



9th Circuit Democratic Senators Battle Circuit Court Break-Up Plan December 9, 2005

Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) and eight Democratic senators representing the states of the 9th Circuit today urged the removal of a provision splitting the 9th Circuit from the final conference report for the FY'06 Budget Reconciliation bill.

Joining Senator Feinstein on a letter to Senator Judd Gregg (R-N.H.) chair of the Budget Committee, opposing the break-up plan, were Senator Daniel Akaka (D-Hawaii), Max Baucus (D-Mo.), Barbara Boxer (D-Calif.), Maria Cantwell (D-Wash.), Daniel Inouye (D-Hawaii), Patty Murray (D-Wash.), Harry Reid (D-Nev.), and Ron Wyden (D-Ore.).

“Including a provision to split the 9th Circuit Court of Appeals – the largest Circuit in the nation – on a spending bill is hugely inappropriate,” Senator Feinstein said. **“The Senate Judiciary Committee has under consideration a number of proposals regarding the functioning of the Circuit, and the Committee should be allowed to fulfill this critical oversight responsibility.”**

“Inclusion of legislation splitting the 9th Circuit in a budget reconciliation bill, furthermore, would violate the ‘Byrd Rule.’ If the 9th Circuit split legislation becomes part of the budget reconciliation conference report, my colleagues and I will be left with no choice but to raise a point of order to strike the provision.”

The version of the budget reconciliation bill passed by the House in November included legislation to split the 9th Circuit Court of Appeals. The legislation would divide the existing circuit into a “new” 9th Circuit of California, Hawaii, Guam, and the Northern Mariana Islands, and a 12th Circuit including Washington, Oregon, Alaska, Montana, Idaho, Nevada, and Arizona.

This split would dramatically increase the caseload for the new 9th Circuit. The new 9th Circuit would keep 72% of the caseload of the current 9th Circuit, but only 60% of the judges. The new 9th Circuit would have an average of 536 cases per judge, while the 12th Circuit would have only 317 cases per judge.

The Administrative Office of the Courts has estimated that such a split could cost as much as \$96 million in start up costs for the 12th circuit and \$16 million in annual operating expenses. Only 3 of the 24 active judges on the 9th Circuit favor splitting the Circuit. Additionally, the state bar associations that have weighed in on the split – Arizona, Washington, Montana, and Hawaii – all oppose breaking up the 9th Circuit.

The letter to Senator Gregg was signed by Senator Feinstein and senators, including: Daniel Akaka (D-Hawaii), Max Baucus (D-Mo.), Barbara Boxer (D-Calif.), Maria Cantwell (D-Wash.), Daniel Inouye (D-Hawaii), Patty Murray (D-Wash.), Harry Reid (D-Nev.), and Ron Wyden (D-Ore.).

Following is the text of the letter to Senator Gregg:

December 8, 2005

Dear Senator Gregg:

The House version of the spending budget reconciliation bill passed in November includes legislation to split the 9th Circuit Court of Appeals. We Democratic Senators representing the states of the 9th Circuit request your assistance in ensuring that this inappropriate addition to the budget reconciliation bill is excluded from the final conference report.

While conferees on the budget reconciliation bill have not yet been appointed, it is our understanding that negotiations on the budget reconciliation conference report have begun. We request that a copy of this letter be provided to any members participating in these negotiations.

The Senate Judiciary Committee is working diligently to address the questions regarding the functioning of the 9th Circuit, and is in the process of holding hearings on proposals to split the 9th Circuit. Many significant questions have been raised. Some have been answered, but many have not. We believe that it is essential that the Judiciary Committee be allowed to fulfill its duty to fully and properly explore this issue. Both Chairman Specter and Ranking Member Leahy are in agreement that it is inappropriate to address this complex judicial issue in budget reconciliation.

Of additional concern is the unfairness of the particular split plan included in the House budget reconciliation bill. The legislation would divide the existing circuit into a “new” 9th Circuit of California, Hawaii, Guam, and the Northern Mariana Islands, and a 12th Circuit including Washington, Oregon, Alaska, Montana, Idaho, Nevada, and Arizona. While 72% of the current 9th Circuit caseload would remain in a “new” 9th Circuit, it would receive only 60% of the judges. As a result, judges in the “new” 9th Circuit would be saddled with 536 cases per judge, while judges in the proposed 12th Circuit would have 317 cases per judge.

Inclusion of the legislation splitting the 9th Circuit in a budget reconciliation bill would violate the “Byrd Rule.” If the 9th Circuit split legislation becomes part of the budget reconciliation conference report, we will be left with no choice but to raise a point of order to strike the provision.

We hope you will ensure that the 9th Circuit split is not included in the budget reconciliation conference report.

Sincerely,

Dianne Feinstein
United States Senator
Max Baucus
United States Senator
Maria Cantwell
United States Senator
Patty Murray
United States Senator
Ron Wyden
United States Senator

Daniel K. Akaka
United States Senator
Barbara Boxer
United States Senator
Daniel K. Inouye
United States Senator
Harry Reid
United States Senator

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Rep. William M. Thomas

Sen. Kent Conrad
Sen. Charles E. Grassley
Sen. Judd Gregg
Sen. Patrick J. Leahy
Sen. Arlen Specter

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