

Axing tens of billions of dollars from the SNAP program would eliminate food assistance for millions of Americans and deny hundreds of thousands of American children school meals. I am disappointed that this bill includes \$4.5 billion in cuts to the SNAP program, cuts that will predominately come from Northeastern States.

Despite these cuts, the farm bill does make significant improvements to nutrition programs, including important funding for emergency food assistance and initiatives to encourage better health through improved access to local foods, and better nutrition for our children and seniors. I am pleased that this bill also makes great advances to support self-sufficiency and food security in our low-income communities, helping to correct the "food deserts" that we experience in both urban and rural communities. At a time when more Americans than ever before are at risk of going hungry, and food pantry shelves across the country are bare, I am committed to working with the chairwoman and ranking member to find ways to make these nutrition programs even stronger in order to help the people who need it most.

I hope that the full Senate can now come together in a bipartisan way, just as we did in the Agriculture Committee, to pass this bill, which will have a tremendous impact on our farms, our rural communities, our kitchen tables, and our economic recovery.

This farm bill represents an investment in American agriculture that will benefit our producers, our rural communities, our Main Street businesses, taxpayers, and consumers, and particularly the neediest among us. It deserves the Senate's full and focused attention, and it deserves the support of every Senator.

#### EXECUTIVE SESSION

#### NOMINATION OF JEFFREY J. HELMICK TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO

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

The bill clerk read the nomination of Jeffrey J. Helmick, of Ohio, to be United States District Judge for the Northern District of Ohio.

The PRESIDING OFFICER. Under the previous order, there will be 90 minutes of debate equally divided in the usual form.

The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, the U.S. Constitution entrusts the Senate with one of our democracies' most important obligations—to "advise and consent" to judicial nominations.

Yet, today, almost half of all Americans, 133 million citizens of our great

country, live in districts or circuits that have a vacancy due to the inaction of Members of this body.

We have an opportunity today to take seriously our responsibility to do something about that and take one significant step by voting to confirm Jeffrey Helmick to serve as a U.S. district court judge. President Obama nominated Mr. Helmick to serve on the U.S. District Court for the Northern District of Ohio on May 11, 2011.

Based on a bipartisan commission's recommendation and based on my own judgment, I had no hesitation whatsoever in suggesting Jeffrey Helmick's name to President Obama. Let me tell you about our selection process.

In 2009, then-Senator George Voinovich, a Republican, and I assembled a bipartisan commission of distinguished Ohioans in the legal community. The commission included a former attorney general of Ohio, law school deans, and other accomplished Ohioans. In order to avoid any conflicts of interest, leading legal professionals from the Southern District of the State reviewed nominations—that Northern District includes Toledo, Akron, Canton, Youngstown; the Southern District includes Columbus, Dayton, Cincinnati, and other communities. Legal professionals from the Southern District reviewed nominations for vacant judgeships in the Northern District and vice versa.

The members of the bipartisan commission for the Northern and Southern District were about exactly half Republican and half Democratic. They spent a substantial amount of time, as they have on previous judges in the process, screening, interviewing, and discussing the candidates.

At the end of this process, they selected Jeffrey Helmick, a native of Toledo, to be the nominee for this judicial vacancy. They gave me three highly qualified names, suggesting that I interview them, which is part of the process. I then went there to advise and consent, if you will, after speaking with all members of the committee, personally or on the phone. I chose to send Jeffrey Helmick's name in to be the nominee.

Jeff Helmick continues to live in Toledo with his wife Karen, an attorney also, and their son Joel. Each of the members of this commission I spoke with was impressed by Jeff's thoughtfulness, his temperament, and his extraordinary reputation among his peers, even among opposing counsel.

The chair of the commission, Nancy Rogers, a former dean of the Ohio State University Moritz College of Law and former attorney general of Ohio, said of Jeff:

He has shown a commitment to integrity and to excellence, and a dedication to his community and to the administration of justice.

Jeff Helmick not only has the support of this bipartisan selection committee, selected by Senator Voinovich, a Republican, and by me, he has the

support of the larger legal community, including all the Federal judges he will serve beside at the Federal courthouse in Toledo.

U.S. District Court Judge Jack Zouhary, nominated by President George W. Bush, has been a judge in the Northern District since 2006. He is currently the sole active judge of the court in the Western Division of the Northern District in Ohio, and he will be working most closely with this new judge—we hope.

Judge Zouhary wrote to the committee recommending Jeff Helmick's expedient confirmation. For some time, Judge Zouhary has asked when the Senate would confirm Jeff. He wrote:

You will find no better candidate than Jeff Helmick. He possesses the intelligence, the passion for our justice system, and the necessary temperament and people skills to be an outstanding district court judge.

