H. R. 4093

To provide for the appointment of additional Federal circuit and district judges, to improve the administration of justice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2005

Mr. SENSENBERGNER (for himself and Mr. SMITH) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the appointment of additional Federal circuit and district judges, to improve the administration of justice, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Judgeship and Administrative Efficiency Act of 2005”.

SECTION 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CIRCUIT AND DISTRICT JUDGESHIPS

Sec. 101. Short title.
TITLE I—CIRCUIT AND DISTRICT JUDGESHIPS

SEC. 101. SHORT TITLE.

This title may be cited as the “Federal Judgeship Act of 2005”.

SEC. 102. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF APPEALS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—
(1) 1 additional circuit judge for the first circuit court of appeals;

(2) 2 additional circuit judges for the second circuit court of appeals; and

(3) 1 additional circuit judge for the sixth circuit court of appeals.

(b) Temporary Judgeships.—

(1) In general.—The President shall appoint, by and with the advice and consent of the Senate 1 additional circuit judge for the eighth circuit court of appeals.

(2) Vacancy not filled.—The first vacancy in the office of circuit judge in the eighth circuit court of appeals occurring 10 years or more after the confirmation date of the judge named to fill the circuit judgeship created in that circuit by paragraph (1) shall not be filled.

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

<table>
<thead>
<tr>
<th>&quot;Circuits&quot;</th>
<th>Number of Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>District of Columbia</td>
<td>12</td>
</tr>
<tr>
<td>First</td>
<td>7</td>
</tr>
<tr>
<td>Second</td>
<td>15</td>
</tr>
</tbody>
</table>

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SEC. 103. DISTRICT JUDGES FOR THE DISTRICT COURTS.

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

(1) 1 additional district judge for the northern
district of Alabama;

(2) 4 additional district judges for the district
of Arizona;

(3) 3 additional district judges for the northern
district of California;

(4) 4 additional district judges for the eastern
district of California;

(5) 4 additional district judges for the central
district of California;

(6) 1 additional district judge for the southern
district of California;

(7) 1 additional district judge for the district of
Colorado;

(8) 4 additional district judges for the middle
district of Florida;
(9) 3 additional district judges for the southern district of Florida;

(10) 1 additional district judge for the district of Idaho;

(11) 1 additional district judge for the northern district of Illinois;

(12) 1 additional district judge for the southern district of Indiana;

(13) 1 additional district judge for the western district of Missouri;

(14) 1 additional district judge for the district of Nebraska;

(15) 1 additional district judge for the district of Nevada;

(16) 1 additional district judge for the district of New Mexico;

(17) 3 additional district judges for the eastern district of New York;

(18) 1 additional district judge for the western district of New York;

(19) 1 additional district judge for the district of Oregon;

(20) 1 additional district judge for the district of South Carolina;
(21) 3 additional district judges for the southern district of Texas;

(22) 2 additional district judges for the eastern district of Virginia; and

(23) 1 additional district judge for the western district of Washington.

(b) TEMPORARY JUDGESHIPS.—

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

(A) 1 additional district judge for the middle district of Alabama;

(B) 1 additional district judge for the district of Arizona;

(C) 1 additional district judge for the northern district of California;

(D) 1 additional district judge for the district of Colorado;

(E) 1 additional district judge for the middle district of Florida;

(F) 1 additional district judge for the northern district of Iowa;

(G) 1 additional district judge for the district of Minnesota;

(H) 1 additional district judge for the district of New Jersey;
(I) 1 additional district judge for the district of New Mexico;

(J) 1 additional district judge for the southern district of Ohio;

(K) 1 additional district judge for the district of Oregon; and

(L) 1 additional district judge for the district of Utah.

(2) Vacancies Not Filled.—The first vacancy in the office of district judge in each of the judicial districts named in paragraph (1) occurring 10 years or more after the confirmation date of the judge named to fill the district judgeship created in that district by paragraph (1) shall not be filled.

(c) Existing Judgeships.—

(1) Permanent Judgeships.—The existing judgeships for the district of Hawaii, the district of Kansas, and the eastern district of Missouri authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 28 U.S.C. 133 note) shall, as of the effective date of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.
(2) Extension of temporary judgeship.—

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 28 U.S.C. 133 note) is amended in the fifth sentence (relating to the northern district of Ohio) by striking “15 years” and inserting “20 years”.

