(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 906. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly and knowingly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

SEC. 907. HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five'' and inserting ''ten''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five'' and inserting ''ten''.

SEC. 908. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code, is amended—

(1) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(2) by inserting after subsection (b) the following new subsection:

''(c) Whoever corruptly—

''(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

''(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

shall be fined under this title or imprisoned not more than 10 years, or both.''.

SEC. 909. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u–3(c)(2)) the following:

''(3) TEMPORARY FREEZE.—(A) Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

''(B) If the individual affected by such order is charged with violations of the Federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 45 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.''.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)(2)) is amended by striking ''This'' and inserting ''Paragraph (1) of this''.

SEC. 910. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 911. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Securities Exchange Act of 1934, add at the end a new subsection as follows:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) In section 8A of the Securities Act of 1933 add at the end a new subsection as follows:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

TITLE X—CORPORATE TAX RETURNS

SEC. 1001. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

The PRESIDING OFFICER. The Senate insists on its amendment and requests a conference with the House.

EXECUTIVE SESSION

NOMINATION OF LAVENSKI R. SMITH OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

The PRESIDING OFFICER. The Senate will proceed to executive session.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit:

ZELL MILLER, FRITZ HOLLINGS, KENT CONRAD, BYRON L. DORGAN, HARRY REID, JEFF BINGAMAN, DEBBIE STABENOW, JACK REED, BARBARA BOXER, PATRICK LEAHY, BARBARA MIKULSKI, BLANCHE R. LINCOLN, BOB

GRAHAM, JEAN CARNAHAN, JAY ROCKEFELLER, CHARLES SCHUMER.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I understand that no one is asking for a rollcall vote on confirmation if we can reach the cloture vote. So if we reach cloture, this will be the last vote of the evening.

The PRESIDING OFFICER. Under the unanimous consent, the mandatory quorum call under the rule is waived. The question is, Is it the sense of the Senate that debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith of Arkansas to be United States Circuit Judge for the Eighth Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAIG), the Senator from Idaho (Mr. CRAPO), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 94, nays 3, as follows:

[Rollcall Vote No. 177]

YEAS—94

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feinstein	Murkowski
Bayh	Fitzgerald	Murray
Bennett	Frist	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Gramm	Nickles
Bond	Grassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Roberts
Brownback	Harkin	Rockefeller
Bunning	Hatch	Santorum
Burns	Hollings	Sarbanes
Byrd	Hutchinson	Schumer
Campbell	Hutchison	Sessions
Cantwell	Inhofe	Shelby
Carnahan	Inouye	Smith (NH)
Carper	Jeffords	Smith (OR)
Chafee	Johnson	Snowe
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Cochran	Kohl	Stevens
Collins	Kyl	Thomas
Conrad	Landrieu	Thompson
Corzine	Leahy	Thurmond
Daschle	Levin	Torricelli
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	McCain	

NAYS—3

Dayton	Feingold	Wellstone

NOT VOTING—3

Craig	Crapo	Helms

The PRESIDING OFFICER (Mr. DAYTON). On this vote, the yeas are 94, the nays are 3. Three-fifths of the Senators duly chosen and affirmed having voted in the affirmative, the motion is agreed to.

Mr. FEINGOLD. Mr. President, I will support the nomination of Lavenski R. Smith, of Arkansas, to be a U.S. Circuit Judge. I did so as a member of the Judiciary Committee, and I will do so again on the floor. But I will also support the effort made by the Senator from Arizona, Mr. MCCAIN, to advance the long overdue appointment of a commissioner to the expired position on the Federal Elections Commission, and in doing so I opposed the cloture motion to bring debate on the Smith nomination to a close. As we have seen, the FEC commissioners have a direct impact on Federal election laws, even to the extent of obstructing the will of Congress. Given the recent behavior of the FEC, it is reasonable for us to take every appropriate step to facilitate the filing of the expired position.

Mr. HATCH. Mr. President, I rise today in support of Justice Lavenski Smith to the Eighth Circuit Court of Appeals. Before I speak directly about him and his nomination, however, I would like to take just a moment to explain where the Senate stands on its job of considering and confirming President Bush's judicial nominees during this Congress.

