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REPORT
107–700

FEDERAL COURTS IMPROVEMENT ACT OF 2002

SEPTEMBER 30, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4125]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4125) to make improvements in the operation and administration of the Federal courts, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Courts Improvement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

Sec. 101. Bankruptcy administrator authority to appoint trustees, examiners, and committee of creditors.
Sec. 102. Change in composition of divisions of Eastern District of Texas.
Sec. 103. Conditions of probation and supervised release.
Sec. 104. Reporting of wiretap orders.
Sec. 105. Clarifying the scope of diversity of citizenship for resident aliens.
Sec. 106. Authority of district courts regarding jurors.
Sec. 107. Deletion of automatic excuse from jury service for members of the Armed Forces, members of fire and police departments, and public officers.
Sec. 108. Elimination of the public drawing requirements for selection of juror wheels.
Sec. 109. Supplemental attendance fee for petit jurors serving on lengthy trials.
Sec. 110. Change in composition of divisions in Western District of Tennessee.
Sec. 111. Place of holding court in the Southern District of Ohio.
Sec. 112. Place of holding court in the Northern District of New York.

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 201. Disability retirement and cost-of-living adjustments of annuities for territorial judges.
Sec. 202. Federal Judicial Center personnel matters.
Sec. 203. Annual leave limit for judicial branch executives.
Sec. 204. Supplemental benefits program.
Sec. 205. Inclusion of judicial branch personnel in organ donor leave program.
Sec. 206. Maximum amounts of compensation for attorneys.
Sec. 207. Maximum amounts of compensation for services other than counsel.
Sec. 208. Protection against malicious recording of fictitious liens against Federal judges.
Sec. 209. Appointing authority for circuit librarians.

TITLE III—ADDITIONAL PROVISIONS

Sec. 301. Monitoring of communications of officers and employees of judicial branch.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

SEC. 101. BANKRUPTCY ADMINISTRATOR AUTHORITY TO APPOINT TRUSTEES, EXAMINERS, AND COMMITTEE OF CREDITORS.

(a) APPOINTMENT OF TRUSTEES.—Until the amendments made by subtitle A of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99–554; 100 Stat. 3123) become effective in a judicial district and apply to a case, a bankruptcy administrator appointed to serve in the district pursuant to section 302(d)(3)(I) of that Act, as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101–650; 104 Stat 5115), shall appoint the trustees, examiners, and standing trustees subject to the provisions set forth in sections 701, 1104, 1202, and 1302 of title 11, United States Code.

(b) STANDING TRUSTEES.—The Director of the Administrative Office of the United States Courts, in consultation with the bankruptcy administrator referred to in subsection (a), shall fix the maximum annual compensation and percentage fee for the standing trustees appointed under subsection (a) notwithstanding the references in those sections of title 11, United States Code, to the court's authority to fix them.

(c) SERVICE AS TRUSTEE.—A bankruptcy administrator may serve as and perform the duties of a trustee in a case under chapter 7 of title 11, United States Code, if none of the members of the panel of private trustees is disinterested and willing to serve as trustee in the case. A bankruptcy administrator may serve as and perform the duties of a trustee or standing trustee in cases under chapter 12 or chapter 13 of title 11, United States Code, if necessary.

(d) APPOINTMENT OF COMMITTEES.—Until the amendments made by subtitle A of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 become effective in a judicial district and apply to a case, the bankruptcy administrator appointed to serve in the district shall appoint the committees of creditors and equity security holders provided in section 1102 of title 11, United States Code. On request of a party in interest, the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or equity security holders. The bankruptcy administrator shall appoint any such committee. On request of a party in interest in a case in which the debtor is a small business and for cause, the court may order that a committee of creditors not be appointed.

SEC. 102. CHANGE IN COMPOSITION OF DIVISIONS OF EASTERN DISTRICT OF TEXAS.

(a) IN GENERAL.—Section 124(c) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "Denton, and Grayson" and inserting "Delta, Denton, Fannin, Grayson, Hopkins, and Lamar"; and

(B) by inserting "and Plano" after "held at Sherman";

(2) by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively; and

(3) in paragraph (5), as so redesignated, by inserting "Red River," after "Franklin,".

(b) TEXARKANA.—Sections 83(b)(1) and 124(c)(5) (as redesignated by subsection (a) of this section) of title 28, United States Code, are each amended by inserting after "held at Texarkana" the following: ", and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Eastern District of Texas on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Eastern Judicial District of Texas on the effective date of this section.

SEC. 103. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.

(a) CONDITIONS OF PROBATION.—Section 3563(a)(2) of title 18, United States Code, is amended by striking "(b)(2), (b)(3), or (b)(13)," and inserting "(b)(2) or (b)(12)".

(b) SUPERVISED RELEASE AFTER IMPRISONMENT.—Section 3583(d) of title 18, United States Code, is amended by striking "section 3563(b)(1)" and all that follows through "appropriate." and inserting "section 3563(b) and any other condition it considers to be appropriate, except that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with subsection (e)(2) of this section and only when facilities are available.".

(c) CONFORMING AMENDMENT.—Section 3563(b)(10) of title 18, United States Code, is amended by inserting "or supervised release" after "probation".

SEC. 104. REPORTING OF WIRETAP ORDERS.

Paragraph (1) of section 2519 of title 18, United States Code, is amended by striking all that precedes "(a)" and inserting the following:

"(1) In January of each year, any judge who has issued an order (or extension thereof) under section 2518 which expired during the preceding year or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—".

SEC. 105. CLARIFYING THE SCOPE OF DIVERSITY OF CITIZENSHIP FOR RESIDENT ALIENS.

Section 1332(a) of title 28, United States Code, is amended by striking the last sentence and inserting the following: "The district courts shall not have original jurisdiction under paragraph (2) or (3) where the matter in controversy is between a citizen of a State and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same State.".

SEC. 106. AUTHORITY OF DISTRICT COURTS REGARDING JURORS.

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

(1) by striking "shall" and inserting "may"; and

(2) by striking "his" and inserting "the".

SEC. 107. DELETION OF AUTOMATIC EXCUSE FROM JURY SERVICE FOR MEMBERS OF THE ARMED FORCES, MEMBERS OF FIRE AND POLICE DEPARTMENTS, AND PUBLIC OFFICERS.

(a) REMOVAL OF EXEMPTION.—Section 1863(b) of title 28, United States Code, is amended by striking paragraph (6) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 1865(a) of title 28, United States Code, is amended in the first sentence by striking ", or exempt,".

(2) Section 1866 of title 28, United States Code, is amended—

(A) in the first sentence of subsection (a), by striking "exempt or";

(B) in the first sentence of subsection (c)—

(i) by striking "or (6)"; and

(ii) by striking "excused, or exempt" and inserting "or excused"; and

(C) in subsection (d), by striking "exempt,".

(3) Section 1869 of title 28, United States Code, is amended—

(A) in the first sentence of subsection (h), by striking "or exempted"; and

(B) by repealing subsection (i).

(c) DISCRETIONARY EXEMPTION FROM SERVICE.—(1) Section 982 of title 10, United States Code, is amended—

(A) by amending the section heading to read as follows:

"§ 982. Members: service on Federal, State, and local juries";

and

(B) by striking "State or" and inserting "Federal, State, or".

(2) The item relating to section 982 in the table of sections for chapter 49 of title 10, United States Code, is amended to read as follows:

"982. Members: service on Federal, State, and local juries.".

SEC. 108. ELIMINATION OF THE PUBLIC DRAWING REQUIREMENTS FOR SELECTION OF JUROR WHEELS.

(a) DRAWING OF NAMES FROM JURY WHEEL.—Section 1864(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking "publicly"; and

(2) by inserting after the first sentence the following new sentence: "The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.".

(b) SELECTION AND SUMMONING OF JURY PANELS.—Section 1866(a) of title 28, United States Code, is amended—

(1) in the second sentence, by striking "publicly"; and

(2) by inserting after the second sentence the following new sentence: "The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.".

(c) CONFORMING AMENDMENT.—Section 1869(k) of title 28, United States Code, is repealed.

SEC. 109. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.

Section 1871(b)(2) of title 28, United States Code, is amended by striking "thirty" each place it appears and inserting "five".

SEC. 110. CHANGE IN COMPOSITION OF DIVISIONS IN WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "Dyer," after "Decatur,"; and

(B) in the last sentence, by inserting "and Dyersburg" after "Jackson"; and

(2) in paragraph (2)—

(A) by striking "Dyer,"; and

(B) in the second sentence, by striking "and Dyersburg".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Western Judicial District of Tennessee on the effective date of this section.

SEC. 111. PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF OHIO.

Section 115(b)(2) of title 28, United States Code, is amended by striking "and Steubenville" and inserting ", Steubenville, and St. Clairsville".

SEC. 112. PLACE OF HOLDING COURT IN THE NORTHERN DISTRICT OF NEW YORK.

Section 112(a) of title 28, United States Code, is amended by striking "and Watertown" and inserting "Watertown, and Plattsburgh".

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 201. DISABILITY RETIREMENT AND COST-OF-LIVING ADJUSTMENTS OF ANNUITIES FOR TERRITORIAL JUDGES.

Section 373 of title 28, United States Code, is amended—

(1) by amending subsection (c)(4) to read as follows:

"(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.";

(2) by amending subsection (e) to read as follows:

"(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if the judge is then beyond the age of sixty-five years—

"(A) if the judicial service of such judge, continuous or otherwise, aggregates fifteen years or more, to receive during the remainder of such judge's life an annuity equal to the salary received when the judge left office; or

"(B) if such judicial service, continuous or otherwise, aggregated less than fifteen years, to receive during the remainder of such judge's life an annuity equal to that proportion of such salary which the aggregate number of such judge's years of service bears to fifteen.

"(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least five years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge's life an annuity equal to 40 percent of the salary received when the judge left office or, in the case of a judge who has served at least ten years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge's years of judicial service bears to fifteen."; and

(3) by amending subsection (g) to read as follows:

"(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.".

SEC. 202. FEDERAL JUDICIAL CENTER PERSONNEL MATTERS.

Section 625 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ", United States Code,";

(B) by striking "pay rates, section 5316, title 5, United States Code" and inserting "under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5"; and

(C) by striking "the Civil Service" and all that follows through "Code" and inserting "subchapter III of chapter 83 of title 5 shall be adjusted pursuant to the provisions of section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted pursuant to the provisions of section 8468 of such title";

(2) in subsection (c), by striking ", United States Code,"; and

(3) in subsection (d)—

(A) by striking "United States Code,"; and

(B) by striking ", section 5332, title 5, United States Code" and inserting "under section 5332 of title 5".

