

they grow. We are long past due in eliminating direct payments. At the same time, we are maintaining a strong crop insurance program and creating a new system that makes assistance available to producers when they actually experience a loss.

Another important area of reform in this bill is payment limitations and ensuring that actual farmers receive payments. Senator GRASSLEY and I have worked for years to lower the caps on our farm program payments and to direct payments to family farmers. The new Agriculture Risk Coverage Program contains a cap of \$50,000 and requires that program payment recipients contribute labor to the farm operation. Current law has enabled multiple farm managers in an operation to qualify for separate farm program payments with as little participation as one conference call a year. Not anymore under this bill. I am disappointed that there have been amendments filed to weaken this language. I don't understand how anyone can stand before this body and justify sending Federal farm program payments to people who aren't engaged in agriculture. Our country faces serious fiscal challenges, and it seems to me that limiting farm payments to real farmers is a reasonable concept. I urge my colleagues to oppose efforts to weaken this language.

With this bill we are also taking important steps to combine and streamline our conservation programs, while still allowing us to continue meeting the same land, water, and wildlife goals. Additionally, this bill contains a sodsaver provision that will discourage the breaking of native sod for crop production.

One area of the bill with which I am disappointed is that it does not contain a livestock title. However, I have joined with some of my colleagues in filing amendments to give our independent livestock producers a fair shake in the marketplace. Along with Senator GRASSLEY and others, I have worked for more than a decade to prohibit the ownership of livestock by the big meatpackers for more than 14 days prior to slaughter. Additionally, I have joined with Senator ENZI in filing an amendment to require more transparency in the use of forward contracts in the livestock markets. These are important provisions that I hope my colleagues will support.

I also applaud the committee's work on the energy and rural development titles, which strengthen our rural economies. The Rural Development water and wastewater program has been a critical funding source to help alleviate a severe water infrastructure need on the Cheyenne River Sioux Indian Reservation. I hope my colleagues will act favorably on Senator BROWN's amendment that I have cosponsored to bolster this and other Rural Development programs.

Finally, I would like to commend efforts to address the pine beetle epidemic in the forestry title of this bill.

The underlying bill does good work to increase flexibility, and I support the efforts of Senator MARK UDALL and others to increase the resources we are providing to the Forest Service to address this threat to our forest health and public safety.

I understand that the Agriculture Committee leaders and Senate leadership have been making progress in their negotiations toward an agreement on a path forward. I hope we can avoid letting a small minority of Senators hold up progress on this bill. It is time that we act and that we give our producers certainty.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, I ask unanimous consent to be recognized as in morning business.

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

The Senator from Arizona.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 3306 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MCCAIN. Mr. President, I yield the floor.

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. Mr. 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. Mr. President, I yield to the Chairman.

#### EXECUTIVE SESSION

#### NOMINATION OF MARY GEIGER LEWIS TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA

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 legislative clerk read the nomination of Mary Geiger Lewis, of South Carolina, to be United States District Court Judge for the District of South Carolina.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, last week, Senate Republicans announced

they are going to shut down and block the confirmation process for qualified and consensus circuit nominees for the rest of the year. That is unfortunate, and it does nothing to help the American people or our courts. The courts continue to be overburdened while consensus nominees for vacancies that could be filled are being stalled. In some cases for nominees, we have two Republican Senators from the State supporting them and others where we have a Democratic and Republican Senator supporting them. They have gone through our committee—usually by voice vote—and they are non-controversial. I have often spoken during the last three years of the foot dragging and obstruction by Senate Republicans with respect to this President's judicial nominations.

Just last week we saw the Majority Leader file the 28th cloture petition to end another filibuster against another qualified judicial nominee. Last week it was a nominee from Arizona supported by Senator KYL and Senator MCCAIN. By their announcement, the Senate Republican leadership is saying that it will not agree to proceeding with debate and a vote on any of the four circuit court nominees voted on by the Senate Judiciary Committee. They include a nominee from Maine strongly supported by both Republican Senators from Maine, and a nominee from Oklahoma supported by the Republican Senators from that state, as well as a nominee from New Jersey and one for the Federal Circuit who was approved by all of the Republican Senators on the Judiciary Committee, except for an unrelated protest vote. This plan to shut down the confirmation process is consistent with what the partisan Senate Republican leadership did in 1996, when it would not allow any circuit nominees to be confirmed, and again at the end of President Clinton's presidency, and can be contrasted with how Democrats acted in 1992, 2004 and 2008. This is really a challenge to the Senators who have said that they will not support these filibusters and this kind of obstruction.

