

reform legislation that will protect millions of American workers from losing their defined benefit pension plans. Although only a temporary solution, the Pension Funding Equity Act is essential to prevent companies from having to freeze or terminate their defined benefit pension plans because of outdated rules that determine how their pension plan liabilities are calculated.

Defined benefit pension plans are an essential component of retirement security for over half of America's working men and women. Unfortunately, trends show a decline in the use of defined benefit pension plans, with only one quarter as many companies providing defined benefit plans today as did 20 years ago. Since 2003, 3.3 million Americans having lost their pension coverage. The volatility in the stock market in the last few years—in which Americans lost billions in retirement assets—leaves little doubt that we must do more to reverse the decline in the use of defined benefit pension plans and expand the retirement security of defined benefit pension plans to more Americans. The Pension Funding Equity Act is an important step towards addressing this challenge.

In the last 3 years, companies that provide defined benefit pension plans to their employees have come under extreme financial stress due to the sluggish economy and changes in the interest rate that determines their pension plan liability. The Pension Funding Equity Act of 2003 provides much needed relief to help these companies maintain retirement benefits for their employees as the country works towards economic recovery. This legislation provides a temporary 2-year period of funding relief by updating the interest rate that companies must use when calculating the liabilities of their pension plans. A more accurate mix of long-term corporate bond rates will replace the now defunct 30-year Treasury rate in the calculation of pension plan liabilities.

In addition to protecting the defined benefit plans of American workers, the Pension Funding Equity Act is expected to provide \$16 billion in additional savings to companies, which will facilitate job creation by freeing up funds for additional wages and hiring.

I applaud the passage of the Pension Funding Equity Act and look forward to working with my colleagues in crafting a long-term solution to improve and expand our pension system.●

EXECUTIVE SESSION

NOMINATION OF GARY L. SHARPE TO BE UNITED STATES DISTRICT JUDGE

THE PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the nomination of Gary L. Sharpe to be United States District Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Gary L. Sharpe, of New York,

to be United States District Judge for the Northern District of New York.

THE PRESIDING OFFICER. Who yields time?

The Senator from Utah.

Mr. HATCH. Madam President, I rise today in support of our nominee to the U.S. District Court of the Northern District of New York, Gary L. Sharpe.

Judge Sharpe graduated magna cum laude from Buffalo University in 1971 where he was a member of Phi Beta Kappa. Three years later, he graduated from Cornell Law School.

Judge Sharpe had a distinguished legal career prior to his appointment as a Federal magistrate judge for the Northern District of New York in 1997. He had been an Assistant Broome County District Attorney in Binghamton, a special assistant New York Attorney General in Syracuse, a supervisory Assistant U.S. Attorney, and the interim U.S. Attorney for the Northern District of New York.

Judge Sharpe is also a Vietnam veteran, having served our country in both the U.S. Army and Navy.

Judge Sharpe has a wealth of experience that will serve him well on the Federal bench. I am very confident that he will make an excellent Federal judge. I commend President Bush for nominating him, and I urge my colleagues to join me in supporting his nomination.

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

THE PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, last week I shared with the Senate several disappointing developments regarding judicial nominations: the Pickering recess appointment, the renomination of Claude Allen, and the pilfering of Democratic offices' computer files by Republican staff. In spite of all those affronts, Senate Democrats today cooperate in the confirmation of another nominee. We do so without the kinds of delays and obstruction that Republicans employed when President Clinton's judicial nominees were being obstructed and Republican Senators complained about his recess appointments as an affront to the Constitution and the Senate.

The first nominations issue I would like to discuss is the recess appointment of Judge Pickering. Just a few days ago on January 16, President Bush made his most cynical and divisive appointment to date when he bypassed the Senate and unilaterally installed Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit. That appointment is without the consent of the Senate and is a particular affront to the many individuals and membership organizations representing African Americans in the Fifth Circuit who have strongly opposed this nomination.