SEC. 203. ANNUAL LEAVE LIMIT FOR JUDICIAL BRANCH EXECUTIVES.

Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking "or";

(2) in subparagraph (E), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(F) the Judicial Branch designated as a court unit executive position by the Judicial Conference of the United States or designated as an executive posi-

tion in the Federal Judicial Center by the Board of the Federal Judicial Center.".

SEC. 204. SUPPLEMENTAL BENEFITS PROGRAM.

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (6) through (24) as paragraphs (7) through (25), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) In the Director's discretion, establish a program of benefits, in addition to those otherwise provided by law, for officers and employees of the judicial branch, including justices and judges of the United States;".

SEC. 205. INCLUSION OF JUDICIAL BRANCH PERSONNEL IN ORGAN DONOR LEAVE PROGRAM.

Section 6327(a) of title 5, United States Code, is amended by inserting "or an entity of the judicial branch" after "An employee in or under an Executive agency".

SEC. 206. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.

Paragraph (2) of subsection (d) of section 3006A of title 18, United States Code, is amended—

(1) by striking "5,200" and inserting "7,000";

(2) by striking "1,500" and inserting "2,000";

(3) by striking "3,700" and inserting "5,000";

(4) by striking "1,200" each place it appears and inserting "1,500"; and

(5) by striking "3,900" and inserting "5,000".

SEC. 207. MAXIMUM AMOUNTS OF COMPENSATION FOR SERVICES OTHER THAN COUNSEL.

Subsection (e) of section 3006A of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "$300" and inserting "$500"; and

(B) in subparagraph (B), by striking "$300" and inserting "$500"; and

(2) in paragraph (3), by striking "$1,000" and inserting "$1,600".

SEC. 208. PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1521. Retaliating against a Federal judge by false claim or slander of title

"(a) Whoever files or attempts to file, in any public record or in any private record which is generally available to the public, any lien, encumbrance, civil claim, or other document against a Federal Judge or against the real or personal property of a Federal Judge, knowing or having reason to know that such claim, lien, encumbrance, or document is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than five years, or both. In the case of an offense under this subsection which was committed after the defendant had previously been convicted of an earlier offense under this subsection, the defendant shall be fined under this title or imprisoned for not more than ten years, or both.

"(b) As used in this section, the term 'Federal Judge' means a justice or judge of the United States as defined in section 451 of title 28, a judge of the United States Court of Federal Claims, a United States bankruptcy judge, a United States magistrate judge, and a judge of the United States Court of Appeals for the Armed Forces, United States Court of Appeals for Veterans Claims, United States Tax Court (including any special trial judge appointed under section 7443A of the Internal Revenue Code of 1986), District Court of Guam, District Court of the Northern Mariana Islands, or District Court of the Virgin Islands.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1521. Retaliating against a Federal judge by false claim or slander of title.".

SEC. 209. APPOINTING AUTHORITY FOR CIRCUIT LIBRARIANS.

Section 713 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Each court of appeals" and inserting "The judicial council of each circuit"; and

(B) by striking "the court" and inserting "the judicial council"; and

(2) in subsection (b), by striking "court" each place it appears and inserting "judicial council".

TITLE III—ADDITIONAL PROVISIONS

SEC. 301. MONITORING OF COMMUNICATIONS OF OFFICERS AND EMPLOYEES OF JUDICIAL BRANCH.

Section 604 of title 28, United States Code, is amended by adding at the end the following:

"(i)(1) The Judicial Conference should take such steps as it deems necessary and appropriate to safeguard the privacy of officers and employees of the judicial branch by ensuring that—

"(A) the Director does not intercept electronic communications of any such officer or employee (including any electronic communication consisting of an electronic mail message or a transfer of information by means of the World Wide Web or the Internet) between or among computers, or hire or enter into a contract with another entity to monitor or intercept such communications, except pursuant to—

"(i) a law enforcement investigation;

"(ii) prior authorization by the Judicial Conference or its Executive Committee; or

"(iii) a policy adopted by the Judicial Conference setting forth the procedures under which the interception of such communications may be authorized; and

"(B) any information obtained pursuant to interception of communications authorized under subparagraph (A) is used solely for the purposes for which the interception is authorized.

"(2) In this subsection—

"(A) the term 'electronic communication' has the meaning given that term in section 2510 of title 18;

"(B) the terms 'by means of the World Wide Web' and 'Internet' have the meanings given those terms in section 231(e) of the Communications Act of 1934 (47 U.S.C. 231(e)); and

"(C) the term 'computer' has the meaning given that term in section 1030(e) of title 18.".

PURPOSE AND SUMMARY

H.R. 4125, the "Federal Courts Improvement Act of 2002," contains several provisions that are needed to improve the Federal court system. The bill affects a wide range of judicial branch programs and operations. It addresses judicial financial administration, judicial process improvements, judiciary personnel administration, and benefits and protections.

BACKGROUND AND NEED FOR THE LEGISLATION

H.R. 4125, the "Federal Courts Improvement Act of 2002," was introduced on April 10, 2002, at the request of the Judicial Conference of the United States.

Periodically, the Judicial Conference submits to the Congress proposals that it believes are necessary to improve the Federal court system. The Judicial Conference is the policy-making body of the Federal judiciary, and through a committee system evaluates court operations. The circuit judicial councils of the regional districts also have statutory responsibility for certain administrative and operational matters within the system. Most of the provisions of H.R. 4125 were developed within the judiciary and approved by the Judicial Conference.

The provisions contained in H.R. 4125 address administrative, financial, personnel, organizational and technical changes that are needed by the article III Federal courts and their supporting agencies. These provisions are designed to have a positive impact on the operations of the Federal courts and enhance the delivery of justice in the Federal system.

HEARINGS

On July 17, 2001, the Subcommittee on Courts, the Internet, and Intellectual Property held a legislative hearing on H.R. 2522, the precursor to H.R. 4125. H.R. 2522 contains *all* of the recommendations developed by the Judicial Conference for consideration by the 107th Congress. H.R. 4125 is devoid of certain provisions in H.R. 2522. Testimony was received from the Honorable Deanell R. Tacha, Chief Judge of the United States Court of Appeals for the Tenth Circuit.

COMMITTEE CONSIDERATION

On May 2, 2002, the Subcommittee on Courts, the Internet, and Intellectual Property met in open session and ordered favorably reported the bill H.R. 4125, as amended, by voice vote, a quorum being present. On September 10, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 4125, with amendment, by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 4125.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 4125 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to H.R. 4125, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 30, 2002.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4125, the Federal Courts Improvement Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lanette J. Walker (for Federal costs), who can be reached at 226–2860, Angela Seitz (for the State and local impact), who can be reached at 225–3220, and Paige Piper/Bach (for the private-sector impact), who can be reached at 226–2940.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 4125—Federal Courts Improvement Act of 2002.

SUMMARY

H.R. 4125 would make numerous operational and administrative changes to the Federal court system, and would authorize the judiciary to provide a supplemental payment to jurors who serve on a trial more than 5 days and to establish additional employee benefits programs. CBO estimates that implementing H.R. 4125 would cost $14 million in 2003 and $85 million over the 2003–2007 period, subject to appropriation of the necessary funds.

Because the salaries and benefits of certain Federal judges and Supreme Court justices are considered mandatory, authorizing additional benefits for these employees would increase direct spending. However, CBO estimates that those effects would be negligible in each year over the 2003–2007 period.

H.R. 4125 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates the costs would be small and would not exceed the threshold established in the act ($58 million in 2002, adjusted annually for inflation).

H.R. 4125 would impose a private-sector mandate, as defined by UMRA, by eliminating the automatic exemption from Federal jury service now granted to military personnel, police officers, firefighters, and certain public officials. CBO estimates that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates ($115 million in 2002, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4125 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				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Additional Payments to Federal Jurors					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	2	2	2	2	2
Increased Cost of Judicial Employee Benefits Programs					
Estimated Authorization Level	12	14	16	16	17
Estimated Outlays	12	14	16	16	17
Total Changes					
Estimated Authorization Level	14	16	18	18	19
Estimated Outlays	14	16	18	18	19

BASIS OF ESTIMATE

For purposes of this estimate, CBO assumes that H.R. 4125 will be enacted near the beginning of fiscal year 2003, and that the necessary amounts will be appropriated for each fiscal year.

Spending Subject to Appropriation

Section 109 would allow jurors who serve more than 5 days on a Federal trial to be eligible for a $10 supplemental payment in addition to the daily payment of $40 per juror. Under current law, only those jurors who serve on trials over 30 days are eligible to receive the supplemental payment. Based on information from the Administrative Office of the United States Courts (AOUSC), the courts compensate jurors for about 340,000 days served each year. About half of all trial days are served on trials over 5 days and very few jurors serve more than 30 days. CBO estimates that implementing this provision would cost roughly $2 million each year over the 2003–2007 period to expand the eligibility of the supplemental payment to jurors. Costs would be subject to the availability of appropriated funds.

Section 204 would allow the judiciary to provide federally subsidized employee benefits that are more generous than benefits authorized under current law. Based on information from the AOUSC, CBO expects that the judiciary would implement a cafeteria-style benefits program. Under the program, the judiciary would contribute up to $500 per employee and the employee would be allowed to tailor the plan to their individual needs; choosing from a variety of benefits including dental insurance, vision insurance, short- and long-term disability insurance, or expanded commuter subsidies.

Based on information from the AOUSC, CBO expects that dental insurance would be provided in the first year with additional options added in future years. The judiciary employs about 31,000 individuals each year and CBO expects that the rate at which those employees participate in the dental plan would be similar for Gov-

ernment-wide participation rates in the Federal Employee Health Benefits program. Assuming an initial participation rate of about 75 percent, the first-year cost would be about $12 million. We also expect that nearly all employees would participate in the cafeteria-style program by 2005 as additional options are added to the program, bringing the annual cost to about $16 million in that year. Assuming appropriation of the necessary amounts, CBO estimates that implementing section 204 would cost $75 million over the 2003–2007 period to expand the employee benefits program.

