into the weekend to complete that. It is really difficult to put all this stuff over. People's lives are really on the line with our being able to create some jobs. The four things I have been talking about we have been told by the Congressional Budget Office would create jobs immediately—not next year but now.

So I hope we can work through this. I have had one discussion already with the Republican leader today, and I will have some more before the day is out. That is about the best information I can give Senators for the time being.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized

REPUBLICAN SUPPORT

Mr. MCCONNELL. If I may, I missed the first part of what my friend was saying, but I think I understand the gist of it because we had an opportunity to talk a couple of times today.

The dilemma we currently have on the proposal the majority leader is referring to is that I believe it is the case that not all members of the Finance Committee are yet fully aware of what the package may look like. We also do not have an entire conference that understands it yet. If we are talking about a roughly $80 billion package, no matter how it may be labeled—whether it is another stimulus, whether it is a jobs bill, whether it is a combination of both—I would say to my friend that my members need to be able to feel as if they understand what they are being called upon to support. So the sooner we could get the parameters of the final package, the better.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. I hope to be able to get something to the Republican leader very soon. I was told an hour ago that the document is completed. I hope that is the case.

I do say to everyone in the Senate at this time that we want to work through this in an orderly way. I want to make sure both the Republican conference and the Democratic conference have a chance to see the bill. That is fair and that is what we need to do. But I do say to everyone, in addition to that, if, in fact, there is a procedural deadlock we find ourselves in Thursday because of filing cloture on this package—I have explained to everyone that I have no intention of trying to jam anybody on this. It is a jobs bill. We have to let the American people know we are really trying hard to get something done that will create jobs immediately. So I will do my very best to make sure everybody has an opportunity to see everything on this proposed legislation.

If we wind up Thursday on this legislation, I will continue being as cooperative as I can be to make sure people who want to change this in some way legislatively will be able to do that. I may, as I have already indicated to everybody, have to stop amendments in order to get to where we are on Thursday. But I will be happy to open up the vehicle and have people offer amendments. I have no concern at this stage about, frankly, whether the amendments are germane or relevant, just if people want to offer amendments on some subject and to have the ability on both sides to do that, we should be able to do that.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATIONS OF JOSEPH A. GREENAWAY, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, AND CRAIG BECKER, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the following two matters, which the clerk will report.

The legislative clerk read the nominations of Joseph A. Greenaway, Jr., of New Jersey, to be United States Circuit Judge for the Third Circuit, and Craig Becker, of Illinois, to be a member of the National Labor Relations Board.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5 p.m. will be equally divided and controlled between the leaders or their designees.

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PAYING DOWN THE DEBT

Mr. KYL. Mr. President, recent warnings from Moody's that the United States will have to begin addressing our debt in order to avoid downgrading our triple-A bond rating mean that we have to get serious about doing something about the latest deficit and debt projections. The President's new budget proposal estimates that the Federal deficit for fiscal year 2010 will be roughly $1.6 trillion, the largest in American history. It also projects that the deficit we will accumulate over the next decade will increase the U.S. national debt by $8.5 trillion. By the year to 2020, our total public debt will have surpassed $18 trillion and will make up an astounding 77 percent of gross domestic product.

We all agree that this debt poses a major threat to America's future prosperity, and we all agree that slashing debt should be a top national priority. How can we do it? There are four principal ways to reduce government debt: No. 1, inflate the dollar; No. 2, raise taxes; No. 3, cut spending; and No. 4, increase economic growth. Let me briefly discuss each.

First, inflation. Inflation is tempting for governments looking to mitigate their debt problem, but its economic consequences are catastrophic. As President Ronald Reagan famously said, inflation is ''as violent as a mugger, as frightening as an armed robber, and as deadly as a hit man.'' Although America has not experienced painfully high consumer price inflation since the late 1970s and early 1980s, we all remember what it took to kill that inflation: soaring interest rates and a deep recession, the worst since the Second World War. As former Wall Street Journal editor George Melloan notes in his new book, ''The Great Money Binge,'' inflation is ''a tax no one can escape.'' And it is one that disproportionately hurts lower and middle-income Americans and older Americans with savings.

Taxes, a second option for trimming our debt burden, would have to be raised significantly. But, of course, raising taxes is the last thing we should do amid a tentative economic recovery. For evidence of what taxes do to a shaky economy, look at what happened during Japan's lost decade. In the early 1990s, the Japanese experienced a stock market crash, a financial crisis, and a recession. The government took several steps to address the downturn. Among other things, it reduced income taxes. Then, just as the Japanese economy was recovering—thanks partly to these tax cuts—the government raised taxes. The result: Japan fell back into recession. I hope the administration keeps this history in mind before raising taxes at the end of the year, as President Obama has pledged to do.

A third way to lower the national debt would be to cut Federal spending, which is always painful for Congress but particularly in a situation such as this one is absolutely necessary. The administration has been touting a temporary spending freeze that would begin next year, but this freeze would apply only to discretionary nondefense spending which comprises a small fraction of the total budget, about 13 percent. Moreover, this freeze doesn't go into effect until the next fiscal year, and it would not apply to the new stimulus bill the Senate will soon take up. There is a lot of waste in government, and we have to look even harder for additional ways to save and be more responsible with Americans' money. Spending less is the only real way to work off the debt in the long term.

The fourth way to get out of this debt is through economic growth, but

this debt explosion could have a significantly negative impact on our ability to grow by leading to higher interest rates and squelching investment. Economists Carmen Reinhart and Kenneth Rogoff lay hard numbers to this claim in a new paper entitled ''Growth in a Time of Debt.'' They write:

When gross external debt reaches 60 percent of GDP, annual growth declines by about 2 percent; for levels of external debt in excess of 90 percent of GDP, growth rates are roughly cut in half.

Remember, the President's budget projects debt to reach 77 percent of GDP by 2020. So even though growth could eventually enable us to manage and, over time, reduce and perhaps even eliminate our debt, there is a point at which the amount of debt itself inhibits growth, our ability to grow, and obviously we have to tackle the problem of increasing debt, increasing spending, even if we are to hope to grow our way out of the debt problem we have.

Over the long term then, the only way to permanently lower our debt is to hold Federal spending in check and promote strong economic growth such as through lower taxes. This has proven to work time and time again.

Whether we look to the 1920s, the 1960s, or the 1980s, history shows us that reducing marginal income tax rates is a highly effective way to stimulate an economic expansion. To that end, I hope the administration decides to make the 2001 and 2003 tax cuts permanent.

I also hope it reconsiders its plan to raise taxes on U.S. multinational corporations. The administration argues that many U.S. corporations are keeping their profits overseas. But as the Cato Institute economist Chris Edwards pointed out, the reason that U.S. multinationals are moving their profits abroad is that America has the second highest corporate tax rate in the developed world. Only Japan has a higher rate.

Lowering corporate income taxes would spur investment and job creation at home and make us more competitive abroad. Keeping marginal tax rates where they are would enable small business entrepreneurs to begin hiring and expanding. That is the key to recovery and to debt reduction.

So, again, strong growth and spending discipline is the only sustainable solution to the debt problem. I urge my colleagues to keep this in mind as we continue to debate this matter.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in opposition to the nomination of Mr. Craig Becker to be a member of the National Labor Relations Board. Mr. Craig Becker is the first person—I repeat, the first person—nominated for a term on the National Labor Relations Board who comes directly from a labor organization.

Mr. Becker is an officer and associate general counsel of two of our Nation's largest unions, the AFL–CIO and the SEIU. These unions clearly have a substantial interest in the most important decisions presently pending before the Board.

Now, it is one thing to come from private law practice representing employers or unions as clients under the circumstances. It is quite another to come to the Board directly from being an officer and associate general counsel of a labor organization with, as mentioned, substantial interests in multiple matters pending or that will be pending before the Board.

Last week's hearing was clearly necessary, as it revealed that while Mr. Becker will recuse himself for a period of 2 years, and only for 2 years, from those instances when his former employers, the international unions, are a party in a Board proceeding, he did not commit to recuse himself from cases raising issues in which the internationals are involved or impacted, and he did not commit to recuse himself from cases involving the locals of those two international unions.

Parties before the Board, whether union or employer, have a right to a fair and impartial tribunal. The confirmation of an officer and associate general counsel of two of our Nation's largest unions for a term on the National Labor Relations Board will make the appearance of justice and many of the decisions in which he participates impossible to achieve.

Further, to the extent he interprets the act to adopt the policy imperatives of the SEIU or the AFL–CIO and not those expressed by Congress in the act, he will further undermine the Board and sow cynicism in the labor/management community as well as amongst workers whose rights to engage in protected concerted activity or refrain from doing so are protected under the act.

Mr. Becker's writings suggest that he believes the Board can implement provisions of the Employee Free Choice Act into labor law through decisions of the Board. This view suggesting the Board can do what Congress has not authorized should raise concerns with my colleagues on both sides of the aisle.

Let me read a quote from Mr. Becker's colleague, Mr. Stewart Acuff, the AFL–CIO's director of organizing from a February 3, 2010, posting on the Huffington Post. This is just last week.

We are very close to the 60 votes we need. If we are not able to pass the Employee Free Choice Act, we will work with President Obama and Vice President Biden and their appointees to the National Labor Relations Board to change the rules governing forming a union through administrative action to once again allow workers in America access to one of the most basic freedoms in a democracy.

This is clear. This is clear. Mr. Becker's colleague, Mr. Acuff, clearly indicates what Mr. Becker's agenda would be, which would be to violate what is absolutely only a prerogative of the Congress of the United States. This type of bias is why the most respected business groups in America are opposing Mr. Becker's nomination. A statement opposing Mr. Becker's nomination from the National Association of Manufacturers, the Nation's largest industrial trade association, states:

The NAM firmly believes that NLRB members charged with administering our nation's labors laws should protect the principles of fairness and balance that characterize our labor law system. Employees should have the right to information from both employers and union officials and the time to review that information in order to better make important decisions that impact their jobs and families.

Unfortunately, Mr. Becker's interpretation of our labor laws does not reflect these principles and casts serious doubt on his ability to administer our nation's laws in an unbiased manner. We are particularly concerned with Mr. Becker's writings in academic journals that argue that the NLRB should limit the ability of employers to communicate with their employees during union organizing campaigns. Specifically, Mr. Becker has claimed in a 1993 Minnesota Law Review article that ''the core defect in union election law . . . is the employer's status as a party to labor representation proceedings.''

Mr. Becker has asserted views that the NLRB should rewrite union election rules in favor of union organizers. Such policy decisions should only be determined by Congress. The NAM is particularly concerned that if confirmed, Mr. Becker would seek to advance aspects of the jobs-killing Employee Free Choice Act through actions of the NLRB.

From the U.S. Chamber of Commerce, that has only opposed three nominees in the last 30 years, I quote from the U.S. Chamber's statement:

This is only the third time in more than 30 years that the Chamber has opposed a nominee to the Board, most recently the 1993 nomination of William B. Gould. Mr. Becker has written prolifically about the National Labor Relations Act, the law he would be charged with interpreting and enforcing should he be confirmed. Many of the positions taken in his writings are well outside the mainstream and would disrupt years of established precedent and the delicate balance in current labor law. These positions have raised significant concerns in the employer community. Among those concerns are the extent to which Mr. Becker would restrictively interpret employers' free speech rights and the extent to which he would seek to expand the use of intermittent strikes and other forms of work stoppages that disrupt the right of employers to maintain operations during labor disputes.

There may be no one ever nominated to the NLRB more opposed by the business community in the entire history of the NLRB. Are we to believe that the President could not find a single person in America who would not elicit this kind of response due to their bias? Last week, over 500 employers signed a letter opposing Mr. Becker's nomination; 23 major business associations oppose Mr. Becker's nomination.

Mr. Becker's views speak for themselves. But his supporters on the left have explained in full view why they are attempting to seat Mr. Becker. From the authors in the left-leaning publication, The Nation, ''Obama's Pro-Union Nominations to the Labor

Relations Board Stalled,'' January 20, 2010:

The battle over nominations to the NLRB, even more than EFCA, may be what really determine the extent of labor's gains under Obama. Should Obama persevere and see his nominations confirmed, there is reason to believe that much of what organized labor hopes to accomplish via EFCA will be realized through the rule-making power of the NLRB.

If there was any doubt about the euphoria on the left, look no further than what Wade Rathke, the chief organizer of Community Organizations International, formally Acorn International, founder and chief organizer of Acorn, and founder and chief organizer of Local 100, Service Employees International Union, recently wrote:

For my money Craig [Becker's] signal contribution has been his work in crafting and executing the legal strategies which have allowed the . . . effective organization of informal workers—home health and home day care—has been the great, exceptional success story within the American labor movement for our generation, leading us to the [forced dues] of perhaps a half-million such workers in unions such as SEIU, AFSCME, CWA, and the AFT.

Becker is ''the key lawyer from the beginning in the early 1980s who was able to piece together the arguments and representation that allowed those of us involved in trying to organize home health care workers in Illinois, Massachusetts, and elsewhere. . . . [Becker's] role was often behind the scenes devising the strategy with the organizer and lawyers, writing the briefs for others to file, and putting all of the pieces together, but he was the go-to-guy on all of this.''

Rathke concludes:

I can remember Keith Kelleher negotiating the subsidy for the SEIU Local 880 in Chicago and always making sure there was the money for the organizers, but that SEIU was also willing to allow access to Craig. . . .

I just received this, from Alison Reardon of the Service Employees International Union, who came out with an e-mail today that reads:

Senator, your attendance is crucial to appointing Craig Becker to the National Labor Relations Board. Please attend Thursday's HELP [executive] Session to report out President Obama's nomination of Craig Becker for Senate confirmation. This is the highest priority for organized labor, and Majority Leader Reid will file Cloture on Friday 2/5, and has assured us [the] Senate will vote to end debate at 5 p.m. Monday 2/8.

So when this President was elected, he said he would govern from the center. If Craig Becker's nomination is approved, we will see the undermining of a longstanding practice in labor law that should be the prerogative of the United States Congress.

If the Congress of the United States, in its wisdom, or ignorance, decides to pass EFCA, then that is an act of Congress. It should not happen. Card check should not happen because of an unelected bureaucracy, and the National Labor Relations Board is the one to do it. Mr. Becker would have that, obviously my conclusion, on his agenda.

I urge my colleagues to vote no on the cloture motion on Mr. Becker's nomination.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, if you take a look at the history of this great Nation, at least in my lifetime, you cannot miss what happened to America immediately after World War II. Veterans came back from that war, thousands of them, and they were greeted with the GI bill, which opened the door for them to buy homes, start businesses, start an education, and find good jobs.

It may have been one of the most amazing, progressive, positive things we have ever done in our Nation's history: to take a war effort and bring it home to create an economic effort in America. Businesses were springing up in every direction. Workers were finding jobs and building homes. It was a wonderful time in our Nation's history.

Parallel to that GI bill and economic development was the rise of unionism in America. More and more workers were able to go into their workplace and bargain collectively for the basics that people need: safety in the workplace, a living wage. So if you work 40 hours a week, you can make enough money to take care of yourself and raise a family, retirement benefits, health care benefits. These all came about at that same period of time after World War II. The rise of the American economy, with the returning veterans, and the rise in the number of people who were belonging to labor unions, in parallel, brought the middle class into reality in America.

It was a positive force across our Nation. I know a little bit about it with my own personal family experience. My mother, my father, my two brothers, and I worked for a railroad in east St. Louis, IL. Dad was a labor organizer. He was not a high-ranking official, but he was a proud member of the Brotherhood of Railway Clerks; mom the same. I worked various times in summer jobs at that same railroad. I knew I was going to get not a lavish salary but a decent salary for my work and have good conditions because that union had sat down and bargained so I would be recognized as an employee and protected in terms of the work I did. It made sure I was fairly paid.

The same thing was true of many other families, union families, all across America. My mom and dad made it to the 8th grade. They sent their boys on to high school and to college and I managed to finish law school. It was the American dream, and American unions played a big role in realizing that dream.

