JUDICIAL NOMINATIONS

Mr. GRAHAM. Mr. President, No. 1, I wish to acknowledge the progress that was made yesterday between Senator MCCONNELL and Senator REID regarding an impasse over circuit court nominations.

The average, I believe, for the last 2 years of a Presidential term when the opposing party had control of the Senate, was 15 circuit court nominations being confirmed by the Senate. At this point, we are at seven.

As I understand, an agreement reached yesterday between Senator REID and Senator MCCONNELL will allow three circuit court judges to be moved forward by the May 23 recess. I appreciate that progress.

I live in the State of South Carolina, which is in the Fourth Judicial Circuit. We have a judicial emergency on hand there. A third of the Fourth Circuit Court of Appeals is vacant. We have two nominees, one from South Carolina and one from North Carolina, who have been awaiting hearings and confirmation for well over 200 days now.

I urge my colleagues to allow these fine candidates for the judiciary to move forward and the Senate get on about its business when it comes to judges. What I worry the most about is, over the last 4 or 5 years, we have had an experience with judges pretty much unknown to the Senate. There are a lot of anecdotal stories, a lot of cases in the past where people slow walked. I can only speak to my time here. I was involved in the Gang of 14 to make sure the Senate did not do something that would haunt the body for years to come. The Gang of 14 was a bipartisan effort to make sure filibustering judges would be done only in extraordinary circumstances, simply because if we engage in this practice of trying to hold up Presidential nominations based on philosophy and not qualifications, if all of us become President, so to speak, saying, I am not going to allow a vote on a judge I wouldn't have picked, it becomes chaos.

I urge Senators CLINTON and OBAMA, who have been, quite frankly, part of the problem, to look at the model they are setting, because if they do secure the White House, they do not want this to come back to haunt them.

I want an independent judiciary. I wish to make sure it is well paid and insulated as much as possible from an unfair process. The confirmation process is getting out of hand, overly political, too many political interest groups on the left or right have an inordinate amount of say in who gets on the bench. The role of the Senate is to pass judgment, an up-or-down vote, on qualified nominees sent over by the President.

I found in the Senate if you get someone who is an outlier, there is usually bipartisan support to say no to that nominee. President Bush sent over a couple nominees I opposed. Generally speaking, I expect my time in the Senate to defer as much as possible to a Presidential nominee who I think is qualified and not base my vote or denying a nominee a vote based on the fact I would not have chosen that person. I certainly would not have chosen Justice Ginsburg, if I was President, but she is eminently qualified and received well over 90 votes, I believe.

I hope in the future we will allow judges to come to the floor, through the committee, in a timely process. The Fourth Judicial Circuit is in dire need of Judge Conrad and Mr. Steve Matthews from South Carolina having hearings and a vote. If a Senator does not like these nominees, they can vote against them. What happened there is creating a problem in the area of the country in which I live and, quite frankly, it is unfair.

I look forward to working with my colleagues to break this logjam. Senator DURBIN and Senator KENNEDY were kind enough to meet with Steve Matthews, the nominee from South Carolina, and I appreciate them doing so.

Let's not get into a pattern that will come back to haunt us as a body and do a lot of damage to the confirmation process and over time erode the independence of the judiciary.

I appreciate the progress that was achieved yesterday, but there is a lot more to do, particularly when it comes to the Fourth Circuit.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUDICIAL CONFIRMATIONS

Mr. DEMINT. Mr. President, over the past couple of weeks, there has been a lot of talk about the lack of progress the Democrat majority in the Senate has made on judicial confirmations in the last couple of years, but I want to thank the majority leader for his promise last night to confirm three judges by Memorial Day. This is certainly welcome news. I hope at least one of those is the nominee for the Fourth Circuit.

As we all know, our courts are in crisis. Currently, there are over 40 vacancies on the U.S. Circuit Court, and of those half are judicial emergencies. The consequences of the majority's failure to act on these nominations result in extended judicial vacancies, increased casework, and a delay in verdicts. This obstruction is harmful for the American judicial system and the American people.

One of the most important jobs we have here in the Senate is to offer advice and consent to the President's judicial nominees. While I believe all of these nominees deserve an up-or-down vote on the Senate Floor, I rise today specifically to speak on the current judicial vacancies on the Fourth Circuit Court of Appeals and the qualified nominees waiting for a vote.

The Fourth Circuit of Appeals, which covers South Carolina, North Carolina, Virginia, West Virginia, and Maryland, is one-third vacant. Even though the Fourth Circuit is facing so many pronounced vacancies, and there is a critical need for judges, the Democratic leadership has made no effort to move any of the pending nominees.

In spite of the number of vacancies, the Fourth Circuit, run by Chief Judge Karen Williams, continues to do a remarkable job. Many of the cases brought before the Fourth Circuit are extremely complex, and the judges must spend a longer amount of time on each of these cases before issuing their opinion. Our judges will not sacrifice quality, but it may take a lot longer for the court to issue its decision. We are lucky that the Fourth Circuit has the leadership it has. They are dedicated and hardworking, clearly, but we cannot continue with this high level of vacancy.

I have heard firsthand about the impact these vacancies have on the Fourth Circuit. Appellate courts must have enough judges to fill the panel, and if a seat is vacant, they must fill it somehow. This means judges from other circuits or judges from the district courts must take time away from their families, their caseload, their administrative tasks to fill the spot on the panel.

Two of the Fourth Circuit nominees, Mr. Steve Matthews of South Carolina and Mr. Robert Conrad of North Carolina, have the support of their home State Senators and are ready for a hearing in the Senate Judiciary Committee. Despite these facts, both nominees have been waiting for over 200 days for a hearing.

Let me quote an editorial from the Washington Post in December of 2007 in which they addressed the dire straits of the Fourth Circuit.

> The Senate should act in good faith to fill vacancies—not as a favor to the President but out of respect for the residents, businesses, defendants, and victims of crime in the region the Fourth Circuit covers. Two nominees—Mr. Conrad and Steve A. Matthews—should receive confirmation hearings as soon as possible.