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

<table>
<thead>
<tr>
<th>Districts</th>
<th>Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama:</td>
<td></td>
</tr>
<tr>
<td>Northern</td>
<td>8</td>
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<tr>
<td>Middle</td>
<td>3</td>
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<tr>
<td>Southern</td>
<td>3</td>
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<tr>
<td>Alaska</td>
<td>3</td>
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<tr>
<td>Arizona</td>
<td>16</td>
</tr>
<tr>
<td>Arkansas:</td>
<td></td>
</tr>
<tr>
<td>Eastern</td>
<td>5</td>
</tr>
<tr>
<td>Western</td>
<td>3</td>
</tr>
<tr>
<td>California:</td>
<td></td>
</tr>
<tr>
<td>Northern</td>
<td>17</td>
</tr>
<tr>
<td>Eastern</td>
<td>10</td>
</tr>
<tr>
<td>Central</td>
<td>31</td>
</tr>
<tr>
<td>Southern</td>
<td>14</td>
</tr>
<tr>
<td>Colorado</td>
<td>8</td>
</tr>
<tr>
<td>Connecticut</td>
<td>8</td>
</tr>
<tr>
<td>Delaware</td>
<td>4</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>15</td>
</tr>
<tr>
<td>Florida:</td>
<td></td>
</tr>
<tr>
<td>Northern</td>
<td>4</td>
</tr>
<tr>
<td>Middle</td>
<td>19</td>
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<tr>
<td>Southern</td>
<td>20</td>
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<tr>
<td>Georgia:</td>
<td></td>
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<tr>
<td>Northern</td>
<td>11</td>
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<tr>
<td>Middle</td>
<td>4</td>
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<tr>
<td>Southern</td>
<td>3</td>
</tr>
<tr>
<td>Hawaii</td>
<td>4</td>
</tr>
<tr>
<td>Idaho</td>
<td>3</td>
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<tr>
<td>State</td>
<td>Region</td>
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<tr>
<td>Illinois</td>
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<td>Indiana</td>
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<td>Iowa</td>
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<td>Kansas</td>
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<td>Kentucky</td>
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<td>Eastern</td>
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<td>Louisiana</td>
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<td>Maine</td>
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<td>New York</td>
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<td>North Carolina</td>
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<td>North Dakota</td>
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<td>Ohio</td>
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<td>Oklahoma</td>
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<tr>
<td>Northern</td>
<td></td>
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<tr>
<td>Eastern</td>
<td></td>
</tr>
</tbody>
</table>
SEC. 104. ESTABLISHMENT OF ARTICLE III COURT IN THE VIRGIN ISLANDS.

(a) Establishment of Judicial District.—

(1) Virgin Islands.—Chapter 5 of title 28, United States Code, is amended by inserting after section 126 the following new section:

"§ 126A. Virgin Islands

"The Virgin Islands constitutes 1 judicial district comprising 2 divisions."
“(1) The Saint Croix Division comprises the Island of Saint Croix and adjacent islands and cays.

“Court for the Saint Croix Division shall be held at Christiansted.

“(2) The Saint Thomas and Saint John Division comprises the Islands of Saint Thomas and Saint John and adjacent islands and cays.

“Court for the Saint Thomas and Saint John Division shall be held at Charlotte-Amalie.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for chapter 5 of title 28, United States Code, is amended by inserting after the item relating to section 126 the following:

“126A. Virgin Islands.”.

(b) NUMBER OF JUDGES.—The table contained in section 133(a) of title 28, United States Code, is amended by inserting after the item relating to Vermont the following:

“Virgin Islands ................................................................. 2”.

(c) BANKRUPTCY JUDGES.—The table contained in section 152(a)(2) of title 28, United States Code, is amended by inserting after the item relating to Vermont the following:

“Virgin Islands ................................................................. 0”.

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(d) Judicial Conferences of Circuits.—Section 333 of title 28, United States Code, is amended in the third sentence of the first undesignated paragraph—

(1) by striking ‘‘, the District Court of the Virgin Islands,’’; and

(2) by striking ‘‘to the conferences of their respective circuits’’ and inserting ‘‘to the conference of the ninth circuit’’.

(e) Judges in Territories and Possessions.—Section 373 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ‘‘, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands’’ and inserting ‘‘or the District Court of the Northern Mariana Islands’’; and

(2) in subsection (e), by striking ‘‘, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands’’ and inserting ‘‘or the District Court of the Northern Mariana Islands’’.