It is hard to see how this new application of the Thurmond rule is anything more than another name for the stalling tactics we have already seen for months and years. I have yet to hear any good reason why we should not continue to vote on well-qualified consensus nominees, as we did up until September of the last two Presidential election years when we had a Republican President. That was supported by both Democrats and Republicans—to vote up through September. I have yet to hear a good explanation why we can't work to solve the problems of high vacancies for the American people. I will continue to work with the Senate leadership to try to confirm as many of President Obama's qualified judicial nominees as possible because I hear from judges all over the country

how these judicial vacancies are burdening our courts, and American taxpayers are unable to get a court to hear their cases.

I was heartened to see the senior Senator from Maine has said she will continue to work with the bipartisan Senate leadership in an effort to bring the Maine nominee to the First Circuit before the Senate for a confirmation vote. I trust that many Republican Senators who joined Senator KYL and Senator MCCAIN in opposing the filibuster of Justice Hurwitz will now join to oppose the filibusters of William Kayatta of Maine, Judge Robert Bacharach of Oklahoma, Judge Shwartz of New Jersey, and Richard Taranto for the Federal Circuit. I hope the Senators from South Carolina, whose State's nominee we consider today, will aid this effort just as we worked with them throughout the process to ensure they were consulted by the President. In fact, I personally requested the President consult with Republican Senators when they were going to have a nominee from their home State. I hope they are going to show that same courtesy to other Senators.

Senate Republicans were talking about shutting down the confirmation process from the beginning of this year, as I chronicled in my statement on February 7 on their obstruction and delay. They slow walked nominees who should have been confirmed last year into May of this year. And now, one month later, they announce that they are closing the gates on progress. The article by John Stanton in Roll Call on June 14 blew the whistle on their plan. The banner headline notes the "GOP . . . Judge Blockade" but it is not just beginning. It began from the moment the President was elected.

I think this pattern of obstruction—and I say this more out of sadness than anything else—has been as transparent as the Senate Republican leader's statement that "the single most important thing [Senate Republicans] want to achieve is for President Obama to be a one-term President." Just as they obstruct his qualified judicial nominees, they have also rejected virtually every effort this President has made to improve the economy and create jobs. They have become the party of no—no help for the American people, no to jobs, no to economic recovery, no to police, firefighters, and teachers, no to those students who are seeking help to pay for education, no to consumer protection, no to assisting State and local governments, no to the highway bill, and no to any more judges.

Never mind that the American people rely on our courts for justice and that the courts are overburdened with vacancies and that we have 17 judicial nominees voted out of the Judiciary Committee waiting for Senate confirmation.

The idea that Senate Republicans would oppose a proposal, bill or nomination simply because it comes from

this President is sadly no surprise. Republicans objected to extending the payroll tax cut even though they ultimately supported it. Republicans have also come to reject ideas and proposals that originated from their own party simply because this President supports them. This was the case with the individual mandate for healthcare, which was a Republican idea. So it should come as no surprise that Republicans have been obstructing President Obama's judicial nominees since the President first took office.

Regrettably, the obstruction of judicial nominations is just one more example of Republicans saying no or simply going slow. They are saying no to the police, firefighters, teachers, students, consumer protection, and to those 50 States that want to go forward with highway bills.

I hear from Vermonters—Republicans and Democrats alike—and they cannot wait while politics trump sound policy efforts in Washington. It is time for a reality check.

While our economy is showing some signs of progress since the economic collapse four years ago, there is no doubt domestic job growth has not been as strong as we had hoped. Even though we have under 5 percent unemployment in Vermont, we still have too many Vermonters looking for work. We have to continue looking for ways to spur job growth and economic investment in this country. Unfortunately, efforts in Congress to increase jobs, reduce unemployment, and support hard-working American families struggling to keep food on their tables and roofs over their heads meet with partisan obstruction too.