Now what has happened? Fewer and fewer Americans belong to labor unions. Fewer and fewer Americans are able to bargain collectively for decent wages and working conditions and the basic benefits we would expect. What did we see happening across America as a result of that trend? A growing disparity in terms of the wages earned by working people and the amount of money being paid to those who were the officers of corporations. That disparity has reached shocking, if not disgraceful, levels, where people who are at the highest rungs of corporate America are drawing salaries and bonuses dramatically higher than the people who work for them, who actually are productive and doing a good day's work.

Many of us believe there is an imbalance here. It is an imbalance that has been created deliberately over the years. As business interests have had more power in Washington, they have made it increasingly difficult for workers to exercise their rights in their workplaces to organize and speak for themselves. The agency that is supposed to be the referee in this battle is the National Labor Relations Board. They look for unfair practices by either the workers attempting to organize or the business which is being organized. They basically stand by a principle which we all respect; that is, if a majority of the workers want to bargain collectively, they should have the right to do that, to organize in a union, if they wish it.

But we know what happens. When organizers come to many businesses—not all of them but many of them—and try to speak to the employees and tell them: Here is what we can offer for you if you will join our union, if you will join with your other coworkers in bargaining together, many times they are not only shunned, they are sent away. If they are fortunate enough to come up with a majority of workers who want to move toward unionizing, they find themselves facing legal battles, one after the other, going on for literally years, until you literally wear out the people who are trying to organize that plant.

Complicit in that many times has been the National Labor Relations Board. Without effective and forceful enforcement of the laws that exist, without a sense of urgency in decisionmaking, this agency has allowed so many workers in America to fall by the wayside and not have a chance to stand for themselves. Occasionally, it reaches outrageous levels. We saw that in the case of Lilly Ledbetter, a person who was in a management position, incidentally, at a tire manufacturer down in Alabama. She was being discriminated against in the workplace. The laws could not protect her—at least they did not protect her—and she took her case to court. The Supreme Court of the United States threw her case out, even though she clearly had been discriminated against. We had to change the law in America because discrimination does take place in the workplace and because we say in this country people should be treated fairly.

Now the unions come to us and say: We want to change the way we organize the workplace. They put together the Employee Free Choice Act. That is their term for the legislation that has been offered. It offers a new alternative to gauging whether a majority truly wants to organize a workplace. That bill has been considered in the other

body. It has not been called in this body, and it is unlikely it will ever be called or passed in its original form. But many of us realize it is only fair to make some changes in the way these workplaces are organized, so if a majority of workers truly do want to organize, they have that right, they are not harassed and intimidated, threatened and fired because they are exercising their right under the law to consider belonging to a union or voting in favor of belonging to a union.

Part of this whole discussion relates to the National Labor Relations Board. Before the Senate today is the nomination of Craig Becker from the State of Illinois to be a member of the National Labor Relations Board. You have just heard Senator MCCAIN come and talk about Mr. Becker's activities. Senator MCCAIN is my friend. He and I see America and perhaps the world in slightly different perspectives from time to time, and we certainly do in this case.

The Senator from Arizona was critical of Mr. Becker, saying, well, he was an active organizer for the Service Employees International Union. That is a fact. The fact is, he worked for them in an effort to try to organize workplaces, and in many respects he was successful. That was his job. It was nothing illegal. It was an honorable, legal effort on his part to give voice to employees who otherwise did not have one. Some of the service employee unions, incidentally, represent people with very modest jobs, people who may be doing custodial work or basic maintenance work or who are overlooked in many organizing efforts. So Mr. Becker was fighting for them. He was fighting to give folks who otherwise would not have a chance at least a voice, if not a fighting chance, to be treated with some dignity in the workplace.

Right now, we know what the facts are when it comes to the National Labor Relations Board. If you are in the process of organizing a workplace, and there is a violation of the law, the National Labor Relations Board will take 2 years before they make a decision on a violation of the labor laws—2 years. Well, things change in 2 years, and the owners of businesses know that. So making a violation and waiting 2 years buys them the time to try to change the sentiment in the workplace. It takes 1 year from actually having an organizing petition that is signed before the National Labor Relations Board makes its decision.

Craig Becker knows that. He comes before us because we believe and the President believes he would be a good person on the National Labor Relations Board. It is hard to look at his background and say he is not qualified. He clearly is qualified.

We know the National Labor Relations Board administers the primary law governing labor relations in the private sector. It normally has five Members. It currently has only two sitting members, and it is often deadlocked on issues. It has led to many legal questions being raised about the validity of the Board's decisions.

Craig Becker is an accomplished lawyer and academic. As associate general counsel for the Service Employees International Union, Craig Becker worked to protect the rights of workers to organize. He has argued labor and employment law cases at most levels of the Federal court system, including in the Supreme Court of the United States. Is there anyone who questions this man is qualified for this job? He taught labor law at UCLA, the University of Chicago, and Georgetown University. His research and academic work is well respected and cited by many others in the field.

He was first nominated to fill one of the three openings at the NLRB in July 2009. He was renominated by President Obama just last month. Both last year and last month, the HELP Committee—which is chaired by my friend, Senator TOM HARKIN of Iowa, who will be on the floor with the ranking minority member, Senator ENZI—approved his nomination. Since he was nominated, Mr. Becker has responded to over 300 written questions from Republican Senators—more than nearly any other nominee. I do not know how many questions are asked of Supreme Court nominees, but when you ask 300 questions, it is pretty clear it goes beyond needing some information. The idea is to try to trip up the nominee or ask so many questions you will wear them out. He has met personally with every interested Senator who has wanted to ask him his own personal views. He has addressed the concerns of Senators in congressional hearings—only the second time an NLRB nominee, incidentally, had a second hearing in the last 25 years.

Throughout this process, Mr. Becker has stated his belief that Congress creates labor laws, not the NLRB. I guess there is a parallel to this whole argument about judicial activism, where the argument is being made on the Republican side that if Mr. Becker is brought to the National Labor Relations Board, he is going to make the law. He said, clearly, he will not, his job is to basically interpret the law as written and to implement the law as Congress has passed it. He said, repeatedly, if confirmed, he will apply the law fairly and impartially.

Confirming Craig Becker will allow the NLRB to move forward with its congressionally mandated duties, and I am certainly going to support his confirmation.

I struggle when I hear my Republican colleagues say: Well, it is not fair. When a Democrat is elected President, he might appoint someone to the National Labor Relations Board who is more friendly to the labor unions than a Republican appointee. Is that a stunning revelation to anyone? What we are looking for are honest people who have no prejudice against either side and who will try to make the system work and make the National Labor Relations Board work.

When I look at some of the statistics about what is going on—the number of contested decisions issued by the National Labor Relations Board, on a 4-year average, is 426; and the time it takes them, the processing time from charge to Board decision is 782 days, more than 2 years—it tells me they have broken down in terms of their basic responsibility under the law.

If we keep it at two members, and people can question the validity of any of their decisions, then those who want to make sure the National Labor Relations Board is not an effective working force in our government may have their way. I hope they do not. I certainly hope we will reach a point where we will approve this man who has stood before the HELP Committee and this Senate on two separate occasions, answering all the questions that have been offered. He comes with solid credentials, in terms of his legal knowledge as well as his life experience. He is a person who I know has worked hard to help those less fortunate who are looking for a chance for a living wage and decent working conditions.

Are we going to say anyone who comes to the National Labor Relations Board who has worked for a labor union is disqualified? Is that the position being taken by some? I hope not. That is fundamentally unfair. It is akin to saying anyone who owned a business could not be a member of the National Labor Relations Board. I would not agree with that.

I think we need fairness and balance and impartiality. I think Craig Becker will bring that. So I hope my colleagues will join me in supporting his nomination.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, first of all, just to amplify the record on the Lilly Ledbetter case, the Supreme Court did not rule against Ms. Ledbetter. They upheld the statute of limitations of 180 days for claims filed under civil rights laws. She had come to the court, not a few months after the alleged incident, but years and years later. Only then did she try to make a case. The Court was upholding the law which this Congress passed.

Secondly, I rise, reluctantly, to oppose the nomination of Craig Becker, and I do so based on experience, not based on a whim, not based on politics but based on what I have experienced in the past 6 months in terms of confirmation in labor-related positions.

As you may know, I am from Atlanta, GA. That is the home of Delta Air Lines that has recently merged with Northwest Airlines to form the largest airlines in the United States of America. The National Mediation Board oversees labor issues with regard to the industry.

In the merger of Delta and Northwest, the merger of two different companies with different cultures—Delta

less organized and Northwest more—one of the major questions about that merger as it related to labor law was what would the law be to govern a unionization vote, in this case, of the flight attendants. Northwest flight attendants were organized; Delta's were not. For the 75-year history of the Railway Labor Act in the United States of America, the principle of the National Mediation Board called for a majority vote of all members of the company in the employee class, meaning if there were 1,000 flight attendants in the class, it would take 501 votes to pass a motion to organize.

As we considered the nominees for the National Mediation Board in the HELP Committee last year, I spent extensive time questioning the two Democrat nominees who were nominated for the Board. I pressed them on this very issue trying to ensure that we had what Senator DURBIN referred to; that is, absolutely equal treatment and not a bias in terms of determination of labor decisions. I listened to these appointees over and over again say they would be fair, they would not be biased, and they did not have a preconceived position, and I voted for them.

Within weeks of being seated, they issued a proposed rule at the behest of labor unions, voting 2 to 1 to change the 75-year-old policy. In the face of a unionization vote getting ready to take place at the world's largest airline, they are attempting change the 75-year policy of the National Mediation Board. If they are successful, they will allow a simple majority of the number of people voting to replace the current policy which is a majority of the total number of employees in the class. In the case of the example I gave before in which if there were 1,000 people in the class, under existing law it would take 501 to organize. That is fair. By changing to a majority of those voting if only 100 voted, it would only take 51 to vote to organize the entire class of 1,000 employees within a company. That is a radical shift in the balance between labor and management, without any changes on the ground to merit such a departure from precedent.

Secondly, many on the other side are always talking about the Employee Free Choice Act and how we ought to make it easier to organize. In 2008, which is the last year for which I have statistics, 67 percent of all unionization votes under existing law were in favor of organizing. EFCA amounts to a solution toward a problem we don't have.

Mr. Becker is a very gifted, talented attorney. I sat in for Senator ENZI as ranking member at the confirmation hearing we had in the HELP committee 2 weeks ago, and I asked him about these specific questions. He was very careful and crafty in his answers. I came away not convinced that the statements of Mr. Acuff, the statements of Mr. Iglitzin, and the statements of former NLRB Member Gould were inaccurate. Each of those pro-union experts has written that Mr. Becker's appointment offers an opportunity to do by regulatory authority what could not be done on the floor of the Senate in terms of card check and government-written first contracts. This concern, combined with the National Mediation Board's refusal to obey 75 years of precedent leads me to only one conclusion. Out of an abundance of caution, I am going to vote against the confirmation of Mr. Becker in hopes the administration will send a nominee to the floor who is committed to a balanced treatment of both organized labor and management in this country.

Mr. President, I am grateful for the time, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, I wish to submit for the record a list of nearly 675 organizations that have written in opposition to Mr. Becker's nomination. These groups represent the backbone of our Nation's economy and the catalysts we will need to create new American jobs. They believe Mr. Becker's stated views represent a threat to economic growth, and they oppose Mr. Becker as a nominee for the National Labor Relations Board.

I ask unanimous consent that this list be printed in the Record immediately following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ENZI. Thank you, Mr. President. I am going to oppose cloture of the nomination of Craig Becker to be a member of the National Labor Relations Board. My colleagues know it is very unusual to have a cloture vote on a HELP Committee nominee, but this will be the second in as many weeks. In fact, these two nominees are the only HELP nominations I have opposed. Over 40 HELP nominees have been swiftly confirmed after appropriate consideration in this Congress, but these two nominees are problematic, and instead of withdrawing the nominations as has been done in previous administrations, the majority is attempting to force them through.

Craig Becker was first nominated last July, and controversy surrounding his nomination has only grown since then. A review of decades of writings by Mr. Becker has revealed that he has advocated for the most radical theories of labor law, pursuing policies such as mandatory unionization where an employee would choose which union to join, not whether to join a union; and questioning whether an employer has a right to any involvement at all in the unionization questions in his workplace.

In addition to his writings, Mr. Becker has spent the majority of his career serving as counsel to the two largest labor organizations in America, which has raised questions about his ability to fairly adjudicate cases involving those unions.

On these issues and others, members of the HELP Committee raised a number of serious concerns. It has been cited as a negative that Republicans on the committee submitted hundreds of written questions to Mr. Becker, and it is certainly true that we did ask a lot of questions. Last year, Mr. Becker answered 276 questions for the record. Following his hearing this month, he was sent more than 100 more.

The fact that we have submitted over 400 questions and after three rounds of questions still do not believe we have gotten definitive answers is merely another sign of the deep concerns about this nominee. Last week, the chairman noted Mr. Becker has faced more questions than Supreme Court Justice Sonia Sotomayor. I am not sure I understand the relevance of this fact. I have yet to find the constituent who is urging us to ask fewer questions of our nominees to positions of high public trust.

Furthermore, if a nominee garners a greater level of public scrutiny and larger than usual volumes of questions, we should ask why. This unique scrutiny should be a signal that the individual has raised a great level of concern and controversy. A nominee as controversial as Craig Becker should not go forward, and for that reason I will oppose cloture today.

The Health, Education, Labor, and Pensions Committee has had other nominees who, right or wrong, became controversial. Some of those occurred while I was chairman. Yet not once did I force through a nominee on a party-line cloture vote. We faced partisan opposition for nominees for Surgeon General, the Food and Drug Administration, and the Mine Safety and Health Administration. Oftentimes there appeared to be very little basis for that opposition to my side of the aisle. But because of the strong opposition, the nominees were not confirmed.

In the final 2 years of the last administration, the majority leader held pro forma sessions to even prevent recess appointments, and now the majority, in their control of the calendar, has taken the last 2 weeks to try to jam through partisan, controversial nominees while the public is seeking solutions to the many economic problems facing our Nation.

I wish to point out that there is another way. There are three current vacancies at the National Labor Relations Board, and the HELP Committee has unanimously approved the President's other two nominees. If the Senate wanted to confirm two new members to the Board, it could have easily done so today. In fact, it could have done so last year. One of these nominees, Mark Pearce, is a labor-side attorney who has spent his career representing labor unions. The other is a Republican nominee with management-side experience in addition to tenures on the staff of the National Labor Relations Board and in the Senate as my labor policy director, Brian

Hayes. Yet these nominees did not inspire objections from HELP members on either side of the aisle.

Both Mr. Hayes and Mr. Pearce met with Senators, answered written questions—not nearly as many because there weren't the same degree or amount of concerns—and convinced us that they were well qualified and able to be impartial. Clearly, being linked to interest groups such as labor unions and having opposing policy positions is not disqualifying for nominees before the HELP Committee. The problem with Mr. Becker's nomination is not that he works for unions or that he supports policies which many of us oppose. We have approved dozens of nominees with whom we disagree.

The problem is this nominee has shown in his writings and in his responses to the committee that his thinking is far outside the mainstream. This nominee has failed to convince us that he will not attempt to circumvent Congress and impose card check-style measures administratively to tilt the playing field against employers.

For 7 months Senators have been attempting to address and analyze concerns raised by the employer community and others regarding Mr. Becker's writings, particularly the potential for radical changes in labor law that he has advocated and argued can be implemented without congressional authorization. We have also heard concerns about the nominee's position on recusal, since he spent more than two decades working with the Nation's two largest labor organizations.

There were additional questions about Mr. Becker's status as both an employee of a labor union and as an adviser to the President's transition team. There were questions about Mr. Becker's possible authorship of Executive Orders in that capacity, one of which limited the information given to employees about their right to refrain from paying certain union dues.

Finally, there were concerns about Mr. Becker's role as SEIU associate general counsel and the SEIU's involvement with the scandal surrounding ACORN and former Illinois Governor Rob Blagojevich. Senators attempted to address all of these concerns through interviews, written questions, and a hearing. However, not all of the concerns were favorably resolved, and last Thursday, the nomination was reported out on a party-line vote.

I have made numerous attempts to alleviate concerns about Mr. Becker's stated plans to reinterpret the National Labor Relations Act to limit the ability of employers to participate in the process or otherwise tilt the playing field unfairly against employers. However, his answers have been far from reassuring.

