

The American Bar Association gave Mr. Golden a unanimous "well-qualified" rating. In my years on the Judiciary Committee and now as chairman of the committee, I have seen many nominees, and I believe Tom Golden has outstanding potential for the Federal district court. I urge my colleagues to support him.

Mr. SANTORUM. Mr. President, it is a pleasure for me to come to the floor of the Senate to give good words of encouragement to my colleagues to support Tom Golden for the Eastern District of Pennsylvania judgeship. This is a vacancy that the Office of Administration at the U.S. Courts has determined is a judicial emergency, so it is high time that we get this vacancy filled. Tom Golden has proven to be just the right medicine for us to be able to move this process very quickly in the Senate.

On April 27 he was moved out of committee by a voice vote, so I guess, from all reports at least, unanimously. Certainly there were no vocal objections. He now comes to the floor for confirmation. I congratulate him in anticipation of a strong positive vote today on his successfully negotiated, what can be tough shoals in the Senate when it comes to judicial nomination.

The record speaks for itself. This is a man of great legal ability, as well as someone who is a fine member of his community and citizen of this country. He started out with great potential. He graduated from Penn State University, which happens to be my alma mater, and also graduated from the Dickinson School of Law, which happens to be my alma mater. He has a fine background and education, and he has come forward from that education to work at a law firm in Reading, PA. He is from Berks County. Berks County is one of the larger counties in our State. It has not had a judge there for some time, even though there is a courthouse in Reading. We are quite excited. Folks in the Eastern District are rather exited about the opportunity of having their cases heard and their filings be filed before judges and motions be heard in Reading as opposed to having to travel all the way to Philadelphia to have their cases proceed.

This is not just a good moment for Tom Golden, but it is a good moment for all of the litigants in the western part of the Eastern District, to be able to have their cases heard in a much more convenient fashion.

Aside from a variety of involvements in charitable organizations and specific organizations, I want to mention the fact that Tom was very active in the bar association. In fact, not only is he in the House of Delegates at the ABA, and has been since 2002, he was the president of the Pennsylvania Bar Association from 2003 to 2004 and served, as you can imagine, often as chair leading up to his election to the presidency in 2006. He has been active in the Berks County Bar Association and a whole lot of other legal areas.

He was rated "well-qualified," not surprisingly, by the bar association. He is coming here with the highest recommendations from the legal community, as well as the community at large in Berks County.

It is a pleasure to come here with a noncontroversial nomination, someone who has the highest character, as well as great legal ability, and someone who, I am confident, will do a fine new job as judge on the Eastern District of Pennsylvania.

Mr. BIDEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas M. Golden, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kentucky (Mr. BUNNING) and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea."

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 114 Ex.]  
YEAS—96

Akaka	Domenici	McCain
Alexander	Dorgan	McConnell
Allard	Durbin	Menendez
Allen	Ensign	Mikulski
Baucus	Enzi	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Obama
Bond	Grassley	Pryor
Brownback	Gregg	Reed
Burns	Hagel	Reid
Burr	Harkin	Roberts
Byrd	Hutchison	Salazar
Cantwell	Inhofe	Santorum
Carper	Inouye	Sarbanes
Chafee	Isakson	Schumer
Chambliss	Jeffords	Sessions
Clinton	Johnson	Shelby
Coburn	Kennedy	Smith
Cochran	Kerry	Snowe
Coleman	Kohl	Specter
Collins	Kyl	Stabenow
Conrad	Landrieu	Stevens
Cornyn	Lautenberg	Sununu
Craig	Leahy	Talent
Crapo	Levin	Thomas
Dayton	Lieberman	Thune
DeMint	Lincoln	Vitter
DeWine	Lott	Voinovich
Dodd	Lugar	Warner
Dole	Martinez	Wyden

NOT VOTING—4

Boxer	Hatch
Bunning	Rockefeller

The nomination was confirmed.

