

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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.

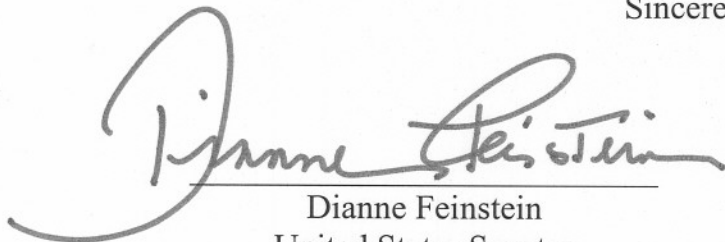
The Senate Judiciary Committee is working diligently to address the questions regarding the functioning of the 9th Circuit, and is in the process of holding hearings on proposals to split the 9th Circuit. Many significant questions have been raised. Some have been answered, but many have not. We believe 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,



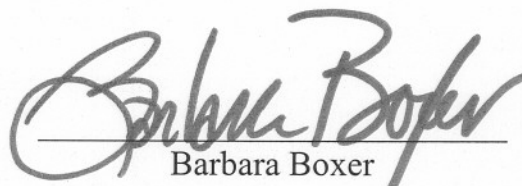
Dianne Feinstein
United States Senator



Daniel K. Akaka
United States Senator



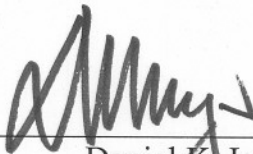
Max Baucus
United States Senator



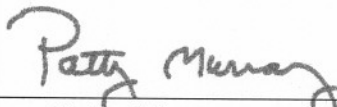
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