On that note, I wish to spend a couple of minutes telling you about Mr. Steve Matthews from South Carolina. President Bush nominated Steve Matthews in September of 2007, but the Senate Judiciary Committee has failed to hold a hearing on his nomination.

Matthews received his undergraduate degree from the University of South Carolina and his law degree from Yale Law School. He is currently the managing director of Haynesworth, Sinkler, and Boyd in Columbia, SC.

Prior to joining the Columbia firm, Matthews practiced in the Washington office of Dewey Ballantine and served

in the U.S. Department of Justice during President Reagan's second term. During his time at the Department of Justice, Matthews advised then Attorney General Ed Meese and President Reagan on the selection of nominees for Federal judgeships, and served as special counsel to Meese on the Iran Contra investigation.

I have personally met with Mr. Matthews several times and know he has the experience, the intellect, and the integrity necessary to serve on one of our Nation's highest courts.

We must fulfill our constitutional responsibility to vote on judicial nominations and allow hearings, as well as plain up-or-down votes here on the Senate Floor. The Senate Judiciary Committee has several extraordinary nominees before it, and the Fourth Circuit desperately needs their service.

Our courts are in critical need of judges and any inaction on these nominees is irresponsible and puts our Nation's judicial system at risk. Again, I thank the majority leader for committing to at least three by Memorial Day, and I appreciate the opportunity to address this issue.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I think the Senate is clearly in a slowdown. It is not fulfilling its responsibility to evaluate and vote on Presidential nominees for our courts in America.

We are now into the fourth month of 2008 and only one circuit judge, Judge Haynes, who received an ABA rating of unanimously well qualified—the highest rating by the bar—has been confirmed, and that confirmation only happened last week, April 10. So we have gone quite a long time here. We still have 10 pending nominations to the appeals courts that need hearings, need votes out of the Judiciary Committee, and need up-or-down votes on the Senate Floor.

Why is this a problem? I will tell you. Because President Bush campaigned on, and effectively, I believe, won the day on the argument that judges should be, as now Chief Justice John Roberts said at his confirmation hearing, neutral umpires. They are supposed to call the balls and strikes. They are not supposed to be on one side or the other. They are not supposed to be setting forth their personal political agendas in the guise of ruling on disputes of law in a courtroom. That is an abuse of the power of the judiciary. Members of the Judiciary are given lifetime appointments. They cannot be removed except through impeachment or death, and their salaries can not be reduced. It is critical that those judges show restraint and remember their proper role in our three branch system.

Now, the truth is that for many years my liberal activist colleagues have delighted in having Federal judges, and sometimes State judges, promote and affect a political agenda they could not win at the ballot box. That is what it is all about. But we need judges who respect the rule of law and who understand they are not policymakers. If they want to set policy, let them run for Governor, let them run for President or the Senate. So President Bush has consistently submitted nominees with high ratings, even from the American Bar Association, which frequently, I submit, is more activist than I would favor. Indeed, they meet and have all these resolutions and pass these resolutions on issues with which I do not agree. I am a member of the ABA, but I don't agree with some of the positions they take in these resolutions. They meet in some big conference, unrepresented by the members of the bar, and they do these things.

I mention all that to say they have been rating these present nominees very well. They have been giving them high ratings because they are men and women of good legal ability, sound judgment, and President Bush would not nominate them if they were not committed to the proper role of a judge, in my view.

Circuit court vacancies—these are the 11 circuits we have. The circuit courts are the first level of appellate courts above the Federal district court, the trial courts. When you appeal a criminal conviction or a civil judgment in America, you appeal first from the district court to the circuit court. That is one step below the Supreme Court. Then you can appeal from there to the U.S. Supreme Court, Chief Justice Roberts and his team, right across the street. That is the way the system works. These appellate courts are important because the Supreme Court only takes 100 or so cases a year, and many of the rulings of the circuit courts have become final. That is one reason people consider them to be important. Ultimately, the Supreme Court will rule.

Despite the fact that there are 10 nominees for the 13 vacancies in the circuit courts, the Judiciary Committee, our committee, of which I have been a member now for almost 12 years, has only given a hearing to 1, and that was over a year and a half ago when Senator SPECTER was chairman, the Republican chairman.

Peter Keisler, the circuit nominee for the D.C. Circuit here in Washington, was given a hearing in August 2006, but he has still not been voted on, called up for a vote in the Judiciary Committee. He is a fabulous nominee. One of the reasons he is being objected to is the same reason they objected to Miguel Estrada, the same reason they objected to a lot of other nominees—he is so capable, he would be on the short list for the Supreme Court of the United States. If they can kill them off at this level, they will not be considered sometime in the future. That is just a fact. I have been here. I know how this works. There is no reason Peter Keisler ought not to be confirmed. He had a hearing in August 2006, and he still has not been brought up for a vote in the committee.

Catharina Haynes was highly rated too. She was confirmed last week after we began to complain about this. That was the first circuit court nomination hearing since September of last year.

The Fourth Circuit is in a crisis. The vacancy rate is alarming. One-third of the seats are vacant. Four nominees are pending for those vacancies, but none has even been given a hearing.

Robert Conrad, former Federal prosecutor, has been waiting for a hearing for 265 days. He is also, at this point, a Federal district judge, a Federal district judge for the Western District of North Carolina. He was nominated for a judicial emergency. He has the support of both his home Senators, received a unanimous ABA rating of ''well qualified,'' the highest rating you can get. He is a consensus nominee. The Senate unanimously confirmed him for his current district judge seat, and the ABA, then, ranked him unanimously ''well qualified.'' The whole ABA 15-member committee voted him the highest rating, unanimously. So why hasn't he been given a hearing?

Steve Matthews has been waiting over 205 days. We have others out there who I think are being slowed down.