If that weren't enough, he also said:

In the private practice, lawyers are able to choose their partners. Federal judges don't have such a luxury; we must work with whomever you confirm. I would be thrilled to have Jeff as my "partner" on the bench.

Ohio State Senator Mark Wagner, a Republican, represents much of that area in the State legislature in the Western Division of the court. He is chair of the Ohio State Senate judiciary committee and a long-time member of the Toledo Bar Association. He recommends Jeff for this position. State Senator Wagner, a Republican, said:

[Jeff] is someone who has stood for principles, litigated honestly, and ably defended our constitutional system of government. Helmick is held in very high esteem by the local bar, and his support crosses partisan lines.

The bipartisan selection committee, which Senator Voinovich and I convened, did its job well, and today we must do our job.

Jeff Helmick understands the needs and challenges facing the Northern District of Ohio and our legal system generally. Rising costs of litigation and increasing size and scope of court dockets pose numerous challenges to any system of justice.

But it is because of his experience—and respect from fellow lawyers and judges he has worked with—that he is well prepared to meet these challenges.

He is a courtroom innovator, having worked with the courts to integrate cutting-edge technologies into courtrooms to ensure that the administration of justice is efficient, equal, fair, and open for all who seek it. I am not a lawyer, but that is what lawyering and the judiciary should be all about.

Outside the courtroom, Jeff is equally dedicated to serving the public. A supporter of pro bono services, he volunteers at the Maumee Valley Criminal Defense Lawyers Association to improve the professionalism of lawyers and access to justice for the underserved.

He is past president of the Pemberville Boys Ranch, which helps

troubled young men in need of a home or a safer environment to reach their potential. He will make an outstanding judge on the U.S. District Court for Ohio's Northern District. I agree with Judge Zouhary that "we will find no better candidate than Jeff."

That is why I urge my colleagues on both sides to confirm Jeff Helmick today.

The snail pace with which we have been moving on judicial nominations threatens to delay justice for far too many Americans. Right now, 15 judicial nominations reported favorably by the Judiciary Committee still await a Senate confirmation vote.

Today, nearly 1 in 10 Federal judgeships is vacant. Earlier this year, the nonpartisan Administrative Office of the Courts, the nonpartisan agency charged with running our Federal courts, declared a judicial emergency for Ohio's Northern District.

We need to act right now, today, to confirm Jeffrey Helmick. The people of Ohio have waited for too long. The result is that litigants in the Northern District of Ohio are experiencing delays in having their cases resolved. In too many cases, justice deferred can mean justice denied.

In June of 2010, U.S. District Judge James Carr took senior status, creating a vacancy in Toledo's Federal courthouse. That is almost precisely 2 years ago.

For these 2 years, Jeffrey Helmick—I spoke with him in August, if my memory is correct, saying I wanted to send his name to the President, and I told him the delay may be several months, maybe even 1 year, never dreaming that partisanship in this body would mean a 2-year delay. For almost 2 years, Jeffrey Helmick, who enjoys the enthusiastic support of Federal judges appointed by Presidents of both parties in Toledo, enjoys the bipartisan support of me and of Senator PORTMAN, the Republican from Ohio.

For these 2 years, he has had his nomination placed on hold, and this is at enormous political cost. Justice delayed is justice denied.

Jeff Helmick is not a partner at some big law firm where others can help him or take over his cases. Instead, he has had a small firm where the clients are his own. As a result, his practice and his clients have been placed in limbo, not knowing when he will be confirmed.

Some 2 years later, we can finally ensure that the U.S. District Court for the Northern District of Ohio finally has its longstanding vacancy filled.

Today, we can confirm Judge Helmick as a judge, a brilliant, distinguished lawyer who was nominated by a bipartisan commission whose members were appointed by former Senator George Voinovich and me.

We must confirm Jeff Helmick. He has the support of his colleagues and from Republicans and Democrats in my home State.

One more brief story. I came to the Senate, as the Presiding Officer did, in

January of 2007. Soon after I came here, I was presented with the nomination of a potential Federal judge, now Judge Lioi, from Canton, OH. Judge Lioi, waiting and hoping to be a judge—I believe she was a common pleas judge. She had been selected by two republican Senators, Senator DeWine, my predecessor, and Senator Voinovich, neither of whom is in the Senate today. She had been selected and vetted by two Republican Senators in a process not nearly as bipartisan—or I don't think as vigorous or as rigorous as ours—nominated by President Bush and sent to the Senate. As a Senator from Ohio, I had the opportunity, if I had chosen, to block the nomination of Ms. Lioi.