(f) Annuities for Survivors of Certain Judicial Officials of the United States.—Section 376(a) of title 28, United States Code, is amended—

(1) in paragraph (1)(B), by striking ‘‘, the District Court of the Northern Mariana Islands, or the
District Court of the Virgin Islands” and inserting “or the District Court of the Northern Mariana Islands”; and

(2) in paragraph (2)(B), by striking “, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands” and inserting “or the District Court of the Northern Mariana Islands”.

(g) Authority of Attorney General.—Section 526(a)(2) of title 28, United States Code, is amended by striking “and of the district court of the Virgin Islands”.

(h) Courts Defined.—Section 610 of title 28, United States Code, is amended—

(1) by striking “the United States District Court for the District of the Canal Zone,”; and

(2) by striking “the District Court of the Virgin Islands,”.

(i) United States Magistrate Judges.—Section 631(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking “the Virgin Islands, Guam,” and inserting “Guam”; and

(2) in the second sentence, by striking “the Virgin Islands, Guam,” and inserting “Guam”.

(j) Court Reporters.—Section 753(a) of title 28, United States Code, is amended by striking “, the United
States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands” and inserting “and the District Court of Guam”.

(k) **Final Decisions of District Courts.**—Section 1291 of title 28, United States Code, is amended by striking “, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands,” and inserting “and the District Court of Guam,”.

(l) **Interlocutory Decisions.**—Section 1292 of title 28, United States Code, is amended—

1. in subsection (a), by striking “, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands,” and inserting “and the District Court of Guam,”; and

2. in subsection (d)(4)(A), by striking “the District Court of the Virgin Islands,”.

(m) **Jurisdiction of the United States Court of Appeals for the Federal Circuit.**—Section 1295(a) of title 28, United States Code, is amended in paragraphs (1) and (2)—

1. by striking “the United States District Court for the District of the Canal Zone,”; and
(2) by striking “the District Court of the Virgin Islands,”.

(n) **United States as Defendant.**—Section 1346(b)(1) of title 28, United States Code, is amended by striking “together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands.”

(o) **Adequate Representation of Defendants.**—Section 3006A(j) of title 18, United States Code, is amended by striking “the District Court of the Virgin Islands.”

(p) **Savings Provisions.**—

(1) **Tenure of Incumbent Judges.**—A judge of the District Court of the Virgin Islands in office on the effective date of this section shall continue in office until the expiration of the term for which the judge was appointed, or until the judge dies, resigns, or is removed from office, whichever occurs first.

When a vacancy occurs on the court on or after the effective date of this section, the President, in accordance with section 133(a) of title 28, United States Code, shall appoint, by and with the advice and consent of the Senate, a district judge for the District of the Virgin Islands.
(2) Retirement rights and benefits.—The amendments made by this section shall not affect the rights under sections 373 and 376 of title 28, United States Code, of any judge of the District Court of the Virgin Islands who retires on or before the effective date of this section or who continues in office after that date under paragraph (1) of this subsection. Service as a judge of the District Court of the Virgin Islands appointed under section 24 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614) shall be included in calculating service under sections 371 and 372 of title 28, United States Code, and shall not be counted for purposes of section 373 of that title, if the judge is reappointed, after the effective date of this section, under section 133(a) of title 28, United States Code, as district judge for the District of the Virgin Islands.

(q) Amendments to Revised Organic Act of the Virgin Islands.—

(1) Repeals.—Sections 24, 25, 26, and 27 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614, 1615, 1616 and 1617) are repealed.

(2) Rights and prohibitions.—Section 3 of the Revised Organic Act of the Virgin Islands (48
U.S.C. 1561) is amended in the 23d undesignated paragraph—

(A) by inserting “article III;” after “section 9, clauses 2 and 3;” and

(B) by striking “That all offenses against the laws of the United States” and all that follows through “section 22(b) of this Act or” and inserting “That all offenses against the laws of the Virgin Islands which are prosecuted”.

(3) JURISDICTION.—Section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611) is amended to read as follows:

“SEC. 21. JURISDICTION OF THE COURTS OF THE VIRGIN ISLANDS.

“(a) JURISDICTION OF THE COURTS OF THE VIRGIN ISLANDS.—The judicial power of the Virgin Islands shall be vested in such trial and appellate courts as may have been or may hereafter be established by local law. The local courts of the Virgin Islands shall have jurisdiction over all causes of action in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction.