When asked if he would ever support imposing the main provisions of the card check bill through regulatory fiat, he left the door open. He answered that while the statute might be interpreted to not permit the Board to uniformly strip employees of the ability to have secret ballot elections, impose mandatory binding arbitration, and raise penalties on employers, if presented with arguments that it would, he would keep an open mind.

He also told me he believed the Board could impose ''quickie elections''—one of the main card check alternatives that has been discussed. He said he was open to requiring employers to provide personal contact information for all of their employees to any union that asked. He also made it clear he would be open to broadening the use of mandatory bargaining orders in cases where there is no showing that a union has the support of a majority of employees.

Despite the hundreds of written questions he has answered, Mr. Becker has failed to convince me he would not enter into the job with a preconceived agenda to unfairly tilt the playing field against employers, altering the delicate balance of current labor law.

The relative freedom from industrial strife that has allowed America to prosper since enactment of the National Labor Relations Act in 1935 is dependent on a balance between the rights of employees to collectively bargain and the right of employers to control their workplace. It is essential that we not allow the balance to be upended now. In this critical time for our economy, our Nation is dealing with a 9.7–percent unemployment rate, and more than 11 million Americans are drawing unemployment benefits.

Comparative studies have shown that enactment of the card check provision will increase unemployment, making the situation only worse. Because of the Board's broad and important agenda, we simply cannot take the risk of supporting this nominee.

Two recent developments have given me additional pause in reviewing Mr. Becker's nomination. First, despite Mr. Becker's vague assertions, there have been several recent articles and statements from his own movement that confirm all our concerns. In The Nation magazine, another union lawyer wrote that all of the card check provisions and the card check alternative provisions I discussed earlier can be achieved without congressional authority and stated this as a reason to confirm Becker.

Former NLRB member, William Gould, made the same point in an article last year, and a union official wrote just last week that:

> If we aren't able to pass the Employee Free Choice Act, we will work with President Obama and Vice President Biden and their appointees to the National Labor Relations Board to change the rules governing forming a union through administrative action.

There is obviously a high expectation among organized labor constituencies that Mr. Becker can be sent to the National Labor Relations Board to deliver wanted policy changes which cannot be achieved through Congress. Because he has failed to unequivocally rule out that possibility, I can't support his nomination.

The second reason I am demanding a high degree of certainty in his answers is my recent direct experience with nominees who claim to have no opinions on certain issues and no preconceived agenda but who, once confirmed, immediately take action on what they claim to have no preconceived position on. An example of this is the current situation at the National Mediation Board, NMB.

Last year, the Senate unanimously confirmed two nominees from the National Mediation Board. Some Members, including myself, specifically asked each of them about their position on changing the way a majority in a unionization election is measured. In response, both these nominees testified they had no preconceived agenda to alter rules that had been in place for 75 years. You will recall the Senator from Georgia, Senator ISAKSON, had the same concern and asked them specifically, even in private meetings, what their opinion would be. Yet practically before the ink had dried on their confirmations, these two nominees began pushing through a regulation that is a wholesale reversal of those rules to tilt the playing field to the benefit of labor unions. In their haste, the Democratic members of the Board thoroughly disregarded the rights of the single minority member. The minority member was given no notice that an effort to initiate rulemaking was underway and, instead, was given 1½ hours to review the final rule proposal to determine if she would support it. They even tried to stop her from publishing a dissent to the proposal. There are strong indications that the two recently confirmed National Mediation Board members were not forthright with the Senate, and it is clear they showed no respect for the rights of the Mediation Board minority, the regulatory process or the legislative process. In promising Senators to keep an open mind going into this decision, these National Mediation Board nominees used the very same language Mr. Becker uses today.

Similarly, the President's nominee for the Occupational Safety and Health Administration faced many concerns from the small business community and others about his possible agenda going into office. Undoubtedly, the President's nominee for this position would have some views I do not agree with and I fully expect and accept that. But I sought to form an understanding with him on an issue that has traditionally drawn bipartisan support; that is, compliance assistance programs at OSHA that substitute ''gotcha'' inspections with advice and guidance to cooperatively create safer workplaces and save the government money. When it became clear to me the premier compliance assistance program—the Voluntary Protection Program or VPP—was being downsized, I asked the OSHA nominee if he supported compliance programs.

He assured me he ''recognized their great value.'' I asked if he would reevaluate the decision to downsize it. He assured me he would and promised to work with the committee. He was confirmed unanimously. Yet when the budget came out last week, it proposed transferring program staff to another function and eliminate its funding. This does not meet anyone's definition of ''support.''

Now, Mr. Becker is nominated for a different agency and is a different nominee. I certainly don't want to impute the actions of others onto Mr. Becker, but my recent experiences with what nominees say in the confirmation process and how they act once confirmed has forced me to be far more skeptical of vague assurances.

I am also concerned that Mr. Becker's ethics disclosure paperwork has not been updated with the Office of Government Ethics since July 2009, nor has the ethics agreement been revised since April 2009. The administration has pledged support for transparency and accountability and I, therefore, question their decision to rush this nominee through without a proper ethics review.

Independent boards, such as the National Labor Relations Board, are entrusted with a great deal of autonomy. The decisions they hand down and the regulations they enforce have a great deal of impact on a very significant portion of our economy and our Nation's jobs. In the Senate, it is our responsibility to determine if these nominees can be entrusted with this power or if they would compromise fairness to grant favors to special interest groups or former employers.

Late last week, the Senate invoked cloture on Patricia Smith, by a partisan vote of 60 to 32, jamming through a controversial nominee who misled the HELP Committee. To be clear, I have been supportive of nearly all the nominees who have come before the HELP Committee, and I have worked hard with the chairman to swiftly confirm qualified nominees and put them into office. But the Senate has an important responsibility of advice and consent. To regain the trust of the American people, we should demand more accountability from the people we are putting into offices of public trust. I urge this administration to find qualified nominees who will enjoy broad support in the Senate, and I have offered my commitment and past experience to assist with the swift confirmation of those qualified nominees.

For all the above reasons, I will oppose Mr. Becker's nomination to serve as a member of the National Labor Relations Board, and I urge my colleagues to do the same.

I hope the other two nominees who are well qualified, uncontroversial, and who had bipartisan support will be brought to the floor. I also hope this controversial nominee will not be put on the Board through a recess appointment if the Senate rejects the nomination on a bipartisan basis today. As I mentioned before, anytime there were candidates who had that kind of opposition in the past, they were not pushed through on a cloture vote and I hope that will be the case and the name will be withdrawn.

I thank the Chair and yield the floor.

EXHIBIT 1

ENTITIES THAT OPPOSE CRAIG BECKER'S NOMINATION TO THE NATIONAL LABOR RELATIONS BOARD

American Hotel and Lodging Association (AH&LA); American Association of Nurse Executives; American Trucking Association; Associated Builders and Contractors, Inc. (ABC); Associated General Contractors of America; College and University Professional Association for Human Resources; Food Marking Institute; HR Policy Association; Independent Electrical Contractors, Inc.; International Foodservice Distributors Association; International Franchise Association; National Association of Manufactures (NAM); National Association of Wholesaler-Distributors; National Federation of Independent Business; National Pest Management Association; National Ready Mixed Concrete Association; National Retail Federation; National Roofing Contractors Association; Printing Industries of America; Retail Industry Leaders Association.

Society for Human Resource Management; Steel Manufacturers Association; US Chamber of Commerce; HR Policy Association; National Retail Federation; The Coalition for a Democratic Workplace; A.O. Smith Corporation; A. Schulman; Accurate Castings, Inc.; Accuride International Inc.; Ace Manufacturing Industries; Aeries Enterprises LLC; Ahaus Tool and Engineering, Inc.; Ahresty Wilmington Corporation; Air Logistics Corporation; All American Mfg. Co; Allegheny Technologies Incorporated; Allied Machine & Engineering Corp.; National Right to Work Committee; Americans for Limited Government; The American Conservative Union.

Allied Plastics Co., Inc.; Alloy Resources Inc.; Altadis USA, Inc; AM Castle; AMB Enterprises, LLC; American Circuits, Inc.; American Coolair Corporation; American Dehydrated Foods, Inc; American Felt & Filter Company; American Foundry Society; American Hydro Corporation; American Lawn Mower Company; American Safety Razor Company; American Shizuki Corporation; American Shower Door; Amsco Windows; Anchor Fabricators, Inc.; Anthony Timberlands, Inc.; Aries Electronics Inc.; Arkansas State Chamber of Commerce/Assoc. Ind. of Arkansas.

Arm-R-Lite Door Mfg. Company, Inc.; Arobotech Systems, Inc.; Arrow Adhesives Company; Artwoodworking & Mfg. Co.; ASC Profiles Inc.; Ashley Furniture Industries; Associated Industries of Massachusetts; Atlantic Mold & Machining Corp.; Atlas Machine and Supply Inc.; ATS Medical, Inc.; Auburn Gear, Inc.; Auto Truck, Inc.; Avtron Aerospace, Inc.; Bannish Lumber, Inc.; Batesville Products, Inc.; Beacon Converters, Inc.; Bead Industries, Inc.; Beck Steel; Bell Laboratories, Inc.; Belton Industries, Inc.

Bergsen Inc.; Berkley Screw Machine Products, Inc.; Berlin Metals; Bertch Cabinet Mfg., Inc.; Best Chairs, Inc.; BesTech Tool Corporation; Better Baked Foods, Inc.; Betts Industries, Inc.; BH Electronics, Inc.; Bicron Electronics Co; Big D Metalworks; Bio-Research Associates, Inc.; Bison Gear & Engineering Corp.; Blue Bell Creameries, L.P.; BlueScope Steel North America; Bollinger Shipyards, Inc.; Bommer Industries, Inc.; Boston Steel & Mfg. Co.; BPI, Inc.; Braun Northwest, Inc.

Brick Industry Association; Bridgestone Americas, Inc.; Brigham Exploration Company; Brinkman International Group, Inc.; Broan-NuTone LLC; Broderson Manufacturing Corp.; Brush Engineered Materials; Buckeye Fabricating Company; C and M Manufacturing Incorporated; Calgon Carbon Corporation; Cambridge Specialty Co.; Cameron Manufacturing & Design, Inc.; Cardinal Systems Inc; Carter Products Co., Inc.; Case Systems, Inc.; CASHCO Inc.; CB Manufacturing & Sales Co., Inc.; CEMCO Inc.; Cemen Tech, Inc.

Centennial Bolt, Inc.; Central Bindery Company; Central States Fire App LLC; CFX Battery, Inc.; Chaney Enterprises; Channellock Inc.; Chatsworth Products, Inc.; Chemstar Products; Clinch-Tite Corp.; Clow Stamping Co. CMD Corporation; Coast Controls, Inc.; Coastal Forest Resources; Coastal Plywood Company; Coating Excellence International; ColorMatrix Corporation; Commercial Cutting and Graphics, LLC; Conestoga Wood Specialties Corporation; Construction Specialties, Inc.; Con-way, Inc.; Cooper Tire & Rubber Company.

Corbett Package Company; Crafted Plastics, Inc.; CrossCountry Courier; CRT, Custom Products, Inc.; Crysteel Manufacturing Incorporated; Custom Applied Technology Corp.; Custom Tool and Grinding, Inc.; Dakota Awards, Inc.; Dakota Specialty Milling, Inc.; Dart Container Corporation; Davron Technologies, Inc.; Dayton Industries Inc.; Deist Industries, Inc.; Delta Power Company; Dews Research Laboratories, LLC.; Dietz & Watson, Inc.; Dixie Printing & Packaging Corporation; Dixon Insurance Inc.; DLH Industries, Inc.; Domain Communications LLC.

Don R Fruchey, Inc.; DORMA Architectural Hardware; Dorner Mfg. Corp.; Drawn Metals Corporation; Drenth Brothers Inc.; DRT Mfg. Co.; DTR Industries, Inc.; Duke Manufacturing Co.; DuPage Machine Products; Duraclass by TBEI; Du-Well Grinding Enterprises, Inc.; E&E Manufacturing Co. Inc.; E.D. Bullard Company; East Penn Manufacturing Co., Inc.; East-Lind Heat Treat, Inc.; Eclipse Inc.; Edison Price Lighting; Elan Technology, Inc.; Electro Arc Mfg. Co. Inc.; Electronic Systems, Inc.

Ellwood Group, Inc.; EM-CO Metal Products, Inc.; Emery Corporation; Energy Exchanger Company; Engineered Building Design, L.C.; Ervin Industries; Everhard Products, Inc.; Exxel Outdoors, Inc.; F.C. Brengman & Associates; F.N. Sheppard & Co.; Falcon Plastics, Inc.; Fargo Assembly Co.; Fiber Resources, Inc.; Fiberglass Coatings Inc.; Flambeau, Inc.; Flexcon Industries Inc.; FONA International; Food Services of America; Forrest Machine, Inc.; Foster Transformer Co.

Founders Insurance Group, Inc.; Fox Valley Molding Inc.; Foxx Equipment Company; Franklin International; Frasal Tool; Fredon Corporation; Freedom Corrugated, LLC; Freeport Welding & Fabricating, Inc.; GCR Associates; Gemini, Inc.; General Machine Products Co.; General Steel and Supply Company; Genest Concrete Works, Inc.; Geokon Inc.; Glas-Col, LLC; Glasforms Inc.; Glastender, Inc.; Glier's Meats Inc.; Globe Products Inc.

Gold'n Plump Poultry; Gossner Foods Inc.; Grande Cheese Company; Granite Rock Company; Graphite Metallizing; Green Bay Packaging Inc.; Grossman Iron & Steel Company; Gruber Systems Incorporated; Guardian Industries Corp.; Hamilton Caster & Mfg. Co.; Hammond Group, Inc.; Harden Furniture Company, Inc.; Hardwood Products Company; Harold Beck & Sons, Inc.; Henry Brick Company, Inc.; Henry Molded Products; Hercules Drawn Steel Corporation; HES Inc.; HFI, LLC.; Hialeah Metal Spinning, Inc.

High Company LLC; High Industries, Inc.; Hiwasse Manufacturing Company, Inc.; Hobson & Motzer, Inc.; Holden Industries, Inc.; Horizon Steel Co.; HTI Cybernetics;

Hudapack Metal Treating Companies; Huron Automatic Screw Co.; Illinois Tool Works Inc.; Industrial Fasteners Institute; Industrial Metal Fab, Inc.; Industrial Nut Corp.; Industrial Spring Corporation; Interlocking Concrete Pavement Institute; International Hydraulics Inc.; Iten Industries; J.C. Steele & Sons, Inc.; J.T. Fennell Co., Inc.

Jaquith Industries Inc.; Jasper Desk Company, Inc.; JELD-WEN; Jesco Industries Inc.; Jobbers Moving & Storage; John Sterling Corporation; Johnsen Trailer Sales, Inc.; Johnsonville Sausage LLC; Jorgensen Conveyors, Inc.; Kapstone Paper and Packaging Corp.; Kell-Strom Tool Company Inc.; Kercher Machine Works, Inc.; Keystone Nitewear Co. Inc.; Kitchen Cabinet Manufacturers Association; Klann Incorporated; Kleenair Products Co.; Koike Aronson, Inc.; Koller-Craft Plastic Products; Konz Wood Products.

Kuryakyn Holdings, Inc.; L.D. McCauley, LLC; La Deau Hinge Company; Lamiglas, Inc.; Lapp Insulators LLC; Laserage Technology Corporation; Layton Truck Equipment Co., LLC; Leech Carbide; LEECO Spring International; Leed Himmel Ind.; Lifoam Industries; Liftmoore, Inc.; Lord Corporation; Lovejoy Tool Company, Inc.; LSI Industries Inc; LSI Metal Fabrication Division of LSI Industries Inc.; LSI MidWest Lighting; Luick Quality Gage & Tool, Inc.; Lunar Industries, Inc.; M&M Hi Tech Fab, LLC.