So the chairman of the Judiciary Committee, controlled by the Democrats—my party—in considering a nominee by the Republican President, sent to the Senate by two Republican Senators, presented this candidate's name to me. I sat down with Ms. Lioi for perhaps an hour, interviewed her, talked to others who were familiar with her and her background, and found her to be a woman of integrity and found her to be qualified. I immediately sent her name to Senator LEAHY, the chairman of the Judiciary Committee, and said: She has my support. I don't know the precise date, but within only a few weeks of my coming to the Senate and meeting future Judge Lioi, her nomination came to the floor of the Senate and she was confirmed. Contrast that with what has happened today with dozens of judges.

I plead with my colleagues to confirm this qualified, smart man with great integrity from Toledo, OH, who has been vetted by both parties and who has waited long enough. More importantly, the people of the Northern District, where a judicial emergency has been declared, deserve this nomination to be confirmed so that he can begin to serve the people of the Northern District and the western area of the Northern District of the Federal District Court in Ohio.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the time during the quorum call be equally divided.

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

Mr. BROWN of Ohio. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### D-DAY INVASION

Mr. BROWN of Ohio. Madam President, 68 years ago today, June 6, 1944, some 150,000 Americans, including many Ohioans, began what seemed like an impossible journey. Supreme Allied Commander Dwight Eisenhower called it "the Great Crusade."

At 6:30 on a fog-filled morning on June 6, 1944, our servicemembers made it to France. They waded onshore—past mines landed from the air, past sharpened stakes—and crawled toward gunfire. General Eisenhower told our sailors, soldiers, and airmen that the "eyes of the world . . . the hopes and prayers of liberty-loving people everywhere" were with them. A mere 50-mile stretch of the French coast—with places named Utah and Omaha, Gold and Juno Pointe du Hoc and Sword—was all that stood between humanity's freedom and Hitler's aggression. But our warriors—men such as Ohio's own PFC Frank E. Harget—did not give up.

Last May I had the honor of representing Mr. Harget, of Akron, OH, the service medals he earned during World War II, some 67 or 68 years later.

Frank Harget joined the Army in September 1943 and was immediately sent to the European theatre. He was given the unenviable task of scout and was dispatched to the front lines to perform reconnaissance. His job was to gather intelligence on enemy forces. Many times, Mr. Harget told me, he was so close to the German front, he could see German soldiers eating their lunch. He served in five battle campaigns, from D-day to the Battle of the Bulge, and in Central Europe.

Mr. Harget was discharged in November 1945 after the war was over without receiving the Bronze Star he had earned. My office helped him finally receive that Bronze Star and seven other medals and awards. He helped our Nation and the world—think about living with this for the next 60 years of your life—overthrow an evil regime.

Today we recognize men like Frank Harget who overcame great odds thousands and thousands of miles from home.

D-day was the largest amphibious invasion in recorded world history, with 73,000 American troops, 61,000 British troops, 21,000 Canadian troops, and 195,000 allied naval and Merchant Marine personnel, with more than 5,000 ships involved.

After 24 hours, only 2,500 troops of the 101st and 2,000 of the 82nd Airborne Divisions were under the control of their parent units.

At Gold Beach, 25,000 men landed and some 400 were killed. At Omaha Beach, the U.S. 1st Infantry and the 29th Infantry Divisions found their sections to be the most heavily fortified of all the invasion beaches. The official record stated:

... within 10 minutes of the ramps being lowered, the leading company had become inert, leaderless and almost incapable of action. Every officer and sergeant had been killed or wounded. It had become a struggle for survival and rescue.

The 2nd Ranger Battalion had to scale 100-foot cliffs under the cover of night and then attack and destroy the German coastal defense guns at the massive concrete cliff-top gun emplacement at Pointe du Hoc. But despite these obstacles, young men such as Frank Harget from Akron, OH, who participated in this invasion fought and persevered and began the liberation of Europe with little else besides their training, their comrades, their courage, and their refusal to quit.

These men proved that the forces of freedom are strong. I would suggest that the forces of freedom are still strong today.

Members of the allied forces showed us the strength of humanity over tyranny. Franklin Roosevelt knew our D-day warriors would not "rest until the victory is won." And we did win.

Today we salute the Frank Hargets of the world. There are still thousands of World War II veterans left. Most have died. Most who fought and survived D-day are no longer with us. Some still are. We salute them, and we salute those who went before them for running toward danger in order to secure peace.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Madam President, today the Senate turns to another judicial nomination, Jeffrey J. Helmick to be U.S. district judge for the Northern District of Ohio. I want to tell the Senate why I oppose the nomination and urge all Senators to do likewise.

