

"Whereas, under existing laws and regulations, the various regulatory agencies of the Federal Government and of the several states have substantial authority to control and monitor effectively the impact of mining and mining exploration; and

"Whereas, states located in the western United States have enacted comprehensive regulatory programs, enforced in conjunction with federal agencies for land management, which set forth the criteria for issuing permits to, and the exploration, development and reclamation of, mining operations and which contain provisions for the protection of surface and ground water, the designation of uses of land after mining operations are completed, the availability of financial resources and public notice and review of decisions made concerning mining operations; and

"Whereas, a bill has been introduced in the Senate of the United States, S. 506, which proposes to reform extensively the laws governing mining in the United States in a manner that would protect the valuable mining industry; and

"Whereas, S. 506 is a bipartisan bill which is supported by the entire Nevada Congressional Delegation; and

"Whereas, if enacted, S. 506 would raise millions of dollars for the treasury of the United States, require mining operations to comply with all applicable federal and state environmental laws and standards for reclamation, establish a program for abandoned mines, abolish the moratorium currently imposed on the issuance of patents and require the Secretary of the Interior to resume the processing of pending applications for patents: Now, therefore, be it

*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the Nevada Legislature hereby expresses its support for the activities and operations of all mining industries in Nevada; and be it further

*Resolved,* That the Nevada Legislature hereby expresses its support for the provisions of S. 506 which reasonably and progressively reforms the existing federal laws governing mining; and be it further

*Resolved,* That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

*Resolved,* That this resolution becomes effective upon passage and approval."

POM-272. A resolution adopted by the Council of the City of Gig Harbor, Washington relative to spent nuclear fuel; to the Committee on Environment and Public Works.

POM-273. A resolution adopted by the Assembly of the Fairbanks North Star Borough of the City of Fairbanks, Alaska relative to the Clean Water Act; to the Committee on Environment and Public Works.

POM-274. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Environment and Public Works.

#### "SENATE JOINT RESOLUTION NO. 26

"Whereas, recent studies performed by the Nevada Department of Transportation indicate that approximately 8,000 vehicles pass over Hoover Dam daily and that approximately 70 percent of those vehicles are commercial and other vehicles using U.S. Highway No. 93 as a conduit to Las Vegas, rather than to bring tourists and visitors to Hoover Dam; and

"Whereas, the heavy traffic flow over Hoover Dam and through Boulder City has resulted in significant increases in the level of

air pollution and the number of traffic accidents in the area; and

"Whereas, a study cited by the *Las Vegas Sun* on November 11, 1991, indicated that an average of 1,434 tons of hazardous materials, including gasoline, diesel fuel, hydrochloric acid, cyanide and chlorine, are transported daily over Hoover Dam and through Boulder City; and

"Whereas, such a heavy flow of large trucks transporting highly flammable or hazardous materials, or both, significantly increases the chances that a major accident could occur near Hoover Dam or in Boulder City; Now, therefore, be it

*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the Legislature of the State of Nevada hereby urges Congress to take all necessary actions to alleviate the problems caused by the heavy commercial traffic over Hoover Dam and through Boulder City, including, without limitation, the construction of a highway bypass around Hoover Dam and Boulder City which would connect U.S. Highway No. 93 in Nevada to Interstate Highway No. 40 in California as a means of:

1. Diverting the heavy flow of trucks transporting highly flammable or hazardous materials, or both, and the heavy flow of regular traffic from traveling over Hoover Dam and through Boulder City;

2. Preventing further air pollution in the area;

3. Reducing the number of traffic accidents in the area;

4. Reserving the portion of U.S. Highway No. 93 over Hoover Dam to accommodate the traffic of tourists and visitors to the dam; and

5. Preventing the pollution of the Colorado River from spill into the river related to the heavy flow of such traffic;

and be it further  
*Resolved,* That the Legislature hereby directs the Nevada Department of Transportation to cooperate with the appropriate public agencies to accomplish the construction of the highway bypass between U.S. Highway No. 93 in Nevada and Interstate Highway No. 40 in California, or the improvement of U.S. Highway No. 95 in Nevada and California, if those projects are approved by Congress; and be it further

*Resolved,* That the Secretary of the Senate of the State of Nevada prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation and the Director of the Nevada Department of Transportation; and be it further

*Resolved,* That this resolution becomes effective upon passage and approval."

POM-275. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Environment and Public Works.