With respect to his extreme judicial nominations, President George W. Bush is the most divisive President in American history. Through these nominees, President Bush is dividing

the American people and undermining the fairness and independence of the Federal judiciary on which all Americans depend.

After fair hearings and open debate, the Senate Judiciary Committee rejected the Pickering nomination in 2002. Originally nominated in 2001 by President Bush, this nominee's record underwent a thorough examination by the Senate Judiciary Committee and was found lacking. Judge Pickering's nomination was rejected for this promotion by the Committee in 2002 because of his poor record as a judge and the ethical problems raised by his handling of his duties in specific instances. Nonetheless, the President sent back his nomination to the Senate last year, the first in our history to reject the judgment of the Judiciary Committee on a judicial nominee. This is the only President who has renominated someone rejected on a vote by the Judiciary Committee for a judicial appointment.

The renomination of Charles Pickering lay dormant for most of last year while Republicans reportedly planned further hearings. Judge Pickering himself said that several hearings on his nomination were scheduled and cancelled over the last year by Republicans. Then, without any additional information or hearings, Republicans decided to forego any pretense at proceeding in regular order. Instead, they placed the name of Judge Pickering on the committee's markup agenda and pushed his nomination through with their one-vote majority. The committee had been told since last January that a new hearing would be held before a vote on this nomination, but that turned out to be an empty promise.

Why was the Pickering nomination moved ahead of other well-qualified candidates late last fall? Why was the Senate required to expend valuable time rehashing arguments about a controversial nomination that has already been rejected? The timing was arranged by Republicans to coincide with the gubernatorial election in Mississippi. Like so much about this President's actions with respect to the federal courts, partisan Republican politics seemed to be the governing consideration. Indeed, as the President's own former Secretary of the Treasury points out from personal experience, politics governs more than just Federal judicial nominations in the Bush administration.

Charles Pickering was a nominee rejected by the Judiciary Committee on the merits—a nominee who has a record that does not qualify him for this promotion, who injects his personal views into judicial opinions, and who has made highly questionable ethical judgments. The nominee's supporters, including some Republican Senators, have chosen to imply that Democrats opposed the nominee because of his religion or region. That is untrue and offensive. These smears have been as ugly as they are wrong.

Yet the political calculation has been made to ignore the facts, to seek to pin unflattering characterizations on Democrats for partisan purposes and to count on cynicism and misinformation to rule the day. With elections coming up this fall, partisan Republicans are apparently returning to that page of their partisan political playbook.

Never before had a judicial nomination rejected by the Judiciary Committee after a vote been resubmitted to the Senate, but this President took that unprecedented step last year. Never before has a judicial nomination debated at such length by the Senate, and to which the Senate has withheld its consent, been the subject of a presidential appointment to the federal bench.

In an editorial following the recess appointment, *The Washington Post* had it right when it summarized Judge Pickering's record as a Federal trial judge as "undistinguished and downright disturbing." As the paper noted: "The right path is to build consensus that nonpartisanship and excellence are the appropriate criteria for judicial selection." Instead we see another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts. The *New York Times* also editorialized on this subject and it, too, was correct when it pointed out that this end-run around the advice and consent authority of the Senate is "absolutely the wrong choice for one of the nation's most sensitive courts."

Civil rights supporters who so strenuously opposed this nominee were understandably offended that the President chose this action the day after his controversial visit to the grave of Dr. Martin Luther King Jr. As the Nation was entering the weekend set aside to honor Dr. King and all for which he strived, this President made one of the most insensitive and divisive appointments of his Administration.