Direct Spending

Section 204 would allow certain Federal judges and justices to participate in any additional benefits programs offered by the judiciary. Because the salaries and benefits of certain Federal judges and Supreme Court justices are considered mandatory, the Federal cost of more generous benefit programs would increase direct spending. CBO expects that participation rates for judges and justices would be similar to other judicial employees and we estimate that additional direct spending as a result of section 240 would not be significant in any year over the 5-year period because of the limited benefit the AOUSC is likely to offer.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

This bill would remove the exemption from Federal jury duty that currently exists for employees of fire and police departments and public officials. Under current law, employers are prohibited from firing, intimidating, or coercing employees who are called to serve on a Federal jury. Removing the exemption would extend this mandate to State and local governments the employ the workers newly eligible for jury duty. State and local governments would incur direct costs only to the extent that they would be required to replace employees serving on a jury, in order to maintain full staffing levels. CBO estimates the costs would not be significant and, thus, would be well below the threshold established by UMRA ($58 million in 2002, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 4125 would impose a private-sector mandate by eliminating the exemption from Federal jury service now granted to military personnel, police officers, firefighters, and certain public officials. The bill would require such individuals to, if selected, serve on grand and petit juries in United States District Courts. The direct cost of the mandate would be loss of net income from those individuals who would have to take the daily jury duty payment rather than their normal salary. According to the AOUSC, individuals currently exempt from jury service would most likely receive their regular salary rather than the jury pay if selected for jury duty. Further, according to the AOUSC, current exempt individuals made up roughly 1 percent of the population eligible for Federal jury duty and few of those individuals would be selected for service. Therefore, CBO estimates that the direct cost of the mandate would fall well below the annual threshold for private-sector mandates ($115 million in 2002, adjusted annually for inflation).

ESTIMATE PREPARED BY:

Federal Costs: Lanette J. Walker (226–2860)
Impact on State, Local, and Tribal Governments: Angela Seitz (225–3220)
Impact on the Private Sector: Paige Piper/Bach (226–2940)

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article III, section 1of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Sec. 1. Short Title; Table of Contents. This section states that this Act may be cited at the "Federal Courts Improvement Act of 2002."

Section 101:Bankruptcy Administrator Authority to Appoint Trustees, Examiners, and Committee of Creditors. This section provides statutory authority for bankruptcy administrators in Alabama and North Carolina to appoint bankruptcy case trustees, standing trustees, examiners, and committees of creditors and equity security holders, as is done in the rest of the country by U.S. trustees. Bankruptcy administrators would also be empowered to fix standing trustees's maximum annual compensation and percentage fees. Both changes would further one of the central goals of the Bankruptcy Reform Act of 1978, which is to free bankruptcy judges from an administrative role in their cases.

This section also would authorize bankruptcy administrators to serve as trustees in bankruptcy cases when necessary. Bankruptcy administrators would be granted the same authority to serve as trustees in Chapter 7 cases as United States trustees. Like United States trustees, bankruptcy administrators could serve as case trustees in Chapter 12 and Chapter 13 cases and, like assistant United States trustees, as standing trustees.

Section 102: Change in Composition of Divisions of Eastern District of Texas. This amendment would implement the March 1991 Judicial Conference proposal to designate Plano, Texas, as a place of holding court in the Eastern District of Texas. It also realigns the divisions of the U.S. District Court for the Eastern District of Texas to reflect the closing of the courthouse in Denton County. The Paris division is eliminated and its counties redistributed among the other divisions of the court. In addition, the provision clarifies that court for the Eastern District of Texas and the Western District of Arkansas may be held anywhere in the Federal Courthouse which sits astride the Texas-Arkansas State line.

Section 103: Conditions of Probation and Supervised Release. In 1984, Congress provided that if the court in a felony case sentences the defendant to probation, that sentence, absent extraordinary circumstances, must include a requirement that the defendant also pay a fine, make restitution, or work in community service. Subsections (a) and (b) make technical amendments that ensure that

two sections of title 18 governing discretionary conditions of probation are in conformity on this point.

Subsection (b) also makes an amendment to the conditions of supervised release. Prior to 1996, intermittent confinement was available as a condition of probation, but not of supervised release. Experience since 1996 has demonstrated that this form of confinement (custody by the Bureau of Prisons during nights, weekends, or other intervals of time) is appropriate in certain circumstances. First, its use should be limited, as in the case of probation, to the first year of supervision. Second, it should be ordered only when Bureau of Prisons facilities are available to accommodate the individual in question. Third, it should be available only after the terms of supervised release are violated so as to be an option for the court less severe than a revocation of supervised release. Section (b) authorizes intermittent confinement as a condition of supervised release under these three circumstances.

Subsection (c) amends the section providing for intermittent confinement to clarify that its provisions, including the temporal limitations on its imposition, apply to supervised release as well as to probation.

Section 104: Reporting of Wiretap Orders. Currently, 18 U.S.C. § 2519(1) requires that Federal and State judges submit a report to the Administrative Office of the U.S. Courts no later than 30 days after the expiration of an approved order, or the denial of an order, for a wiretap. In contrast, Federal and State prosecutors submit only one report which summarizes their previous year activity.

Section 104 would permit judges to submit annual summary reports on wiretap orders acted on during the previous calendar year, just as prosecutors do. This change would simplify the reporting requirements for the judges and their staffs, without affecting the accuracy or timeliness of the reporting required by the statute.

Section 105: Clarifying the Scope of Diversity of Citizenship for Resident Aliens. This section amends § 1332 of title 28 to clarify the scope of diversity of citizenship jurisdiction in disputes involving aliens admitted to the United States as permanent residents ("resident aliens"). Congress added a proviso to section 1332 in 1988 (Judicial Improvements Act) to "deem" an alien admitted for permanent residence as a citizen of the State in which the alien is domiciled with the specific purpose of denying Federal jurisdiction in suits between a citizen of a State and an alien permanently residing in the same State. However, the proviso's deeming language has been interpreted as applying to other litigation circumstances involving aliens. Thus, the Judicial Conference proposes this amendment to resolve conflicting interpretations of the resident alien proviso in § 1332.

Section 106: Authority of District Courts Regarding Jurors. This section would amend 28 U.S.C. § 1866(g) to clarify that a court may, but is not required to, follow up on individuals who do not respond to the jury selection process. The provision will allow a court to take appropriate action against those who do not respond to a jury summons, but leaves the decision of how to handle nonresponders to the discretion of each court.

Section 107: Deletion of Automatic Excuse from Jury Service for Members of the Armed Forces, Members of Fire and Police Departments, and Public Officers. This section eliminates two categories

of exemptions from jury service: (1) members of State and local fire or police departments; and (2) "public officers" of Federal and State governments.

The Department of Defense currently may authorize the exemption of members of the Armed Services from State and local jury service. Section 982 of Title 10 United States Code, specifies that members on active military duty may not be required to serve on a State or local jury if the Department of Defense determines that such service would "unreasonably interfere" with their military duties or would "adversely affect the readiness" of their unit or command. Subsection (c) expands this authority of the Department of Defense to include Federal jury service.

Section 108: Elimination of the Public Drawing Requirements for Selection of Juror Wheels. This section eliminates the noticing and public drawing requirements for selecting names from jury wheels. This section would eliminate the requirement to post a separate notice for each drawing from the master and qualified wheels, as well as the requirement to draw names publicly and/or to post public notices. Instead, one general notice will be posted in the clerk's office that explains the process by which names are randomly and periodically drawn from the wheels.

Section 109: Supplemental Attendance Fee for Petit Jurors Serving on Lengthy Trials. Section 109 shortens the number of days that a juror is required to serve before he or she is eligible for the supplemental daily fee ($10) authorized pursuant to 28 U.S.C. § 1871. This change acknowledges the hardships encountered when serving on a jury for an extended period of time.

Section 110: Change in Composition of Divisions in Western District of Tennessee. Section 110 switches Dyer County, Tennessee, as a component of the Western (judicial) District of Tennessee, to the Eastern District. The change is being made as an accommodation to the affected litigants and attorneys, who currently experience travel hardships under the present District structure.

Section 111: Place of Holding Court in the Southern District of Ohio. This amendment establishes St. Clairsville as a place of holding court in the Southern District of Ohio. St. Clairsville is more conveniently located for parties, attorneys, and jurors. Also, local courtroom space is available for use.

Section 112: Place of Holding Court in the Northern District of New York. This amendment establishes Plattsburgh as a place of holding court in the Northern District of New York. Due to increased security along the border, it is expected that the number of criminal cases will increase substantially. This will enable the prompt prosecution of cases. A Federal building is available for use.

Section 201:Disability Retirement and Cost-of-Living Adjustments of Annuities for Territorial Judges. This section gives territorial judges in the district courts of Guam, the Northern Mariana Islands, and the Virgin Islands comparable retirement arrangements as other judges.

Section 202: Federal Judicial Center Personnel Matters. This amendment would restore the parity in the salary levels of the Federal Judicial Center's senior staff and that of the Administrative Office of the United States Courts by authorizing the Director of the Center to set the compensation of a limited number of Center professional employees at levels equivalent to Level IV of the

Executive Schedule pay rates. The proposed language would limit the Federal Judicial Center to increase in four positions. The amendment also corrects a misspelling in the original statute.

Section 203: Annual Leave Limit for Judicial Branch Executives. This provision amends § 6304(f) of title 5, United States Code, in order to exempt court unit executive positions designated by the Judicial Conference from the provisions of the Leave Act that prevent most Federal employees from carrying over more than 240 hours of annual leave from 1 year to the next. Instead, it would make applicable to court unit executives the 720 hour maximum carry over amount of annual leave that has already been established for members of the Executive Branch's Senior Executive Services.

Section 204: Supplemental Benefits Program. Section 204 authorizes the judiciary to provide its employees with a benefits package that is more competitive with those already provided throughout the private sector, State governments, colleges and universities, and the banking agencies in the executive branch. The Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation recognized the need to improve benefits and were granted authority by Congress to offer these same enhanced benefits.

Section 205: Inclusion of Judicial Branch Personnel in Organ Donor Leave Program. Section 205 extends the application of the Organ Donor Leave Act to the judicial branch, thereby entitling a participant to paid leave as an organ donor for 30 days each calendar year. The statute currently applies only to executive branch employees.

Section 206:Maximum Amounts of Compensation for Attorneys. This section increases the case compensation maximum amounts for attorneys by approximately the rate of inflation since 1986 (44%), the last year case compensation maximums were increased. This section also changes the case compensation maximum applicable to counsel representing non-capital habeas corpus petitioners.

Section 207: Maximum Amounts of Compensation for Services Other than Counsel. This section increases the compensation maximums of investigators, experts, and other service providers by approximately the rate of inflation since 1986 (44%), the last year case compensation maximums were increased.

Section 208: Protection Against Malicious Recording of Fictitious Liens Against Federal Judges. In recent years, members of the Federal judiciary have been victimized by persons seeking to intimidate or harass them by filing false liens against a judge's real or personal property, normally in response to an adverse and unrelated legal proceeding over which the judge presided. The current system used to dismiss the liens—invoking the services of assistant U.S. Attorneys—has not led to expeditious results, in large part because suits are often brought in State court and sometimes later removed to Federal court. Therefore, section 208 creates a new criminal sanction of up to 5 years as a deterrent to such behavior.

