

Matthew Brann is nominated to fill a judicial emergency vacancy in the U.S. District Court for the Middle District of Pennsylvania. He has been in private practice for over 2 decades, where he specializes in complex corporate and commercial transactions, real estate, probate, and estate planning. He has tried 20 cases to verdict, judgment, or final decision. He has the support of his home State Senators, and he was voted out of the Judiciary Committee by voice vote 5 months ago.

Judge Jon Tigar is nominated to fill a judicial emergency vacancy in the U.S. District Court for the Northern District of California. Judge Tigar is currently a Superior Court Judge for Alameda County, where he has presided over 175 cases that have gone to verdict or judgment. He previously spent 10 years as a litigator in private practice at two prominent law firms in San Francisco. He earned his law degree from the University of California at Berkeley. After law school, he clerked for the Honorable Robert S. Vance in the U.S. Court of Appeals for the Eleventh Circuit. The ABA Standing Committee on the Federal Judiciary unanimously gave him its highest possible rating of "Well Qualified." His nomination has the support of his home State Senators, and he was approved by the Judiciary Committee more than four months ago by voice vote.

After today's vote, there will still be 11 judicial nominees on the Senate Executive Calendar, 6 of whom were voted out of the Judiciary Committee before the August recess. There is no reason why we cannot confirm all of them today. I have also been urging Republicans to expedite consideration of the 4 judicial nominees who participated in hearings last Wednesday. That would lead to 11 more confirmations before the Senate adjourns to help address the judicial vacancies that currently exist in our Federal courts.

If we adjourn today without confirming these additional nominees, we will leave those 11 vacancies and 5 emergency vacancies open for even longer, and there will be at least 80 vacancies when President Obama begins his second term. Recall that during President Bush's entire second term, the 4 years from January, 2005 through January, 2009, vacancies never exceeded 60. So far during President Obama's first 4 years in office and as far into the future as we can see there have never been less than 60 vacancies, and for much of that time many, many more. This is a prescription for overburdened courts and a Federal justice system that does not serve the interests of the American people.

I commend President Obama for nominating such a diverse group of qualified judges. In his first 4 years, President Obama has appointed as many women judges as President Bush did during his entire 8 years in office. In just 4 years, President Obama has also nominated more African Americans, more Asian Americans, and more

openly gay Americans than his predecessor did in 8 years. Americans can be proud of President Obama's efforts to increase diversity in the Federal judiciary and to ensure that it better reflects all Americans.

I hope that next year, and in the next 4 years, Senate Republicans will end their misguided and harmful obstruction and work with us in a bipartisan manner to do what is right for the country. President Obama has nominated qualified, mainstream lawyers, and the Senate should consider them in regular order, without unnecessary delays. That is what we had done for as long as I have served in the Senate, whether the nominations came from a Democratic or a Republican president. We should work together to restore and uphold the best traditions of the Senate.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to Legislative Session.

#### DESIGNATING THE CITY OF SALEM, MASSACHUSETTS, AS THE BIRTHPLACE OF THE NATIONAL GUARD OF THE UNITED STATES

Mr. REID. Mr. President, I ask unanimous consent the Armed Services Committee be discharged from further consideration of H.R. 1339 and we now proceed to this matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1339) to amend title 32, United States Code, the body of laws of the United States dealing with the National Guard, to recognize the City of Salem, Massachusetts, as the Birthplace of the National Guard of the United States.

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

Mr. REID. Mr. President, I further ask the bill be read a third time, passed, the motion to reconsider be considered made and laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 1339) was ordered to a third reading, was read the third time, and passed.

#### DRYWALL SAFETY ACT OF 2012

Mr. REID. Mr. President, I now ask unanimous consent the Committee on Commerce be discharged from further consideration of H.R. 4212, and we now proceed to this matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4212) to prevent the introduction into commerce of unsafe drywall, to ensure the manufacturer of drywall is readily

identifiable, to ensure that problematic drywall removed from homes is not reused, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the Vitter substitute amendment which is at the desk be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be considered made and laid on the table, and any statements be printed in the RECORD.