“(b) PRACTICE AND PROCEDURE.—The rules governing the practice and procedure of the courts established by local law and those prescribing the qualifications and
duties of the judges and officers thereof, oaths and bonds, and the times and places of holding court shall be governed by local law or the rules promulgated by those courts.”

(4) INCOME TAX MATTERS.—Section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1612) is amended to read as follows:

“SEC. 22. JURISDICTION OVER INCOME TAX MATTERS.

“The United States District Court for the District of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands. Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of the Internal Revenue Code of 1986 shall constitute an offense against the Government of the Virgin Islands and may be prosecuted in the name of the Government of the Virgin Islands by the appropriate officers thereof in the United States District Court for the District of the Virgin Islands without the request or consent of the United States attorney for the Virgin Islands.”.
(5) APPELLATE JURISDICTION.—Section 23A of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1613a) is amended—

(A) by striking “District Court of the Virgin Islands” each place it appears and inserting “United States District Court for the District of the Virgin Islands”; and

(B) in subsection (b), by striking “pursuant to section 24(a) of this Act: Provided, That no more than one of them may be a judge of a court established by local law.” and inserting “pursuant to chapter 13 of title 28, United States Code, or a recalled senior judge of the former District Court of the Virgin Islands. The chief judge of the United States Court of Appeals for the Third Circuit may assign to the appellate division a judge of a court of record of the Virgin Islands, except that no more than 1 of the judges sitting in the appellate division at any session may be a judge of a court established by local law.”.

(r) ADDITIONAL REFERENCES.—Any reference in any provision of law to the “District Court of the Virgin Islands” shall, on and after the effective date of this sec-
tion, be deemed to be a reference to the United States District Court for the District of the Virgin Islands.

(s) **Effective Date.**—This section and the amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act. Any complaint or proceeding pending in the District Court of the Virgin Islands on the effective date of this section may be pursued to final determination in the United States District Court for the District of the Virgin Islands, the United States Court of Appeals for the Third Circuit, the United States Court of Appeals for the Federal Circuit, and the Supreme Court of the United States.

**SEC. 105. EFFECTIVE DATE.**

Except as provided in section 104(s), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

**TITLE II—BANKRUPTCY JUDGESHIPS**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Enhanced Bankruptcy Judgeship Act of 2005”.

*HR 4093 IH*
SEC. 202. AUTHORIZATION FOR ADDITIONAL BANKRUPTCY

JUDGESHIPS.

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

(1) 1 additional bankruptcy judgeship for the eastern and western districts of Arkansas.
(2) 1 additional bankruptcy judgeship for the eastern district of California.
(3) 2 additional bankruptcy judgeships for the middle district of Florida.
(4) 2 additional bankruptcy judgeships for the northern district of Georgia.
(5) 1 additional bankruptcy judgeship for the southern district of Georgia.
(6) 1 additional bankruptcy judgeship for the eastern district of Kentucky.
(7) 1 additional bankruptcy judgeship for the district of Maryland.
(8) 3 additional bankruptcy judgeships for the eastern district of Michigan.
(9) 1 additional bankruptcy judgeship for the southern district of New York.
(10) 1 additional bankruptcy judgeship for the western district of Pennsylvania.
(11) 1 additional bankruptcy judgeship for the western district of Tennessee.

(12) 1 additional bankruptcy judgeship for the eastern district of Texas.

(13) 1 additional bankruptcy judgeship for the district of Utah.

SEC. 203. TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) AUTHORIZATION FOR ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.—The following judgeships shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) 1 additional bankruptcy judgeship for the northern district of Florida.

(2) 2 additional bankruptcy judgeships for the middle district of Florida.

(3) 1 additional bankruptcy judgeship for the northern district of Indiana.

(4) 1 additional bankruptcy judgeship for the northern district of Mississippi.

(5) 1 additional bankruptcy judgeship for the district of Nevada.

(6) 1 additional bankruptcy judgeship for the western district of North Carolina.
(7) 1 additional bankruptcy judgeship for the southern district of Ohio.

(b) Vacancies.—

(1) Districts with single appointments.—

Except as provided in paragraph (2), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a)—

(A) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under subsection (a) to such office, and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(2) Middle district of Florida.—The 1st and 2d vacancies in the office of bankruptcy judge in the middle district of Florida—

(A) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under subsection (a)(2), and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.
(c) Eligibility for Subsequent Appointments.—A judge holding office in any of the districts enumerated in subsection (a) shall, at the expiration of the term of the judge (other than by reason of paragraph (1)(B) or (2)(B) of subsection (b)) be eligible for reappointment as a bankruptcy judge in that district.