The Senate has not confirmed a single judge since May 13, exactly 9 weeks ago today. This is nothing short of irresponsible considering the vacancy rates and backlogs around the country.

There were 31 vacancies in the Federal courts of appeals when President Bush sent us his first 11 circuit nominees on May 9, 2001, and there are 31 today. We are barely keeping pace with the rate of attrition.

The Sixth Circuit is half-staffed with 8 of its 16 seats vacant. The DC. Circuit is two-thirds staffed, with 4 of its 12 seats sitting vacant. Meanwhile, seven of President Bush's first 11 nominees have not even been scheduled for hearings—despite having been pending for 432 days as of today. A total of 23 circuit court nominations now sit pending for those 31 vacancies. But we have confirmed only 3 circuit judges this year, and only 9 since President Bush took office.

It is bad enough that the Judiciary Committee has been slow to even begin the process of consideration by scheduling hearings. It is even worse that the Democrat leadership can't do what is necessary to move the 17 judges that are still pending for a floor vote. Of course, I applaud the leadership for bringing Lavenski Smith to a vote, but I think everyone has to admit that 1 out of 17 is, at most, a low start. Many of my colleagues have noted with displeasure the Judiciary Committee's wholesale slow-walking of President Bush's nominees, but now I must bring some attention to the Senate leadership's role as well. It is high time for them to demonstrate their leadership, and their control of the floor, by setting votes on the rest of the 16 judicial nominees who are awaiting a final vote.

Mr. President, let me put the current situation into context. Historically, a President can count on seeing all of his first 11 circuit court nominees confirmed. Presidents Reagan, Bush, and Clinton all enjoyed a 100 percent confirmation rate on their first 11 circuit court nominees. In stark contrast, 7 of President Bush's first 11 nominations are still pending without a hearing for over 1 whole year.

History also shows that Presidents can expect almost all of their first 100 nominees to be confirmed swiftly. Presidents Reagan, Bush and Clinton got 97, 95 and 97, respectively, of their first 100 judicial nominations confirmed. But the Senate has confirmed only 57 of President Bush's first 100 nominees.

Some try to blame Republicans for the current vacancy crisis. That is bunk. In fact, the number of judicial vacancies decreased by 3 during the 6 years of Republican leadership. There were 70 vacancies when I became chairman of the Judiciary Committee in January 1995, and there were 67 at the close of the 106th Congress in December 2000.

Now I know that some try to justify the current wholesale delay as payback for the past. That is just a sleight of hand. Look at the facts: During President Clinton's 8 years in office, the Senate confirmed 377 judges—essentially the same, 5 fewer as for Reagan, 382. This is an unassailable record of non-partisan fairness, especially when you consider that President Reagan had 6 years of a Senate controlled by his own party, while President Clinton had only 2. Furthermore, almost 50 percent of all Federal judges currently serving are Clinton judges.

Finally, some suggest that the Republicans left an undue number of nominees pending in committee without hearings at the end of the Clinton administration. Well, we left 41, which is 13 less that the Democrats left without hearings in 1992 at the end of the Bush administration.

Mr. President, the President's nominees deserve better; President Bush deserves better; and most importantly, the American people—the people who own this Government and who rely on the judicial branch for their rights and freedoms—deserve much better.

Now, Mr. President, I would like to turn to the matter directly at hand, the confirmation of Lavenski Smith to the Eighth Circuit Court of Appeals. Justice Smith is a highly qualified jurist who has distinguished himself through his service to the poor, his service in the public sector, and his service on the State bench. His experience includes working for legal services, running his own law firm, serving with distinction on the Arkansas Supreme Court, and holding his current position on the Arkansas Public Service Commission.

Justice Smith began his legal career at Ozark Legal Services in Fayetteville, AR, specializing in consumer defense and the representation of juveniles as a guardian ad litem. He worked with those who are traditionally underrepresented: low-income individuals, families, and children. After 4 years, he

opened his own law firm in the Arkansas town of Springdale, where he handled all sorts of cases, including business law, real estate, domestic relations, worker's compensation, public benefits, and estates. Notably, his firm was the first minority-owned firm in the history of the town.

