

EC-3902. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the comprehensive status of Exxon and stripper well oil overcharge funds for the period January 1 through March 31, 1996; to the Committee on Energy and Natural Resources.

EC-3903. A communication from the Acting Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report on royalty management and delinquent account collection activities for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC-3904. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a Decision Document; to the Committee on Energy and Natural Resources.

EC-3905. A communication from the Deputy Executive Director and Chief Operating Officer of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a rule entitled "Allocation of Assets in Single-Employer Plans," received on August 19, 1996; to the Committee on Labor and Human Resources.

EC-3906. A communication from the Chairman of the U.S. Railroad Retirement Board, transmitting, a report relative to the Special Management Improvement Plan; to the Committee on Labor and Human Resources.

EC-3907. A communication from the Board Members of the U.S. Railroad Retirement Board, transmitting, a draft of proposed legislation entitled "The Railroad Unemployment Insurance Act Debt Collection Improvement Act of 1996"; to the Committee on Labor and Human Resources.

EC-3908. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Drug Abuse and Drug Abuse Research"; to the Committee on Labor and Human Resources.

EC-3909. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents," received on August 23, 1996; to the Committee on Labor and Human Resources.

EC-3910. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a rule concerning smokeless tobacco received on September 3, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3911. A communication from The Assistant Secretary of Legislative Affairs of the U.S. Department of State, transmitting, pursuant to law, a report relative to a rule entitled "Fishermen's Protective Act Guaranty Fund Procedures," received August 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3912. A communication from the Acting Program Management Officer of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning fisheries of the Northeastern U.S. (RIN0648-AH05) received August 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3913. A communication from the Acting Program Management Officer of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning fisheries of the Caribbean, (RIN0648-AH86) received August 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3914. A communication from the Director of the Office of Fisheries Conservation

and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitted, pursuant to law, a rule concerning fisheries of the Caribbean received on August 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3915. A communication from the Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning Atlantic Tuna Fisheries received on August 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3916. A communication from the Acting Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Limes and Avocados Grown in Florida; Suspension of Certain Volume Regulations and Reporting Requirements," received September 5, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3917. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Environmental Compliance and Restoration Program"; to the Committee on Commerce, Science, and Transportation.

EC-3918. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the evaluation of oil tanker routing; to the Committee on Commerce, Science, and Transportation.

#### 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. GRASSLEY (for himself and Mr. KYL):

S. 2058. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the United States Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 289. A resolution electing Gregory S. Casey, of Idaho, as the Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 2058. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the U.S. Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

#### UNITED STATES COURT OF APPEALS LEGISLATION

• Mr. GRASSLEY. Mr. President, I introduce legislation which will abolish the 12th seat on the U.S. Court of Appeals for the D.C. circuit. This is the right thing to do. I have studied the D.C. circuit in depth for over a year now, and I can confidently conclude that the D.C. circuit does not need 12 judges.

Last year, I chaired a hearing before the Judiciary Subcommittee on administrative oversight and the courts. At the hearing, Judge Lawrence Silberman—who sits on that court—testified that 12 judges were just too many. According to Judge Silberman, when the D.C. circuit has 12 judges, there isn't enough work to go around. In fact, the main courtroom in the D.C. courthouse does not fit 12 judges. When there are 12 judges, special arrangements have to be made when the court sits in a en banc capacity.

Judge Silberman's testimony is supported by the steady decrease in new cases filed in the D.C. circuit. Since 1985, the number of new case filings in the D.C. circuit has declined precipitously. Even those who support filling the 12th seat admit this. And the D.C. circuit is only entitled to a maximum of 10 judges under the judicial conference's formula for determining how many judges should be allotted to each court.

So the case against filling the 12th seat is compelling. Now that Judge Buckley on the D.C. circuit has taken senior status, we, in Congress, have a unique opportunity. Let's abolish the 12th seat.

Abolishing the 12th seat is completely nonpartisan. If the 12th seat is abolished, no President—Democrat or Republican—could fill it. As long as the 12th seat is open, the temptation to nominate someone to fill the seat will be overwhelming—even with the outrageous cost to the American taxpayer.

According to the Federal judges themselves, the total cost to the American taxpayer for a single article 3 judge is about \$18 million. That's not chump change. That's something to look at. That's real money we can save.

Here in Congress, we have downsized committees and eliminated entirely important support agencies like the Office of Technology Assessment. The same is true of the executive branch. Right now, Congress is considering the elimination of whole Cabinet posts. It is against this backdrop that, as chairman of the subcommittee with jurisdiction over the courts, I have been looking for ways to make sure that precious taxpayer dollars are spent wisely. Eliminating the 12th seat is an important step in the right direction.

While some may incorrectly question Congress' authority to look into these matters, this legislation is, in fact, on firm constitutional ground. Article 3 of the Constitution gives Congress broad authority over the lower Federal courts. Also, the Constitution gives Congress the power of the purse.

Throughout my career, I have taken this responsibility very seriously. I, too, am a taxpayer, and I want to make sure that taxpayer funds aren't wasted.