While Congress delays, the clock is ticking down for the millions of Americans struggling to afford college and those struggling to pay back student loans once they have graduated. In less than two weeks, student loan interest rates will double, threatening to make student loan debt an almost insurmountable obstacle to accessing a college education. Meanwhile, Senate Republicans continue to filibuster commonsense legislation to address this looming deadline.

In less than 2 weeks, millions of jobs will be put on hold when critical transportation programs, including funding for the highway trust fund, expire. Failing to pass a long-term transportation bill jeopardizes thousands of construction and development projects, impacting millions of jobs in every single State in this country. These programs impact every one of our states—which means more jobs lost in an already weak economy. The Senate has passed a bill to bring certainty to this fund for two years. We are still waiting for the House Republican leadership to act on that legislation.

In a little over 1 month, important legislation to extend the National Flood Insurance Program will expire. The failure to reauthorize this important program puts at risk the sale of

thousands of homes at a time when our housing market is still trying to recover. The program expired in 2008, and subsists now on a series of short term extensions. A five-year extension is pending before Congress; Senate Republicans have delayed consideration of that important legislation, too.

Meanwhile, in this election year, Republicans in Congress are more intent on extending the Bush-era tax cuts that contributed to the financial crisis facing us today than in working together to move forward with reasonable policies to bolster economic growth and development. Extending to the wealthiest Americans a lower tax rate will not lead to job creation. These tax cuts have not led to job creation. Meanwhile, businesses continue to shutter their doors, costing communities jobs and economic development.

I know I raised the question at the time when Congress voted to go to war in Iraq—a war I voted against—that they were going to do it by borrowing the money, the same in Afghanistan. Never before in this Nation have we gone to war and borrowed the money. We have had a tax to pay for it. So we lose \$1 trillion in Iraq and at least \$½ trillion so far in Afghanistan.

If we want to cast partisan politics aside and have a consensus on meaningful jobs and job preservation legislation, we can do so. We have shown how to do it. The Leahy-Smith America Invents Act is one of the best examples of laws enacted in this Congress to promote our American economy and create American jobs. The Republican chairman of the House Judiciary Committee and I in the Senate brought together Republicans and Democrats in both bodies, and we passed the Leahy-Smith America Invents Act. Unfortunately, it was only one of the few job-creating bills enacted in this Congress.

The outlook this Congress need not be gloom and doom. Working together, we can enact meaningful legislation to close the loopholes that incentivize companies to ship jobs overseas. We can bolster the middle class, rather than the wealthiest one percent of Americans, by promoting job creation through small business development. We can ensure that students graduating from school are not saddled with student loans, the interest rates on which are simply too high to afford. We can do all this, today.

I am disheartened that the Republican leaders in Congress have said they are simply done legislating for the year. The reality check is that Vermonters and other Americans of all States cannot wait. President Obama has signaled his commitment to moving forward with job-creating legislation to get Americans back to work and to protect America's leadership in the global marketplace. We should move on that. Let the two candidates for President argue, let them state their positions, and let the voters decide which one they want to vote for. In the meantime, when we have legislation to put Americans to work, let's

put politics aside and focus on the right policies, on the needs of the American people. All of us—Republicans and Democrats alike—should act on behalf of the people who sent us. It is past time for that work to begin.

Shutting down judicial confirmations makes no sense when the judicial vacancy rate remains almost twice what it was at this point in the first term of President Bush. Senate Republicans were successful in keeping it near or above 80 for three years. Nearly one out of every 11 Federal courts is currently vacant. As a current report from the nonpartisan Congressional Research Service confirms, not a single one of the last three presidents has had judicial vacancies increase after their first term. President Obama will likely be the first given partisan obstruction. The same recent CRS report notes that the median time circuit nominees have had to wait before a Senate vote has skyrocketed from 18 days for President Bush's nominees to 132 days for President Obama's. This is the result of Republican foot dragging and obstruction. Last year Senate Republicans again refused to act on 19 judicial nominees and delayed consideration of those nominations an extra year.

