the President. His hearing was April 10. I don't know why they had to go from January to April to have a hearing, but, again, that is solely within the control of the Democratic majority. He returned his questions—which we all have to do if we are nominated for an executive position—on May 6. That is this month. The committee considered his nomination May 16, which is just last week. They approved it 18 to 0. That is all Democrats and all Republicans voting yes. He came to the calendar of the Senate on May 20. That was on Monday.

The PRESIDING OFFICER. Will the Senator yield?

EXECUTIVE SESSION

NOMINATION OF SRIKANTH SRINIVASAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Srikanth Srinivasan, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided in the usual form.

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I will conclude for those who are expecting to do that, but these are timely remarks.

So, Mr. Srinivasan, nominated on June 11, 2012—no hearing by the Democratic majority and the executive committee, I wonder why; nominated January 4 by President Obama this year again, no hearing until April 10. If there is any delay there, it has no fault anywhere on the Republican side. May 6, questions returned; no nominee is considered by the committee until his questions come back; marked up May 16 last week, 18 to 0, unanimous; came to the floor on Monday and the Republican leader moved yesterday to ask unanimous consent that we consider an up-or-down vote for Mr. Srinivasan when we return after a week, which means he would have been fully considered then, to which the majority leader put down a cloture motion.

Now he has removed the cloture motion but there was no need for the cloture motion. The only suggestion may be he did it, he made it so it would look as though there was some delay over here, but there is no delay. Mr. Srinivasan has broad support. We are ready to vote for him up or down. I think it is time we got away from this idea of manufacturing a crisis about nominations when in fact we have made it easier for any President to offer his nominations, and the majority leader and Republican leader agreed at the beginning of this year when we did that, that that was the end of the rule changes for the Congress in this Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Madam President, I ask unanimous consent to speak for 5 minutes on the Feinstein amendment.

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

Mr. BURR. Madam President, let me first say about the comments of Senator ALEXANDER, you see why he is a former university president, a Governor, a Secretary of Education, a candidate for President, and now some would call him a Senator. I think you would call him a statesman, because he tries to lay it out in a way we can all understand it, with facts and not hyperbole, and this is an opportunity for us on both sides to step back from the brink and actually do the people's business, to get something done, to solve big problems.

I came to the floor to talk on the Feinstein amendment, knowing it is not up for an hour—and I will be very brief, to my colleague from Virginia, because I know he wants to talk about judges—primarily because there is some misinformation that has been stated. Let me recap the tobacco industry in a very brief summary.

Tobacco, like many agricultural products, for years received a price support system that the Federal Government, the Congress of the United States, put in place. A number of years ago, Members of Congress said, for obvious reasons, the Federal Government probably should not have a price support on something we consider not to be best for people's health. At that time farmers reluctantly listened to Members of Congress who said the international market should be open to you and we should do our best to make it unlimited, and we did. At that time we eliminated the price support system.

Senator FEINSTEIN came to the floor—I do not think she did this intentionally—and she said it costs the American taxpayer $10 billion. In fact, there was not one dime of American taxpayer money that went to the tobacco buyer; 100 percent of the cost of the elimination of that program was absorbed by the tobacco companies. So, yes, if the purchase of a pack of cigarettes and the profit that goes to a tobacco company and the $1.01 in Federal taxes they pay per pack of cigarettes is the American taxpayer paying the price of the buyout, she is right. I am not sure you can make that connection.

But I want to state for my colleagues: The Federal Treasury did not pay $10 billion to buy out tobacco farmers. It was the companies, the ones that understand they have to have a viable, abundant source of product. Sixty percent of what we grow in the United States is shipped for export. It does not go to the domestic market.

Let me say to my colleague, if the intention of this is to be punitive to this product, for gosh sakes, come to the floor; change your amendment; let's vote up or down as to whether tobacco is going to be legal. If the purpose here is to suggest we are going to save taxpayer money, let me suggest if you put every tobacco farmer out of business—and this is the commodity that achieves, actually, our best balance of trade in agricultural products—you would make a real long-term mistake. The only thing this commodity, this agricultural commodity, asks is let us participate in the Federal Crop Insurance Program. Without that protection it is impossible for my neighbor, your neighbor, the backbone of the community—a farmer—to go to a bank and say: Can you lend me enough money to plant my crop this year? And if Mother Nature is good and I work hard I am going to be able to sell this product, I am going to be able to pay you back, and I am going to be able to make a profit to feed my family. Without that assurance of a safety net they would never get the bank to loan the money.

This is about availability of capital, this one cost. Why in the world we would pick one commodity out of the entire agricultural industry and say everybody else can participate in the crop insurance program but you can't is insane.

Let me say to my colleague from California, Senator FEINSTEIN, I don't think this was intentional. I think she either got bad staff information or she made a gaffe.

To my colleagues, let me encourage you, vote against this amendment. Don't do this to a piece of the agricultural community that is profitable, that works hard, but, more importantly, contributes a lot to the backbone of this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. KAINE. Madam President, I rise to support the nomination of Srikanth Srinivasan to be judge for the U.S. Court of Appeals for the D.C. Circuit. This matter will be before us for a vote later today. I want to talk for a bit about Sri's significant qualifications. I am going to discount the fact that he was born in Kansas and raised in Kansas, as I was. I will not take that into account. I will discount the fact he lives in Virginia as I do, and focus on other qualifications because he has them by the boatload.

Sri has a wonderful background that equips him for this most important judicial position, and this has been a position that has been vacant since June of 2008. He was an undergraduate and then law degree and then business degree, MBA at Stanford after he grew up in Lawrence, KS. Like many law graduates, his next step was to work in a clerkship with appellate judges. He

worked first for a wonderful Virginia jurist, Judge J. Harvie Wilkinson, who was the chief judge of the Fourth Circuit Court of Appeals headquartered in Richmond. Judge Wilkinson is well known as a superb legal scholar and judge.

After he completed that clerkship, he had the honor of being selected to work as a clerk for Justice Sandra Day O'Connor, also a tremendous honor for a young lawyer. I talked at length with Mr. Srinivasan and heard about the fact that he learned a great deal from both of these judges about judicial temperament and the importance of so many aspects to be a good judge.