Mack Boring and Parts Co.; Mansfield Industries Inc.; Markel Corporation; Mar-Mac Wire, Inc.; Martindale Electric Company; Massachusetts Container Corp.; Materials Processing, Inc.; Mathews Brothers Company; Mathison Metalfab, Inc.; Mazak Corporation; McAlpin Industries, Inc.; McNaughton & Gunn, Inc.; McNichols Company; M-D Building Products, Inc.; Meadows Mills Inc.; Merrick Pet Care; Merritt Equipment Co.; Metal Moulding Corp.; Metal Powder Industries Federation; Metal Products Company.

Metallized Carbon Corporation; Metals Service Center Institute; Metalworks Inc.; MET-L-FLO Inc.; Metl-Span LLC; MFRI, Inc.; Micro Abrasives Corporation; Mid Atlantic Manufacturing & Hydraulics Inc.; Middletown Tube Works, Inc.; Midmark Corporation; Midwest Fabricating Company; Midwest Metal Products, Inc.; Mike-sells Potato Chip Company; Milbank Manufacturing Company; Miles Fiberglass and Composets; Mina Safety Appliances Co.; Mississippi Lime Company; Modern Metal Processing, Inc.; Molded Fiber Glass Companies; Montana Silversmiths Inc.

Moore Industries International Inc.; Morgan Ohare, Inc.; MTD Products Inc.; MTH Pumps; Mullinix Packages, Inc.; N.C. Industries, Inc.; NACCO Industries, Inc.; National Association of Manufacturers; National Bronze Mfg.; National Capital Flag Co. Inc.; National Ceramic Company; National Solid Wastes Management Association; National Tube Form; Nebraska Chamber of Commerce & Industry; Nevada Heat Treating, Inc.; Nevada Manufacturers Association; New Jersey Business & Industry Association; Nordex, Incorporated; North American Association of Food Equipment Manufacturers.

North American Die Casting Association; North Dakota Chamber of Commerce; North Dakota Petroleum Marketers & North Dakota Retail Associations; Northeast PA Manufacturers & Employers Association; Northeast Prestressed Products; Northern Concrete Pipe Inc.; Nosco CTX; Nosco, Inc.; Novelis; NPC, Inc.; O. F. Mossberg & Sons, Inc.; Oil City Iron Works, Inc.; Oil-Dri Corporation of America; Olympian Precast, Inc.; Olympian Precast, Inc.; OMCO Holdings, Inc.; Omega Design Corporation; Omega Precision Corp.; Open-Ended Response; OSI/ISI/SunnyMaids.

Paper Machinery Corporation; Parkway Products; Parts Depot Inc.; Paulo Products Company; Pawling Corporation; Peerless Saw Company; Pella Corporation; Pennsylvania Manufacturers' Association; Penske Corporation; Penske Truck Leasing; Pepsi-Cola Bottling Co., Inc. of Norton; Pepsi-Cola Bottling Company of New Haven, MO; Pequot Tool & Mfg., Inc.; Perlick Corporation; Pete Lien & Sons, Inc.; Peterson Manufacturing Co.; PGT Industries, Inc.; Phoenix Electric Mfg. Co.; Pine Hall Brick Co., Inc.; Plastic Molded Concepts.

Plasticolors, Inc.; Plastics One; PMF Industries, Inc.; Polyfab Corp; Portec, Inc.; Power Curbers Inc.; PPG Industries; PQ Corporation; Prairie Tool Co. Inc.; Precision Automation Company, Inc.; Precision Machined Products Association; Precision Steel Warehouse, Inc.; Pretzels, Inc.; Price Pump Company; Printed Specialties Inc.; Process Equipment, Inc.; Production Specialties Corporation; Quadrant Tool and Manufacturing; Quality Chaser Company.

Radiant Steel Products Company; Radix Wire Company; Rain Flow USA, Inc.; Rainey Road Holdings, Inc.; Rampe Mfg Co Torque Transmission Division; Ramsey Products Corporation; Ranco Fertiservice, Inc.; RdF Corporation; Red Bud Industries, Inc.; Reed Mfg Services; Remanco Hydraulics Inc.; Reuther Mold & Mfg. Co.; Riggs Industries and subsidiaries; Roaring Spring Blank Book Co.; Roberts Automatic Products, Inc.; Robroy Industries; Rock Industries, Inc.; RoMan Manufacturing, Inc.; Roppe Corporation; Roquette America Inc.; Roth Horowitz, LLC.

Route 94 Consulting; ROW, INC; RTI International Metals, Inc.; Rugby Manufacturing; Schatz Bearing Corporation; Scot Forge Company; Scott Douglas Porter, Esq.; Scott Metals Inc; Seals Eastern Inc.; Searing Industries; SGS Tool Company; Shar Systems, Inc; Showplace Wood Products, Inc.; Shultz Steel Co; Signal Mountain Cement Company; Silbond Corporation; Sioux Corporation; Siplast Inc.; Sirois Tool Co., Inc.; SJE Rhombus.

Smith Setzer & Sons Inc; Solar Atmospheres Corporation; Sommer Metalcraft Corporation; Southco Industries, Inc.; Southeastern Hose Inc.; Southern Alloy Corporation; Southern Champion Tray LP; Southland Tube, Inc,; Spirax Sarco, Inc.; Spuncast, Inc.; St. Armands Baking Co.; Standex International Corporation; Star Cutter Company; Star Iron Works, Inc.; Steel Manufacturers Association; Steelscape, Inc.; Steffes Corporation; Stellar Industries, Inc.; Sterking Engineering Corp.; Sterling Engineering Corporation.

Sterling Machine Co. Inc.; Stone City Products, Inc.; Stoner, Inc.; Stoneridge Inc.; Streator Dependable Mfg. Strongwell; Sturm, Ruger & Co., Inc.; Suhner Manufacturing, Inc.; Summers Manufacturing Co., Inc.; Sunnyside Corporation; Superior Graphite Co.; Superior Oil Company, Inc.; Superior Woodcraft, Inc.; Surpass Chemical Co., Inc.; Swanson Industries, Inc.; Sweet Street Desserts; Syncro Corporation; Systems Services of America, Inc.

Tailored Label Products; TBEI, Inc.; TCI, LLC; Teakdecking Systems Inc.; Techsys Chassis, Inc.; Tecumseh Packaging Solutions, Inc.; Tegrant Corporation; TekTone Sound & Signal Mfg., Inc.; Templeton Coal Company, Inc.; Tennessee Chamber of Commerce & Industry; Tennsco Corp.; Ten-Tec, Inc.; Texas Association of Business; Textile Rental Services Association of America; The Adams Company; The Challenge Machinery Company; The DUPPS Co.; The Envelope Printery, Inc.; The Hill and Griffith Company; The Kirk-Habicht Company.

The Knapheide Manufacturing Company; The Manitowoc Company, Inc.; The MasonBox Co.; The Nelson Co. Inc.; The ROHO Group; The Schwan Food Company; The Scotts Miracle-Gro Company; The Sheffer Corporation; The Shockey Companies; The Timken Company; ThermoSafe Brands; Thomas Instrument Co.; Thompson Management Associates; Thomson Lamination Company, Inc.; ThyssenKrupp Waupaca Inc; Tiefenbach North America, LLC; Tiffin Powder Coating Specialists; Timber Truss Housing Systems, Inc.; Torco Inc.; Transducers Direct, LLC.

Transportation Costing Group, Inc.; Tree Top, Inc.; Trim-Tex, Inc.; Trumpf Inc.; Tubodyne Company Inc.; Twin City Roofing, LLC; Tyco Electronics; Ultra Tech Machinery Inc.; Unex Manufacturing Inc.; United Equipment Accessories, Inc.; Uniweld Products Inc.; Unlimited Services; USG Corporation; Utility Trailer Manufacturing Company; Valley Converting Co., Inc.; Vanamatic Company; Ventahood, Ltd; Vermeer; Virginia Manufacturers Association.

W M I; W. R. Meadows, Inc. Wagstaff, Inc.; Wahpeton Breckinridge Area Chamber of Commerce; Walnut Custom Homes, Inc.; Walters Brothers Lumber Mfg., Inc.; Warren Distribution, Inc; Waste Equipment Technology Association; Waukesh Metal Products; Weiss-Aug Co. Inc.; Weldon Solutions; Werthan Packaging, Inc.; WESCO International, Inc.; Western Extrusions; Westside Finishing Co., Inc.; Wildeck, Inc.; Williams-Pyro, Inc.; Winslow LifeRaft Company; Wire Belt Company of America.

Wisconsin Valley Concrete Products Co.; Wood Connection, Inc; Wood's Powr-Grip Co. Inc.; WPT Power Transmission Corp.; Xybix Systems, Inc; Yancey's Fancy, Inc.; Young's Welding, Inc.; Zippo Manufacturing Co.

Apartment & Office Building Association; Arlington Chamber of Commerce; Associated Builders & Contractors—Virginia Chapter; Associated General Contractors; Bedford Area Chamber of Commerce; Bristol Chamber of Commerce; Chase City Chamber of Commerce; Dinwiddie County Chamber of Commerce; Dulles Regional Chamber of Commerce; Fairfax Chamber of Commerce; Fredericksburg Regional Chamber of Commerce; Goochland Chamber of Commerce; Greater Augusta Regional Chamber of Commerce; Greater Bluefield Chamber of Commerce; Greater Reston Chamber of Commerce; Greater Richmond Chamber of Commerce; Greater Springfield Chamber of Commerce.

Halifax County Chamber of Commerce; Hampton Roads Chamber of Commerce; Hampton Roads Utility and Heavy Contractors Association; Harrisonburg-Rockingham Chamber of Commerce; Heavy Construction Contractors Association; Home Building Association of Richmond; Home Builders Association of Virginia; Isle of Wight Chamber of Commerce; Loudoun County Chamber of Commerce; Lynchburg Regional Chamber of Commerce; NAIOP Northern Virginia; National Federation of Independent Business; Northern Virginia Technology Council; Oilheat Association of Central Virginia; Old Dominion Highway Contractors Association; Petersburg Chamber of Commerce; Precast Concrete Association of Virginia; Prince William County-Greater Manassas Chamber of Commerce; Prince William Regional Chamber of Commerce; Richmond Area Municipal Contractors Association; Roanoke Regional Chamber of Commerce; Smith Mountain Lake Chamber of Commerce.

Virginia Agribusiness Council; Virginia Apartment & Management Association; Virginia Asian Chamber of Commerce; Virginia Assisted Living Association; Virginia Association of Broadcasters; Virginia Association of Health Plans; Virginia Association of Chain Drug Stores; Virginia Association for

Commercial Real Estate; Virginia Association for Home Care and Hospice; Virginia Association of Nonprofit Homes for the Aging; Virginia Association of Roofing Contractors; Virginia Autobody Legislative Committee; Virginia Automatic Merchandising Association; Virginia Automobile Dealers Association; Virginia Biotechnology Association; Virginia Business Council; Virginia Cable Telecommunications Association; Virginia Chamber of Commerce; Virginia Coal Association; Virginia Economic Developers Association.

Virginia FREE; Virginia Health Care Association; Virginia Hispanic Chamber of Commerce; Virginia Hospital and Healthcare Association; Virginia Hospitality and Travel Association; Virginia Manufacturers Association; Virginia Motorcycle Dealers Association; Virginia Petroleum, Convenience, and Grocery Association; Virginia Poultry Federation; Virginia Propane Gas Association; Virginia Ready-Mixed Concrete Association; Virginia Retail Federation; Virginia Retail Merchants Association; Virginia Transportation Construction Alliance; Virginia Trucking Association; Virginia Wholesalers & Distributors.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Madam President, I rise in support of the confirmation of Craig Becker to the National Labor Relations Board.

It is policymakers—not outside organizations, it is not political strategists, it is not anti-union activists, and it is not pro-union advocates—who are making this decision. It is policymakers—100 Members of the Senate who are asked to confirm the nomination of Craig Becker to serve as a member of the National Labor Relations Board, NLRB.

It is something we have done in this country since Franklin Roosevelt, in the 1930s, when the National Labor Relations Board was formed. Decade after decade, this body has voted for National Labor Relations Board nominees who are philosophically pro-union, philosophically anti-union or promanagement and not so promanagement. Yet, with Craig Becker, the Republicans have drawn a line in the sand—something that simply didn't used to happen around here. When I hear my colleagues say we can't rush this through, only in the Senate, when somebody is nominated by the President in April—how many months ago is that—8 or 9 months ago—would anybody say we are rushing it through by doing it in February. I guess it is 10 months ago. It doesn't make sense to me.

Since its creation 75 years ago, the NLRB has served a critical and independent function: Protecting workers against unfair labor practices and protecting businesses against unfair allegations. They struck a balance because both sides have been represented. Those with a strong management philosophy and those with a strong union philosophy have worked together on the NLRB.

I have listened to Craig Becker in front of our Committee that Chairman HARKIN chairs and of which Senator ENZI is the ranking member. I have listened to Mr. Becker sit there and tell us when he is in negotiations with management—yes, he did represent labor unions. But we are not allowed to have them on the NLRB? Is that the new idea—that Republicans don't want anybody with that philosophy, anybody who might have worked for a labor union? Do we not want them on the Board because they actually believe workers should have more rights rather than less rights—the way it was during the Bush administration, when the Department of Labor did everything they could to weaken labor rights, when we saw the middle class in these last 10 years shrink because workers were denied the rights to fight back when they wanted to join a union or when workers simply wanted to get backpay or when workers were mistreated and earned their pay but weren't getting it. We needed somebody in that administration to fight for them, but they didn't have that at the Department of Labor. I guess those are the good old days we should return to.

Even though we have done it this way for decades, people with promanagement philosophies and pro-union philosophies getting on this Board—and as Mr. Becker said in his testimony, when he is part of a union-management negotiation, when he is representing a union, he understands what both sides need to understand. He tries to put himself in the shoes of the other side. If you are a union representative, you know management has interests that are legitimate and they have goals they want; and you know management, generally, is going to play straight. If you are on the management side, you look at the union the same way.

That is how Mr. Becker has been trained and how he thinks. That is why I know, even though he has a pro-union philosophy, he will be fair-minded. I know he will serve in the tradition of NLRB appointees from both parties for decades. He will serve in the tradition of other NLRB appointees—some pro-union and some promanagement. Yet Republicans, since April—Mr. Becker was nominated in April—have tried every trick in the book to keep him off the NLRB. So that is April, May, June, July, August, September, October, November, December, January, and now it is mid-February. The Republicans are saying: Why are we rushing this through? Are they so confident they are going to defeat President Barack Obama in the next election that they don't want to put anybody with his philosophy on the NLRB, and do they think they can stall until January 2013? Is that the way they want to run the government?

Unfortunately, when nominee after nominee—we saw it last week with Patricia Smith. If they have anything to do with siding with workers and with being proworker or promiddle class, then we cannot rush. We have to keep asking questions.

The fact is, you know, Madam President, representing the State of New York, what this has meant. What we are seeing is, they asked dozens of questions. In fact, there have been more questions asked of Craig Becker for the NLRB than of Justice Sonia Sotomayor for the U.S. Supreme Court. Craig Becker's isn't a lifetime appointment. It is an important job, but it is not as important as the Supreme Court, which is a lifetime appointment. Yet they have gone after him with more viciousness, questions, and suspicions—and I might add more cynicism—than perhaps any nominee since I have been in the Senate.

The NLRB matters to workers and to businesses. They simply cannot do their jobs unless we fill these appointments. That is what the Republicans are blocking. I would say it isn't good for business to keep these jobs open. I know my friends on the other side of the aisle, on the health care bill, protected the insurance companies and the drug companies, and on the trade bills, they protect the companies that outsource jobs overseas. I know they like to do that. They are not protecting business when they keep Craig Becker off the NLRB. What they are doing is continuing the dysfunction of the NLRB because too many of those jobs are vacant.

That is why it is important the NLRB protects the rights of workers to organize into unions and, equally important, it protects the rights of businesses to air their grievances. I simply don't understand why most of my colleagues on the other side are opposed to giving working Americans fair treatment. Unions exist in this country and businesses exist. Perhaps my colleagues on the other side of the aisle would rather only one of those groups existed, but our economy works best when they work together and get along. If they want to take these labor-management fights, as they have, to the floor of the Senate, what does that mean for our future and for the middle class?