We continue to confirm the President's nominees at a very brisk pace. Just 2 days ago we confirmed the 147th judicial nominee of this President to district and circuit courts. Let me put that in perspective for my colleagues. We also have confirmed two Supreme Court nominees during President Obama's term. The last time the Senate confirmed two Supreme Court nominees was during President Bush's second term. And during President Bush's entire second term, the Senate confirmed a total of only 120 district and circuit court nominees. We have already confirmed 27 more nominees for President Obama than we did for President Bush in a similar period of time. And this is in a Presidential election year—typically a time when judicial confirmations are limited to consensus nominees. Yet here we are considering a controversial nomination.

Perhaps the Senate could better spend this time working on critical issues facing our Nation, such as our massive debt, intolerable deficit spending, an anemic economy, unacceptable unemployment levels, high energy costs, and national security issues.

The advice and consent function of the Senate is a critical step in the appointment of Federal judges. In *Federalist Paper No. 76*, Alexander Hamilton wrote this:

To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attention, or from a view to popularity.

In other words, the Senate has a role in preventing the appointment of judges who are unfit characters or political favors of any President or of those who are not qualified to serve as Federal judges.

What did our current President, then-Senator Obama say about this duty? He stated:

There are some who believe that the President, having won the election, should have the complete authority to appoint his nominee, and the Senate should only examine whether or not the Justice is intellectually capable and an all-around nice guy, that once you get beyond intellect and personal character, there should be no further question whether the judge should be confirmed. I disagree with this view. I believe firmly that the Constitution calls for the Senate to advise and consent. I believe that it calls for meaningful advice and consent that includes an examination of a judge's philosophy, ideology, and record.

Our inquiry of the qualifications of nominees must be more than intelligence, a pleasant personality, or a prestigious clerkship. At the beginning of this Congress, 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. However, as I have stated more than once, the Senate must not place quantity confirmed over quality confirmed. These lifetime appointments are too important to the Federal judiciary and the American people to simply rubberstamp them. This is not a pro forma process that we are engaged in.

Last year I became increasingly concerned about some of the judicial nominees being sent to the Senate by this administration. In a few individual cases, it was very troublesome. Mr. Helmick's nomination fell into that category. When I apply the standard I

mentioned and the standards that then-Senator Obama laid out or the standards expressed in the *Federalist Papers*, I reach the same conclusion. In my judgment, Mr. Helmick fails to meet the required standard and should not be confirmed.

The Senate process for reviewing the professional qualifications, temperament, background, and character is a long and thorough process. In Mr. Helmick's case, there were some issues that needed to be fully examined. At the conclusion of that lengthy process, a substantial majority of my political party—the Republicans—on the Judiciary Committee determined that this nomination should not be reported to the Senate. Nevertheless, we now have the nomination before us. Even so, there are reasons sufficient to oppose the nomination.

In 2000 Mr. Helmick faced disciplinary action for failing to comply with a court-issued subpoena. He refused to turn over an incriminating letter signed by a former client in the same case, which contained threats to a State witness. A grand jury issued a subpoena to obtain the letter, but Mr. Helmick refused to appear before the grand jury. The trial court found him in contempt of court. Mr. Helmick appealed, which caused the contempt sanction to be stayed. A three-judge panel of the Ohio Court of Appeals unanimously held that he was required to turn over the letter.

Mr. Helmick then appealed to the Ohio Supreme Court, which held that he must comply with the subpoena, although they lifted the contempt citation.

The Supreme Court of Ohio stated that Mr. Helmick's concerns regarding the attorney-client privilege were not enough to "override the public interest in maintaining public safety and promoting the administration of justice."

I do not think we should confirm to the bench individuals who are willing to put private interests over the public interest in the administration of justice.

I am concerned about Mr. Helmick's view on national security, as evidenced by his handling of terrorism cases as a defense attorney. In looking at the arguments he has made in court representing terrorists, I am concerned he may believe terrorism cases are less serious than other criminal cases, and that in turn causes some concern about how he might handle terrorism cases that may come before him, if confirmed.

For example, he represented the terrorist Wassim Mazloum. This terrorist was convicted by a jury of a conspiracy to kill U.S. troops overseas and of providing material support for terrorists. Those are very serious crimes. According to the sentencing guidelines, Mazloum deserved life in prison. Mr. Helmick argued "that perhaps the life sentence that was called for in the advisory guidelines was too severe or too harsh." In the end, this terrorist did

not receive a life sentence, rather he received only an 8-year sentence—hardly a punishment or deterrent.

For these reasons and others I will vote no on this nomination and urge my colleagues to do likewise.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, I understand I have time remaining?

The PRESIDING OFFICER. The majority has 17 minutes 10 seconds.

Mr. LEAHY. Madam President, let me refer to the nomination that is before us. I know the distinguished senior Senator from Ohio will speak after me. Today the Senate will vote on the nomination of Jeffrey Helmick to fill a judicial emergency vacancy on the U.S. District Court for the Northern District of Ohio. I commend Senator BROWN and Senator PORTMAN for their diligence in securing a vote on this nomination. Mr. Helmick has the strong bipartisan support of his home State Senators. His nomination was voted out of the Judiciary Committee nearly 3 months ago by a bipartisan majority. I thank the majority leader for his work in bringing this nomination up for a final vote.

