not give up this fight. On a daily basis, I am hearing from my constituents in West Virginia and all around this country who are counting on us to do something about the prescription drug epidemic ravaging their communities.

Since I offered this amendment, I have heard from so many West Virginians who have seen a ray of hope because we might be able to do something about this problem. I will not pretend it will solve it completely, but it is sure a good step in the right direction. So I am coming to the floor to share the stories of the people of West Virginia, in the hopes of bringing people together around a solution to this terrible problem.

This is from Sheila from Charleston, who sent me this letter in support of my amendment after losing a close family member:

Please continue to fight the drug companies and pharmacies regarding this issue. Our family in the last two months lost a beloved family member to prescription drug overdose. He was a promising young man that lost his life because of addiction to pain medication.

Our family continues to be devastated, wondering how did this happen. He came from a highly-educated family that was involved in his treatment and cared deeply for him. His family spent $100,000+ in his recovery, but it was all too easy for him to obtain legal prescriptions.

What truly makes it more painful is he was showing signs of overcoming his five-year battle.

We are not blaming anyone but the system. We know we are each responsible for our own actions. I have thought for years that our health care system is far behind in technology and record keeping for doctor shopping and prescription dispensing. Please understand I am very much opposed to more government in our personal lives, however this is much needed in the medical arena.

Please continue to fight this enormous battle for us.

That letter could have come from our constituents or any Congressman's home district from anywhere in this great country. The fact is I don't know of a person—whether it be in the Senate, our colleagues in Congress or anywhere in America—who hasn't been affected by the abuse of legal prescription drugs used in the wrong way. It touches everyone's life. It is of epidemic proportion.

I have said it before, and I will say it again. I understand that limiting access to illegitimate uses of hydrocodone pills doesn't necessarily fit into the model of selling more product, but there are times when even the best business plan can be altered while staying successful. Certainly, one of those times is when the health of our country and the public good is at stake.

In fact, the Huntington Herald Dispatch, the second largest newspaper in my State, located right on the border between West Virginia and Ohio, describes why this amendment is so important.

Congress is missing out on an opportunity to close the spigot at least partway on the large volumes of commonly abused prescription drugs that flood the country and harm so many Americans.

In 2010, the most recent year for which data is available, a study showed there were 28,310 recorded instances of toxic exposures from hydrocodone. The same study showed that 24 million individuals have admitted to abusing hydrocodone drugs for nonmedical purposes—unbelievable.

A different study, put out by the Centers for Disease Control in November, showed that more than 40 people die every day from overdoses involving narcotic pain relievers such as hydrocodone. Isn't it worth doing something to get the pills out of the wrong hands?

My amendment may not have gone into this bill yesterday, but it is not going to go away—I think we all know that—and I am determined to see this through to the end.

While the people of West Virginia, Delaware, and elsewhere are disappointed in the outcome of the hydrocodone amendment, I do wish to highlight one measure that was included in the legislation that we are proud of and is important to me and everybody in this body. It would make the sale and distribution of synthetic marijuana and other synthetic substances, known as bath salts, illegal by placing them on the list of schedule I controlled substances under the Controlled Substances Act. These drugs are also taking a terrible toll on all our States, and I was proud to cosponsor this provision with my friend Senator SCHUMER. I want to thank Senator SCHUMER for his leadership in getting this passed.

Finally, I wish to close with one more story from my home State of West Virginia as a way to remind everyone what I am fighting for and why. This letter comes from Rebecca, a woman who started a group called Mothers Against Prescription Drug Abuse as a way to deal with the terrible realities that have accompanied her son's 5-year battle with prescription drug abuse:

Jamie was a great kid growing up. He played basketball, football, and baseball. When he was 14 years old his team won the state tournament and went all the way to Wisconsin to play in Regionals. Jamie was always helping others and had such a kind heart. . .

When Jamie got out of school he married his high school sweetheart and was employed in the mines.

