

As we stand here today, over 5 million seniors have saved more than \$3 billion on their prescription drugs. The way it worked before this bill was passed, you would use up a certain amount of money and then you would fall into this coverage gap that they call a doughnut hole, and just when you are at your sickest point, you get no help. A lot of our seniors were not taking their medicines at that critical point because they could not afford the full cost; they were cutting the pills in half and praying. It was a sad situation. Because of health care reform, we have these seniors being able to keep their medications flowing. Last year in my State, 300,000 seniors were able to save \$171 million in their costs.

Let's look at that again. As a result of Obama health care, which I proudly supported, already 5 million senior citizens are able to afford their prescription drugs—your mother, your father, your grandma, your grandpa. That is important. What is going to happen to these people if this whole thing gets overturned? They will get sick and they will not have those medications.

In addition, what else is happening—2.5 million young Americans are now covered because they can stay on their parents' health plan until they turn 26. Without this law, when you graduated from college you were out of luck, and you had to find your own health care. The Obama plan said you should be able to stay on your parents' health plan until you turn 26. I cannot tell you how many people have written to me to thank me for that.

So over there in the Supreme Court they are talking about legalese, and I appreciate that. They are talking about severability, and they are talking about a lot of interesting things. One thing I want to talk about is what is going to happen to 5 million senior citizens who are able to stay on their medication as a result of the Obama health plan.

What is going to happen to the 2.5 million Americans who are young who can stay on their parents' plan until they are 26 if something happens over there across the street in terms of this legal case? In California 335,000 Californians have benefited from that young person being able to stay on their parents' insurance provision.

What is going to happen to 54 million Americans who now have access to free preventive care, such as screenings for colon cancer, mammograms, and flu shots? This is new, folks. Before we didn't get free prevention. We had to pay a copayment. I have to tell you, as I lived my life and I have seen the tragedy of cancer, I have learned very clearly that if you take care of yourself and have mammograms and colon cancer screenings, your life can be saved.

What is going to happen to 54 million Americans who have that preventive care now if the Supreme Court strikes it down? Out of that 54 million, 6 million Californians have gotten these

screenings and vaccinations. I will close with health care on this story.

I don't know how many people realize this, but before the Obama health care plan there were caps on insurance policies. Maybe they were a million-dollar cap or a half-million-dollar cap. Before I had different insurance, I had a cap on my husband's policy. What happened at that time is, if you used up enough health care, you were finished at a certain point.

I want to tell you the story of Julie Walters of Nevato, CA. She wrote to me last year about her 3-year-old daughter Violet who suffers from a severe form of epilepsy. She wrote that Violet could hit her lifetime limit in 5 years. So here is a little baby who is reaching her lifetime limit, and her mom wrote:

A lifetime limit on insurance is a limit on Violet's lifetime, and that is immoral.

Because of health care reform, there is no longer a lifetime limit. So I wanted to point this out and so many other things that are totally essential to our people that are at stake across the street.

#### SURFACE TRANSPORTATION ACT

In closing, before we reach our full time, I want to call on the House to take up and pass the Senate Transportation bill. There are 3 million jobs at risk. They cannot get their act together. Allow a vote on the bipartisan Transportation bill and then leave for your vacation. But don't just give us these extensions which are, frankly, death by 1,000 cuts. We already know of six or seven States—including those in the Northeast—that are laying people off because they don't have certainty with the Transportation bill.

So I thank you very much. I thank the chairman of the Judiciary Committee for allowing me to finish.

I yield the floor.

#### EXECUTIVE SESSION

NOMINATION OF MIRANDA DU TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

SUSIE MORGAN TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA

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

The legislative clerk read the nominations of Miranda Du, of Nevada, to be United States District Judge for the District of Nevada, and Susie Morgan, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

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

Mr. LEAHY. Madam President, I would ask unanimous consent that the time be divided equally but am I correct if we did the full 60 minutes, we would start the first vote at 5:35 p.m.?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Madam President, I ask unanimous consent that we divide the time equally between now and 5:30 and the vote be at 5:30.

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

Mr. LEAHY. Madam President, today the Senate will finally vote on the nominations of Miranda Du to fill a judicial emergency vacancy in the U.S. District Court for the District of Nevada and Susie Morgan to fill a judicial vacancy in the U.S. District Court for the Eastern District of Louisiana. Both nominations have the bipartisan support of their home state Senators, and were reported by the Judiciary Committee over 4 months ago. The Senate is still only considering judicial nominations that could and should have been confirmed last year. The judicial vacancy rate remains nearly twice what it was at this point in the first term of President George W. Bush.

