The report, by the Center for American Progress, points out a key fact that's been mostly missing from the debate: The hope of getting seniors who lose Medicare insured through Obamacare could be seriously compromised by the Supreme Court decision allowing states to opt out of the Medicaid expansion. This would inflate the number of seniors who could be left without insurance, because many would fall into the category of lower-income senior that would be expected to gain access to Medicaid through its expansion. (Jonathan Cohn has written about this extensively.)

Here's how CAP reached its conclusion. The nonpartisan Congressional Budget Office recently concluded that a rise in the eligibility age could mean as many as 270,000 seniors are left uninsured in 2021. But that's assuming Obamacare is fully implemented in all states. The CAP report points out that 10 states have publicly declared they will opt out of the Medicaid expansion, and more are undecided.

The CAP study then totaled up how many seniors below the poverty line live in states that may opt out of the Medicaid expansion, using 2011 data. The total: Over 164,000. This table shows how many of these seniors live in each of these states:

Add these to the aforementioned 270,000 seniors, and you get a total of approximately 435,000 seniors who could be left without insurance annually by 2021. And this is a conservative estimate—it's based on 2011 data, and the population of seniors will grow significantly over the next decade.

Now, it's very possible that many of these states will ultimately drop their bluster and implement the Medicare expansion. But Republican state lawmakers are also stalling in setting up the exchanges and resisting the law in other ways. With Obamacare implementation up in the air, it may be too risky to raise the eligibility age and hope Obamacare can pick up the slack.

''With opponents of the health care law still working to block it at every turn, many more seniors would become uninsured because they would have nowhere else to turn,'' CAP's president, Neera Tanden, tells me. ''As a result this misguided proposal would undermine the promise of affordable health care for all.''

On top of this, the report finds, raising the eligibility age could also undermine a key goal of Obamacare by inflating medical costs and health care spending, for a range of reasons: Cost shifting, tampering with the health and age levels in insurance pools, and an increased reliance on private insurance, which isn't as good as Medicare at controlling costs.

In my view, the speculation that Dems will ultimately agree to raising the eligibility age has been a bit overheated—it's not clear this is definitely on the table. But it's certainly possible. After all, some on the right seem determined not to accept any entitlement reform as ''real'' unless vulnerable beneficiaries are harmed, and Obama and many Dems prefer a deal to going over the cliff. So anyone who doesn't want to see this happen should be making noise about it right about now. And there are a range of alternative ways to cut Medicare spending without harming beneficiaries.

I'll bring you a link to the report when it's available.

Mr. SANDERS. I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Vermont.

Mr. LEAHY. Madam President, I applaud my colleague from Vermont for what he has said. I think he expresses the feelings of so many Vermonters across the political spectrum, so I thank him for doing that.

EXECUTIVE SESSION

NOMINATION OF JOHN E. DOWDELL TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA

NOMINATION OF JESUS G. BERNAL TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL 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 John E. Dowdell, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma, and Jesus G. Bernal, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. There will now be 30 minutes of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Madam President, I want to begin by recognizing a significant achievement by the senior Senator from Iowa, our ranking Republican on the Judiciary Committee. Today Senator GRASSLEY has served for 31 years, 11 months, and 6 days as a member of our Committee. His tenure now exceeds that of our friend, former chairman, longtime member, and current Vice President, JOE BIDEN. Senator GRASSLEY is now the sixth longest-serving member in the history of the Senate Judiciary Committee. Senator GRASSLEY and I know how the Committee should operate in its best traditions. I will continue to work with him to achieve all we can for the American people.

Today, the Senate will finally be allowed to vote on the nominations of Jesus Bernal to fill a judicial emergency vacancy on the U.S. District Court for the Central District of California and John Dowdell to fill a vacancy on the U.S. District Court for the Northern District of Oklahoma. Both of these nominees were voted out of the Judiciary Committee by voice vote before the August recess and should have been confirmed months ago. These confirmations today will demonstrate that there was no good reason for the delay—just more partisan delay for delay's sake. This unnecessary obstruction is particularly egregious in connection with Jesus Bernal's nomination because it perpetuated a judicial emergency vacancy since the middle of July for no good reason and to the detriment of the people of Los Angeles and the Central District of California.

