116TH CONGRESS
1ST SESSION

# S. 723

To establish a Commission on Structural Alternatives for the Federal Courts
of Appeals.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2019

Mr. SULLIVAN (for himself, Ms. MURKOWSKI, and Mr. DAINES) introduced
the following bill; which was read twice and referred to the Committee
on the Judiciary

# A BILL

To establish a Commission on Structural Alternatives for
the Federal Courts of Appeals.

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 ''Federal Courts of Ap-

5    peals Modernization Act''.

6    **SEC. 2. ESTABLISHMENT.**

7        There is established a Commission on Structural Al-

8    ternatives for the Federal Courts of Appeals (in this Act

9    referred to as the ''Commission'').

1 **SEC. 3. MEMBERSHIP.**

2 (a) COMPOSITION.—The Commission shall be com-

3 posed of 5 members who shall be appointed by the Chief

4 Justice of the United States.

5 (b) APPOINTMENT.—The members of the Commis-

6 sion shall be appointed not later than 30 days after the

7 date of enactment of this Act.

8 (c) VACANCY.—Any vacancy in the Commission shall

9 be filled in the same manner as the original appointment.

10 (d) CHAIR.—The Commission shall elect a chair and

11 vice chair from among its members.

12 (e) QUORUM.—Three members of the Commission

13 shall constitute a quorum.

14 **SEC. 4. DUTIES.**

15 The Commission shall—

16 (1) study the present division of the United

17 States courts of appeals, with particular references

18 to the United States Court of Appeals for the Ninth

19 Circuit; and

20 (2) submit to the President and Congress a re-

21 port on the recommendations of the Commission

22 with respect to changes in circuit boundaries or

23 structure as may be appropriate for the expeditious

24 and effective disposition of the caseload of the

25 United States courts of appeals, consistent with fun-

26 damental concepts of fairness and due process.

**SEC. 5. COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to $300 for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates not greater than those described in section 456 of title 28, United States Code.

**SEC. 6. STAFF.**

(a) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall be compensated at a rate not greater than the daily equivalent of the annual rate of basic pay prescribed for a position at GS–15 of the General Schedule for each day (including travel time) during which the Executive Director is engaged in the performance of the duties of the Commission.

(b) STAFF.—The Executive Director, with the approval of the Commission, may appoint and fix the compensation of such additional personnel as the Executive Director determines necessary, without regard to the pro-

1 visions of title 5, United States Code, governing appoint-

2 ments in the competitive service, and without regard to

3 the provisions of chapter 51 and subchapter III of chapter

4 53 of such title relating to classification and General

5 Schedule pay rates, except that a rate of pay fixed under

6 this subsection may not exceed the annual maximum rate

7 of basic pay for a position above GS–15 of the General

8 Schedule under section 5108 of title 5, United States

9 Code.

10 (c) EXPERTS AND CONSULTANTS.—The Executive

11 Director may procure by contract the temporary or inter-

12 mittent services of experts or consultants in accordance

13 with section 3109 of title 5, United States Code, at rates

14 for individuals that are not greater than the daily equiva-

15 lent of the annual rate of basic pay for a comparable posi-

16 tion paid under the General Schedule.

17 (d) SERVICES.—The Administrative Office of the

18 United States Courts shall provide administrative services,

19 including financial and budgeting services, to the Commis-

20 sion on a reimbursable basis. The Federal Judicial Center

21 shall provide necessary research services to the Commis-

22 sion on a reimbursable basis.

23 **SEC. 7. INFORMATION.**

24 The Commission may request from any department,

25 agency, or independent instrumentality of the United

1 States any information and assistance the Commission de-
2 termines necessary to carry out its functions under this
3 Act. Each such department, agency, and independent in-
4 strumentality may provide such information and assist-
5 ance to the extent permitted by law when requested by
6 the chair of the Commission.

7 **SEC. 8. STUDY AND REPORT.**

8     (a) STUDY.—Not later than 300 days after the first
9 date on which a quorum of the Commission is present,
10 the Commission shall conclude a study on the issues de-
11 scribed in section 4(1).

12     (b) REPORT.—Not later than 60 days after the date
13 by which the Commission is required to conclude the study
14 under subsection (a), the Commission shall submit to the
15 President and Congress the report required under section
16 4(2).

17 **SEC. 9. TERMINATION.**

18     The Commission shall terminate 90 days after the
19 date on which the Commission submits the report de-
20 scribed in section 8(b).

21 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

22     There are authorized to be appropriated such sums
23 as are necessary, not to exceed $1,000,000, to carry out
24 this Act, to remain available until expended.

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