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JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

HONORABLE THOMAS F. HOGAN
Secretary

April 5, 2013

Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On behalf of the Judicial Conference of the United States, I write to transmit the Conference's Article III and bankruptcy judgeship recommendations and corresponding draft legislation for the 113th Congress. While these recommendations reflect the judgeship needs of the federal judiciary, we are mindful of the dire fiscal realities that our federal government is currently facing. Consequently, we acknowledge the possibility that not all of the requested judgeships may be created and that some prioritization may have to occur.

Nationwide, our Article III district courts have experienced a 38 percent growth in caseload since 1990 (the last time Congress passed a comprehensive judgeship bill) while seeing only a 4 percent increase in judgeships during this same period of time. This situation has created enormous difficulties for many of our courts across the nation. However, it has reached urgent levels in five of our district courts that are now struggling with extraordinarily high and sustained workloads. The severity of conditions in the Eastern District of California, the Eastern District of Texas, the Western District of Texas, the District of Arizona and the District of Delaware require immediate action. The Conference urges you to establish, as soon as possible, new judgeships in those districts.

We are also extremely concerned about eight existing, temporary judgeships, all of which will expire by the end of fiscal year 2014. The lack of an omnibus judgeship authorization since 1990 has jeopardized these critically-needed temporary judgeships. Caseload growth in these courts has now required the Conference to recommend converting them to permanent status. Without re-authorization, these on-board resources will be lost, inflicting damage upon the federal judiciary by diminishing already scarce judicial resources in these districts.

Our bankruptcy system has also come under increasing stress. Since 1990, the bankruptcy courts have seen a 56 percent increase in case filings, while only experiencing a 7.4 percent increase in judgeships. As with the Article III courts, the preservation of current

IN THE SENATE OF THE UNITED STATES

A BILL

To provide for the appointment of additional Federal circuit, district, and bankruptcy judges and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judgeship Act of 2013."

SEC. 2. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF APPEALS.

(a) **IN GENERAL.**—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 4 additional circuit judges for the ninth circuit court of appeals; and
- (2) 1 additional circuit judge for the sixth circuit court of appeals.

(b) **TEMPORARY JUDGESHIPS.**—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 1 additional circuit judge for the ninth circuit court of appeals.

For each of the judicial circuits named in this subsection, the first vacancy arising on the circuit court 10 years or more after a judge is first confirmed to fill the temporary circuit judgeship created in that circuit by this subsection shall not be filled.

(c) **TABLES.**—In order that the table contained in section 44 of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

“Circuits	Number of Judges
District of Columbia	11
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	17
Seventh	11
Eighth	11
Ninth	33
Tenth	12
Eleventh	12
Federal	12.”

SEC. 3. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 1 additional district judge for the district of Delaware;
- (2) 6 additional district judges for the eastern district of California;
- (3) 2 additional district judges for the eastern district of Texas;
- (4) 4 additional district judges for the western district of Texas;
- (5) 6 additional district judges for the district of Arizona;
- (6) 10 additional district judges for the central district of California;
- (7) 5 additional district judges for the northern district of California;
- (8) 2 additional district judges for the district of Colorado;
- (9) 2 additional district judges for the western district of Washington;
- (10) 1 additional district judge for the southern district of Indiana;
- (11) 3 additional district judges for the southern district of Florida;
- (12) 5 additional district judges for the middle district of Florida;
- (13) 1 additional district judge for the western district of New York;

- (14) 1 additional district judge for the northern district of Florida;
- (15) 1 additional district judge for the western district of Wisconsin;
- (16) 3 additional district judges for the southern district of California;
- (17) 2 additional district judges for the eastern district of New York;
- (18) 2 additional district judges for the district of New Jersey;
- (19) 1 additional district judge for the district of Idaho;
- (20) 2 additional district judges for the southern district of Texas;
- (21) 1 additional district judge for the district of Minnesota;
- (22) 1 additional district judge for the northern district of Georgia;
- (23) 1 additional district judge for the district of Nevada;
- (24) 1 additional district judge for the district of New Mexico; and
- (25) 1 additional district judge for the southern district of New York.

(b) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 1 additional district judge for the eastern district of California;
- (2) 1 additional district judge for the western district of Texas;
- (3) 4 additional district judges for the district of Arizona;
- (4) 2 additional district judges for the central district of California;
- (5) 1 additional district judge for the northern district of California;
- (6) 1 additional district judge for the middle district of Florida;
- (7) 1 additional district judge for the southern district of California;
- (8) 1 additional district judge for the district of New Jersey;
- (9) 1 additional district judge for the district of Minnesota;

- (10) 1 additional district judge for the western district of Missouri;
- (11) 1 additional district judge for the northern district of Georgia;
- (12) 1 additional district judge for the district of Nevada;
- (13) 1 additional district judge for the district of Oregon;
- (14) 1 additional district judge for the southern district of New York;
- (15) 1 additional district judge for the middle district of Tennessee; and
- (16) 1 additional district judge for the eastern district of Virginia.

