

9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC, and will be reschedule later.

For further information, please call Karen Hunsicker, counsel (202) 224-3543 or Betty Nevitt, staff assistant at (202) 224-0765.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS AND THE COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, March 12, 1997, at 2:30 p.m. in room 106 of the Dirksen Senate Building with the Committee of Banking, Housing, and Urban Affairs to conduct a joint oversight hearing on Indian housing programs operated by the Department of Housing and Urban Development [HUD].

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on March 12, 1997, at 2 p.m. on universal service.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, March 12, 1997, beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a Public Health and Safety Subcommittee Hearing on Scientific Discoveries in Cloning: Challenges for public policy, during the session of the Senate on Wednesday, March 12, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 12, 1997 beginning at 9:30 a.m. until business is completed, to hold an oversight hearing on the operations of the Smithsonian Institution, the Woodrow Wilson Center for International Scholars, and the John F. Kennedy Center for the Performing Arts.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to

meet during the session of the Senate on Wednesday, March 12, 1997 at 9 a.m. to hold an open hearing on the Nomination of Anthony Lake to be Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON AIRLAND FORCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet on Wednesday, March 12, 1997, at 10 a.m. in open session, to receive testimony on the Defense authorization request for fiscal year 1998 and the future years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON PERSONNEL

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet on Wednesday, March 12, 1997, at 2 p.m. in open session, to receive testimony on Department of Defense policies pertaining to military compensation and quality of life programs in review of the Defense authorization request for fiscal year 1998 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 12, 1997, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON STRATEGIC FORCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, March 12, 1997 to receive testimony on U.S. National Security Space Programs and Policies and the Department of Defense budget request for fiscal year 1998 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON WESTERN HEMISPHERE, PEACE CORPS, NARCOTICS AND TERRORISM

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere, Peace Corps, Narcotics and Terrorism of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 12, 1997, at 1 p.m. to hold a briefing, and at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADDITIONAL STATEMENTS

##### REVERSAL RATE OF THE NINTH CIRCUIT COURT OF APPEALS

• Mr. KYL. Mr. President, I rise to make a few remarks concerning the Ninth Circuit Court of Appeals and the Senate's role in confirming judges.

The ninth circuit is enormous. It spans nine states and two territories covering 1.4 million square miles. It serves a population of more than 45 million people; the next largest, the sixth circuit, serves fewer than 29 million people, and every other Federal circuit serves fewer than 24 million. By 2010, the Census Bureau estimates that the population of the ninth circuit will be more than 63 million—a 40-percent increase in just 15 years. Given the demographic trends in our country, it is clear that the population of the States in the ninth circuit, and thus the caseload of the Federal judiciary sitting in those States, will continue to increase at a rate significantly ahead of most other regions of the country.

To serve its enormous population, the ninth circuit already has 28 judgeships, making it by far the largest circuit—and, in fact, larger than the first U.S. Senate. The next largest circuit, the fifth circuit, has 17 judgeships, while the first circuit has six and the seventh and eighth each have 11. The average number of judgeships in the Federal circuits other than the ninth is 12.6. Further, the ninth circuit has requested an additional nine judgeships, which would take it to 37 active judges, in addition to senior judges.

Unfortunately, too often the decisions reached by this circuit have had to be reversed on appeal. According to statistics published in the National Law Journal, in the last six terms of the U.S. Supreme Court—from the 1990-91 term to the 1995-96 term—the Supreme Court reversal rate for the ninth circuit was 73 percent, 69 of 94 cases were reversed. The average reversal rate for the other circuits was 61 percent, 268 of 442. And so far this term, the high court has overturned 10 of the 11 ninth circuit cases it has reviewed. Since circuit judges are simply supposed to apply the law enunciated by the Supreme Court, the obvious question is why the ninth circuit gets it wrong almost three-fourths of the time the Supreme Court reviews its decisions.

Consider, for example, the 11 decisions handed down by the Supreme Court on February 18 and 19. Three of the eleven decisions reviewed ninth circuit cases. In all three cases, the ninth circuit was in conflict with other circuits. In fact, in one case, the ninth circuit disagreed with five other circuits. In all three cases, the Supreme Court unanimously reversed the ninth circuit.

Such decisive reversals are not an aberration. Most recently, on March 3, in a unanimous decision by Justice Ginsburg, the Supreme Court reversed an

en banc ninth circuit decision that Arizona could not require State employees to speak only English on the job. The Supreme Court ordered a State employee's challenge to Arizona's English-only constitutional amendment to be dismissed as moot because the worker resigned 7 years ago. The high court castigated the ninth circuit. As the New York Times, March 4, 1997, stated, "Justice Ginsburg was pointed in her criticism of how \* \* \* the Ninth Circuit \* \* \* handled this case." For example, Justice Ginsburg wrote, "The ninth circuit had no warrant to proceed as it did." Previous opinions have been even more damning.

The Supreme Court is able to review only a small number of the ninth circuit's decisions. Thus, in all but a tiny fraction of cases, the ninth circuit is the court of last resort for more than 45 million Americans. To have so many subject to a circuit that so often errs should concern us.

Some have attributed the ninth circuit reversal rate to the unwieldy size of the bench. Others point to a history of judicial activism, sometimes in pursuit of political results. I suspect there is more than one reason for the problem. Whatever the case, the Senate will need to be especially sensitive to this problem when it provides its advice and consent on nominations to fill court vacancies. The nominees will need to demonstrate exceptional ability and objectivity. The Senate will obviously have an easier time evaluating candidates who have a record on a lower court bench. Such records are often good indications of whether a judge is—or is likely to be—a judicial activist, and whether he or she is frequently reversed. Nominees who do not have a judicial background or who have a more political background may be more difficult to evaluate.

