

Whereas for centuries, growth in New England's commercial fishing industry has been intertwined with the history and economic growth of the New England States and has created thousands of jobs in both fishing and fishing-related industries for generations of New England residents: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Commerce should—

(1) reconsider the October 22, 2007 decision to deny the requests of the Commonwealth of Massachusetts, the State of Maine, and the State of Rhode Island for a groundfish fishery failure declaration;

(2) look favorably upon the request of the State of New Hampshire for a groundfish fishery failure declaration; and

(3) immediately propose regulations to implement section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)).

CREATING AND EXTENDING CERTAIN TEMPORARY DISTRICT COURT JUDGESHIPS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 172, S. 1327.

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

The legislative clerk read as follows:

A bill (S. 1327) to create and extend certain temporary district court judgeships.

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

Mr. LEAHY. Mr. President, earlier this year I introduced a bipartisan measure to address the emerging staffing needs of the Federal Judiciary, our coequal branch of government. This bill responds to discrete situations in five States regarding temporary judgeships. In May, the Judiciary Committee voted unanimously to report this bill. It is now December. That is a delay of over 6 months. This sustained delay can be attributed to a "hold" by a single Republican Senator.

I am glad that this hold has finally been lifted so that we can proceed. I am delighted that this bipartisan bill has finally been approved after such a needless delay. Had it been cleared for consideration earlier, the House could have acted before the Thanksgiving recess and the matter could be law. Instead, our proposal still needs to be considered by the House and presented to the President in order to take effect.

In order to address fluctuations in a court's caseload, Congress can authorize a judgeship on a temporary basis. These temporary fixes do not undermine the independence that comes with lifetime appointment to the judiciary because the judges who fill them are, in fact, appointed for life, like all Federal judges. The positions are temporary in the sense that when they expire the next vacancy in the jurisdiction is not filled, and the extra judgeship expires.

Last Congress, two of these needed temporary judgeships were allowed to expire. That was regrettable. One was in Nebraska and the other in California. That was unfortunate since they continue to have high case loads. This legislation restores the status quo

in these busy districts by reauthorizing these two temporary judgeships. I know that Senators FEINSTEIN, BOXER, NELSON and HAGEL have been concerned about these caseloads, and thank them for working with me and for cosponsoring and supporting this bill to restore those judgeships.

In addition, temporary judgeships in three other districts are close to expiration. Caseloads in Ohio, Hawaii and Kansas remain at a high level, and allowing their temporary judgeships to lapse would put a serious strain on courts in those jurisdictions. This legislation would extend each of the five temporary judgeships for 10 years. This will allow Congress some flexibility with regard to future judgeship needs. Senator BROWBACK has expressed his concerns about this to me, as has Mr. REGULA in the House. I thank Senators INOUE, AKAKA, ROBERTS, BROWBACK, VOINOVICH and BROWN for cosponsoring and supporting this bill to extend those judgeships.

Next year, I will work with my colleagues on both sides of the aisle to address judgeship needs in a comprehensive way. Indeed, I have asked six Senators who are members of the Judiciary Committee, three Democratic Senators and three Republican Senators, to serve as a task force and report a proposal to Senator SPECTER and me before the end of the year. I have asked Senator SCHUMER and Senator SESSIONS to head this task force, and look forward to their report next month.

The five districts affected by this bill, however, cannot wait until next year for action on this extension or their temporary judgeships may well expire in the interim. This legislation will act as a "patch," allowing these districts to effectively operate until we are able to determine what additional judgeships are needed throughout the Federal judiciary.

The measure is supported by the Judicial Conference of the United States, and I thank my colleagues for moving this legislation.

Mr. DORGAN. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating to the bill be printed in the RECORD, without further intervening action or debate.

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

The bill (S. 1327) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1327

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

SECTION 1. TEMPORARY JUDGESHIPS FOR DISTRICT COURTS.

(a) ADDITIONAL TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the eastern district of California; and

(B) 1 additional district judge for the district of Nebraska.

(2) VACANCIES NOT FILLED.—The first vacancy in the office of district judge in each of the offices of district judge authorized by this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created in the applicable district by this subsection, shall not be filled.