Last week, I noted an article about the "crushing caseload" that the Federal courts in Arizona currently face. In that article, the Chief Judge of Arizona's Federal trial court noted that they are in "dire circumstances" and that they are "under water" from all the cases on their docket. Like the district court in Arizona, the one in Nevada is also in desperate need of judges, as evidenced by its designation as a judicial emergency. As that same article noted, an insufficiency of judges "lessens the quality of justice for all parties involved." This is why it is so crucial that we confirm these nominees as soon as possible.

Delay is harmful for everyone. An editorial from the Tuscaloosa News last week stated that "[D]elays are objectionable in themselves: They deprive the courts of needed personnel, slow the administration of justice and deter well-qualified candidates from agreeing to be considered for the bench." I ask unanimous consent to include a copy of the article, entitled "Congress needs to stop judicial partisan games," in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. The needless 4-month delay in the consideration of these nominations is another example of the delays that have been caused by Senate Republicans' unwillingness to agree to schedule these nominations for votes last year. As the editorial from the Tuscaloosa News noted: "[T]he determination of Senate Republicans to delay President Barack Obama's judicial nominees—even those who have won bipartisan support from the Judiciary Committee—is emblematic of the

polarization that also has sabotaged efforts of the two parties to work together on numerous other fronts." The editorial concludes by urging that there be "no more partisan games."

A recent memorandum from the Congressional Research Service confirms what we have long known: The delay and obstruction from Senate Republicans have resulted in President Obama's judicial nominees waiting much longer for a floor vote than judicial nominees under the past four Presidents. These tactics, of course, have resulted in a much lower number and percentage of confirmed judicial nominees under President Obama—despite the fact that President Obama's judicial nominees have by and large been consensus nominees.

The consequences of these months of delays are borne by the more than 150 million Americans who live in districts and circuits with vacancies that could be filled as soon as Senate Republicans agree to up or down votes on the 17 judicial nominations currently before the Senate. Our courts need qualified Federal judges, not vacancies, if they are to reduce the excessive wait times that burden litigants seeking their day in court. It is unacceptable for hard-working Americans who turn to their courts for justice to suffer unnecessary delays. When an injured plaintiff sues to help cover the cost of his or her medical expenses, that plaintiff should not have to wait 3 years before a judge hears the case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute.

Today, we can finally end the needless delays on these two qualified nominees. Miranda Du was born in Vietnam. She left the country with her family by boat in 1978 and immigrated to the United States after spending a year in refugee camps in Malaysia. If confirmed, she will become the first Asian Pacific American appointed to the Federal bench in Nevada. Both of Nevada's Senators, the Majority Leader and Republican Senator DEAN HELLER, support Ms. Du's nomination. Senator HELLER has said that Ms. Du will "make an outstanding district court judge." She also has the support of the Republican Governor of Nevada, Brian Sandoval; the Republican Lieutenant Governor of Nevada, Brian Krolicki; and the Republican Mayor of Reno, Robert Cashell; each of whom has personally worked with Ms. Du. I ask unanimous consent to have printed in the RECORD a copy of the letters of support from these individuals at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. LEAHY. Governor Sandoval fully supports Ms. Du's nomination. In his recommendation letter, he wrote that when Ms. Du appeared before him when he was a judge, she "was always well prepared and represented her clients with integrity and distinction." He fur-

ther stated that she had his "full support" for confirmation as a Federal district judge. Ironically, he was the judge in the one case on which Republicans rely to criticize the nominee. As the judge, he had overlooked the jurisdictional argument when initially deciding against dismissing the case. The Magistrate Judge on the case issued sanctions, but Governor Sandoval ultimately struck the motion for sanctions as moot when Ms. Du and her legal team resolved the dispute with the third-party. In addition, Ms. Du testified candidly about the incident during her Committee hearing and in her response to the Questions for the Record, acknowledged that she had "learned a great deal from this experience." Incidents like this have never held up a nomination before in the past, and it should certainly not hold up Ms. Du's nomination. President Obama's nominees should not be held to a different or new standard.

She has spent her 17-year legal career in private practice as a partner at a law firm in Reno, Nevada. She currently serves as chair of the firm's Employment & Labor Law Group. Ms. Du's story is compelling. She was selected by Super Lawyers as a 2009 "Mountain States Rising Star" and was named as one of the "Top 20 Under 40" Young Professionals in the Reno-Tahoe Area in 2008. That she is being opposed because she and her legal team filed a third-party complaint on behalf of a client in one case is to hold her to a new standard than Senate Republicans have utilized with other nominees and other Presidents in the past.

The other nominee we consider today is Susie Morgan. She has worked in private practice for 30 years. Her nomination has the bipartisan support of Louisiana's Senators, Democratic Senator MARY LANDRIEU and Republican Senator DAVID VITTER. Following her law school graduation, Ms. Morgan clerked for Chief Judge Henry A. Politz of the U.S. Court of Appeals for the Fifth Circuit. She was unanimously rated as qualified by the American Bar Association's Standing Committee on the Federal Judiciary to serve as a Federal judge in the Eastern District of Louisiana. Her nomination was approved unanimously by the Judiciary Committee last November.

