economic development. We need them in my State in communities such as Peoria and Moline. They also want to cut $2.5 billion from high-speed rail. That is a national project of significance that hires thousands of private sector employees who would be out of work if the House Republicans have their way.

In education, the House Republicans would cut $1.1 billion from Head Start. How many people have to remind us if we don't intervene in the lives of small children from families at risk, that those kids, sadly, may end up as poor students or worse. Head Start gives them a chance, and it is one of the first programs the Republicans called to cut.

They propose to cut $700 million from schools across America serving disadvantaged students. They are going to have to lay off 10,000 teachers because of this House Republican cut.

House Republicans also call for an $845-per-student cut in Pell grants for 8 million college students across America. There is a way for us to make sure Pell grants are well spent, but cutting the assistance for these students will discourage some from the training and education they need to find a job in the future.

House Republicans propose to cut $1.5 billion from grants to States for job training. Again, at a time when we need new skills, when many people have lost a job to which they can never return, cutting this money could be very tragic.

Then, when it comes to research and development, I think the House Republicans have lost their way. They want to cut $300 billion from the National Science Foundation, cutting grants to researchers, teachers, and students across America.

They want to cut $1 billion from the National Institutes of Health. What are they thinking, to cut $1 billion in medical research funds from the National Institutes of Health? If there is ever an area where we cannot lose our edge, not only for the good of humanity but for the good of our own people, it is in medical research. That is one of the first areas the Republicans turn to, to cut $1 billion; and money from the Office of Science at the Department of Energy, $1.1 billion. That is research for innovation in areas such as batteries for electric vehicles and other forms of clean energy, and that is clearly the future. What the Republicans want to cut, sadly, is too much in areas that promise a better future for America. We can do better.

Government can't directly create jobs at the pace we need to get this economy moving forward, but we can make the right investments. For example, infrastructure. In Illinois, we need to make sure we invest in high-speed rail. I am glad our State was chosen. It is going to mean more and more passenger service within our State, fewer cars on the highway, more construction. Ultimately, it is a benefit to the environment. So high-speed rail is an important infrastructure investment.

Modernizing O'Hare Airport, not just for the flight times so they will be more on time for arrivals and departures, but also for safety—the modernization of O'Hare needs to continue.

We need to have safer roads and bridges.

We need broadband across Illinois and across America so small towns have the same advantages as big cities.

We need to put money into Head Start for education.

We can do this. There is waste in this government to be cut. We can work on that together and find it, but let's not eliminate the jobs of teachers whom we need so badly or the money for elementary and secondary schools or grants for families and loans to help them put their kids through college, and worker training. These are things where the President has the right priorities and, sadly, the House Republicans do not. It is a sharp contrast. It is an important debate, and it is one we will hear on the floor of the Senate and the House in the weeks ahead.

We can reduce our debt. I think the President is right. His budget would reduce projected deficits by $1.1 trillion over the next 10 years. He wants to freeze nonsecurity discretionary spending for 5 years, and I think he has shown leadership in making that proposal. We need to work with him to come up with a bipartisan plan that reaches our goal of reducing debt in America while still creating jobs.

I went through that exercise with the deficit commission. I didn't agree completely with their product, but I thought it was a move in the right direction and I joined the bipartisan group of 11 who supported it. The fiscal commission report was called the moment of truth, and it was. With funding for the current fiscal year unresolved, with the next fiscal year looming, and with the debt ceiling within shouting distance, this is a seminal moment for the fiscal and economic future of America.

I commend the President for his approach in the fiscal year 2012 budget proposal. Just as America has faced down great challenges throughout our history, we can do this too. We can meet the dual challenges of more jobs and less debt. It takes leadership and constructive activism and realism. Bringing those together, Democrats and Republicans can work together to make equally painful but important political sacrifices. It will take a lot of work, but we can do it if we work together.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. 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 JAMES E. GRAVES, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

NOMINATION OF EDWARD J. DAVILA TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

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

The bill clerk read the nominations of James E. Graves, Jr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit and Edward J. Davila, of California, to be United States District Judge for the Northern District of California.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate with respect to the nominations, with the time equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I will not use all my time. I do want to note that by starting the week considering two of President Obama's judicial nominations, the Senate is building on the progress we began to make last week. With judicial vacancies in this country remaining over 100, nearly half of them judicial emergencies, the Senate's action on the two outstanding nominees we will consider is much needed. I thank the majority leader for scheduling the time. I thank the Republican leader for his cooperation.

James Graves of Mississippi is a justice of the Mississippi Supreme Court and has been a judge in Mississippi for 20 years. President Obama has nominated Justice Graves to fill a judicial emergency vacancy on the Fifth Circuit. When he is confirmed, he will be the first African American from Mississippi to serve on the United States Court of Appeals for the Fifth Circuit.

Edward Davila has been a California State trial judge for 10 years. For 20 years before his service on the bench, he was a deputy public defender and worked in private practice. President Obama nominated Judge Davila to fill a judicial emergency vacancy in the Northern District of California.