The Chair knows, whether it is in Albany or Buffalo or Schenectady, NY, or whether it is Toledo or Youngstown or Mansfield, OH, a union working well with businesses—when labor and management work together—strengthens the middle class. When we have this kind of class warfare on the floor of the Senate, when my friends on the other side of the aisle will do anything to keep someone who has a pro-union philosophy out of an appointed position—again, in April the President nominated Mr. Becker, so that is May, June, July, August, September, October, November, December, January and now it is February and they say we are rushing it. I don't think anybody in America—even the most lethargic, slow-moving, half-dead operation in the country—thinks it is rushing it when it takes us 10 months to get somebody through.

We know what they did on the health care bill—delay, delay, delay, delay.

That is arguable and that is a difficult and complex issue. But on this? Just to be clear, there is no doubt about the qualifications of Craig Becker.

He earned his bachelor and law degrees from Yale University. He served as an editor on the Yale Law Journal. He clerked for the Chief Judge of the U.S. Court of Appeals for the Eighth Circuit for 30 years. This is not some ''newbie'' labor pawn nobody knows anything about who does not have experience. For almost 30 years he has practiced labor and employment law with the highest skill and fairness in front of nearly every U.S. Court of Appeals and in front of the U.S. Supreme Court.

He has been professor at some of the Nation's premier law schools. He has earned the trust and admiration of students, faculty, and opponents of labor-management kinds of discussions. His scholarly works have been published in the Nation's leading law journals and periodicals. His scholarly works are also mandatory reading for law students taking labor and employment courses, whether they are prolabor or promanagement. He is often cited by fellow lawyers and scholars. In fact, 66 professors of labor and employment law from our Nation's premier law schools have described Becker as a nominee with ''unparalleled qualifications . . . whose scholarship reflects great respect for and deep knowledge of the law. He weighs and considers all arguments in a fair and honest manner.''

That sounds like the kind of nominee we want on the National Labor Relations Board. I would add, most importantly, I said a moment ago to serve the interests of the middle class, to serve the interests of this country, we need to fill these jobs with qualified people. It is bad for labor not to have Craig Becker on that Board. It is bad for management not to have Craig Becker on that Board. That is clear by what respected management lawyers have said. They have urged the Senate to quickly confirm Mr. Becker—these are management lawyers—because of his fairness and his sound judgment.

He has answered, as I said, in writing, more than 300 questions from the Republicans on the Senate HELP Committee.

This is not very entertaining. I was almost entertained when my friends—and I have heard at least three Senators on the other side of the aisle do this with Craig Becker's appointment. They brought up ACORN. When Republicans cannot think of anything else to say, when they cannot think of any arguments that work, they throw in ACORN: He knew somebody at ACORN; he must have had something to do with ACORN. If no arguments work, it is time to try ACORN out and tie Craig Becker right to ACORN, whatever ACORN is. It would be amusing if they did not use it time after time. He must be a bad nominee because he worked with somebody from ACORN or he worked with somebody from the Service Employees International Union or he worked with Governor Blagojevich in Illinois.

That is the kind of guilt by association that I thought this institution stopped doing 55 years ago when Joe McCarthy was censured, that we were not going to continue to use guilt by association.

It might be ACORN, the SEIU—and I apologize; I need to say this, Madam President. My daughter works for the SEIU. So before somebody points out his daughter works for SEIU, that is why he is doing it—the fact is, Craig Becker served honorably, he served very appropriately, and he is very qualified. It is about time we do this. It has been 10 months. We have waited too long. I ask my colleagues to put aside some of their biases. He has answered 300 questions. Vote to confirm Craig Becker.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to share a few thoughts on the nomination of Judge Joseph A. Greenaway to the Third Circuit Court of Appeals on which I think we will be voting later today. I look forward to supporting his nomination. He has a good record as a district court judge. I think almost all of my colleagues, if not all, will support him. But I wish to take a moment to correct the record regarding some allegations that have been made by my Democratic colleagues regarding the processing of this nomination.

Sometimes we have controversial nominees, such as Mr. Becker. And if anyone would care to listen to Senator ENZI's comments, they will see why there are legitimate concerns about that nomination. Some of the nominees are not controversial and should move forward at a steady pace for confirmation in the Senate. Most of the nominations that have been submitted for positions in the Federal Government in the Department of Justice and on the Federal courts have moved forward rapidly without controversy. If one is controversial, the Senate should take its time and give full consideration of it.

Last week my colleague from New Jersey accused the Republicans of ''objecting'' every time the majority leader tried to schedule a vote on Judge Greenaway. I have to say my colleagues are seriously misinformed and I am not happy to be unfairly criticized for holding up the nomination. Let me explain exactly what happened.

As Chairman LEAHY has acknowledged, the majority leader, Senator REID, did not seek Republican consent to proceed with this nomination on the floor of the Senate until 2 weeks ago, and that was late on a Friday afternoon. The Republicans were able to clear the nomination and allow it to move forward with a modest time agreement before a final vote and allow the kind of discussion that we are having today.

Ironically, the Judiciary Committee, however, was not even able to process Judge Greenaway's nomination to move forward with it, which was submitted to the Senate in June by President Obama. President Obama submitted the nomination in June, but the committee could not move forward with a vote until September. Why was that? The reason was one of the home State Democratic Senators down here complaining failed to send in their blue slip. Senator LEAHY is not going to move a nominee without the consent of the home State Senators—and I respect him for that. He is the Democratic chairman of the committee, but he has a policy, as his predecessors all had, that he is going to give the home State Senators the opportunity to approve a nominee before he even has a hearing in committee.

The nominee was delayed 4 months by a failure of the home State Senators—or at least one of them—to acknowledge their approval by returning what we refer to as a blue slip. After that occurred, the committee promptly moved forward with a hearing and unanimously voted for Judge Greenaway's nomination in October.

Today is the time the majority leader has chosen as the time he desired to bring it up for a vote. He could have brought it up in October, November, December, or January. He chose to bring it up now. I am not one who thinks it is my fault that it has not been brought up.

The same thing happened to Judge Beverly Martin to the Eleventh Circuit. She was unanimously approved by the committee and had the support of her home State Senators. Months went by before she got her vote. It was unanimous to confirm her. It wasn't anybody's fault but the Democratic leadership's fault.

My colleagues always complain about holding up nominees, and they themselves are not moving them in an expeditious manner. Sometimes the President is slow to make nominations. As a result, we get complaints that it is the Republicans' fault. It is just not.

If we have an objection—a serious objection—that should be respected, we should state it, and we should bring it to the floor and discuss the nomination, as is occurring with Mr. Becker.

Compare that to the unreasonable delays of judicial nominations that President Bush sought. For example, Shalom Stone was nominated for this very seat. The reason it is vacant and the reason it is being filled today is because Shalom Stone was blocked. Stone was nominated in July of 2007 and was basically pocket-filibustered by the Democratic majority. He never received a hearing in committee. He never even received a hearing in committee. His nomination, therefore, lapsed at the end of President Bush's term. That is how Judge Greenaway was nominated.

On average, President Bush's circuit nominees waited nearly a year for confirmation—a year on average for circuit court nominees.

As for Judge Greenaway, he, like many of President Obama's nominees, I am pleased to say, has openly rejected the empathy standard.

In his response to a followup question, Judge Greenaway stated this about the controversial empathy standard:

Empathy cannot play a role in a judge's consideration of a case or in determining what the law means. I have told lawyers who appear before me that as a human being, I may have empathy for their client, but as a judge, I have none because that is not my job. The pure exercise of empathy in decisionmaking would lead to unsound and inconsistent decisions.

That is a solid statement of what I think most judges believe, Republicans and Democrats alike. But, unfortunately, it is not the philosophy stated by the President of the United States when he said he was going to look for empathy in nominees to the bench.

Empathy is contrary to the oath a judge takes, which states:

I . . . do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me . . .

That is the oath they take to be impartial. We need judges who are honorable, intelligent, capable, and who understand their role to enforce the laws as written and to be impartial as they carry out that duty.

People talk about their backgrounds, their experiences—what are they saying? They are saying that my background, my ethnicity, my religion, my rural or urban environment allows me to see things in a way that may be different and, therefore, I am empowered to bring those ideas, concepts, and philosophies to my decisionmaking process, which I suggest is very much akin to saying I believe I can bring my biases to the decisionmaking process. They are directly contrary to the American ideal of an impartial judge, a neutral umpire who calls balls and strikes without regard for which team they are for or not for.

These are lifetime appointments. We look at these nominations carefully. These nominees must demonstrate they will follow the plain meaning of the law and not allow their own personal biases and prejudices to influence their decisionmaking process.

Based on his testimony at the hearing, his assurances and answers to followup questions, I believe Judge Greenaway will do that. I am proud to support him as I have supported most of President Obama's nominees. But we do have a responsibility to analyze these nominees' records, to hold fair and rigorous hearings, to ask for additional time, if that is necessary, to ensure each nominee is given the scrutiny that Congress is required to give before the elevation to a lifetime appointment by which they are no longer subject to review by the people of our country. We allow them to be an independent branch, but we have to insist that they be independent and objective as they render their opinions.

I yield the floor.

Mr. KERRY. Madam President, in 25 years in the Senate, this is the first time I've seen a vote on a nominee to the National Labor Relations Board fraught with such controversy and subject even to a filibuster. But I regret to say it is controversy manufactured by the Senate minority for only one reason—a filibuster as political tactic to stonewall President Obama at every turn.

Consequently, this nomination is an important test of the minority, a test of all those who for years under President Bush repeated and repeated demands for ''up or down votes'' on nominees, and got them without the kind of 8-month delays that have scuttled Craig Becker's nomination.

It is also a test of whether the Senate minority will accept the President's overtures to work together for the benefit of the American people or whether they will continue to vote strictly along party lines to obstruct those efforts for no reason other than political gains for their party.

No one disputes that Craig Becker is one of the preeminent authorities on labor law in the United States. He has taught at Georgetown, UCLA, and the University of Chicago and has authored numerous articles on labor and employment issues. He is a skilled litigator, who has advocated for workers' interests in virtually all Federal courts of appeals, including the U.S. Supreme Court.

Some of my colleagues have expressed concern about Mr. Becker's nomination because of his academic writings. It is true that Mr. Becker has published numerous articles on labor and employment law in scholarly journals, including the Harvard Law Review and the Chicago Law Review. His extensive writings argue for law labor reforms to allow workers to exercise their rights to associate and organize. But since when has there been anything disqualifying about taking a critical approach to existing law and challenging convention in his field?

Some in the minority object to Mr. Becker simply because he is a union lawyer—a counsel to both the AFL–CIO and the Service Employees International Union. But that hardly disqualifies him. The Senate has consistently confirmed Board members with backgrounds in unions as well as in management. And Mr. Becker has repeatedly said that he will approach all the matters before the Board impartially and with open mind—just what we need and expect at an agency as independent as the NLRB.

Here is what he said at his confirmation hearing:

As an attorney, I have sat across the table from management and also on the same side of the table, in both postures gaining an understanding of employers' concerns and often finding common ground between labor and management. It is this range of experience that, should I be confirmed, I will draw on in collaborating with my fellow Board Members to fairly, efficiently and faithfully apply the law.

Mr. Becker is widely respected by the legal community and management lawyers alike. Last month, 66 labor law professors from the Nation's top law schools wrote Senate leaders urging his immediate confirmation and attesting to his ''integrity, fairness, and dedication to advancing Congress' purposes in adopting federal labor law and to the role of the NLRB.''

And yet it has taken almost 8 months for us to get to this point—just to reach the point of finally getting to vote on his nomination. It is an 8-month journey that underscores just how committed the minority has been to prevent President Obama from staffing the executive branch of government or moving any agenda forward.

Mr. Becker was nominated by the President in July 2009, and in October the Senate Health, Education, Labor and Pensions Committee approved his nomination—and it did so with bipartisan support from Senator ENZI and Senator MURKOWSKI.

But after that, Senator MCCAIN placed a ''hold'' on his nomination, forcing the President to resubmit it last month. And then, at the insistence of the Senate minority, the HELP Committee was forced to hold a hearing the nomination, something the Committee hasn't had to do for an NLRB nominee since 1980.

Moreover, Mr. Becker dutifully answered hundreds of written questions from Republicans—more questions than Supreme Court Justice Sonia Sotomayor had to answer during her confirmation process. And when the Committee voted a second time on Mr. Becker, not one Republican voted for him, not even those who had supported him the first time around.

Critics have attacked Mr. Becker for his work on behalf of unions in the past. But most labor lawyers devote their careers either to representing unions and workers or to representing management. This avoids conflicts of interest. We have historically confirmed NLRB nominees from both backgrounds, and indeed the package of nominations before the Senate includes Brian Hayes, who practiced for many years as a management-side labor lawyer and has served as Republican HELP Committee labor counsel.

The fact of the matter is that the minority want to turn this nomination into a litmus test on legislation we have yet to consider—legislation on reforming how workers exercise their right to organize. The criticism repeated most often of Mr. Becker is that he would use his position on the NLRB to institute a binding system for organizing that would allow workers to select a union by signing cards. That system is backed by organized labor.

But here is what is important. Making a card check system binding on employers is something Craig Becker has said he would not and could not do. He is being filibustered over something he has specifically pledged not to do—and which is not the question before us today. It is no surprise that in his role as a labor lawyer, Mr. Becker has been a strong supporter of a legislative proposal to make it possible for workers to organize by signing cards in favor of a union. But he has clearly stated—and accurately stated—that only Congress can take such action. This confirmation is not, nor should it be about the Employee Free Choice Act legislation that we have yet to debate and consider. This is about ensuring that the NLRB can operate. And it is about whether or not a qualified aspiring public servant will be allowed to serve. As you know, the NLRB plays a critical role in protecting workers' rights. And yet, in the last 2 years, the NLRB has operated with only two of its five members. And the courts are split on whether a two-member NLRB can validly issue decisions. The Supreme Court is set to decide the matter later this year.

Meanwhile, though, the NLRB struggles along with a majority of its seats vacant—and I am sorry to be forced to acknowledge that may be exactly what our Republican colleagues want. Well over a year after President Obama's inauguration, nominees to key positions in the executive branch are still awaiting confirmation because they have been placed on ''hold'' by the minority. In most cases, the objections to the nominees have nothing to do with the nominee's qualifications and everything to do with parochial interests. Whether holding a nominee to try to steer a Federal contract to a State or to express opposition to Canadian tobacco legislation, the minority is turning the Senate's power to advise and consent into the power to bully and extort and, above all, to prevent Barack Obama from having the people in place necessary to govern effectively. And those who lose in this game are not Democrats, it is the American people. They need the executive branch to execute the laws we have passed and we should let it.

I think in the elections of 2006, 2008, and yes in the special election in Massachusetts in 2010, we have witnessed a rejection of the polarized and too often murky ways of doing business in Washington. But I regret to say, there is no better example of that kind of Washington backroom business than the way the minority has behaved on the nomination of Craig Becker.

And so, I respectfully ask my Republican colleagues to put aside the gamesmanship on this nomination and take a hard look at Craig Becker, his testimony, his record and his commitment to the rights of working men and women. He doesn't have to be your first choice to head the NLRB. But you have to acknowledge that the President has the right to make his choice. Advise and consent is not a blank check to delay and obstruct. And voting along party lines, especially on this nomination, with no regard for the broader national interest is not what any of us were sent here to do.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I ask unanimous consent that the February 4 order with respect to the Executive Calendar be further modified to provide that the debate time be extended until 4 p.m., and that at 4 p.m., the Senate proceed to vote on the nomination of Joseph Greenaway, with the time until then divided as previously ordered, and that the remaining provisions of the February 4 order, as modified, still be in effect.

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

Mr. HARKIN. Madam President, with only half an hour to go, we are here today to consider two things, but I think most important—and what is on everyone's mind now—is the nomination of Harold Craig Becker to serve as a member of the National Labor Relations Board.

I first wish to thank my colleague from Ohio for a very poignant and pointed and very clear kind of laying out of what this is really all about. So I thank Senator BROWN for that.

