

(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