This is one of the nominations that I noted on Monday had been skipped, when we confirmed another district court judge. I look forward to working with Senator KYL and Senator MCCAIN to secure a vote on the nomination of Justice Andrew Hurwitz to fill a judicial emergency vacancy on the Ninth Circuit, working with Senator MENENDEZ and Senator LAUTENBERG to secure a vote on the nomination of Judge Patty Shwartz to fill a vacancy on the Third Circuit, and with Senator GRAHAM and Senator DEMINT to set a vote on the nomination of Mary Lewis to fill a vacancy in South Carolina.

I spoke on Monday about a recent Congressional Research Service report on judicial nominations. The report demonstrates what I have been saying for some time, that the time that nominations are being delayed from a final Senate vote is extraordinary. Pages 17 through 19 and figure 4 demonstrate the unprecedented obstruction. The median number of days President Obama's circuit court nominees have been delayed, from Committee report to a vote, has skyrocketed to 132 days, "roughly 7.3 times greater than the median number of 18 days for the 61 confirmed circuit nominees of his immediate predecessor, President G.W. Bush."

I ask unanimous consent that the summary of the CRS report be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. Mr. President, delay is being demonstrated again with respect to the nominations of Justice Hurwitz to the Ninth Circuit, Judge Shwartz to the Third Circuit, Richard Taranto to the Federal Circuit, and William Kayatta to the First Circuit. These are not controversial or ideologically driven nominees. Justice Hurwitz is strongly supported by Senator KYL and Senator MCCAIN; William Kayatta is strongly supported by Senator SNOWE and Senator COLLINS. Another point made by the Congressional Research Service is that fewer circuit court nominees have been confirmed than were confirmed during the first terms of any of President Obama's four predecessors President Reagan, President George H.W. Bush, President Clinton, or President George W. Bush.

Similarly, district court nominees such as Mr. Helmick are being unnecessarily delayed. The median time from Committee vote to Senate vote has gone from 21 days during the George W. Bush presidency to 90 days for President Obama's district nominees. I wish Mr. Helmick had been confirmed back in March when he was first ready for a final Senate vote. He has been stalled for nearly 3 months. The Congressional Research Service report also notes that in contrast to President George W. Bush's district court nominees, who were confirmed at a rate of almost 95 percent, President Obama's district court nominees are being confirmed at a rate below 80 percent. And it concludes that "the average time in the current Congress during which circuit and district court nominations have been pending on the Senate Executive Calendar before being confirmed has reached historically high levels."

Once the Senate is allowed to vote on this nomination, we need agreement to vote on the 14 other judicial nominees stalled on the Executive Calendar. There are five more judicial nominees who had their hearing back on May 9 and should be voted on by the Judiciary Committee tomorrow. They too will need Senate votes for confirmation. Another point made by the Congressional Research Service in its recent report is that fewer of President Obama's district court nominees have been confirmed than were confirmed during the first terms of his four predecessors and vacancies remain higher now than when President Obama took office. Not a single one of the last three presidents has had judicial vacancies increase after their first term. In order to avoid this, the Senate needs to act on these nominees before adjourning this year.

Nor would that be unusual. As the Congressional Research Service Report makes clear, in 5 of the last 8 presidential election years, the Senate has confirmed at least 22 circuit and district court nominees after May 31. The notable exceptions were during the last

years of President Clinton's two terms in 1996 and 2000 when they would not allow confirmations to continue. Otherwise, it has been the rule rather than the exception. So, for example, the Senate confirmed 32 in 1980; 28 in 1984; 31 in 1992; 28 in 2004 at the end of President George W. Bush's first term; and 22 after May 31 in 2008 at the end of President Bush's second term.

The Congressional Research Service Report about the treatment of President Obama's judicial nominations confirms what we already know that Senate Republicans have held President Obama's nominees to a different and unfair standard and engaged in unnecessary and harmful delays of consensus nominees.

James Fallows, a well-respected journalist at The Atlantic authored an internet article dated June 5, 2012 based on his reading of the CRS Report, which is entitled "American Dysfunction Watch: State of the Judiciary." In this article, Mr. Fallows notes that Mr. Obama "is the only president in the past few decades . . . to have more seats vacant as he began his reelection year than he inherited when he took office." Moreover, Mr. Fallows further highlights the following: "During the Obama presidency thus far, fewer circuit court nominees have been confirmed by the Senate than were confirmed during the first terms of any of the four preceding Presidents (Reagan through G.W. Bush). Likewise, fewer Obama district court nominees have been confirmed by the Senate than were confirmed during the first terms of the four preceding presidents."