Both of these nominations were reported unanimously by the Judiciary Committee this year. Both also had been reported by the Judiciary Committee unanimously last year. We have reported them out twice unanimously. It is time now to vote on them. They were among the 19 judicial nominees we voted out unanimously and were ready to be confirmed by the Senate last year before we adjourned. When there was objection to proceeding last year, the vacancies persisted, the President had to renominate them and

the Judiciary committee had to reconsider their nominations. We passed them out unanimously from the committee. I expect the Senate will confirm both tonight and will do so unanimously.

Both have the support of their home State Senators. I will begin with Justice Graves. Both Senator COCHRAN and Senator WICKER have worked with the President and me in connection with the nomination of Justice Graves. Both have been enthusiastic in their support of Justice Graves. The Governor of Mississippi, Governor Barbour, came up to me a few days ago at an event and urged me to move forward with the nomination of Justice Graves. I told him I have been ready to move forward on this nomination since last year. This is an example of a nominee with bipartisan support. Senator FEINSTEIN and Senator BOXER have worked with the President and with me in connection with the nomination of Judge Davila.

I hope the votes we had last week and the votes we are having tonight signal the return to regular order that I have been seeking for months. Nominees who have been voted out unanimously by every Republican and every Democrat on the Senate Judiciary Committee ought to be brought up for a vote on the Senate floor without unnecessary delays. My experience over the last 37 years is that when you have nominations like these, they almost always also go through unanimously in the full Senate. These are two of the eight judicial nominees unanimously reported by the Judiciary Committee who are ready for final consideration and final action by the Senate. I hope the other six judicial nominations to fill vacancies in Georgia, California, North Carolina, and the District of Columbia will all be considered before the President's Day recess.

As I indicated before, when these two nominees are confirmed, there will still be 100 Federal judicial vacancies around the country. That is too many, and they have persisted for too long. If you are a litigant and trying to get a case heard, you do not care whether your judge was nominated by a Republican or a Democratic President, you just want to make sure there is a judge there so your case can be heard. All over the country, however, people cannot get their cases heard because of the judicial vacancies.

That is why Chief Justice Roberts, Attorney General Holder, White House Counsel Bob Bauer, and many others, including the President of the United States, have spoken out and urged the Senate to act. That is why the front page story in the Washington Post last Tuesday bore the headline: ''Vacancies on Federal Bench Hit Crises Point.'' As that report stated, vacancies are ''increasing workloads dramatically and delaying trials in some of the Nation's Federal courts.''

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my statement a copy of the Washington Post report on the judicial vacancies crises.

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

(See exhibit 1.)

Mr. LEAHY. Mr. President, nearly one in eight Federal judgeships across our Nation—east to west, north to south—are vacant. That puts at risk, as I mentioned earlier, the ability of all Americans to get a fair hearing in court. The real price for these unnecessary delays falls upon judges who are already overburdened with cases, unable to put the time into them they should, and the American people who depend on our courts, and are being denied hearings and justice in a timely fashion.

Regrettably, the progress we made during the first two years the Bush administration has not been duplicated and the progress we made over the eight years from 2001 to 2009 to reduce judicial vacancies from 110 to a low of 34 was reversed. The vacancy rate we reduced from 10 percent at the end of President Clinton's term to less than four percent in 2008 has now risen back to over 10 percent. In contrast to the sharp reduction in vacancies during President Bush's first 2 years in office, when the Democratically-controlled Senate confirmed 100 of his judicial nominations, only 60 of President Obama's judicial nominations were allowed to be considered and confirmed during his first two years in office. We have not kept up with the rate of attrition, let alone brought the vacancies down. Judges die and judges retire and there are additional vacancies created all the time. By now, those vacancies should have been cut in half. Instead, they continue to hover above 100.

I believe the Senate can do better. In fact, I believe the Senate has to do better. The Nation cannot afford further delays in the Senate taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. That is unacceptable.

We can consider and confirm this President's nominations to the Federal bench in a timely manner. President Obama has worked with Democratic and Republican home state Senators to identify superbly qualified consensus nominations. None of the nominations on the Executive Calendar are controversial. Half of them have Republican home state Senators who support them, like the nomination of Justice Graves we consider today. All have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution.

I want to thank Senator GRASSLEY, the Judiciary Committee's ranking member, and all the members of the Judiciary Committee for working with me at the start of this Congress to establish a fair and timely schedule for holding confirmation hearings and considering nominations in committee.

Again, I would note that during President Bush's first term, in his first four tumultuous years in office, we proceeded to confirm 205 of his judicial nominations. We confirmed 100 of those during the 17 months when I was chairman during President Bush's first two years in office. Democrats were in charge and I was the chairman. So we have shown that we are willing to cooperate. In contrast, now in President Obama's third year in office, the Senate has only been allowed to consider 65 of his Federal circuit and district court nominees. We remain well short of the benchmark we set during the Bush administration. We have to do better. When we approach it, we can reduce vacancies of historically high levels at which they have remained throughout these first three years of the Obama administration to the historically low level we reached toward the end of the Bush administration.

The nominations we consider today both demonstrate President Obama's commitment to working with home state Senators to select well qualified nominees. Justice Graves, nominated to fill an emergency vacancy on the Fifth Circuit, is currently the only African American on the Mississippi Supreme Court. When confirmed, he will be the first African American from Mississippi to serve on the Fifth Circuit and only the second African American in the circuit's history. His confirmation will be a significant milestone after years of broken promises.