The Senate needs to make real progress, which means going beyond the nominations included in the agreement between Senate leaders to include the 17 judicial nominations currently before the Senate for a final vote and the eight judicial nominees who have had hearings and are working their way through the Committee process. There are another 11 nominations on which the Committee should be holding additional hearings during the next several weeks.

#### EXHIBIT 1

[From Tuscaloosaneews.com, Mar. 22, 2012]

#### EDITORIAL: CONGRESS NEEDS TO STOP JUDICIAL PARTISAN GAMES

Delays in the confirmation of federal judges aren't uppermost in Americans' minds

when they complain about partisan dysfunction in Congress. But the determination of Senate Republicans to delay President Barack Obama's judicial nominees—even those who have won bipartisan support from the Judiciary Committee—is emblematic of the polarization that also has sabotaged efforts of the two parties to work together on numerous other fronts. And the delays are objectionable in themselves: They deprive the courts of needed personnel, slow the administration of justice and deter well-qualified candidates from agreeing to be considered for the bench.

So it's a hopeful sign that Republicans have agreed to vote on 14 judicial nominations by May 7. It would be heartening to report that the Republicans agreed to the votes because they repented of the obstructionism of some of their members, but in fact their agreement followed a power play by Senate Majority Leader Harry Reid, D-Nev., who filed cloture motions to try to force votes on 17 nominations.

Rather irrelevantly, Republicans had complained that Reid hadn't made judicial confirmations a priority. Now he has. Republicans also have faulted the Obama administration for being slow to fill vacancies on district and appeals courts. That is a fair criticism. There are 81 vacancies but only 39 pending nominees (including two for future vacancies). But it is Republicans who have withheld the unanimous consent necessary for nominations already approved by the Judiciary Committee to move forward expeditiously and without prolonged debate. The latest pretext for delay was the desire to protest Obama's recess appointments to federal agencies, but Republicans have been reluctant to allow Democrats to score a political point by promptly confirming Obama's judicial nominees.

When Reid first proposed swift action on the nominations, Senate Minority Leader Mitch McConnell, R-Ky., complained: "This is just a very transparent attempt to try to slam dunk the minority and make them look like they are obstructing things they aren't obstructing." But then McConnell added that "this is going to, of course, be greeted with resistance." In other words, if you accuse us of being obstructionist, we'll make you pay by being obstructionist. This is partisanship at its pettiest.

The White House complains that the Senate has taken four to five times as long to confirm Obama's nominees as it did to approve George W. Bush's. Nevertheless, several of Bush's nominations were delayed or derailed by Senate Democrats, including eminently qualified appeals court nominees whom they feared might be potential Republican appointees to the Supreme Court.

Controversial or not, every judicial nominee deserves serious consideration by the Senate and an expeditious up-or-down vote—and no more partisan games.

#### EXHIBIT 2

OFFICE OF THE GOVERNOR,  
Las Vegas, NV, August 22, 2011.

Re Recommendation of Miranda Du

Hon. PATRICK LEAHY,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR LEAHY: It is with great pleasure that I recommend Miranda Du for the United States District Court Judge, District of Nevada.

As long as I have known Miranda, she has exhibited great character and is well respected in the legal community. During my tenure as a U.S. District Judge, each time Miranda appeared before me, she was always well prepared and represented her clients with integrity and distinction.

Miranda Du will make a fine U.S. District Judge and therefore has my full support. Please feel free to contact me if you have any questions. Thank you for your consideration.

Sincere regards,

BRIAN SANDOVAL,  
Governor.

OFFICE OF THE LIEUTENANT GOVERNOR,  
Carson City, NV, August 23, 2011.

Hon. PATRICK LEAHY,  
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing in enthusiastic support of Miranda Du's nomination to the United States District Court for the District of Nevada.

As Nevada's Lieutenant Governor, I have the privilege of serving as Chairman of the Nevada Commission on Economic Development (NCED), whose mission is to promote a robust diversified and prosperous economy for Nevada. In this capacity, I have served with Ms. Du since she was appointed to the Commission in July 2008.

As a NCED commissioner, Ms. Du has demonstrated many qualities that will make her an ideal Federal District Court Judge. She is intelligent, inquisitive, reliable and dedicated. She is an active and involved commissioner, always prepared and informed, and she is not afraid to ask tough questions. She conducts herself in a professional and dignified manner. I think that both Nevada and the United States will benefit from Ms. Du's appointment to the Federal Bench and I strongly encourage the Senate to confirm Ms. Du.