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

The amendment (No. 3432) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Drywall Safety Act of 2012".

#### SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Secretary of Commerce should insist that the Government of the People's Republic of China, which has ownership interests in the companies that manufactured and exported problematic drywall to the United States, facilitate a meeting between the companies and representatives of the United States Government on remedying homeowners that have problematic drywall in their homes; and

(2) the Secretary of Commerce should insist that the Government of the People's Republic of China direct the companies that manufactured and exported problematic drywall to submit to jurisdiction in United States Federal Courts and comply with any decisions issued by the Courts for homeowners with problematic drywall.

#### SEC. 3. DRYWALL LABELING REQUIREMENT.

(a) LABELING REQUIREMENT.—Beginning 180 days after the date of the enactment of this Act, the gypsum board labeling provisions of standard ASTM C1264-11 of ASTM International, as in effect on the day before the date of the enactment of this Act, shall be treated as a rule promulgated by the Consumer Product Safety Commission under section 14(c) of the Consumer Product Safety Act (15 U.S.C. 2063(c)).

(b) REVISION OF STANDARD.—If the gypsum board labeling provisions of the standard referred to in subsection (a) are revised on or after the date of the enactment of this Act, ASTM International shall notify the Commission of such revision no later than 60 days after final approval of the revision by ASTM International. The revised provisions shall be treated as a rule promulgated by the Commission under section 14(c) of such Act (15 U.S.C. 2063(c)), in lieu of the prior version, effective 180 days after the Commission is notified of the revision (or such later date as the Commission considers appropriate), unless within 90 days after receiving that notice the Commission determines that the revised provisions do not adequately identify gypsum board by manufacturer and month and year of manufacture, in which case the Commission shall continue to enforce the prior version.

#### SEC. 4. SULFUR CONTENT IN DRYWALL STANDARD.

(a) RULE ON SULFUR CONTENT IN DRYWALL REQUIRED.—Except as provided in subsection (c), not later than 2 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall promulgate a final rule pertaining to drywall manufactured or imported for use in the United

States that limits sulfur content to a level not associated with elevated rates of corrosion in the home.

(b) **RULE MAKING; CONSUMER PRODUCT SAFETY STANDARD.**—A rule under subsection (a)—

(1) shall be promulgated in accordance with section 553 of title 5, United States Code; and

(2) shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(c) **EXCEPTION.**—

(1) **VOLUNTARY STANDARD.**—Subsection (a) shall not apply if the Commission determines that—

(A) a voluntary standard pertaining to drywall manufactured or imported for use in the United States limits sulfur content to a level not associated with elevated rates of corrosion in the home;

(B) such voluntary standard is or will be in effect not later than two years after the date of enactment of this Act; and

(C) such voluntary standard is developed by Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products of ASTM International.

(2) **FEDERAL REGISTER.**—Any determination made under paragraph (1) shall be published in the Federal Register.

(d) **TREATMENT OF VOLUNTARY STANDARD FOR PURPOSES OF ENFORCEMENT.**—If the Commission determines that a voluntary standard meets the conditions in subsection (c)(1), the sulfur content limit in such voluntary standard shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) beginning on the date that is the later of—

(1) 180 days after publication of the Commission's determination under subsection (c); or

(2) the effective date contained in the voluntary standard.

(e) **REVISION OF VOLUNTARY STANDARD.**—If the sulfur content limit of a voluntary standard that met the conditions of subsection (c)(1) is subsequently revised, the organization responsible for the standard shall notify the Commission no later than 60 days after final approval of the revision. The sulfur content limit of the revised voluntary standard shall become enforceable as a Commission rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), in lieu of the prior version, effective 180 days after the Commission is notified of the revision (or such later date as the Commission considers appropriate), unless within 90 days after receiving that notice the Commission determines that the sulfur content limit of the revised voluntary standard does not meet the requirements of subsection (c)(1)(A), in which case the Commission shall continue to enforce the prior version.