President Obama's commitment to increase diversity on the Federal bench helps ensure that the words ''equal justice under law,'' inscribed in Vermont marble over the entrance to the Supreme Court, is a reality and that justice is rendered fairly and impartially. I thank Senator COCHRAN and Senator WICKER for their strong support of the nomination of Justice Graves. His nomination received a rating of unanimously well qualified from the ABA's Standing Committee on the Federal Judiciary, its highest possible rating. He will make an excellent addition to the Fifth Circuit.

Judge Davila has been nominated to fill an emergency vacancy on the Northern District of California. Currently a judge on the Superior Court of California, Judge Davila previously spent 20 years as a trial lawyer, first as a deputy public defender in the Santa Clara County Public Defender's Office and then as a lawyer in private practice. He also has taught trial advocacy course sessions at Stanford Law School, Santa Clara University School of Law, and the University of San Francisco School of Law. If confirmed, Judge Davila will become the first Latino to take the Federal bench in the Bay Area in more than 15 years. He has the strong support of his two home state Senators, Senator FEINSTEIN and

Senator BOXER. I am glad his nomination will finally be considered by the Senate.

I have often said that the 100 of us in the Senate stand in the shoes of over 300 million Americans. We owe it to them to do our constitutional duty of voting on the President's nominations to be Federal judges. We owe it to them to make sure that hard-working Americans are able to have their cases heard in our Federal courts.

Again, I commend both the majority leader and the Republican leader for moving forward.

Mr. President, I yield the floor, and I reserve the remainder of my time and my voice.

EXHIBIT 1

[From the Washington Post, Feb. 8, 2011]

FEDERAL JUDICIAL VACANCIES REACHING CRISIS POINT

(By Jerry Markon and Shailagh Murray)

Federal judges have been retiring at a rate of one per week this year, driving up vacancies that have nearly doubled since President Obama took office. The departures are increasing workloads dramatically and delaying trials in some of the nation's federal courts.

The crisis is most acute along the southwestern border, where immigration and drug cases have overwhelmed court officials. Arizona recently declared a judicial emergency, extending the deadline to put defendants on trial. The three judges in Tucson, the site of last month's shooting rampage, are handling about 1,200 criminal cases apiece.

''It's a dire situation,'' said Roslyn O. Silver, the state's chief judge.

In central Illinois, three of the four judgeships remain vacant after two of President Obama's nominees did not get a vote on the Senate floor.

Chief Judge Michael McCuskey said he is commuting 90 miles between Urbana and Springfield and relying on two 81-year-old ''senior'' judges to fill the gap. ''I had a heart attack six years ago, and my cardiologist told me recently, 'You need to reduce your stress,'" he said. ''I told him only the U.S. Senate can reduce my stress.''

Since Obama took office, federal judicial vacancies have risen steadily as dozens of judges have left without being replaced by the president's nominees. Experts blame Republican delaying tactics, slow White House nominations and a dysfunctional Senate confirmation system. Six judges have retired in the past six weeks alone.

Senate Republicans and the White House are vowing to work together to set aside the divisions that have slowed confirmations, and the Senate on Monday approved Obama nominees for judgeships in Arkansas, Oregon and Texas. Eight more nominees are expected to receive votes in the coming weeks.

If the backlog eases, Obama will have the chance to appoint dozens of judges who might gradually reverse what many consider a conservative drift in the lower federal courts under the George W. Bush administration.

Even with Obama's difficulties in the past two years, his appointees have given Democrats control of two of the nation's 13 federal circuits, including the influential U.S. Court of Appeals for the 4th Circuit in Richmond, long a conservative bastion.

And about three-fourths of his appointees have been women or minorities, a historically high rate aimed at diversifying a judiciary that is made up of nearly 60 percent white men.

''It's fair to say that the Obama administration has had an impact on the federal courts and that at the end of this Congress, I believe that impact will be reinforced,'' said Sheldon Goldman, an expert on judicial selection at the University of Massachusetts at Amherst.

Obama's opportunity is brief, however, because the presidential election season will ramp up by next year. And even with the current promises of bipartisanship, Senate rules allow individual senators to hold up nominations.

There are now 101 vacancies among the nation's 857 district and circuit judgeships, with 46 classified as judicial emergencies in which courts are struggling to keep up with the workload. At least 15 more vacancies are expected this year, according to the administrative office of the U.S. Courts. When Obama took office in 2009, 54 judgeships were open.

Most of the departing jurists have taken what is known as senior status—A semi-retirement in which they receive full pay but can take a reduced workload and are not considered active members of the court. But court officials say the increased work, heavier caseloads and lack of pay increases are prompting more judges to leave the bench entirely.

The effect is most visible in civil cases, with delays of up to three years in resolving discrimination claims, corporate disputes and other lawsuits.

''Ultimately, I think people will lose faith in the rule of law,'' said Alex Kozinski, chief judge of the U.S. Court of Appeals for the 9th Circuit in California. ''We as a nation believe that if you have a dispute, you go to court and within a reasonable period of time, you get a decision.''

Kozinski, who oversees the federal court in the Commonwealth of the Northern Mariana Islands, a U.S. territory, said the government has spent at least $250,000 to fly visiting judges to the island of Saipan, where the sole judge retired last year.