Mr. Conrad is an excellent nominee, in my opinion. He has a number of qualifications. I remember he was given the duty to conduct one of the investigations that occurred in the Department of Justice. He testified. I remember him testifying because I liked the honesty and directness in his testimony. He chose not to prosecute anybody for those offenses, but by all accounts he examined it carefully and fairly. Among other qualifications he had, he played point guard on the Clemson University basketball team in the ACC where he was an academic All-American basketball player, among the other things he did, which has always impressed me.

I would say there has been talk about invoking the so-called Thurmond Rule. The Thurmond Rule could sort of be, if you want it to be, an excuse for slow-walking nominees and not approving the nominees who ought to be approved just because there is a Presidential election on the horizon. Majority Leader HARRY REID mentioned last night that the so-called rule would be invoked in June. Senator LEAHY has mentioned before that he would invoke it in the second half of this year. Let me say this about the Thurmond Rule. It is a myth. It does not exist. There is no reason for stopping the confirmation of judicial nominees in the second half of a year in which there is a Presidential election.

I remind my colleagues that our now chairman of the Judiciary Committee, Chairman LEAHY, when he assumed control over the committee, stated he would institute the Thurmond Rule starting the spring of this year. He said:

The Thurmond rule, in memory of Senator Strom Thurmond—he put this in when the Republicans were in the minority—which said in a Presidential election year, after spring, no judges would go through except by the consent of both Republican and Democratic leaders. I want to be bipartisan. We will institute the Thurmond rule.

Those were his remarks at Georgetown University Law School in December 2006.

In May 2007, he reiterated that the Thurmond Rule would kick in next April. Senator LEAHY said:

Obviously the Thurmond rule kicks in.

But let's be very clear about it. The Thurmond Rule as interpreted is a false myth. Senator LEAHY, before the statements he made in 2006 and 2007 during the Bush Presidency, has admitted as much. In fact, as Senator LEAHY said in 2000, when the situation was somewhat different—during President Clinton's final year in office, like this is President Bush's last year:

There is a myth that judges are not traditionally confirmed in Presidential election years. That is not true. Recall that 64 judges were confirmed in 1980; 44 in 1984; 42 in 1988, when a Democratic majority in the Senate confirmed the Reagan nominees and, as I have noted, 66 in 1992, when a Democratic majority in the Senate confirmed 66 Bush nominees.

Those are not my words. Those are Senator LEAHY's words.

I see the distinguished ranking member of the Judiciary Committee is here. It is time for him to speak. I will just say that we, as Members of this Senate, have a Constitutional responsibility to move judicial nominees. We should not be playing games. Good nominees with strong support ought to be moved forward. A lot of these nominees have not been treated fairly. It is time to move them forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I begin by thanking my distinguished colleague from Alabama for his cogent, timely comments about the need to process the confirmation of judges. Republicans have reserved time in our period for morning business to speak to this issue in order to acquaint the American people with the importance of proceeding with the confirmation of Federal judges. The process has been slowed down very materially during the final two years of Presidential terms when the White House is controlled by one party and the Senate the other, as the White House is now controlled by Republicans and the Senate by Democrats.

As I have said on the Senate floor, this is a problem that has been going on for the past two decades. In the last two years of President Reagan's administration, there was a slowdown when Democrats were in charge of the Senate. The slowdown continued during the term of President Bush, the 41st President. Then, Republicans retaliated during the term of President Clinton by slowing down the process. We have had very major disputes—I would even call them bitter disputes. Notwithstanding the disrepute of the word ''bitter,'' sometimes it is applicable, and I think it is certainly applicable to the filibusters of 2005. During that confrontation between the parties, filibusters were used repeatedly by Democrats. Republicans retaliated in kind with the threat of a so-called nuclear or constitutional option.

As I have said on the floor on previous occasions, the fault lies, in my judgment, with both parties. I thought the Republican caucus was wrong in its response to President Clinton's nominees, and I backed up my opinion with my votes. I voted in support of President Clinton's qualified nominees.

It is my hope that we can find a resolution to this issue, that we can reach across the aisle. There is no doubt the American people are sick and tired of party bickering. There is also no doubt that the American people want prompt justice in our courts. Where you have judicial emergencies, as you have in many courts where nominees have been pending for protracted periods of time, failing to fill vacancies does great harm to the litigants who are waiting to have their cases heard. As a simple illustration, I'll use an automobile accident case. If somebody has this type of case in court, first you look to the jurisdiction, which is a judicial emergency, and there is no district judge to try the case. The litigant waits and waits. You do not have to emphasize the consequences of that situation. People are perhaps out of work from their injuries as their medical bills are rising. They ought to have their day in court to have the matter adjudicated. If the matter is finally tried, then an appeal is taken in the courts of appeals, and there are judicial emergencies there. Again, the litigant waits and waits. The problem is clear. It is my hope we would move ahead here and process judicial nominees.

I am pleased to note that some progress has been made, as announced by the majority leader after consultation with Senator MCCONNELL, the Republican leader. There is an arrangement to have three circuit judges confirmed before Memorial Day. That is a step in the right direction, providing that the right judges are confirmed.

It has been announced similarly that finally, at long last, after protracted disputes, there is an agreement between the White House and the Michigan Senators on the nomination of two circuit judges for the Sixth Circuit.

It is my hope that the confirmations will be directed to three of the nominees who have been ready for hearings or committee votes and have been waiting the longest time.

Peter Keisler, nominee for the District of Columbia Circuit Court of Appeals, has been waiting for more than 650 days. There has been some talk about the D.C. Circuit not needing an additional judge. That is simply not factually correct. Mr. Keisler has been lauded by newspaper editorials—The Washington Post, the Los Angeles Times—and is preeminently well qualified to be confirmed to that position.

Judge Robert Conrad, Chief Judge of the U.S. District Court in North Carolina, has been waiting for over 270 days, and he is nominated to fill a judicial emergency. There is no blue-slip problem with Judge Conrad; the Senators from North Carolina are both urging his confirmation.