For each of the judicial districts named in this subsection, the first vacancy arising on the district court 10 years or more after a judge is first confirmed to fill the temporary district judgeship created in that district by this subsection shall not be filled.

(c) EXISTING JUDGESHIPS.— The existing judgeships for the district of Kansas, and the eastern district of Missouri authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650, 104 Stat. 5089) as amended by Public Law 112-74 (relating to the district of Kansas) and Public Law 109-115 (relating to the eastern district of Missouri), and the existing judgeships for the eastern district of Texas, the district of Arizona, the central district of California, the southern district of Florida, the northern district of Alabama, and the district of New Mexico authorized by section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (Public Law 107-273, 116 Stat. 1758), as of the effective date of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(d) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (c) of this section, such table is amended to read as follows:

“Districts	Number of Judges
Alabama:	
Northern	8
Middle	3
Southern	3
Alaska	3
Arizona	19
Arkansas:	
Eastern	5
Western	3

California:	
Northern	19
Eastern	12
Central	38
Southern	16
Colorado	9
Connecticut	8
Delaware	5
District of Columbia	15
Florida:	
Northern	5
Middle	20
Southern	21
Georgia:	
Northern	12
Middle	4
Southern	3
Hawaii	4
Idaho	3
Illinois:	
Northern	22
Central	4
Southern	4
Indiana:	
Northern	5
Southern	6
Iowa:	
Northern	2
Southern	3
Kansas	6
Kentucky:	
Eastern	5
Western	4
Eastern and Western	1
Louisiana:	
Eastern	12
Middle	3
Western	7
Maine	3
Maryland	10
Massachusetts	13
Michigan:	
Eastern	15
Western	4
Minnesota	8

Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	7
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	8
New Hampshire	3
New Jersey	19
New Mexico	8
New York:	
Northern	5
Southern	29
Eastern	17
Western	5
North Carolina:	
Eastern	4
Middle	4
Western	5
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	6
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	6
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	10
South Dakota	3
Tennessee:	
Eastern	5
Middle	4
Western	5
Texas:	
Northern	12

Southern	21
Eastern	10
Western	17
Utah	5
Vermont	2
Virginia:	
Eastern	11
Western	4
Washington:	
Eastern	4
Western	9
West Virginia:	
Northern	3
Southern	5
Wisconsin:	
Eastern	5
Western	3
Wyoming	3.”

SEC. 4. ADDITIONAL PERMANENT BANKRUPTCY JUDGESHIPS.

The following authorized bankruptcy judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

- (a) 2 additional bankruptcy judgeships for the southern District of New York;
- (b) 1 additional bankruptcy judgeship for the western District of North Carolina;
- (c) 1 additional bankruptcy judgeship for the northern District of Mississippi;
- (d) 3 additional bankruptcy judgeships for the eastern District of Michigan;
- (e) 1 additional bankruptcy judgeship for the northern District of Illinois;
- (f) 3 additional bankruptcy judgeships for the district of Arizona;
- (g) 4 additional bankruptcy judgeships for the central District of California;
- (h) 2 additional bankruptcy judgeships for the eastern District of California;
- (i) 2 additional bankruptcy judgeships for the district of Nevada;
- (j) 1 additional bankruptcy judgeship for the district of Colorado;
- (k) 1 additional bankruptcy judgeship for the district of Utah;

- (l) 4 additional bankruptcy judgeships for the middle District of Florida;
- (m) 1 additional bankruptcy judgeship for the northern District of Florida;
- (n) 1 additional bankruptcy judgeship for the southern District of Florida; and
- (o) 2 additional bankruptcy judgeships for the northern District of Georgia.

SEC. 5. ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

- (1) 1 additional bankruptcy judge for the district of New Hampshire; and
- (2) 1 additional bankruptcy judge for the district of Delaware.

(b) VACANCIES—

(1) The first vacancies occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (a)—

(A) occurring 5 years or more after the appointment date of the bankruptcy judges appointed under paragraph (a) to such office; and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(2) In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in subsection (b)(1)(B), that judge shall be eligible for reappointment as a bankruptcy judge in that district.

