

Menendez (D-NJ) Rockefeller (D-MD) Snowe (R-ME)
Mikulski (D-MD) WV Stabenow (D-MI)
Murray (D-WA) Salazar (D-CO) Tester (D-MT)
Nelson (D-FL) Sanders (I-VT) Whitehouse (D-RI)
Reed (D-RI) Schumer (D-NY) Wyder (D-OR)
Reid (D-NV) Smith (R-OR)

NOT VOTING—12

Clinton (D-NY) Ensign (R-NV) McCain (R-AZ)
Coburn (R-OK) Feinstein (D-CA) Obama (D-IL)
Coleman (R-MN) Johnson (D-SD) Roberts (R-KS)
Dodd (D-CT) Levin (D-MI) Sessions (R-AL)

GROUPED BY HOME STATE

Alabama: Sessions (R-AL), Not Voting;
Shelby (R-AL), Yea.
Alaska: Murkowski (R-AK), Yea; Stevens (R-AK), Yea.
Arizona: Kyl (R-AZ), Yea; McCain (R-AZ), Not Voting.
Arkansas: Lincoln (D-AR), Yea; Pryor (D-AR), Yea.
California: Boxer (D-CA), Nay; Feinstein (D-CA), Not Voting.
Colorado: Allard (R-CO), Yea; Salazar (D-CO), Nay.
Connecticut: Dodd (D-CT), Not Voting; Lieberman (D-CT), Nay.
Delaware: Biden (D-DE), Nay; Carper (D-DE), Yea.
Florida: Martinez (R-FL), Nay; Nelson (D-FL), Nay.
Georgia: Chambliss (R-GA), Yea; Isakson (R-GA), Yea.
Hawaii: Akaka (D-HI), Nay; Inouye (D-HI), Nay.
Idaho: Craig (R-ID), Yea; Crapo (R-ID), Yea.
Illinois: Durbin (D-IL), Nay; Obama (D-IL), Not Voting.
Indiana: Bayh (D-IN), Nay; Lugar (R-IN), Yea.
Iowa: Grassley (R-IA), Yea; Harkin (D-IA), Nay.
Kansas: Brownback (R-KS), Yea; Roberts (R-KS), Not Voting.
Kentucky: Bunning (R-KY), Yea; McConnell (R-KY), Yea.
Louisiana: Landrieu (D-LA), Yea; Vitter (R-LA), Yea.
Maine: Collins (R-ME), Nay; Snowe (R-ME), Nay.
Maryland: Cardin (D-MD), Nay; Mikulski (D-MD), Nay.
Massachusetts: Kennedy (D-MA), Nay; Kerry (D-MA), Nay.
Michigan: Levin (D-MI), Not Voting; Stabenow (D-MI), Nay.
Minnesota: Coleman (R-MN), Not Voting; Klobuchar (D-MN), Nay.
Mississippi: Cochran (R-MS), Yea; Lott (R-MS), Yea.
Missouri: Bond (R-MO), Yea; McCaskill (D-MO), Nay.
Montana: Baucus (D-MT), Nay; Tester (D-MT), Nay.
Nebraska: Hagel (R-NE), Yea; Nelson (D-NE), Yea.
Nevada: Ensign (R-NV), Not Voting; Reid (D-NV), Nay.
New Hampshire: Gregg (R-NH), Yea; Sununu (R-NH), Yea.
New Jersey: Lautenberg (D-NJ), Nay; Menendez (D-NJ), Nay.
New Mexico: Bingaman (D-NM), Nay; Domenici (R-NM), Yea.
New York: Clinton (D-NY), Not Voting; Schumer (D-NY), Nay.
North Carolina: Burr (R-NC), Yea; Dole (R-NC), Nay.
North Dakota: Conrad (D-ND), Nay; Dorgan (D-ND), Nay.
Ohio: Brown (D-OH), Nay; Voinovich (R-OH), Yea.
Oklahoma: Coburn (R-OK), Not Voting; Inhofe (R-OK), Yea.
Oregon: Smith (R-OR), Nay; Wyden (D-OR), Nay.
Pennsylvania: Casey (D-PA), Nay; Specter (R-PA), Yea.