Similarly, with the nomination of Steve Matthews of the Fourth Circuit, he has been waiting for more than 220 days. And, again, both the blue slips have been returned. So, it is my hope we will move quickly to confirm Mr. Keisler, Judge Conrad, and Mr. Matthews. They are the ones who have been ready for committee action the longest and are most pressing.

By letter dated April 10, I wrote to Senator JOHN MCCAIN, Senator HILLARY CLINTON, and Senator BARACK OBAMA, asking for their positions on prospective motions, which I intend to pursue in the Senate, to discharge from the Senate Judiciary Committee the nominations of Judge Conrad, Mr. Keisler, and Mr. Matthews.

There are procedures where we can take the matters from the committee and take them to the floor for action by the entire body. The Constitution provides that confirmations will be handled by the Senate; there is no provision for committee action. In my judgment, when the controversies have raged for this period of time, the nominees ought to come to the full Senate.

I have also written to the interrogators of the debate, which is scheduled for this evening at the convention center of Philadelphia, Mr. George Stephanopoulos of ABC News and Mr. Charles Gibson of ABC News, suggesting that these would be appropriate questions for Senator CLINTON and Senator OBAMA during the course of the discussion this evening.

I ask unanimous consent that the text of the letters to Senator MCCAIN, Senator CLINTON, Senator OBAMA and Mr. Stephanopoulos and Mr. Gibson be included in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SPECTER. Now, in these letters to the three Senators, dated April 10, I said I would not make the disclosure of them public until April 15, in order to give them an opportunity to reply before these letters were released to the press. I said:

I do not plan to make the news media aware of my inquiries until April 15th in order to give you ample opportunity to advise me of your response.

Yesterday evening, I did receive a response from Senator OBAMA. I think it is worthwhile to read this into the RECORD. Senator OBAMA writes:

I am responding to your letter of April 10, 2008, regarding several pending judicial

nominations. As a former constitutional law instructor, I fully appreciate the important work that our Federal judges do and the need to fill judicial vacancies. However, I have great respect for the Senate's constitutional advice and consent role in the confirmation of these judges.

The concerns you have raised in your letter are important ones. However, since I am not a member of the Judiciary Committee, I would defer to Chairman Leahy on the scheduling of any committee votes on these pending nominations, and I would defer to Senator Reid on the scheduling of any floor votes.

Moreover, I am confident that we can work in a bipartisan fashion to continue to fill vacancies. Just last week, the Senate confirmed five judicial nominations. And today, Chairman Leahy has announced a resolution reached with the Administration over Sixth Circuit nominations. Those events highlight a desire on all sides to ensure that vacancies on the bench are filled.

Thank you for seeking my views on this issue. Sincerely, Barack Obama, United States Senator.

I begin by thanking Senator OBAMA for his reply. But, I disagree with him, disagree respectfully, on the position he has taken. When he says he is not a member of the Judiciary Committee, I believe his standing as a Member of the Senate is the determinative membership, and under the Constitution of the United States, the Senate has the constitutional responsibility to consent or not on pending nominations.

When Senator OBAMA says that ''I would defer to Chairman LEAHY on the scheduling of any committee votes on these nominations,'' and, ''I would defer to Senator REID on the scheduling of any floor votes,'' again, I disagree, respectfully.

A Senator's duties are not delegated. No Senator can delegate to anyone else his constitutional responsibilities. The Constitution does not refer to the Judiciary Committee. The Constitution does not refer to the majority leader. Even if it did, that would not provide a basis for a Senator, duly elected and sworn to uphold the Constitution, as I took an oath on five occasions and as Senator OBAMA has taken an oath and as every Member of this body has taken an oath, not to uphold the Constitution.

The Constitution says: The Senate confirms. The Constitution says: Senators vote. You cannot delegate your constitutional responsibilities. There is an abundance of case law on this subject in a myriad of contexts, and so, I would respectfully ask my colleague, Senator OBAMA, to reconsider.

I would also ask, respectfully, for Senator MCCAIN to respond and for Senator CLINTON to respond. Further, when Senator OBAMA talks about his confidence that we can work out, in a bipartisan fashion, an agreement to fill the current vacancies, I think that confidence is misplaced.

When Senator OBAMA makes note of the fact that there were confirmations last week, he does not make note of the fact that these were the first confirmations this year, and that there was no hearing on any circuit judge from September 25, 2007, until February 21, 2008.

What is required to move the process along is for Senators to discharge their duty. In proposing to bring these matters to the floor for action by the full Senate, it is my view that every Senator ought to stand up and say whether he agrees with what is going on today because I think we have an electorate that is concerned.

And, the purpose of this discussion today is to fully acquaint the electorate with what is happening. As we have seen in prior elections, obstructionism costs at the ballot box. I would prefer not to resort to the political process. I would prefer not to make this a campaign or an election issue. I would prefer to see the Senate decide this on the merits.

Again, I emphasize the need for independent judgments. I do not think it is sufficient for a Senator to say: I am going to defer to the chairman. I do not that it is sufficient for a Senator to say: I am going to defer to the majority leader.

When I disagreed with the chairman of the Judiciary Committee—and we had a very distinguished chairman, Senator HATCH, sitting beside me—I said to Senator HATCH: ORIN, I respectfully disagree. I am going to vote that way. Let the RECORD show Senator HATCH is nodding in the affirmative.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. SPECTER. I ask unanimous consent for 1 more minute.

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

Mr. SPECTER. When I disagreed with the majority leader, I said so. I would ask other Senators to do the same.

Mr. President, we have the Senator from South Carolina on the floor. He arrived in the middle of my remarks. I would ask that he be permitted to speak, and also Senator HATCH, be permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, we are laying down our bill. Senator DEMINT has been waiting for his amendment. He has a time problem. So I am willing to give another 3 minutes to our Republican friends. But, seriously, we need to get going on this bill. We have been on this bill now for 3 days.

We finally have an amendment. We would like to hear it. So I would agree to 3 minutes more.