Sri had the expertise developed in private practice at one of America's major firms, O'Melveny and Myers. O'Melveny and Myers has had a very significant pro bono practice for years, headed by Bill Coleman, who was a long-time official—one of the lawyers who worked on the Brown v. Board of Education case in the 1950s. Sri eventually became the leader of the appellate practice in O'Melveny and Myers, in that capacity doing good work. He has been a teacher at Harvard Law School.

Probably most specific to the needs of the D.C. Circuit, Sri has had a long career working in the Solicitor General's Office, the key legal office of the United States, charged with representing the United States on important matters before the Supreme Court and the Federal appellate courts. He has worked two stints in the Solicitor General's Office, having worked both under the Solicitor General's Office during President Bush 43's tenure, and then again returning to work as the principal deputy solicitor general under President Obama. In that capacity he has had extensive arguments, more than 20 arguments before the U.S. Supreme Court and numerous appellate court arguments in the Federal appellate courts, including the D.C. Circuit Court for which he is nominated.

Srikanth Srinivasan enjoys broad support. Numerous officials in the Solicitor General's Office under both Democratic and Republican administrations have weighed in on behalf of his candidacy. The ABA, American Bar Association, which looks at candidates and scrutinizes their qualifications, has given him the ''most qualified'' award, their highest recommendation. He comes with significant support in this body and others with whom he has practiced.

The area I probably spent most time with him on as I was interviewing him was the whole notion of judicial temperament. These are important positions, and under the Constitution we grant them to people for life. You can have all the intellectual qualifications, but if you do not have the life experience to enable you to understand situations and pass judgment on matters important to people, and if you do not have the temperament to work in a collegial body—circuit courts, as you know, hear cases generally in panels of three and then occasionally hear cases en banc, the entire list of the circuit court judges for the D.C. Circuit would sit together—it is not enough to be a scholar; you have to be a good listener, you have to be a good colleague. Srikanth Srinivasan's career is a track record of his dedication and ambition, but his temperament is a real tribute to his humility, to his ability to listen not only to litigants but to other judges.

I think these credentials, both his formal credentials—his work experience and temperament—would make him an excellent choice. For that reason I am proud to stand up as one of his home State Senators. I am proud to acknowledge the Judiciary Committee's unanimous vote on his behalf and urge my colleagues today as we move to the vote to support his nomination. None of us will be disappointed in his work as a D.C. Circuit judge.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I voted for this nominee out of committee. I will vote for this nominee on the floor of the Senate. He is well qualified for this position.

I come to the floor not to repeat what a lot of other people have said about this nominee, but the process that was connected with arranging the vote for today's vote. Basically I want to speak about the needless shenanigans that have gone on before we get to this point where we vote at 2 o'clock.

Today's nominee for the D.C. Circuit was voted out of committee 1 week ago, on May 16, a unanimous vote of 18 to 0. He was placed on the Executive Calendar 3 days ago, on Monday, May 20. One day later, on May 21, the Republicans cleared this nominee to have an up-or-down vote when we returned from the Memorial Day recess, but the majority leader was not content to take yes for an answer. One day after this nominee was placed on the Executive Calendar and after Republicans agreed to an up-or-down vote, the majority leader chose to file cloture.

Why file cloture? Why would the majority leader do that on a nominee whom the minority party, the Republicans, were ready and willing to vote on, backed up by the fact that every Republican on the committee voted for this nominee?

There is only one plausible answer: That is part of the majority's attempt to create the appearance of obstruction where no obstruction ever existed. It is pure nonsense. It is a transparent attempt to manufacture a crisis, a crisis that does not exist. The fact of the matter is there is no obstruction and particularly no obstruction on this nominee, and the other side knew it before they filed cloture.

This morning in his opening remarks the majority leader tried to argue he has had to file cloture 58 times. But what the majority leader did this week illustrates precisely why that claim is completely without merit.

What the Majority Leader did fits neatly into the Democratic Majority's playbook.

First, file cloture for no apparent reason, none whatsoever. And then immediately turn around and claim: See, look everybody, we had to file cloture.

The fact is, we are confirming the President's nominee—all nominees—at a near-record pace. After today, the Senate will have confirmed 193 lower court nominees. We have defeated only two. That is 193 to 2, which in baseball terms is a .990 batting average. Anybody would agree that is an outstanding record. Who could complain about 99 percent?

After today—this year alone, the first year of the President's second term—the Senate will have confirmed 22 judicial nominees. Let's compare that to the previous President's first year of his second term—President Bush—when there was a Democratic Congress. In that same period of time in 2005, the Senate had only confirmed four nominees. So that is a record of 22—the first year of this President's second term—compared to only 4 for the first year of President Bush's second term.

If we were treating this President in the same way the Senate Democrats treated President Bush in 2005, we would not be confirming the 22nd nominee, we would be confirming only the 4th. So it should be clear to everyone that these are needless shenanigans.

Anyway, based on that record, what can the Senate Democrats possibly complain about? The bottom line is they can't complain—or they shouldn't complain. That is not based upon rhetoric but based on the record of 22 so far this year and 193 total confirmations for this President versus 2 disapprovals.

Of course, because the record is so good, the other side needs to manufacture a crisis, and that is why the other side filed cloture on this nomination just 1 day after it appeared on the Executive Calendar.

Yesterday, when the majority leader was pressed on why he chose to file cloture 1 single day after his nomination appeared on the Executive Calendar, he pointed to the fact that the nominee was first nominated in the year 2012. But apparently the majority leader was unaware that the chairman of the Judiciary Committee made no effort to schedule a hearing on this nominee until late last year.

Apparently, the majority leader was unaware that by January of this year, we learned the nominee was potentially involved in the quid pro quo that Mr. Perez—the President's nominee for Labor Secretary—orchestrated between the Department of Justice and the city of St. Paul.

I spoke on this issue last week regarding the deal Mr. Perez struck, where he agreed the Department would decline two False Claims Act cases in exchange for the city of St. Paul withdrawing a case from the Supreme

Court. I am not going to go into those details again, but that is a very serious issue. The Department—and as it turns out Mr. Perez in particular—bartered away a case worth about $200 million of taxpayers' money to come back into the Federal Treasury under the False Claims Act. To have that case withdrawn is a pretty serious matter.