As President Clinton noted in response to Senator Dole's criticism—"activist" judges—in the last campaign, the Senate has as much responsibility as the President for those who end up being confirmed. We need to take that responsibility seriously—among other things, to begin the process of reducing the reversal rate of our largest circuit.●

#### DIVERSIFIED

#### INTERGENERATIONAL CARE, INC.

● Mr. LIEBERMAN. Mr. President, I rise today to honor Diversified Intergenerational Care, Inc., in recognition of the grand opening of their facility at the West Haven Medical Center on March 21, 1997. This facility, which is the first of its kind in the Nation, will provide child care services and care for the mildly ill and elderly.

The sole principals of the company, Scott L. Shafer and Bernard L. Ginsberg, were able to make this facility a reality through a lease they were awarded by the Department of Veterans Affairs. They were selected for the Department's enhanced-use lease

through a highly competitive process involving companies nationwide.

Diversified Intergenerational Care, Inc., considers it an honor to work with the Department of Veterans Affairs. They intend to continue their partnership by developing other intergenerational facilities. Their goal is to satisfy the unmet need for child care services while also providing care for mildly ill children and the elderly at VA medical centers across the country.

I congratulate Diversified Intergenerational Care, Inc., the Department of Veterans Affairs in Washington, DC, and the Connecticut Healthcare System for creating this very worthwhile facility, and thank them for working to make these vital services available to those in need.●

#### TRIBUTE TO GILES NORRINGTON, USN

● Mr. SMITH of New Hampshire. Mr. President, I rise to pay tribute to a fellow Navy man, Capt. Giles Roderick Norrington, who will be reaching a milestone this Friday, March 14, 1997—the 24th anniversary of his release from captivity in North Vietnam.

On May 5, 1968, Captain Norrington was shot down on a reconnaissance mission over North Vietnam while piloting his RA5C aircraft. He was held in various prisons in North Vietnam where he endured great physical and mental hardships as a POW for 5 years. During those difficult times, Captain Norrington and his fellow POW's never lost faith in their country. They persevered and they returned with honor. All Americans owe these brave men a great debt of gratitude for their sacrifices on our behalf.

Indeed, Captain Norrington's service and loyalty to his country has been commendable, not just during his captivity in North Vietnam, but throughout his 34 years of active duty naval service. After his retirement from the Navy, he dedicated himself to his community as an outstanding member of the Rotary Club of Bailey's Crossroads in the State of Virginia. Recently, his fellow Rotarians expressed their continued support for Captain Norrington by electing him as their next vice-president.

On Friday, March 14, 1997, Captain Norrington will be surrounded by his family and close friends who will be gathering to pay tribute to him. As a Vietnam veteran who also served in the Navy, I consider it an honor and privilege to share in this tribute, and I look forward to thanking Captain Norrington personally for his heartfelt service to our great Nation and to his own community.●

#### CONGRATULATING THE UNIVERSITY OF GEORGIA'S BULLDOGS AND LADY BULLDOGS

● Mr. CLELAND. Mr. President, I am delighted to have this opportunity to congratulate the University of Georgia

men's and women's basketball teams on their outstanding seasons. Georgia fans all over the country have had the pleasure of watching these two teams play great basketball in a conference known for its competitiveness. Tubby Smith's Bulldogs and Andy Landers' Lady Bulldogs earned No. 3 and No. 2 regional seeds, respectively, in the NCAA Tournament, making Georgia one of only three schools in the Nation to claim two top four seeds in the tournament.

Coach Tubby Smith, came to Georgia from the University of Tulsa in 1995. He led the 1996 Bulldogs to a 21-10 record and their first NCAA Tournament bid in 5 years. The team won their first NCAA Tournament game in 9 years and made it to the Sweet 16. This year, Coach Smith took a team with no returning starters and tied for the most wins in Georgia men's basketball's 91-year history. As a result of their 24-8 record, they received the No. 3 seed in the NCAA southeast regional.

Coach Andy Landers has been coaching the Lady Bulldogs since 1979. During his 17 seasons at Georgia, Landers has become one of our Nation's elite women's basketball coaches. The Lady Bulldogs have appeared in 13 NCAA Tournaments, 4 NCAA final fours, and won 5 SEC titles during Coach Landers' tenure. These achievements have earned him the honors of National Coach of the Year for 3 years and SEC Coach of the Year for 3 years. The Lady Bulldogs were the SEC regular season champions and have a record of 22-5.

The University of Georgia is fortunate to have individuals of the caliber of Tubby Smith and Andy Landers coaching their basketball teams. Not only are these fine coaches teaching their players basketball skills, but important lessons for life—courage, stamina, tenacity, and grace under pressure. Although they have enjoyed great success throughout their coaching careers, their achievements go far beyond their great talents in coaching. They have given back to their community in countless ways. Coach Landers contributes his time and energy to the United Way of Northeast Georgia, and Coach Smith is also involved in the United Way of Northeast Georgia, as well as the American Cancer Society and the American Heart Association. I would be hard pressed to enumerate all of their contributions to the University of Georgia, the Athens community and to all of the athletes whose lives they have touched.

All of the athletes and coaches of University of Georgia Bulldogs and Lady Bulldogs have displayed their skills and dedication to excellence in basketball throughout this entire season. I extend my best wishes to the Bulldogs' and Lady Bulldogs' basketball teams as they begin play in the NCAA Tournament, and to the University of Georgia Athletic Department for its continued success.●