#### "JOINT RESOLUTION

"Whereas, section 211(k)(1) of the federal Clean Air Act required the United States Environmental Protection Agency to promulgate regulations establishing requirements for reformulated gasoline that reduce emissions of volatile organic compounds and toxics to the greatest extent achievable "taking into consideration the cost of achieving such emission reductions, any non-air quality and other air quality related health and environmental impacts and energy requirements"; and

"Whereas, the Clean Air Act requires that such gasoline contain a minimum oxygen content of 2.0% by weight; and

"Whereas, one of the ingredients commonly used to meet the 2.0% oxygen content

standard, namely methyl tertiary butyl ether, or MTBE, is suspected of increasing health risks due to contamination of water and air; and

"Whereas, the increased oxygen content decreases vehicle performance; and

"Whereas, the Administrator of the United States Environmental Protection Agency has the authority and a duty to control the contents of gasoline; Now, therefore, be it

*Resolved,* That We, your Memorialists, respectfully urge and request that the Administrator of the United States Environmental Protection Agency revise the regulations for certification of reformulated gasoline to minimize or prohibit use of oxygenates and to achieve the statutory goals of reducing emissions of volatile organic compounds and toxics by means other than increasing the oxygen content of gasoline; and be it further

*Resolved,* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable Carol Browner, Administrator of the United States Environmental Protection Agency, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and each member of the Maine Congressional Delegation. The Secretary of State shall send a copy of this Memorial to the governor and the legislative leaders of each state that is a member of the ozone transport region, created in Section 184 of the federal Clean Air Act."

POM-276. A resolution adopted by the Board of Commissioners of Pamlico County, North Carolina relative to tobacco; to the Committee on Labor and Human Resources.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. HEFLIN, Mr. HATCH, Mr. GRASSLEY, and Mr. D'AMATO):

S. 1115. A bill to prohibit an award of costs, including attorney's fees, or injunctive relief, against a judicial officer for action taken in a judicial capacity; to the Committee on the Judiciary.

By Mr. EXON:

S. 1116. A bill entitled "The Broadcast and Cable Voluntary Standards and Practice Act"; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE (for himself, Mr. BREAUX, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. REID, Mr. KERREY, Mr. FORD, Mr. DORGAN, Mr. DODD, Mr. KERRY, Mr. LIEBERMAN, Mr. CONRAD, Mr. BINGAMAN, Mr. BRYAN, Mr. INOUE, and Mr. ROBB):

S. 1117. A bill to repeal AFDC and establish the Work First Plan, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. GLENN):

S. 1118. A bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare program; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1119. A bill to define the circumstances under which earthquake insurance requirements may be imposed by the Federal Home Loan Mortgage Corporation on a specifically targeted State or area; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for himself, Mr. PACKWOOD, Mr. LOTT, Mr. NICKLES, Mr.

COCHRAN, Mr. MACK, Mr. D'AMATO, Mr. THURMOND, Mr. ABRAHAM, Mr. BENNETT, Mr. BOND, Mr. BROWN, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. INHOFE, Mr. MCCAIN, Mr. MURKOWSKI, Mr. PRESSLER, Mr. ROTH, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, and Mr. WARNER):

S. 1120. A bill to enhance support and work opportunities for families with children, reduce welfare dependence, and control welfare spending; to the Committee on Finance.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. HEFLIN, Mr. HATCH, Mr. GRASSLEY, and Mr. D'AMATO):

S. 1115. A bill to prohibit an award of costs, including attorney's fees, or injunctive relief, against a judicial officer for action taken in a judicial capacity; to the Committee on the Judiciary.

##### THE JUDICIAL IMMUNITY RESTORATION ACT

Mr. THURMOND. Mr. President, I rise today, along with Senators HEFLIN, HATCH, GRASSLEY, and D'AMATO, to introduce the Judicial Immunity Restoration Act of 1995 to protect judges from lawsuits filed against them for acts taken in their judicial capacity. This bill is nearly identical to legislation considered in the 100th Congress, the 101st Congress, and most recently in the 102d Congress.

This legislation is needed to restore the doctrine of judicial immunity by correcting the decision of the United States Supreme Court in *Pulliam v. Allen*, 456 U.S. 522 (1984). In a 5 to 4 decision, the Supreme Court held that judicial immunity does not bar injunctive relief or an award of attorneys' fees against State court judges acting in their judicial capacity. The Court recognized the possible chilling effects its decision might have on a judge's ability to exercise independent judgment. But the Supreme Court held that the Congress should determine the extent of judicial immunity.