Rhode Island: Reed (D-RI), Nay;
Whitehouse (D-RI), Nay.
South Carolina: DeMint (R-SC), Yea; Graham (R-SC), Yea.
South Dakota: Johnson (D-SD), Not Voting; Thune (R-SD), Yea.
Tennessee: Alexander (R-TN), Yea; Corker (R-TN), Yea.
Texas: Cornyn (R-TX), Yea; Hutchison (R-TX), Yea.
Utah: Bennett (R-UT), Yea; Hatch (R-UT), Yea.
Vermont: Leahy (D-VT), Nay; Sanders (I-VT), Nay.
Virginia: Warner (R-VA), Yea; Webb (D-VA), Yea.
Washington: Cantwell (D-WA), Nay; Murray (D-WA), Nay.
West Virginia: Byrd (D-WV), Nay; Rockefeller (D-WV), Nay.
Wisconsin: Feingold (D-WI), Nay; Kohl (D-WI), Nay.
Wyoming: Enzi (R-WY), Yea.

Mr. WARNER. But I wish to say how pleased I am to see you vigorous and strong, and with our distinguished leader, Senator MCCONNELL, leading the charge. I hope we get it up here and let these 100 Senators speak their will.

Mr. DOMENICI. Thank you. I am glad to be at our Republican leader's side on this issue and help wherever I can.

Mr. WARNER. We share that.

Mr. DOMENICI. We are aware this is a real big, big-time American problem, as hard as any kind of problem as we have had.

Mr. WARNER. I say to the Senator, go back and look at your mailbox, look at your e-mail, look at the hundreds of communications each of us are receiving every day.

Mr. DOMENICI. You bet.

Mr. WARNER. These people are gathered—I would say almost a quarter of Americans are gathered around the kitchen table every night looking at the increased costs in their food, the increased costs in their heating and their gasoline, trying to figure out how they are going to make ends meet, with relatively small amounts of dollars in the overall picture. But to them, it is the difference between buying a little extra food and having the choice to forego it.

I yield the floor.

Mr. WHITEHOUSE addressed the Chair.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Rhode Island is recognized.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, let me just say to my good friend from Rhode Island, I am sorry we have gotten a little bit behind. My remarks are not very long, and I will be happy to proceed on leader time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. WHITEHOUSE. I am happy the leader should proceed. I simply wished to have an idea of how long it might be so I know when I would begin.

Mr. MCCONNELL. Ten minutes or less.

Mr. WARNER. Madam President, if I could make an inquiry of the distinguished leader while he is on the Senate floor, at some point I would like to work into the queue. If my good friend from Rhode Island is following the leader, perhaps I could follow him. Is there a standing order?

Mr. WHITEHOUSE. If I could indicate to the Senator from Virginia, we are under an order that allocates the time of one-half-hour blocks, and I have our first Democratic half hour. So it would probably be more convenient and better, if the Senator simply followed the Republican leader, and I just deferred some additional time to allow him to speak directly after the Republican leader, and we can adjust the order accordingly.

Mr. WARNER. Madam President, I appreciate that courtesy, and I will just take, say, 6 minutes following the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, my remarks are on another issue, but I was here for the colloquy between my good friend from Virginia and my equally good friend from New Mexico. We all know they are both retiring from the Senate later this year, but it is serendipitous that this issue has arisen at this particular time, when the American people are demanding the kind of action that the Senator from New Mexico and the Senator from Virginia have been promoting for years. So I think it is a good thing that while they are still here in their service to our country, we will be debating this issue vigorously next week, and all of us hope for success.

NOMINATIONS

Mr. MCCONNELL. Madam President, on another issue, this is the 1-year anniversary of the nomination of Judge Robert Conrad to be a member of the Fourth Circuit Court of Appeals. When this Congress began, the majority leader and I agreed that partisanship in the judicial nominations process was unhealthy, and we said this Congress would be different. The Los Angeles Times and the Washington Post acknowledged the President did his part to get the process off to a good start back in the beginning of this Congress. They, and many others, complimented his good faith in not resubmitting circuit court nominees whom some of our Democratic colleagues did not like.

The majority leader himself said how much he appreciated the President's good faith. He said:

I personally want the record to reflect that I appreciate the President not sending back four names that were really controversial.

The majority leader also said he and his colleagues had an obligation to reciprocate and treat circuit court nominees fairly. He said:

I think we have to reciprocate in a way that is appropriate, and we are going to try to do that by looking at these nominees as quickly as we can.