So many civil rights groups and individuals committed to supporting civil rights in this country have spoken out in opposition to the elevation of Judge Pickering that their views should have been respected by the President. Contrary to the false assertion made by *The Wall Street Journal* editorial page, the NAACP of Mississippi did not support Judge Pickering's nomination. Instead, every single branch of the Mississippi State Chapter of the NAACP voted to oppose this nomination—not just once, but three times. When Mr. PICKERING was nominated to the District Court in 1990, the NAACP of Mississippi opposed him, and when he was nominated to the Fifth Circuit in 2001 and, again, in 2003, the NAACP of Mississippi opposed him. They have written letter after letter expressing their opposition. That opposition was shared by the NAACP, the Southern Christian Leadership Conference, the Magnolia Bar Association, the Mississippi Legislative Black Caucus, the Mississippi

Black Caucus of Local Elected Officials, Representative Bennie G. Thompson and many others. Perhaps *The Wall Street Journal* confused the Mississippi NAACP with the Mississippi Association of Trial Lawyers, which is an organization that did support the Pickering nomination.

This is an administration that promised to unite the American people but that has chosen time and again to act with respect to judicial nominations in a way that divides us. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership in 2001 and 2002 while overcoming anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

The second disappointing development is the renomination of Claude Allen as a nominee to the Fourth Circuit. Last week, the President sent the nomination of Claude Allen back to the Senate. From the time this nomination was originally made to the time it was returned to the President last year, the Maryland Senators have made their position crystal clear. This Fourth Circuit vacancy is a Maryland seat and ought to be filled by an experienced, qualified Marylander. Over the Senate recess, the White House had ample time to find such a nominee, someone of the caliber of sitting U.S. District Court Judges Andre Davis or Roger Titus, two Maryland lawyers whose involvement in the State's legal system and devotion to their local community is clear. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary.

The additional disappointment we face is the ongoing fallout from the cyber theft of confidential memoranda from Democratic Senate staff. This invasion was perpetrated by Republican employees both on and off the committee. As revealed by the chairman, computer security was compromised and, simply put, members of the Republican staff took things that did not belong to them and passed them around and on to people outside the Senate. This is no small mistake. It is a serious breach of trust, morals, the standards that govern Senate conduct, and possible criminal laws. We do not yet know the full extent of these violations. But we need to repair the loss of trust brought on by this breach of confidentiality and privacy if we are ever to recover and be able to resume our work in a spirit of cooperation and mutual respect that is so necessary to make progress.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. One way to measure that

cooperation and the progress we have made possible is to examine the Chief Justice's annual report on the Federal judiciary. Over the last couple of years, Justice Rehnquist has been "pleased to report" our progress on filling judicial vacancies. This is in sharp contrast to the criticism he justifiably made of the shadowy and unprincipled Republican obstruction of consideration of President Clinton's nominees. In 1996, the final year of President Clinton's first term, the Republican-led Senate confirmed only 17 judicial nominees all year and not a single nominee to the circuit courts. At the end of 1996, the Republican Senate majority returned to the President almost twice as many nominations as were confirmed.

By contrast, with the overall cooperation of Senate Democrats, which partisan Republicans are loath to concede, this President has achieved record numbers of judicial confirmations. Despite the attacks of September 11 and their aftermath, the Senate has already confirmed 169 of President Bush's nominees to the Federal bench. This is more judges than were confirmed during President Reagan's entire first 4-year term. Thus, President Bush's 3-year totals rival those achieved by other Presidents in 4 years. That is also true with respect to the nearly four years it took for President Clinton to achieve these results following the Republicans' taking majority control of the Senate in 1995.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 that Republicans controlled the Senate during the Clinton Presidency years in which there were far more vacant Federal judgeships than exist today. Among those 69 judges confirmed in 2003 were 13 circuit court judges. That exceeds the number of circuit court judges confirmed during all of 1995, 1996, 1997, 1999, and 2000, when a Democrat was President.

The Senate has already confirmed 30 circuit court judges nominated by President Bush. This is a greater number than were confirmed at this point in the presidencies of his father, President Clinton, or the first term of President Reagan. Vacancies on the federal judiciary have been reduced to the lowest point in two decades and are lower than Republicans allowed at any time during the Clinton presidency. In addition, there are more Federal judges serving on the bench today than at any time in American history.