(f) **FUTURE RULEMAKING.**—The Commission, at any time subsequent to publication of the consumer product safety rule required by subsection (a) or a determination under subsection (c), may initiate a rulemaking in accordance with section 553 of title 5, United States Code, to modify the sulfur content limit or to include any provision relating only to the composition or characteristics of drywall that the Commission determines is reasonably necessary to protect public health or safety. Any rule promulgated under this subsection shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

**SEC. 5. REVISION OF REMEDIATION GUIDANCE FOR DRYWALL DISPOSAL REQUIRED.**

Not later than 120 days after the date of the enactment of this Act, the Consumer

Product Safety Commission shall revise its guidance entitled "Remediation Guidance for Homes with Corrosion from Problem Drywall" to specify that problematic drywall removed from homes pursuant to the guidance should not be reused or used as a component in production of new drywall.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4212), as amended, was read the third time, and passed.

**REQUIRING MOTOR VEHICLE INSURANCE COST REPORTING**

Mr. REID. Mr. President, I now ask unanimous consent the Committee of Commerce be discharged from further consideration of H.R. 5859.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5859) to repeal an obsolete provision in title 49, United States Code, requiring motor vehicle insurance cost reporting.

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

Mr. REID. I further ask unanimous consent the bill be read a third time, passed, the motion to reconsider be considered made and laid on the table, with no intervening action or debate, and any statement be printed in the RECORD.

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

The bill (H.R. 5859) was ordered to a third reading, was read the third time, and passed.

**FRANK BUCKLES WORLD WAR I MEMORIAL ACT**

Mr. REID. I now ask we proceed to H.R. 6364.

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

The legislative clerk read as follows:

A bill (H.R. 6364) to establish a commission to ensure a suitable observance of the centennial of World War I, to provide for the designation of memorials to the service of members of the United States Armed Forces in World War I, and for other purposes.

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

Mr. REID. I ask that the McCaskill-Blunt amendment which is at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be made and laid on the table with no intervening action or debate, and any statement be printed in the RECORD.

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

The amendment (No. 3433), in the nature of a substitute, was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 6364), as amended, was read the third time and passed.

**GOVERNMENT ACCOUNTABILITY OFFICE EXAMINATION OF CERTAIN TRANSACTIONS**

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 3709, which was reported earlier today.

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

The legislative clerk read as follows:

A bill (S. 3709) to require a Government Accountability Office examination of transactions between large financial institutions and the Federal Government, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the Vitter-Brown of Ohio amendment, which is at the desk, be agreed to, and the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and all statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3434) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

**SECTION 1. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF TRANSACTIONS BETWEEN LARGE FINANCIAL COMPANIES AND THE FEDERAL GOVERNMENT.**

(a) **DEFINITIONS.**—For purposes of this Act—

(1) the term "covered institution" means any bank holding company having more than \$500,000,000,000 in consolidated assets; and

(2) the term "economic benefit" means the difference between actual loans terms offered, debt or equity prices, or asset values and a reasonable estimate of what such terms, prices, or values might have been, as determined by examining actual values of comparable transaction in the private markets or by estimating the values of comparable transactions priced to properly reflect associated risk.

(b) **GAO STUDY.**—The Comptroller General of the United States (in this section referred to as the "Comptroller") shall conduct a study of covered institutions, such as—

(1) the favorable pricing of the debt of such institutions, relative to their risk profile resulting from the perception that such institutions will receive Government support in the event of any financial stress;

(2) any favorable funding or economic treatment resulting from an increase in the credit rating for covered institutions, as a result of express, implied, or perceived Government support;

(3) any economic benefit to covered institutions resulting from the ownership of, or affiliation with, an insured depository institution;

(4) any economic benefit resulting from the status of covered institutions as a bank holding company, including access to Federal deposit insurance and the discount window of the Board of Governors of the Federal Reserve System before the date of enactment of this Act;

(5) any economic benefit received through extraordinary Government actions taken, such as—

(A) actions by the Department of the Treasury—