After that he just went downhill. He began abusing prescription drugs. For two years I tried everything to get help for him and tried to get him to stop. Things only got worse. He lost his wife, his home, his truck and then his freedom.

My story is typical to so many families out there who are struggling with loved ones that are addicted. They just want someone to listen. They need to be able to reach out to someone who understands the nightmare that they go through daily, and know that they are not alone. The addict is not the only one who suffers. The family members carry around guilt, sadness, shame, anger, hopelessness, fear, anxiety, etc. . . . I could go on and on about how bad this experience has been for me and how it has not stopped.

I will continue to fight prescription drug abuse for as long as I have a breath in my body. I will not give up on my son or anyone else who is addicted. Things need to change within our system. We cannot continue to allow just anyone to have access to prescription pain medicine. Parents need to be educated while their children are still at home. Communities need to be aware of crimes (drug dealers) and report them. Doctors need to stop prescribing pain pills to people on the street, and they need to be held accountable.

What happened to our medical ethics when people who need pain medicine for a while are given strong addictive pain medicine, only to have to keep coming back to the doctor over and over again for refills? Is it greed that is behind the beginning of this growing epidemic? Doctors definitely profit from the addict's return visits, as well as the pharmaceutical companies that make the medicine. We know there is a problem but what are people going to do about it? I am doing what I can, but is it enough? Will you help?

For Rebecca and all the other mothers, fathers, sisters, and brothers out there who are pleading for help, we owe it to them to get this amendment agreed to.

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

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

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF ROBIN S. ROSENBAUM TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

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 Robin S. Rosenbaum, of Florida, to be United States District Judge for the Southern District of Florida.

The PRESIDING OFFICER. Under the previous order, the time until noon will be equally divided in the usual form.

Mr. LEAHY. Mr. President, the Republican efforts to shutdown Senate confirmations of qualified judicial nominees who have bipartisan support do not help the American people. This is a shortsighted policy at a time when the judicial vacancy rate remains almost twice what it was at this point in the first term of President Bush. Judicial vacancies during the last few years have been at historically high levels. Nearly one out of every 11 Federal judgeships is currently vacant. Their talk of shutting down confirmations for consensus and qualified circuit court nominees is not helping the overburdened Federal courts to which Americans turn for justice.

In a letter dated June 20, 2012, the president of the American Bar Association urged Senator REID and Senator MCCONNELL to work together to schedule votes on the nominations of William Kayatta, Judge Robert Bacharach and Richard Taranto, three consensus, qualified circuit court nominees awaiting Senate confirmation so that they may serve the American people. I ask unanimous consent that a copy of his letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
Chicago, IL, June 20, 2012.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. MITCH MCCONNELL,
Republican Leader, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MAJORITY LEADER REID AND REPUBLICAN LEADER MCCONNELL: Amid concerns that the judicial confirmation process is about to fall victim to presidential election year politics through the invocation of the ''Thurmond Rule,'' I am writing on behalf of the American Bar Association to reiterate our grave concern for the longstanding number of judicial vacancies on Article III courts and to urge you to schedule floor votes on three pending, noncontroversial circuit court nominees before July and on district court nominees who have strong bipartisan support on a weekly basis thereafter.

Three of the four circuit court nominees pending on the Senate floor are consensus nominees who have received overwhelming approval from the Senate Judiciary Committee. Both William Kayatta, Jr. of Maine, nominated to the First Circuit, and Robert Bacharach of Oklahoma, nominated to the Tenth Circuit, have the staunch support of their Republican senators. Richard Taranto, nominated to the Federal Circuit, enjoys strong bipartisan support, including the endorsement of noted conservative legal scholars. All three nominees also have stellar professional qualifications and each has been rated unanimously ''well-qualified'' by the ABA's Standing Committee on the Federal Judiciary.