I congratulate the Democratic Senators on the committee for showing a spirit of cooperation and restraint in the face of a White House that so often has refused to consult, compromise or conciliate. I regret that our efforts have not been fairly acknowledged by partisan Republicans and that this Administration continues down the path of confrontation. While there have been difficult and controversial nominees whom we have opposed as we exercise our constitutional duty of advice and

consent to lifetime appointments on the Federal bench, we have done so openly and on the merits.

For the last 3 years, I have urged the President to work with us. It is with deep sadness that I see that this administration still refuses to accept the Senate's shared responsibility under the Constitution and refuses to appreciate our level of cooperation and achievement.

Today, the chairman held another hearing on another circuit court nominee. That hearing is another demonstration of how untrue the rhetoric is that is so often bandied about by Republican partisans that Democrats are obstructing the confirmations of this President's judicial nominees. The reality is that we have cooperated to an extraordinary extent, especially when contrasted with Republican treatment of President Clinton's judicial nominees.

Today's hearing was the second in the last 2 weeks for circuit court nominees. Traditionally, the number of nominees who have received hearings and who are considered in a presidential election year has been lower than in other years. In 1996, only four circuit court nominees by President Clinton received a hearing from the Republican Senate majority. In 2000, only five circuit court nominees by President Clinton received a hearing from the Republican Senate majority. Of course, two of those outstanding and well-qualified nominees in 2000 were never allowed to be considered by the committee or the Senate. By contrast, here we are, before the end of the first month of 2004, and we have already held hearings for two circuit court nominees. By the standard Republicans set in 1996 and 2000, we would be half done for the entire year.

Moreover, that we are proceeding to confirm Judge Sharpe today is another example of Democratic cooperation in the wake of the President's recess appointment of Charles Pickering. This temporary appointment can be distinguished from President Clinton's recess appointment of Judge Roger Gregory to the Fourth Circuit in December 2000 in many ways, including from the manner in which Republican Senators reacted to President Clinton's recess appointments by shutting down the confirmation process.

Roger Gregory had been denied a Judiciary Committee hearing even though he had the bipartisan support of both of his home State Senators—Democratic Senator Chuck Robb and Republican Senator John Warner. By contrast, Judge Pickering participated in hearings and an extensive record was developed on which his nomination was opposed in the Judiciary Committee and in the Senate on the merits on the basis of his record as a district court judge. Roger Gregory's nomination was never allowed to be considered by the Judiciary Committee. By contrast, Judge Pickering's nomination was fully and fairly debated in 2002 and

rejected by the Judiciary Committee. Indeed, Judge Pickering's renomination was the first time a President had resent a judicial nomination to the Senate after the Judiciary Committee had voted on and rejected that judicial nomination. Likewise, Judge Pickering's temporary appointment is the first after rejection by the Judiciary Committee and after the Senate has debated a judicial nomination and withheld its consent.

Moreover, Roger Gregory's recess appointment fit squarely in the tradition of Presidents exercising such authority in order to expand civil rights and to bring diversity to the courts. Four of the five first African American appellate judges were recess-appointed to their first article III position, including Judge William Hastie in 1949, Judge Thurgood Marshall in 1961, Judge Spottswood Robinson in 1961, and Judge Leon Higginbottom in 1964. Unlike these nominees and the public purposes served, Judge Pickering was opposed by civil rights groups, including all chapters of the Mississippi NAACP, the Southern Christian Leadership Conference, and by the Magnolia Bar Association. Rather than bring people together and move the country forward, this President's recess appointment is another source of division.

The Senate reaction to the recess appointments of President Clinton and President Bush has also differed dramatically. When President Clinton used his recess appointment power to appoint James Hormel Ambassador to Luxembourg, Senator INHOFE responded by saying that President Clinton had "shown contempt for Congress and the Constitution" and declared that he would place "holds on every single Presidential nomination," which Republicans did in obstruction of President Clinton's nominees. Republicans continued to block nominations until President Clinton agreed to make recess appointments only after Congress was notified in advance. On November 10, 1999, 17 Republican Senators sent a letter to President Clinton telling him that if he violated the agreement, they would "put holds for the remaining of the term of your Presidency on all of the judicial nominees."