Three of the five circuit court judges finally confirmed this year after months of unnecessary delays and a filibuster should have been confirmed last year. The other two circuit court nominees confirmed this year were both subjected to stalling and a partisan filibuster by Senate Republicans. So when I hear some Senate Republicans say they are invoking the Thurmond Rule and have decided they are not going to allow President Obama's judicial nominees to be considered, I wonder how the American people can tell the difference. There are longstanding vacancies with nominees ready to fill them that Republicans are delaying unnecessarily for months. How do we tell the difference between the Republican obstruction—that was signaled when they filibustered President Obama's very first circuit court nominee, a nomination supported by the longest-serving Republican in the Senate and the nominee's home state Senator—and this new application of the Thurmond Rule?

Last week we needed to overcome a filibuster to confirm Justice Andrew Hurwitz of Arizona to the Ninth Circuit despite the strong support of his home state Senators, Republicans JON KYL and JOHN MCCAIN. Last month the Majority Leader had to file cloture to secure an up-or-down vote on Paul Watford of California to the Ninth Circuit despite his sterling credentials and bipartisan support. The year started with the Majority Leader having to file for cloture to get an up-or-down vote on Judge Adalberto Jordan of Florida to the Eleventh Circuit even though he was strongly supported by his Republican home state Senator. Every single one of these nominees for whom the Majority Leader was forced to file clo-

ture was rated unanimously well qualified by the nonpartisan ABA Standing Committee on the Federal Judiciary, the highest possible rating. And every one of them was nominated to fill a judicial emergency vacancy.

Did Republicans secretly invoke the Thurmond Rule before this year even started, when they departed from the Senate's traditional practice and would not consent to confirm 19 judicial nominees that were on the calendar at the end of last year? Up until last month, we were considering nominees that could and should have been confirmed last year. Given that we have only confirmed eight judicial nominees that were reported by the Committee this year and only two of them circuit court nominees it seems oddly premature to declare an artificial cut-off of confirmations when our work this year has only just begun. Among those now being blockaded are nominees waiting since March of this year. So by delaying last year's nominees until May, Senate Republicans effectively prevented consideration of the Shwartz, Taranto and Kayatta nominations for months after being voted out of the Judiciary Committee. The Senate Republican leadership is not shutting off circuit nominees just after June 12, they are blocking nominees ready for consideration since early March of this year.

In 2004, a Presidential election year, the Senate confirmed five circuit court nominees of a Republican President that had been reported by the Committee that year. This year we have confirmed only two circuit court nominees that have been reported by the Committee this year, and both were filibustered. By this date in 2004 the Senate had already confirmed 32 of President Bush's circuit court nominees, and we confirmed another three that year for a total of 35 circuit court nominees in his first term. So far, the Senate has only been allowed to consider and confirm 30 of President Obama's circuit court nominees five fewer, 17 percent fewer while higher numbers of vacancies remain, and yet the Senate Republican leadership wants to artificially shut off nominations with no good reason.

There is no reason that the Senate could not vote on consensus circuit court nominees thoroughly vetted, considered and voted on by the Judiciary Committee. There is no reason the Senate cannot vote on the nomination of William Kayatta of Maine to the First Circuit, a nominee strongly supported by both of Maine's Republican Senators and reported nearly unanimously by the Committee two months ago. There is no reason the Senate cannot vote on the nomination of Judge Robert Bacharach of Oklahoma to the Tenth Circuit, who was supported by Senator COBURN during Committee consideration. Senator COBURN said that Judge Bacharach would make a great nominee for a Republican president. So why is the Republican leader-

ship playing politics with his nomination?

There is also no reason the Senate cannot vote on Richard Taranto's nomination to the Federal Circuit. He was reported almost unanimously by voice vote nearly three months ago, and was supported by conservatives such as Robert Bork and Paul Clement. The Federal Circuit has never been controversial before. The one circuit court nominee who was reported out of Committee with a split roll call vote Judge Shwartz of New Jersey should not have been controversial, as seen by the bipartisan support she has received from New Jersey's Republican Governor Chris Christie.