SEC. 204. CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) Judgeships Authorized by Public Law 102–361.—The following temporary bankruptcy judgeships authorized by the following paragraphs of section 3(a) of Public Law 102–361, as amended by section 307 of Public Law 104–317 (28 U.S.C. 152 note), are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code:

(1) The temporary bankruptcy judgeship for the district of Delaware authorized by paragraph (3).

(2) The temporary bankruptcy judgeship for the southern district of Illinois authorized by paragraph (4).

(3) The temporary bankruptcy judgeship for the district of Puerto Rico authorized by paragraph (7).
(b) **Judgeships Authorized by Public Law 109–8.**—The following temporary bankruptcy judgeships authorized by the following subparagraphs of section 1223(b)(1) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109–8), are converted to permanent bankruptcy judgeships under section 152(a)(2) of title 28, United States Code:

1. The 4 temporary bankruptcy judgeships for the district of Delaware authorized by subparagraph (C).
2. The temporary bankruptcy judgeship for the southern district of Georgia authorized by subparagraph (E).
3. One of the 3 temporary bankruptcy judgeships for the district of Maryland authorized by subparagraph (F).
4. The temporary bankruptcy judgeship for the eastern district of Michigan authorized by subparagraph (G).
5. The temporary bankruptcy judgeship for the district of New Jersey authorized by subparagraph (I).
6. The temporary bankruptcy judgeship for the northern district of New York authorized by subparagraph (K).
(7) The temporary bankruptcy judgeship for the southern district of New York authorized by subparagraph (L).

(8) The temporary bankruptcy judgeship for the eastern district of North Carolina authorized by subparagraph (M).

(9) The temporary bankruptcy judgeship for the eastern district of Pennsylvania authorized by subparagraph (N).

(10) The temporary bankruptcy judgeship for the district of South Carolina authorized by subparagraph (S).

(11) The temporary bankruptcy judgeship for the western district of Tennessee authorized by subparagraph (Q).

SEC. 205. GENERAL PROVISIONS.

(a) Amendment to Table of Judgeships.—In order that the table contained in section 152(a)(2) of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of bankruptcy judgeships authorized under sections 202 and 204, such table is amended to read as follows:

<table>
<thead>
<tr>
<th>Districts</th>
<th>Judges</th>
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<tbody>
<tr>
<td>&quot;Alabama:&quot;</td>
<td></td>
</tr>
<tr>
<td>&quot;Northern:&quot;</td>
<td>5</td>
</tr>
<tr>
<td>&quot;Middle:&quot;</td>
<td>2</td>
</tr>
<tr>
<td>&quot;Southern:&quot;</td>
<td>2</td>
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<tr>
<td>&quot;Alaska:&quot;</td>
<td>2</td>
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<td>Arkansas</td>
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(b) Sense of Congress.—It is the sense of the Congress that bankruptcy judges in the eastern district of California should conduct bankruptcy proceedings on a daily basis in Bakersfield, California.

SEC. 206. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III—NINTH CIRCUIT REORGANIZATION

SEC. 301. SHORT TITLE.

This title may be cited as the “Circuit Court of Appeals Restructuring and Modernization Act of 2005”.

SEC. 302. DEFINITIONS.

In this title:

(1) Former ninth circuit.—The term “former ninth circuit” means the ninth judicial circuit of the United States as in existence on the day before the effective date of this title.

(2) New ninth circuit.—The term “new ninth circuit” means the ninth judicial circuit of the United States established by the amendment made by section 303(2)(A).

(3) Twelfth circuit.—The term “twelfth circuit” means the twelfth judicial circuit of the United States.
States established by the amendment made by section 303(2)(B).

SEC. 303. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking “thirteen” and inserting “fourteen”; and

(2) in the table—

(A) by striking the item relating to the

ninth circuit and inserting the following:

“Ninth ........................................... California, Guam, Hawai’i, Northern
Mariana Islands.”;

and

(B) by inserting after the item relating to

the eleventh circuit the following:

“Twelfth ........................................ Alaska, Arizona, Idaho, Montana, Ne-
Vada, Oregon, Washington.”.

SEC. 304. JUDGESHIPS.

