Judicial Conference shall promulgate guide-  
21 lines to ensure that the Board only approves private judi-  
22 cial seminars that are conducted in a manner so as to  
23 maintain the public’s confidence in an unbiased and fair-  
24 minded judiciary.

1       “(g) There are authorized to be appropriated for de-  
 2       posit in the Fund \$2,000,000 for each of fiscal years  
 3       2003, 2004, and 2005, to remain available until ex-  
 4       pended.”.

5       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 6       The table of sections for chapter 42 of title 28, United  
 7       States Code, is amended by adding at the end the fol-  
 8       lowing:

“630. Judicial Education Fund.”.

9       **SEC. 7. PRIVATE JUDICIAL SEMINAR GIFTS PROHIBITED.**

10       (a) DEFINITIONS.—In this section, the term—

11               (1) “institution of higher education” has the  
 12       meaning given under section 101(a) of the Higher  
 13       Education Act of 1965 (20 U.S.C. 1001(a));

14               (2) “private judicial seminar”—

15                       (A) means a seminar, symposia, panel dis-  
 16       cussion, course, or a similar event that provides  
 17       continuing legal education to judges; and

18                       (B) does not include—

19                               (i) seminars that last 1 day or less  
 20       and are conducted by, and on the campus  
 21       of, an institute of higher education;

22                               (ii) seminars that last 1 day or less  
 23       and are conducted by national bar associa-  
 24       tions or State or local bar associations for

1 the benefit of the bar association member-  
2 ship; or

3 (iii) seminars of any length conducted  
4 by, and on the campus of an institute of  
5 higher education or by national bar asso-  
6 ciations or State or local bar associations,  
7 where a judge is a presenter and at which  
8 judges constitute less than 25 percent of  
9 the participants.

10 (3) “national bar association” means a national  
11 organization that is open to general membership to  
12 all members of the bar; and

13 (4) “State or local bar association” means a  
14 State or local organization that is open to general  
15 membership to all members of the bar in the speci-  
16 fied geographic region.

17 (b) IN GENERAL.—Not later than 240 days after the  
18 date of enactment of this Act, the Judicial Conference of  
19 the United States shall promulgate regulations to apply  
20 section 7353(a) of title 5, United States Code, to prohibit  
21 the solicitation or acceptance of anything of value in con-  
22 nection with a private judicial seminar.

23 (c) EXCEPTION.—The prohibition under the regula-  
24 tions promulgated under subsection (b) shall not apply  
25 if—

1 (1) the judge participates in a private judicial  
2 seminar as a speaker, panel participant, or otherwise  
3 presents information;

4 (2) Federal judges are not the primary audi-  
5 ence at the private judicial seminar; and

6 (3) the thing of value accepted is—

7 (A) reimbursement from the private judi-  
8 cial seminar sponsor of reasonable transpor-  
9 tation, food, or lodging expenses on any day on  
10 which the judge speaks, participates, or pre-  
11 sents information, as applicable;

12 (B) attendance at the private judicial sem-  
13 inar on any day on which the judge speaks, par-  
14 ticipates, or presents information, as applicable;  
15 or

16 (C) anything excluded from the definition  
17 of a gift under regulations of the Judicial Con-  
18 ference of the United States under sections  
19 7351 and 7353 of title 5, United States Code,  
20 as in effect on the date of enactment of this  
21 Act.

22 **SEC. 8. RECUSAL LISTS.**

23 Section 455 of title 28, United States Code, is  
24 amended by adding at the end the following:

1       “(g)(1) Each justice, judge, and magistrate of the  
2 United States shall maintain a list of all financial interests  
3 that would require disqualification under subsection  
4 (b)(4).

5       “(2) Each list maintained under paragraph (1) shall  
6 be made available to the public at the office of the clerk  
7 for the court at which a justice, judge, or magistrate is  
8 assigned.”.

9       **SEC. 9. AVOIDING IMPROPRIETY AND THE APPEARANCE OF**  
10                                   **IMPROPRIETY IN ALL ACTIVITIES.**

11       In accordance with the Code of Conduct for United  
12 States Judges, a judge must avoid all impropriety and ap-  
13 pearance of impropriety. The prohibition against behaving  
14 with impropriety applies to both the professional and per-  
15 sonal conduct of a judge. Therefore, a judge should not  
16 hold membership in any organization, except for religious  
17 or fraternal organizations, that practices discrimination on  
18 the basis of race, gender, religion, or national origin.

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