The ranking member on the Judiciary Committee has noted that we are doing better than when his predecessor was the ranking republican on the Committee, and that is accurate. But we have not made up for the historically low confirmations allowed during that period or for the fact that in each of the last 2 years the Senate has adjourned without acting on 19 judicial nominations ready for final action each year.

Some seek to compare this first term of President Obama to President Bush's second 4-year term, but as the Congressional Research Service Report demonstrates, the proper comparison is to President Bush's first term. Nonetheless, I would remind the Senate that during President Bush's second term, the Republican majority managed the confirmation of 52 circuit and district court nominees while the Senate Democratic majority worked to confirm 68 judicial nominees during the last 2 years of that presidency and reduced vacancies to 34 while holding hearings and votes on judicial nominees well into September 2008.

The simple fact is that the Senate is still lagging far behind what we accomplished during the first term of President George W. Bush. During President Bush's first term we reduced the number of judicial vacancies by almost 75

percent. When I became chairman in the summer of 2001, there were 110 vacancies. As chairman, I worked with the administration and Senators from both sides of the aisle to confirm 100 judicial nominees of a conservative Republican President in 17 months.

Senate Democrats continued when in the minority to work with Senate Republicans to confirm President Bush's consensus judicial nominations well into 2004, a presidential election year. At the end of that presidential term, the Senate had acted to confirm 205 circuit and district court nominees. In May 2004, we reduced judicial vacancies to below 50 on the way to 28 that August. Despite 2004 being an election year, we were able to reduce vacancies to the lowest level in the last 20 years. At a time of great turmoil and political confrontation, despite the attack on 9/11, the anthrax letters shutting down Senate offices, and the ideologically-driven judicial selections of President Bush, we worked together to promptly confirm consensus nominees and to significantly reduce judicial vacancies.

By comparison, the vacancy rate remains nearly twice what it was at this point in the first term of President Bush. While vacancies were reduced to 43 by June of President Bush's fourth year, in June of President Obama's fourth year they remain in the mid-70s. They remained near or above 80 for nearly 3 years. We are 30 confirmations behind the pace we set in 2001 through 2004. Of course, we could move forward if the Senate were allowed to vote without further delay on the 15 judicial nominees ready for final action. The Senate could reduce vacancies below 60 and make progress.

The Judiciary Committee should be voting on more judicial nominees this Thursday and we held a hearing for another three judicial nominees this afternoon. With cooperation from Senate Republicans, the Senate could make real progress and match what we have accomplished in prior years.

After today, we still have much more work to do to help resolve the judicial vacancy crisis that has persisted for more than 3 years. 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 hardworking 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.

We need to work to reduce the vacancies that are burdening the Federal judiciary and the millions of Americans who rely on our Federal courts to seek justice. Let us work in a bipartisan fashion to confirm these qualified judicial nominees so that we can address

the judicial vacancy crisis and so they can serve the American people.

Jeffrey Helmick was rated well qualified by a substantial majority of the ABA's Standing Committee on the Federal Judiciary. In his 22-year legal career as a litigator in private practice, Mr. Helmick has tried approximately 40 cases to verdict or judgment. Currently a principal at his law firm, Mr. Helmick has the strong support of his home state Senators, Democratic Senator SHERROD BROWN and Republican Senator ROB PORTMAN.

I join Senator BROWN and Senator PORTMAN in supporting the confirmation of Jeffrey Helmick.

#### EXHIBIT 1

[From the Congressional Research Service,  
June 1, 2012]

#### NOMINATIONS TO U.S. CIRCUIT AND DISTRICT COURTS BY PRESIDENT OBAMA DURING THE 111TH AND 112TH CONGRESSES

(By Barry J. McMillion, Analyst on the Federal Judiciary)

#### SUMMARY

Recent Senate debates in the 112th Congress over judicial nominations have focused on issues such as the relative degree of success of President Barack Obama's nominees in gaining Senate confirmation (compared with other recent Presidents) as well as the effect of delayed judicial appointments on judicial vacancy levels. The following report addresses these issues, and others, by providing a statistical overview of President Obama's nominees to U.S. circuit court of appeals and U.S. district court judgeships, current through May 31, 2012. Findings include the following:

President Obama thus far in his presidency has nominated 41 persons to U.S. circuit court judgeships, 29 of whom have been confirmed.

Of the 150 persons nominated thus far by President Obama to U.S. district court judgeships, 117 have been confirmed.

The greatest number of President Obama's circuit court nominees have been confirmed to the U.S. Court of Appeals for the Fourth Circuit (6) and the Second Circuit (5).