Mr. DEMINT. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The PRESIDING OFFICER. The Senator from South Carolina.

#### MORNING BUSINESS

Mr. DEMINT. Mr. President, I ask unanimous consent that the time until 5:30 p.m. be equally divided between the two leaders or their designees in morning business.

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

Mr. DEMINT. Mr. President, I ask to be recognized for 10 minutes in morning business.

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

#### HEALTH CARE AND MEDICAL MALPRACTICE

Mr. DEMINT. Mr. President, next week this Senate is going to consider one of the most important issues that we will consider as a Congress and as a nation, and that issue is health care. All of us know that the cost of health care, the cost of health insurance, and, in many cases, access to doctors around the country is becoming a serious problem. Many are uninsured. It is an issue we talk about a lot in the Senate, but it is an issue we haven't done a lot about.

This is like some other issues, I am afraid, where our tongue doesn't exactly match our action. We heard a lot of talk on the Senate floor about jobs and jobs going overseas, but when the proposals come up to make America the best place in the world to do business, to lower the cost of doing business in this country, to continue investment tax credits, to put some caps on frivolous lawsuits, to reduce the costly and unnecessary regulations, and even to do things that make energy less expensive so we can manufacture in this country, I am afraid my colleagues, particularly my Democratic colleagues, block those actions and, again, unfortunately, pit business against people and profits against jobs. What we know and most Americans know is that people have jobs with businesses, and businesses that don't have profits don't create jobs.

Our rhetoric needs to match our action. We need to stop blocking legislation that needs to be done and blaming other folks when it doesn't get done.

We have seen the same thing happen with energy, unfortunately. For the

last several decades, my Democratic colleagues have blocked the development of America's energy supplies, blocked our own energy independence, even back in the seventies, when President Carter stopped the development of nuclear power generation and our European allies moved on to where now 80 percent of their electricity comes from clean and efficient nuclear power. Even the founder of Greenpeace has come back and said it was a mistake to stop that. Yet today we make electricity with natural gas, which is increasing the demand for natural gas and has raised the prices so that many of our manufacturers can no longer compete because of the high cost of energy in this country. And the price keeps going up.

We have seen the same thing happen with oil and gas where for years we blocked the development of our own energy supplies, our own oil supplies, and now we are down here trying to blame the President and others for the high cost of gasoline.

If we track what happens on many of the votes—I know I have heard on this floor that the oil reserves in Alaska wouldn't make that big a difference. But we know that only a 2- or 3-percent increase in our supply at this time would dramatically reduce the cost of gasoline. Yet on all of these dates over the years, going back to 1991, consistently our Democratic colleagues have voted to block the development of oil reserves in ANWR, and we see the price of gasoline going up consistent with those votes.

I have heard on this floor for a number of years that the 5-percent additional supply that would be provided by ANWR would make no difference in the cost of gasoline. Yet we saw during Katrina, when we lost 5 percent of our supply, what it did to the cost of gasoline and what it is doing today.

We can't continue to block what needs to be done and then blame other people when we have problems because it doesn't get done.

Today I wish to talk particularly about health care because we have gotten word from our Democratic colleagues that they are going to block several important provisions that we are going to try to get on the floor for debate next week.

One of those is medical malpractice. A very important component in the cost of health care is the fact that we are suing doctors out of business. We have 20 States now that are considered in crisis because of medical liability. We have another 24 that show warning signs, which means the loss of doctors, the loss of access to care, and less insurance available. South Carolina is in that group.

Let me share some statistics that should get folks' attention: 59 percent of physicians believe that the fear of liability discourages discussion and thinking about ways to reduce health care costs. The costs of defensive medicine are estimated to be between \$70

billion and \$126 billion a year. I think I need to say that again. The cost of defensive medicine is up to \$126 billion a year to try to cover doctors from liability because of unlimited lawsuits against doctors. Blue Cross, a major insurer, when surveyed said it is already a serious problem as far as adding to the cost of health insurance premiums.