(a) NEW JUDGESHIPS.—The President shall appoint,

by and with the advice and consent of the Senate, 5 addi-
tional circuit judges for the new ninth circuit court of ap-
peals, whose official duty station shall be in California.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENT OF JUDGES.—The President

shall appoint, by and with the advice and consent of

the Senate, 2 additional circuit judges for the former
ninth circuit court of appeals, whose official duty stations shall be in California.

(2) Effect of vacancies.—The first 2 vacancies occurring on the new ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

(c) Effective date.—This section shall take effect on the date of the enactment of this Act.

SEC. 305. Number of Circuit Judges.

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth ................................................................. 20";

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth ................................................................. 14”.

SEC. 306. Places of Circuit Court.

The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth .............................. Honolulu, Pasadena, San Francisco.”;
and

(2) by inserting after the item relating to the eleventh circuit the following:

“Twelfth ........................................ Las Vegas, Missoula, Phoenix, Portland, Seattle.”.

SEC. 307. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this title—

(1) is in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

(2) is in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington shall be a circuit judge of the twelfth circuit as of such effective date.

SEC. 308. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this title may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 309. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 307, or

(2) who elects to be assigned under section 308,
shall run from the date of commission of such judge as
a judge of the former ninth circuit.

SEC. 310. APPLICATION TO CASES.

The following apply to any case in which, on the day
before the effective date of this title, an appeal or other
proceeding has been filed with the former ninth circuit:

(1) Except as provided in paragraph (3), if the
matter has been submitted for decision, further pro-
ceedings with respect to the matter shall be had in
the same manner and with the same effect as if this
title had not been enacted.

(2) If the matter has not been submitted for de-
cision, the appeal or proceeding, together with the
original papers, printed records, and record entries
duly certified, shall, by appropriate orders, be trans-
ferred to the court to which the matter would have
been submitted had this title been in full force and
effect at the time such appeal was taken or other
proceeding commenced, and further proceedings with
respect to the case shall be had in the same manner
and with the same effect as if the appeal or other
proceeding had been filed in such court.

(3) If a petition for rehearing en banc is pend-
ing on or after the effective date of this title, the pe-
tition shall be considered by the court of appeals to
which it would have been submitted had this title
been in full force and effect at the time that the ap-
peal or other proceeding was filed with the court of
appeals.

SEC. 311. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES
AMONG CIRCUITS.

Section 291 of title 28, United States Code, is
amended by adding at the end the following:

“(c) The chief judge of the Ninth Circuit may, in the
public interest and upon request by the chief judge of the
Twelfth Circuit, designate and assign temporarily any cir-
cuit judge of the Ninth Circuit to act as circuit judge in
the Twelfth Circuit.

“(d) The chief judge of the Twelfth Circuit may, in
the public interest and upon request by the chief judge
of the Ninth Circuit, designate and assign temporarily any
circuit judge of the Twelfth Circuit to act as circuit judge
in the Ninth Circuit.”.

SEC. 312. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES
AMONG CIRCUITS.

Section 292 of title 28, United States Code, is
amended by adding at the end the following:

“(f) The chief judge of the United States Court of
Appeals for the Ninth Circuit may in the public interest—
“(1) upon request by the chief judge of the Twelfth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit, or a division thereof, whenever the business of that court so requires; and

“(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit.

“(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

“(1) upon request by the chief judge of the Ninth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit, or a division thereof, whenever the business of that court so requires; and

“(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit.

“(h) Any designations or assignments under subsection (f) or (g) shall be in conformity with the rules or orders of the court of appeals of, or the district within,
as applicable, the circuit to which the judge is designated
or assigned.”.

SEC. 313. ADMINISTRATION.

The court of appeals for the ninth circuit as con-
stituted on the day before the effective date of this title
may take such administrative action as may be required
to carry out this title and the amendments made by this
title. Such court shall cease to exist for administrative pur-
poses 2 years after the date of enactment of this Act.

SEC. 314. EFFECTIVE DATE.

Except as provided in section 304(c), this title and
the amendments made by this title shall take effect 12
months after the date of enactment of this Act.

TITLE IV—AUTHORIZATION OF
APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of
fiscal years 2006 through 2009 such sums as are nec-
essary to carry out this Act, including such sums as may
be necessary to provide appropriate space and facilities for
the judicial positions created by this Act. Funds appro-
priated pursuant to this section in any fiscal year shall
remain available until expended.