As it turns out, the nominee before us today happened to be the lawyer in the Solicitor General's Office who handled the case Mr. Perez desperately wanted withdrawn from the Supreme Court.

So, as would be expected, any Member of the Senate—particularly those who have the responsibility in the minority—needed to know what the nominee knew about the quid pro quo and what Mr. Perez told the committee about that deal.

We needed the documents about this issue, and we needed to speak with the witnesses involved, but the Department was desperate to keep those documents from Congress. They were desperate to keep the witnesses from being involved and interviewed.

The bottom line is that the Department of Justice dragged its feet for months. If the Department of Justice had turned over those documents and made witnesses available way back when we asked for them, the hearing for this nominee could have been one of the first we had this year. Instead, the Department of Justice chose to try their best to keep Congress from getting to the bottom of that quid pro quo, and, frankly, Mr. Perez's involvement in that matter.

If the majority wishes to complain about the nominee having his hearing in April rather than February, they should pick up the phone and call those in charge at the Department of Justice and ask: Why didn't you give Congress the information they needed?

It wasn't the Senate Republicans who withheld the documents, it was the Department of Justice. It wasn't Senate Republicans who held up the nominee's hearing, it was the Department of Justice.

The bottom line is that the Senate is processing the President's nominees exceptionally fairly. I will not repeat those statistics because I have already gone through them in this speech and in previous speeches.

This President is being treated much more fairly than Senate Democrats treated President Bush in 2005.

The fact is this: Filing cloture on this nominee—who will probably pass unanimously—was nothing but a transparent attempt to create the appearance of obstruction.

As I said, I intend to support this nominee, just as I did in committee, and I encourage my colleagues to support the nomination as well.

But as we move forward on these nominees, I wish we could stop these needless shenanigans. I wish the other side would stop shedding those crocodile tears. The statistics of approval by this Senate of judicial nominees, which is 193 to 2, is no justification for any crocodile tears whatsoever.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. COONS. Madam President, today this body will have the chance to vote on the nomination of the highly qualified Sri Srinivasan for the D.C. Circuit Court of Appeals.

I am a member of the Judiciary Committee and have had the honor and privilege of chairing Mr. Srinivasan's confirmation hearing. I can say, without question, he has the background, skills and, perhaps most importantly, the temperament to serve as a circuit court judge.

He is one of the single most qualified judicial nominees I have seen in my years in this body, and he deserves better than the games which have been played with his confirmation. He already has bipartisan support. Now let's work together and give him a strong bipartisan vote.

The Constitution of the United States gives the Senate the responsibility to advise and consent to the President's nominations for important posts, such as the bench of the D.C. Circuit Court of Appeals. It is certainly our responsibility to review and vet candidates—nominees—who come over from the President. We should not simply serve as a rubberstamp but neither should we be a firewall, unreasonably blocking qualified nominees from service at the highest levels of our government.

Our Nation's courts should be above politics. When the President submits a highly qualified candidate of good character and sound legal mind, as that of Mr. Srinivasan, then absent exceptional circumstances that candidate should be entitled to a rollcall vote.

Up to this point in President Obama's administration—nearly 1,600 days—the Senate has failed to live up to its responsibility and to confirm any nominee to the D.C. Circuit Court of Appeals. The D.C. Circuit Court of Appeals is often called the second most important court in the Nation.

Similar to the Supreme Court, the D.C. Court of Appeals handles cases that impact Americans all over the country and from all walks of life. It regularly hears cases that range very broadly from terrorism and detention to the scope of Federal agency power. Yet today it is critically understaffed. The D.C. Circuit Court of Appeals has not seen a nominee confirmed since President George W. Bush's fourth nominee to that court was confirmed in 2006—7 years ago.

Republicans in this Chamber filibustered President Obama's nominee, Caitlin Halligan, until she ultimately—after hundreds and hundreds of days of waiting across several Congresses—gave up and withdrew. Her opponents said the caseload at the D.C. Circuit was too low and that it did not deserve another judge.

Such concerns about caseload did not prevent the Republican-led Senate from confirming two nominees to the 10th seat on the D.C. Circuit and one to the 11th. Mr. Srinivasan is not nominated for the 10th or 11th seat on the D.C. Circuit but for the 8th.

We need to confirm Mr. Srinivasan and we need to act quickly on the President's next nominee for that court and the one after that.

I believe we have a chance to start fresh with Mr. Srinivasan, who would serve equally well and ably on the D.C. Circuit Court of Appeals, as might Ms. Halligan.

Mr. Srinivasan has a razor-sharp legal mind. He served in the Solicitor General's Office for both Republican and Democratic administrations and has earned the bipartisan support of his colleagues. Twelve former Solicitors General and Principal Deputy Solicitors General wrote a letter supporting his nomination—6 Democrats and 6 Republicans.

The letter, which is signed by conservative legal luminaries such as Paul Clement and Ted Olson, notes that Mr. Srinivasan is ''one of the best appellate lawyers in the country.'' They commented further in the letter and said that he has an ''unsurpassed'' work ethic and is ''extremely well prepared to take on the intellectual rigors of serving as a judge on the D.C. Circuit.''

My point is a simple one: Sri is a capable and, in fact, highly accomplished attorney, with the character and demeanor to serve admirably on this bench, which has sat without a nominee from the Obama administration for the entire time our current President has served.

Sri Srinivasan has earned bipartisan support. Today, let's give him a bipartisan vote.

I thank the Chair.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. COONS. Madam President, I ask unanimous consent that any time during quorum calls leading up to the vote be charged equally to both sides.

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

Mr. COONS. Thank you, Madam President.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. HEINRICH). The Senator from Kansas.

Mr. MORAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MORAN. Mr. President, I certainly recognize that providing advice and consent of Presidential nominees is one of our most important responsibilities as Members of the Senate, and it is a responsibility that I expect and believe all of us take very seriously.

On a number of occasions, I have had the opportunity to meet Sri Srinivasan, whom President Obama has now nominated to fill a vacancy on the U.S. Court of Appeals for the District of Columbia Circuit. I have found Sri to be a highly qualified candidate who has a distinguished career in the private sector and in the Department of Justice of both Republican and Democratic administrations, for President Bush and President Obama. I announced my support for his confirmation in advance of the Judiciary Committee realizing the same circumstance I realized, which is that we have a very highly qualified individual of integrity who has been nominated by the President. Of course, the Judiciary Committee unanimously supported that nomination to confirm him.