Best regards,

BRIAN K. KROLICKI,  
Nevada Lieutenant Governor.

CITY OF RENO,  
Reno, NV, August 12, 2011.

Hon. PATRICK LEAHY,  
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Hon. CHUCK GRASSLEY,  
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS LEAHY AND GRASSLEY: I am writing in support of the nomination of Nevada Attorney Miranda Du to the United States District Court for the District of Nevada.

I have known Ms. Du for quite some time. For the last eight years, I have had the opportunity to observe her legal skills and temperament primarily in my role as a member of the Board of Directors of the Truckee Meadows Water Authority ("TMWA"), which is partly owned by the City of Reno. Ms. Du has represented TMWA on several matters, and she has been both effective and professional in that representation. Ms. Du is intelligent, articulate and even-tempered. She is direct and always seems prepared in responding to questions from the TMWA Board. I believe she will be a great addition to our federal bench. I strongly recommend her for confirmation.

Sincerely,

ROBERT A. CASHELL, Sr.,  
Mayor.

Mr. LEAHY. Madam President, continuing the time that has been allotted to me, I ask unanimous consent that the following statement appear as though in morning business, but I will utilize the time now allotted to me.

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

(The remarks of Mr. LEAHY are printed in today's RECORD under "Morning Business.")

Mr. LEAHY. Madam President, I suggest the absence of a quorum, with the time to be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

Mr. GRASSLEY. I want to ask, Mr. President, if it is appropriate for me to speak on the judges who will be up for a vote?

The PRESIDING OFFICER. It is.

Mr. GRASSLEY. Mr. President, again, we are moving forward under the regular order and procedures of the Senate. This year, we have been in session for about 35 days, including today. During that time we will have confirmed 14 judges. That is an average of better than one confirmation for every 3 days. With the confirmations today, the Senate will have confirmed nearly 75 percent of President Obama's article III judicial nominations.

Despite the progress we are making, we still hear complaints about the judicial vacancy rate. We are filling those vacancies. But again, I would remind my colleagues that of the 81 current vacancies, 47 have no nominee. That is 58 percent of vacancies with no nominee.

So I am growing a bit weary of the vacancy rate being blamed on Senate Republicans.

I have spoken on numerous occasions about the seriousness with which I undertake the advice and consent function of the Senate, as I know we all do. Our inquiry of the qualifications of nominees must be more than intelligence, a pleasant personality, an inspirational life story, or a prestigious clerkship.

When I became ranking member on the Senate Judiciary Committee, I articulated my standards for judicial nominees. I want to ensure that the men and women who are appointed to a lifetime position in the Federal judiciary are qualified to serve. Factors I consider important include intellectual ability, respect for the Constitution, fidelity to the law, personal integrity, appropriate judicial temperament, and professional competence.

In applying these standards, I have demonstrated good faith in ensuring fair consideration of judicial nominees. I have worked with the majority to confirm consensus nominees.

In fact, of the 138 judges confirmed so far, I have voted in favor of over 90 percent of President Obama's judicial nominees. This includes supporting 100 of the 108 district judges we have confirmed during President Obama's term of office.

However, today on the agenda is a nominee that in my judgment does not measure up to the criteria I have outlined. Ms. Miranda Du was nominated to be a U.S. district judge for the District of Nevada on August 2, 2011.

We have heard Ms. Du's life story—leaving Vietnam following the war; living in refugee camps with her family; coming to America at a young age; obtaining an education and establishing herself in a respectable career. She has risen above disadvantages that most of us can't imagine. This is a great success story, and we congratulate her for these notable accomplishments.

However, this is not sufficient for confirmation to a lifetime appointment as a Federal judge. We all can think of similar success stories. Miguel Estrada immigrated to America at a young age, graduated from Harvard, clerked at the Supreme Court, and had a prestigious legal career. His confirmation to the Federal court was defeated by a Democratic filibuster.

Justice Thomas grew up in humble circumstances, rose above his disadvantaged background to graduate from Yale Law School, faced discrimination in legal hiring, but went on to an illustrious public service career. He was barely confirmed to the Supreme Court.

Janice Rogers Brown, an African-American female, was the daughter of sharecroppers. Overcoming these circumstances, she graduated from UCLA School of Law working her own way through while being a single mother. She served in California State government and on the California Supreme Court. Her Federal judicial nomination faced a Democratic filibuster before she was finally confirmed by a vote of 56 to 43.

I bring up these examples to point out that many individuals we consider for judicial positions have overcome difficult circumstances in life. Most are examples of the American dream. Some are confirmed, others are not. But in each case, the gender or race of the individual, or the particular life story was not part of the consideration of whether or not to confirm to a lifetime appointment. So while I think Ms. Du's accomplishments are admirable, they are not the basis for evaluating her qualifications to serve as a Federal district judge.