While I am always proud to discuss the accomplishments of a highly qualified nominee such as Mr. Becker, it is unfortunate we got to this point. Last year, we had an agreement with the Republicans on the HELP Committee that we would move Mr. Becker's nomination as a package, along with the other two pending nominees for the Board, one of whom is a Republican. Well, what happened is, at the end of the year, under the rules of the Senate, one Senator on the Republican side objected to having Mr. Becker continue on the calendar. It is clearly their right, but they did that, and so it went back to the White House and then came back to us.

I was asked, as the chairman of the committee, to have a hearing on Mr. Becker. We haven't had a hearing on a nominee for the NLRB since 1985. We had a hearing for someone to be chairman, but just for a member, not since 1985. Since that time, we have always worked together in a bipartisan fashion to have a package. When there is a Republican President, it is usually two Republicans and one Democrat. When there is a Democratic President, it is usually two Democrats and one Republican. But we have never had any hearings on this.

I didn't have to have a hearing on Mr. Becker, but I decided to bend over backward and say: Look, OK, fine, let's have a hearing on Mr. Becker. I could have had a hearing with all three of them. I could have had the Republican up there too. Maybe we could have given him 400 questions. But I don't like to play those games.

So we had a hearing, and Mr. Becker came. I thought he presented himself extremely well, answered all the questions, and then we moved ahead on the nomination. But we had that package before, and that package was supported on a bipartisan basis. But once Mr. Becker got separated from the package by the actions of one Republican Senator, as I just mentioned, well, now it is OK to move two of them but not Mr. Becker. Well, I find that disconcerting. I find it very disconcerting. That agreement has now been abandoned. It is too bad because there are many other important ways we could be using our time in the Senate rather than on just a routine nomination.

That is not to say the work of the NLRB is not important. It is critical, especially in these troubled and turbulent times. The NLRB is a small agency, but its mission is large. Listen to the words of the National Labor Relations Act that sets up the NLRB:

> The NLRB's mission is to encourage the practice and procedure of collective bargaining and to protect the exercise by workers of full freedom of association.

Let me say that again:

> . . . to encourage the practice and procedure of collective bargaining.

That doesn't say the NLRB is just supposed to sit back and say: Well, we don't care whether someone is unionized or not unionized; we don't care whether someone is able to use collective bargaining. That is not the law of the land. Read the law. They are to encourage the practice and procedure of collective bargaining. So when I hear people get up and say that someone on the Board is going to be pro-union or pro-collective bargaining, I say: Well, that is kind of in keeping with the very words that establish the National Labor Relations Board.

In today's challenging economy, when workers are vulnerable, worrying about their future, it is critically important to have strong leadership on the Board that understands its mandate. I believe very strongly in the mission of the NLRB, and I have a deep respect and admiration for the dedicated people who work there. But I have made no secret of the fact that I am troubled by some aspects of the Board's recent performance.

In recent years, the Board is not doing all it can to inform workers of their rights or to assess appropriate penalties for repeat violators of our labor laws. And that is not to mention the excessive delays at the Board, because we know justice delayed is justice denied in many cases.

There is no real penalty for violating workers' rights. In the last 4 years, the median time to process an unfair labor practice charge at the Board has averaged about 782 days. That is more than 2 years. The median time between the petition for an election and the time when the Board certifies the results of a disputed election is 308 days. What does this mean? It means that if someone is exercising his or her legal right

to help organize a union and the employer fires that person, which is a violation of the National Labor Relations Act, and that employee then files a case with the NLRB, it takes over 2 years to get to it. Well, that person is fired. What does that person do? Suppose that person—he or she—is married; they have a couple of kids and they need that income, so they have to get another job. They have to get another job. Now 2 years have gone by, and the National Labor Relations Board finds in favor of the employee who was wrongly fired. What does the employer have to do? The employer has to pay back wages minus any other wages that employee made during that intervening time. Well, if that employee was lucky enough to get a job that paid as well, that means the employer pays nothing—nothing. So is it any wonder employers feel they can just fire people willy-nilly for exercising their right to form a union, when there is really no penalty?

That is what is happening today. It is a serious problem, and we have to put this agency back on track. They have to close down that amount of time. I am confident Craig Becker can be an important part of that effort. He is one of the preeminent labor law thinkers in the United States and, I might add, a proud son of the State of Iowa, born and raised in Iowa. His father was a professor at the university. He has taught labor law at some of our finest law schools, including Georgetown, UCLA, and the University of Chicago, and he has authored numerous articles on labor and employment issues. He is also a skilled litigator who has advocated for workers' interests in the highest courts of this land. He has argued cases in virtually every court of appeals and before the U.S. Supreme Court. I have met with him and spoken with him at length, and I know he will be an invaluable addition to the NLRB. He is an expert on the law, he knows the Board, and he brings a tremendous depth of experience to this important position.

His impressive accomplishments have earned the respect of his colleagues in the bar and his colleagues in the academy. This committee has received several letters of recommendation from management-side attorneys—people who have litigated against Mr. Becker as adversaries—praising his virtues and his potential as a Board member. This chart reflects the comments of one such attorney:

Over the years, I have worked with Mr. Becker on a number of complex issues and cases. Although we were both aggressive advocates for our respective clients and their positions, we were always able to have an open dialogue. I believe that Mr. Becker always took the time to understand the issues from the employer's side, and was willing to work creatively toward amicable resolutions of the issues. Based on my many experiences, I believe that Mr. Becker's integrity is exceptional, as is his knowledge of labor law, and he will be fair, hard-working, and an asset to the NLRB Board.

That is a quote from an attorney who represents management.

Another one said:

I have read of the concerns expressed by some that Mr. Becker would prove ''doctrinaire'' and/or biased toward unions in his application of the NLRA. It is my honest opinion, based on firsthand experience dealing with him, that these concerns are completely unfounded. On the contrary, I am convinced that Mr. Becker would demonstrate fairness, integrity, sound judgment, and an abiding respect for all the Congressionally mandated rights of employers, unions, and employees alike. I respectfully urge you to support his confirmation.

Madam President, I ask unanimous consent to have printed in the RECORD both of the letters from which I have just quoted, along with other letters and an endorsement from more than 60 law professors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LANER MUCHIN DOMBROW BECKER LEVIN AND TOMINBERG, LTD.,
January 29, 2010.

Re Confirmation of Craig Becker as a Member of the NLRB.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR REID AND SENATOR MCCONNELL: As a lawyer who has represented employers in the private and public sectors for over (30) years, I am writing to describe my experiences with Craig Becker.

Over the years, I have worked with Mr. Becker on a number of complex issues and cases that had significant implications for his union clients, and my employer clients. Although we were both aggressive advocates for our respective clients and their positions, we were always able to have an open dialogue. I believe that Mr. Becker always took the time to understand the issues from the employer's side, and was willing to work creatively toward amicable resolutions of the issues. In other words, he is a problem-solver, a characteristic that is highly-valued in a lawyer.

Based on my many experiences, I believe that Mr. Becker's integrity is exceptional, as is his knowledge of labor law, and he will be fair, hard-working, and an asset to the National Labor Relations Board.

Very truly yours,

JOSEPH M. GAGLIARDO.

SONNENSCHEIN NATH & ROSENTHAL LLP,
January 28, 2010.

Re Confirmation of Craig Becker as a Member of the NLRB.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: As an attorney who, for more than 47 years, has practiced exclusively in the area of Labor and Employment Law representing management, I am writing to urge the confirmation of Craig Becker as a Member of the National Labor Relations Board.

I have had the opportunity to work together with and in opposition to Mr. Becker on a number of matters involving a significant number of employers and employees, including litigation and collective bargaining negotiations. Throughout, he has consistently demonstrated an impressive grasp and appreciation of and deeply felt commitment and dedication to the principles enunciated by Congress and embodied in the National Labor Relations Act.

I have read of the concerns expressed by some that Mr. Becker would prove ''doctrinaire'' and/or biased toward unions in his application of the NLRA. It is my honest opinion, based upon first-hand experience dealing with him, that these concerns are completely unfounded. On the contrary, I am convinced that Mr. Becker would demonstrate fairness, integrity, sound judgment and an abiding respect for all of the Congressionally mandated rights of employers, unions, and employees alike. I respectfully urge you to support his confirmation.

Sincerely,

RICHARD L. MARCUS.

NEW YORK UNIVERSITY,
SCHOOL OF LAW FACULTY OF LAW,
New York, NY, January 19, 2010.

Re Confirmation of Craig Becker as a Member of the NLRB

Hon. TOM HARKIN,
Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.
Hon. MIKE ENZI,
Ranking Member, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: I have practiced and taught labor and employment law for over 30 years, hold the Dwight D. Opperman professorship at New York University School of Law, direct NYU's Center for Labor and Employment Law, and serve as Chief Reporter for the American Law Institute's Restatement (Third) of Employment Law.

I am writing in support of the confirmation of Craig Becker to be a member of the National Labor Relations Board (NLRB or Board), and I do on the following basis.

The President, in my view, should enjoy a broad latitude in selecting members of his administration, including members of independent agencies like the NLRB. Congress has the responsibility to make sure that the President's selections do not have disqualifying problems of competence or character; if the President's nominees do pass that test and fall within a broad zone of acceptability, Congress has a reciprocal duty to confirm the President's choices. That is particularly true with respect to the NLRB. There is a good deal of controversy over whether the NLRB still functions as an effective agency in enforcing statutory rights and obligations. Much of this controversy has played a role in the debates over the proposed Employee Free Choice Act, still under consideration in Congress. It is therefore in the interest of all—employees, employers, unions, judges and lawyers—that the Board operate with a full complement reflecting the various Presidential choices over time as to the best people for the job.

It is clear that Mr. Becker passes the tests of competence and character and falls within the broad zone of acceptability. Although I have sometimes disagreed with his legal positions and his writings, I have consistently found his work to be the product of a highly intelligent, thoughtful person who knows and understands the labor law materials and is open to reasoned discussion. Based on my interactions with him, I am confident that he will be a most able member of this distinguished agency.

I urge you to confirm Mr. Becker as a member of the Board. If you have any questions or wish to discuss this further, please advise.

Sincerely,

SAMUEL ESTREICHER.

UNIVERSITY OF CALIFORNIA,
SCHOOL OF LAW,
Irvine, CA, January 21, 2010.

Re Confirmation of Craig Becker as a Member of the NLRB.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID AND SENATOR MCCONNELL: As teachers and scholars of labor law, we write to express our strong support for the confirmation of Craig Becker to be a Member of the National Labor Relations Board. We believe firmly that, if confirmed, Mr. Becker will prove to be one of the most respected Board Members in the history of the NLRB.

Mr. Becker possesses unparalleled qualifications to be a Member of the Board. He has practiced labor law for many years and also taught and written extensively about labor law and related subjects. Mr. Becker has had an enormous range of practical experience in the field of labor law, having represented a broad range of unions in the public and the private sector as well as many individual workers, both union members and nonmembers. He has argued cases in virtually every United States Court of Appeals and in the United States Supreme Court, many of them among the most important labor law cases of the last several decades. He has also taught labor law at several of our nation's finest law schools, including the University of Chicago, Georgetown and UCLA. His scholarship reflects a great respect for and deep knowledge of the law and weighs and considers all arguments in a fair and honest manner. His articles are widely cited, regularly used in law school classes, and admired by labor law scholars across the political spectrum.

Despite Mr. Becker's obvious qualifications to be a Member of the NLRB, his opponents have made a series of misleading and inaccurate statements about him and, in particular, about his published work. We urge anyone considering Mr. Becker's nomination not to rely on sound bites, fragments taken out of context, and misquotations, but to actually read Mr. Becker's scholarly writing.

Those of us who know Mr. Becker personally as well as those of us who have read his work and are familiar with his professional reputation can attest to his integrity, fairness, and dedication to advancing Congress' purposes in adopting federal labor law and to the role of the NLRB. Without qualification we urge prompt confirmation of Mr. Becker to be a member of the NLRB.

Sincerely,

CATHERINE FISK.

Institutional affiliations listed for purposes of identification only.

I am authorized to state that the following have read this letter and join it.

James Brudney, Ohio State University, Moritz College of Law; Cynthia Estlund, New York University School of Law; Benjamin, Sachs Harvard Law School; David Abraham, University of Miami School of Law; James Atleson, State University of New York at Buffalo School of Law; Mark Barenberg, Columbia University Law School; Esta Bigler, Cornell University ILR School; Susan Bisom-Rapp, Thomas Jefferson Law School; Christopher Cameron, Southwestern University Law School; Susan Carle, American University, Washington College of Law; Kenneth Casebeer, University of Miami Law School; Carin Clauss, University of Wisconsin Law School; Lance Compa, Cornell University ILR School; Laura Cooper, University of Minnesota Law School; Roberto Corrada, Denver University School of Law; Marion Crain, Washington University School of Law; Charles Craver, George Washington University Law School; llen Dannin, Penn State University Dickinson College of Law; Kenneth Dau-Schmidt, Indiana University, Bloomington—School of Law; Henry Drummonds, Lewis & Clark—Northwestern School of Law; Fred Feinstein, University of Maryland School of Public Policy;

Janice Fine, Rutgers University School of Management and Labor Relations; Matthew Finkin, University of Illinois Law School; Michael Fischl, University of Connecticut Law School; William Forbath, University of Texas Law School; Ruben Garcia, California Western School of Law; Julius Getman, University of Texas Law School; Michael Goldberg, Widener University School of Law; Alvin Goldman, University of Kentucky Law School; Jennifer Gordon, Fordham University Law School; Robert Gorman, University of Pennsylvania Law School; William B. Gould, Stanford University Law School; Joseph Grodin, University of California, Hastings College of Law; Michael Hayes, University of Baltimore Law School; Dorothy Hill, Albany Law School; William Hines, University of Iowa School of Law; Ann Hodges, University of Richmond Law School; Alan Hyde, Rutgers University Law School, Newark; Linda Kerber, University of Iowa College of Law and Department of History; Karl Klare, Northeastern University Law School; Thomas Kohler, Boston College Law School; Howard Lesnick, University of Pennsylvania Law School; Ariana Levinson, University of Louisville, Louis Brandeis School of Law; Anne Marie Lofaso, University of West Virginia Law School; Deborah Malamud, New York University Law School; Martin Malin, Chicago-Kent College of Law; Carlin Meyer, New York Law School; Gary Minda, Brooklyn Law School; Charles Morris, Southern Methodist University, Dedman School of Law; Maria Ontiveros, University of San Francisco School of Law; James Pope, Rutgers Law School—Newark; Cornelia Pillard, Georgetown University Law Center; Theodore St. Antoine, University of Michigan Law School; Paul Secunda, Marquette University Law School; Lorraine Schmall, Northern Illinois University Law School; Sidney Shapiro, Wake Forest University Law School; Joseph Slater, University of Toledo College of Law; Susan Stabile, St. Thomas University Law School; Katherine V.W. Stone, UCLA Law School; Lea VanderVelde, University of Iowa College of Law; Joan Vogel, Vermont Law School; Marley Weiss, University of Maryland Law School; Martha West, University of California, Davis—Law School; Donna Young, Albany Law School; Noah Zatz, UCLA Law School.

Mr. HARKIN. As these records show, those who know Mr. Becker the best all agree the President could not have made a better choice.

Unfortunately, Mr. Becker's nomination has been delayed for months on end due to criticisms that are based on misinformation and misleading descriptions of his views. Mr. Becker has gone to great lengths to dispel those concerns and set the record straight. The first time his nomination was considered by this committee last year, he answered 282 written questions from committee Republicans. He also said he would meet with any Senator who expressed an interest to personally explain his views. Only two asked to meet with him. This year, he testified before the HELP Committee, as I mentioned earlier, and answered 158 additional questions. To put this in perspective, Justice Sotomayor, seeking a lifetime appointment on the Supreme Court, only had 220 questions submitted to her.

While this exhaustive vetting process should have alleviated any concerns about Mr. Becker's nomination, it appears there is still a lot of misinformation going around, so I would like to take this opportunity to set the record straight once and for all—not that I think what I am about to say or the letters and things I will point to will change any Republican minds. It seems as though their minds are made up en bloc that they are going to oppose Mr. Becker, just as they opposed Patricia Smith. But I think it is important for the general public to get the facts and to understand what this is all about.