In Arizona, the number of criminal cases has increased 65 percent since 2008, while three of the 13 federal judgeships are vacant. Former chief judge John M. Roll was working on the judicial emergency declaration when he was killed during last month's shootings in Tucson.

Beyond the practical need for judges, the political stakes are high. The vast majority of federal cases are dispensed through the district and circuit courts of appeal, with the Supreme Court hearing fewer than 100 cases each year.

And control of the influential appellate courts tends to shift with the party in power: By the time Bush left office, his appointees had given Republican nominees a majority of about 56 percent on those bodies.

Party affiliation is not a perfect predictor of a judge's behavior, but studies have shown that Democratic and Republican nominees vote differently on some ideologically charged issues, such as abortion, gay rights and capital punishment.

When Obama took office, experts predicted he would flip the Republican appellate court majority in his first term. But in 2009 and 2010, the administration nominated 103 district and circuit judges, compared with 129 during Bush's first two years and 140 in President Bill Clinton's first two years, said Russell Wheeler, a Brookings Institution scholar who studies federal courts.

White House counsel Bob Bauer attributed the slow start to the administration's large legislative agenda, two time-consuming Supreme Court vacancies and an increasingly complicated background review process for nominees.

''We have made progress,'' Bauer added, pointing out that the pace of nominees picked up significantly last year. But those nominees faced a tough road in the Senate, as Republicans repeatedly exercised their right to ''hold over'' nominees before sending them to the floor.

The 60 nominees confirmed in Obama's first two years in office made up the lowest number in 35 years, according to the Senate Judiciary Committee.

Still, Obama has been putting his stamp on the courts. When he took office, Democratic appointees had small majorities on two appeals courts—the New York-based 2nd Circuit and the 9th Circuit. Obama's nominees have also given Democrats control of the 4th Circuit and the 3rd Circuit, which covers Pennsylvania, New Jersey and Delaware.

The 4th Circuit is an influential voice on national security and one of the appellate courts expected to hear challenges to the health-care overhaul law. It has a 9–5 Democratic majority, because of four Obama appointees.

''That's almost unimaginable,'' said Curt Levey, executive director of the conservative Committee for Justice. ''When I first went to law school, that was the one circuit you knew was conservative.''

If the Senate approves the 48 pending White House judicial nominations, the circuits would be about evenly divided between Democratic and Republican nominees, according to Wheeler's analysis. ''This Congress has the power to shift the balance rather substantially,'' he said.

Saying the courts face ''a severe problem,'' Bauer vowed that the White House will move nominees ''at a very steady clip. . . . We will use all the resources at our disposal to bring attention to the issue and work on a bipartisan basis.''

Senate Majority Leader Harry M. Reid (D–Nev.) and Minority Leader Mitch McConnell (R–Ky.) struck a ''gentleman's agreement'' in January to quash many of the procedural tactics that have slowed nominations.

''We'll be discussing with Senator Reid how to begin moving them in an orderly fashion,'' said Don Stewart, a spokesman for McConnell.

Liberal groups, which have blasted what they call Republican obstructionism and pushed the White House to focus more on judges, said this year will be key.

''This is really a critical time for the legacy this president will be able to create on the federal judiciary,'' said Marge Baker, an expert on judicial selection at People for the American Way. ''We have an opportunity now, and we have to take advantage of it.''

The PRESIDING OFFICER. The Senator from Tennessee.

THE BUDGET

Mr. CORKER. Mr. President, I thank the Senator from Vermont, and I will be very brief.

I know today the President has put forth the administration's proposal on the budget, and a lot of people on both sides of the aisle have spent a tremendous amount of time over the course of this last year——

Mr. LEAHY. Would the Senator yield for a moment? I assume the Senator is speaking on the time reserved for the Republican side.

Mr. CORKER. That is correct, Mr. President, and I thank the Senator from Vermont for being so fastidious.

Back to what I was talking about. I know a lot of people on both sides of the aisle have spent a great deal of time looking at ways for us to lessen, if not close, the tremendous amount of

the deficit we have in this country. I think everybody understands what a threat this is to our economic security—candidly, to, I believe, our national security—and I think many of us have paid close attention to what has happened to other countries in this type of situation. There is a strong sense on both sides of the aisle, and becoming even stronger, that this is an issue we as a country have to deal with.

What is unique about the issue of this fiscal deficit our country has is that it is something totally within our hands. In other words, we can deal with this. This is not like some of the situations we deal with in Afghanistan or other places, where it takes others, if you will, working with us to ensure our efforts there are successful. This is something we as a Congress can solve. Again, the economy requires private sector investment and people doing work outside of this body to create the kind of prosperity we would like to see. But this is totally within our control.

So, Mr. President, I really do try to look at the bright side of things. On the other hand, I was disappointed to see the President's budget today and the lack of urgency that was displayed there and the lack of concern. I think what that means for those of us in this body and in the House who are going to have to—as we should—deal with this issue, it is much more difficult when dealing with a national crisis not to have the administration pulling along with you. It is my hope, even though I think the President did miss an opportunity to lead on this issue, that over the course of the next several months he will come to the table and deal with this issue in a responsible way with both the House and Senate.