SEC. 6. CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) The temporary bankruptcy judgeship authorized for the eastern district of California pursuant to Section 1223(b)(1)(A) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(b) (1) The four (4) temporary bankruptcy judgeships authorized for the district of Delaware pursuant to section 1223(b)(1)(C) of Pub. L. No. 109-8 (2005) (28

U.S.C. § 152 note) are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code.

(2) The temporary bankruptcy judgeship authorized for the district of Delaware pursuant to Section 3(a)(3) of Pub. L. No. 102-361 (1992), as amended by Title III, § 307 of Pub. L. No. 104-317 (1996) (28 U.S.C. § 152 note), is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(c) The three (3) temporary bankruptcy judgeships authorized for the central district of California pursuant to Section 1223(b)(1)(B) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code.

(d) The two (2) temporary bankruptcy judgeships authorized for the southern district of Florida pursuant to Section 1223(b)(1)(D) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code.

(e) The temporary bankruptcy judgeship authorized for the southern district of Georgia pursuant to Section 1223(b)(1)(E) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(f) Two (2) of the temporary bankruptcy judgeships authorized for the district of Maryland pursuant to Section 1223(b)(1)(F) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code.

(g) The temporary bankruptcy judgeship authorized for the eastern district of Michigan pursuant to Section 1223(b)(1)(G) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(h) The temporary bankruptcy judgeship authorized for the district of Nevada pursuant to Section 1223(b)(1)(T) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(i) The temporary bankruptcy judgeship authorized for the district of New Jersey pursuant to Section 1223(b)(1)(I) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(j) The temporary bankruptcy judgeship authorized for the eastern district of North Carolina pursuant to Section 1223(b)(1)(M) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(k) The temporary bankruptcy judgeship authorized for the western district of Tennessee pursuant to Section 1223(b)(1)(Q) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

(l) The temporary bankruptcy judgeship authorized for the eastern district of Virginia pursuant to Section 1223(b)(1)(R) of Pub. L. No. 109-8 (2005) (28 U.S.C. § 152 note) is converted to a permanent bankruptcy judgeship under section 152(a)(2) of title 28, United States Code.

SEC. 7. TECHNICAL AMENDMENTS—Section 152(a)(2) of title 28, United States Code, is amended—

(a) in the item relating to the district of Arizona, by striking “7” and inserting “10”;

(b) in the item relating to the eastern district of California, by striking “6” and inserting “9”;

(c) in the item relating to the central district of California, by striking “21” and inserting “28”;

(d) in the item relating to the district of Colorado, by striking “5” and inserting “6”;

(e) in the item relating to the district of Delaware, by striking “1” and inserting “6”;

(f) in the item relating to the northern district of Florida, by striking “1” and inserting “2”;

(g) in the item relating to the middle district of Florida, by striking “8” and inserting “12”;

(h) in the item relating to the southern district of Florida, by striking “5” and inserting “8”;

(i) in the item relating to the northern district of Georgia, by striking “8” and inserting “10”;

(j) in the item relating to the southern district of Georgia, by striking “2” and inserting “3”;

- (k) in the item relating to the northern district of Illinois, by striking "10" and inserting "11";
- (l) in the item relating to the district of Maryland, by striking "4" and inserting "6";
- (m) in the item relating to the eastern district of Michigan, by striking "4" and inserting "8";
- (n) in the item relating to the northern district of Mississippi, by striking "1" and inserting "2";
- (o) in the item relating to the district of Nevada , by striking "3" and inserting "6";
- (p) in the item relating to the district of New Jersey, by striking "8" and inserting "9";
- (q) in the item relating to the southern district of New York, by striking "9" and inserting "11";
- (r) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";
- (s) in the item relating to the western district of North Carolina, by striking "2" and inserting "3";
- (t) in the item relating to the western district of Tennessee, by striking "4" and inserting "5";
- (u) in the item relating to the district of Utah, by striking "3" and inserting "4"; and
- (v) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this Act.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect on the date of enactment.

PROPOSED FEDERAL JUDGESHIP ACT OF 2013
SECTION-BY-SECTION SUMMARY

Section 1 contains short title of the bill, the Federal Judgeship Act of 2013.

Section 2(a) creates five additional permanent judgeships for the U.S. courts of appeals, as follows: four for the ninth circuit court of appeals; and one for the sixth circuit court of appeals.

Section 2(b) creates one additional temporary judgeship for the ninth circuit court of appeals.

The additional judgeship is “temporary” in that, beginning 10 years after the temporary judgeship on a given circuit court is initially filled, the first vacancy occurring on the court will not be filled so that the court will fall back to the number of authorized judgeships specified for that circuit in section 44 of title 28.

Section 2(c) amends the table contained in section 44(a) of title 28, United States Code, to reflect the additional permanent appellate judgeships created by section 2(a).