Every circuit court nominee that Senate Republicans currently refuse to consent to vote on have been rated unanimously "well qualified" by the nonpartisan ABA Standing Committee on the Federal Judiciary, the highest possible rating. These are not controversial nominees. They are qualified and should be considered as consensus nominees and confirmed. By invoking the Thurmond Rule, Senate Republicans are blocking consent to vote on superbly qualified circuit court nominees with strong bipartisan support. This is a new and damaging application of the Thurmond Rule.

Senate tradition has been that in Presidential election years, nominees receive a vote unless they do not have bipartisan support. In the past five presidential election years, Senate Democrats have never denied an up or down vote to any circuit court nominee of a Republican president who received bipartisan support in the Judiciary Committee. In fact, during the last 20 years, only four circuit nominees reported with bipartisan support have been denied an up-or-down vote by the Senate and all four were nominated by President Clinton and blocked by Senate Republicans. While Senate Democrats have been willing to work with Republican presidents to confirm circuit court nominees with bipartisan support, Senate Republicans have repeatedly obstructed the nominees of Democratic presidents. In the previous five presidential election years, a total of 13 circuit court nominees have been confirmed after June 1. Not surprisingly, 12 of the 13 were Republican nominees. Clearly, this is not tit-for-tat as some contend but, rather, a one way street in favor of Republican presidents' nominees.

The precedent for this decision by Senate Republican Leadership to shut-down the confirmation process for well-qualified consensus nominees is their prior actions obstructing President Clinton's nominees. Senator SCHUMER held a Judiciary Committee hearing in May 2002 to shed light on the harmful and damaging practice of stalling and obstructing qualified, consensus nominees that had occurred during the last years of the Clinton administration. Of course, there was the nomination of Bonnie Campbell of Iowa to the Eighth

Circuit. Ms. Campbell was the first woman ever elected to be Attorney General of Iowa. She was also once named by Time Magazine as one of the 25 most influential people in America. She served as President Clinton's head of the Office on Violence Against Women. Despite having the support of her home state Senators, Senator GRASSLEY and Senator HARKIN, she never received a Committee vote after her hearing.

How ironic that last week the junior Senator from Utah tried to claim credit for progress this year by comparing confirmations to the 1996 session. The Senate Republican majority that year stalled most of President Clinton's nominees and would not allow the confirmation of any circuit court nominees. That is not a record to be proud of but a record that led to Chief Justice Rehnquist criticizing the Senate Republicans for their obstruction. This should not be a race to the bottom but that seems to be the intent of Senate Republicans.

By contrast, if we look at the last two presidential election years, we will see we were able to bring the number of judicial vacancies down to the lowest levels in the past 20 years. In 2004 at end of President Bush's first term, vacancies were reduced to 28 not the 75 at which they are today. In 2008, in the last year of President Bush's second term, we again worked to fill vacancies and got them down to 34, less than half of what they are today. In 2004, 25 nominees were confirmed between June and the presidential election, and in 2008, 22 nominees were confirmed between June and the presidential election.

The nonpartisan Congressional Research Service recently released a report confirming that judicial nominees continue to be confirmed in presidential election years, except it seems when there is a Democratic President. In five of the last eight 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 Senate Republicans 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.

We have heard lots of excuses from Senate Republicans, who have tried to shift the blame for the judicial vacancy crisis to the President—much as they try to blame him for the debt of European countries and other matters. They claim that the President has not made enough nominations. With last week's announcement that Senate Republicans refuse to confirm any more circuit court nominees, that excuse melts away. There are nominees ready

to be confirmed and the reason they are not being considered is Republican obstruction. This is wrong. I wish they would not put politics ahead of the needs of the American people.

The across-the-board obstruction of President Obama's nominees is not the product of a Thurmond Rule to limit confirmations at the end of presidential election years to nominees with bipartisan support. Rather this is a continuation of obstruction that began as soon as this President was elected. Senate Republicans insisted that filibusters of President Bush's judicial nominees were unconstitutional, yet they reversed course and filibustered President Obama's very first judicial nomination, that of Judge David Hamilton of Indiana, a widely-respected 15-year veteran of the Federal bench nominated to the Seventh Circuit and who had the support of his home state Senator, the longest-serving Republican in the Senate. Senate Republicans filibustered the nomination of Judge Barbara Keenan of Virginia to the Fourth Circuit before she was confirmed 99-0, and the nomination of Judge Denny Chin of New York to the Second Circuit was filibustered before he was confirmed 98-0 after four months of needless delays.