Mr. SPECTER. Mr. President, I renew my request for 5 minutes for the two Senators who are on the floor.

Mr. DEMINT. I thank the Senator. I have spoken on judges. I will defer to Senator HATCH and make my comments later.

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

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 10, 2008.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: I write seeking your position on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler, nominee to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina, nominee to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina, nominee to the Court of Appeals for the Fourth Circuit.

Mr. Keisler's nomination has been on the agenda since June 29, 2006, without a Committee vote despite his excellent credentials. He graduated magna cum laude from Yale University and then received his Juris Doctor from Yale Law School. In addition to clerking for Supreme Court Justice Anthony Kennedy, Mr. Keisler has held several high level positions in the Department of Justice. Most recently, he served as Acting Attorney General, providing much needed leadership after the resignation of Attorney General Gonzales. Prior to that, Mr. Keisler served as the Assistant Attorney General managing the Civil Division of the Justice Department. He is currently a partner in the D.C. office of Sidley Austin LLP. The American Bar Association has awarded him its highest rating, a ''unanimous well qualified,'' and the editorial boards of the Los Angeles Times and The Washington Post have called him a ''moderate conservative,'' a ''highly qualified nominee,'' and someone who ''certainly warrants confirmation.''

The only objections raised to Mr. Keisler's nomination have nothing to do with his qualifications or suitability to sit on the D.C. Circuit. Instead, the objections concern whether the Senate needs to fill the 11th seat on the D.C. Circuit, the seat to which Mr. Keisler is nominated. On the contrary, there is recent precedent of the Senate confirming a nominee to fill the 11th seat on the D.C. Circuit. In 2005, the Senate voted to confirm Thomas Griffith to fill the 11th seat on the D.C. Circuit. Judge Griffith was voted out of the Judiciary Committee and confirmed with bipartisan support, including the support of Senators Biden, Feinstein, Durbin, Kohl, and Schumer. In addition, Congress recently validated the 11th seat of the D.C. Circuit when it passed the Court Security Improvement Act last year. Further, arguments against filling the 11th seat based on the decrease in the D.C. Circuit's caseload since 1997 are premature due to the recent addition of detainee cases to the circuit's jurisdiction and the possibility of an increase in administrative law cases due to choice of venue options.

I include Judge Conrad and Mr. Matthews in the proposed motion due to the critical need to expeditiously fill the vacancies on the Court of Appeals for the Fourth Circuit. Currently, one-third of the seats on the Fourth Circuit are vacant, leaving the court inexcusably understaffed. Judge Conrad and Mr. Matthews are also exceptional appellate court nominees. Judge Conrad is the Chief Judge of the Western District of North Carolina, a position to which he was unanimously confirmed in 2005. Prior to his service on the bench, he had a long career as a federal prosecutor, working in both Republican and Democratic administrations. He has the support of both his home state senators, and the ABA has rated him unanimously ''well qualified.'' The vacancy to which Judge Conrad has been nominated has been declared a ''judicial emergency'' by the nonpartisan Administrative Office of the Courts. In fact,

there is a protracted history to this particular seat, which has been vacant since 1994. However, Judge Conrad has been waiting for a hearing for over 260 days.

Mr. Matthews is another outstanding circuit court nominee. A graduate of Yale Law School, Mr. Matthews has had a distinguished career in private practice in South Carolina. He also served for several years in appointed positions in the Department of Justice, including positions in the Civil Division, the Civil Rights Division, the Office of Legal Policy, and the Office of the Attorney General. He has been a shareholder of a prominent South Carolina law firm since 1991, and from 2004 to 2008 served as the managing director. He has the strong support of both of his home state senators. Despite his impressive and varied professional credentials, Mr. Matthews has been waiting for a hearing for over 200 days. Notwithstanding my repeated requests, no Committee action is planned at this time on any of the aforementioned nominees.

Another nominee, Justice Stephen Agee of Virginia was recently nominated to fill another judicial emergency on the Fourth Circuit. I remain hopeful that Justice Agee will be listed on a hearing agenda and acted on by the Committee in the very near future. If the Committee delays in processing his nomination, I may return to him, given the judicial emergency on the Fourth Circuit.

I write to find out how you would vote on the proposed discharge petition, but also, candidly, to focus the public's attention on these nominations. I know you are aware of the ongoing controversy as to whether the Judiciary Committee is processing nominations with appropriate dispatch. This type of delay has been a recurrent problem during the last two years of every President's Administration for the past two decades when the White House is controlled by one party and the Senate by the other.

I am also seeking the responses of Senator Obama and Senator McCain on this subject. I do not plan to make the news media aware of my inquiries until April 15th in order to give you ample opportunity to advise me of your response.

Thank you very much for your consideration of this request.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, April 10, 2008.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I write seeking your position on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler, nominee to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina, nominee to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina, nominee to the Court of Appeals for the Fourth Circuit.

Mr. Keisler's nomination has been on the agenda since June 29, 2006, without a Committee vote despite his excellent credentials. He graduated magna cum laude from Yale University and then received his Juris Doctor from Yale Law School. In addition to clerking for Supreme Court Justice Anthony Kennedy, Mr. Keisler has held several high level positions in the Department of Justice. Most recently, he served as Acting Attorney General, providing much needed leadership after the resignation of Attorney General Gonzales. Prior to that, Mr. Keisler served as the Assistant Attorney General managing the Civil Division of the Justice Department. He is currently a partner in the D.C. office of Sidley Austin LLP. The American Bar Association has awarded him its highest rating, a ''unanimous well qualified,'' and the editorial boards of the Los Angeles Times and The Washington Post have called him a ''moderate conservative,'' a ''highly qualified nominee;'' and someone who ''certainly warrants confirmation.''

