

the Judicial Conference. Indeed, in 1990, a Democratic majority in the Congress created judgeships during a Republican presidential administration. Last year the Judicial Conference of the United States requested that an additional 53 judgeships be authorized around the country. If Congress had passed the Federal Judgeship Act of 1997, S. 678, as it should have, the federal judiciary would have 120 vacancies today. That is the more accurate measure of the needs of the federal judiciary that have been ignored by the Congress over the past two years. In that light, the judicial vacancies crisis continues unabated.

In order to understand why a judicial vacancies crisis is plaguing so many federal courts, we need only recall how unproductive the Republican Senate has been over the last three years. More and more of the vacancies are judicial emergencies that have been left vacant for longer periods of time. The President has sent the Senate qualified nominees for 23 of those judicial emergency vacancies, nominations that are still pending as the Senate prepares to adjourn.

When the American people consider how the Senate is meeting its responsibilities with respect to judicial vacancies, it must recall that as recently as 1994, the last year in which the Senate majority was Democratic, the Senate confirmed 101 judges. It has taken the Republican Senate three years to reach the century mark for judicial confirmations—to accomplish what we did in one session.

Unlike other periods in which judicial vacancies could be attributed to newly-created judgeships, during the past four years the vacancies crisis has been created by the Senate's failure to move quickly to consider nominees to longstanding vacancies.

No one should take comfort from the number of confirmations achieved so far this year. It is only in comparison to the dismal achievements of the last two years that 48 judicial confirmations could be seen as an improvement. I recall that in 1992, during a presidential election year and President Bush's last year in office, a Democratic Senate confirmed 66 of his nominations.

I began this year challenging the Senate to maintain that pace. Instead, the Senate has confirmed only 48 judicial nominees instead of the 84 judges the Senate would have confirmed had it maintained the pace it achieved at the end of last year. The Senate has acted to confirm only 48 of the 91 nominations received for the 115 vacancies the federal judiciary experienced this year.

I know that some are still playing a political game of payback for the defeat of the nomination of Judge Bork to the Supreme Court and other Republican judicial nomination over the last decade. I remind the Senate that the Senate voted on the Bork nomination and voted on the nomination of Clar-

ence Thomas and did so in each case in less than 15 weeks. To delay judicial nominations for months and years and to deny them a vote is wrong.

THE IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM ACT OF 1998

Mr. KENNEDY. Mr. President, the passage of the Irish Peace Process Cultural and Training Program Act is an important step to facilitate the ongoing peace process in Northern Ireland and advance the goals of the Good Friday Agreement of April 10, 1998. The legislation contributes to this effort by providing the people of that strife-torn region with new opportunities to achieve permanent peace and reconciliation.

This bill which authorizes a total of 12,000 residents of Northern Ireland and the six border counties of the Republic of Ireland to come to the United States for up to three years for job training and education.

Northern Ireland has an overall unemployment rate of 9.6 percent, and it is 13 percent in Belfast. The economy grew only three percent in the last year. Economic stagnation and high unemployment disproportionately affect unskilled workers. The legislation reaches out to these disadvantaged workers by giving many of them an opportunity to learn skills in the United States, which they will in turn take home to their communities in Northern Ireland and the border counties and use them productively for their future.

One of America's greatest strengths is its diversity, and the diversity of Northern Ireland can be a strength as well. A major goal of this legislation is to promote cross-community and cross-border understanding and build grass-roots support for long-term reconciliation and peaceful coexistence of the two communities. Building on the success of similar programs, this legislation will enable persons who have lived amidst the conflict and bigotry of Northern Ireland to spend time in communities in the United States where reconciliation works to achieve a strong and more just society. It is our hope that the experience generated by this legislation produce long-lasting social and economic benefits for all the people of the borders and Northern Ireland.

ADVANCEMENT IN PEDIATRIC AUTISM RESEARCH ACT

Mr. ABRAHAM. Mr. President, I rise today in support of S. 2263, the Advancement in Pediatric Autism Research Act, introduced by Senator SLADE GORTON. Infantile autism and autism spectrum disorders are biologically-based, neuro-developmental diseases that cause severe impairments in language and communication. This disease is generally manifested in young children, sometimes during the first years of life.