At a time when judicial vacancies remained historically high for three years, with 30 more vacancies and 30 fewer confirmations than at this point in President Bush's first term, I would hope the Senate Republican leadership would reconsider and work with us on filling these longstanding judicial vacancies to help the American people. We have well-qualified, consensus nominees with bipartisan support who can fill these vacancies. It is only partisan politics and continued tactics of obstruction that stand in the way.

Is it any wonder why Congress is so unpopular? I take no comfort in the rise in the congressional approval rating—it is from 9 percent to 17 percent. This is this kind of obstruction that turns off the American people. Stop the senseless obstruction—whether you call it the Thurmond Rule or not—and start helping the American people by easing the burden on them and the courts around the country.

Today, the Senate will vote on the nomination of Mary Geiger Lewis to fill a judicial vacancy in the U.S. District Court for the District of South Carolina. Ms. Lewis has the support of her Republican home state Senator LINDSEY GRAHAM. Her nomination was voted on and received bipartisan support in the Judiciary Committee over three months ago. I thank the Majority Leader for his work in securing a vote on this nomination.

Mary Lewis has worked in private practice for over 25 years at the law firm Lewis & Babcock LLP, and has tried approximately 15 cases to verdict or final judgment. Born in Columbia, South Carolina, she earned her J.D. from the University of South Carolina and served as a law clerk to Judge

Owens Taylor Cobb in the South Carolina Judicial Department. The ABA Standing Committee on the Federal Judiciary unanimously rated Ms. Lewis "qualified" to serve on the district court. I support Ms. Lewis and hope she will be confirmed.

I also hope that Senate Republicans will reconsider their wrongheaded move to shut down the confirmation of consensus, well-qualified circuit court nominees. Given our overburdened Federal courts and the need to provide all Americans with prompt justice, we should all be working in a bipartisan fashion to confirm these nominees.

Mr. GRASSLEY. Mr. President, today the Senate turns to another judicial nomination, that of Mary Geiger Lewis, to be U.S. district judge for the District of South Carolina. Once again, for the third time this month, we have a nonconsensus nominee brought before the Senate. I oppose this nomination and urge all Senators to do likewise.

We continue to confirm the President's nominees at a brisk pace. We already confirmed 149 nominees of this President to the district and circuit courts. We also have confirmed two Supreme Court nominees during President Obama's term.

For those who claim this President is being treated differently, let me put that in perspective for my colleagues, with an apples-to-apples comparison. The last time the Senate confirmed two Supreme Court nominees was during President Bush's second term. During President Bush's entire second term, the Senate confirmed a total of only 119 district and circuit court nominees. If Ms. Lewis is confirmed today, we will have confirmed 31 more district and circuit nominees for President Obama than we did for President Bush, in similar circumstances.

During the last Presidential election year, 2008, the Senate confirmed a total of 28 judges—24 district and 4 circuit. With a confirmation today, we will match that number. We have already confirmed five circuit nominees, and this will be the 23rd district judge confirmed this year.

Some have complained about the length of time to confirm these judges, focusing only on one phase of the confirmation process.

In reality, the timeframes are comparable for nomination to confirmation. For President Bush, that time frame was around 211 days; for President Obama, it is 222 days.

We take this time for review because our inquiry of the qualifications of nominees must be rigorous. 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.

Last year, I became increasingly concerned about some of the judicial nominations being sent to the Senate. In a few individual cases, it was very troublesome. The nomination of Ms. Lewis was one of those that gave me concern. When applying the standards I have articulated, it is my judgment that Ms. Lewis falls short and should not be confirmed.

The Senate process for reviewing the professional qualifications, temperament, background, and character is a long and thorough process. These issues need to be fully examined; nominations are not just rubberstamped.