The only objections raised to Mr. Keisler's nomination have nothing to do with his qualifications or suitability to sit on the D.C. Circuit. Instead, the objections concern whether the Senate needs to fill the 11th seat on the D.C. Circuit, the seat to which Mr. Keisler is nominated. On the contrary, there is recent precedent of the Senate confirming a nominee to fill the 11th seat on the D.C. Circuit. In 2005, the Senate voted to confirm Thomas Griffith to fill the 11th seat on the D.C. Circuit. Judge Griffith was voted out of the Judiciary Committee and confirmed with bipartisan support, including the support of Senators Biden, Feinstein, Durbin, Kohl, and Schumer. In addition, Congress recently validated the 11th seat of the D.C. Circuit when it passed the Court Security Improvement Act last year. Further, arguments against filling the 11th seat based on the decrease in the D.C. Circuit's caseload since 1997 are premature due to the recent addition of detainee cases to the circuit's jurisdiction and the possibility of an increase in administrative law cases due to choice of venue options.

I include Judge Conrad and Mr. Matthews in the proposed motion due to the critical need to expeditiously fill the vacancies on the Court of Appeals for the Fourth Circuit. Currently, one-third of the seats on the Fourth Circuit are vacant, leaving the court inexcusably understaffed. Judge Conrad and Mr. Matthews are also exceptional appellate court nominees. Judge Conrad is the Chief Judge of the Western District of North Carolina, a position to which he was unanimously confirmed in 2005. Prior to his service on the bench, he had a long career as a federal prosecutor, working in both Republican and Democratic administrations. He has the support of both his home state senators, and the ABA has rated him unanimously ''well qualified.'' The vacancy to which Judge Conrad has been nominated has been declared a ''judicial emergency'' by the nonpartisan Administrative Office of the Courts. In fact, there is a protracted history to this particular seat, which has been vacant since 1994. However, Judge Conrad has been waiting for a hearing for over 260 days.

Mr. Matthews is another outstanding circuit court nominee. A graduate of Yale Law School, Mr. Matthews has had a distinguished career in private practice in South Carolina. He also served for several years in appointed positions in the Department of Justice, including positions in the Civil Division, the Civil Rights Division, the Office of Legal Policy, and the Office of the Attorney General. He has been a shareholder of a prominent South Carolina law firm since 1991, and from 2004 to 2008 served as the managing director. He has the strong support of both of his home state senators. Despite his impressive and varied professional credentials, Mr. Matthews has been waiting for a hearing for over 200 days. Notwithstanding my repeated requests, no Committee action is planned at this time on any of the aforementioned nominees.

Another nominee, Justice Stephen Agee of Virginia was recently nominated to fill another judicial emergency on the Fourth Circuit. I remain hopeful that Justice Agee will be listed on a hearing agenda and acted on by the Committee in the very near future. If the Committee delays in processing his nomination, I may return to him, given the judicial emergency on the Fourth Circuit.

I write to find out how you would vote on the proposed discharge petition, but also, candidly, to focus the public's attention on these nominations. I know you are aware of the ongoing controversy as to whether the Judiciary Committee is processing nominations with appropriate dispatch. This type of delay has been a recurrent problem during the last two years of every President's Administration for the past two decades when the White House is controlled by one party and the Senate by the other.

I am also seeking the responses of Senator Clinton and Senator Obama on this subject. I do not plan to make the news media aware of my inquiries until April 15th in order to give you ample opportunity to advise me of your response.

Thank you very much for your consideration of this request.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, April 10, 2008.

Hon. BARACK OBAMA,
U.S. Senate,
Washington, DC.

DEAR SENATOR BARACK OBAMA: I write seeking your position on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler, nominee to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina, nominee to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina, nominee to the Court of Appeals for the Fourth Circuit.

Mr. Keisler's nomination has been on the agenda since June 29, 2006, without a Committee vote despite his excellent credentials. He graduated magna cum laude from Yale University and then received his Juris Doctor from Yale Law School. In addition to clerking for Supreme Court Justice Anthony Kennedy, Mr. Keisler has held several high level positions in the Department of Justice. Most recently, he served as Acting Attorney General, providing much needed leadership after the resignation of Attorney General Gonzales. Prior to that, Mr. Keisler served as the Assistant Attorney General managing the Civil Division of the Justice Department. He is currently a partner in the D.C. office of Sidley Austin LLP. The American Bar Association has awarded him its highest rating, a ''unanimous well qualified,'' and the editorial boards of the Los Angeles Times and The Washington Post have called him a ''moderate conservative,'' a ''highly qualified nominee,'' and someone who ''certainly warrants confirmation.''

The only objections raised to Mr. Keisler's nomination have nothing to do with his qualifications or suitability to sit on the D.C. Circuit. Instead, the objections concern whether the Senate needs to fill the 11th seat on the D.C. Circuit, the seat to which Mr. Keisler is nominated. On the contrary, there is recent precedent of the Senate confirming a nominee to fill the 11th seat on the D.C. Circuit. In 2005, the Senate voted to confirm Thomas Griffith to fill the 11th seat on the D.C. Circuit. Judge Griffith was voted out of the Judiciary Committee and confirmed with bipartisan support, including the support of Senators Biden, Feinstein, Durbin, Kohl, and Schumer. In addition, Congress recently validated the 11th seat of the D.C. Circuit when it passed the Court Security Improvement Act last year. Further, arguments against filling the 11th seat based on the decrease in the D.C. Circuit's caseload since 1997 are premature due to the recent addition of detainee cases to the circuit's jurisdiction and the possibility of an increase in administrative law cases due to choice of venue options.

I include Judge Conrad and Mr. Matthews in the proposed motion due to the critical

need to expeditiously fill the vacancies on the Court of Appeals for the Fourth Circuit. Currently, one-third of the seats on the Fourth Circuit are vacant, leaving the court inexcusably understaffed. Judge Conrad and Mr. Matthews are also exceptional appellate court nominees. Judge Conrad is the Chief Judge of the Western District of North Carolina, a position to which he was unanimously confirmed in 2005. Prior to his service on the bench, he had a long career as a federal prosecutor, working in both Republican and Democratic administrations. He has the support of both his home state senators, and the ABA has rated him unanimously ''well qualified.'' The vacancy to which Judge Conrad has been nominated has been declared a ''judicial emergency'' by the nonpartisan Administrative Office of the Courts. In fact, there is a protracted history to this particular seat, which has been vacant since 1994. However, Judge Conrad has been waiting for a hearing for over 260 days.

