(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to returns required to be filed after the date of the enactment of this Act.

SEC. 9. PENALTY FOR FAILURE TO FILE S CORPORATION RETURNS.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6699. FAILURE TO FILE S CORPORATION RETURN.

''(a) GENERAL RULE.—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any S corporation required to file a return under section 6037 for any taxable year—

''(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

''(2) files a return which fails to show the information required under section 6037,

such S corporation shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 12 months), unless it is shown that such failure is due to reasonable cause.

''(b) AMOUNT PER MONTH.—For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

''(1) $85, multiplied by

''(2) the number of persons who were shareholders in the S corporation during any part of the taxable year.

''(c) ASSESSMENT OF PENALTY.—The penalty imposed by subsection (a) shall be assessed against the S corporation.

''(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

''Sec. 6699. Failure to file S corporation return.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed after the date of the enactment of this Act.

SEC. 10. MODIFICATION OF REQUIRED INSTALLMENT OF CORPORATE ESTIMATED TAXES WITH RESPECT TO CERTAIN DATES.

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 1.50 percentage points.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, the Committee on Energy and Natural Resources will hold a business meeting on Wednesday, December 19, at 11:30 a.m., in room 366 of the Dirksen Senate Office Building to consider the nomination of Jon Wellinghoff to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2013. (Reappointment)

For further information, please contact Sam Fowler at (202) 224–7571 or Rosemarie Calabro at (202) 224–5039.

EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 395, 396, 407, 410; that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations considered and confirmed are as follows:

THE JUDICIARY

Joseph N. Laplante, of New Hampshire, to be United States District Judge for the District of New Hampshire.

Thomas D. Schroeder, of North Carolina, to be United States District Judge for the Middle District of North Carolina.

DEPARTMENT OF VETERANS AFFAIRS

James B. Peake, of the District of Columbia, to be Secretary of Veterans Affairs.

PENSION BENEFIT GUARANTY CORPORATION

Charles E. F. Millard, of New York, to be Director of the Pension Benefit Guaranty Corporation. (New Position)

NOMINATION OF JOSEPH NORMAND LAPLANTE

Mr. LEAHY. Madam President, I am pleased that we can take a break from the tired partisan sniping from the other side of the aisle to continue, as we have all year, making progress considering and confirming the President's judicial nominations.

The complaints we hear more and more loudly as we approach an election year from the President and others ring hollow. Last month, the Judiciary Committee reached a milestone by reporting out 4 more nominations for lifetime appointments to the Federal bench, reaching 40 in this session of Congress alone. That exceeds the totals reported in each of the previous 2 years, when a Republican-led Judiciary Committee was considering this President's nominees.

Today we consider the nomination of Joseph Normand Laplante, who has been nominated to fill a vacancy in the Northern District of Texas. Joseph is well known to many of us Vermonters as he has spent much of his professional career working for our friends to the east in the old Granite State of New Hampshire and our friends to the south in the Bay State of Massachusetts. Joseph serves as the first assistant U.S. attorney for the District of New Hampshire. Before that, Joseph served as an Assistant U.S. Attorney in the District of Massachusetts, a trial attorney for the U.S. Justice Department's Criminal Division, and a senior assistant attorney general for the State of New Hampshire Office of the Attorney General. He also has experience as a private practitioner in New Hampshire. Joseph graduated from Georgetown University in 1987 and from the Georgetown Law Center in 1990.

I thank Senator GREGG and Senator SUNUNU for their consideration of this nomination and Senator WHITEHOUSE for chairing the confirmation hearing.

When we confirm the nomination we consider today, the Senate will have confirmed 38 nominations for lifetime appointments to the Federal bench this session alone. That is more than the total number of judicial nominations that a Republican-led Senate confirmed in all of 1997, 1999, 2004, 2005 or 2006 with a Republican Majority. It is 21 more confirmations than were achieved during the entire 1996 session, more than double that session's total of 17, when Republicans stalled consideration of President Clinton's nominations.

When this nomination is confirmed, the Senate will have confirmed 138 total Federal judicial nominees in my tenure as Judiciary Chairman. During the Bush Presidency, more circuit judges, more district judges—more total judges—were confirmed in the first 24 months that I served as Judiciary Chairman than during the 2-year tenures of either of the two Republican Chairmen working with Republican Senate majorities.

The Administrative Office of the U.S. Courts will list 45 judicial vacancies and 14 circuit court vacancies after today's confirmation. Compare that to the numbers at the end of the 109th Congress, when the total vacancies under a Republican controlled Judiciary Committee were 51 judicial vacancies and 15 circuit court vacancies. That means that despite the additional 5 vacancies that arose at the beginning of the 110th Congress, the current vacancy totals under my chairmanship of the Judiciary Committee are below where they were under a Republican-led Judiciary Committee. They are only a little more than half of what they were at the end of President Clinton's term, when Republican pocket filibusters allowed judicial vacancies to rise to 80, 26 of them for circuit courts.

Despite the progress we have made, I will continue to work to find new ways to be productive on judicial nominations. Just last month, I sent the President a letter urging him to work with me, Senator SPECTER, and home State Senators to send us more well-qualified, consensus nominations. Now is the time for him to send us more nominations that could be considered and confirmed as his Presidency approaches its last year, before the Thurmond Rule kicks in.