In November 1999, President Clinton sent a list of 13 positions to the Senate that he planned to fill through recess appointments. In response, Senator INHOFE spoke out on the Senate floor denouncing five of the 13 civilian nominees with a threat that if they went forward, he would personally place a hold on every one of President Clinton's judicial nominees for the remainder of the administration. That led to more delays and to the need for a vote on a motion to proceed to override the Republican objections.

When President Clinton appointed Judge Gregory, Senator INHOFE called it "outrageously inappropriate for any president to fill a federal judgeship through a recess appointment in a deliberate way to bypass the Senate."

Judge Gregory was eventually confirmed after his renomination in 2001 with near unanimity. There was only one negative vote. Senator LOTT cast that vote and his spokesman said his opposition was done to underscore his stance that "any appointment of federal judges during a recess should be opposed." Ironically, Senator LOTT is now one of Judge Pickering's strongest supporters.

As far as I know, no Senate Democrats were consulted by this President before he made his divisive appointment of Judge Pickering. It was only after President Bush appointed Charles Pickering to the bench that I learned about the appointment. Despite that, Senate Democrats are today participating in making sure the process of judicial appointments moves forward. Democrats have not obstructed the confirmation process for judicial and executive branch nominations as Republicans did when President Clinton made recess appointments. In fact, already this week, less than 2 weeks after President Bush appointed Judge Pickering and a number of other executive branch officials, we have joined in confirming 18 Presidential nominees by unanimous consent. Today we proceed to confirm a judicial nominee in spite of the President's recent actions and those of Senate Republicans.

The nomination of Judge Gary Sharpe has the support of both his home State Senators, both of whom are Democratic Senators. The Democratic Senators who serve on the Judiciary Committee all supported this nomination when it was reported favorably to the Senate in October last year. Had the Republican leadership wanted to proceed on it, this nomination could easily have been confirmed in October, November or December last year before the Senate adjourned. Instead, partisans chose to devote 40 hours to a talkathon on the President's most controversial and divisive nominees rather than proceed to vote on those judicial nominees with the support of the Senate. The delay in considering this nomination is the responsibility of the Republican leadership.

I congratulate Judge Sharpe and his family on his confirmation. He is the 170th judge confirmed by the Senate and will be the 171st appointed by President Bush.

I yield to the senior Senator from New York and his colleague so they can have the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I will speak for 1 minute and then I will yield 1 minute to my colleague, Senator CLINTON.

Mr. SCHUMER. Madam President, I am pleased to rise today in support of Gary Sharpe's nomination to be a judge in the Northern District of New York.

Before I discuss Judge Sharpe's impressive qualifications, I wish to make one point to my colleagues."

If my math is right, when Judge Sharpe is confirmed today—and I expect he will be confirmed unanimously because, as my colleagues will see, he is an example of the nominees we get when the process works right—he will be the 170th judicial nominee of President Bush's we will have confirmed.

I note that at the outset because to hear the hue and cry from some on the other side, one would think that we were roadblocking every nominee who comes before us. With this confirmation, the numbers stand at 170 to 5.

That's a record for which the Buffalo Bills and Buffalo Sabres would kill. When you win over 97 percent of the time, you are doing pretty darn well.

I won't belabor the point, but it's important to note that this process can work and that it frequently does. The process works when we work together to choose nominees who are excellent, moderate, and diverse—the three criteria I use when evaluating judicial nominees. And Judge Sharpe easily clears that bar.

For the past 6 years, Judge Sharpe has served with distinction as a United States Magistrate Judge for the Northern District of New York. Before taking the bench, he spent his professional career working as one of the best prosecutors Northern New York has ever seen. He spent nearly a decade in state court as a prosecutor from Broome County.

He then went over to Federal court where he was an assistant United States attorney before becoming the U.S. attorney for the Northern District.