The relevant factors for me are her ability and professional competence. In those areas, she does not meet the standards I would consider necessary for a Federal judge.

I would note that the ABA has rated Ms. Du with a partial "not qualified" rating. She states she was "involved in" four jury trials and has limited criminal law experience. As I have stated before, this is no place for on-the-job training.

A mere 16 legislative days after her nomination, Ms. Du appeared at her nominations hearing. At that hearing, she was asked about a case in which she was lead counsel. Ms. Du was the

partner in charge of handling the case of *Woods v. Truckee Meadows Water Authority*.

In that case, she filed a motion to dismiss the original complaint. But she failed to raise the lack of subject matter jurisdiction as a reason to dismiss the case. The court, therefore, denied her motion. Ms. Du then filed a third-party complaint against the local union. But the union's counsel recognized that there was no subject matter jurisdiction. Therefore, they advised Ms. Du, in a six-page letter, that the court lacked subject matter jurisdiction. The union, therefore, warned Ms. Du that they would seek sanctions if Ms. Du did not withdraw her complaint. Rather than recognizing her mistake and filing a second motion to dismiss, Ms. Du went forward with the third-party complaint. In response, the union proceeded exactly as they said they would: They filed a motion to dismiss and filed for sanctions.

The district court agreed there was no subject matter jurisdiction and dismissed the action. In addressing the sanctions issue, the court stated:

Having reviewed the record and considered arguments of counsel at the hearing on this motion, the court finds that . . . TMWA's counsel acted recklessly. . . .

Let me remind you, TMWA's counsel was the nominee, Ms. Du. The court said she acted recklessly. The court went on to state that TMWA—referring to Ms. Du's client—“has not advanced a legitimate, good faith reason for bringing the Union into this litigation.” Accordingly, the court concluded sanctions were warranted.

At her hearing, Senator LEE asked her if she agreed with the court's assessment that her conduct was reckless. She stated that she did not believe that she was reckless.

In written follow-up questions, I asked her again about the court finding her reckless, and she responded that she disagreed with the magistrate judge's finding. Let me be clear: The finding of reckless action on her part was not a mere observation of the court, but a legal finding. That finding allowed the court to award sanctions pursuant to 28 U.S.C. 1927.

I was troubled that she would fail to acknowledge the finding of the court that she was reckless. I think this demonstrates a lack of humility, which is an essential element of being a Federal judge. I understand attorneys may make mistakes or have differing views on litigation strategy. However, this is not the case in this situation. Ms. Du was put on notice of her flawed motion, was warned of the consequences of proceeding, but went forward anyway. That is why the court found her to be “reckless.” Her subsequent attempt to downplay this serious matter goes against the standards for judicial nominees which I previously discussed.

There is another substantive legal element that concerns me as well. That is her apparent lack of knowledge or disregard for the law regarding subject

matter jurisdiction. Senator LEE's questions at the hearing on this issue I think demonstrate a lack of ability or professional competence.

Her written responses to questions for the record failed to adequately explain her legal reasoning or to clarify the issues raised at her hearing.

Accordingly, Senate Republicans on the Senate Judiciary Committee unanimously opposed reporting her nomination to the Senate.

I would note that more than 2 months after her hearing, and more than one month after she was listed on the Executive Calendar, Ms. Du sent a letter addressed to me and Senator LEE. In that letter, she apologized for her earlier unclear explanations and for her misstatements. While I appreciated her response to me, the doubts I have about her ability and competence remain. Therefore, I cannot support this nomination and urge a “no” vote on this nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I know Senator INHOFE was on the floor, and if I could ask unanimous consent that after I speak, he would be next to speak, and then the good Senator, Mr. LEE, from Utah.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. LANDRIEU. Thank you, Mr. President.

It is my distinct privilege to come to the floor this afternoon to voice my full support for Susie Morgan's confirmation as an article III judge on the U.S. Eastern District Court of Louisiana.

I have known Susie for many years. She is a good friend and, more importantly, she is an excellent and outstanding attorney.

Ms. Morgan comes to this position equipped with decades of litigation experience in Federal court as an advocate for both plaintiffs and defendants. She brings a thorough understanding of Federal law and an unquestionably fair and evenhanded temperament.

It is unfortunate that such a talented individual such as Susie Morgan has been waiting nearly a year since President Obama nominated her in July of 2011, and almost 5 months since she was voted out of committee unanimously.

Despite what the good Senator from Iowa—my good friend and wonderful partner in so many important issues here—has said, the fact is there are 17 judicial nominees on this calendar. There are 19 judicial nominees in committee. The facts are that the nominees for President Obama have taken nearly five times longer to receive a vote on this floor.