First and foremost, critics have suggested Mr. Becker would come to the Board with an agenda and that he would try to implement the Employee Free Choice Act by administrative fiat.

As you are all aware, I am a supporter of the Employee Free Choice Act, as is President Obama. He campaigned on it. I hope to see it passed by Congress. I look forward to the debate. I hope it is signed into law by the President. But I have no illusions that those important changes can somehow be accomplished administratively, and neither does Craig Becker. He has clearly and consistently explained on numerous occasions that all three major reforms in the Employee Free Choice Act—the card check, binding arbitration for first contracts, and increased penalties for violations of the law—cannot be accomplished without a change in the statute. As we all know, statutes can only be amended by those of us elected to Congress, not by appointees to the NLRB. Mr. Becker was unequivocal in his responses on this point.

Let's take a look at what Mr. Becker says and not what others say about him, not what others would like him to do. We heard a lot about that on Patricia Smith a week ago, on what others said, but let's take a look at what Mr. Becker has to say.

On the issue of card check, he states:

> The reason the Employee Free Choice Act has been introduced in Congress and the reason that question is before Congress and not the Board is that the current Act clearly precludes certification in the absence of a secret ballot election. Section 9 of the Act, in two distinct ways, makes clear that Congress has intended that a secret ballot election be preconditioned for certification of the union.

So, again, what Mr. Becker has said is that the Board can't change that.

On binding arbitration, he said:

> The second section [of EFCA] establishes procedures for mediation and, if necessary,

binding arbitration in circumstances where a union or employer engaged in bargaining for a first contract are unable to reach agreement. Action by Congress would also be required to implement these procedures.

So on the second part of the Employee Free Choice Act, Mr. Becker says that only Congress can change it.

Finally, in discussing the new penalties about which I spoke a little bit ago, Mr. Becker says:

The third and final section of EFCA would establish civil penalties and a treble backpay remedy for certain unfair labor practices. I do not believe the Board has authority to award double or triple backpay as a remedy for a violation of Section 8(a)(3) without congressional action nor do I believe that section 10 currently vests in the Board the authority to impose the penalties discussed above.

Well, I don't think he could have been any clearer in his views on this issue.

Earlier, we had some discussion by the Senator from Georgia and also my colleague from Wyoming about the National Mediation Board and how two people got on the Mediation Board and immediately overturned 75 years of law.

What you never heard was that the National Mediation Board acted within their rights. No one is saying they did something to violate a law. They acted within the purview of the authority they have. That is not the same case with the NLRB. They do not have this authority. Second, I think it is important, since people listened to this about the National Mediation Board, to clear up one thing. Here is what they did. For 75 years they have said basically in these types of elections, if someone doesn't vote it is considered a ''no'' vote. Imagine that. If you don't vote it is a ''no'' vote. Now they say that you only have to have 51 percent of those voting to have an affirmative vote. Who is going to dispute that? That is what we do in bond elections in this country, that is what we do in referendums, school board elections, and even elections for the Senate.

Think about this. What if you said if you don't vote that is a ''no'' vote. Nowhere else in this country do we say that. If you don't vote, it should not be counted yes and it should not be counted no. The National Mediation Board simply applied the general rule of elections we follow in this country.

Mr. Becker has also received criticism based on his academic writings. Opponents of his nomination have suggested that he supports radical changes in the law that would require workers to join unions against their will, or take away the free speech rights of employers. These wild assertions have no basis in reality, and Mr. Becker has gone to great pains to rebut these mischaracterizations of his academic views.

For example on the issue of mandatory unionism, Mr. Becker has explained in response to a question from Senator BURR that: ''The Act vests in employees the right to self-organization and to form, join, or assist labor organizations and the right to refrain from doing any and all of such activities with the limited exception provided in section 8(a)(3) as modified by section 14(b). If I am confirmed, I will faithfully apply those provisions of the law.'' And again, in response to a question from Senator ROBERTS, he stated without reservation that: ''I believe workers should have a choice of whether or not to join a union.''

Similarly, in discussing allegations that he supports eliminating employer free speech rights, Mr. Becker has responded: ''It's clear that employers have a legitimate interest, and have a right which is indisputable to express their views on the question of whether their employees should unionize. So nothing in . . . my writing should be construed to suggest that in any way I think that employers don't have a right to clearly express their views on the question of unionization.'' That was in response to a question by Senator ISAKSON.

I fail to see why these direct and unequivocal responses do not alleviate my colleagues' concerns. I don't know what more his critics are looking for.

Evidently they are more interested in looking at what other people have to say about him than what Mr. Becker says himself.

Finally, some of my colleagues seem to have problems——

Mr. LEAHY. Will the Senator yield for a question?

Mr. HARKIN. Yes.

Mr. LEAHY. Madam President, we have several Senators who wish to speak on the first vote that is coming up this afternoon, the Greenaway nomination. Is the Senator going to give us any time? Because our time is also being used by him right now. I was wondering if at some point we might have time to speak on the Greenaway nomination.

Mr. HARKIN. I say to my friend, I thought we had 45 minutes on our side for the nomination of Mr. Becker.

Mr. LEAHY. No.

Mr. HARKIN. I am using that time.

Mr. LEAHY. Madam President, my understanding is that time was to be used for both Becker and Greenaway. I was wondering, since Greenaway is the first vote we are going to come to, whether we will have time on that.

The PRESIDING OFFICER. The time is incurred on both matters.

Mr. HARKIN. I believed, under the information that I had, 45 minutes out of 90 minutes that was evenly split on Mr. Becker. I have been waiting for a long time to speak on Mr. Becker. I see no reason why we couldn't ask for consent to move the vote back a little bit if people want to. I wouldn't object to that.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. LEAHY. Madam President, if the Senator would yield further, the reason I was here is I was told the time, 45 minutes, was to be used for both nominations. If the Senator from Iowa wishes to use all the time for his nomination, I also point out that Judge Greenaway has been waiting since last June for his vote. But certainly the Senator has the floor. I understand he has the floor and I understand he can take all the time and not leave any time to the other Senators who are supposed to receive time.

The PRESIDING OFFICER. The Democrats retain 7 minutes 40 seconds in debate.

The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I do not want to keep anyone from speaking. I was under a misimpression. I did not know I did not have my 45 minutes. I apologize. This was not part of my information. I will try to wrap up as rapidly as I can. But I think this is important.

Obviously, Mr. Greenaway seems to have a lot of support. There is no contention about him but there certainly is about Mr. Becker and I want to set the record straight about Mr. Becker.

My colleagues seem to have a problem with Mr. Becker simply because he is a union lawyer and a darned good one. But that should not be a cause for concern. Most labor lawyers devote their time either to labor or representing management. Indeed, since the Board's inception, 23 management attorneys or consultants have served on the Board compared to only 3 who came from a background of representing unions—23 to 3. Now we have someone come from a background of representing unions and now they do not want him on the Board.

Again, these people all came from different backgrounds. I am sure Mr. Becker will approach this with an open mind and impartiality. No one has suggested there is an ethical problem with Mr. Becker's previous employment. He has clearly and unequivocally stated that he will recuse himself from matters that may come before the Board concerning his former employers, the Service Employees International Union and the AFL–CIO, for a period of 2 years. He answered 440 written questions. After months of delay, it is time to move on, not only because Mr. Becker is so abundantly qualified but also because the NLRB has important work to do. We owe it to hard-working Americans to act quickly on these nominations. I hope all my colleagues will join me in supporting Mr. Becker's nomination so we can complete this process and let him start his important work.

I yield the floor.

I apologize to my good friend from Vermont but as he can tell, I needed to get the record straight on Mr. Becker.

Mr. LEAHY. Madam President, no apology is necessary. The only reason I raised that is because I heard what the order was earlier this afternoon.

Today the Senate will finally consider the nomination of Judge Joseph Greenaway to fill the vacancy created by Justice Alito on the U.S. Court of

Appeals for the Third Circuit. Judge Greenaway is an outstanding jurist who has served for nearly 14 years on the Federal district court in New Jersey. President Obama nominated him last June. That nomination was reported by the Senate Judiciary Committee more than 4 months ago, without a single dissenting vote. He should have been confirmed long ago. I have been speaking about this nomination for some time to call attention to the unexplained and unnecessary delay in its consideration. The Senators from New Jersey have both come to the Senate floor on repeated occasions calling for consideration. Judge Greenaway will finally be confirmed today.

I continue to be deeply disappointed by the delays and obstruction caused by Senate Republicans. Regrettably, Judge Greenaway's long-stalled nomination is another example of these tactics. As I previously explained in a statement on January 25, the Senate majority leader came before the Senate on January 22 to highlight the delay in the consideration of Judge Greenaway. Senate Republicans would not agree to consider his nomination that week, or the next week, or the next. It took the persistence of the majority leader and the vocal support of the Senators from New Jersey, who spoke on January 25 and, again on February 2, about the Republican stalling, to pry this nomination loose. That is wrong. It should not take such effort to get Senate Republicans to vote on a nomination, especially one that most, if not all, of them are likely to support. We should be able in regular order to consider noncontroversial nominations like that of Judge Greenaway without months of delay.

Despite the fact that President Obama began sending judicial nominees to the Senate 2 months earlier than President Bush, last year's total was the fewest judicial nominees confirmed in the first year of a Presidency in more than 50 years—since 1953 when President Eisenhower only made nine nominations all year, all of which were confirmed. The number of confirmations was even below the 17 the Senate Republican majority allowed to be confirmed in the 1996 session.

Last week, at the Democratic Policy Committee's issues retreat, I asked President Obama if he will continue to work hard to send names to the Senate as quickly as possible, and to commit to work with us, both Republicans and Democrats, to get these nominees confirmed. So far since taking office the President has reached across the aisle working with Republicans and Democrats to identify well-qualified nominations. Yet even these nominations are delayed or obstructed. The President responded by stating:

Well, this is going to be a priority. Look, it is not just judges, unfortunately, Pat, it is also all our Federal appointees. We have got a huge backlog of folks who are unanimously viewed as well qualified; nobody has a specific objection to them, but end up having a hold on them because of some completely unrelated piece of business.

On the judges front, we had a judge for the—coming out of Indiana, Judge Hamilton, who everybody said was outstanding—EVAN BAYH, Democrat; DICK LUGAR, Republican; all recommended. How long did it take us? Six months, 6, 7 months for somebody who was supported by the Democratic and Republican senator from that State. And you can multiply that across the board. So we have to start highlighting the fact that this is not how we should be doing business.

I could not agree more with President Obama. This should not be the way the Senate behave. Last week, the Senate had to vote to invoke cloture and end the 15th filibuster of President Obama's nominations to fill important posts in the executive branch and the judiciary. That number does not include the many other nominees who have been prevented up-or-down votes in the Senate by the silent filibuster of Republicans refusing to agree to time agreements to consider even noncontroversial nominees. Every single Republican Senator who voted last Monday voted against cloture and to keep filibustering a well-qualified nominee. Every single Republican voted to obstruct the Senate from doing the business of the American people.

Unfortunately, we have seen the repeated abuse of filibusters, and delay and obstruction have become the norm for Senate Republicans. We have seen unprecedented obstruction by Senate Republicans on issue after issue—over 100 filibusters last year alone, which has affected 70 percent of all Senate action. Instead of time agreements and the will of the majority, the Senate is faced with a requirement to find 60 Senators to overcome a filibuster on issue after issue. Those who just a short time ago said that a majority vote is all that should be needed to confirm a nomination, and that filibusters of nominations are unconstitutional, have reversed themselves and now employ any delaying tactic they can.

The Republican practice of making supermajorities the new standard to proceed to consider many noncontroversial and well-qualified nominations for important posts in the executive branch, and to fill vacancies on the Federal courts, is having a debilitating effect on our government's ability to serve the American people. Hardworking Americans who seek justice in our overburdened Federal courts are the ones who will pay the price for Republicans' obstruction and delay. They deserve better.

Even after years of Republican pocket filibusters that blocked more than 60 of President Clinton's judicial nominees from even having a hearing and led to skyrocketing judicial vacancies, Democrats did not practice this kind of obstruction and delay in considering President Bush's nominations. We worked hard to reverse the Republican obstructionism. In the second half of 2001, the Democratic majority in the Senate proceeded to confirm 28 judges.

By February 9, 2002, the comparable date in President Bush's first term, the Senate had confirmed 32 circuit and district court nominations. Judge Greenaway will be only the 15th Federal circuit or district judge allowed to be confirmed. That is less than half of where we were in 2002.

During just the second year of President Bush's first term, the Democratic Senate majority confirmed 72 judicial nominations and helped reduce the vacancies left by Republican obstructionism from over 110 to 59 by the end of 2002. Overall, in the 17 months that I chaired the Senate Judiciary Committee during President Bush's first term, the Senate confirmed 100 of his judicial nominees.

We continued to be fair and worked to reduce vacancies even during President Bush's last year in office. With Senate Democrats again in the majority, we reduced judicial vacancies to as low as 34, even though it was a Presidential election year. When President Bush left office, we had reduced vacancies in 9 of the 13 Federal circuits.

As matters stand today, judicial vacancies have spiked again, as they did due to Republican obstruction in the 1990s. These vacancies are again being left unfilled. We started 2010 with the highest number of vacancies on article III courts since 1994, when the vacancies created by the last comprehensive judgeship bill were still being filled. While it has been nearly 20 years since we enacted a Federal judgeship bill, judicial vacancies are nearing record levels, with 102 current vacancies and another 21 already announced. If we had proceeded on the judgeship bill recommended by the Judicial Conference to address the growing burden on our Federal judiciary, as we did in 1984 and 1990, in order to provide the resources the courts need, current vacancies would stand over 160 today and would be headed toward 180. That is the true measure of how far behind we have fallen.

Republican Senators insisted on stalling confirmation of the nomination of Judge Gerard Lynch, who was confirmed with more than 90 votes. They insisted on stalling the nomination of Judge Andre Davis, who was confirmed with more than 70 votes. They unsuccessfully filibustered the nomination of Judge David Hamilton last November, having delayed its consideration for months. They stalled Judge Beverly Martin's nomination for at least 2 months because they would not agree to consider it before January 20. They have stalled for 3 additional weeks on Judge Greenaway's nomination. We have wasted weeks and months having to seek time agreements in order to consider nominations that were reported by the Senate Judiciary Committee unanimously and who

are then confirmed overwhelmingly by the Senate once they are finally allowed to be considered.

Judge Greenaway's nomination is yet another example. He is a good judge who had years of experience as a Federal prosecutor. He received the highest possible rating from the American Bar Association's Standing Committee on the Federal Judiciary. Senator SESSIONS praised him at his confirmation hearing. He should have been confirmed last year, and he would have but for Republican objection.

I, again, urge Senate Republicans to reconsider their strategy and allow prompt consideration of the other judicial nominees awaiting Senate consideration: Judge Barbara Keenan of Virginia, nominated to the Fourth Circuit; Judge Jane Stranch of Tennessee, nominated to the Sixth Circuit; Judge Thomas Vanaskie of Pennsylvania, nominated to the Third Circuit; Judge Denny Chin of New York, nominated to the Second Circuit; Judge William Conley, nominated to the Western District of Wisconsin; Justice Rogeriee Thompson of Rhode Island, nominated to the First Circuit; Judge James Wynn of North Carolina, nominated to the Fourth Circuit; Judge Albert Diaz of North Carolina, nominated to the Fourth Circuit; Judge Edward Chen, nominated to the Northern District of California; and Justice Louis Butler, nominated to the Western District of Wisconsin.

I commend the Senators from New Jersey for their hard work that has proven effective in connection with the nomination of Judge Greenaway and I congratulate Judge Greenaway and his family.

I note the distinguished senior Senator from New Jersey and Senator MENENDEZ from New Jersey wish to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I regret that the time has been shrunken as it has.

I want an opportunity to register my full support to confirm an exceptionally well-qualified district jurist—Judge Joseph Greenaway—to the U.S. Court of Appeals for the Third Circuit.

For more than 13 years, Judge Greenaway has served on U.S. District Court in Newark, NJ.

On the entrance to that courthouse there is an inscription that reads:

The true measure of a democracy is its dispensation of justice.