As you know, the ''Thurmond Rule'' is neither a rule nor a clearly defined event. While the ABA takes no position on what invocation of the ''Thurmond Rule'' actually means or whether it represents wise policy, recent news stories have cast it as a precedent under which the Senate, after a specified date in a presidential election year, ceases to vote on nominees to the federal circuit courts of appeals. We note that there has been no consistently observed date at which this has occurred during the presidential election years from 1980 to 2008. With regard to the past three election years, the last circuit court nominees were confirmed in June during 2004 and 2008 and in July during 2000. In deference to these historical cut-off dates and because of our conviction that the Senate has a continuing constitutional duty to act with due diligence to reduce the dangerously high vacancy rate that is adversely affecting our federal judiciary, we exhort you to schedule votes on these three outstanding circuit court nominees this month.

We also urge you to continue to work together to move consensus district court nominees to the floor for a vote throughout the rest of the session, lest the vacancy crisis worsens in the waning months of the 112th Congress. With five new vacancies arising this month and an additional five announced for next month, this is not just a possibility; it is a certainty, absent your continued commitment to the federal judiciary and steady action on nominees.

Thank you for your past efforts and for your consideration of our views on this important issue.

Sincerely,
WM. T. (BILL) ROBINSON III,
President.

Mr. LEAHY. He writes:

Amid concerns that the judicial confirmation process is about to fall victim to presidential election year politics through the invocation of the ''Thurmond Rule,'' I am writing on behalf of the American Bar Association to reiterate our grave concern for the longstanding number of judicial vacancies on Article III courts and to urge you to schedule floor votes on three pending, noncontroversial circuit court nominees before July and on district court nominees who have strong bipartisan support on a weekly basis thereafter.

He observes that ''the Senate has a continuing constitutional duty to act with due diligence to reduce the dangerously high vacancy rate that is adversely affecting our federal judiciary.''

There is no good reason that the Senate should 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 2 months ago. This is the same person who Chief Justice John Roberts recommended to Kenneth Starr for a position in the Justice Department.

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, and also by the State's other Republican Senator, Senator INHOFE. Senator COBURN said that Judge Bacharach would make a great nominee for a Republican president. So why is the Republican leadership 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 3 months ago, and is supported by conservatives such as Robert Bork and Paul Clement.

And the one circuit court nominee who was reported out of Committee with a split rollcall vote—Judge Patty 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.

Each of these circuit court nominees has 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. 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.

It is hard to see how this new application of the Thurmond Rule is really anything more than another name for the stalling tactics we have 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, just as we did up until September of the last two Presidential election years. I have yet to hear a good explanation why we cannot work to solve the problem 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 to fill the many judicial vacancies that burden our courts and the American people across the country.

Last week, I spoke about the announcement from Senate Republican leadership that they would be shutting down the confirmation process for qualified and consensus circuit court nominees for the rest of the year. As I noted, Senate Republicans have become the party of ''no''—no help for the American people, no to jobs, no to economic recovery and no to judges to provide Americans with justice in their Federal courts. Although the public announcement that they would be blocking qualified and consensus circuit court nominees is recent, the truth is that Senate Republicans have been obstructing President Obama's judicial nominees since the beginning of his Presidency, beginning with their filibuster of his first nominee.

Senate Republicans used to insist that filibustering of judicial nominations was unconstitutional. The Constitution has not changed but as soon as President Obama was elected, they reversed course and filibustered President Obama's very first judicial nomination. Judge David Hamilton of Indiana was a widely respected 15-year veteran of the Federal bench nominated to the Seventh Circuit and was supported by Senator Dick Lugar, the longest-serving Republican in the Senate. They delayed his confirmation for 5 months. Senate Republicans then proceeded to obstruct and delay just about every circuit court nominee of this President, filibustering nine of them. They delayed confirmation of Judge Albert Diaz of North Carolina to the Fourth Circuit for 11 months. They delayed confirmation of Judge Jane Stranch of Tennessee to the Sixth Circuit for 10 months. They delayed confirmation of Judge Ray Lohier of New York to the Second Circuit for 7 months. They delayed confirmation of Judge Scott Matheson of Utah to the Tenth Circuit and Judge James Wynn, Jr. of North Carolina to the Fourth Circuit for 6 months. They delayed confirmation of Judge Andre Davis of Maryland to the Fourth Circuit, Judge Henry Floyd of