Justice Smith's excellence as a lawyer and his commitment to public service did not go unnoticed: in 1999 Governor Huckabee appointed Justice Smith to the Arkansas Supreme Court. During his tenure on the bench, Justice Smith wrote opinions on a range of legal issues, including criminal, tort, worker's compensation, insurance, contract, civil procedure, oil and gas, tax, probate and attorney discipline matters.

Currently, Justice Smith serves on the Arkansas Public Service Commission, which is responsible for regulating the State's electric, gas, and telecommunications industries. In this position, Justice Smith has become an expert in understanding and interpreting a wide variety of complex Federal regulations, including the Federal Power Act and the Federal Telecommunications Act of 1996.

Chief Justice Arnold of the Arkansas Supreme Court, Justice Smith's former colleague, praises his intelligence and the quality of his service on the court, saying, ''I think he'll make a great Federal judge.'' Justice Smith has wide, bipartisan support in his home State, but I think the Arkansas Democrat-Gazette summed it up well: It said that Justice Smith possesses ''integrity, intelligence, and compassion.'' I agree, and I urge my colleagues to join me in supporting this qualified candidate for the Eighth Circuit. I think that each of us can be proud about voting for the first African-American Arkansan to serve on a circuit court of appeals.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY. Mr. President, ''Lavenski Smith is a young Arkansas political appointee, who has had a total of 7 years experience practicing law, has had minimal Federal experience, minimal appellate experience, and no experience at all arguing in front of the Federal Court of Appeals for the Eighth Circuit to which he has been nominated. He is nominated to the judgeship held by Judge Richard Arnold, one of the most distinguished judges ever to serve on the 8th Circuit.

Mr. Smith served a brief term on the Arkansas Supreme Court, after being appointed by the Governor and before running for election to a lower State court judicial vacancy and losing. He also spent several years as the volunteer executive director of the Arkansas chapter of the Rutherford Institute, an organization devoted to, among other things, doing away with a woman's constitutional right to choose, and supporting efforts against Governor, and then President, Bill Clinton.''

The following is what the Arkansas Times had to say about Mr. SMITH's qualifications:

Lavenski Smith of Little Rock is not the best-qualified Arkansan President Bush could have chosen for the U.S. 8th Circuit Court of Appeals, nor even close. Marginally acceptable, if that, Smith was nominated by Bush, on the recommendation of Senator TIM HUTCHINSON, because Smith is racially, ideologically and politically correct—a black conservative Republican, avidly anti-abortion and anti-Clinton, whose nomination will, it is hoped, aid HUTCHINSON's re-election effort. Not much there to suggest a distinguished judicial career. Still, there are worse things than mediocrity, and Bush has nominated them, too.

It is difficult to vote in favor of a nominee to a lifetime appointment on a Federal appellate court with this kind of record, but he is supported by both of his home-State Senators. Senator BLANCHE LINCOLN worked hard to be sure that Mr. Smith was included in a hearing earlier this year and she supports his nomination. Based on Senator LINCOLN's confidence in this nominee's ability to do the job and based on the nominee's assurances that he will not seek to impose his personal views in his legal decisions, I have reluctantly decided to vote in favor of this nomination.

Smith seems like an honorable person, and despite his political views and political activism, I am hopeful that he will be a person of his word: that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge.

This is one of 17 nominations that have been reported by the Judiciary Committee to the Senate but were stalled for the last 2 months. In addition, nearly two dozen Executive Branch nominees reported by the Judiciary Committee are also awaiting action.

The delay in final Senate action on these nominees has been due to the failure of the administration to fulfill its responsibility to work with the Senate in the naming of members of bipartisan boards and commissions. Last week I congratulated the majority leader for overcoming this impediment and for his patience and determination in achieving some movement on these matters.

I understand that he hopes to be able to resume voting on judicial nominations once cloture is achieved on the Smith nomination today.

Democrats are taking extraordinary efforts to overcome impediments to action on nominations. Had the administration not caused this delay, and had Republican Senators not placed ''holds'' over the last several months, I am confident that the Senate would have confirmed more than 70 judicial nominees by now.