It is important for the Congress to clarify the extent of judicial immunity to ensure that judges are free to make appropriate decisions in their judicial capacity without fear of reprisal. This legislation prohibits the award of costs or attorneys' fees against judges, both State and Federal, for performing the judicial functions for which they were elected or appointed. In addition, this legislation removes the threat of injunctions against judges for acts performed in their judicial capacities, except in rare circumstances when a judge refuses to respect a declaratory judgment.

Few doctrines are more important or more firmly rooted in our jurisprudence than the notion of an independent judiciary. Judicial immunity has been a fundamental tenet of our common law since distinguished jurist Lord Coke held in the case of *Floyd and*

*Barker*, 77 Eng. Rep. 1305 (1607), that a judge who presided over a murder trial was immune from subsequent conspiracy charges brought against him by the murder defendant. Judicial independence is no less critical today, and remains essential to ensure justice.

It is time to restore the judicial immunity protections that were weakened by the Court's decision in *Pulliam*. In the 10 years since *Pulliam*, thousands of Federal cases have been filed against judges and magistrates. The overwhelming majority of these cases are without merit and are ultimately dismissed. The record from our previous hearings on this issue is replete with examples of judges having to defend themselves against cases that should never have been brought. The very process of defending against those actions constitutes harassment, and subjects judges to undue expense. More importantly, the very real risk to our judges of burdensome litigation creates a chilling effect that may impair the judiciary's day-to-day decisions in close and controversial cases.

Mr. President, an independent judiciary is a vital component in any democracy, and cannot be compromised. This bill will restore the independence of all justices, judges, and judicial officers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

##### S. 1115

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

#### SECTION 1. PROHIBITION AGAINST AWARDS OF COSTS, INCLUDING ATTORNEYS' FEES, AND INJUNCTIVE RELIEF AGAINST A JUDICIAL OFFICER.

(a) NONLIABILITY FOR COSTS.—Notwithstanding any other provision of law, no judicial officer shall be held liable for any costs, including attorney's fees, in any action brought against such officer for an act or omission taken in such officer's judicial capacity, unless such action was clearly in excess of such officer's jurisdiction.

(b) PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting before the period at the end thereof “, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction”.

(c) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended by inserting before the period at the end of the first sentence: “, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable”.

By Mr. EXON:

S. 1116. A bill entitled “The Broadcast and Cable Voluntary Standards and Practice Act”; to the Committee on Commerce, Science, and Transportation.

##### THE BROADCAST AND CABLE VOLUNTARY STANDARDS AND PRACTICE ACT

Mr. EXON. Mr. President, a license to use the public airwaves to broadcast or use the public rights-of-way to provide cable service is a tremendous privilege. To many, it is almost a license to print money. The recent purchases of television networks reveal the extraordinary value of this privilege.

With a broadcast or cable license a company gains a key to every household its signal can reach and access to the most intimate and memorable moments of people's lives.

Broadcast television and radio as well as cable programming are key elements of our Nation's culture.

With this privilege should come responsibility. Some of that responsibility is statutory or regulatory, for example, the requirements that broadcasters and cable operators refrain from transmitting obscenity; that broadcasters restrict indecency to hours when children are unlikely to be awake; and that broadcasters serve the public interest.

Some of that responsibility comes from the marketplace, broadcasters and cable companies which offend American families lose their audience. Grassroots efforts have both saved programs from cancellation and quickened the demise of others.

Some of that responsibility comes from the ethics of broadcasters and cable companies as leading corporate citizens of this country. Some of these corporate entities have been more responsible than others. Long before Presidential candidates have tried to shame the media, the Senate Commerce Committee on which I serve has attempted to focus attention on the destructiveness of certain trends in the popular culture.

Some of those who have not been responsible about what they put into American homes blame the marketplace. They claim that in spite of their desires to be more family friendly, the competitive environment forces them to test the limits of taste and decency in the quest for viewers and listeners.

To be effective, the law, the market, and individual ethics must work together. There are some examples of success such as Senator SIMON's legislation which encouraged and allowed joint efforts to reduce the amount of violent programming. But more remains to be done on all fronts.

Few can deny that there is a crisis in America. Parents, churches, schools are having more and more difficulty conveying values to their children. The electronic emperors of the modern age are increasingly replacing parents and families as the primary source of values.

This is a crisis which goes deeper than violence on television it is also about sex and family values in popular culture.

Today, sex sells everything from soft drinks to blue jeans. Daytime commercial television talk shows have become