South Carolina to the Fourth Circuit, Judge Stephanie Thacker of West Virginia to the Fourth Circuit, and Judge Jacqueline Nguyen of California to the Ninth Circuit for 5 months. They delayed confirmation of Judge Adalberto Jordan of Florida to the Eleventh Circuit, Judge Beverly Martin of Georgia to the Eleventh Circuit, Judge Mary Murguia of Arizona to the Ninth Circuit, Judge Bernice Donald of Tennessee to the Sixth Circuit, Judge Barbara Keenan of Virginia to the Fourth Circuit, Judge Thomas Vanaskie of Pennsylvania to the Third Circuit, Judge Joseph Greenaway of New Jersey to the Third Circuit, Judge Denny Chin of New York to the Second Circuit, and Judge Chris Droney of Connecticut to the Second Circuit for 4 months. They delayed confirmation of Judge Paul Watford of California to the Ninth Circuit, Judge Andrew Hurwitz of Arizona to the Ninth Circuit, Judge Morgan Christen of Alaska to the Ninth Circuit, Judge Stephen Higginson of Louisiana to the Fifth Circuit, Judge Gerard Lynch of New York to the Second Circuit, Judge Susan Carney of Connecticut to the Second Circuit, and Judge Kathleen O'Malley of Ohio to the Federal Circuit for 3 months.

As a recent report from the nonpartisan Congressional Research Service confirms, 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 circuit court nominees. This is the result of Republican foot dragging and obstruction. In most cases, Senate Republicans have been delaying and stalling for no good reason. How else do you explain the filibuster of the nomination of Judge Barbara Keenan of Virginia to the Fourth Circuit who was ultimately confirmed 99–0? And how else do you explain the needless obstruction of Judge Denny Chin of New York to the Second Circuit, who was filibustered for 4 months before he was confirmed 98–0?

The only change in their practices is that Senate Republicans have finally acknowledged that they are seeking to shut down the confirmation process for qualified and consensus circuit court nominees. 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 partisan filibusters, which were thankfully unsuccessful.

The American people need to understand that Senate Republicans are stalling and filibustering judicial nominees supported by their home State Republican Senators. Just consider the states I have already mentioned as having circuit nominees supported by their home State Republican Senators unnecessarily stalled—Indiana, North Carolina, Utah, South Carolina, Georgia, and Arizona. Just 2 weeks ago we needed to overcome a filibuster to confirm Justice Andrew Hurwitz of the Arizona Supreme Court to the Ninth Circuit despite the strong support of Senators JON KYL and JOHN MCCAIN.

This year started with the Majority Leader having to file 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. And every single one of these circuit nominees for whom the Majority Leader was forced to file cloture this year 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. So when I hear some Senate Republicans say they are now 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 are supposed to be able to tell the difference from how they have been obstructing for the last 3½ years.

Personal attacks on me, taking quotes out of context, trying to repackage their own actions as if following the Thurmond Rule or what they seek to dub the Leahy rule do nothing to help the American people who are seeking justice in our Federal courts. I am willing to defend my record but that is beside the point. The harm to the American people is what matters. Republicans are insisting on being the party of no even when it comes to judicial nominees who home State Republican Senators support.

As Chairman and when I served as the ranking member of the Judiciary Committee, I have worked with Senate Republicans to consider judicial nominees well into Presidential election years. I have taken steps to make the confirmation process more transparent and fair. I have ensured that the President consults with home State Senators before submitting a nominee. I have opened up what had been a secretive blue slip process to prevent abuses. All the while I have protected the rights of the minority, of Republican Senators. If Republicans want to talk about the Leahy rules, those are the practices I have followed. And I have been consistent. I hold hearings at the same pace and under the same procedures whether the President nominating is a Democrat or a Republican. Others cannot say that.