Mr. Matthews is another outstanding circuit court nominee. A graduate of Yale Law School, Mr. Matthews has had a distinguished career in private practice in South Carolina. He also served for several years in appointed positions in the Department of Justice, including positions in the Civil Division, the Civil Rights Division, the Office of Legal Policy, and the Office of the Attorney General. He has been a shareholder of a prominent South Carolina law firm since 1991, and from 2004 to 2008 served as the managing director. He has the strong support of both of his home state senators. Despite his impressive and varied professional credentials, Mr. Matthews has been waiting for a hearing for over 200 days. Notwithstanding my repeated requests, no Committee action is planned at this time on any of the aforementioned nominees.

Another nominee, Justice Stephen Agee of Virginia was recently nominated to fill another judicial emergency on the Fourth Circuit. I remain hopeful that Justice Agee will be listed on a hearing agenda and acted on by the Committee in the very near future. If the Committee delays in processing his nomination, I may return to him, given the judicial emergency on the Fourth Circuit.

I write to find out how you would vote on the proposed discharge petition, but also, candidly, to focus the public's attention on these nominations. I know you are aware of the ongoing controversy as to whether the Judiciary Committee is processing nominations with appropriate dispatch. This type of delay has been a recurrent problem during the last two years of every President's Administration for the past two decades when the White House is controlled by one party and the Senate by the other.

I am also seeking the responses of Senator Clinton and Senator McCain on this subject. I do not plan to make the news media aware of my inquiries until April 15th in order to give you ample opportunity to advise me of your response.

Thank you very much for your consideration of this request.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 15, 2008.

Mr. GEORGE STEPHANOPOULOS,
ABC News.

DEAR GEORGE: On April 10, 2008, I wrote to Senator John McCain, Senator Hillary Clinton and Senator Barack Obama seeking their positions on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina to the Court of Appeals for the Fourth Circuit.

With this letter, I am enclosing copies of those letters. I suggest you may find this subject a matter for questioning Senator Clinton and Senator Obama during tomorrow's debate in Philadelphia.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 15, 2008.

Mr. CHARLES GIBSON,
ABC's World News.

DEAR CHARLES: On April 10, 2008, I wrote to Senator John McCain, Senator Hillary Clinton and Senator Barack Obama seeking their positions on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina to the Court of Appeals for the Fourth Circuit.

With this letter, I am enclosing copies of those letters. I suggest you may find this subject a matter for questioning Senator Clinton and Senator Obama during tomorrow's debate in Philadelphia.

Sincerely,

ARLEN SPECTER.

Mr. HATCH. Mr. President, last week an event occurred that was a long time coming.

I am not talking about the grand opening of the Newseum a few blocks from here down Pennsylvania Avenue.

No, last week the Senate finally voted on and confirmed a few nominees to the Federal bench.

This event is of historical proportions because not since 1848 had the Senate taken this long to confirm a Federal judge in a Presidential election year.

You heard me right.

The first judicial confirmation of 2004 was on January 28, the first one in 2000 was on February 10, and the first one in 1996 was on January 2.

One of my Democratic colleagues was here on the floor last week trying to shuffle the historical chairs on the judicial confirmation deck by talking about the 1996 session rather than 1996 itself because the second session of the 104th Congress began on January 3.

By dicing and splicing the calendar that way, he tried to avoid counting all of the judges we confirmed that year.

I am not going to play that game.

I am comparing apples with apples, years with years.

In 33 of the 40 Presidential election years since 1848, the Senate confirmed the first Federal judge by the end of February.

Not mid-April, not mid-March, but the end of February.

This is the latest start to judicial confirmations in a presidential election year in 160 years.

Now I realize that the Senate cannot vote on nominations that have not been reported to the floor from the Judiciary Committee.

And the Judiciary Committee generally does not report out nominees who have not had a hearing.

Unfortunately, the Judiciary Committee has simply not been holding hearings for nominees to the U.S. Court of Appeals.

There was no judicial confirmation hearing at all last month, and the hearing 2 weeks ago was yet another one with no appeals court nominee.

This graph shows the number of appeals court nominees receiving a Judiciary Committee hearing in each of the 16 Congresses since I was first elected to the Senate.

These are the 95th Congress in 1977–78 to the current 110th Congress.

You can see there is some variation here and there from Congress to Congress, but without a doubt the 110th Congress is the lowest of them all.

Appeals court nominees are simply not getting hearings.

This graph helps us better evaluate what is going on today.

The Judiciary Committee held a hearing for an average of 23 appeals court nominees in the previous 15 Congresses during which I have served in this body.

One of my Democratic colleagues last week actually mocked using such an average as a comparison.

This average is over many years and includes periods when Democrats as well as Republicans ran the Senate and occupied the White House.

It is a much better, much more reliable standard than pulling out the single year or, worse yet, only the portion of a single year that makes a predetermined partisan point.

Today, 15 months into the 110th Congress, only five appeals court nominees have received a hearing.

That is less than one-fourth the average over the previous 30 years.

Now some might say that Presidential election years, and therefore Presidential election Congresses, are different, that everything slows down.

OK, fair enough, perhaps that would be a better comparison.

Comparing the current Congress with the previous seven Presidential election Congresses, however, only widens the contrast between what the Senate has done in the past and what the Senate is not doing today.

It turns out that the Judiciary Committee held a hearing for an even higher average of 25 appeals court nominees during those Presidential election seasons.

In the current Presidential election season, however, only five appeals court nominees have had hearings.