At the conclusion of that lengthy process, a substantial majority of 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 this nominee. Ms. Lewis has limited courtroom experience and little criminal law experience. Her responses in her questionnaire and hearing regarding her legal experience indicated her significant cases were handled more than 10 years ago and was more of a team effort than individual experience. At her hearing she was not prepared to discuss the legal principles involved in a case her firm took to the Supreme Court. For these reasons and others, I will vote nay on this nomination and urge my colleagues to do likewise.

I suggest the absence of a quorum and ask unanimous consent that the time 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. TESTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. TESTER. I ask that all time be yielded back.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Mary Geiger Lewis, of South Carolina, to be United States District Judge for the District of South Carolina?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY), the Senator from Iowa (Mr. HARKIN), and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from

Wisconsin (Mr. JOHNSON), the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. MORAN), the Senator from Florida (Mr. RUBIO), the Senator from Pennsylvania (Mr. TOOMEY), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 64, nays 27, as follows:

[Rollcall Vote No. 122 Ex.]

YEAS—64

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

NAYS—27

Barrasso	DeMint	Lee
Blunt	Enzi	McConnell
Boozman	Grassley	Paul
Burr	Hatch	Portman
Chambliss	Heller	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Sessions
Cornyn	Johanns	Shelby
Crapo	Kyl	Thune

NOT VOTING—9

Casey	Kirk	Rubio
Harkin	McCaskill	Toomey
Johnson (WI)	Moran	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 legislative session.

#### FLOOD INSURANCE REFORM AND MODERNIZATION ACT—MOTION TO PROCEED—Continued

The Senator from Massachusetts.

The PRESIDING OFFICER.

#### HANSCOM AIR FORCE BASE

Mr. BROWN of Massachusetts. Madam President, I rise today to speak about the Electronic Systems Center at Hanscom Air Force Base in Massachusetts and its role in our Nation's cybersecurity.

I want to clarify a situation we face as a nation. First, the Secretary of Defense has said loudly and clearly that the threat of cyber attacks on our country and the need for America to develop strong military capabilities keeps him up at night, and it keeps me

and many other people up as well. We read about the cyber attacks by the Chinese, and we read about Iran. The Secretary has described it as an evolving and urgent threat in our future. Our Nation's security depends on winning the battle in cyberspace.

Unfortunately, the Air Force is in the midst of a four-structure change that ignores the crucial facts I have just stated. At a time when cyber threats are growing more important each day, the Air Force is making questionable decisions that, in my opinion, create an unnecessary risk to our Nation's cyber defenses and our ability to deal with those very threats. It makes absolutely no sense at this point in time.

That is why just a few weeks ago the House and Senate Armed Services Committee took strong action to prevent what the entire Massachusetts delegation believed was a premature proposal by the Air Force to reduce Hanscom's leadership from a three-star general to a two-star general.

The elimination of the ESC commander position at Hanscom will diminish our cyber capabilities and focus across the entire force, and that is not good at this point in time. That is the last thing we need in the midst of a cyber attack.

In response, Representative TSONGAS of Massachusetts inserted a provision in this year's National Defense Authorization Act that was passed by the full House of Representatives which required the Secretary of the Air Force to remain and retain core functions at Hanscom as they existed on November 1, 2011. Her language was aimed at retaining Hanscom's three-star leadership.

Similarly, I worked with Senator LIEBERMAN and our Senate Armed Services Committee to include language in the Senate Armed Services markup reported version of the Defense authorization bill that directs the Air Force to keep in place the current leadership rank structure until the two defense committees have had an opportunity to review the recommendations of the National Commission on the Structure of the Air Force.

Given Secretary Panetta's warning, I believe we must pay particular attention to any changes that relate to cybersecurity. The Massachusetts delegation has been united in declaring that both Hanscom's mission and the senior leadership should be preserved in order to bring forth the best cyber capabilities our country has to offer.

Both defense committees have spoken with one voice to the Air Force: Stand down with this change until both committees receive more information about how the proposed force structure changes will impact our cybersecurity.

I also wish to explain why the delegation feels so strongly about this. Massachusetts has been a national security and information technology leader for many decades. Groundbreaking innovation in cybersecurity is taking place in