I know the House is wrestling with these issues right now. My guess is that by the time they get ready for recess this weekend, they will send over something that deals with some cuts in discretionary spending. I think we all know we have to deal with the entire budget if we are actually going to make the type of headway all of us know needs to be made. But I do hope what we will do this spring, early on, is go ahead and vote to pass on some very large reductions in spending. I hope we will pass something like the Cap Act that CLAIRE MCCASKILL and I have cosponsored, which takes us from where we are in spending relative to our country's economic output down to the 40-year average.

I would think most people in this body would consider that to be a reasonable approach over a 10-year period that would be a straitjacket on Congress to ensure that we actually make those cuts. So those are two steps that need to occur, and it is my hope the administration, after putting forth what has been put forth, will join us in this effort.

Mr. President, I think all of us know that in order to deal with the big issues of this country, it is going to take the executive branch, the House, and the Senate. We have divided government, but this is a perfect opportunity for us, as a country, to deal with this huge issue that threatens certainly the future of the young people sitting before me, but threatens our country's economic security and our national security.

So, Mr. President, I thank you for the time. I hope all of us will deal with this budget in a serious, sober, and responsible manner. I think we have several months over which we have a tremendous opportunity to come together and do the right thing as it relates to our country's economic and fiscal situation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, what is the order right now?

The PRESIDING OFFICER. The Senate is currently debating two nominations.

Mrs. BOXER. Is it appropriate that I speak on one of those nominations but also make some comments about the budget?

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Mr. President, I am very happy today to know that we are about to cast a vote on Edward Davila, nominee for the U.S. District Court for the Northern District of California. This is a wonderful nominee, and he deserves this up-or-down vote. I am convinced he is going to get an overwhelming vote, and I am going to speak to that in a moment. But the Senator from Tennessee was critical of President Obama's budget, and I wanted to just make a response to that.

The Senator from Tennessee is not the only Republican to criticize President Obama's budget. They are all reading out of the same playbook. I just have to say that while no one agrees with everything in that budget—I certainly don't—the basis of the budget is critical, and this is the basis of the budget: The President is addressing the deficit in a very responsible way—freezing domestic discretionary spending—very tough, very tough—cutting billions and billions and billions of dollars of red ink while not jeopardizing the economic recovery that we are in the midst of.

To me, it is very interesting because I had the privilege of being in this body the last time we balanced the budget. As far as I know, I don't recall any Republicans voting for Bill Clinton's budget. Maybe there were one or two, I don't recall. But that budget was in balance and we went into surplus. Frankly, we learned how to do it then.

What did we learn? We learned that when we are facing a crisis like this—a budget deficit that is growing too fast and an economic recovery that we don't want to disrupt—we have to be responsible. We don't take a meat ax to this economy and cut things just for the sake of telling the American people we met a certain number. Every billion dollars of cuts means real people with real jobs.

Then the Republicans are criticizing our President for investing in the infrastructure of this country. Mr. President, you and I know we can't have a great nation if we can't move goods, if we can't move people, if people are stuck in traffic, if we have sewer systems that are overflowing, water systems that are antiquated, and we have millions of people who can't get access to broadband and the Internet. We all know the value of that.

So I would say to my Republican friends: Please don't be against something simply because our President is for it. He is reaching out his hand. Don't give him the back of your hand. I am very optimistic we can work together. I am certainly pleased the President has reached out his hand, and Republicans and Democrats have reached out their hands, too, in this Congress.

I am pleased to say on the highway bill I am working very closely with Mr. MICA, who is the chairman of the Transportation and Infrastructure Committee in the House. I am working with JIM INHOFE, my friend and ranking member of the committee in the Senate. So let's, in our rhetoric, not each go to our corners. Let's welcome this President's budget. Let's take a look at it, let's ask economists what the impact is of cutting so much that we derail our economic recovery.

We can do this. We did it under Bill Clinton. We balanced the budget and created 23 million jobs. Under George W. Bush, that was gone in 5 minutes—tax cuts to the people who didn't need it—and with it a horrible economic recession, which this President—President Obama—stepped to the plate and dealt with, without much help from the other side. A couple helped us, yes. And I am preparing a little presentation on what we did and what was the impact. We had capitalism on the brink of failure, and this President had the courage to deal with it.

There were calls from the Republican side of the aisle to nationalize the banks. I remember that. President Obama said: No way. We are not going to do that.

Now, has it been rough? Has it been tough? Horribly so. My State is suffering from this mortgage crisis. We have to do more. We all know that. But economists are saying we are moving forward. We have turned the corner. Therefore, I don't understand this chorus of negativity coming from the Republicans toward our President when he was able to take the worst recession since the Great Depression and bring us back to a stable situation.

Let's work together. Let's not heat up this rhetoric. We can do this. We did it before. We know how to wrap our arms around this deficit, and we know how to grow jobs. So let's take a page out of that book. It means we take bold steps, but we don't go so far so fast

that we derail economic recovery. We can do this.

The attack by the other side on the Environmental Protection Agency is unbelievable. I saw a cartoon in the Gannett papers in my hometown. It had a drawing of an elephant, representing the Republican Party. In the elephant's trunk was a can that was obviously poison. It had skull and bones on it, spraying the flowers, the trees, and the air. Under the Republican logo it said: Environmental Destruction Agency. The Republican Party calls it the Environmental Destruction Agency, and they have cut one-third—that is their proposal—of the EPA's budget.