Sri is a fellow Kansan and is one of our State's most accomplished legal minds. He was born in India and moved with his parents to Lawrence, KS, where he graduated valedictorian from Lawrence High School in 1985. As do most Kansans, he enjoyed basketball and at one point in time was a guard on the high school basketball team playing alongside one of our State's most famous athletes, Danny Manning.

After high school, he went to Stanford University, earning a bachelor's degree, an MBA, and a law degree.

Sri served as a clerk for the U.S. Supreme Court and served with Justice Sandra Day O'Connor and later worked in the Solicitor General's Office under President George W. Bush. He became the Principal Deputy Solicitor General in 2011.

Sri has argued more than two dozen cases before the U.S. Supreme Court, and his nomination is supported by 12 former Solicitors General and Principal Deputy Solicitors General evenly split among political parties.

If confirmed today, Sri would become the first South Asian to serve on a Federal circuit court.

I wish to indicate to my colleagues how proud Kansans are of Sri and his success, his accomplishments, and I am pleased to support his nomination. He is one of our Nation's leading appellate lawyers, and I believe he will serve our Nation well on the U.S. Circuit Court of Appeals for the D.C. Circuit.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, the U.S. Court of Appeals for the D.C. Circuit has primary responsibility to review administrative actions taken by countless Federal departments and agencies. The court's decisions—including its recent invalidation of President Obama's unconstitutional ''recess'' appointments—often have significant political implications. As a result, this body—the Senate—has a longstanding practice and tradition of scrutinizing nominees to the D.C. Circuit very carefully. When evaluating those nominees, we have also carefully considered the need for additional judges on that court.

In July 2006 President Bush nominated an eminently qualified individual, Peter Keisler, to fill a seat on the D.C. Circuit. I know Peter Keisler. Peter Keisler is among the very finest attorneys I have ever worked with. In fact, most who know him would agree he is among the very finest attorneys in the entire country. He is one who happened to have enjoyed bipartisan support throughout the legal profession at the time of his nomination. Nevertheless, Democratic Senators blocked Mr. Keisler's nomination, and his nomination simply languished in the Judiciary Committee.

At the time a number of my Democratic colleagues signed a letter arguing that a nominee to the D.C. Circuit ''should under no circumstances be considered—much less confirmed—before we first address the very need for that judgeship.'' Those Senators argued that the D.C. Circuit's modest caseload simply did not justify the confirmation of any additional judge to that court.

More than 6 years have elapsed from that moment, but the D.C. Circuit's caseload remains just as minimal as it was back then. The court's caseload has actually decreased since the time Democrats blocked Mr. Keisler. The total number of appeals filed is down over 13 percent, and the total number of appeals pending is down over 10 percent. With just 359 pending appeals per panel, the D.C. Circuit's average workload is less than half of other Federal appellate courts.

Some have sought to make much of the fact that since 2006 two of the court's judges have taken senior status, leaving only seven active judges on the D.C. Circuit. But the court's caseload has declined so much in recent years that even filings per active, nonsenior, sitting judge are roughly the same as they were back then.

Of course, this doesn't account for the six senior judges on the D.C. Circuit who continue to hear appeals and author opinions. Their contributions are such that the actual work for each active, nonsenior judge has declined and the caseload burden for the D.C. Circuit judges is less than it was when the Democrats blocked Mr. Keisler on the basis of declining caseload in the D.C. Circuit. Indeed, the average filings per panel—perhaps the truest measure of actual workload per judge—is down almost 6 percent since the time Democrats blocked Mr. Keisler. And those who work at the court suggest that in reality, the workload isn't any different today than it was back at the time the Democrats blocked Mr. Keisler's nomination to that court.

Much like Mr. Keisler, the D.C. Circuit nominee before us today, Mr. Srinivasan, is exceptionally qualified, and I am pleased to say he enjoys broad bipartisan support from throughout the legal profession.

Unlike what the Democrats did to Mr. Keisler, I will vote to confirm Mr. Srinivasan. I do not believe in partisan retribution and hope that, moving forward, the Senate—whether controlled by Democrats or Republicans at any moment in the future—will rise above such past differences and disputes.

The D.C. Circuit is one area in which we share common ground. Both Democrats and Republicans have argued repeatedly that the D.C. Circuit has too many authorized judgeships. Indeed, while other Federal circuit courts throughout the country struggle to keep up with rising caseloads, in each of the last several years the D.C. Circuit has canceled regularly scheduled argument dates due to a lack of pending cases.

For these reasons I am an original cosponsor of S. 699, the Court Efficiency Act, which was introduced last month. The bill does not directly impact today's nominee, but it will reallocate unneeded judgeships from the D.C. Circuit to other Federal appellate courts where caseloads are many times higher than that of the D.C. Circuit.

Especially after we have confirmed Mr. Srinivasan, I hope Members on both sides of the aisle will join me in ensuring that these unnecessary D.C. Circuit judgeships are reallocated to courts that need those judge slots.

I certainly hope neither the White House nor my Democratic colleagues will instead decide to play politics and seek—without any legitimate justification—to pack the D.C. Circuit with unneeded judges simply in order to advance a partisan agenda.

Now, importantly, it was stated earlier in debate that we should stop ''playing games'' with this nomination. We agree. In fact, we could not agree more. Unfortunately, the only game played was by the majority leader in manufacturing a false impression by filing cloture one day after the nominee was listed on the Executive Calendar and after Senate Republicans agreed to a vote.

It has also been suggested that Senate Republicans have somehow refused to fill this seat or any other on the D.C. Circuit since 2006. Apparently, this is representative of a memory lapse or perhaps they want to rewrite history.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The nomination of Srikanth Srinivasan to the D.C. Circuit Court.

Mr. LEAHY. Thank you, Mr. President.

I am glad to hear what my friend from Utah said about voting for this nominee because this is the second time this year the majority leader had to file cloture on one of President Obama's well-qualified nominees to the D.C. Circuit. Sri Srinivasan is not a nominee who should require cloture, and I am glad he is not going to now that cooler heads have prevailed, but neither was Caitlin Halligan. Caitlin Halligan is a woman who is extraordinarily well qualified and amongst the most qualified judicial nominees I have seen from any administration. It was shameful that Senate Republicans blocked an up or down vote on her nomination with multiple filibusters and procedural objections that required her to be nominated five times over the last three years.

