Some of the slowdowns have been taken care of, as the Senator from Oklahoma knows. We had a number of judges who were held up because the White House did not directly answer the question whether they had been arrested or convicted in the last 10 years. We thought that was at least a worthwhile thing to know for someone getting a lifetime appointment. I think the White House might have realized it made sense and allowed them to answer the question, and it broke a logjam. We had 10 nominations, 5 judges, that went through this morning. My intention is to keep moving as rapidly as we can.

I ask the distinguished acting Republican leader, we could have rollcalls on the next two judges, or if he has no objection, I would ask we do them by voice vote. If he would like rollcalls, that is his right.

Mr. NICKLES. Senators want to get to the Defense authorization bill. There is no reason we cannot. I am sure it is not necessary to have a recorded vote. A voice vote is more than acceptable for the other two judges. I thank my friend and colleague and look forward to having a hearing on Mr. Estrada. Forty-nine Senators have requested a hearing on Mr. Estrada and on Mr. Roberts and other nominees for the circuit court. As soon as we get hearings, it would be much appreciated.

Mr. HATCH. Mr. President, since the topic of the Judiciary Committee's record on judicial confirmations was raised, I would like to take just a minute to make an observation.

As everyone here knows, I do not like to engage in the typical statistics judo that seems to be intrinsic to this issue. But I do want everyone to understand that, despite the progress that was just mentioned, we really have a lot more work to do.

Look at the percentages: The Senate has exercised its advice and consent duty on only 21 percent of President Bush's circuit nominees this year. The other 79 percent of our work remains unfinished. And our overall record is not much better: the Senate has confirmed only 37.5 percent of all judicial nominations we received from President Bush. We will conclude our work by leaving nearly 100 vacancies in the judicial branch.

Now, these facts are not escaping wider attention outside the Judiciary Committee. Last week, Vice President CHENEY sent a letter noting that ''vacancies on the Federal bench are occurring at a faster pace than the confirmations of new judges, and barely one in four of President Bush's nominees has received a hearing and a vote.'' The Washington Post editorialized on November 30 that the committee should hold more judicial nominations hearings, concluding that, ''[f]ailing to hold them in a timely fashion damages the judiciary, disrespects the President's power to name judges and is grossly unfair to often well-qualified nominees.'' And the Wall Street Journal observed on November 27 that there is a ''pattern of judicial obstruction that has left 108 current vacancies on the Federal bench. . . . With only days to go before the Senate adjourns for the year, only 28 percent of George W. Bush's nominees have been confirmed.''

Of course, the reason why people are taking notice is that the process of advice and consent on the President's judicial nominations is not a game. This is not football or baseball, and the goal here is not a particular set of numbers. These are nominations for very important positions in the Federal Government, and it is the Senate's constitutional obligation to review them. Despite the work that we have done, there is simply no escaping the fact that we are about to stop work for the year with a judicial vacancy rate of 11.3 percent, which I believe is unacceptable by any measure. And, by the way, there is absolutely no point in accusing the administration of not sending more nominations to us, when we have made it clear that we will not devote any effort at all to reviewing 30 of the nominations the President did send.

All this being said, however, I have reason to look forward to hitting the ground running next year. The Judiciary Committee's obvious focus on confirming nearly the same number of judges as we did President Clinton's first year, reassures me. After all, during President Clinton's second year in office, the Senate confirmed 100 of his judicial nominees. I fully expect that we will do the same for President George W. Bush, in fact, I take it as a pledge that we will confirm 100 Bush nominees in 2002.

Mr. LEAHY. I did not request a rollcall vote. I ask for a voice vote.

The PRESIDING OFFICER (Ms. STABENOW). The question is, Will the Senate advise and consent to the nomination of William P. Johnson to be United States District Judge for the District of New Mexico?

The nomination was confirmed.

NOMINATION OF CLAY D. LAND, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA

The legislative clerk read the nomination of Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.

Mr. LEAHY. I ask for a voice vote.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia?

The nomination was confirmed.

LEGISLATIVE SESSION

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

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent under the previous order we allow the Senator from Michigan and the Senator from Virginia, Messrs. LEVIN and WARNER, an hour and a half to talk on defense authorization, and Senator BYRD be recognized for half an hour, with Senator BYRD getting the first half hour.

Mr. WYDEN. Reserving the right to object.

Mr. WARNER. Could we clarify that half hour for Senator BYRD?

Mr. REID. It is in addition to the hour and a half.

Mr. WARNER. I defer to the chairman.