Now when I go out to talk to people, not one of them ever says to me: The air is too clean, Senator. Make it dirtier. My kid only missed 2 days from this school year, and I want dirty air. Nobody has ever said to me: I want unhealthful water. Nobody has ever told me they want to live close to a Superfund site. So I say to my friends: Watch what you are doing. You are taking a meat ax to the Environmental Protection Agency that protects the health and the safety and the well-being of our children and our families. If you can't breathe, you can't work. You know that? You lose time from work. So let's be careful. Let's not be radical. Let's not be extreme. That is not what the people send us here to do.

They certainly didn't send us here to take away a woman's right to choose. They sent us here to work on this economic recovery. Yet we have proposals over there on the other side that are unbelievable and that would raise taxes on people who have health care policies that include reproductive health care for women. Can you imagine? They want to raise taxes on small businesses that have health policies that cover reproductive health care for women. I don't think that is what this election was about. I thought it was about getting jobs in this economy.

So between that and the overreaching on the budget, we have a lot of work to do. I say it with due respect, I really do. But the American people need to weigh in. They are going to need to say how much is too much and what their values are.

Richard Nixon signed the Clean Air Act and the Clean Water Act. A Republican President signed these acts. Yet now the Republicans are trying to destroy these important bipartisan accomplishments. You know why? They say it kills jobs. Guess what. We heard the same thing from the people who tried to stop the Clean Air Act—the polluters. They said, it is going to cost jobs. But we had the greatest economic growth after that period. And guess what. Jobs are created when we clean up the air. Jobs are created when we have technologies we can export and when we find ways to make drinking water safe.

Frankly, I am energized by this debate because I believe there are differences in the parties. I think that is OK, it is fine. I will be involved in the debate. I am sure colleagues on the other side who disagree will put forward their views. They are trying to take away the power of the Environmental Protection Agency to enforce standards on carbon pollution—dangerous carbon pollution—that the Bush administration told us through their work puts our people in danger, puts our families in danger, puts our country in danger, puts our economy in danger. They are actually trying to stop the EPA from enforcing the Clean Air Act. I do not know one constituent who ever told me they thought the air was too clean or the water was too safe to drink.

NOMINATION OF EDWARD DAVILA

Mr. President, today it is my honor to support the nomination of Judge Edward Davila as the Senate prepares to vote on his confirmation to become a district court judge. I congratulate him and his family on this important day. I have had the privilege of recommending Judge Davila to President Obama to serve on the Northern District Court of California. He is respected by his colleagues and those who appear before him, and he will make an excellent addition to the bench.

This is a critical vacancy to fill. The Northern District has been designated a judicial emergency by the Administrative Office of the U.S. Courts. We do not have enough judges. This is another area in which we must work better together. I am hopeful on this one that we can.

I am pleased that we are voting on Judge Davila today. When he is confirmed, Judge Davila will be the only Latino serving on the Northern District Court. That is important. Our State is so diverse, it is extraordinary, and we need everybody believing they are represented.

The judge is outstanding. He brings an impressive background of service in both public service and private practice.

Judge Davila was born in Palo Alto, one of three children raised by a single mother. It is from his mother Dora that he learned the important qualities that have served him well. He defines those as hard work and determination. I extend my personal congratulations to Dora. As a mother, I know the immense pride she must feel for her son at his extraordinary accomplishments.

Judge Davila is a graduate of the California State University at San Diego and the University of California's Hastings College of Law in San Francisco. He practiced law for nearly three decades, spending his first 7 years as Santa Clara County public defender before moving into the private sector as the co-owner of a small firm specializing in criminal defense. During his time as defense counsel, Judge Davila earned the respect of prosecutors and law enforcement officials with whom he interacted, and he received awards from the State Bar of California. He served as president of the Santa Clara Bar Association in 1998.

Since 2001, he has served on the Santa Clara County Superior Court, where he has drawn praise from fellow judges and lawyers for his hard work, his integrity, and his fairness. In a recent survey by the Santa Clara County Bar Association, his performance was rated ''excellent'' or ''good'' by a huge percentage of participants with respect to his work ethic, his knowledge of the law, his knowledge of procedure, integrity, dispute resolution, and his judicial temperament, which we know is so important. He has also received awards and recognition for his judicial performance from the Santa Clara Bar Association and the California State Assembly.

I close by congratulating Judge Davila and his entire family on this momentous day. Here is another example of the American dream. I urge my colleagues in the Senate to join me in voting to confirm this highly qualified nominee to the Federal bench.

Mrs. FEINSTEIN. Mr. President, I rise in support of the nomination of California Superior Court Judge Edward Davila to be a U.S. district judge in the Northern District of California.

If confirmed, Judge Davila would bring a wealth of relevant experience to the district court. Since 2001, he has served as a superior court judge in Santa Clara County. He has presided over more than 10,000 cases—both civil and criminal—and has seen more than 50 cases from trial to final judgment.

He is a seasoned lawyer who also has more than 20 years of litigation experience under his belt. For 13 years, Judge Davila tried criminal cases as a partner at his own law firm in San Jose. For 7 years before that, he worked as a deputy public defender for Santa Clara County. In total, during his two decades as a litigator, he tried more than 45 cases to verdict or judgment.