Judge Sharpe is a graduate of two fine New York schools, the University of Buffalo which he graduated magna cum laude and Phi Beta Kappa—and Cornell Law. After graduating college, but before heading to law school, Judge Sharpe served in the U.S. Armed Forces as a member of the Naval Reserve. He is also a Vietnam veteran, having served there in the Army from 1966 to 1968.

We have talked to lawyers in the Northern District and they simply rave about Judge Sharpe. One judge upstate said, "He's the best lawyer I've ever known." That's pretty high praise.

I congratulate Judge Sharpe and his wife, Lorraine, on this tremendous honor and achievement. I know Chief Judge Scullin is anxious to have him and that Judge Sharpe is going to be a great addition to the Northern District bench.

Again, Madam President, overall, we are at 170 nominees to 5. We have blocked 5. That is not too many, and those are the most egregious ones.

Second, in New York, we have worked this out. When the administration wants to play ball with Senators, they can fill the bench. In New York, we will have no more vacancies because we have agreed. They have chosen nominees who are conservative but not out of the mainstream, and we have gone along.

Third, Judge Sharpe clearly is an excellent nominee. He is not just average; he is not just above average; he is at the very top. We talked with lawyers in the Northern District. They say: He is the best lawyer I have ever known.

He is moderate. He deserves to be on the bench. I fully support his nomination and urge my colleagues to do as well.

The PRESIDING OFFICER. The junior Senator from New York.

Mrs. CLINTON. Madam President, I rise in very strong support of the nomination of Magistrate Judge Gary Lawrence Sharpe who has been nominated to the United States District Court for the Northern District of New York.

Judge Sharpe has more than 20 years of experience as a prosecutor. From 1974 to 1981, he served as an assistant district attorney and senior assistant district attorney for Broome County. After serving for a year as a special assistant New York attorney general, in 1982 he became an assistant U.S. attorney for the Northern District of New York. He served in that office until 1997, when he was appointed a U.S. magistrate judge for the Northern District of New York.

Even with all of his prior prosecutorial responsibilities, Judge Sharpe made time to serve as a member of the Broome County Prisoner Rehabilitation Board, PROBE, the Onondaga County Substance Abuse Commission, and the Onondaga County Youth Court. More recently, he worked with the Department of Probation to develop the High Impact Incarceration Program, HIIP, a program for defendants who have substance abuse problems and who might be candidates for release.

Judge Sharpe's years of service as a magistrate judge have provided him with even more experience, which will serve him well as a U.S. district court judge. Without question, Judge Sharpe has the intellect, judicial demeanor, and commitment to justice to serve the Northern District of New York as a district court judge with distinction.

I ask all of my colleagues to support this nomination.

I commend my colleague, Senator SCHUMER, for the important role he has played on the Judiciary Committee. I second his comment that in New York we have worked together with the administration to nominate and confirm judges who will be a real credit, not only to the bench but to this administration and to our country. Magistrate Judge Gary Lawrence Sharpe is at the top of that list.

In addition to all of his qualifications, he has also found time as a prosecutor to serve in capacities to assist with prisoner rehabilitation, to work with youth, and to work with people who are in the grips of substance abuse to try to bring down the impact of incarceration.

I think he will not only serve with distinction in New York but demonstrate clearly that this is the kind of conservative Republican nominee

whom we could be unanimously confirming. I commend him to the Senate. I thank the Chair.

The PRESIDING OFFICER. All time has expired. The question is, Will the Senate advise and consent to the nomination of Gary L. Sharpe, of New York, to be United States District Judge for the Northern District of New York?

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY), would vote "yea."

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 6 Ex.]

YEAS—95

Akaka	Dole	Lugar
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchinson	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lincoln	Wyden
Dodd	Lott	

NOT VOTING—5

Baucus	Edwards	Lieberman
Chambliss	Kerry	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be immediately notified of the confirmation of the nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, the Senate will return to legislative session.