If the partisan roles were reversed and the pace of hearings for appeals court nominees had slowed to perhaps one-half or one-third of the historic average, I can guarantee you that my friends across the aisle would be down here raising the roof about how we were failing to do our confirmation duty.

In fact, when I chaired the Judiciary Committee under the previous President and the hearing pace was much faster than it is today, my colleagues

on the other side did complain early, loudly, and often.

But the pace today is worse than one-half, worse than one-third, worse even than one-fourth of the historic average.

The current Judiciary Committee hearing pace for appeals court nominees is the worst in decades.

In fact, there is virtually no current pace at all.

It has not been this way in the past, and it does not have to be this way today.

I am pleased that last night the distinguished majority and minority leaders spoke about this here on the floor and the majority leader acknowledged that ''we need to make more progress on judges.''

The majority leader said he would do his very best, his utmost as he put it, to confirm three more appeals court nominees by Memorial Day, which is coming in less than 6 weeks.

I would like to point out a few highly qualified nominees who have been waiting a long time and who I hope will be included in this effort.

Yesterday, this editorial appeared in the Washington Post.

It opens with these words: ''It is time to stop playing games with judicial nominees.''

The editorial correctly notes that the Senate confirmed more than twice as many appeals court nominees in the final 2 years of the Clinton administration than the Senate has confirmed so far in the 110th Congress.

Even with the three additional appeals court nominees the majority leader has pledged to confirm, we have a lot of ground to make up.

The editorial suggests beginning to make up that ground by confirming Peter Keisler to the U.S. Court of Appeals for the D.C. Circuit and Rod Rosenstein to the Fourth Circuit.

Unlike some other languishing appeals court nominees, Mr. Keisler has at least had a hearing.

But it was 624 days ago.

Mr. Rosenstein has not been waiting that long but is fully as qualified. As the Post editorial points out, he has admirers on both sides of the aisle and is an excellent and principled lawyer.

Two other Fourth Circuit nominees whose consideration by the Judiciary Committee is long overdue are Steven Matthews of South Carolina and Robert Conrad of North Carolina.

My colleagues from those States are speaking in more detail on the floor today, but I want to highlight that these fine nominees have the strong support of their home-State Senators.

Lack of such support can be a reason why a nominee does not get a hearing.

I know, because that is the reason I could not give a hearing to some Clinton judicial nominees when I chaired the Judiciary Committee.

But that is not the case with these nominees.

And in Judge Conrad's case, this body confirmed him just a few years ago to the U.S. District Court without even a rollcall vote.

I hope that this pledge by the majority to make some much-needed confirmation progress is not just a temporary flash in the pan.

The majority leader last night suggested that there is some kind of rule that the Senate does not confirm judicial nominees after June.

He actually referred to this as the Thurmond doctrine.

I want to say to my colleagues that there is no such thing as a Thurmond doctrine, a Thurmond rule, or even a Thurmond guideline for judicial confirmations in a Presidential election year.

In 2000, the current Judiciary Committee chairman said that while things might, he said might, slow down ''within a couple months of a presidential election,'' that the best judicial confirmation standard was set in 1992.

Like today, his party was in the majority.

Like today, a President Bush was in the White House.

Senator Thurmond himself was ranking member of the Judiciary Committee.

In that Presidential election year, the Judiciary Committee held hearings on appeals court nominees until September 24 and the Senate confirmed appeals court nominees until October 8.

The Senate confirmed 66 judges, including 11 appeals court judges, in 1992.

So I want to dispel this judicial confirmation myth that there is any kind of rule, let alone a doctrine, that justifies shutting down the confirmation activity which I hope and trust is finally about to begin.

There is no doubt that we are way behind where we should be in the judicial confirmation process.

But it does not have to stay that way, not if we are serious about doing our duty.

As the Washington Post editorial said, the Senate ''should at least give every current nominee an up-or-down vote and expeditiously process the nominees to the U.S. Court of Appeals for the Fourth Circuit.''

That would be a great place to start.

MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

HIGHWAY TECHNICAL CORRECTIONS ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1195, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1195) to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to make technical corrections, and for other purposes.

AMENDMENT NO. 4146

(Purpose: In the nature of a substitute)

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 4146.

(The amendment is printed in the RECORD of March 7, 2008, under ''Text of Amendments.'')

Mrs. BOXER. Mr. President, I know my colleague Senator DEMINT is here to offer what will be the first amendment to this bill. I thank him, because I know he initially had several amendments. It looks as though he has boiled it down to one amendment. I know Senator INHOFE and I are glad about that. I thanked him previously for calling me and saying that he was pleased with the way we treated the transparency of this bill.

I have been given a copy of the amendment by the Senator from South Carolina. I will listen carefully to his presentation, and I will have remarks afterward. Senator INHOFE may also have some remarks prior to Senator DEMINT being recognized.

Senator INHOFE and I are hopeful we can get this completed. This is a bill that overall creates not one more penny of new spending. It will unleash into our economy, however, a billion dollars already budgeted for. That is why so many people are supporting this in real life: Construction companies, workers, transit operators. All of them have written to us. I will put those names in the RECORD. We are hopeful, if everybody cooperates today, we can get this finished. This bill isn't rocket science. It is very simply making technical corrections to SAFETEA–LU and in places where some projects simply couldn't go forward, replacing those projects without adding a penny of new spending. There is full transparency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I agree with the comments made by the chairman. It is my understanding we are down to maybe three amendments. I have talked to Senator COBURN, who has an amendment, as well as Senator BOND. It is my hope that Senator DEMINT will be able to present his amendment. Then it is my understanding we will hold votes until early this afternoon and maybe try to get some of the others out of the way. Being a conservative, I want to make sure everybody understands: A technical corrections bill is always necessary when we have a major reauthorization of transportation. There are some things in here that are borderline. One case, in my State of Oklahoma, in Durant, I mistakenly said 200 yesterday, but it is $300,000 on a road program that the Department of Transportation came back and said: We thought we were ready for this, but we