Mr. LEVIN. We can do that within the hour and a half, and Senator BYRD, if he wishes, can go first.

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object, I ask the distinguished leader from Nevada, I was under the impression that as to the amendment that has been worked out with Senator HARKIN and Senator LUGAR, I could speak on that for 4 minutes.

Mr. REID. I was going to get this entered, and then when everyone has agreed, prior to going to this matter Senator WYDEN would be recognized for up to 4 minutes on an amendment that has been agreed to on the Agriculture bill.

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

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

Mr. WYDEN. I ask unanimous consent that the amendment I filed with Senator BROWNBACK of Kansas be called up at this time.

THE PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, reserving the right to object, I want to make sure that Senator REID knows precisely what is going on. That is the only reluctance I have. I don't know whether it is even in order without first getting the bill before the Senate and then having the amendment and then setting the bill aside. I want Senator REID to hear your request.

Mr. WYDEN. To restate my request, I ask unanimous consent the amendment I have filed with Senator BROWNBACK of Kansas, that I believe can be disposed of very quickly, be considered at this time.

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

AMENDMENT NO. 2546 TO AMENDMENT NO. 2471

(Purpose: To provide for forest carbon sequestration and carbon trading by farmer-owned cooperatives)

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. BROWNBACK, proposes an amendment numbered 2546 to amendment No. 2471.

Mr. WYDEN. I ask unanimous consent reading of the amendment be dispensed.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. WYDEN. I will be very brief. I express my appreciation to the Senator from Michigan and the Senator from Virginia.

One of the most serious environmental problems in our country and in the world is the excessive emissions of carbons into the atmosphere. Senator BROWNBACK and I have worked for a number of years together on a bipartisan basis because we believe it is time for the U.S. Congress to begin moving together on a bipartisan basis to deal with this serious environmental problem. Therefore, the amendment we worked out with Senator HARKIN and Senator LUGAR sets up what is known as a carbon sequestration program, a program that allows us to store these carbons in trees, in agricultural products, and in the land.

Our legislation specifically does two things: It allows the research dollars in the legislation to be used by State forestry programs for carbon sequestration. This allows mobilization of various State forestry programs such as we have in Oregon and other States in this country to seriously attack this carbon problem.

Second, our legislation sets up a carbon sequestration demonstration effort which allows private parties to pay farmers and foresters a market-based fee to store carbon and to otherwise reduce net emissions of greenhouse gasses. It would be the first effort to set up a marketplace-oriented system of reducing these carbons.

We are not saying tonight, Senator BROWNBACK and I, that carbon sequestration is the be-all and end-all of dealing with the climate change problem. But it can be a significant tool in our toolbox to reduce global warming. I happen to think that carbon sequestration can be a very significant jackhammer for those who are fighting the climate change issue.

I conclude by thanking Senator HARKIN and Senator LUGAR. This is a chance to bring Americans together—businesses, environmental leaders. It will not cost jobs, it will save money. Look at the costs. It takes between $2 and $20 per ton to store carbon in trees and soil. Emissions reductions can cost as much as $100 per ton. That is why Senator BROWNBACK and I have worked for several years. I believe this legislation can reduce a third of the problems we are having with excessive emissions in our country.

With that, and with thanks to Senator HARKIN and Senator LUGAR, I ask that the amendment be agreed to on a voice vote at this time.

I yield the floor.

Mr. BROWNBACK. Mr. President, today, I join with Senator WYDEN to bring an amendment to the floor on the farm bill which will establish a pilot program for farmer owned cooperatives to measure, verify and trade sequestered soil carbon through agriculture conservation practices. This amendment will authorize $5 million over 5 years to establish a program that will allow our nation's farmers to implement the promise offered by carbon sequestration—a process where crops and trees convert carbon dioxide into stored carbon in the soil. At the same time, this project will provide the Congress with important information about how effective soil carbon sequestration will be in addressing the issue of climate change.

As we set farm policy for the next five years, there are several important areas we have an opportunity to expand. One promising example is in a potential environmental market for farmers—where producers are paid by utilities and other greenhouse gas producers to offset carbon dioxide emissions to ease into CO_2 reductions more cost effectively. Such a market is already being looked at in many sectors, but more information and applied research is needed to answer policy questions surrounding the effectiveness and permanence of carbon sequestration as part of the global climate change solution.

I have introduced 3 bills involving carbon sequestration in this last year. I am pleased that many of these ideas have been embraced by the new farm bill currently on the Senate floor. Many farm conservation practices have been sequestering carbon for years—but we have not adequately been able to measure and capitalize on this promising process.