And what were the results? In the last two Presidential election years, 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 74 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 from June 1 to the Presidential election. In 2008, 22 nominees were confirmed between June 1 and the Presidential election. So far, since June 1 of this year, only 4 judges have been confirmed and all required the majority leader to file cloture to end Republican filibusters.

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. We have confirmed only two circuit court nominees that have been reported by the committee this year, and we had to overcome Republican filibusters in both cases. By this date in 2004 the Senate had already confirmed 35 of President Bush's circuit court nominees. 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 demands an artificial shutdown on confirmation of qualified, consensus nominees for no good reason.

The nonpartisan Congressional Research Service recently released a report confirming that judicial nominees continue to be confirmed in the Presidential election years. The exceptions are when Republicans shut down the process because the President is a Democrat. 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. In the 1996 session, Senate Republicans did not allow any circuit court nominees to be confirmed at all. Vacancies at the end of the Clinton years stood at 75 at the end of 1996 and 67 at the end of 2000. The third exception was in 1988, at the end of President Reagan's Presidency, when vacancies were at 28. According to CRS, the Senate confirmed 32 judges after May 31 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. So far since May 31 of this year, only 4 judges have been confirmed and all required the Majority Leader to file cloture to end Republican filibusters.

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. That is what Senate Republicans are now seeking to do by blocking votes on William Kayatta, Judge Bacharach and Richard Taranto. In fact, during the last 20 years, only four circuit nominees reported with bipartisan support have been denied an up-or-down vote during Presidential election year by the Senate; 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 May 31. Not surprisingly, 12 of the 13 were Republican nominees. Clearly, this is a one-way street in favor of Republican Presidents' nominees.

Senate Republicans are fond of taking quotes of things I have said out of context. Look at what I have done. I have not filibustered nominees with bipartisan support after May of Presidential election years. As chairman of this committee, I have steadfastly protected the rights of the minority. I have done so despite criticism from Democrats. I have only proceeded with judicial nominations supported by both home State Senators. That has meant that we are not able to proceed on current nominees from Arizona, Georgia, Nevada, and Louisiana. I even stopped proceedings on a circuit court nominee from Kansas when the Kansas Republican Senators reversed themselves and withdrew their support for the nominee. I had to deny the Majority Leader's request to push a Nevada nominee through Committee because she did not have the support of Nevada's Republican Senator. I will put my record of consistent fairness up against that of any judiciary chairman and remind Senate Republicans that it is they who blatantly disregarded evenhanded practices when they were ramming through ideological nominations of President George W. Bush. They would proceed with nominations despite the objection of both home State Senators.

So those are the Leahy rules—respect for and protection of minority rights, increased transparency, consistency, and allowing for confirmations well into Presidential election years for nominees with bipartisan support.

Senate Republicans, on the other hand, have repeatedly asserted that the Thurmond Rule does not exist. For example, on July 14, 2008, the Senate Republican caucus held a hearing and said that the Thurmond Rule does not exist. At that hearing, the senior Senator from Kentucky, the Republican leader stated: ''I think it's clear that there is no Thurmond Rule. And I think the facts demonstrate that.'' Similarly, the Senator from Iowa, my friend who is now serving as ranking member of the Judiciary Committee, stated that the Thurmond rule was in his view ''plain bunk.'' He said: ''The reality is that the Senate has never stopped confirming judicial nominees during the last few months of a president's term.'' We did not in 2008 when we proceeded to confirm 22 nominees over the second half of that year.

We remain far behind in filling the judicial vacancies to provide the Federal judges that American people need to get justice in our Federal courts. A comparison of judicial vacancies during the first terms of President Bush and President Obama shows a stark contrast to the way in which we moved to reduce judicial vacancies during the last Republican presidency.

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.

We continued when in the minority to work with Senate Republicans and 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. By June 2004 we had reduced judicial vacancies to 43 on the way to 28 that August.