Section 3(a) creates 65 additional permanent judgeships for the U.S. district courts, as follows, by district in order of weighted caseload: one for the district of Delaware; six for the eastern district of California; two for the eastern district of Texas; four for the western district of Texas; six for the district of Arizona; ten for the central district of California; five for the northern district of California; two for the district of Colorado; two for the western district of Washington; one for the southern district of Indiana; three for the southern district of Florida; five for the middle district of Florida; one for the western district of New York; one for the northern district of Florida; one for the western district of Wisconsin; three for the southern district of California; two for the eastern district of New York; two for the district of New Jersey; one for the district of Idaho; two for the southern district of Texas; one for the district of Minnesota; one for the northern district of Georgia; one for the district of Nevada; one for the district of New Mexico; and one for the southern district of New York.

Section 3(b) creates 20 additional temporary judgeships for the U.S. district courts, as follows, by district in order of weighted caseload: one for the eastern district of California; one for the western district of Texas; four for the district of Arizona; two for the central district of California; one for the northern district of California; one for the middle district of Florida; one for the southern district of California; one for the district of New Jersey; one for the district of Minnesota; one for the western district of Missouri; one for the northern district of Georgia; one for the district of Nevada; one for the district of Oregon; one for the southern district of New York; one for the middle district of Tennessee; and one for the eastern district of Virginia.

Such additional judgeships are “temporary” in that, beginning 10 years after the temporary judgeship on a given district court is initially filled, the first vacancy occurring on the court will not be filled so that the court will fall back to the number of authorized judgeships specified for that district in section 133 of title 28.

Section 3(c) converts to permanent status the following two temporary judgeships created by Public Law 101-650, the Judicial Improvements Act of 1990: one in the district of Kansas and one in the eastern district of Missouri; and the following six temporary judgeships created by Public Law 107-273, the 21st Century Department of Justice Appropriations Authorization Act: one in the eastern district of Texas; one in the district of Arizona; one in the central district of California; one in the southern district of Florida; one in the northern district of Alabama; and one in the district of New Mexico.

Section 3(d) amends the table contained in section 133 of title 28, United States Code, to reflect the additional permanent district judgeships created by sections 3(a) and 3(c)(1).

Section 4 creates 29 additional permanent bankruptcy judgeships in 15 judicial districts. Pursuant to 28 U.S.C. § 152(b)(2), the Judicial Conference of the United States submitted to Congress its 2013 recommendation for the authorization of additional bankruptcy judgeships. Combined with the Conference's statutory duty in paragraph 152(b)(3) to report on the continuing needs for existing bankruptcy judgeships, the Conference's additional needs recommendation provides the mechanism by which the Judiciary and Congress can ensure sufficient judicial resources for the effective operation of the United States bankruptcy courts. The statute requires a report be provided "from time to time." The Conference adopted a policy in 1991 that additional judgeship surveys will be conducted every two years and established the criteria for evaluating circuits' requests for additional judgeships.

Following the 2012 national survey, the Conference assessed the circuits' requests and determined where additional resources are most needed based upon each judicial district's workload and case filing statistics, geographic needs, and any pertinent additional factors.

Section 5 creates two temporary bankruptcy judgeships in two judicial districts.

Such additional judgeships are "temporary" in that, beginning five (5) years after the temporary judgeship on a given bankruptcy court is initially filled, the first vacancy occurring on the court under the circumstances described, will not be filled so that the court will fall back to the number of authorized judgeships specified for that district in section 152 of title 28.

Following the 2012 national survey, the Conference assessed the circuits' requests and determined where additional resources are most needed based upon each judicial district's workload and case filing statistics, geographic needs, and any pertinent additional factors. These districts need these judgeships in order to continue to effectively and efficiently manage their workload.

Section 6 converts 20 temporary bankruptcy judgeships to permanent status. As of January 2013, there are 34 total temporary bankruptcy judgeships authorized for various districts. 28 U.S.C. § 152 note.

As part of the 2012 additional needs judgeship survey, the Judicial Conference considered requests from the circuit councils for conversion of existing temporary judgeships. The Conference based its

recommendation for conversion on the requesting districts' workload, court composition, geography, and need for stable judicial resources.

Section 7 makes technical amendments to section 152(a)(2) of title 28, United States Code, to reflect the 29 additional permanent bankruptcy judgeships authorized in section 2 of the bill and the 20 temporary bankruptcy judgeships converted to permanent status in section 4 of the bill.

Section 8 authorizes such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary to provide appropriate space and facilities for the judgeships created in the Act.

Section 9 provides that the Act will take effect on the date of its enactment into law.