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(Original Signature of Member)

115TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend title 28, United States Code, to modify the structure of the Court of Appeals for the Ninth Circuit, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. ISSA introduced the following bill; which was referred to the Committee on \_\_\_\_\_  
\_\_\_\_\_

**A BILL**

To amend title 28, United States Code, to modify the structure of the Court of Appeals for the Ninth Circuit, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. DIVISIONS OF THE COURT OF APPEALS FOR THE**  
2 **NINTH CIRCUIT.**

3 (a) ESTABLISHMENT OF DIVISIONS.—

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

7 **“§ 50. Divisions of the Court of Appeals for the Ninth**  
8 **Circuit**

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

13 “(1) NORTHERN DIVISION.—The Northern Di-  
14 vision comprises the judicial districts of Alaska,  
15 Idaho, Montana, Oregon, Eastern Washington, and  
16 Western Washington.

17 “(2) MIDDLE DIVISION.—The Middle Division  
18 comprises the judicial districts of Eastern California,  
19 Northern California, Guam, Hawaii, Nevada, and  
20 the Northern Mariana Islands.

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

24 “(4) CIRCUIT DIVISION.—The Circuit Division  
25 comprises all judicial districts within the Court of  
26 Appeals for the Ninth Circuit.

1       “(b) CIRCUITS IN WHICH DECISIONS REVIEW-  
2 ABLE.—

3           “(1) IN GENERAL.—Except as provided in sec-  
4 tions 1292(c), 1292(d), and 1295, appeals from re-  
5 viewable decisions of the district and territorial  
6 courts embraced in the Ninth Circuit shall be taken  
7 to the division of the court of appeals for the divi-  
8 sion embracing the district.

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

11           “(A) Appeals of final agency actions.

12           “(B) Appeals from the United States Tax  
13 Court.

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

18           “(D) Appeals from another division in the  
19 case that such division has denied an applica-  
20 tion for a rehearing en banc with respect to the  
21 matter appealed.

22       “(c) ASSIGNMENT OF JUDGES.—The judges ap-  
23 pointed to the Court of Appeals for the Ninth Circuit shall  
24 serve among the divisions as follows:

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

3           “(2) The Circuit Division shall be composed of  
4 the chief judge, and 4 judges randomly selected from  
5 each other division. Except with regard to the chief  
6 judge, and initial assignments to the Circuit Divi-  
7 sion, each judge serving on the Circuit Division shall  
8 serve for non-renewable 3-year term. With regard to  
9 initial appointments, of the judges assigned to serve  
10 on the Circuit Division, 4 judges shall be assigned  
11 for 1 year, 4 judges shall be assigned for 2 years,  
12 and 4 judges shall be assigned for 3 years, which as-  
13 signments shall be made on a random basis.

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

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

19           “(A) the designation of the chief judge of  
20 the circuit; and

21           “(B) the designation of the presiding judge  
22 in each division, as though the division were a  
23 court of appeals.

24           “(d) PANELS; HEARINGS; QUORUM.—Section 46  
25 shall apply to each division as though the division were

1 a court of appeals. Section 6 of Public Law 95–486 (28  
2 U.S.C. 41 note) shall not apply to the divisions established  
3 under this section.

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

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

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

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

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

16 (1) by inserting after “sections” the following  
17 “50”; and

18 (2) by striking paragraph (4).

19 (c) REPORTS.—

20 (1) FEDERAL JUDICIAL CENTER REPORT.—Not  
21 later than 8 years after the date of the enactment  
22 of this Act, the Federal Judicial Center shall con-  
23 duct a study on the effectiveness and the efficiency  
24 of the divisions of the Court of Appeals for the  
25 Ninth Circuit and submit to the Judicial Conference

1 of the United States a report which includes the re-  
 2 sults of the study, and information related to the ac-  
 3 tivities of the divisions.

4 (2) JUDICIAL CONFERENCE OF THE UNITED  
 5 STATES RECOMMENDATIONS.—Not later than one  
 6 year after receiving the report under paragraph (1),  
 7 the Judicial Conference of the United States shall  
 8 submit to Congress recommendations related to the  
 9 divisional structure of the Court of Appeals for the  
 10 Ninth Circuit, including whether such structure  
 11 should be continued with or without modification.

12 **SEC. 3. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF AP-**  
 13 **PEALS.**

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

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

<b>“Circuits</b>	<b>Number of Judges</b>
District of Columbia .....	11
First .....	6
Second .....	13
Third .....	14

<b>“Circuits</b>	<b>Number of Judges</b>
Fourth .....	15
Fifth .....	17
Sixth .....	16
Seventh .....	11
Eighth .....	11
Ninth .....	34
Tenth .....	12
Eleventh .....	12
Federal .....	12”.