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WASHINGTON, D.C. 20544

May 14, 2004

Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, DC 20510.

Dear Senator Feinstein:

I write in response to your request of April 8, 2004, for cost estimates for the implementation of S. 2278, H.R. 2723, and S. 562 – legislation that proposes dividing the Ninth Circuit into either two or three circuits. Enclosed is a summary table detailing the one-time start-up and recurring costs for each of the three bills. While each bill would impose significant costs, S. 2278 would require the greatest new expenditures due to the need to construct a new courthouse.

The judiciary is not in a position to absorb any of the additional costs associated with this proposed legislation. Chief Judge Schroeder has shared with me her letter of April 19, 2004, to you explaining in some detail how the financial distress caused by inadequate appropriations is affecting the operation of courts in the Ninth Circuit. I assure you that the forced staff furloughs, staff reductions, and cutbacks in court operations and public service she describes are occurring in all federal courts and not only within the Ninth Circuit. As the judge points out, future funding shortfalls, such as the hard freeze in discretionary spending proposed by the Administration for FY 2005, would cripple the federal judiciary for years to come. Therefore, in the event one of these bills is enacted, the judiciary would require the additional appropriated funds estimated in this letter.

The cost estimates were developed by Administrative Office staff with input from the Circuit Executive for the Ninth Circuit and the General Services Administration. The estimates have been approved by Chief Judge Mary Schroeder of the Ninth Circuit. The estimates are based upon assumptions and staffing models agreed upon by the

Administrative Office and the Circuit Executive's Office for the Ninth Circuit and are stated in current costs. Should the underlying assumptions prove not to be exact, the costs would need to be revised accordingly.

It should be noted that a substantial portion of the costs of each of these proposals is related to the creation of new judgeships, based on the numbers and duty station locations specified by each bill. In turn, the associated increases in court support staff levels reflect the proposed new judgeships and were calculated using our budget formulation standards. If the number of new judgeships changes or if court support staff projections were based on the lower funding levels currently imposed throughout the judiciary, the associated costs would need to be adjusted accordingly. I also note that the Judicial Conference of the United States included seven new judgeships for the Ninth Circuit (five permanent and two temporary) in its most recent judgeship recommendations submission to Congress.

If enacted, each of these bills would result in extensive space alterations to current court facilities and the acquisition of additional leased space. We expect that any decrease in current Ninth Circuit court personnel levels would be addressed through earlyouts, buyouts and involuntary separations (RIFs), or relocation payments if staff volunteer to relocate to the new Twelfth or the new Twelfth and Thirteenth Circuits' headquarters offices.

Following is a summary of the analysis of the costs associated with each bill:

• **S. 2278, "Ninth Circuit Judgeship and Reorganization Act of 2004"**

This legislation proposes dividing the Ninth Circuit into three circuits and adding seven new circuit judgeships to what would be the "new" Ninth Circuit. Establishing new Twelfth and Thirteenth Circuits would likely require one-time start-up funding ranging from \$16.7 million to \$18.9 million for space alterations, information technology and telecommunications infrastructure, furniture and furnishings, and law books. In addition, a new courthouse would have to be built in either Phoenix or Las Vegas to house the proposed Twelfth Circuit. The cost of a new courthouse in Las Vegas is estimated to be \$114.7 million. The cost of a new courthouse in Phoenix is estimated to be \$84.4 million. Therefore, the total start-up costs would, depending on the site of the new courthouse, be either \$131.3 million or \$101.1 million.

The judiciary would also require an additional \$21.7 million annually in recurring personnel and operating expenses. This legislation would likely not necessitate the construction of a new courthouse in the proposed Thirteenth Circuit, but would require renovation of an existing courthouse.

- **H.R. 2723, "Ninth Circuit Court of Appeals Judgeship and Reorganization Act of 2003"**

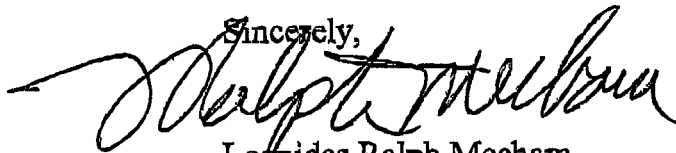
This bill proposes dividing the Ninth Circuit into two circuits and adding seven new circuit judgeships in total for the "new" Ninth Circuit and a new Twelfth Circuit. Establishing a new Twelfth Circuit would require one-time start-up funding ranging from \$11.6 million to \$13.9 million for space alterations, information technology and telecommunications infrastructure, furniture and furnishings, and law books. Also, \$13.8 million annually in recurring personnel and operating expenses would be required. This legislation would likely not necessitate the construction of a new courthouse in the proposed Twelfth Circuit, but would require renovation of existing courthouses.

