

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY M. _____

Strike all that follows after the enacting clause and
insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Court Imbalance Re-
3 structure Concerning Updates to Impacted Tribunals Act
4 of 2018” or the “CIRCUIT Act of 2018”.

5 SEC. 2. DIVISIONS OF THE COURT OF APPEALS FOR THE
6 NINTH CIRCUIT.

7 (a) ESTABLISHMENT OF DIVISIONS.—

8 (1) IN GENERAL.—Chapter 3 of title 28, United
9 States Code, is amended by adding at the end the
10 following:

11 “§ 50. Divisions of the Court of Appeals for the Ninth
12 Circuit

13 “(a) IN GENERAL.—The Court of Appeals for the
14 Ninth Circuit is divided into four divisions to be known
15 as the Northern, Middle, Southern, and Circuit Divisions
16 as follows:

17 “(1) NORTHERN DIVISION.—The Northern Di-
18 vision comprises the judicial districts of Alaska,

1 Idaho, Montana, Oregon, Eastern Washington, and
2 Western Washington.

3 “(2) MIDDLE DIVISION.—The Middle Division
4 comprises the judicial districts of Eastern California,
5 Northern California, Guam, Hawaii, Nevada, and
6 the Northern Mariana Islands.

7 “(3) SOUTHERN DIVISION.—The Southern Divi-
8 sion comprises the judicial districts of Arizona, Cen-
9 tral California, and Southern California.

10 “(4) CIRCUIT DIVISION.—The Circuit Division
11 comprises all judicial districts within the Court of
12 Appeals for the Ninth Circuit.

13 “(b) CIRCUITS IN WHICH DECISIONS REVIEW-
14 ABLE.—

15 “(1) IN GENERAL.—Except as provided in sec-
16 tions 1292(c), 1292(d), and 1295, appeals from re-
17 viewable decisions of the district and territorial
18 courts embraced in the Ninth Circuit shall be taken
19 to the division of the court of appeals for the divi-
20 sion embracing the district.

21 “(2) CIRCUIT DIVISION.—The following appeals
22 shall be taken to the Circuit Division:

23 “(A) Appeals of final agency actions.

24 “(B) Appeals from the United States Tax
25 Court.

1 “(C) Appeals from another division of the
2 court in the case that 2 or more divisions have
3 made final decisions on a matter of law that
4 conflict.

5 “(D) Appeals from another division in the
6 case that such division has denied an applica-
7 tion for a rehearing en banc with respect to the
8 matter appealed.

9 “(e) ASSIGNMENT OF JUDGES.—The judges ap-
10 pointed to the Court of Appeals for the Ninth Circuit shall
11 serve among the divisions as follows:

12 “(1) Except for the Circuit Division, eleven
13 judges shall serve on each division.

14 “(2) The Circuit Division shall be composed of
15 the chief judge, and 4 judges randomly selected from
16 each other division. Except with regard to the chief
17 judge, and initial assignments to the Circuit Divi-
18 sion, each judge serving on the Circuit Division shall
19 serve for a non-renewable 3-year term. With regard
20 to initial appointments, of the judges assigned to
21 serve on the Circuit Division, 4 judges shall be as-
22 signed for 1 year, 4 judges shall be assigned for 2
23 years, and 4 judges shall be assigned for 3 years,
24 which assignments shall be made on a random basis.

1 “(3) In the case that a judge serving on the
2 Circuit Division is recused, another judge serving on
3 the division of that judge’s regional division may
4 serve in the place of the judge who is recused.

5 “(4) Section 45 shall apply with respect to—

6 “(A) the designation of the chief judge of
7 the circuit; and

8 “(B) the designation of the presiding judge
9 in each division, as though the division were a
10 court of appeals.

11 “(d) PANELS; HEARINGS; QUORUM.—Section 46
12 shall apply to each division as though the division were
13 a court of appeals. Section 6 of Public Law 95–486 (28
14 U.S.C. 41 note) shall not apply to the divisions established
15 under this section.

16 “(e) CLERKS AND EMPLOYEES.—Section 711 shall
17 apply to each division as though the division were a court
18 of appeals.

19 “(f) PRECEDENT.—Except with respect to a decision
20 of a Circuit Division described in subsection (b)(2)(C), the
21 decision of one division is not binding on other divisions.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
23 tions for chapter 3 of title 28, United States Code,
24 is amended by inserting after the item related to
25 section 49 the following:

“50. Divisions of the Court of Appeals for the Ninth Circuit.”.

1 (b) CONFORMING AMENDMENTS.—Section 1294 of
2 title 28, United States Code, is amended—

3 (1) by inserting after “sections” the following
4 “50”; and

5 (2) by striking paragraph (4).

6 (c) REPORTS.—

7 (1) FEDERAL JUDICIAL CENTER REPORT.—Not
8 later than 8 years after the date of the enactment
9 of this Act, the Federal Judicial Center shall con-
10 duct a study on the effectiveness and the efficiency
11 of the divisions of the Court of Appeals for the
12 Ninth Circuit and submit to the Judicial Conference
13 of the United States a report which includes the re-
14 sults of the study, and information related to the ac-
15 tivities of the divisions.

16 (2) JUDICIAL CONFERENCE OF THE UNITED
17 STATES RECOMMENDATIONS.—Not later than one
18 year after receiving the report under paragraph (1),
19 the Judicial Conference of the United States shall
20 submit to Congress recommendations related to the
21 divisional structure of the Court of Appeals for the
22 Ninth Circuit, including whether such structure
23 should be continued with or without modification.

1 **SEC. 3. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF AP-**
 2 **PEALS.**

3 (a) IN GENERAL.—The President shall appoint, by
 4 and with the advice and consent of the Senate, 5 addi-
 5 tional circuit judges for the ninth circuit court of appeals.

6 (b) TABLES.—In order that the table contained in
 7 section 44 of title 28, United States Code, will, with re-
 8 spect to each judicial circuit, reflect the changes in the
 9 total number of permanent circuit judgeships authorized
 10 as a result of subsection (a) of this section, such table
 11 is amended to read as follows:

“Circuits	Number of Judges
District of Columbia	11
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	16
Seventh	11
Eighth	11
Ninth	34
Tenth	12
Eleventh	12
Federal	12”.

12 **SEC. 4. EFFECTIVE DATE.**

13 This Act, and the amendments made by this Act,
 14 shall take effect on the date that is one year after the
 15 date of the enactment of this Act.