Had she received an up or down vote, I am certain she would have been confirmed and been an outstanding judge on the United States Court of Appeals for the District of Columbia. Instead, all Senate Republicans but one supported the filibuster and refused to vote up or down on this woman, who is highly-qualified and would have filled a needed judgeship on the D.C. Circuit. Senate Republicans attacked her for legal advocacy on behalf of her client, the State of New York. It is wrong to attribute the legal positions a lawyer takes when advocating for a client with what that person would do as an impartial judge. That is not the American tradition. That is not what Republicans insisted was the standard for nominees of Republican Presidents but that is what they did to derail the nomination of Caitlin Halligan.

Also disconcerting were the comments by Republicans after their filibuster in which they gloated about payback. That, too, is wrong. It does our Nation and our Federal Judiciary no good when they place their desire to engage in tit-for-tat over the needs of the American people. I rejected that approach while moving to confirm 100 of President Bush's judicial nominees in just 17 months in 2001 and 2002.

Like Caitlin Halligan, Sri Srinivasan has had an exemplary legal career and has the support of legal professionals from across the political spectrum. Born in Chandigarh, India, he grew up in Lawrence, KS, and earned his B.A., with honors and distinction, from Stanford University. He also earned his M.B.A. from the Stanford Graduate School of Business along with his J.D., with distinction, from Stanford Law School, where he was inducted to the Order of the Coif. At Stanford Law School, Sri Srinivasan served as the Note Editor of the Stanford Law Review. After completing law school, he clerked for Judge J. Harvie Wilkinson III on the U.S. Court of Appeals for the Fourth Circuit and for Justice Sandra Day O'Connor on the U.S. Supreme Court.

Sri Srinivasan has experience in private practice, where he served as a partner and chaired the Appellate Practice at O'Melveny & Myers LLP. He has also served in the Office of the Solicitor General during both the Bush and Obama administrations, where he is currently the Principal Deputy Solicitor General. He has argued more than 25 cases before the U.S. Supreme Court and several cases before the U.S. Courts of Appeal. The ABA Standing Committee on the Federal Judiciary unanimously rated him ''well qualified'' to serve on the D.C. Circuit, its highest rating. The Judiciary Committee reported him a week ago by a unanimous 18-to-0 vote. That means every single Republican on the committee who had a chance to review the nominee's record and to ask him questions supported him.

He was first nominated almost 1 year ago—a longer wait than any other current judicial nomination. His Committee hearing was delayed by 4 months from when I first planned on holding it, at the request of the Republicans. Sri Srinivasan has waited long enough, and, given his unanimous support in Committee, there was no reason to delay his confirmation. The Senate confirmed 18 of President Bush's circuit nominees within a week of being reported by the Judiciary Committee, while not a single one of President Obama's circuit nominees has received a floor vote within a week of being reported. Senate Democrats even allowed a vote on a controversial Fourth Circuit nominee within just 5 days of being reported. By that standard, there is no reason not to vote now on Sri Srinivasan. When confirmed, he will be the first Asian American in history to serve on the D.C. Circuit, and the first South Asian American to serve as a Federal circuit judge.

But, regrettably, even after their unwarranted filibuster of Caitlin Halligan, and even after their efforts to delay Sri Srinivasan's confirmation, Senate Republicans are expanding their efforts through a ''wholesale filibuster'' of nominations to the D.C. Circuit by introducing a legislative proposal to strip three judgeships from the D.C. Circuit.

I am almost tempted to suggest they amend their bill to make it effective whenever the next Republican President is elected. I say that to point out they had no concerns with supporting President Bush's four Senate-confirmed nominees to the D.C. Circuit. They did this even though for the previous President—a Democrat—they said we had too many judges there. But as soon as a Republican came in they suddenly found the need and did confirm four judges to the D.C. Circuit. Those nominees filled the very vacancies for the 9th, 10th, and even the 11th judgeship on the court that Senate Republicans are demanding be eliminated now that President Obama has been reelected by the American people. In other words, filling those seats was okay with a Republican President but not okay with a Democratic President. The target of this legislation seems apparent when its sponsors emphasize that it is designed to take effect immediately and acknowledge that ''[h]istorically, legislation introduced in the Senate altering the number of judgeships has most often postponed enactment until the beginning of the next President's term'' but that their legislation ''does not do this.'' It is just another one of their concerted efforts to block this President from appointing judges to the D.C. Circuit.

In support of this effort, Senate Republicans are citing a subcommittee hearing they held back in 1995 on the D.C. Circuit's caseload in an attempt to eliminate the 12th seat during President Clinton's tenure. They are fond of citing the testimony of Judge Laurence Silberman, a Reagan appointee, that he felt the 12th seat was not necessary. What Senate Republicans do not mention is that Judge Silberman believed that 11 judgeships was the proper number on that Circuit, and that the notion that the D.C. Circuit should have only nine judges was ''quite farfetched.'' I would echo those comments, and note that it is beyond farfetched that the same Senate Republicans who cite Judge Silberman's view on the 12th seat are ignoring the rest of his statement and seeking to reduce the court to eight seats. In fact, we have already acted to eliminate the 12th seat from the D.C. Circuit. What Senate Republicans are now proposing during this President's tenure is the elimination of the 11th, 10th, and 9th seats, as well.

In its April 5, 2013 letter, the Judicial Conference of the United States, chaired by Chief Justice John Roberts, sent us recommendations ''based on our current caseload needs.'' They did not recommend stripping judgeships from the D.C. Circuit but state that they should continue at 11. Four are currently vacant. According to the Administrative Office of U.S. Courts, the caseload per active judge for the D.C. Circuit has actually increased by 50 percent since 2005, when the Senate confirmed President Bush's nominee to fill the 11th seat on the D.C. Circuit. When the Senate confirmed Thomas Griffith—President Bush's nominee to the 11th seat in 2005—the confirmation resulted in there being approximately 119 pending cases per active D.C. Circuit judge. There are currently 188 pending cases for each active judge on the D.C. Circuit, more than 50 percent higher.