Section 209: Appointing Authority for Circuit Librarians. This section amends the appointing authority of the circuit librarian from the appellate court to the circuit judicial council. This change will reflect the transformation of the appellate library program into its current role of providing circuit-wide services.

Section 301: Monitoring of Communications of Officers and Employees of Judicial Branch. This section urges the Judicial Conference to safeguard the privacy of officers and employees of the judicial branch by ensuring that the Administrative Office of the U.S. Courts does not intercept their electronic communications unless the interception is pursuant to: (1) a law enforcement investigation; (2) prior authorization by the Judicial Conference (or its executive committee); or (3) a policy adopted by the Judicial Conference setting forth the procedures under which such interception may be authorized. The amendment also urges the Judicial Conference to ensure that any information obtained pursuant to an authorized interception be used solely for the purposes for which the interception is authorized.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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 italics, existing law in which no change is proposed is shown in roman):

TITLE 28, UNITED STATES CODE

* * * * * * *

PART I—ORGANIZATION OF COURTS

* * * * * * *

CHAPTER 5—DISTRICT COURTS

* * * * * * *

§ 83. Arkansas

Arkansas is divided into two judicial districts to be known as the Eastern and Western Districts of Arkansas.

Eastern District

(a) * * *

* * * * * * *

Western District

(b) The Western District comprises six divisions.

(1) The Texarkana Division comprises the counties of Hempstead, Howard, Lafayette, Little River, Miller, Nevada, and Sevier.

Court for the Texarkana Division shall be held at Texarkana*, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas*.

* * * * * * *

§ 112. New York

New York is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of New York.

Northern District

(a) The Northern District comprises the counties of Albany, Broome, Cayuga, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren, and Washington.

Court for the Northern District shall be held at Albany, Auburn, Binghamton, Malone, Syracuse, Utica, [and Watertown] *Watertown, and Plattsburgh*.

* * * * * * *

§ 115. Ohio

Ohio is divided into two judicial districts to be known as the Northern and Southern Districts of Ohio.

Northern District

(a) * * *

* * * * * * *

Southern District

(b) The Southern District comprises two divisions.

(1) * * *

(2) The Eastern Division comprises the counties of Athens, Belmont, Coshocton, Delaware, Fairfield, Fayette, Franklin, Gallia, Guernsey, Harrison, Hocking, Jackson, Jefferson, Knox, Licking, Logan, Madison, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Union, Vinton, and Washington.

Court for the Eastern Division shall be held at Columbus [and Steubenville], *Steubenville, and St. Clairsville*.

* * * * * * *

§ 123. Tennessee

Tennessee is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Tennessee.

Eastern District

(a) * * *

* * * * * * *

Western District

(c) The Western District comprises two divisions.

(1) The Eastern Division comprises the counties of Benton, Carroll, Chester, Crockett, Decatur, *Dyer,* Gibson, Hardeman,

Hardin, Haywood, Henderson, Henry, Lake, McNairy, Madison, Obion, Perry, and Weakley.

The Eastern Division also includes the waters of Tennessee River to low-water mark on the eastern shore wherever such river forms the boundary between the western and middle districts from the north line of Alabama north to the point in Henry County, Tennessee, where the south boundary of Kentucky strikes the east bank of the river.

Court for the Eastern Division shall be held at Jackson *and Dyersburg*.

(2) The Western Division comprises the counties of [Dyer,] Fayette, Lauderdale, Shelby, and Tipton.

Court for the Western Division shall be held at Memphis [and Dyersburg].

* * * * * * *

§ 124. Texas

Texas is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of Texas.

Northern District

(a) * * *

* * * * * * *

Eastern District

(c) The Eastern District comprises seven divisions.

(1) * * *

* * * * * * *

(3) The Sherman Division comprises the counties of Collin, Cook, [Denton, and Grayson] *Delta, Denton, Fannin, Grayson, Hopkins, and Lamar*.

Court for the Sherman Division shall be held at Sherman *and Plano*.

[(4) The Paris Division comprises the counties of Delta, Fannin, Hopkins, Lamar, and Red River.

[Court for the Paris Division shall be held at Paris.]

[(5)] *(4)* The Marshall Division comprises the counties of Camp, Cass, Harrison, Marion, Morris, and Upshur.

Court for the Marshall Division shall be held at Marshall.

[(6)] *(5)* The Texarkana Division comprises the counties of Bowie, Franklin, *Red River,* and Titus.

Court for the Texarkana Division shall be held at Texarkana*, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas*.

[(7)] *(6)* The Lufkin Division comprises the counties of Angelina, Houston, Nacogdoches, Polk, Sabine, San Augustine, Shelby, Trinity, and Tyler.

Court for the Lufkin Division shall be held at Lufkin.

* * * * * * *

CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES

* * * * * * *

§ 373. Judges in territories and possessions

(a) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

[(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under subsection (a) of this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.**]**

(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.

* * * * * * *

[(e) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is removed by the President of the United States upon the sole ground of mental or physical disability, or who is not reappointed (as judge of such court), shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if he is then beyond the age of sixty-five years, (1) if his judicial service, continuous or otherwise, aggregates fifteen years or more, to receive during the remainder of his life an annuity equal to the salary he received when he left office, or (2) if his judicial service, continuous or otherwise, aggregated less than fifteen years but not less than ten years, to receive during the remainder of his life an annuity equal to that proportion of such salary which the aggregate number of his years of his judicial service bears to fifteen.**]**

(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if the judge is then beyond the age of sixty-five years—

(A) if the judicial service of such judge, continuous or otherwise, aggregates fifteen years or more, to receive during the remainder of such judge's life an annuity equal to the salary received when the judge left office; or

(B) if such judicial service, continuous or otherwise, aggregated less than fifteen years, to receive during the remainder of such judge's life an annuity equal to that proportion of such salary which the aggregate number of such judge's years of service bears to fifteen.

(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least five years, continuously or other-

wise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge's life an annuity equal to 40 percent of the salary received when the judge left office or, in the case of a judge who has served at least ten years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge's years of judicial service bears to fifteen.

* * * * * * *

[(g) Any retired judge who is entitled to receive an annuity under subsection (a) shall be entitled to a cost of living adjustment in the amount payable to him computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed 95 per centum of the salary of a United States district judge in regular active service.**]**

(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.

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PART III—COURT OFFICERS AND EMPLOYEES

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CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

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§ 604. Duties of Director generally

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

(1) * * *

* * * * * * *

(6) In the Director's discretion, establish a program of benefits, in addition to those otherwise provided by law, for officers and employees of the judicial branch, including justices and judges of the United States;

[(6)**]** *(7)* Determine and pay necessary office expenses of courts, judges, and those court officials whose expenses are by law allowable, and the lawful fees of United States magistrate judges;

[(7)**]** *(8)* Regulate and pay annuities to widows and surviving dependent children of justices and judges of the United States, judges of the United States Court of Federal Claims, bankruptcy judges, United States magistrate judges, Directors of the Federal Judicial Center, and Directors of the Administrative Office, and necessary travel and subsistence expenses incurred by judges, court officers and employees, and officers

and employees of the Administrative Office, and the Federal Judicial Center, while absent from their official stations on official business, without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5, except that the reimbursement of subsistence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;

[(8)] *(9)* Disburse appropriations and other funds for the maintenance and operation of the courts;

[(9)] *(10)* Establish pretrial services pursuant to section 3152 of title 18, United States Code;

[(10)] *(11)*(A) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, supplies, and other personal property for the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)); (B) provide or make available readily to each court appropriate equipment for the interpretation of proceedings in accordance with section 1828 of this title; and (C) enter into and perform contracts and other transactions upon such terms as the Director may deem appropriate as may be necessary to the conduct of the work of the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)), and contracts for nonpersonal services providing pretrial services, agencies for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title may be awarded without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5);

[(11)] *(12)* Audit vouchers and accounts of the courts, the Federal Judicial Center, the offices providing pretrial services, and their clerical and administrative personnel;

[(12)] *(13)* Provide accommodations for the courts, the Federal Judicial Center, the offices providing pretrial services and their clerical and administrative personnel;

[(13)] *(14)* Lay before Congress, annually, statistical tables that will accurately reflect the business transacted by the several bankruptcy courts, and all other pertinent data relating to such courts;

[(14)] *(15)* Pursuant to section 1827 of this title, establish a program for the certification and utilization of interpreters in courts of the United States;

[(15)] *(16)* Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;

[(16)] *(17)*(A) In those districts where the Director considers it advisable based on the need for interpreters, authorize the full-time or part-time employment by the court of certified interpreters; (B) where the Director considers it advisable based on the need for interpreters, appoint certified interpreters on a full-time or part-time basis, for services in various courts when he determines that such appointments will result in the economical provision of interpretation services; and (C) pay out of moneys appropriated for the judiciary interpreters'

salaries, fees, and expenses, and other costs which may accrue in accordance with the provisions of sections 1827 and 1828 of this title;

[(17)] *(18)* In the Director's discretion, (A) accept and utilize voluntary and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5, United States Code; and (B) accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the judicial branch of Government, but gifts or bequests of money shall be covered into the Treasury;

[(18)] *(19)* Establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments;

[(19)] *(20)* Regulate and pay annuities to bankruptcy judges and United States magistrate judges in accordance with section 377 of this title and paragraphs (1)(B) and (2) of section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988;

[(20)] *(21)* Periodically compile—

(A) * * *

* * * * * * *

[(21)] *(22)* Establish a program of incentive awards for employees of the judicial branch of the United States Government, other than any judge who is entitled to hold office during good behavior;

[(22)] *(23)* Receive and expend, either directly or by transfer to the United States Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress/egress control, inspection of packages, directed security patrols, and other similar activities;

[(23)] *(24)* Regulate and pay annuities to judges of the United States Court of Federal Claims in accordance with section 178 of this title; and

[(24)] *(25)* Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

* * * * * * *

(i)(1) The Judicial Conference should take such steps as it deems necessary and appropriate to safeguard the privacy of officers and employees of the judicial branch by ensuring that—

(A) the Director does not intercept electronic communications of any such officer or employee (including any electronic communication consisting of an electronic mail message or a transfer of information by means of the World Wide Web or the Internet) between or among computers, or hire or enter into a contract with another entity to monitor or intercept such communications, except pursuant to—

(i) a law enforcement investigation;

(ii) prior authorization by the Judicial Conference or its Executive Committee; or

(iii) a policy adopted by the Judicial Conference setting forth the procedures under which the interception of such communications may be authorized; and

(B) any information obtained pursuant to interception of communications authorized under subparagraph (A) is used solely for the purposes for which the interception is authorized.