By comparison, vacancies have long remained near or above 80 and while little comparative progress has been made during the 4 years of President Obama's first term. As contrasted to 43 vacancies in June 2004, there are still 74 vacancies in June 2012. If we could move forward to Senate votes on the 17 judicial nominees ready for final action, the Senate could reduce vacancies below 60 and make some progress. I noted last week that, compared to our progress under President Bush, we were 9 months later in confirming the 150th circuit or district judge to be appointed by President Obama. Another way to look at our relative lack of progress and the burden the Republican obstruction is placing on the American people seeking justice is to note that by mid-November 2002 we had reduced judicial vacancies to below where we are now with 74 vacancies. We effectively worked twice as efficiently and twice as fast. By that measure, the Senate is almost 20 months behind schedule. This is hardly then the time to be shutting down the process. In fact, when on November 14, 2002, the Senate proceeded to confirm 18 judicial nominees, vacancies went down to 60 throughout the country.

This is a true comparison of similar situations. The nonpartisan Congressional Research Service in its recent report likewise compares the first years of Presidential administrations. False comparisons are to take the end of a second term of a Presidency, when vacancies have already been significantly reduced and to contend that confirmation numbers for that period can be fairly compared to the beginning of a Presidential term when vacancies are high.

Today, the Senate will vote on the nomination of Robin Rosenbaum to fill a judicial emergency vacancy in the U.S. District Court for the Southern District of Florida. Judge Rosenbaum has the ''support of her home State Senators, Democratic Senator BILL NELSON and Republican Senator MARCO RUBIO. Her nomination was reported with near unanimous voice vote by the Judiciary Committee nearly 3 months ago, with the only objection coming from Senator LEE's customary protest vote. Judge Rosenbaum was rated unanimously ''well qualified'' by the ABA Standing Committee on the Federal judiciary, the highest possible rating.

Judge Rosenbaum is currently a United States Magistrate Judge in the district in which she has been nominated, and has served in that position for almost 5 years. She previously served for 9 years as a Federal prosecutor, including 5 years as a chief of the economic crimes section. After graduating from law school, she spent four years as a trial attorney in the civil division of the U.S. Department of Justice before serving as staff counsel in the office of the independent counsel for the investigation of former U.S. Secretary of Commerce Ron Brown. Judge Rosenbaum clerked for Judge Stanley Marcus of the Eleventh Circuit Court of Appeals. She is a terrific nominee and she has my support.

Last week, the Judiciary Committee also voted Judge Brian Davis out of committee favorably for a judicial emergency vacancy in the Middle District of Florida. Judge Davis is an exceptional nominee with a distinguished career in public service. He has been a State court judge for 18 years, and has also served as a prosecutor for 9 years. The ABA Standing Committee on the Federal judiciary has unanimously rated Judge Davis well qualified to serve on the district court, its highest possible rating. Judge Davis was selected based on a nonpartisan judicial selection commission appointed by Senators NELSON and RUBIO, and both of the home State Senators have supported moving forward with consideration of this nomination. We should move to confirm him without delay so that he can get to work for the people of Florida.

After today's vote, we need to continue confirming nominees. At a time when judicial vacancies remained historically high for 3 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 long-standing 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.

Mr. GRASSLEY. Mr. President, I rise in support of the nomination of Robin S. Rosenbaum, to be U.S. district judge for the Southern District of Florida.

Although it is the practice and tradition of the Senate to not confirm circuit nominees in the closing months of

a Presidential election year, we continue to confirm consensus district judge nominees. We have now confirmed 151 nominees of this President to the district and circuit courts. We also have confirmed two Supreme Court nominees during President Obama's term.

I have heard some Members repeatedly ask the question, ''What is different about this President that he has to be treated differently than all these other Presidents?'' I won't speculate as to any inference that might be intended by that question, but I can tell you that this President is not being treated differently than previous Presidents. By any objective measure, this President has been treated fairly and consistent with past Senate practices.

For example, with regard to the number of confirmations, 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. And during President Bush's entire second term the Senate confirmed a total of only 119 district and circuit court nominees. With Ms. Rosenbaum's confirmation today, we will have confirmed 32 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. Today, we will exceed that number, as well. We have already confirmed 5 Circuit nominees, and this will be the 24th district judge confirmed this year. Those who say this President is being treated differently either fail to recognize history or want to ignore the facts.