This falls into a larger pattern that we have seen from Senate Republicans over the past 20 years. While they had no problem adding a 12th seat to the D.C. Circuit in 1984, and voting for President Reagan and President George H.W. Bush's nominees for that seat, they suddenly ''realized'' in 1995, when a Democrat served as President, that the court did not need that judge. When Judge Merrick Garland was finally confirmed in 1997, many Senate

Republicans voted against him, because they had decided that the 11th seat was also unnecessary. Senate Republicans then refused to act on President Clinton's final two nominees to the D.C. Circuit, one of whom now serves on the Supreme Court.

In 2002, during the George W. Bush administration, the D.C. Circuit's caseload had dropped to its lowest level in the last 20 years. During that Republican administration, Senate Republicans had no problem voting to confirm President Bush's nominees to the 9th, 10th, and 11th seats. These are the same seats they wish to eliminate now that Barack Obama is President, even though the court's current caseload is consistent with the average over the past 10 years. Maybe they are suggesting people work harder and more effectively if there is a Democrat in the White House than a Republican, but I suspect they may have a different motive. Even on its own terms, it is apparent this has nothing to do with caseload; it has everything to do with who is President.

Contrary to what Senate Republicans are arguing, the D.C. Circuit does not even have the lowest caseload in the country. The circuit with the lowest number of pending appeals per active judge is currently the Eighth Circuit, to which the Senate recently confirmed a nominee from Iowa, supported by the ranking Republican on the Senate Judiciary Committee. I do not recall seeing any bills from Senate Republicans to eliminate that seat.

So I think it depends more on politics than on judicial independence, and that is not a path to follow. The Federal courts have been too politicized as it is. There have been more filibusters and more blocking of judicial nominations by President Obama, than of nominations by any President of either party in the past. It makes me wonder, what is different about this President from all these other Presidents that he is given such a more difficult time—even the blocking, the filibustering of judges supported by home State Republican Senators.

This kind of political falderal with our Federal judiciary has come at a price. The Federal judiciary is losing the perception of independence it had before because it is being seen as being politically manipulated, even though virtually every Federal judge I have met—almost every Federal judge I have met—nominated by either a Republican or a Democratic President has shown independence.

The public gets a view otherwise, especially when they see a number of judicial vacancies where nominations have been made and even nominees who get through the Judiciary Committee unanimously or virtually unanimously then have to wait for months and months, even a year, to finally get a vote, and then only after we have either had a cloture vote or a threat of a cloture vote.

As I have said, I was Chairman of the Senate Judiciary Committee for 17 months at the beginning of President George Bush's term, and we put through 100 of his nominees. Now, in the other 30 months of his first term, with Republicans in charge, they did better. They put through 105. My point being, of course, that we actually moved his judges faster even than Republicans did when they were in the majority. But now the willingness to cooperate demonstrated there has broken down. Now the rules that worked for a Republican President, we are told, cannot apply for a Democratic President—especially this President.

Moreover, the unique character of the D.C. Circuit's caseload means that it is misleading to compare its caseload to that of the other Circuits as part of this effort to eliminate its judgeships. The D.C. Circuit Court of Appeals is often considered ''the second most important court in the land'' because of its special jurisdiction and because of the important and complex cases that it decides. The Court reviews complicated decisions and rulemaking of many Federal agencies, and in recent years has handled some of the most important terrorism and enemy combatant and detention cases since the attacks of September 11. These cases make incredible demands on the time of the judges serving on this Court. It is misleading to cite statistics or contend that hardworking judges have a light or easy workload. All cases are not the same and many of the hardest, most complex and most time-consuming cases in the Nation end up at the D.C. Circuit.

Former Chief Judge Harry Edwards has said:

> [R]eview of large, multi-party, difficult administrative appeals is the staple of judicial work in the D.C. Circuit. This alone distinguishes the work of the D.C. Circuit from the work of other Circuits; it also explains why it is impossible to compare the work of the D.C. Circuit with other Circuits by simply referring to raw data on case filings.

Former Chief Judge Patricia Wald has written:

> The D.C. Circuit hears the most complex, time-consuming, labyrinthine disputes over regulations with the greatest impact on ordinary Americans' lives: clean air and water regulations, nuclear plant safety, healthcare reform issues, insider trading and more. These cases can require thousands of hours of preparation by the judges, often consuming days of argument, involving hundreds of parties and interveners, and necessitating dozens of briefs and thousands of pages of record—all of which culminates in lengthy, technically intricate legal opinions . . . The nature of the D.C. Circuit's caseload is what sets it apart from other courts.

Judge Laurence Silberman has said: ''I very much agree . . . as to the unique nature of the D.C. Circuit's caseload, and therefore do not believe a direct comparison to the other circuits is called for.''

And Chief Justice Roberts, who formerly served on the D.C. Circuit, has noted that ''about two-thirds of the cases before the D.C. Circuit involve the federal government in some civil capacity, while that figure is less than twenty-five percent nationwide,'' and that less time-consuming ''prisoner petitions which make up a notable portion of the docket nation-wide on other courts of appeals—are a less significant part of its work.'' He also described the ''D.C. Circuit's unique character, as a court with special responsibility to review legal challenges to the conduct of the national government.''

The arguments now being made by Senate Republicans to eliminate three seats on the D.C. Circuit are not based on the reality of that court's caseload. Even if we do make these misleading comparisons to other circuits, the arguments ultimately do not withstand scrutiny since other circuits have caseloads that are lower than the D.C. Circuit's. And most do not have the complexity of the cases that come to the D.C. Circuit. So the D.C. Circuit's need for judges will not be met by Sri Srinivasan alone. We must work hard to fill the three additional vacancies currently on that court so the D.C. Circuit can have its full complement of judges to decide some of the most important cases to the American people.

Some have called the D.C. Circuit a court second only to the Supreme Court in its importance. Let's not politicize it. Let's not say here is this rule that applies to a Republican President, and we want an entirely different one with a Democratic President. That does not do the court any good, it does not do the country any good, and it actually is beneath this great body, the U.S. Senate.

Sri Srinivasan is a superbly-qualified, consensus nominee. I am glad the Republican filibuster has come to an end and the Senate is being permitted to vote on this nomination. I will, again, vote in favor of confirmation.