The new farm bill will contain $225 million over 5 years for carbon sequestration grants to producers and research uninversities to do pilot projects to measure and verify carbon gains. In addition, USDA will become more engaged in measuring and verifying which farm conservation practices store carbon. There will also be continued funding for research through land grant universities—being led prominently by Kansas State University.

In addition, the farm bill contains a grant program of $500 million over 5 years for private enterprise conservation—which includes carbon sequestration activities.

Despite my concerns about many provisions in this farm bill—I am very pleased to see these provisions included. This will build a new market for farmers—one that pays for how they produce, not just what they produce.

The Wyden-Brownback amendment builds on this promise and expands it to help us explore how carbon trading might work by using one of the most trusted friends of the farmer—cooperatives.

Carbon sequestration is a largely untapped resource that can buy us the one thing we need most in the climate debate time. The Department of Energy estimates that over the next 50 to 100 years, agricultural lands alone could have the potential to remove anywhere from 40 to 80 billion metric tons of carbon from the atmosphere. If we expand this to include forests, the number will be far greater—indicating there is a real difference that could be made by encouraging a carbon sink approach.

Carbon sequestration alone can not solve the climate change dilemma, but as we search for technological advancement that allow us to create energy with less pollution, and as we continue to research the cause and potential effects of climate change, it only makes sense that we enhance a natural process we already know has the benefit of reducing existing concentrations of greenhouse gases—particularly when this process also improves water quality, soil fertility and wildlife habitat. This is a no-regrets policy—much like taking out insurance on your house or car. We should do no less for the protection of the Planet.

Carbon sequestration can only be one tool in the fight to reduce greenhouse gases in a cost effective way, but it is something we can be doing right now for the benefit of our atmosphere, our water, our soil and our farmers and foresters. There is no downside to supporting this amendment. We advance important conservation goals and begin taking concrete action on one of o ur toughtest environmental challenges.

Not only does this amendment help the environment, it also helps to flesh out the details behind a very promising and potentially lucrative market for farmers and foresters—a market where they would be paid for how they produce, in addition to what they produce.

Early estimates from the Consortium for Agricultural Soils Mitigation of Greenhouse Gases indicate that the potential for a carbon market for U.S. agriculture could reach $5 billion per year for the next 30–40 years.

Mr. President—this is a common sense amendment—which is good for our farmers, good for the environment and could provide a bridge to begin dealing with one of our most challenging environmental problems by applying the market principles to reduce climate change. This is an important first step—which opens the door to a new bi-partisan alliance that will help make real progress on the issue. I urge my colleagues to support the Wyden-Brownback amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon, amendment No. 2546.

The amendment (No. 2546) was agreed to.

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

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

The motion to lay on the table was agreed to.

CONFERENCE REPORT ACCOMPANYING THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—Continued

Mr. LEVIN. I believe under the unanimous consent agreement that has been entered into, we will have a period of, I believe, 2 hours for debate which I hope perhaps will be reduced. In any event, the first half hour was to be under the control of Senator BYRD.

The PRESIDING OFFICER. The Senator is correct.

The distinguished Senator from West Virginia.

Mr. BYRD. Madam President, I thank the Chair and I thank my distinguished colleague, the chairman of the Armed Services Committee.

Madam President, I was troubled by President Bush's announcement this morning to withdraw the United States from the Anti-Ballistic Missile Treaty of 1972. This development has earth-shaking implications for our national security, especially in considering the potential range of reactions from Russia and other nuclear powers, including China. Arms control is bound to become more difficult as these countries work to make sure that their nuclear deterrent can still work when—or if—we successfully deploy an anti-missile system. While bringing us no closer to realizing a workable national missile defense system, withdrawal from the ABM Treaty signals to the world that the United States seeks a dominant, not a stable, strategic nuclear position.

I am not an expert on the technology used in nuclear weapons or ballistic missiles. But I do know that China has twenty missiles capable of delivering nuclear weapons to our shores. China has been satisfied that these twenty missiles provided it a nuclear deterrence against other nuclear powers, including the United States. As a result of this move by the President against the ABM Treaty, I have no doubt that China will seek a larger, more sophisticated nuclear arsenal. Does that make the United States more or less secure? What about our allies and friends overseas?

Does a larger Chinese nuclear arsenal help the President of South Korea sleep at night? What about the Prime Minister of Japan, or even the Prime Minister of Britain? Clearly, our friends have good cause to be concerned about U.S. withdrawal from the ABM Treaty. I do not believe it is an overstatement to say that withdrawing from the ABM Treaty will have serious consequences for our allies, and by extension, on our national security interests.