(2) In this subsection—

(A) the term "electronic communication" has the meaning given that term in section 2510 of title 18;

(B) the terms "by means of the World Wide Web" and "Internet" have the meanings given those terms in section 231(e) of the Communications Act of 1934 (47 U.S.C. 231(e)); and

(C) the term "computer" has the meaning given that term in section 1030(e) of title 18.

* * * * * * *

CHAPTER 42—FEDERAL JUDICIAL CENTER

* * * * * * *

§ 625. Director and staff

(a) * * *

(b) The Director shall appoint and fix the compensation of such additional professional personnel as the Board may deem necessary, without regard to the provisions of title 5[, United States Code,] governing appointments in competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates: Provided, however, That the compensation of any person appointed under this subsection shall not exceed the annual rate of basic pay of level V of the Executive Schedule [pay rates, section 5316, title 5, United States Code] *under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5*: And provided further, That the salary of a reemployed annuitant under [the Civil Servive Retirement Act shall be adjusted pursuant to the provisions of section 8344, title 5, United States Code] *subchapter III of chapter 83 of title 5 shall be adjusted pursuant to the provisions of section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted pursuant to the provisions of section 8468 of such title*.

(c) The Director shall appoint and fix the compensation of such secretarial and clerical personnel as he may deem necessary, subject to the provisions of title 5[, United States Code,] governing appointments in competitive service without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(d) The Director may procure personal services as authorized by section 3109 of title 5, [United States Code,] at rates not to exceed the daily equivalent of the highest rate payable under General Schedule pay rates[, section 5332, title 5, United States Code] *under section 5332 of title 5*.

* * * * * * *

CHAPTER 47—COURTS OF APPEALS

* * * * * * *

§ 713. Librarians

(a) [Each court of appeals] *The judicial council of each circuit* may appoint a librarian who shall be subject to removal by [the court] *the judicial council*.

(b) The librarian, with the approval of the [court] *judicial council*, may appoint necessary library assistants in such numbers as the Director of the Administrative Office of the United States Courts may approve. The librarian may remove such library assistants with the approval of the [court] *judicial council*.

* * * * * * *

PART IV—JURISDICTION AND VENUE

* * * * * * *

CHAPTER 85—DISTRICT COURTS; JURISDICTION

* * * * * * *

§ 1332. Diversity of citizenship; amount in controversy; costs

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and is between—

(1) * * *

* * * * * * *

(4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States.

[For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.] *The district courts shall not have original jurisdiction under paragraph (2) or (3) where the matter in controversy is between a citizen of a State and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same State.*

* * * * * * *

PART V—PROCEDURE

* * * * * * *

CHAPTER 121—JURIES; TRIAL BY JURY

* * * * * * *

§ 1863. Plan for random jury selection

(a) * * *

(b) Among other things, such plan shall—

(1) * * *

* * * * * * *

[(6) specify that the following persons are barred from jury service on the ground that they are exempt: (A) members in active service in the Armed Forces of the United States; (B) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.]

[(7)] *(6)* fix the time when the names drawn from the qualified jury wheel shall be disclosed to parties and to the public. If the plan permits these names to be made public, it may nevertheless permit the chief judge of the district court, or such other district court judge as the plan may provide, to keep these names confidential in any case where the interests of justice so require.

[(8)] *(7)* specify the procedures to be followed by the clerk or jury commission in assigning persons whose names have been drawn from the qualified jury wheel to grand and petit jury panels.

* * * * * * *

§ 1864. Drawing of names from the master jury wheel; completion of juror qualification form

(a) From time to time as directed by the district court, the clerk or a district judge shall [publicly] draw at random from the master jury wheel the names of as many persons as may be required for jury service. *The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.* The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title. The clerk or jury commission shall mail to every person whose name is drawn from the master wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk or jury commission by mail within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk or jury commission shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk or jury commission within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk or jury commission forthwith to appear before the clerk or jury commission to fill out a juror qualification form. A person summoned to appear because of failure to return a juror qualification form as instructed who personally appears and executes a juror qualification form before the

clerk or jury commission may, at the discretion of the district court, except where his prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors under section 1871 of this title. At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the jury commission or the clerk or the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk or jury commission may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

* * * * * * *

§ 1865. Qualifications for jury service

(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon recommendation of the clerk or jury commission, or the clerk under supervision of the court if the court's jury selection plan so authorizes, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for[, or exempt,] or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and in any alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

* * * * * * *

§ 1866. Selection and summoning of jury panels

(a) The jury commission, or in the absence thereof the clerk, shall maintain a qualified jury wheel and shall place in such wheel names of all persons drawn from the master jury wheel who are determined to be qualified as jurors and not [exempt or] excused pursuant to the district court plan. From time to time, the jury commission or the clerk shall [publicly] draw at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand and petit jury panels. *The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.* The jury commission or the clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel.

* * * * * * *

(c) Except as provided in section 1865 of this title or in any jury selection plan provision adopted pursuant to paragraph (5) [or (6)] of section 1863(b) of this title, no person or class of persons shall be disqualified, excluded, [excused, or exempt] *or excused* from service as jurors: Provided, That any person summoned for jury service may be (1) excused by the court, or by the clerk under supervision of the court if the court's jury selection plan so authorizes, upon a showing of undue hardship or extreme inconvenience,

for such period as the court deems necessary, at the conclusion of which such person either shall be summoned again for jury service under subsections (b) and (c) of this section or, if the court's jury selection plan so provides, the name of such person shall be reinserted into the qualified jury wheel for selection pursuant to subsection (a) of this section, or (2) excluded by the court on the ground that such person may be unable to render impartial jury service or that his service as a juror would be likely to disrupt the proceedings, or (3) excluded upon peremptory challenge as provided by law, or (4) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown, or (5) excluded upon determination by the court that his service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (5) of this subsection unless the judge, in open court, determines that such is warranted and that exclusion of the person will not be inconsistent with sections 1861 and 1862 of this title. The number of persons excluded under clause (5) of this subsection shall not exceed one per centum of the number of persons who return executed jury qualification forms during the period, specified in the plan, between two consecutive fillings of the master jury wheel. The names of persons excluded under clause (5) of this subsection, together with detailed explanations for the exclusions, shall be forwarded immediately to the judicial council of the circuit, which shall have the power to make any appropriate order, prospective or retroactive, to redress any misapplication of clause (5) of this subsection, but otherwise exclusions effectuated under such clause shall not be subject to challenge under the provisions of this title. Any person excluded from a particular jury under clause (2), (3), or (4) of this subsection shall be eligible to sit on another jury if the basis for his initial exclusion would not be relevant to his ability to serve on such other jury.

(d) Whenever a person is disqualified, excused, **[**exempt,**]** or excluded from jury service, the jury commission or clerk shall note in the space provided on his juror qualification form or on the juror's card drawn from the qualified jury wheel the specific reason therefor.

* * * * * * *

(g) Any person summoned for jury service who fails to appear as directed **[**shall**]** *may* be ordered by the district court to appear forthwith and show cause for **[**his**]** *the* failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than $100 or imprisoned not more than three days, or both.

* * * * * * *

§ 1869. Definitions

For purposes of this chapter—
(a) * * *

* * * * * * *

(h) "juror qualification form" shall mean a form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States, which shall elicit

the name, address, age, race, occupation, education, length of residence within the judicial district, distance from residence to place of holding court, prior jury service, and citizenship of a potential juror, and whether he should be excused [or exempted] from jury service, has any physical or mental infirmity impairing his capacity to serve as juror, is able to read, write, speak, and understand the English language, has pending against him any charge for the commission of a State or Federal criminal offense punishable by imprisonment for more than one year, or has been convicted in any State or Federal court of record of a crime punishable by imprisonment for more than one year and has not had his civil rights restored. The form shall request, but not require, any other information not inconsistent with the provisions of this title and required by the district court plan in the interests of the sound administration of justice. The form shall also elicit the sworn statement that his responses are true to the best of his knowledge. Notarization shall not be required. The form shall contain words clearly informing the person that the furnishing of any information with respect to his religion, national origin, or economic status is not a prerequisite to his qualification for jury service, that such information need not be furnished if the person finds it objectionable to do so, and that information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on an individual's qualification for jury service.

[(i) "public officer" shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office;]

* * * * * * *

[(k) "publicly draw", as referred to in sections 1864 and 1866 of this chapter, shall mean a drawing which is conducted within the district after reasonable public notice and which is open to the public at large under the supervision of the clerk or jury commission, except that when a drawing is made by means of electronic data processing, ″publicly draw″ shall mean a drawing which is conducted at a data processing center located in or out of the district, after reasonable public notice given in the district for which juror names are being drawn, and which is open to the public at large under such supervision of the clerk or jury commission as the Judicial Conference of the United States shall by regulation require; and]

* * * * * * *

§ 1871. Fees

(a) * * *
(b)(1) * * *

* * * * * * *

(2) A petit juror required to attend more than [thirty] *five* days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding $10 more than the attendance fee, for each day in excess of [thirty] *five* days on which he is required to hear such case.

* * * * * * *

TITLE 18, UNITED STATES CODE

* * * * * * *

PART I—CRIMES

* * * * * * *

CHAPTER 73—OBSTRUCTION OF JUSTICE

Sec.
1501. Assault on process server.
* * * * * * *
1521. Retaliating against a Federal judge by false claim or slander of title.

* * * * * * *

§ 1521. Retaliating against a Federal judge by false claim or slander of title

(a) Whoever files or attempts to file, in any public record or in any private record which is generally available to the public, any lien, encumbrance, civil claim, or other document against a Federal Judge or against the real or personal property of a Federal Judge, knowing or having reason to know that such claim, lien, encumbrance, or document is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than five years, or both. In the case of an offense under this subsection which was committed after the defendant had previously been convicted of an earlier offense under this subsection, the defendant shall be fined under this title or imprisoned for not more than ten years, or both.

(b) As used in this section, the term "Federal Judge" means a justice or judge of the United States as defined in section 451 of title 28, a judge of the United States Court of Federal Claims, a United States bankruptcy judge, a United States magistrate judge, and a judge of the United States Court of Appeals for the Armed Forces, United States Court of Appeals for Veterans Claims, United States Tax Court (including any special trial judge appointed under section 7443A of the Internal Revenue Code of 1986), District Court of Guam, District Court of the Northern Mariana Islands, or District Court of the Virgin Islands.