We know there are some vacancies that have not yet received nominations. But there is no reason to deny these 17 who are still on the calendar their day on this floor. Ms. Morgan has waited more than her turn, and I apolo-

gize for that. She understands this has been caught up in bigger politics. It has nothing to do with her nomination specifically or her outstanding qualifications. But I do think we have to be honest about these delays and see what we can do to move people who are qualified, such as this nominee, so much more quickly because the courts need their help.

Ms. Morgan earned an advanced degree from the University of Louisiana at Monroe. She graduated from there, earning both her undergraduate and master's degrees. Then she earned a law degree on top of that, graduating in the top 5 percent of her class at Louisiana State University's Paul Hebert Law Center.

Immediately after earning her JD, Susie served as a law clerk for one of Louisiana's most respected legal minds, Judge Henry Politz of the U.S. Fifth Circuit Court of Appeals.

At the conclusion of that Federal clerkship, she began practicing in Shreveport, LA, for one of our most respected firms, Wiener, Weiss & Madison.

For the next 25 years, she honed her skills. She was one of the most capable civil defense attorneys in both Federal and State court.

After years of successful practice in Shreveport, Susie was recruited by one of the most prestigious law firms in Louisiana, Phelps Dunbar, and has since served as a partner for the firm where she specializes in commercial litigation.

She served in a variety of posts, as many of our wonderful nominees have—serving without much fanfare but with great impact on many committees of the Louisiana bar, the Federal bar, et cetera. One of the most important that I want to mention here is that for 14 years she chaired a rules committee. It is not the sexiest kind of committee, not something known to the public, but it is so important to the practice of law for the thousands of attorneys who practice in Louisiana. She spent years behind the scenes improving Louisiana's State court proceedings. For almost 14 years, as I said, she chaired the rules committee and Louisiana Bar Association. Thanks to her leadership, the Louisiana Supreme Court agreed to replace an old and antiquated system where each judicial district in Louisiana adhered to its own set of idiosyncratic set rules, and now we have a uniform set of rules for the entire State. I think that is a special tribute to her tenacity, to her willingness to serve and do the hard work behind the scenes without a lot of public credit.

I am also impressed with the legal protection services she has offered to the homeless at St. Joseph's, the Harry Thompson Center in New Orleans, and the multiple community works she has done pre- and post-Katrina in our community. She has had a career that has demonstrated her willingness to work hard and to stay at the job, get the job

done, to be fair, curious, and respectful and, of course, she is most knowledgeable of the law, which she has so well served. I am so proud to support her nomination. I am proud that President Obama accepted my suggestion and nominated her. I am very pleased. She should receive a full and strong vote in the Senate. She has the support of myself and the other Senator, my partner from Louisiana, Senator VITTER. I am very pleased to speak on her behalf today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I rise to express serious concerns that I have with the nomination of Miranda Du to serve as a judge on the U.S. District Court for the District of Nevada.

In 2007, the very same court to which Ms. Du has been nominated imposed sanctions on Ms. Du for “multiplying the proceedings . . . unreasonably and vexatiously.” (28 U.S.C. section 1927.) The basis of this sanctions order was Ms. Du’s prior refusal to dismiss a complaint she had filed on behalf of her client, even after the party her client was suing informed her—and she did not dispute—that the Federal District Court lacked subject matter jurisdiction. In imposing these sanctions on Ms. Du, the district court stated that she “acted recklessly in failing to consider seriously the basic issue of lack of subject matter jurisdiction when the [opposing party] brought it to [her] attention.”

Ms. Du’s errors were egregious, particularly because they involved Federal subject matter jurisdiction—the very basis of the limited jurisdictional reach of the Federal court system for which she has been nominated to be a judge. Ms. Du has not provided a satisfactory explanation for her conduct, but instead has repeatedly attempted to minimize the significance of her errors.

When asked at her Judiciary Committee hearing why, in addition to dismissing her complaint against the third-party defendant, she did not have the case against her client dismissed for lack of subject matter jurisdiction, Ms. Du responded that she did “not realize this was a matter [she] could raise,” and that she in fact did raise subject matter jurisdiction but on other grounds “that the district court disagreed with.” However, as pointed out in a letter members of the Judiciary Committee sent to Ms. Du following her hearing, court filings show that she did not raise the issue of subject matter jurisdiction.

In response to that letter, Ms. Du stated that she “misspoke” at her Judiciary Committee hearing and that she in fact had not raised the basic issue of subject matter jurisdiction. Troublingly, Ms. Du’s belated candor was marred by an additional misleading attempt to minimize these same errors.