Mr. President, I understand we have a vote scheduled for 2 o'clock.

The PRESIDING OFFICER. The Senator is correct.

Ms. KLOBUCHAR. Mr. President, I come to the floor today in support of the nomination of Sri Srinivasan to the D.C. Circuit Court.

Mr. Srinivasan is an exemplary nominee to the Federal bench, and I am here to encourage my colleagues to confirm him without delay.

Sri Srinivasan is currently the Principal Deputy Solicitor General at the Department of Justice and was previously a partner at the law firm of O'Melveny & Myers LLP.

Born in India, Mr. Srinivasan grew up in Lawrence, KS, and earned his B.A., with honors and distinction, his M.B.A, and his J.D., Order of the Coif, all from Stanford University. After completing law school, Mr. Srinivasan served as a clerk on the U.S. Court of Appeals for the Fourth Circuit, and then for Justice Sandra Day O'Connor on the U.S. Supreme Court.

Mr. Srinivasan has extensive Federal appellate court experience representing pro bono clients, private sector clients, and, in his current post, the U.S. government.

Over the course of his 17-year legal career, Mr. Srinivasan has argued an impressive 24 cases before the U.S. Supreme Court and 9 cases in the Federal courts of appeal. His arguments before the Supreme Court include a wide range of subject matters ranging from the First Amendment, criminal procedure, and foreign sovereign immunity to banking, immigration, and Native American law.

If confirmed, Mr. Srinivasan will be the first Asian American in history to serve on the D.C. Circuit, and the first South Asian American to serve as a Federal circuit judge, which is a very significant milestone.

The non-partisan American Bar Association committee that reviews every Federal judicial nominee gave Mr. Srinivasan its highest possible rating. And a group of solicitors general and principal deputy solicitors general of the United States wrote a letter saying that ''Sri has first-rate intellect, an open-minded approach to the law, a strong work ethic, and an unimpeachable character.''

In addition to his professional accomplishments, Mr. Srinivasan has dedicated substantial time to teaching, mentoring and pro bono representation.

His achievements as a public servant and a private attorney are outstanding, and if confirmed, I have no doubt that he will serve as a committed and distinguished member of the Federal bench.

Mr. Srinivasan has received considerable praise from all parts of the legal community including former Supreme Court Justice Sandra Day O'Connor.

In an interview with The New Yorker last year, Ms. O'Connor said she remembers Sri, ''as a very skilled, intellectually gifted clerk.'' She went on to say that Mr. Srinivasan deserves a smooth ride to confirmation. She said, ''he's not anybody who's been politically active, he's been very serious in his work habit, and people have had an ample opportunity to see his work.''

With a strong vote of confidence from Sandra Day O'Connor, an esteemed former Supreme Court Justice, Mr. Srinivasan has garnered the one of greatest endorsements any nominee to the Federal bench can receive in my view.

Not only is Mr. Srinivasan remarkably credentialed and widely supported, he is nominated to serve on one of the most important courts in the Nation, a court that currently has four of its eleven judgeships vacant.

The D.C. Circuit is widely regarded as the second-most important court in the United States, behind only the U.S. Supreme Court, because of the complexity and significance of the cases it decides.

The court has significant responsibility in deciding cases regarding the balance of powers of the branches of government and actions by Federal agencies that affect our health, safety, and industry.

With the court's current vacancies, the D.C. Circuit caseload per active judge has increased 50 percent from 2005, when the Senate confirmed a nominee to fill the eleventh seat on the D.C. Circuit bench.

Vacancies on this court should only be filled by the best and the brightest legal minds in the country—those who have demonstrated the most sophisticated legal and analytical skills, those who have committed their careers to justice, and those who personify professional excellence and impeccable character.

Based on his impressive qualifications and stature in the legal community, it is clear that Mr. Srinivasan embodies those ideals. I strongly support his nomination to the D.C. Circuit Court.

Mr. DURBIN. Mr. President, I rise to speak in support of the nomination of Sri Srinivasan to serve on the D.C. Circuit Court of Appeals.

There is no question that Mr. Srinivasan has the qualifications and experience to be an outstanding Federal judge. He earned undergraduate, business and law degrees from Stanford. He clerked for Supreme Court Justice Sandra Day O'Connor. He worked at the prestigious law firm O'Melveny & Myers where he chaired the firm's appellate practice group. He has worked for nearly a decade in the United States' Solicitor General's office, where he currently serves as the Principal Deputy Solicitor General. He has argued 20 cases before the United States Supreme Court and worked on many more briefs before that court.

Mr. Srinivasan has also been praised for his independence and his integrity. He has worked for the Solicitor General's office under both Democratic and Republican administrations. His nomination has been strongly endorsed by former Democratic Solicitors General such as Walter Dellinger, Seth Waxman and Neal Katyal, and by former Republican Solicitors General such as Paul Clement, Ted Olson and Ken Starr.

Mr. Srinivasan was reported out of the Judiciary Committee in a unanimous vote. Democrats and Republicans from across the ideological spectrum came together to support his nomination.

I would also note that Mr. Srinivasan's nomination is a historic one. Upon confirmation he will be the first Indian-American to serve on a Federal circuit court. I am glad that the Senate is soon going to vote on Mr. Srinivasan's nomination. This vote is coming not a moment too soon.

The D.C. Circuit urgently needs the Senate to confirm judges to serve on that court. Right now, there are only 7 active status judges on the D.C. Circuit. There are supposed to be 11.

This vacancy situation is untenable. Retired D.C. Circuit Judge Patricia Wald, who served as the chief judge of the Circuit for 5 years, recently wrote in the Washington Post that ''There is cause for extreme concern that Congress is systematically denying the court the human resources it needs to carry out its weighty mandates.''

In 2010 the President nominated another well-qualified attorney, former New York solicitor general Caitlin Halligan, to serve on the D.C. Circuit, but she was filibustered twice by Senate Republicans.

There were no legitimate questions about Ms. Halligan's qualifications, her judgment, her temperament, or her ideology. She was filibustered simply because some lobbying interests—mainly the gun lobby—did not agree with positions she argued on behalf of her client. She eventually withdrew her nomination.