So the question is, have the Democrats treated these nominees fairly? Have they, in fact, reciprocated?

Let's look at the facts. This President is in his final 2 years of office, and the Senate Democrats, of course, hope to recapture the White House. So, obviously, there is a partisan incentive not to confirm President Bush's judicial nominees. This is, of course, human nature, but this situation is not new. President Bush is not the first President to be in his final 2 years in office when the opposite political party controls the Senate, and he will not be the last.

Even with lameduck Presidents, there is a historical standard of fairness as to confirming judicial nominees, especially circuit court nominees. The majority leader and I agreed that this Senate should meet that standard. The average number of circuit court confirmations in this situation is 17. President Clinton had 15. This Senate has confirmed only 10 circuit court nominees. What happened?

Unfortunately, old habits are hard to break and, in my opinion, Democrats on the Judiciary Committee found it hard not to play politics. It started with the renomination of Judge Leslie Southwick.

Judge Southwick was a distinguished State court judge and an Iraq war veteran. Moreover, he was someone the committee Democrats had already approved unanimously to the district court. So at the beginning of this Congress when the President tried yet again to fill a vacancy on the Fifth Circuit that had existed for his entire Presidency, he did not resubmit a nominee the Democrats opposed. Instead, he quite reasonably nominated someone whom committee Democrats had already approved: Leslie Southwick.

How did the Judiciary Committee Democrats respond? With one exception, they did a total about-face and actually tried to filibuster Judge Southwick's nomination.

Unfortunately, Judge Southwick isn't the only consensus nominee who became "controversial." Judge Robert Conrad is the chief judge of a Federal district court in North Carolina. The Senate has already approved him to important positions not once but twice; first, as the chief Federal law enforcement officer in North Carolina, and then to a lifetime position on the Federal trial bench. In addition, the ABA gave Judge Conrad its highest rating, unanimously "well qualified." Former Attorney General Janet Reno called him "an excellent prosecutor" and said she was "impressed with his judgment . . . and his knowledge of the law."

Again, to resolve a dispute—this time over a Fourth Circuit seat—President Bush did not resubmit a nominee whom Senate Democrats opposed. As with Judge Southwick, he nominated someone they had already approved, Judge Robert Conrad.

Guess what has happened. Well, nothing has happened. As of today, Judge Conrad has been sitting in the committee for 365 days, 1 full year, without a hearing, even though he meets all the chairman's criteria. He has the highest possible ABA rating, he has strong home State support, and he would fill a judicial emergency.

What is the result of all of this? While Judge Conrad waits in committee, the circuit court to which he is nominated is over 25 percent vacant. Over one-fourth of its seats are empty. Its chief judge states that to keep up with its work, the court must rely heavily on district court judges. In short, it is robbing Peter to pay Paul. "It goes without saying," she says, "that having to use visiting judges puts a strain on our circuit. In particular, it forces the circuit's district judges to perform double duty."

The situation on the Fourth Circuit is so bad that the ABA has made the crisis on the Fourth Circuit its lead story in the most recent edition of its professional journal. It is on the cover page.

Now, my friend, the majority leader, comes to the floor this morning and essentially says judges aren't important, and no one cares about them. Given the crisis in the Fourth Circuit—a crisis that is so bad the ABA is highlighting it—I can't imagine he would suggest such a thing. I am sure the millions of citizens of the Fourth Circuit don't think that having their appellate court over 25 percent vacant doesn't matter. I am sure they care very much about that. But evidently that is what the majority leader believes, and apparently he is not the only one in his conference who feels that way, given the lack of action in the Judiciary Committee.

The committee refuses to move Judge Robert Conrad's nomination or any other pending Fourth Circuit nominee. We are told Democrats do not support Rod Rosenstein's nomination to the Fourth Circuit—which is supported by the Washington Post—because he is doing too good a job as U.S. attorney. That is an interesting rationale for not moving someone.

We have another Fourth Circuit nominee, Judge Glen Conrad from Virginia. He is a Federal district court judge whom the Senate confirmed to the trial bench without any controversy. He has the support of both his home State Senators, one Democrat and one Republican. After he was nominated, the chairman said he would move him as long as there was time to do so. Specifically, he stated:

I have already said that once the paperwork on President Bush's nomination of Judge Glen Conrad to the Fourth Circuit is completed, if there is sufficient time, I hope to move his nomination.