The greatest number of President Obama's district court nominees have been confirmed to judgeships located within the Ninth Circuit (22) and the fewest to district court judgeships within the First Circuit (3).

District court vacancies have grown in number over the course of the Obama presidency, from 42 judgeships vacant when President Obama took office to 59 at present. There currently are 13 circuit court vacancies (the same number as when President Obama took office).

During the Obama presidency thus far, fewer circuit court nominees have been confirmed by the Senate than were confirmed during the first terms of any of the four preceding Presidents (Reagan through G.W. Bush).

Likewise, fewer Obama district court nominees have been confirmed by the Senate than were confirmed during the first terms of the four preceding Presidents.

President Obama is the only one of the three most recent Presidents to have begun his fourth year in office with more circuit and district court judgeships vacant than when he took office.

During the Obama presidency, the average waiting time from nomination to committee hearing has been, thus far, 69.6 days for circuit court nominees and 83.2 days for district court nominees.

During the Obama presidency, the average waiting time from Senate Judiciary Com-

mittee report to Senate confirmation has been 139.7 days for circuit court nominees and 105.1 days for district court nominees.

Various factors might help explain differences or variation found in judicial appointment statistics across recent presidencies.

A President's opportunities to make circuit and district court appointments will be affected by the number of judicial vacancies existing at the time he takes office, as well as by how many judges depart office, and how many new judgeships are statutorily created, during his presidency.

The time taken by a President to select nominees for judicial vacancies may be affected by whether the selection of lower court nominees must compete with filling a Supreme Court vacancy, whether the selection process itself is a priority for a President, the level of consultation between a President and a nominee's home state Senators, and the time taken by home state Senators to make judicial candidate recommendations.

Institutional and political factors which may influence the processing of judicial nominations by the Senate include ideological differences between the President and the opposition party in the Senate, the extent of interest group opposition to certain nominees, the presence or absence of "divided government," the point in a congressional session when nominations arrive in the Senate, whether nominees have the support of both of their home state Senators, and whether the blue slip policy of the Senate Judiciary Committee requires the support of both home state Senators before a nominee can receive a hearing or committee vote.

Mr. LEAHY. I yield the remainder of my time to the distinguished senior Senator from Ohio.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The distinguished Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I appreciate the kind words and the insight from Chairman LEAHY and his leadership on trying to speed up the confirmation process on a whole host of judges.

I have a lot of respect for my colleague from Iowa, but I take exception with a couple of things he said. No. 1, he compared the number of nominations during the second Bush 4 years with the first 4 Obama years and said that the Senate was more cooperative now than it was then. Clearly it was apples and oranges. We know—almost any schoolkid in America now knows—the dysfunction of the Senate in terms of the minority party blocking all kinds of things, from medium- to low-level Federal appointments to the executive branch, to district court judges, to legislation. So I think Senator LEAHY has addressed that very aptly, and I don't need to go into detail there.

Senator LEAHY also has spoken to the two public criticisms—shallow and vacuous that they are—of Jeffrey Helmick. The one on him representing terrorists, I am not a lawyer, but I know that when a Federal judge asks a lawyer to represent somebody, the lawyer does it, as Jeffrey Helmick did. And, as Senator LEAHY said on the ethics issue, the Ohio Court of Appeals said that Mr. Helmick should be commended. The supreme court agreed



unanimously that the letter they talked about was a client secret and that Mr. Helmick acted in good faith. So those criticisms don't really stand the test of time in that way.

Again, I thank Senator LEAHY and the Judiciary Committee for moving as quickly as they could move. This is a difficult time. At times, there is Senate dysfunction and the minority party blocks or slow-walks some of these nominees.

Jeffrey Helmick has been supported by a bipartisan, rigorous committee of 17 who come from the Southern District of Ohio and who help to choose nominees for the Northern District of Ohio. I spoke personally with all but 1 or 2 of those 17 Republicans and Democrats around whom consensus was formed in support of Jeffrey Helmick. They think he is an outstanding lawyer, jurist, and potential Federal judge. The other Federal judges in the western region of the Northern District Court in Ohio, which is out of Toledo—including a judge nominated by President George W. Bush—enthusiastically support Jeffrey Helmick.

Senator GRASSLEY said he was a controversial nominee. He is only controversial in the Senate Judiciary Committee and among some of my colleagues. He is not controversial in Ohio, where they know Jeffrey Helmick the best. He is not controversial in the Toledo bar. He is not controversial among people who know Jeffrey Helmick and who have watched him perform his service to his community and watched him professionally and the way that he does his job as a lawyer in Toledo, OH, in Federal court or in State court. So the fact is, he is not a controversial nominee. He is only a controversial nominee in the U.S. Senate and in some places in Washington, DC. But we know he is qualified, and we know he is ready to serve.