It is truly unfortunate that Ms. Halligan's nomination was filibustered to death. She deserved better. She would have served with distinction on the Federal bench.

The Senate urgently needs to address the vacancy situation on the D.C. Circuit. We can start by confirming Mr. Srinivasan. We should then work to confirm other qualified nominees to fill vacancies in the D.C. Circuit and across the Federal judiciary.

I urge my colleagues to vote in favor of Mr. Srinivasan's nomination.

I yield the floor.

Mr. LEAHY. Mr. President, I do not see anyone else seeking recognition.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. HEITKAMP). Without objection, it is so ordered.

Mr. LEAHY. Madam President, I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Srikanth Srinivasan, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. FLAKE).

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 136 Ex.]

YEAS—97

Alexander	Barrasso	Bennet
Ayotte	Baucus	Blumenthal
Baldwin	Begich	Blunt

Boozman	Heinrich	Paul
Brown	Heitkamp	Portman
Burr	Heller	Pryor
Cantwell	Hirono	Reed
Cardin	Hoeven	Reid
Carper	Inhofe	Risch
Casey	Isakson	Roberts
Chambliss	Johanns	Rockefeller
Coats	Johnson (SD)	Rubio
Coburn	Johnson (WI)	Sanders
Cochran	Kaine	Schatz
Collins	King	Schumer
Coons	Kirk	Scott
Corker	Klobuchar	Sessions
Cornyn	Landrieu	Shaheen
Cowan	Leahy	Shelby
Crapo	Lee	Stabenow
Cruz	Levin	Tester
Donnelly	Manchin	Thune
Durbin	McCain	Toomey
Enzi	McCaskill	Udall (CO)
Feinstein	McConnell	Udall (NM)
Fischer	Menendez	Vitter
Franken	Merkley	Warner
Gillibrand	Mikulski	Warren
Graham	Moran	Whitehouse
Grassley	Murkowski	Wicker
Hagan	Murphy	Wyden
Harkin	Murray	
Hatch	Nelson	

NOT VOTING—3

Boxer	Flake	Lautenberg

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

AGRICULTURAL REFORM, FOOD, AND JOBS ACT OF 2013—Continued

The PRESIDING OFFICER. The majority leader.

Mr. REID. I have spoken to the managers of the bill, and they have one vote scheduled right now. They expect—they hope—they can have a couple more today, maybe even three today, but they are not sure. It will have to be done by consent. They are confident they can get that done. We will have to wait and see.

When this vote is over, we should have in the near future an idea of what we are going to finish today. If we are here and we have a few more votes, it should not be past 5:00. We will see. We are going to finish today sometime—hopefully soon.

A decision is being made as to what we are going to do when we get back. The managers of this bill are trying to come up with a finite list of amendments. They hope to be able to do that today.

Then we will make a decision on whether we are going to move to immigration when we get back or wait a week. I have spoken to the Gang of 8 today, and they are going to give me some indication of what they want to do. I have also spoken to the chairman of the committee, and that decision should be made very soon. We will have a vote on the Monday we get back.

AMENDMENT NO. 923

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 923, offered by the Senator from California, Mrs. FEINSTEIN.

Mrs. FEINSTEIN. Madam President, this amendment is offered on behalf of Senator MCCAIN and myself.

Ladies and gentlemen, tobacco is not just another crop. It is the largest preventable cause of cancer deaths in this country. Exactly 443,000 people die every year. It costs Medicaid an additional $22 billion.

In 2004 a special assessment of $9.6 billion was authorized to buy out tobacco farms in the United States. That has 1 more year to run.

We subsidize tobacco crop insurance. We should not. This country should become tobacco-free. It will save lives.

I urge you to support this amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. I speak in opposition to the amendment.

Let me say to my dear friend from California, whom I really respect, the tobacco buyout was not paid by taxpayers, it was paid by the tobacco companies. It happened several years ago. The only program tobacco farmers participate in today is crop insurance, like every other agricultural product in America. Without that safety net, those farmers can't go to the bank and get capital to plant their crops.

Although I think we can all agree that tobacco is not healthy for you, some Americans make the decision to do it because it is legal. Eliminate the American tobacco farmer and you will replace them with tobacco grown in Zimbabwe and Brazil—around the world. If we want to outlaw tobacco, let's have that vote, but don't walk away and believe that a vote eliminating crop insurance is going to change the health care of the American people as it relates to this product.

I urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. All time has expired.

Mrs. HAGAN. Madam President, I request 1 minute.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. I request 1 minute to respond to Senator BURR, if I may.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The Senator from North Carolina.

Mrs. HAGAN. Madam President, I too rise to express strong opposition to the amendment. This amendment would prevent our tobacco growers from being eligible for Federal crop insurance. This amendment would do significant harm to the small tobacco farmers in North Carolina and in other parts of the country. There are 2,000 farmers in North Carolina who would be affected, and it would be devastating to them and their families. Without access to crop insurance, they wouldn't be able to borrow money from the banks to receive financing.

It does nothing to alter the amount of tobacco used in our country. Demand will be filled by foreign imports, probably from Brazil and other countries. It would put our American farmers out of work.

For all of these reasons, I urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, we are not talking about eliminating crop insurance. There are plenty of crops that don't have crop insurance, but this crop does. We are talking about eliminating the Federal subsidy, which amounts to $30 million-plus a year for crop insurance.

With respect to my distinguished friend and colleague on the other side of the aisle, I misspoke once today. This is an assessment from the tobacco industry. I thought I straightened that out. But the assessment that paid for the buyout of $9.6 billion is what I am speaking of.

But this is a Federal subsidy on crop insurance. You can still get crop insurance, but it won't be federally subsidized.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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 California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Michigan (Mr. LEVIN) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. FLAKE).

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

The result was announced—yeas 44, nays 52, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—44

Ayotte	Hatch	Murray
Baldwin	Heinrich	Reed
Blumenthal	Heller	Risch
Brown	Johnson (SD)	Rockefeller
Cantwell	Johnson (WI)	Sanders
Cardin	Kirk	Schatz
Carper	Klobuchar	Schumer
Casey	Lee	Shaheen
Coats	Manchin	Toomey
Collins	McCain	Udall (CO)
Crapo	McCaskill	Udall (NM)
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murkowski	