Well, the chairman's conditions have been met with respect to Judge Glen Conrad's nomination. His paperwork has been ready for a month, and it is only July 17. The last time I looked,

there were 12 months in a year. This is July 17. Clearly, we have time to confirm him, but yet we have no action on his nomination.

Now, our Democratic colleagues continually talk about the so-called Thurmond rule under which the Senate supposedly stops confirming judges in a Presidential election year. I am concerned that this seeming obsession with this supposed rule—which, by the way, doesn't exist; Senator SPECTER has researched that thoroughly and there is no such rule. Anyway, I am concerned that this seeming obsession with this rule that doesn't exist is just an excuse for our colleagues to run out the clock on qualified nominees who are urgently needed to fill vacancies.

No party is without blame in the confirmation process, but what is going on now—or, more accurately, what is not going on—is yet another step backward in politicizing the confirmation process—something we had all hoped we would get beyond.

It is the American people, especially those in the five States that make up the Fourth Circuit, who are suffering the consequences, and I am sorry the majority leader doesn't think that matters.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, I thank the Chair. I again thank my colleague from Rhode Island.

Before the distinguished leader departs the floor, I simply wish to say that I appreciate his bringing up the nomination of Judge Glen Conrad to the United States Court of Appeals for the Fourth Circuit. I was privileged to recommend Glen Conrad to President Bush for his current seat on the U.S. district court for the Eastern District of Virginia. Judge Conrad has served in this position for five years, and, prior to his confirmation by the Senate, he was a magistrate judge in the Eastern District for twenty-seven years. He has devoted his professional life to serving the Federal court system and is eminently qualified to fill one of those Fourth Circuit vacancies that desperately need it.

I wish to thank my good friend and colleague, Senator WEBB, who joined me in recommending Judge Conrad for the Fourth Circuit. We have submitted our blue slips to the Judiciary Committee, and I have confidence that the majority leader and the distinguished chairman and ranking member of the Judiciary Committee will find time to look at his nomination. Glen Conrad is a true public servant who is ready to take and fill a badly needed post.

I thank the leader.

Mr. MCCONNELL. Madam President, if I could just take a moment, I haven't given up hope, I would say to my good friend from Virginia, that Judge Conrad will be reported out of committee and confirmed. But there are no remaining obstacles. All of the paperwork is done and has been finished for

over a month. I hope my good friend from Virginia, and his colleague who supports the nominee who is of the other party, will continue to press the chairman of the Judiciary Committee and the majority leader to move forward with a nominee who appears to me by all accounts to be about as non-controversial as can be come up with. So I thank my colleague from Virginia.

Mr. WARNER. I thank again our colleague from Rhode Island.

I spoke earlier when the distinguished Senator from New Mexico, Mr. DOMENICI, was on the Senate floor talking generally about the drilling offshore. I mentioned that for many years I have been working on it with other colleagues in this Chamber and lost the majority by one vote.

I ask unanimous consent to amend those statements with further criteria.

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

Mr. WARNER. Madam President, now I wish to briefly address what I think is a very important aspect of the ongoing debate on energy. I want to laud many Senators on both sides of the aisle who are looking at the gravity of the situation. Families sit around the kitchen table in the evenings and work out problems among themselves, including the gravity of the problems associated with the rising gas prices at the gas pump, food prices, and many other issues. I went in and made a study of the increased cost of a loaf of bread, dishwasher fluid—I could go on and on—hot dogs, hamburgers. The extent to which prices are going up is extraordinary, coupled with the increased price at the gas pump.

We are all working together, and I firmly believe that under the leadership of Senators REID and MCCONNELL, we can come up with some sort of a bipartisan effort consistent with the overall policy the President has urged recently in his speech.

As important as offshore drilling is—and I yield not a foot of ground on that; I think it is important, and that is why I have been advocating it for many years. I support battery-powered automobiles, wind energy, and all of the other renewables. But we have to do something now, today, and tomorrow to help the people sitting around their kitchen tables trying to solve their problems. I have been looking at several options, and I will review them briefly.

I anticipate that one-third of Americans today are virtually desperate and trying to make ends meet with their family budgets, and the necessity to drive their automobiles to go to work, pick up their children, to visit their elderly grandparents—all of these things are matters of necessity, and they are trying to balance that out among themselves. What do we do about it?