I ask my colleagues to vote today to confirm Jeffrey Helmick to the U.S. Federal court in the Northern District of Ohio.

Mr. LEAHY. Mr. President, Jeffrey Helmick was rated "well qualified" by a substantial majority of the ABA's Standing Committee on the Federal Judiciary. In his 22-year legal career as a litigator in private practice, Mr. Helmick has tried approximately 40 cases to verdict or judgment. Currently a principal at his law firm, Mr. Helmick has the strong support of his home State Senators who have spoken in support of this nomination. He was also voted out of the Judiciary Committee nearly 3 months ago by a bipartisan majority. Given his distinguished record in private practice and his bipartisan support, I trust that he will be confirmed.

Some have chosen to criticize Mr. Helmick for his role as court-appointed defense counsel. Those who criticize him may not understand how our justice system works. Our legal system is an adversary system, predicated upon legal advocacy for both sides. That is

what Mr. Helmick did at the request of the court.

No nominee should be disqualified for representing clients zealously. At his confirmation hearing to become the Chief Justice of the United States, John Roberts made the point:

"[I]t's a tradition of the American Bar that goes back before the founding of the country that lawyers are not identified with the positions of their clients. The most famous example probably was John Adams, who represented the British soldiers charged in the Boston Massacre. He did that for a reason, because he wanted to show that the Revolution in which he was involved was not about overturning the rule of law, it was about vindicating the rule of law.

Our Founders thought that they were not being given their rights under the British system to which they were entitled, and by representing the British soldiers, he helped show that what they were about was defending the rule of law, not undermining it, and that principle, that you don't identify the lawyer with the particular views of the client, or the views that the lawyer advances on behalf of the client, is critical to the fair administration of justice."

Mr. Helmick was appointed by the court to represent a defendant and he had an ethical obligation to advocate zealously for that client. That was what he did, and he should not now be punished for doing his duty.

In addition, there has apparently been an objection to Mr. Helmick's handling of an ethical dilemma where he refused to disclose a client secret. This is particularly odd because the Ohio Court of Appeals who heard the case stated that Mr. Helmick "should be commended for his professional and ethical behavior in a very difficult situation." In addition, although a divided Ohio Supreme Court ultimately ordered disclosure of the letter based on a balancing test in a 4-3 decision, the Court nevertheless agreed unanimously with Mr. Helmick that the letter was a client secret. Indeed, the Ohio Supreme Court stated that Mr. Helmick acted in good faith.

Let us confirm this good man and not try to tarnish his distinguished reputation. I join Senator BROWN and Senator PORTMAN in urging a vote for confirmation.

I yield back the remaining time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, will the Senate Advise and Consent to the nomination of Jeffrey J. Helmick, of Ohio, to be U.S. District Judge for the Northern District of Ohio?

The clerk will call the roll.

The bill clerk called the roll.

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

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

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 116 Ex.]

YEAS—62

Akaka	Gillibrand	Murray
Alexander	Graham	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Portman
Bennet	Inouye	Pryor
Bingaman	Johnson (SD)	Reed
Blumenthal	Kerry	Reid
Boxer	Klobuchar	Rockefeller
Brown (MA)	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Snowe
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Collins	Lugar	Udall (CO)
Conrad	Manchin	Udall (NM)
Coons	McCaskill	Warner
Corker	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murkowski	

NAYS—36

Ayotte	Enzi	McCain
Barrasso	Grassley	McConnell
Blunt	Hatch	Moran
Boozman	Heller	Paul
Burr	Hoeven	Risch
Chambliss	Hutchison	Roberts
Coats	Inhofe	Rubio
Coburn	Isakson	Sessions
Cochran	Johanns	Shelby
Cornyn	Johnson (WI)	Thune
Crapo	Kyl	Toomey
DeMint	Lee	Wicker

NOT VOTING—2

Kirk Vitter

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislation session.

#### AGRICULTURE REFORM, FOOD, AND JOBS ACT OF 2012—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Utah.

#### WISCONSIN RECALL ELECTION

Mr. HATCH. Mr. President, I rise to comment on the results of last night's recall election in the State of Wisconsin. After nearly 2 years of heated political debate, the people of Wisconsin made it clear last night that they are not suffering from buyers' remorse. Two years ago, they elected leaders committed to solving their State's budget crisis. Last night, they stood by those leaders for making the hard choices that turned Wisconsin's deficit into a surplus.

Yesterday's election was very important. It was important because of the example it provides to the Nation and the world of how a democracy should work, with citizens who disagree vehemently about policy nonetheless coming together to accept the results of an open and fair election.

It was important because of the message it sends with respect to public employee unions. Last night's results serve as yet another reminder that the