I also know that many experts on missile technology have grave concerns about how easy it would be to build missiles that can fool a national missile defense system, rendering it useless. Russia has already developed a missile that could pierce our planned missile defense system, even if it worked. And I think that one can bet that China is working on similar technology. If China and Russia, two countries with past records of sending missile technology to the likes of Iran and North Korea, have the technology to fool our missile defense radars, how long do you think it will take for that technology to end up in the hands of rogue states? I understand the President's desire to develop a national missile defense system for the United States. I support that goal, as long as it produces a system that is feasible, affordable, and effective. However, we have no assurances at this point that an effective missile shield can be developed. We are operating on little more than conjecture and speculation. Can a reliable, workable missile shield be developed? We're not sure. How many missiles can a missile shield deflect? Good question. What will it ultimately cost? No idea.

To jettison the ABM Treaty with no replacement agreement in hand and no better understanding of how or whether a missile defense system will work—and that is where we are right now—to bring additional turmoil to a world that is already reeling from the terrorist attacks on America is, in my opinion, a rash and ill-considered course of action.

The United States has been engaged in intensive arms control talks with Russia over the past several months. These talks have focused on two key issues: first, altering the ABM Treaty to allow the United States to increase its missile defense testing, and second, negotiating reductions in the nuclear arsenals of both the United States and Russia. Russia has repeatedly expressed its belief that the ABM Treaty is the ''cornerstone of strategic stability.'' By limiting the development of missiles that could shoot down an opponent's nuclear missiles, the argument goes, both the United States and Russia understood the strategic capabilities of the other—of each other. Indeed, progress in first limiting the nuclear arms of the United States and the Soviet Union was concurrent to progress in limiting the development of anti-ballistic missiles. In the three decades since the ABM Treaty and the Strategic Arms Limitation Treaty were ratified, the United States has been able to reach consensus with the Soviet Union—and later Russia—on the principles of the Strategic Arms Reduction Treaties, commonly known as START, to steadily reduce the nuclear arsenals of both countries.

These arms reduction treaties have slashed the nuclear arsenals of our two countries by over half over the last decade. All the while, the ABM Treaty provided the strategic stability to allow these cuts to occur without threatening the strategic balance between the two nuclear giants.

Senator BIDEN, the chairman of the Foreign Relations Committee, spoke very clearly yesterday on his concerns over a precipitous withdrawal from the ABM Treaty. I thank the Senator for his remarks, and for his valuable insight into this very troubling subject. The Constitution of this Nation deliberately established a clear separation of powers among the executive, legislative, and judicial branches of the Government. Article II, Section 2, gives the President the power to make treaties ''by and with the consent of the Senate.'' There is a reason for that caveat, and the reason is that treaties among nations are enormously important instruments of power. The framers of the Constitution recognized the importance of treaties, and saw the potential danger of allowing any individual to enter into a treaty with another nation. The required acquiescence to any treaty by two-thirds of the Senate is a fundamental part of the checks and balances of our Government.

This is what disturbs me so greatly about the President's announcement of withdrawal from the ABM Treaty without seeking the advice or consent of Congress. And this announcement comes on the heels of the President's declaration a few weeks ago that he is willing to further reduce America's nuclear arsenal on the strength of a handshake from his Russian counterpart, Vladimir Putin, instead of pursuing the START process. Again, the decision was made without seeking the advice or consent of Congress. To me, shutting Congress out of the decision-making process involving agreements among nations is a dangerous—a dangerous and corrosive course of action. It effectively undermines, I think, the intent of the framers of our Constitution. Monarchs make treaties. American Presidents propose treaties. They make treaties by and with the consent of the Senate. There is a tremendous difference between the two, and defining such differences is the essence of our Constitution.

I recognize that under the terms of the treaty, the President has the legal right to withdraw from the ABM Treaty with six months notice. I recognize that, upon adoption of the Defense authorization conference report, which strikes an existing prohibition, he will have the legal authority to reduce the U.S. nuclear arsenal without the consent of Congress. But I also believe that it would be a violation of the spirit of our Constitution to take either course of action without seeking the endorsement of the Senate. I think that the President's contention that the ABM Treaty is a cold war relic merits some consideration. His belief that it is time to move onto a new framework for missile defense reflecting the new realities of a world with multiple nuclear powers and would-be nuclear powers, makes a great deal of sense.

The President's ABM and weapons reductions proposals merit debate and