Also disconcerting is the Senate Republicans' continuing filibuster against another Oklahoma nominee. Although he had had the support of his two Republican home State Senators, Senate Republicans filibustered in July the nomination of Robert Bacharach of Oklahoma to a judgeship on the Tenth Circuit. Senate Republicans continue to object to voting on this nomination and are apparently intent on stopping his confirmation for the remainder of the year. This, despite the reassuring comments made by Republican Senators when they joined the filibuster in September and excused their participation by saying that after the election he would receive Senate action. With the American people's reelection of President Obama there is no good purpose to be served by this further delay. But Robert Bacharach and nearly a dozen judicial nominees, who could be confirmed and who would fill four circuit court vacancies and five additional judicial emergency vacancies, are being forced to wait until next year—or perhaps forever—by the Senate Republican leadership. Among those nominations is that of William Orrick III to fill another judicial emergency vacancy in the Northern District of California and that of Brian Davis to fill a judicial emergency vacancy in the Middle District of Florida.

A perceptive and long-time observer of these matters is Professor Carl Tobias. I ask that a copy of his recent article entitled ''Obama, Senate Must Fill Judicial Vacancies'' from The Miami Herald be included in the RECORD at the conclusion of my remarks.

(See exhibit 1.)

Mr. LEAHY. He recently wrote how these vacancies on our Federal trial courts ''erode speedy, economical and fair case resolution.'' He correctly points out that this President, unlike his predecessor, ''assiduously'' consults with home State Senators from both parties. Senate Republicans nonetheless stall confirmations virtually across the board. For example, they are filibustering the Bacharach nomination from Oklahoma and the Kayatta nomination from Maine, despite the support of Republican home state Senators.

Professor Tobias observes that the judicial nominees of President Obama are ''noncontroversial . . . of balanced temperament, who are intelligent, ethical, industrious, independent and diverse vis a vis ethnicity, gender and ideology.'' None of these characteristics or their outstanding qualifications matter to Senate Republicans intent on obstruction. The explanations that Republicans offer for their unprecedented stalling of nominees with bipartisan support, indicate that Republicans are fixated on a warped sense of partisan payback. They recognize none of the distinctions with the circumstances in 2004 when President Bush was seeking to pack the Federal courts with conservative activist ideologues and Senate Republicans ran roughshod over Senate practices and traditions. They ignore the history since 2004, the resolution of the impasse by recognition of a standard limiting filibusters only to situations of

''exceptional circumstances,'' or the marked difference in the role they have been accorded by President Obama and me in connection with his judicial nominations from their home States.

After this vote, the Senate remains backlogged with 18 judicial nominations reported by the Judiciary Committee, including 13 nominations from before the August recess. They should be confirmed before the Senate adjourns for the year. If the Senate were allowed to act in the best interests of the American people, it would vote to confirm these nominees and reduce the judicial vacancies that are plaguing our Federal courts and that delay justice for the American people. Sadly, it appears that Senate Republicans will persist in the bad practices they have followed since President Obama was elected and insist on stalling nearly a dozen judicial nominees who could and should be confirmed before the Senate adjourns this month.

By this point in President Bush's first term we had reduced judicial vacancies to 28. In stark contrast, there are still close to 80 judicial vacancies today. If the Senate were allowed to confirm the 20 judicial nominations currently pending, we could take a significant step forward by filling more than one-quarter of current vacancies and could reduce vacancies around the country below 60 for the first time since President Obama took office. Even that would be twice as many vacancies as existed toward the end of President Bush's first term.