- **S. 562, "Ninth Circuit Court of Appeals Reorganization Act of 2003"**

This bill proposes dividing the Ninth Circuit into two circuits and adding ten new circuit judgeships in total for the "new" Ninth Circuit and a new Twelfth Circuit. Establishing a new Twelfth Circuit would likely require one-time start-up funding ranging from \$14.1 million to \$16.1 million for space alterations, information technology and telecommunications infrastructure, furniture and furnishings, and law books. Also, \$16.6 million annually in recurring personnel and operating expenses would be required. This legislation would likely not necessitate the construction of a new courthouse in the proposed Twelfth Circuit, but would require renovation of existing courthouses.

If you have any questions or need further information please feel free to contact Michael Blommer, Assistant Director for Legislative Affairs, at 202-502-1700.

Sincerely,



Leonidas Ralph Mecham
Director

Enclosure

cc: Honorable Orrin Hatch, Chair, Senate Judiciary Committee
Honorable Patrick Leahy, Ranking Democrat, Senate Judiciary Committee
Honorable Jeff Sessions, Chair, Subcommittee on Administrative Oversight
and the Courts
Honorable Charles E. Schumer, Ranking Democrat, Subcommittee on
Administrative Oversight and the Courts
Honorable Mary M. Schroeder, Chief Judge, U.S. Court of Appeals for the
Ninth Circuit
Greg Walters, Circuit Executive, U.S. Court of Appeals for the Ninth Circuit

**COST ESTIMATE SUMMARIES FOR NINTH CIRCUIT SPLIT LEGISLATION
(S. 2278, H.R. 2723, S. 562)**

Note: Cost estimates include the creation of new judgeships, based on the numbers and duty station locations specified by each bill, and court support staff levels were calculated using current budget formulation standards.

S. 2278 COST SUMMARY	ANNUAL RECURRING COSTS	START-UP COSTS
Adds Twelfth and Thirteenth Circuits +7 Circuit Judgeships		
Judges and Chambers Staff Compensation	\$ 4,244,083	\$ -
Court Support Staff Compensation	\$ 6,981,789	\$ 3,197,500
Operating Expenses	\$ 1,432,378	\$ 2,305,182
Information Technology and Telecommunications	\$ 253,204	\$ 5,220,885
Space and Facilities ^{1,2}	\$ 8,363,197	\$ 120,442,629
Court Security (Courtroom and Chambers)	\$ 475,258	\$ 173,677
TOTAL ADDITIONAL COSTS	\$ 21,749,908	\$ 131,339,874

¹ H.R. 2278 would necessitate the construction of a new courthouse in either Las Vegas or Phoenix. The start-up costs in this line assumes the new courthouse will be located in Las Vegas at an estimated cost of \$114.7 million. If the courthouse is instead built in Phoenix, the construction costs are estimated at \$84.4 million.

H.R. 2723 COST SUMMARY	ANNUAL RECURRING COSTS	START-UP COSTS
Adds Twelfth Circuit +7 Circuit Judgeships		
Judges and Chambers Staff Compensation	\$ 4,244,083	\$ -
Court Support Staff Compensation	\$ 3,785,467	\$ 1,692,500
Operating Expenses	\$ 1,176,903	\$ 1,641,256
Information Technology and Telecommunications	\$ 127,952	\$ 2,972,274
Space and Facilities ²	\$ 4,032,119	\$ 5,161,129
Court Security (Courtroom and Chambers)	\$ 475,258	\$ 173,677
TOTAL ADDITIONAL COSTS	\$ 13,841,782	\$ 11,640,837

S. 562 COST SUMMARY	ANNUAL RECURRING COSTS	START-UP COSTS
Adds Twelfth Circuit +10 Circuit Judgeships		
Judges and Chambers Staff Compensation	\$ 6,062,976	\$ -
Court Support Staff Compensation	\$ 3,086,902	\$ 2,832,500
Operating Expenses	\$ 1,442,652	\$ 2,079,829
Information Technology and Telecommunications	\$ 127,952	\$ 3,674,028
Space and Facilities ²	\$ 5,154,584	\$ 5,245,000
Court Security (Courtroom and Chambers)	\$ 678,940	\$ 248,110
TOTAL ADDITIONAL COSTS	\$ 16,554,006	\$ 14,079,466

² The General Services Administration has provided two different cost estimates for the necessary renovations of the Nakamura courthouse as required by the bills. The cost estimates for the start-up costs on these lines reflect the lowest estimate.