Estimates show that 1 in 500 children born today will be diagnosed with an autism spectrum disorder and that 400,000 Americans have autism or an autism spectrum disorder. The cost of caring for individuals with this disease is estimated at \$13.3 billion per year. Rapid advancements and effective treatments are attainable through biomedical research.

S. 2263 improves research on pediatric autism in the following areas: networks five Centers of Excellence combining basic research and clinical services; appropriates funds for an awareness campaign aimed largely at physicians and professionals and designed to aid in earlier and more accurate diagnosis; appropriates monies for gene and tissue banking, and funds current proposals at NIH in autism. Michigan families who have been affected by autism or an autism spectrum disorder have contacted my office in support of this legislation. They have impressed upon me the need for better research into this disorder.

With three young children of my own, I too am concerned for millions of children afflicted with childhood diseases and birth defects. I have long been committed to supporting policies that encourage research into this and other afflictions, particularly those conditions that directly impact children. For these reasons, I urge my colleagues to join me in support of this important piece of legislation.

Mr. President, I yield the floor.

RETENTION OF RECKLESSNESS STANDARD OF LIABILITY

Mr. CLELAND. Mr. President, in the wake of final passage of S. 1260, the Securities Litigation Uniform Standards Act, I wish to emphasize my interest in the retention and reinforcement of the recklessness standard of liability and the Second Circuit Court of Appeals pleading standard in federal securities fraud cases. Securities law experts, including officials of the Securities and Exchange Commission, have recognized that the continued vitality of the federal securities laws and the health of the financial markets depend on the reaffirmation of this standard.

It is essential that we be clear that reckless wrongdoing satisfies the scienter standard under the federal securities laws. The current standard that provides liability for reckless behavior should be explicitly reaffirmed; any suggestion that a victimized investor must establish actual knowledge by a defendant is not only legally incorrect but would undermine the integrity of our financial markets. The SEC has repeatedly stated in legal filings and Congressional testimony that the recklessness standard is critical to investor protection. Every federal appellate court that has considered this issue has held that recklessness suffices. The text of the 1995 Private Securities Litigation Reform Act did not change the scienter standard; Members of Congress

understood that raising the standard would have not only a chilling effect on private actions by defrauded individuals, but on regulatory actions by the SEC.

Since the 1995 Reform Act, there has been some disagreement in the courts about whether Congress intended to elevate the pleading standard in securities fraud class actions above the previously existing Second Circuit pleading standard. It is clear to me that the answer to the question must be "no". I am pleased that the Senate Banking Committee Report on S. 1260, as well as the recorded colloquy on the Senate floor about the Second Circuit pleading standard, reaffirm this point.

As I mentioned in my floor statement during debate on this legislation, I am not convinced that the federal preemption of state anti-fraud protections is a necessary step. I support the right of investors to seek legal remedies against those persons selling fraudulent securities. While I worked to streamline the regulatory process in Georgia, I opposed amendments to federal regulations that would have impaired the ability of a state to protect its investors. Here in the Senate, my focus remains the same. For this reason, I opposed S. 1260 during its initial Senate consideration. Nevertheless, if passage of this legislation is inevitable, let us at least make it absolutely clear that an investor's right to seek redress through civil litigation is not eliminated due to a failure to reaffirm the existing standard of recklessness in federal securities fraud cases.

COMMITMENT TO EDUCATION

Mr. FRIST. Mr. President, I rise today to discuss the very important issue of education.

I am very disappointed that some Democrats in Congress and those in the White House have chosen to demagogue and politicize education as we attempt to wind down our legislative year. These Democrats would like for the American people to believe that Republicans just don't care about education and that we are refusing to spend more money to improve our educational system.

Nothing could be further from the truth.

Since I took office in 1995, I have seen a 27 percent increase in the amount of money this Congress has appropriated for education. In 1994, we spent \$24.6 billion for education. For fiscal year 1999, we have proposed to spend \$31.4 billion—exactly, I might add, that the President requested for discretionary spending. Historically, the federal commitment to education has risen from \$23.9 billion in 1959 to over \$564 billion in 1996. As a percentage of GDP, educational expenditures have risen from 4.7 to 7.4 percent over the same time-frame.