Beyond his professional experience, Judge Davila has also been a devoted member of the Santa Clara community. He is a former president of the Santa Clara County Bar Association as well as the Santa Clara County La Raza Lawyers Association. He has taught trial advocacy at Stanford Law School, the University of San Francisco School of Law, and the University of Santa Clara School of Law. And he has made it a longstanding practice to teach local high school students about the criminal justice system through mock trials in his courtroom.

Judge Davila's confirmation would also bring much needed diversity to a court with broad reach in California. There are currently 18 active and senior district judges in the Northern District of California, but not a single one is of Latino or Hispanic descent. Judge Davila's confirmation would correct this imbalance. I am pleased to support his nomination, and I strongly urge my colleagues to confirm him.

Finally, I want to say a word about the caseload in this district. Last

week, the Judicial Conference of the United States sent a letter to the President and the leadership of the Senate calling attention to a handful of courts with severe caseload problems.

The Northern District is one of these courts. Last year, the district's judges carried a caseload of nearly 600 weighted filings per judgeship—far above the recommended level. With two vacancies unfilled, that caseload rose to more than 700 weighted filings per active judge.

These vacancies did not exist for lack of a nominee. The President nominated Judge Davila in May of last year. He was reported out of the Judiciary Committee without objection, but he is only now receiving a vote. Another very qualified nominee for this court, Magistrate Judge Edward Chen, was nominated in August of 2009. He has been reported out of the Judiciary Committee twice but still has not received a vote on the floor.

Today's vote on Judge Davila's nomination is a step in the right direction. I urge my colleagues to support him, and I hope that we can continue to work together to ensure that our Federal courts have the judges they need to administer justice fairly and in a timely manner for the American people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Mississippi.

Mr. WICKER. Mr. President, I rise in strong support of the nomination of Mississippi Supreme Court Justice James Graves to the U.S. Court of Appeals for the Fifth Circuit. I thank all of those on both sides of the aisle who have worked to get this vote scheduled and to bring us to this moment, where I am confident Justice Graves will be confirmed.

When that happens today and when he takes the oath, Justice Graves will bring a rich and distinguished background of public service to the Fifth Circuit. He is a Mississippi native. He graduated as valedictorian of Sumner High School in the small delta town of Sumner and went on to receive his bachelor's degree from Millsaps College before going to law school at Syracuse University.

Justice Graves currently presides as a justice on the Mississippi Supreme Court, where he has faithfully served since his appointment in 2001 and his subsequent election in 2004. Before being appointed to the Mississippi Supreme Court, Justice Graves served as a circuit court judge in Hinds County, MS, for 10 years.

Justice Graves is a dedicated family man and community volunteer. He has been honored on numerous occasions with awards recognizing his public service. Those who know him know he is particularly committed to teaching and motivating young people, particularly the young people of my State of Mississippi. I am confident that even in this position of increased responsibility and visibility, he will continue taking time to work with our Nation's young people.

I am proud today to speak on behalf of Justice Graves. I urge my colleagues to vote in support of his nomination to the Fifth Circuit.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. 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. COCHRAN. Mr. President, I am pleased to support the nomination of Justice James E. Graves, Jr., to serve as a judge on the U.S. Court of Appeals for the Fifth Circuit. At this time, Justice Graves is serving as a presiding justice on the Mississippi Supreme Court. He was appointed to our State's highest court in 2001, and he was elected to the court in 2004. Prior to that, he served as a trial court judge for 10 years.

Justice Graves has earned impressive academic credentials, including an undergraduate degree from Millsaps College, a law degree from Syracuse University College of Law, and a master's degree in public administration from Syracuse University.

Justice Graves has served as a director of the Child Support Division of the Mississippi Department of Human Services. It is with pride and pleasure that I am able to recommend to the Senate the confirmation of Justice James E. Graves, Jr.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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, today the Senate will confirm two more of President Obama's judicial nominees. With this action, we are filling two seats which have been declared judicial emergencies. I am pleased we are moving forward with these important positions.

I agree with the chairman's recent editorial and remarks he has made that we have an opportunity to turn the page and work together in a spirit of bipartisanship and civility. I do not view it as a productive effort to continue with the finger pointing and the negative back and forth regarding the previous pace or outcome of judicial nominations. Unfortunately, that rhetoric has frequently overshadowed the debate on the qualifications of particular nominees.

I and my Republican colleagues have been very cooperative in taking action on the President's nominees. During this Congress, the President has nominated 50 individuals to the Federal judiciary. This Congress has been in session for approximately 1 month. In this brief time, we have taken positive action, in one form or another, on nearly half of those nominees. With today's votes, we will have confirmed 5 nominees. If this is not cooperation, I do not know what is.

Furthermore, we have seen a high level of bipartisanship with regard to President Obama's confirmed nominees. For President Obama's confirmed district judge nominees, 94 percent of those confirmations were by unanimous votes. Only 59 percent of President Bush's confirmed district court nominees were afforded that same level of bipartisanship. So I think it is fair to say that we are cooperating in a bipartisan manner, and in a deliberate pace.

I am working with the chairman to ensure nominees are afforded a fair but thorough process, in a timely manner. I have appreciated the chairman's courtesy as we have worked together to set schedules and agendas. As we do so, I assure my colleagues that I will not falter on ensuring each nominee is properly and thoroughly evaluated.