Some may say that Congress should let judges decide how many judgeships should exist and how they should be allocated. I agree that we should defer to

the Judicial Conference to some degree. However, there have been numerous occasions in the past where Congress has added judgeships without the approval of the Judicial Conference. In 1990, the last time we created judgeships, the Congress created judgeships in Delaware, the District of Columbia, and Washington State without the approval of the Judicial Conference. In 1984, when the 12th judgeship at issue in this hearing was created—Congress created 10 judgeships without the prior approval of the Judicial Conference. It is clear that if Congress can create judgeships without judicial approval, then Congress can leave existing judgeships vacant or abolish judgeships without judicial approval. It would be illogical for the Constitution to give Congress broad authority over the lower Federal courts and yet constrain Congress from acting unless the lower Federal courts first gave prior approval.

In conclusion, Mr. President, I ask my colleagues to support this legislation and pass it quickly. I hope that the President will support and sign this bill. ●

#### ADDITIONAL COSPONSORS

S. 773

At the request of Mrs. KASSEBAUM, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 1386

At the request of Mr. BURNS, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1386, a bill to provide for soft-metric conversion, and for other purposes.

S. 1554

At the request of Mr. COCHRAN, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1554, a bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption for houseparents from the minimum wage and maximum hours requirements of that Act, and for other purposes.

#### SENATE RESOLUTION 289—ELECTING THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 289

*Resolved*, That Gregory S. Casey, of Idaho, be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate.

#### AMENDMENTS SUBMITTED

##### THE OLDER AMERICANS INDIAN TECHNICAL AMENDMENTS ACT

###### MCCAIN AMENDMENT NO. 5203

Mr. MCCAIN proposed an amendment to the bill (S. 1972) to amend the Older Americans Act of 1965 to improve the provisions relating to Indians, and for other purposes; as follows:

On page 2, line 13, insert "or near" after "on".

##### THE DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1997

###### GRAHAM AMENDMENT NO. 5204

Mr. GRAHAM submitted an amendment intended to be proposed to the bill, H.R. 3814, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . Of the funds appropriated in this Act under the heading "OFFICE OF JUSTICE PROGRAMS—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than ninety percent of the amount to be awarded to an entity under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term as defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation.

##### VA BENEFITS TO CHILDREN OF VIETNAM VETERANS WITH SPINA BIFIDA

● Mr. JEFFORDS. Mr. President, today Senator DASCHLE has brought before us an issue that provokes much emotion and raises more questions about the use of agent orange in Vietnam. Senator DASCHLE amendment would treat and compensate Vietnam veterans' children with spina bifida, a terrible defect of the neural tube, the embryonic structure that extends from the spinal cord to the brain. Compensation would entail a monthly monetary allowance, depending on the degree of the condition. About 2,700 children with spina bifida are estimated to be

entitled to care and compensation under this amendment. The amendment has the support of the Vietnam Veterans of America, the American Legion and the Veterans of Foreign Wars.

Senator DASCHLE's amendment responds to the administration's announcement in April, following the release of a National Academy of Sciences report in March, listing spina bifida as having limited/suggestive evidence of an association with herbicidal exposure in Vietnam. The VA does not currently have the authority to extend health care or compensatory benefits to the children of veterans. This amendment would provide that authority.

I have fought for years for equitable treatment for Vietnam veterans afflicted with conditions associated with agent orange exposure. I was very pleased that in 1991 Congress passed the Agent Orange Act. Under this act if there is adequate evidence of a link between military service in Vietnam and a medical conditions, benefits are provided by the Veterans' Administration.

Opponents of the Daschle amendment argue that the evidence supporting this amendment is fragile. I have looked at the evidence myself and I must admit, I cannot disagree with them. The estimates of how many children will be affected by this legislation are not firm because there are no reliable means of determining if a parent of a spina bifida child actually served in an area affected by agent orange. The evidence may not improve much because of the inadequacies of the records kept by the Department of Defense [DOD] in tracking veterans during their service in Vietnam as well as the rate of birth defects in their children. Thankfully, it seems the DOD avoided this for veterans of the gulf war and, with the Persian Gulf Registry, for their children.

Another cause for concern in supporting this amendment is the precedent it sets by providing a new entitlement to the children of veterans. Some may use this amendment as a tool to obtain Federal compensation to other veterans' children suffering from a medical illness and Congress should avoid providing entitlements to more groups without some evidence.

In crafting statutes for presumptive treatment for agent orange veterans, I believed treatment is necessary because the Government has an obligation to treat ill veterans if reasonable evidence suggests there is a causal relationship between service and a medical condition. By definition, presumption is subject to question. Countless families of Vietnam veterans have suffered because of agent orange. The lack of irrefutable scientific evidence had long delayed many of the benefits to which Vietnam veterans are entitled. This amendment will provide assistance to some of these families and, although will not take away the pain caused by spina bifida, it will at least ease the financial burden. This is the