(b) EXTENSION OF CERTAIN TEMPORARY JUDGESHIPS.—Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 28 U.S.C. 133 note) is amended—

(1) in the second sentence, by inserting "the district of Hawaii," after "Pennsylvania,";

(2) in the third sentence (relating to the district of Kansas), by striking "16 years" and inserting "26 years";

(3) in the fifth sentence (relating to the northern district of Ohio), by striking "15 years" and inserting "25 years"; and

(4) by inserting "The first vacancy in the office of district judge in the district of Hawaii occurring 20 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled." after the sixth sentence.

EMERGENCY AND DISASTER ASSISTANCE FRAUD PENALTY ENHANCEMENT ACT OF 2007

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 167, which is S. 863.

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

The legislative clerk read as follows:

A bill (S. 863) to amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

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

Mr. DORGAN. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (S. 863) was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 863

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007".

SEC. 2. FRAUD IN CONNECTION WITH MAJOR DISASTER OR EMERGENCY BENEFITS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1040. Fraud in connection with major disaster or emergency benefits

"(a) Whoever, in a circumstance described in subsection (b) of this section, knowingly—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or

"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation,

in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), or in connection with any procurement of property or services related to any emergency or major disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned not more than 30 years, or both.

“(b) A circumstance described in this subsection is any instance where—

“(1) the authorization, transportation, transmission, transfer, disbursement, or payment of the benefit is in or affects interstate or foreign commerce;

“(2) the benefit is transported in the mail at any point in the authorization, transportation, transmission, transfer, disbursement, or payment of that benefit; or

“(3) the benefit is a record, voucher, payment, money, or thing of value of the United States, or of any department or agency thereof.

“(c) In this section, the term ‘benefit’ means any record, voucher, payment, money or thing of value, good, service, right, or privilege provided by the United States, a State or local government, or other entity.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

“1040. Fraud in connection with major disaster or emergency benefits.”

SEC. 3. INCREASED CRIMINAL PENALTIES FOR ENGAGING IN WIRE, RADIO, AND TELEVISION FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.

Section 1343 of title 18, United States Code, is amended by inserting: “occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or” after “If the violation”.

SEC. 4. INCREASED CRIMINAL PENALTIES FOR ENGAGING IN MAIL FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.

Section 1341 of title 18, United States Code, is amended by inserting: “occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief

and Emergency Assistance Act (42 U.S.C. 5122)), or” after “If the violation”.

SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall—

(1) promulgate sentencing guidelines or amend existing sentencing guidelines to provide for increased penalties for persons convicted of fraud or theft offenses in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191); and

(2) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives an explanation of actions taken by the Commission pursuant to paragraph (1) and any additional policy recommendations the Commission may have for combating offenses described in that paragraph.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 30 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

MEASURES INDEFINITELY POSTPONED—S. 2131, S. 2107, S. 2150

Mr. DORGAN. Mr. President, I ask unanimous consent the following calendar numbers be indefinitely postponed en bloc: Calendar No. 433, Calendar No. 490, and Calendar No. 492.

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

**ORDERS FOR WEDNESDAY,
DECEMBER 5, 2007**

Mr. DORGAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 12 noon on Wednesday, December 5; that on Wednesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders reserved for their use later in the day; that there then be a period of morning business for 60 minutes with the time equally divided and controlled between leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each, and the first half controlled by the majority and the final portion controlled by the Republicans; that at the close of morning business the Senate resume consideration of the motion to proceed to H.R. 3996, that the mandatory quorum required under rule XXII be waived with respect to the cloture motion filed.

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

ADJOURNMENT UNTIL TOMORROW

Mr. DORGAN. If there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:29 p.m., adjourned until Wednesday, December 5, 2007, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate:

NUCLEAR REGULATORY COMMISSION

GREGORY B. JACZKO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF FIVE YEARS EXPIRING JUNE 30, 2013. (REAPPOINTMENT)

DEPARTMENT OF STATE

HECTOR E. MORALES, OF TEXAS, TO BE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES, WITH THE RANK OF AMBASSADOR, VICE JOHN F. MAISTO, RESIGNED.

DEPARTMENT OF COMMERCE

JOHN J. SULLIVAN, OF MARYLAND, TO BE DEPUTY SECRETARY OF COMMERCE, VICE DAVID A. SAMPSON, RESIGNED.