* * * * * * *

CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

* * * * * * *

§ 2519. Reports concerning intercepted wire, oral, or electronic communications

[(1) Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge shall report to the Administrative Office of the United States Courts—]

(1) In January of each year, any judge who has issued an order (or extension thereof) under section 2518 which expired during the preceding year or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—

(a) * * *

* * * * * * *

PART II—CRIMINAL PROCEDURE

* * * * * * *

CHAPTER 201—GENERAL PROVISIONS

* * * * * * *

§ 3006A. Adequate representation of defendants

(a) * * *

* * * * * * *

(d) PAYMENT FOR REPRESENTATION.—

(1) * * *

(2) MAXIMUM AMOUNTS.—For representation of a defendant before the United States magistrate or the district court, or both, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed $[5,200] *7,000* for each attorney in a case in which one or more felonies are charged, and $[1,500] *2,000* for each attorney in a case in which only misdemeanors are charged. For representation of a defendant in an appellate court, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed $[3,700] *5,000* for each attorney in each court. For representation of a petitioner in a non-capital habeas corpus proceeding, the compensation for each attorney shall not exceed the amount applicable to a felony in this paragraph for representation of a defendant before a judicial officer of the district court. For representation of such petitioner in an appellate court, the compensation for each attorney shall not exceed the amount applicable for representation of a defendant in an appellate court. For representation of an offender before the United States Parole Commission in a proceeding under section 4106A of this title, the compensation shall not exceed $[1,200] *1,500* for each attorney in each proceeding; for representation of an offender in an appeal from a determination of such Commission under such section, the compensation shall not exceed $[3,900] *5,000* for each attorney in each court. For any other representation required or authorized by this section, the compensation shall not exceed $[1,200] *1,500* for each attorney in each proceeding.

* * * * * * *

(e) SERVICES OTHER THAN COUNSEL.—

(1) * * *

(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, inves-

tigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed [$300] *$500* and expenses reasonably incurred.

(B) The court, or the United States magistrate (if the services were rendered in a case disposed of entirely before the United States magistrate), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds [$300] *$500*.

(3) MAXIMUM AMOUNTS.—Compensation to be paid to a person for services rendered by him to a person under this subsection, or to be paid to an organization for services rendered by an employee thereof, shall not exceed [$1,000] *$1,600*, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court, or by the United States magistrate if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active circuit judge.

* * * * * * *

CHAPTER 227—SENTENCES

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SUBCHAPTER B—PROBATION

* * * * * * *

§ 3563. Conditions of probation

(a) MANDATORY CONDITIONS.—The court shall provide, as an explicit condition of a sentence of probation—

(1) * * *

(2) for a felony, that the defendant also abide by at least one condition set forth in subsection [(b)(2), (b)(3), or (b)(13),] *(b)(2) or (b)(12)* unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b);

* * * * * * *

(b) DISCRETIONARY CONDITIONS.—The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553(a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant—

(1) * * *

* * * * * * *

(10) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense, during the first year of the term of probation *or supervised release*;

* * * * * * *

SUBCHAPTER D—IMPRISONMENT

* * * * * * *

§ 3583. Inclusion of a term of supervised release after imprisonment

(a) * * *

* * * * * * *

(d) CONDITIONS OF SUPERVISED RELEASE.—The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision and that the defendant not unlawfully possess a controlled substance. The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant. The court shall order, as an explicit condition of supervised release for a person described in section 4042(c)(4), that the person report the address where the person will reside and any subsequent change of residence to the probation officer responsible for supervision, and that the person register in any State where the person resides, is employed, carries on a vocation, or is a student (as such terms are defined under section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994). The court shall order, as an explicit condition of supervised release, that the defendant cooperate in the collection of a DNA sample from the defendant, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000. The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using

gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3583(g) when considering any action against a defendant who fails a drug test. The court may order, as a further condition of supervised release, to the extent that such condition—

(1) * * *

* * * * * * *

any condition set forth as a discretionary condition of probation in section **[**3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate.**]** *section 3563(b) and any other condition it considers to be appropriate, except that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with subsection (e)(2) of this section and only when facilities are available.* If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation.

* * * * * * *

TITLE 10, UNITED STATES CODE

* * * * * * *

Subtitle A—General Military Law

* * * * * * *

PART II—PERSONNEL

* * * * * * *

CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
971. Service credit: officers may not count service performed while serving as cadet or midshipman.

* * * * * * *

[982. Members: service on State and local juries.**]**
982. Members: service on Federal, State, and local juries.

* * * * * * *

§ 982. [Members: service on State and local juries] *Members: service on Federal, State, and local juries*

(a) A member of the armed forces on active duty may not be required to serve on a [State or] *Federal, State, or* local jury if the Secretary concerned determines that such service—

(1) * * *

* * * * * * *

TITLE 5, UNITED STATES CODE

* * * * * * *

PART III—EMPLOYEES

* * * * * * *

Subpart E—Attendance and Leave

* * * * * * *

CHAPTER 63—LEAVE

* * * * * * *

SUBCHAPTER I—ANNUAL AND SICK LEAVE

* * * * * * *

§ 6304. Annual leave; accumulation

(a) * * *

* * * * * * *

(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

(A) * * *

* * * * * * *

(D) the Senior Cryptologic Executive Service; [or]

(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service[.]*; or*

(F) the Judicial Branch designated as a court unit executive position by the Judicial Conference of the United States or designated as an executive position in the Federal Judicial Center by the Board of the Federal Judicial Center.

* * * * * * *

SUBCHAPTER II—OTHER PAID LEAVE

* * * * * * *

§ 6327. Absence in connection with serving as a bone-marrow or organ donor

(a) An employee in or under an Executive agency *or an entity of the judicial branch* is entitled to leave without loss of or reduction in pay, leave to which otherwise entitled, credit for time or

service, or performance or efficiency rating, for the time necessary to permit such employee to serve as a bone-marrow or organ donor.

* * * * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

TUESDAY, SEPTEMBER 10, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order, and a working quorum is present.

* * * * * * *

The chair would ask the indulgence of the Members for the remaining three bills which I don't think are very controversial. The next item on the agenda is H.R.4125, the "Federal Courts Improvement Act of 2002."

The chair recognizes the gentleman from North Carolina, Mr. Coble, for a motion.

Mr. COBLE. Mr. Chairman, the Subcommittee on Courts, the Internet, Intellectual Property reports favorably the bill, H.R. 4125 with a single amendment in the nature of a substitute and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point. The Subcommittee amendment in the nature of a substitute which the Members have before them will be considered as read, considered as the original text for purposes of amendment and open for amendment at any point.

[The amendment follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4125 AS REPORTED BY THE SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Courts Improvement Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

Sec. 101. Bankruptcy administrator authority to appoint trustees, examiners, and committee of creditors.
Sec. 102. Change in composition of divisions of Eastern District of Texas.
Sec. 103. Conditions of probation and supervised release.
Sec. 104. Reporting of wiretap orders.
Sec. 105. Clarifying the scope of diversity of citizenship for resident aliens.
Sec. 106. Authority of district courts regarding jurors.
Sec. 107. Deletion of automatic excuse from jury service for members of the Armed Forces, members of fire and police departments, and public officers.
Sec. 108. Elimination of the public drawing requirements for selection of juror wheels.
Sec. 109. Supplemental attendance fee for petit jurors serving on lengthy trials.
Sec. 110. Change in composition of divisions in Western District of Tennessee.

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 201. Disability retirement and cost-of-living adjustments of annuities for territorial judges.
Sec. 202. Federal Judicial Center personnel matters.
Sec. 203. Annual leave limit for judicial branch executives.
Sec. 204. Supplemental benefits program.
Sec. 205. Inclusion of judicial branch personnel in organ donor leave program.

Sec. 206. Maximum amounts of compensation for services other than counsel.
Sec. 207. Protection against malicious recording of fictitious liens against Federal judges.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

SEC. 101. BANKRUPTCY ADMINISTRATOR AUTHORITY TO APPOINT TRUSTEES, EXAMINERS, AND COMMITTEE OF CREDITORS.

(a) APPOINTMENT OF TRUSTEES.—Until the amendments made by subtitle A of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99–554; 100 Stat. 3123) become effective in a judicial district and apply to a case, a bankruptcy administrator appointed to serve in the district pursuant to section 302(d)(3)(I) of that Act, as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101–650; 104 Stat 5115), shall appoint the trustees, examiners, and standing trustees subject to the provisions set forth in sections 701, 1104, 1202, and 1302 of title 11, United States Code.

(b) STANDING TRUSTEES.—The Director of the Administrative Office of the United States Courts, in consultation with the bankruptcy administrator referred to in subsection (a), shall fix the maximum annual compensation and percentage fee for the standing trustees appointed under subsection (a) notwithstanding the ref-

erences in those sections of title 11, United States Code, to the court's authority to fix them.

(c) SERVICE AS TRUSTEE.—A bankruptcy administrator may serve as and perform the duties of a trustee in a case under chapter 7 of title 11, United States Code, if none of the members of the panel of private trustees is disinterested and willing to serve as trustee in the case. A bankruptcy administrator may serve as and perform the duties of a trustee or standing trustee in cases under chapter 12 or chapter 13 of title 11, United States Code, if necessary.

(d) APPOINTMENT OF COMMITTEES.—Until the amendments made by subtitle A of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 become effective in a judicial district and apply to a case, the bankruptcy administrator appointed to serve in the district shall appoint the committees of creditors and equity security holders provided in section 1102 of title 11, United States Code. On request of a party in interest, the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or equity security holders. The bankruptcy administrator shall appoint any such committee. On request of a party in interest in a case in which the

debtor is a small business and for cause, the court may order that a committee of creditors not be appointed.

SEC. 102. CHANGE IN COMPOSITION OF DIVISIONS OF EASTERN DISTRICT OF TEXAS.

(a) IN GENERAL.—Section 124(c) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''Denton, and Grayson'' and inserting ''Delta, Denton, Fannin, Grayson, Hopkins, and Lamar''; and

(B) by inserting ''and Plano'' after ''held at Sherman'';

(2) by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively; and

(3) in paragraph (5), as so redesignated, by inserting ''Red River,'' after ''Franklin,''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United

States District Court for the Eastern District of Texas on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Eastern Judicial District of Texas on the effective date of this section.

SEC. 103. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.

(a) CONDITIONS OF PROBATION.—Section 3563(a)(2) of title 18, United States Code, is amended by striking ''(b)(2), (b)(3), or (b)(13),'' and inserting ''(b)(2) or (b)(12)''.

(b) SUPERVISED RELEASE AFTER IMPRISONMENT.—Section 3583(d) of title 18, United States Code, is amended by striking ''section 3563(b)(1)'' and all that follows through ''appropriate.'' and inserting ''section 3563(b) and any other condition it considers to be appropriate, except that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with subsection (e)(2) of this section and only when facilities are available.''.

(c) CONFORMING AMENDMENT.—Section 3563(b)(10) of title 18, United States Code, is amended by inserting ''or supervised release'' after ''probation''.

SEC. 104. REPORTING OF WIRETAP ORDERS.