There are many things we can do to fix that, but folks need to understand the real costs because I know my Democratic colleagues will say that it is not a factor.

The only people getting rich from medical malpractice are the personal injury lawyers. Keep these things in mind during our debate next week: More than 70 percent of the claims against doctors or hospitals are dropped or dismissed before they reach a verdict, but even if they are dismissed, the claims costs are \$18,000 in legal expenses. In 2004, medical liability costs that were settled—when cases are settled—the legal costs were \$60,000. In the cases where they actually went to trial but the doctor or hospital won, the average cost jumped to \$94,000.

The Wall Street Journal points out a number of facts like these, but one of them should really hit home. They were using Texas as an example because Texas has made some reforms that we will be considering for our country that have made a big difference.

Hospital premiums to protect against lawsuits more than doubled in Texas between 2000 and 2003. But I think probably the most disheartening statistic I have seen is that between 1999 and 2002, the annual per-bed cost for litigation protection for nursing homes went from \$250 to \$5,000. That is what nursing homes have to pay just for liability coverage for malpractice lawsuits. That is at a time when we have a new and large wave of retirees whom we need help when it comes to nursing homes. Yet we are suing them out of their hospital beds.

We know we can fix this. Part of the problem, I am afraid, is right here in Congress. As I said before, the only people really getting rich from the system we have now are personal injury lawyers. One statistic to remember is between 2003 and 2004, personal injury lawyers gave \$102 million to House and Senate candidates. They got a good payback. In fact, it was a 10,000-percent rate of return because during that same period, over \$18 billion in malpractice awards were given during 1 year—over \$18 billion. We cannot continue to allow this to be a part of our health care system and then come down here and complain about the cost of health care.

We know that many doctors are leaving rural areas and no longer delivering babies. This is a fact. This is not political rhetoric. We know that in many places around the country, if someone is injured badly with a head injury in a car accident and they go to an emer-

gency room, there are no neurologists there because they won't take calls because they are likely to get paid very little from Medicaid or another insurance company, but they could lose millions of dollars because of lawsuits.

There are some commonsense things we can do, and we have seen this happen in Texas with their reforms that we will be looking at next week. I implore my colleagues to consider what Texas did, and before we get into all the misrepresentations, the malpractice bills we are going to talk about next week do not put any limits on economic damages and allow up to \$750,000 for pain and suffering. So a person who is injured could get their salary for life, all their health care paid for, and up to \$750,000 additional money for pain and suffering in Texas. What that has done in just 1 year is cut their lawsuits in half. The cost of liability insurance has been reduced almost 20 percent in just a short period of time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DEMINT. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I won't object assuming there will be 2 additional minutes on this side.

The PRESIDING OFFICER. Time is equally divided.

Without objection, it is so ordered.

Mr. DEMINT. Mr. President, I will conclude again with the hope and the request that we can debate this honestly. Certainly we do not want patients being hurt and not being compensated, but we also don't want many more patients not finding a doctor, not being able to afford their health care or to get health insurance. These are things we can fix if we work together.

If you notice on my chart, I don't accuse this of being Republican or Democrat. It is just an issue we need to address. We need to do something commonsense with medical malpractice. Please, let us put the bill on the floor next week for debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, is the Senator from Massachusetts seeking recognition for a unanimous consent request?

Mr. KENNEDY. I am. I was going to make comments for 2 or 3 minutes and then make a consent request.

Mr. LEAHY. I was going to proceed for about 5 minutes, but if the Senator from Massachusetts wishes to go first, that is fine.

Mr. KENNEDY. I will wait.

#### MEDICAL MALPRACTICE

Mr. LEAHY. Mr. President, it is interesting to hear the statistics being tossed around. I am sure the distinguished Senator did not mean by his chart to suggest somehow bribes have been offered to people in how they vote.