We were able to overcome the other obstacles created by the administration and proceed to confirm 57 judicial nominees in our first 10 months in the majority, a record outpacing any Republican total in any 10-month period in which they held the majority.

We have also addressed long-standing vacancies on circuit courts caused by Republican obstruction of President Clinton's judicial nominees. We held the first hearing for a Fifth Circuit nominee in 7 years, the first hearings for Sixth Circuit nominees in almost 5 years, the first hearing for a Tenth Circuit nominee in 6 years, and the first hearings for Fourth Circuit nominees in 3 years.

We have reformed the process for considering judicial nominees.

For example, we have ended the practice of anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his home State, his own circuit or any part of the country for any reason, or no reason, without any accountability. We have returned to the Democratic tradition of holding regular hearings, every few weeks, rather than going for months without a single hearing.

With a positive vote on the nomination of Lavenski Smith, the Senate will have confirmed its 10th Court of Appeals nominee of President Bush since the reorganization of the Senate Judiciary Committee a year ago, on July 10, 2001. During their recent 6½ years of majority control, Republicans averaged seven Court of Appeals confirmations a year.

The Democratic-led Judiciary Committee has had a record-breaking first year fairly and promptly considering President Bush's nominees, which I detailed last Friday. For example, in 1 year, we have held hearings for 78 of the President's nominees.

That is more hearings for this President's district and circuit court nominees than in 20 of the past 22 years.

Under Democratic leadership, the Senate confirmed more circuit and district court judges, 57, than were confirmed during all 12 months in each of 2000, 1999, 1997, 1996, and 1995, 5 of the prior 6 years of Republican control of the Senate. The Judiciary Committee has since last July voted on 15 circuit court nominees. In our first year, we held more hearings for more of President Bush's circuit court nominees than in the first year of any of the past three Presidents.

More of President Bush's nominees have also been given committee votes than in the first year of any of the past three Presidents.

Unfortunately, one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated long-standing vacancies into this year. If the Republicans had not left more than 50 of President Clinton's nominees without a hearing or a vote, the current number of vacancies might be closer to 40 than 90.

In addition, large numbers of vacancies continue to exist on many Courts

of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

From the time the Republicans took over majority control of the Senate in 1995 until the reorganization of the Committee last July, circuit vacancies increased from 16 to 33, more than doubling.

Democrats have broken with that recent history of inaction. During our first year in control of the Judiciary Committee, we held 16 hearings for circuit court nominees. That is almost the same number of circuit court nominees, 17, who were never given a Committee vote by Republicans in 2000.

Democrats are working hard to reduce judicial vacancies and we have moved quickly on these nominees, as well as many, many others. I have noted that we could have been even more productive with a little cooperation from the White House, but that has not been forthcoming.

Moreover, of the current vacancies, more than half do not have a nominee. We are almost out of district court nominees ready to be included at hearings, because the President has been so slow to nominate district court nominees and insists on delaying the ABA peer review process until after the nominations are made.

Today's vote on the nomination of Lavenski Smith to the United States Court of Appeals for the Eighth Circuit is the third Eighth Circuit nominee the committee has considered in the past year. This is in sharp contrast to the treatment of Eighth Circuit nominee Bonnie Campbell by Republicans.

Ms. Campbell is now a partner at the distinguished Washington law firm of Arent Fox Kintner Plotkin & Kahn, where she acts as an adviser, negotiator, advocate, and litigator, representing employers in personnel, labor relations, employment discrimination, benefits, and other employment-related matters. A graduate of Drake University and Drake's law school, Ms. Campbell has an outstanding record of public service.

She was nominated by President Clinton early in 2000 to serve on the U.S. Court of Appeals for the Eighth Circuit.

She was supported by both of her Senators, Democrat TOM HARKIN and Republican CHUCK GRASSLEY, given a ''Qualified'' rating by the ABA, and afforded a hearing before the Judiciary Committee a few months later, in May of 2000. However, despite a noncontroversial hearing, Ms. Campbell was never scheduled for a committee vote. No explanation for this failure to give her a vote was ever given, and her nomination was eventually returned at the end of the 106th Congress. Other individuals nominated after Ms. Campbell were given committee hearings and votes and were confirmed later that year, while Ms. Campbell's nomination languished.