Paragraph (1) of section 2519 of title 18, United States Code, is amended by striking all that precedes ''(a)'' and inserting the following:

''(1) In January of each year, any judge who has issued an order (or extension thereof) under section 2518 which expired during the preceding year or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—''.

SEC. 105. CLARIFYING THE SCOPE OF DIVERSITY OF CITIZENSHIP FOR RESIDENT ALIENS.

Section 1332(a) of title 28, United States Code, is amended by striking the last sentence and inserting the following: ''The district courts shall not have original jurisdiction under paragraph (2) or (3) where the matter in controversy is between a citizen of a State and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same State.''.

SEC. 106. AUTHORITY OF DISTRICT COURTS REGARDING JURORS.

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

(1) by striking ''shall'' and inserting ''may''; and

(2) by striking ''his'' and inserting ''the''.

SEC. 107. DELETION OF AUTOMATIC EXCUSE FROM JURY SERVICE FOR MEMBERS OF THE ARMED FORCES, MEMBERS OF FIRE AND POLICE DEPARTMENTS, AND PUBLIC OFFICERS.

(a) REMOVAL OF EXEMPTION.—Section 1863(b) of title 28, United States Code, is amended by striking paragraph (6) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 1865(a) of title 28, United States Code, is amended in the first sentence by striking '', or exempt,''.

(2) Section 1866 of title 28, United States Code, is amended—

(A) in the first sentence of subsection (a), by striking ''exempt or'';

(B) in the first sentence of subsection (c)—

(i) by striking ''or (6)''; and

(ii) by striking ''excused, or exempt'' and inserting ''or excused''; and

(C) in subsection (d), by striking ''exempt,''.

(3) Section 1869 of title 28, United States Code, is amended—

(A) in the first sentence of subsection (h), by striking ''or exempted''; and

(B) by repealing subsection (i).

(c) DISCRETIONARY EXEMPTION FROM SERVICE.—(1) Section 982 of title 10, United States Code, is amended—

(A) by amending the section heading to read as follows:

''§ 982. Members: service on Federal, State, and local juries'';

and

(B) by striking ''State or'' and inserting ''Federal, State, or''.

(2) The item relating to section 982 in the table of sections for chapter 49 of title 10, United States Code, is amended to read as follows:

''982. Members: service on Federal, State, and local juries.''.

SEC. 108. ELIMINATION OF THE PUBLIC DRAWING REQUIREMENTS FOR SELECTION OF JUROR WHEELS.

(a) DRAWING OF NAMES FROM JURY WHEEL.—Section 1864(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking ''publicly''; and

(2) by inserting after the first sentence the following new sentence: ''The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.''.

(b) SELECTION AND SUMMONING OF JURY PANELS.—Section 1866(a) of title 28, United States Code, is amended—

(1) in the second sentence, by striking ''publicly''; and

(2) by inserting after the second sentence the following new sentence: ''The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.''.

(c) CONFORMING AMENDMENT.—Section 1869(k) of title 28, United States Code, is repealed.

SEC. 109. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.

Section 1871(b)(2) of title 28, United States Code, is amended by striking ''thirty'' each place it appears and inserting ''five''.

SEC. 110. CHANGE IN COMPOSITION OF DIVISIONS IN WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting ''Dyer,'' after ''Decatur,''; and

(B) in the last sentence, by inserting ''and Dyersburg'' after ''Jackson''; and

(2) in paragraph (2)—

(A) by striking ''Dyer,''; and

(B) in the last sentence, by striking ''and Dyersburg''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any

grand or petit jury summoned, impaneled, or actually serving in the Western Judicial District of Tennessee on the effective date of this section.

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 201. DISABILITY RETIREMENT AND COST-OF-LIVING ADJUSTMENTS OF ANNUITIES FOR TERRITORIAL JUDGES.

Section 373 of title 28, United States Code, is amended—

(1) by amending subsection (c)(4) to read as follows:

''(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.'';

(2) by amending subsection (e) to read as follows:

''(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed

(as judge of such court) shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if the judge is then beyond the age of sixty-five years—

"(A) if the judicial service of such judge, continuous or otherwise, aggregates fifteen years or more, to receive during the remainder of such judge's life an annuity equal to the salary received when the judge left office; or

"(B) if such judicial service, continuous or otherwise, aggregated less than fifteen years, to receive during the remainder of such judge's life an annuity equal to that proportion of such salary which the aggregate number of such judge's years of service bears to fifteen.

"(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least five years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge's life an annuity equal to 40 percent of the salary received when the judge left office or, in the case of a judge who has served at least ten years, continuously or otherwise, an annuity equal to that proportion of such

salary which the aggregate number of such judge's years of judicial service bears to fifteen.''; and

(3) by amending subsection (g) to read as follows:

''(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.''.

SEC. 202. FEDERAL JUDICIAL CENTER PERSONNEL MATTERS.

Section 625 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking '', United States Code,'';

(B) by striking ''pay rates, section 5316, title 5, United States Code'' and inserting ''under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the

Executive Schedule under section 5315 of title 5''; and

(C) by striking ''the Civil Service'' and all that follows through ''Code'' and inserting ''subchapter III of chapter 83 of title 5 shall be adjusted pursuant to the provisions of section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted pursuant to the provisions of section 8468 of such title'';

(2) in subsection (c), by striking '', United States Code,''; and

(3) in subsection (d)—

(A) by striking ''United States Code,''; and

(B) by striking '', section 5332, title 5, United States Code'' and inserting ''under section 5332 of title 5''.

SEC. 203. ANNUAL LEAVE LIMIT FOR JUDICIAL BRANCH EXECUTIVES.

Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking ''or'';

(2) in subparagraph (E), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(F) the Judicial Branch designated as a court unit executive position by the Judicial Conference of the United States or designated as an executive position in the Federal Judicial Center by the Board of the Federal Judicial Center.''.

SEC. 204. SUPPLEMENTAL BENEFITS PROGRAM.

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (6) through (24) as paragraphs (7) through (25), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) In the Director's discretion, establish a program of benefits, in addition to those otherwise provided by law, for officers and employees of the judicial branch, including justices and judges of the United States;''.

SEC. 205. INCLUSION OF JUDICIAL BRANCH PERSONNEL IN ORGAN DONOR LEAVE PROGRAM.

Section 6327(a) of title 5, United States Code, is amended by inserting ''or an entity of the judicial branch'' after ''An employee in or under an Executive agency''.

SEC. 206. MAXIMUM AMOUNTS OF COMPENSATION FOR SERVICES OTHER THAN COUNSEL.

Subsection (e) of section 3006A of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''$300'' and inserting ''$500''; and

(B) in subparagraph (B), by striking ''$300'' and inserting ''$500''; and

(2) in paragraph (3), by striking ''$1,000'' and inserting ''$1,600''.

SEC. 207. PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following:

''§ 1519. Retaliating against a Federal judge by false claim or slander of title

''(a) Whoever files or attempts to file, in any public record or in any private record which is generally available to the public, any lien, encumbrance, civil claim, or other document against a Federal Judge or against the real or personal property of a Federal Judge, knowing or having reason to know that such claim, lien, encumbrance, or document is false or contains any materially false, fictitious,

or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than five years, or both. In the case of an offense under this subsection which was committed after the defendant had previously been convicted of an earlier offense under this subsection, the defendant shall be fined under this title or imprisoned for not more than ten years, or both.

''(b) As used in this section, the term 'Federal Judge' means a justice or judge of the United States as defined in section 451 of title 28, a judge of the United States Court of Federal Claims, a United States bankruptcy judge, a United States magistrate judge, and a judge of the United States Court of Appeals for the Armed Forces, United States Court of Appeals for Veterans Claims, United States Tax Court, District Court of Guam, District Court of the Northern Mariana Islands, or District Court of the Virgin Islands.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

''1519. Retaliating against a Federal judge by false claim or slander of title.''.

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Chairman SENSENBRENNER. Without objection, the opening statements of all Members will be placed in the record at this point.

[The prepared statement of Mr. Berman follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD L. BERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman,

Thank you for calling this mark-up today.

H.R. 4125 represents the annual package of legislative changes requested by the U.S. courts. As we typically do, Subcommittee Chairman Coble and I introduced this bill at the request of the courts. Except for one provision, the bill is entirely non-controversial. It will clearly contribute to judicial efficiency and will promote the sound management of the judicial branch.

After the adoption of several amendments, which will soon be offered, I intend to fully support passage of the bill by the Committee. And assuming these amendments are adopted, I encourage my colleagues to do the same.

I yield back the balance of my time.

Chairman SENSENBRENNER. There are some Members who wish to leave to go home for primaries. I think those Members would particularly appreciate chatter on these three bills being kept to a minimum.

Are there amendments?

Mr. SCOTT. Mr. Chairman, I have an amendment.

Chairman SENSENBRENNER. The gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I have an amendment at the desk, number one.

[The amendment follows:]

Amendment #1 offered by Mr. Scott
to the Amendment in the Nature of a Substitute to H.R. 4125, the
"Federal Courts Improvement Act of 2002"

On page 11, following the text on line 3, insert:

"Sec. 111. Making Permanent the Temporary Judgeship in the Eastern District of Virginia.

(a) CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP.—The existing district judgeship for the eastern district of Virginia authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 28 U.S.C. 133 note) shall, as of the date of the enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).

(b) TECHNICAL AND CONFORMING AMENDMENT.—
The table contained in section 133(a) of title 28, United States Code, is amended by striking the item relating to Virginia and inserting the following:

'Virginia:
Eastern 11
Western ..... 4'."

In the "Table of Contents" that begins on page 1 following line 5, under "Title 1" and following the description of Sec. 110, add:

"Section 111. Making permanent the temporary judgeship in the Eastern District of Virginia."

Chairman SENSENBRENNER. The clerk will report the Scott amendment.

The CLERK. Amendment offered by Mr. Scott to the amendment in the nature of a substitute to H.R.4125. On page 11 following the text on Line 3, insert Section 111 making permanent the temporary judgeship in the Eastern District of Virginia.

Mr. SCOTT. Mr. Chairman, I move the reading of the amendment be waived.

Chairman SENSENBRENNER. Without objection, it is so ordered. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, the purpose of the amendment is fairly straightforward. It would convert a temporary judgeship in the

Federal district court in the eastern district of Virginia into a permanent judgeship.

I have a long statement, Mr. Chairman, that I would like unanimous consent to introduce in the record outlining the need for this judgeship.

Chairman SENSENBRENNER. Without objection.

[The prepared statement of Mr. Scott follows:]

PREPARED STATEMENT OF THE HONORABLE ROBERT C. SCOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman, the purpose of my amendment is very straightforward. It would convert a temporary judgeship in the federal court in the Eastern District of Virginia into a permanent judgeship.