I introduced the Immediate Steps to Conserve Gasoline Act—an odd title but straightforward in what it says. My idea is as follows: Many folks—a third of them—are conserving; they are tak-

ing conservation steps. Look at the statistics. You see less driving. Quite a few statistics are coming in about less driving, which translates into less demand at the gas pump. A free marketplace should lead to some measure of reduction. We recognize that gasoline and petroleum is at worldwide pricing, and we are in a one-world market. We are competing with other nations, which are likewise experiencing the rising costs of fuel.

My brother recently returned from a business trip to Europe. He is quite familiar with Central Europe and Austria. He said on the famous autobahn they are cutting back on the speed because there is a savings on gasoline. The faster you drive, the less efficient the carburetion process in the engine is in terms of delivering power.

I suggested to the President, to the Secretary of Energy, and I have asked the Government Accounting Office to look at a chapter in American history. I remember it quite well, 1973 to 1974. I was at the Navy Department. My friend from Rhode Island, John Chafee, and I were together at that time. I remember the President, together with the full support of the Congress, enacted legislation whereby America imposed a hardship on itself; it was a program all across America—and it is all a matter of public record—that made the speed limit 55 miles per hour. What I have asked the President, the Secretary of Energy, the GAO, and others to do is to go back and examine that period, take a look at it. Fifty-five might not be the speed limit; it might be 60 or even a slightly higher speed limit because of the improved carburetion process and efficiency achieved in this nearly quarter of a century in today's modern automobiles compared to the 1973-1974 automobiles.

It is interesting, in that period of time—and these are Government statistics—when the national speed limit was imposed, it saved 167,000 barrels of oil a day. The significance of that figure is that, in that period, 1973-1974, we were only 30 percent dependent upon importing oil from abroad. Now we are at 60 percent. So there has been a doubling of our dependency on foreign oil. Also, the number of vehicles on the road today—a quarter of a century later—is approximately twice the number of vehicles that were traveling America's highways and roads in 1973-1974.

I realize it is not popular to talk about it. Believe me, around my own dinner table at night, I have heard from my children, who are not at all pleased with this.

Anyway, I think we have an obligation as a Congress, working with the executive branch, to look at it. That is all I am asking. Go study it, those who are far more knowledgeable than I and those who have all of the facts at their fingertips, and let's bring in the private sector to give their views and look at this potential. If we were to bring about some reduction of the high

speeds on America's roads and highways today, I think you could translate that into less demand at the pump and less demand in terms of out-of-pocket costs.

So there we are, simple as that. It is history, it worked, so let's look at it. That 55-miles-an-hour speed limit that was put in back then stayed for 20 years. Congress finally repealed it in 1995. Guess what. The cost of fuel had dropped to \$2 a gallon or thereabouts.

The other measure that I bring to the attention of my colleagues is this: The American people are using their own initiatives to save energy, and I am calling on the entire Federal Government, under the leadership of the President, and all of the agencies and departments to see whether they can reduce their overall use of gasoline by 2 to 3 percent—just by a small margin.

We passed an energy act here not long ago, and I use that as a model. We were talking about other forms of energy there. That is becoming law.

For 1 year, the Federal Government can say we are going to join the citizens and reduce our overall consumption of gasoline by 2 to 3 percent, give it a try—anything to bring off pressure at the pump.

My two concepts fall clearly under the area of conservation. As I look at the various options my colleagues on both sides of the aisle are exploring and looking at, I do not see therein the conservation potential, thus far, which can bring about some relief. I am confident this can be done if it is done properly. The American people are not going to like it. Politically, it will be a tough one. Somehow, I have always felt, in the 30 years I have been privileged to be a part of this body, that we are called upon now and then to make tough calls and stand up to the American public and say we have to all pull together—the people and the Government, State and Federal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that after I have concluded my remarks, the control of the time go back and forth between the Republicans and the Democrats, alternating in half-hour increments.

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

HEALTH CARE

Mr. WHITEHOUSE. Madam President, I am very pleased to have a chance to speak today about the problem of health care in our country.

We are coming into a potentially very exciting time, when a new President and new administration will open up new opportunities to reform our ailing and broken health care system. It is a matter of urgency that we do so. It is also a matter of urgency that we get it right.

I have spoken on this issue on a number of occasions on the floor and elsewhere, and I often describe the marks