In her letter, Ms. Du stated that the “motion for sanctions was later dis-

missed as moot and no sanctions were ultimately imposed.” By going out of her way to make this misrepresentation, Ms. Du attempted to suggest that her sanctions were somehow not upheld or not imposed. To the contrary, after the court was burdened with a number of additional filings and motions regarding how much Ms. Du should pay in sanctions for her reckless conduct, the parties settled the issue out of court. The only matter that was mooted was the dispute over how much Ms. Du should pay, not whether she should pay. It is misleading for Ms. Du to affirmatively assert to members of the Judiciary Committee that “no sanctions were imposed” when the district court found that her behavior was reckless and plainly required and imposed such sanctions.

In light of the gravity of Ms. Du’s errors and the importance to our Federal judiciary of the issue of subject matter jurisdiction, as well as Ms. Du’s repeated attempts to minimize her errors, I must express serious concerns with her nomination and encourage my colleagues to vote against her nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Miranda Du, of Nevada, to be United States District Judge for the District of Nevada?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted: “nay.”

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

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 61 Ex.]

YEAS—59

Akaka	Casey	Inouye
Alexander	Collins	Johnson (SD)
Baucus	Conrad	Kerry
Begich	Coons	Klobuchar
Bennet	Durbin	Kohl
Bingaman	Feinstein	Landrieu
Blumenthal	Franken	Lautenberg
Boxer	Gillibrand	Leahy
Brown (OH)	Graham	Levin
Cantwell	Hagan	Lieberman
Cardin	Harkin	Manchin
Carper	Heller	McCain

McCaskill	Pryor	Tester
Menendez	Reed	Udall (CO)
Merkley	Reid	Udall (NM)
Mikulski	Rockefeller	Warner
Murkowski	Sanders	Webb
Murray	Schumer	Whitehouse
Nelson (NE)	Shaheen	Wyden
Nelson (FL)	Stabenow	

NAYS—39

Ayotte	DeMint	Moran
Barrasso	Enzi	Paul
Blunt	Grassley	Portman
Boozman	Hoeben	Risch
Brown (MA)	Hutchison	Roberts
Burr	Inhofe	Rubio
Chambliss	Isakson	Sessions
Coats	Johanns	Shelby
Coburn	Johnson (WI)	Snowe
Cochran	Kyl	Thune
Corker	Lee	Toomey
Cornyn	Lugar	Vitter
Crapo	McConnell	Wicker

NOT VOTING—2

Hatch	Kirk
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The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Susie Morgan, of Louisiana, to be United States District Judge for the Eastern District of Louisiana?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. KIRK), and the Senator from Utah (Mr. LEE).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted: “yea.”

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 62 Ex.]

YEAS—96

Akaka	Franken	Moran
Alexander	Gillibrand	Murkowski
Ayotte	Graham	Murray
Barrasso	Grassley	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Paul
Bennet	Heller	Portman
Bingaman	Hoeben	Pryor
Blumenthal	Hutchison	Reed
Blunt	Inhofe	Reid
Boozman	Inouye	Risch
Boxer	Isakson	Roberts
Brown (MA)	Johanns	Rockefeller
Brown (OH)	Johnson (SD)	Rubio
Burr	Johnson (WI)	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Sessions
Carper	Kohl	Shaheen
Casey	Kyl	Shelby
Chambliss	Landrieu	Snowe
Coats	Lautenberg	Stabenow
Coburn	Leahy	Tester
Cochran	Levin	Thune
Collins	Lieberman	Toomey
Conrad	Lugar	Udall (CO)
Coons	Manchin	Udall (NM)
Corker	McCain	Vitter
Cornyn	McCaskill	Warner
Crapo	McConnell	Webb
Durbin	Menendez	Whitehouse
Enzi	Merkley	Wicker
Feinstein	Mikulski	Wyden

NAYS—1

DeMint

NOT VOTING—3

Hatch

Kirk

Lee

The nomination was confirmed.

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

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

Mr. COBURN. Mr. President, I ask unanimous consent I be allowed to speak for 30 minutes and following that the Senator from Rhode Island be recognized.

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

#### UTILIZING U.S. RESOURCES

Mr. COBURN. Mr. President, there have been a lot of comments made about energy, and I have to admit I come from an energy State. One-third of our economy is connected to energy in one way or another. I think the political games we are playing are just that.

I have a vision that I can see 50 years of prosperity for America on the basis of one thing; that is, actually using the wonderful resources that are in our country for our citizens and extend an opportunity for our kids, in spite of our budget deficits, in spite of our debt, that would enable them to have the same kind of opportunities we have had. The way we do that is to utilize the resources.

If we look around the world and we look at the most stable countries, we look at Canada, what is happening? Canada is living within their means. They have fairly low tax rates. They are utilizing their resources. They have trade surpluses.