We are acting to reduce the judiciary vacancy rate. There are currently 99 vacancies in the Federal courts. However, it is remarkable to me that more than half of those vacancies, 52 seats, have yet to receive a nomination. Furthermore, 25 of the 46 seats deemed to be judicial emergencies do not have nominees. It is unfair to blame Republicans for any delays with these vacancies. It is impossible to fill seats when a nominee has not been named. It is the responsibility of the President to send to the Senate consensus nominees for these positions.

Let me say a few words about the nominees who are scheduled to have votes today. I thank our leadership for the reasonable arrangement that was reached to consider these nominations.

First, Justice James E. Graves has been nominated to be a circuit judge for the Fifth Circuit. He received his B.A. from Millsaps College, his J.D. and an M.P.A. from Syracuse University.

Justice Graves comes to the Federal bench with extensive experience in the legal field. He was a staff attorney for the Central Mississippi Legal Services for 3 years before moving into private practice. Justice Graves also spent time, first as a counsel, then as a chief legal counsel, in the office of the Mississippi attorney general. Justice Graves left the Office of the Attorney General to become director of the Mississippi Department of Human Services' Child Support Enforcement Division.

Justice Graves also has considerable judicial experience. He was appointed to Mississippi Circuit Court judge in 1991 and was re-elected twice. Since 2001, Justice Graves has served on the Mississippi Supreme Court and has authored 151 majority opinions for the court and 92 concurring or dissenting opinions. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated him ''Qualified.''

I also rise in support of Judge Edward Davila to be U.S. district judge for the Northern District of California. With today's vote, we will have confirmed 7 of President Obama's nominees to the district courts of California. Judge Davila received his B.A. from California State University, San Diego and his J.D. from University of California's Hastings College of the Law. A majority of the American Bar Association Standing Committee on the Federal Judiciary rated him ''Qualified.''

Judge Davila began his career at the Santa Clara County Public Defender before entering private practice. He represented criminal defendants in State and Federal courts. In August 2001, Governor Gray Davis appointed Judge Davila to the Superior Court of California, County of Santa Clara, a trial court of general jurisdiction. Judge Davila was re-elected without opposition twice.

We are making good progress in considering judicial nominations. I am pleased the chairman and I have been able to move forward. We are filling judicial vacancies, with a particular focus on judicial emergencies. We are working in a manner that treats each nominee in a fair manner and permits each Senator to thoroughly review the qualifications of each nominee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, we are prepared to yield back any time on this side. I understand from my colleague that they will yield back on their time.

Parliamentary inquiry: Is the first nomination the Graves nomination?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. It is my understanding there is not a request for a rollcall vote on that one.

The PRESIDING OFFICER. If all time is yielded back, the question is, Will the Senate advise and consent to the nomination of James E. Graves, Jr., of Mississippi, to be a U.S. circuit judge for the Fifth Circuit?

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Edward J. Davila, of California, to be a U.S. district judge for the Northern District of California?

Mr. LEAHY. 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 called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Arkansas (Mr. PRYOR), and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from South Carolina (Mr. DEMINT), and the Senator from South Carolina (Mr. GRAHAM).

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 15 Ex.]

YEAS—93

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

NOT VOTING—7

Blunt	Kerry	Udall (NM)
DeMint	Mikulski	
Graham	Pryor	

The nomination was confirmed.

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

VOTE EXPLANATION

Mr. KERRY. Mr. President, I was necessarily absent for the vote on the nomination of Edward Davila to be U.S. district judge for the Northern District of California. If I were able to attend today's session, I would have supported the nominee.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The majority leader.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT—Continued

Mr. REID. For the information of all Senators, there will be no more votes tonight. I have had a number of conversations with the Republican leader today. We are going to have one or two votes before our caucus lunches tomorrow. We will have a number of votes set up after the caucus luncheons. We want to finish this bill as quickly as we can, which will be this week. I know a number of people are waiting around for votes. I know Senator PAUL is waiting around for a vote on his amendment tomorrow afternoon, and I know Senator NELSON of Nebraska and Senator WICKER have amendments we are trying to get a vote on. We are trying to move to those as soon as we can.

Anyway, we are going to have some votes tomorrow. No more votes tonight.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished senior Senator from Oklahoma and I be recognized for a total of 6 minutes evenly divided.

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

Mr. LEAHY. I yield to the Senator from Oklahoma.

AMENDMENT NO. 6 WITHDRAWN

Mr. INHOFE. Mr. President, Senator LEAHY and I have two amendments. He has Leahy amendment No. 50 and my amendment is No. 6. I say to my friend from Iowa, I will just be a few minutes, as he was kind enough to allow us to do this first.

This has to do with the liability of those individuals who are making their own sacrifice to help people in distress. It is something that those of us who are pilots have done—helping individuals in being relieved of some of the individual liability that might be incurred. The Leahy amendment goes a little further than mine, but I am satisfied with his. So what I wish to do is request unanimous consent to withdraw my amendment No. 6 that gives liability protection to volunteer pilots and organizations, as well as request to be added as a cosponsor to the Leahy amendment No. 50. We have been in negotiations for a number of weeks. In fact, we were even last year. I think we