She seems to have been the victim of the Republican practice of anonymous, indefinite holds. In January of 2001, President Clinton re-nominated Ms. Campbell, but President Bush failed to seize the opportunity for bipartisanship, and withdrew her nomination shortly thereafter.

At the time of her nomination Ms. Campbell was nearing the end of a distinguished term at the U.S. Department of Justice, where she served as Director of the Violence Against Women Office, a position to which she was appointed by President Clinton in 1995.

In that capacity, she oversaw a $1.6 billion program to provide funding to States to strengthen their efforts in the areas of domestic violence and sexual abuse. She also directed the Federal Government's efforts to implement the new criminal statutes created by the 1994 Violence Against Women Act. Ms. Campbell oversaw the Justice Department's efforts to combine tough new Federal criminal laws with assistance to states and localities to fight against violence against women.

Bonnie Campbell had, before coming to Washington, served as the Attorney General of Iowa, the first woman ever elected to that position. During her tenure in office, she was instrumental in pushing the State legislature to strengthen Iowa's domestic abuse statute, and in 1992 she authored one of the Nation's first anti-stalking laws. In 1997 Bonnie Campbell was named by Time magazine as one of the 25 most influential people in America.

Ms. Campbell's record of distinguished public service and her experience in private practice combined to make an excellent nominee to the Court of Appeals for the Eighth Circuit, a fact with which both of her Senators obviously agreed. Yet once afforded a hearing, Bonnie Campbell was left to linger in an indefensible limbo. She was not granted a committee vote, but neither was she confronted with any objections to her nomination to the Eighth Circuit proceeding.

Contrasting the treatment of the nominations of Bonnie Campbell and Lavenski Smith to the Eighth Circuit evidences the difference in how the Republican majority and the current Democratic majority have handled judicial nominations and highlights the fairness that has been restored to the confirmation process.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

The question is, Will the Senate advise and consent to the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit?

The nomination was confirmed.

Mr. HUTCHINSON. Mr. President, I rise to speak about Judge Lavenski Smith who has been confirmed this evening for the eighth circuit court of appeals. This is a great evening for him and his family. He is going to be a great jurist. I congratulate Judge Smith tonight.

I thank President Bush for making an excellent choice, a choice that I think Arkansas can feel good about, the Eighth Circuit can feel good about, and, indeed, the country can feel good about. Judge Smith is an excellent choice. He is the first African American to represent the State of Arkansas in the Eighth Circuit Court of Appeals. He will do so with great distinction.

I will speak, very briefly, about his career. But the hallmark of Judge Smith's entire career has been one of service. It has been a storybook tale.

He is a native of Hope, AR. He earned both his bachelor's degree and his law degree from the University of Arkansas in Fayetteville. He worked his way through college. Following law school, he clerked for 3 years, and then he served the poorest citizens of Arkansas as the staff attorney for Ozark Legal Services, representing abused and neglected children.

After working with Ozark Legal Services, he opened the first minority-owned firm in Springdale, AR, handling primarily civil cases. He then taught business law at John Brown University and took several positions in public service, including Regulatory Liaison for Governor Huckabee. Currently Judge Smith serves as the commissioner of the Arkansas Public Service Commission.

In 1999, he was appointed to the Arkansas supreme court and served on the Arkansas supreme court with distinction for 2 years. As a supreme court justice, he presided over hundreds of cases and authored several dozen majority opinions. He was highly praised by all his colleagues in the Arkansas supreme court.

In June of 2001, the American Bar Association reviewed Justice Smith's qualifications and made a ''unanimous qualified'' determination.

Beyond all of his obvious legal qualifications, I want to point out that he has had a long history of community service. Whether it was as a board member of the Northwest Arkansas Christian Justice Center, a nonprofit organization dedicated to providing mediation and conciliation services, working with the Partners for Family Training, a group that recruits and trains foster parents, or whether it was raising funds for the School of Hope, a school for handicapped children in Hope, AR, at every stage of his life there has been this hallmark of service.

This outstanding record of service is the most outwardly visible sign of something the people in Arkansas know well; that he is a good and honorable man who will serve his country well. We can all be proud of the vote that occurred this evening.