If we look at Australia, they have a stable currency. Their currency has markedly appreciated compared to the dollar. The Canadian currency has markedly appreciated compared to the dollar. They are utilizing their resources to advance their country and their wealth and their opportunity. We hear all of these statements made by lots of people, but most of them are half truths. Let me explain what I mean.

There is nobody who disagrees that it is going to take us at least 25 to 30 years to wean ourselves from carbon fuels, if in fact we should do that. But let's say we should. What is the difference between burning a carbon atom that is coming from the Middle East or Venezuela versus a carbon atom that we produce here? We are going to do that. Right now 30 percent of our oil comes from either the Middle East or

Venezuela, not necessarily areas of the world that are akin to being kind to us as a nation.

Here is the difference: If we burn our carbon atoms, we add between 2 million and 4 million jobs over the next 10 years. Maybe even more than that. If we burn our carbon atoms—which we are going to burn carbon for at least 25 years—we decrease our trade deficit by at least \$200 billion a year. That is \$200 billion of wealth that does not leave our Nation, and actually it is more than that because if we get \$200 billion worth of American oil and American energy, that creates another \$50 billion to \$60 billion worth of economic multipliers.

We are the only Nation in the world where we have the natural resources to make ourselves energy independent, and yet our government will not allow us to have access to that energy. So my challenge to my colleagues, given the fact that we will burn carbon—we don't even have to have a discussion about global warming or climate change because even the best estimate is it is going to take us 25 years to 30 years to get off carbon. So during that 25 to 30 years, should we not utilize and should we not create a way in which we actually consume our own resources rather than send money and wealth out of this country to be able to utilize the resources of someone else?

I am for conservation. I am for increased mileage. I am for doing everything we can to wean ourselves from a dependency on a foreign source for our energy.

Other than our debt, the greatest risk this country faces is our dependency and reliance on somebody else for our energy needs. If we take our friends in Mexico and Canada and we take what we are producing, we are able to attain 70 percent. That is a tremendous change over the last few years, and that doesn't have anything to do with the present administration.

As a matter of fact, oil production, natural gas production, both onshore and offshore, is down in double digits under this administration. Permitting—not new lands that have been opened—existing lands that are open has dropped to 40 percent in terms of the permitting process. In our Nation we have over 1.2 trillion barrels of oil equivalent that we can access if, in fact, we would. That is more than any other nation in the world.

So what is it that the big political fight is about? Do we want to send wealth out of this country? Do we not want to take advantage of what is available to us simply because of our location as a nation that will actually create tremendous opportunities for our children, that will create a new vision of America that is energy independent as we transition off of carbon-based fuel?

Why would we not want to do that when there is no difference in burning an imported carbon atom versus burning a carbon atom produced here? The benefits are obvious.

We have a bill we are considering that, to me, is mindless. It is about the politics of division, and it is not about any truth. The fact is the major oil companies that reside in our country pay the highest tax rate of anybody in the world. They pay over 41.5 percent of every dollar of revenue they make straight to the Federal Government. There are not any other businesses that compare to that. Google doesn't compare to that; Facebook doesn't compare to that; Apple doesn't compare to it. They are all half that rate.

So we are already taxing the oil companies to the tune of almost \$36 billion, which went to the Treasury from the major oil companies in this country. The bill we have on the floor will not improve the revenue \$1, and that is a fact. There will not be an increase of \$1 over a 10-year period that will come to the Federal Government if we pass this bill.

Why is that? Most people don't know but my background is as an accountant. That was my first training, my first field. Accelerated depreciation just delays the time at which the Federal Government gets the tax dollars it is going to collect. It doesn't change the total amount of tax dollars, it just delays it so we match revenues with expenses, which is one of the things you are trained to do in accounting and in business.

By the way, oil depletion allowance is not allowed for the large oil companies. It is not allowed for them. It has been gone for over 20 years. So we set up accelerated depreciation on what is called intangible drilling costs. It would not have any major effect on the big companies, but it will literally kill the smaller capitalized companies because their capital needs are recaptured over a long period of time if we eliminate intangible drilling costs. So what does that mean? That means we will have less exploration in our country. We will actually harm the exploration for the middle and small oil companies.

Some will say: Well, we don't want to do that for them. We don't want to affect the small oil companies. We just want to affect the big oil companies.

The big oil companies will pay no increase change in their net taxes over a period of 10 years. So the only thing we can actually claim with this bill is the time value of money over that period of time, and the time value of money right now is less than 2 percent a year.

So what are we talking about? We are talking about a political game, and we are not talking about energy security. We are not talking about creating 2 million to 4 million jobs. We are not talking about substance. We are talking about politics, and the shame is that nobody out there is talking about a vision where America doesn't send \$200 billion of its wealth out of the country. There is no reason for us to do that, and we have had every excuse except a legitimate one for why we should not burn our own oil and our own natural gas liquids.