I take pride in authorship of that quote because I firmly believe it reflects the values on which our Nation was founded—values that must endure throughout our government and legal system.

While serving as a district judge in that building, Judge Greenaway has demonstrated his unyielding commitment to those values—the same values that will make him a success on the Third Circuit court of appeals.

There can be no question that Judge Greenaway is eminently qualified for this position.

Let's take a look at his credentials.

From humble beginnings, Judge Joseph Greenaway became a graduate of Columbia University and Harvard Law School, Assistant U.S. Attorney for New Jersey, Chief of the Narcotics Division, U.S. District Court Judge for New Jersey, was confirmed by the Senate in 1996, presided over more than 4,000 cases, was rated unanimously well-qualified by the ABA and his nomination to the Third Circuit passed unanimously by Senate Judiciary Committee.

On top of his outstanding experience and intellect, there has never been a question about Judge Greenaway's ability, character, or commitment to the community. We are so fortunate that we have this outstanding individual.

Throughout his career, despite his critical bench responsibilities, Judge Greenaway has always found time to help others aspiring to preserve our just society's obligations—by teaching criminal trial practice classes at Cardozo Law School and courses about the Supreme Court there and at Columbia University.

And he has received numerous honors and awards recognizing his work. Among them: Thurgood Marshall College Fund Award of Excellence; Garden State Bar Association Distinguished Jurist Award; Chair Emeritus of the Columbia College Black Alumni Council.

In fact, the only question surrounding Judge Greenaway's confirmation is this: What took so long to move him along to this very busy appeals court?

The PRESIDING OFFICER (Mr. KAUFMAN). The time of the majority has expired.

Mr. LEAHY. Mr. President, I ask unanimous consent for Senator MENENDEZ to be able to have 3 minutes also. I ask for an additional 6 minutes for the Senators from New Jersey, which is considerably more than I had.

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

Mr. LAUTENBERG. I will just take a couple of more minutes.

While I welcome a vote that will establish confidence in Judge Greenaway's ability to serve our country, today's vote comes 4 months after his nomination came to the floor of the U.S. Senate because of unnecessary and unreasonable delays.

Not one of my Republican colleagues has voiced a single objection to Judge Greenaway along the way or a single reason for this delay.

Judge Greenaway and the people of New Jersey are not alone in falling victim to this obstruction.

Republican obstructionism last year led to the lowest number of judicial confirmations in more than 50 years.

Justice has been delayed while those who refused to let this vote take place had another agenda—purely to score political points. It is shameful and the American people show discouragement.

I hope today's vote signals a break in the profuse presence of obstructionism and will permit us to do our work for the American people in a more timely fashion.

If they have objections based on character or ability, tell the American people that. Don't hide behind a cloak of procedure.

The ABA found Judge Greenaway unanimously well-qualified and the Senate Judiciary Committee was unanimous in supporting this nomination.

Today, I urge all my colleagues to once again unanimously support the confirmation of this brilliant legal scholar, Judge Joseph Greenaway, to the Third Circuit Court of Appeals.

Mr. MENENDEZ. Mr. President, I first spoke in favor of the nomination of Judge Joseph A. Greenaway for the U.S. Court of Appeals for the Third Circuit when I introduced him to the Judiciary Committee on September 10. This has been a long 5-month process, unnecessarily long for a good man and a noncontroversial nominee who was once unanimously approved by this Chamber under Republican leadership, and I might add received the full support, the unanimous support of the Judiciary Committee. Yet the minority has continued to delay his confirmation along with many others.

If confirmed, he would be only the 15th of President Obama's circuit or district court nominees to be confirmed despite more than 100 vacancies on the Federal bench.

Having said that, today we are finally here to vote on the nomination of a man who fully embodies respect for justice and the rule of law that should have made this a simple, clear, easy choice.

Let me briefly repeat his impeccable qualifications. At the age of 38, Justice Joseph A. Greenaway, Jr., was appointed by President Clinton to the Federal bench and has served for over a dozen years with distinction. He earned a bachelor of arts from Columbia University where he was honored, in 1997, with the Columbia University Medal of Excellence and with the John Jay Award in 2003.

He earned his J.D. from Harvard Law where he was a member of the Harvard Civil Rights and Civil Liberties Law Review, and an Earl Warren Legal Scholar.

He later clerked for the late Honorable Vincent L. Broderick, in the U.S. District Court for the Southern District of New York, became an Assistant U.S. Attorney in Newark and later became chief of the narcotics bureau.

In the private sector, he was an associate with the firm of Kramer, Levin, Nessen, Kamin, and Frankel—and served at Johnson and Johnson as in-house counsel.

He is chair emeritus of the Columbia College Black Alumni Council and has been an adjunct professor at Rutgers Law School.

Currently, he is an adjunct professor at both the Cardozo School of Law and Columbia College where he teaches a seminar on the Supreme Court. But however impressive his experience and qualifications, they do not do justice to the man.

He grew up in Harlem and the northeast Bronx not far from where Justice Sotomayor grew up, just across the river from Union City, NJ, where I grew up. He has a deep respect for the rule of law and a fundamental belief in fairness and the age-old notion of equal justice under law.

He is accomplished and successful in his life and career, and proud of the justice system to which he has devoted his career. But he has also given much back to the community, something for which we in New Jersey will remain forever grateful.

In 2006, before Judge Greenaway took the podium at the Benjamin Cardozo School of Law at Yeshiva, Dean David Rudenstein introduced him as a man who touched many of his students' lives in meaningful ways. Those students, he said, had the privilege of witnessing his humanness and had been inspired by his example.

That observation came as a surprise to no one who knows Judge Greenaway. He has always been an inspiration to students and graduates alike, taking many of them under his wing as law clerks or fellows. Mediocrity has never been Joe Greenaway's norm. He has always strived for excellence, and taught young lawyers to do the same.

In conclusion, the confirmation of Judge Greenaway should have been an easy choice, but when all is said and done, when we put aside our political biases and look for those with the illusive qualities we like to call judicial temperament, those who best represent the fundamental concepts of justice and community, for as Edmund Burke once said: ''Justice is itself the great standing policy of civil society . . .''

Judge Joseph A. Greenaway, Jr. stands out. I am pleased that his nomination has finally come to the floor, and I urge my colleagues to vote for this eminently qualified, capable, nominee.

I know I join with all of my colleagues and with the people of New Jersey in wishing Judge Greenaway good luck and Godspeed on this next journey in life.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Joseph A. Greenaway, Jr., of New Jersey, to be U.S. Circuit Judge for the Third Circuit?

Mr. ISAKSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Pennsylvania (Mr. CASEY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mr. PRYOR), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from South Carolina (Mr. DEMINT), the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. GRAHAM), the Senator from New Hampshire (Mr. GREGG), the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Kansas (Mr. ROBERTS), the Senator from South Dakota (Mr. THUNE), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''yea,'' and the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The result was announced—yeas 84, nays 0, as follows:

[Rollcall Vote No. 21 Ex.]

YEAS—84

Akaka	Dorgan	McConnell
Alexander	Durbin	Menendez
Barrasso	Enzi	Merkley
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murkowski
Begich	Franken	Murray
Bennet	Gillibrand	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Hagan	Reed
Bond	Harkin	Reid
Boxer	Inhofe	Risch
Brown (MA)	Isakson	Rockefeller
Brown (OH)	Johanns	Schumer
Bunning	Johnson	Sessions
Burr	Kaufman	Shaheen
Burris	Kerry	Shelby
Cantwell	Klobuchar	Snowe
Cardin	Kohl	Specter
Carper	Kyl	Stabenow
Chambliss	Lautenberg	Tester
Coburn	Leahy	Udall (CO)
Cochran	LeMieux	Udall (NM)
Collins	Levin	Voinovich
Conrad	Lieberman	Warner
Corker	Lincoln	Webb
Cornyn	Lugar	Whitehouse
Crapo	McCain	Wicker
Dodd	McCaskill	Wyden

NOT VOTING—16

Brownback	Gregg	Roberts
Byrd	Hatch	Sanders
Casey	Hutchison	Thune
DeMint	Inouye	Vitter
Ensign	Landrieu	
Graham	Pryor	

The nomination was confirmed.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Craig Becker, of Illinois, to be a member of the National Labor Relations Board.

HARRY REID, TOM HARKIN, BENJAMIN L. CARDIN, DEBBIE STABENOW, BILL NELSON, AL FRANKEN, BARBARA BOXER, AMY KLOBUCHAR, MARK BEGICH, BYRON L. DORGAN, DIANNE FEINSTEIN, JOHN D. ROCKEFELLER IV, EDWARD E. KAUFMAN, ROLAND W. BURRIS, DANIEL K. AKAKA, SHELDON WHITEHOUSE, SHERROD BROWN.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Craig Becker, of Illinois, to be a member of the National Labor Relations Board, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mr. PRYOR), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from South Carolina (Mr. DEMINT), the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. GRAHAM), the Senator from New Hampshire (Mr. GREGG), the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Kansas (Mr. ROBERTS), the Senator from South Dakota (Mr. THUNE), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''nay,'' the Senator from South Carolina (Mr. GRAHAM) would have voted ''nay,'' and the Senator from Utah (Mr. HATCH) would have voted ''nay.''

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

The yeas and nays resulted—yeas 52, nays 33, as follows:

[Rollcall Vote No. 22 Ex.]

YEAS—52

Akaka	Feinstein	Murray
Baucus	Franken	Nelson (FL)
Bayh	Gillibrand	Reed
Begich	Hagan	Reid
Bennet	Harkin	Rockefeller
Bingaman	Johnson	Schumer
Boxer	Kaufman	Shaheen
Brown (OH)	Kerry	Specter
Burris	Klobuchar	Stabenow
Cantwell	Kohl	Tester
Cardin	Lautenberg	Udall (CO)
Carper	Leahy	Udall (NM)
Casey	Levin	Warner
Conrad	Lieberman	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden
Durbin	Merkley	
Feingold	Mikulski	

NAYS—33

Alexander	Cochran	Johanns
Barrasso	Collins	Kyl
Bennett	Corker	LeMieux
Bond	Cornyn	Lincoln
Brown (MA)	Crapo	Lugar
Bunning	Enzi	McCain
Burr	Grassley	McConnell
Chambliss	Inhofe	Murkowski
Coburn	Isakson	Nelson (NE)

Risch	Shelby	Voinovich
Sessions	Snowe	Wicker

NOT VOTING—15

Brownback	Gregg	Pryor
Byrd	Hatch	Roberts
DeMint	Hutchison	Sanders
Ensign	Inouye	Thune
Graham	Landrieu	Vitter

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 33. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be notified of the Senate's action.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate go into a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Wyoming is recognized.

100TH ANNIVERSARY OF THE BOY SCOUTS OF AMERICA

Mr. ENZI. Mr. President, Scouting came to America 100 years ago because of a good deed. We are now entering the second 100 years of Boy Scouting. As I said, Scouting came to America 100 years ago yesterday because of a good deed. An American, William Boyce, was visiting London when he suddenly got lost in the fog. A young boy found him and helped him find his way. When Mr. Boyce offered to give the young boy money, he said, ''No, thank you, sir, I am a Scout. I won't take anything for helping.'' Boyce was so overcome by the Scout's generosity that he arranged to meet with Lord Robert Baden-Powell, the founder of Scouts in Great Britain. After returning from his trip, Mr. Boyce met with a group of American businessmen, educators, and political leaders and founded the Boy Scouts of America on February 8, 1910. Nobody knows what happened to the boy who guided Mr. Boyce through the foggy streets of London that day, but his kindness lives on in the spirit of each Boy Scout today.

The Boy Scouts is one of the largest youth organizations in the United States—one of the very few recognized by Congress. Since its founding in 1910, it is estimated that more than 110 million Americans have served as members within its ranks. Scouting offers young people the promise of friendship, an opportunity to set positive goals, and teaches boys how to experience the outdoors. Above all, Scouting is about service and building character.

To understand Scouting, you only need to look at the Scout Oath. The oath sets out the principles of Scouting and explains just what it means to be a Boy Scout. It goes:

On my honor—

Meaning the Scouts live by their word and promise to follow the Scout Oath—

I will do my best—

Scouts measure their achievements against their own high standards. Scouts do so without being influenced by peer pressure or what other people do——

to do my duty to God—

Scouts are reverent toward God. They are faithful in their duties, and Scouts respect the beliefs of others—

and my country—

Scouts keep the United States a strong and fair Nation by learning about our system of government and acting as responsible citizens. Scouts work to improve their communities and seek to protect and use our national resources wisely—

and to obey the scout law—

Scouts respect and live by the 12 points of the Scout Law. These 12 points are guidelines which lead people to make responsible choices—

to help other people at all times—

Scouts recognize that there are many people in need.

They know that a cheerful smile and helping hand will ease the burden of most who need assistance—

to keep myself physically strong—

Scouts pledge to take care of their bodies so that it will serve for an entire lifetime. That means eating nutritious foods and exercising regularly. It also means Scouts avoid harmful drugs, alcohol, and tobacco—

mentally awake—

Scouts develop their minds both in the classroom and outside of school. They are curious about everything around them and work hard to make the most of their abilities—

and morally straight.

To be a person of strong character, a Scout's relationship with others should be honest and open. Scouts respect and defend the rights of all people, and they are clean in their speech and actions.

All Scouts reaching the first rank of Tenderfoot must be able to recite and explain the meaning of the Scout Oath.

The Boy Scouts also empower young people to pursue meaningful life goals. That includes putting them on the path to Scouting's highest honor.

To backtrack just a moment, because one of the points of that Scout Oath, or promise, was to obey the Scout Law, this is the new Boy Scout Handbook. I had a hard-bound one. Now they have a spiral-bound one that makes it much easier to get into. The Scout promise says that you will obey the Scout Law. The Scout Law is that ''a scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent''—all good virtues that are promoted. There aren't a lot of youth organizations now that promote virtues and build character.

So it has been helpful from that standpoint for a lot of people, including myself.

The Boy Scouts do empower young people to pursue meaningful goals. A major goal of Scouts is to be on the path of Scouting's highest honor, which is to be an Eagle Scout. The first Boy Scout Handbook described an Eagle Scout as ''the all-around perfect Scout.'' That is a very demanding standard and may explain why fewer than 4 percent of Boy Scouts reach the rank of Eagle Scout. Pursuing this honor requires young people to master the skills of leadership, service, and outdoor know-how. It also requires the practice of good citizenship and sound ethical behavior. Above all, once you are an Eagle Scout, you are always an Eagle Scout. It is something that is listed on resumes for the rest of their life—one of the few works from youth that can be listed on a resume.

From 1912 to 2009, 2 million Boy Scouts earned the Eagle Scout rank. Eagle Scouts have become leaders in all walks of life, including business, academics, entertainment, science, and, yes, even government. Within the 111th Congress alone, there are 22 Members who received their Eagle Scout awards. Eagle Scouts also leave an everlasting impact on their communities through the civic projects they complete to earn their rank. Park improvement projects, trail enhancements, organizing community events, and construction projects only begin to explain the things Eagle Scouts have done to improve the world around them.

Over its 100-year history in America, Boy Scouting has shaped many young lives. The service that Scouts have performed is immeasurable, but there are many noteworthy moments.

During World War I, Scouts played an important role in the war effort by collecting used paper and glass from homes. They also sold Liberty Bonds during World War I, valuing over $147 million. Congress was so grateful for the service of the Boy Scouts that they granted the Boy Scouts of America a special charter in 1916. President Roosevelt called on Scouts to help the needy in 1934 during the Great Depression. Throughout World War II, they again collected materials and sold war bonds to help the allied effort. By 1954, there were over 100,000 Boy Scout units, and in 2000 the Boy Scouts honored its 100 millionth member.

I rise today to honor the 100th anniversary of Boy Scouts. I also wish to draw attention to the release of the 100th anniversary commemorative stamp to be released by the Postal Service this summer. Scouting has meant a great deal to me and my family over the years, and I wish to recognize this momentous occasion.

With the Boy Scouts of America, the values of leadership, service, character, and achievement will live on to make our communities a better place. Remember, it all began with a good deed on the streets of London. That is why