To give you some history—One of the current federal district court judgeships in the Eastern District of Virginia is a temporary judgeship that will expire with the first vacancy after April 8, 2002. This temporary judgeship was originally created in the 1990 Judgeships Bill and filled in April 1992. It was scheduled to last for 10 years. Presumably, this was so that we could determine whether there is a need, and a [statistical] demand, for the judgeship. If there was a need, we would continue it. If there wasn't a need, then we wouldn't.

Over time, it has been shown that this judgeship is critically needed in the Eastern District of Virginia. According to the most recent statistics [for 2001] by the Administrative Office of the Courts, the weighted filings in the Eastern District of Virginia *per judgeship* (including the temporary judgeship) was 617. This is about 30% higher than the average weighted filings per judgeship throughout the country. The true number would be even higher without the temporary judgeship or if any of the Court's four senior judges decides to discontinue their [voluntary] practice of taking a full percentage of the case assignments. And this number does not factor in the likelihood that many of the terrorism cases will continue to be tried in the Eastern District of Virginia. So it is clear that there is still a need to continue this judgeship.

Mr. Chairman, I know that there is a great demand for new judgeships in many members' districts. And I have no interest in getting involved in the issue of new judgeships. But here we are not talking about a new judgeship. This is a judgeship that already exists, and that will disappear—perhaps without any advance notice—unless we take action.

Given the high case load already in the Eastern District, it is important for the effective administration of justice in Virginia that the temporary judgeship in the Eastern District be converted to a permanent judgeship. Unless we do so, when one of the ten active judges on the Eastern District bench retires, takes senior status, or passes away the judgeship will be lost forever. I ask for your support on this amendment.

Mr. SCOTT. I'll yield back.

Chairman SENSENBRENNER. The chair will recognize itself for 5 minutes. I would oppose any amendments relating to additional courts in this bill at this time. The Senate has put additional courts in the DOJ reauthorization bill. We are having a meeting of the conference of the Senate and the House on Wednesday of next week.

If the Members will forebear on additional judges, I will give the gentleman from Virginia as well as the gentleman from California who looks very antsy, you know, my commitment that we will work with them to get the courts that their States need in the DOJ reauthorization bill.

Mr. SCOTT. Thank you, Mr. Chairman. With that, I ask unanimous consent to withdraw the amendment.

Chairman SENSENBRENNER. The amendment is withdrawn. Are there further amendments?

Mr. COBLE. I have an amendment, Mr. Chairman, en bloc.

Chairman SENSENBRENNER. The gentleman from North Carolina.

[The amendment en bloc follows:]

EN BLOC AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4125 OFFERED BY MR. COBLE

Page 4, insert the following after line 17 and redesignate the succeeding subsection accordingly.

(b) TEXARKANA.—Sections 83(b)(1) and 124(c)(5) (as redesignated by subsection (a) of this section) of title 28, United States Code, are each amended by inserting after ''held at Texarkana'' the following: '', and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas''.

Page 11, insert the following after line 3.

SEC. 111. PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF OHIO.

Section 115(b)(2) of title 28, United States Code, is amended by striking ''and Steubenville'' and inserting '', Steubenville, and St. Clairsville''.

SEC. 112. PLACE OF HOLDING COURT IN THE NORTHERN DISTRICT OF NEW YORK.

Section 112(a) of title 28, United States Code, is amended by striking ''and Watertown'' and inserting ''Watertown, and Plattsburgh''.

Insert the following after section 205 and redesignate the succeeding sections accordingly:

SEC. 206. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.

Paragraph (2) of subsection (d) of section 3006A of title 18, United States Code, is amended—

(1) by striking ''5,200'' and inserting ''7,000'';

(2) by striking ''1,500'' and inserting ''2,000'';

(3) by striking ''3,700'' and inserting ''5,000'';

(4) by striking ''1,200'' each place it appears and inserting ''1,500''; and

(5) by striking ''3,900'' and inserting ''5,000''.

Page 17, insert after ''Tax Court'' the following: ''(including any special trial judge appointed under section 7443A of the Internal Revenue Code of 1986)''.

Add after section 207 the following:

SEC. 208. APPOINTING AUTHORITY FOR CIRCUIT LIBRARIANS.

Section 713 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''Each court of appeals'' and inserting ''The judicial council of each circuit''; and

(B) by striking ''the court'' and inserting ''the judicial council''; and

(2) in subsection (b), by striking ''court'' each place it appears and inserting ''judicial council''.

Amend the table of contents accordingly.

Mr. COBLE. These amendments, Mr. Chairman, make four noncontroversial changes.

Chairman SENSENBRENNER. Without objection, the amendments are considered en bloc.

Mr. COBLE. Do you want me to explain each one, Mr. Chairman?

Chairman SENSENBRENNER. No.

Mr. COBLE. All right. Very well.

Chairman SENSENBRENNER. Does anybody have any questions of the gentleman from North Carolina? No.

The question is on agreeing to the amendments en block of the gentleman from North Carolina, Mr. Coble. Those in favor will say aye.

Opposed, no. The ayes appear to have it. The ayes have it and the amendments en bloc are agreed to.

The gentlemen from California.

Mr. BERMAN. Yes, Mr. Chairman. I have an amendment at the desk. It is with Mr. Goodlatte.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to the amendment in the nature of a substitute to H.R.4125 offered by Mr. Berman and Mr. Goodlatte: Add the following at the end.

Mr. BERMAN. Mr. Chairman, I ask unanimous consent that the amendment be considered as read.

Chairman SENSENBRENNER. Without objection.

[The amendment follows:]

the Amendment in the nature of a substitute to H.L.C.

AMENDMENT TO H.R. 4125

OFFERED BY MR. ~~DELAHUNT~~ BERMAN AND MR. GOODLATTE

Add the following at the end:

TITLE III—ADDITIONAL PROVISIONS

SEC. 301. MONITORING OF COMMUNICATIONS OF OFFICERS AND EMPLOYEES OF JUDICIAL BRANCH.

Section 604 of title 28, United States Code, is amended by adding at the end the following:

"(i)(1) The Judicial Conference should take such steps as it deems necessary and appropriate to safeguard the privacy of officers and employees of the judicial branch by ensuring that—

"(A) the Director does not intercept electronic communications of any such officer or employee (including any electronic communication consisting of an electronic mail message or a transfer of information by means of the World Wide Web or the Internet) between or among computers, or hire or enter into a contract with another entity to monitor or intercept such communications, except pursuant to—

"(i) a law enforcement investigation;

"(ii) prior authorization by the Judicial Conference or its Executive Committee; or

"(iii) a policy adopted by the Judicial Conference setting forth the procedures under which the interception of such communications may be authorized; and

"(B) any information obtained pursuant to interception of communications authorized under subparagraph (A) is used solely for the purposes for which the interception is authorized.

"(2) In this subsection—

"(A) the term 'electronic communication' has the meaning given that term in section 2510 of title 18;

"(B) the terms 'by means of the World Wide Web' and 'Internet' have the meanings given those terms in section 231(e) of the Communications Act of 1934 (47 U.S.C. 231(e)); and

"(C) the term 'computer' has the meaning given that term in section 1030(e) of title 18.".

Mr. BERMAN. Mr. Chairman, would you like me to explain the amendment?

Chairman SENSENBRENNER. No.

Mr. BERMAN. I have a good explanation to put in the record.

Chairman SENSENBRENNER. Without objection, the good explanation will be put in the record together with all bad explanations that other Members want to put in.

[The prepared statement of Mr. Berman follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD L. BERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

TALKING POINTS IN SUPPORT OF JUDICIAL PRIVACY AMENDMENT

I have an amendment at the desk that I am offering in conjunction with Ranking Member Conyers and Representative Goodlatte. Representative Delahunt would have offered this amendment had he been able to attend today.

I believe all my colleagues on both sides of the aisle should be able to support this amendment. It is a well-reasoned compromise and is the product of negotiations convened by Subcommittee Chairman Coble.

The amendment simply states that the Judicial Conference of the U.S. Courts should take certain steps to protect the privacy of judges and judicial employees. Namely, the Judicial Conference should ensure that the Administrative Office of the U.S. Courts—or AO—does not intercept electronic communications of judges and judicial employees without authorization from the Judicial Conference.

The amendment does not require the Judicial Conference to adopt any particular policy regarding interception of electronic communications. Thus, the amendment can in no way be characterized as interfering with the independence of the Judicial Branch.

The amendment does, however, send a powerful message that Congress will closely scrutinize future Administrative Office actions affecting privacy of judges and judicial employees. This focus should serve as a powerful deterrent to any restrictions on privacy that are not authorized by the Judicial Conference as a whole.

Based on past history, we have adequate cause to be concerned that, without this amendment, the AO may unilaterally decide to intercept or otherwise monitor the electronic communications of judges and judicial employees. Twice in the last couple of years, the AO appears to have done so.

In 1998, the AO employed a filtering service to block judicial employee access to websites deemed inappropriate. The AO did so without explicit authorization from the Judicial Conference, and after several judges complained, sought such authorization. While the Committee on Automation and Technology, or CAT, approved the filtering program, the full Judicial Conference rejected it, and the program was suspended.

Late in 2000, the AO activated software to identify and log the transmission, origin, and destination of certain types of files sent between judicial computers and the Internet. The CAT approved this activity, though it is unclear at what point in the process it did so. Apparently having decided that these files were "inappropriate," the AO sent letters to the Chief Judges of relevant circuits recommending disciplinary action for those employees who had used or downloaded the identified files at the identified courthouses.

Based on these two incidents, a number of judges raised concerns within the Judicial Conference, publicly, and in correspondence with me. These judges believe the AO has demonstrated a desire to snoop into the emails, Internet surfing, and other electronic communications of judges and employees despite general Judicial Conference opposition to its activities.

For nearly a year, I have been exploring the concerns about AO monitoring of electronic communications. That exploration has led me to believe we need to pass this amendment. We need to clearly and unequivocally tell the AO that Congress cares about judicial privacy, and believes decision-making on this issue belongs in the hands of the judges themselves.

I urge my colleagues to vote for this amendment, and yield back the balance of my time.

Chairman SENSENBRENNER. Without objection, the amendment is agreed to. Are there further amendments?

If not, the representing quorum is present. The question is on reporting the bill, H.R. 4125 favorably. Those in favor will say aye.

Opposed, no. The ayes appear to have it. The ayes have it. The motion to report favorably is adopted.

Without objection the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute incorporating the amendments adopted here today.

Without objection the Chairman is authorized to move to go to conference pursuant to House rules.

Without objection the staff is directed to make any technical and conforming changes. All Members will be given 2 days as provided by House rules in which to submit additional dissenting, supplemental or minority views.

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