For many Democrats, more money and more federal education programs are the answer to our Nation's edu-

cation woes. Over the last few days, we have heard Democrats lament how Republicans have held up all of the Democratic efforts to provide funding for school construction and to reduce class size.

For these Democrats, more money is a surrogate for the structural reform that American education needs. Structural reform, change—this is what these Democrats fear. Instead, their response to crisis is more money and another federal program.

The last thing that we need is another federal program. Through my work as the Chairman of the Senate Budget Committee Education Task Force, I discovered that there are approximately 552 federal education programs. The Department of Education administers 244 of these programs, and EVEN IF you count only those "providing direct and indirect instructional assistance to students in kindergarten through grade 12," the GAO found that there are still 69 programs.

Among these programs, overlap is pervasive. In my office, we call this chart the "spider web chart." This chart, prepared by the GAO, shows that 23 federal departments and agencies administer multiple federal programs to three targeted groups: teachers, at-risk and delinquent youth, and young children. For early childhood, for example, there are 90 programs in 11 agencies and offices. In fact, one disadvantaged child could be eligible for as many as 13 programs.

In addition, the effectiveness of many of these programs is doubtful or unknown. The GAO has expressed concern that the Department of Education does not know how well new or newly modified programs are being implemented, or to what extent established programs are working. The efficacy of Title I also remains uncertain.

Lastly, it should come as no surprise that so many programs and so much confusion comes at great cost. Critics of the education establishment note that although federal funds make up only 7% of their budgets, they impose 50% of their administrative costs. As one concrete example, Frank Brogan, Florida's Commissioner of Education, has reported that it takes 297 state employees to oversee and administer \$1 billion in federal funds. In contrast, only 374 employees oversee approximately \$7 billion in state funds. Thus, it takes six times as many people to administer a federal dollar as a state dollar.

Brogan went on to say:

We at the State and local level feel the crushing burden caused by too many Federal regulations, procedures, and mandates. Florida spends millions of dollars every year to administer inflexible, categorical Federal programs that divert precious dollars away from raising student achievement. Many of these Federal programs typify the misguided, one-size-fits-all command and control approach. Most have the requisite focus on inputs like more regulations, increasing budgets, and fixed options and processes. The operative question in evaluating the effective-

ness of these programs is usually: How much money have we put into the system?

Cozette Buckney, Chief Education Officer, of the Chicago school system echoed the sentiments of many state and local officials:

Excessive paperwork is a concern. Too many reports, the time lines for some of the reports, the cost factor involved, the administrative staff just do not warrant that kind of time on task. That is taking from what we need to do to make certain our students are achieving and our teachers are prepared.

Senator WYDEN and I introduced legislation to help with this regulatory tangle and untie the hands of states and localities. Our Ed-Flex expansion bill would expand to 50 states the enormously popular "Ed-Flex" demonstration program that has already been "field-tested" and proven successful in 12 states.

Ed-Flex frees responsible states from the burden of unnecessary, time-consuming Washington regulations, so long as states are complying with certain core federal principles, such as civil rights, and so long as the states are making progress toward improving their students' results. Under the Ed-Flex program, the Department of Education delegates to the states its power to grant individual school districts temporary waivers from certain federal requirements that interfere with state and local efforts to improve education. To be eligible, a state must waive its own regulations on schools. It must also hold schools accountable for results. The 12 states that currently participate in Ed-Flex have used this flexibility to allow school districts to innovate and better use federal resources to improve student outcomes.

I would also like to add that educational flexibility should extend beyond teaching techniques, curricula, and the rest of what happens in public school classrooms. It should reach to the management of those schools. One of the most important lessons about the prospective changes in education operations is the realization that decentralized, on-the-spot leadership by principals and other administrators is crucial to the success of a school.

Unfortunately, many of America's school systems are frozen into managerial patterns that reward conformity and discourage independent leadership. American business has had to make structural adaptations to meet the challenge of the world market and international competition. Top-heavy managerial structures have given way to more flexible—and therefore more responsive—ways of engaging the work force in team efforts. The result has been greater productivity and enhanced quality.

That is a good example of the kind of adaptation our schools can make, to free up the enormous resources of talent and commitment both among teachers and in the ranks of administrators at all levels.

Republicans would like to stick with this strategy of untying the hands of