As I noted in that letter, I have been concerned that several recent nominations seem to be part of an effort to pick political fights rather than judges to fill vacancies. For example, President Bush nominated Duncan Getchell to one of Virginia's Fourth Circuit Vacancies over the objections of Senator WEBB, a Democrat, and Senator WARNER, a Republican. They had submitted a list of five recommended nominations, and specifically warned the White House not to nominate Mr. Getchell. As a result, this nomination

that is opposed by Democratic and Republican home state Senators is one that cannot move.

When the President sends on well-qualified consensus nominations, we can work together and continue to make progress as we are today.

I congratulate Joseph and his family on his confirmation today.

NOMINATION OF THOMAS D. SCHROEDER

Mr. LEAHY. Madam President, the Senate continues, as we have all year, to make progress filling judicial vacancies by considering yet another nomination reported out of Committee this month. The nomination before us today for a lifetime appointment to the Federal bench is Thomas D. Schroeder, to the Middle District of North Carolina. He has the support of both home State Senators. I acknowledge the support of Senators DOLE and BURR, and want to thank Senator WHITEHOUSE for chairing the hearing on this nomination.

Last month, the Judiciary Committee reached a milestone by voting to report our 40th judicial nominee this year. That exceeds the totals reported in each of the previous 2 years, when a Republican-led Judiciary Committee was considering this President's nominees.

Thomas D. Schroeder is a Partner at the Winston-Salem, NC, office of the law firm of Womble, Carlyle, Sandridge & Price, PLLC, where he has worked almost his entire legal career. Mr. Schroeder served as a law clerk for Judge George E. MacKinnon on the U.S. Court of Appeals for the DC Circuit. He graduated from Kansas University and Notre Dame Law School, where he was Editor-in-Chief of the Notre Dame Law Review.

When we confirm the nomination we consider today, the Senate will have confirmed 39 nominations for lifetime appointments to the Federal bench this session alone. That exceeds the totals confirmed in all of 2004, 2005, and 2006 when a Republican-led Senate was considering this President's nominees; all of 1989; all of 1993, when a Democratic-led Senate was considering President Clinton's nominees; all of 1997 and 1999, when a Republican-led Senate was considering President Clinton's nominees; and all of 1996, when the Republican-led Senate did not confirm a single one of President Clinton's circuit nominees.

When this nomination is confirmed, the Senate will have confirmed 139 total Federal judicial nominees in my tenure as Judiciary Chairman. During the Bush Presidency, more circuit judges, more district judges—more total judges—were confirmed in the first 24 months that I served as Judiciary Chairman than during the 2-year tenures of either of the two Republican chairmen working with Republican Senate majorities.

The Administrative Office of the U.S. Courts will list 44 judicial vacancies and 14 circuit court vacancies after today's confirmations. Compare that to the numbers at the end of the 109th Congress, when the total vacancies under a Republican controlled Judiciary Committee were 51 judicial vacancies and 15 circuit court vacancies. That means, that despite the additional vacancies that arose at the beginning of the 110th Congress and throughout this year, the current vacancy totals under my chairmanship of the Judiciary Committee are below where they were under a Republican led-Judiciary Committee. They are almost half of what they were at the end of President Clinton's term, when Republican pocket filibusters allowed judicial vacancies to rise above 100 before settling at 80. Twenty-six of them were for circuit courts.

When the President consults and sends the Senate well-qualified, consensus nominations, we can work together and continue to make progress as we are today.

I congratulate the nominee and his family on his confirmation today.

LEGISLATIVE SESSION

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 373

Mr. REID. Madam President, as in executive session, I ask unanimous consent that when the Senate considers Executive Calendar No. 373, the nomination of John Tinder to be U.S. circuit judge, there be a time limit of 30 minutes for debate, equally divided, between the chairman and ranking member of the Judiciary Committee, Senators LEAHY and SPECTER; that at the conclusion or yielding back of time, the Senate vote on the confirmation of the nomination, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

OPENNESS PROMOTES EFFECTIVENESS IN OUR NATIONAL GOVERNMENT ACT OF 2007

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration S. 2488.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2488) to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this bill be printed in the RECORD.

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

The bill (S. 2488) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2488

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Openness Promotes Effectiveness in our National Government Act of 2007'' or the ''OPEN Government Act of 2007''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Freedom of Information Act was signed into law on July 4, 1966, because the American people believe that—

(A) our constitutional democracy, our system of self-government, and our commitment to popular sovereignty depends upon the consent of the governed;

(B) such consent is not meaningful unless it is informed consent; and

(C) as Justice Black noted in his concurring opinion in Barr v. Matteo (360 U.S. 564 (1959)), ''The effective functioning of a free government like ours depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employees.'';

(2) the American people firmly believe that our system of government must itself be governed by a presumption of openness;

(3) the Freedom of Information Act establishes a ''strong presumption in favor of disclosure'' as noted by the United States Supreme Court in United States Department of State v. Ray (502 U.S. 164 (1991)), a presumption that applies to all agencies governed by that Act;

(4) ''disclosure, not secrecy, is the dominant objective of the Act,'' as noted by the United States Supreme Court in Department of Air Force v. Rose (425 U.S. 352 (1976));

(5) in practice, the Freedom of Information Act has not always lived up to the ideals of that Act; and

(6) Congress should regularly review section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), in order to determine whether further changes and improvements are necessary to ensure that the Government remains open and accessible to the American people and is always based not upon the