After graduating from the University of Miami School of Law in 1991, Judge Rosenbaum worked as a trial attorney for the Federal Programs Branch of the Department of Justice. Her practice involved defending the constitutionality of Federal statutes and agency programs. In September 1995, she joined the Independent Counsel Office's investigation of former U.S. Secretary of Commerce Ronald Brown. She served as staff counsel, participating in the criminal investigation and providing advice to other team members. Upon closure of the investigation, Judge Rosenbaum joined the law firm of Holland & Knight LLP as an associate. While there, from 1996 to 1997, she worked on a variety of civil matters, including Federal employment law. Judge Rosenbaum then accepted a position as a law clerk for Judge Stanley Marcus on the U.S. Circuit Court of Appeals for the Eleventh Circuit, where she worked from January to October 1998.

After her clerkship, Judge Rosenbaum became an assistant U.S. attorney. She specialized in criminal prosecutions such as securities fraud, bank fraud, identity theft, tax fraud, telemarketing fraud, health care fraud, internet fraud, and computer crimes. In 2002, she became the chief of the Economic Crimes Section for the Central Division, Fort Lauderdale, which gave her supervisory responsibilities over 8 to 10 other assistant U.S. attorneys. She held that title until her appointment as a magistrate judge in 2007.

In 2007, the U.S. district judges for the Southern District of Florida appointed Judge Rosenbaum to be a U.S. magistrate judge. As magistrate judge in the District of Southern District of Florida, she manages all aspects of the pretrial process in civil and criminal cases: conducting evidentiary hearings, ruling on nondispositive motions, making reports and recommendations regarding dispositive motions, and issuing criminal complaints, search warrants, and arrest warrants.

The ABA Standing Committee on the Federal Judiciary unanimously rated Judge Rosenbaum as ''well qualified.''

Mr. NELSON of Florida. Mr. President, our Nation faces an alarming judicial vacancy rate. I am grateful that today we will be voting to confirm U.S. Magistrate Judge Robin Rosenbaum to fill a judicial emergency in the Southern District of Florida for a Federal district judgeship. She earned her undergraduate degree at Cornell, her law degree from Miami. She began her legal career in the U.S. Attorney General's Honors Program where she worked as a trial attorney in the Federal Programs Branch of the Civil Division. She has worked in private practice at Holland & Knight and as a law clerk to Judge Stanley Marcus, U.S. Circuit Court Judge for the 11th Circuit Court of Appeals, and she has worked as an Assistant U.S. Attorney down in the Southern District of Florida.

Our State has a great tradition of bipartisan support for our Federal judicial nominees going back a couple of decades. Of course, through this judicial nominating commission, she has come forth with their stamp of approval. The two Senators from Florida agree. I am happy to recommend her to the Senate.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Robin S. Rosenbaum, of Florida, to be U.S. District Judge for the Southern District of Florida.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Colorado (Mr. UDALL), and the Senator from Virginia (Mr. WEBB) are necessarily absent.

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

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

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 167 Ex.]

YEAS—92

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

NAYS—3

DeMint	Lee	Paul

NOT VOTING—5

Hatch	Rockefeller	Webb
Kirk	Udall (CO)	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be duly notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

FOOD AND DRUG ADMINISTRATION SAFETY AND INNOVATION ACT OF 2012—Continued

The PRESIDING OFFICER. For the information of the Senate, cloture having been invoked on the motion to concur in the House amendment to S. 3187 yesterday, the motion to refer fell, being inconsistent with cloture.

Under the previous order, there will be 6 hours 15 minutes of debate, with 2 hours controlled by the Senator from Iowa, Mr. HARKIN; 4 hours controlled by the Senator from North Carolina, Mr. BURR; and 15 minutes controlled by the Senator from Kentucky, Mr. PAUL.

The Senator from Iowa.