That so many judicial nominations have been delayed by Senate Republicans into this lameduck session need not prevent the Senate from doing what is right for the American people. Those who contend that it would be ''unprecedented'' to confirm long-stalled nominations in this lameduck session are wrong. The fact is that from 1980 until this year, when a lameduck session followed a presidential election, every single judicial nominee reported with bipartisan Judiciary Committee support has been confirmed. That is the precedent that Senate Republicans are breaking. According to the nonpartisan Congressional Research Service, no consensus nominee reported prior to the August recess has ever been denied a vote—before now. That is something Senate Democrats have not done in any lameduck session, whether after a presidential or midterm election.

Senate Democrats allowed votes on 20 of President George W. Bush's judicial nominees, including three circuit court nominees, in the lameduck session after the elections in 2002. I remember I was the chairman of the Judiciary Committee who moved forward with those votes, including one on a very controversial circuit court nominee. The Senate proceeded to confirm judicial nominees in lameduck sessions after the elections in 2004 and 2006. In 2006 that included confirming another circuit court nominee. We proceeded to confirm 19 judicial nominees in the lameduck session after the elections in 2010, including five circuit court nominees.

That is our history and recent precedent. Those who contend that judicial confirmation votes during lameduck sessions do not take place are wrong. I have urged the Senate Republican leadership to reassess its damaging tactics, but apparently in vain. Their new precedent is bad for the Senate, the Federal courts and, most importantly, for the American people.

Further, their partisan spin on the past does nothing to help fill long-standing vacancies on our Federal courts, which are in dire need of additional assistance. Arguments about past Senate practice do not help the American people obtain justice. There are no good reasons to hold up the judicial nominations currently being stalled on the Senate Executive Calendar. A wrongheaded desire for partisan payback for some imagined offense from years ago is no good reason. A continuing effort to gum up the workings of the Senate and to delay Senate action on additional judicial nominees next year is no good reason.

It is past time for votes on the four circuit nominees and the other 14 district court nominees reported by the Senate Judiciary Committee. When we have consensus nominees before us who can fill judicial vacancies, especially judicial emergency vacancies, the Senate should be taking action on these nominations to help the American people. Doing so is consistent with Senate precedent, and it is right. Let us do our jobs so that all Americans can have access to justice.

John Dowdell is nominated to serve on the U.S. District Court for the Northern District of Oklahoma. He is currently a shareholder and director at the Tulsa law firm of Norman Wohlgemuth Chandler & Dowdell, where he has worked for nearly 30 years. After law school he served as a law clerk to Judge William J. Holloway, Jr. on the United States Court of Appeals for the Tenth Circuit. His nomination was reported nearly unanimously by the Judiciary Committee last June.

Jesus Bernal is nominated to fill a judicial emergency vacancy on the U.S. District Court for the Central District of California. Since 1996 he has served as a Deputy Federal Public Defender and is currently the Directing Attorney in the Riverside Branch Office. After graduating from law school he served as a law clerk to Judge David V. Kenyon of the U.S. District Court for the Central District of California. His nomination was reported by voice vote by the Senate Judiciary Committee last July.

Today, we are finally being allowed to vote on two consensus nominees who were stalled for months for no good reason.

EXHIBIT 1

[From the Miami Herald, Dec. 10, 2012]

OBAMA, SENATE MUST FILL JUDICIAL VACANCIES

(By Carl Tobias)

Now that President Obama has been re-elected and Democrats have retained a Senate majority, he must swiftly nominate, and the upper chamber expeditiously approve, judicial nominees, especially for the four Florida vacancies, so that the courts can deliver justice.

On Thursday, senators confirmed 94–0 Circuit Judge Mark Walker for the Northern District of Florida. However, the Judiciary Committee delayed action on Circuit Judge Brian Davis for the Middle District three times until the June 21 meeting when the panel reported Davis 10–7. The committee also only held a September hearing for Magistrate Judge Sherri Polster Chappell, whom President Barack Obama nominated to the Middle District in June and finally approved her on Thursday.

Moreover, the bench experiences 64 vacancies in the 679 district judgeships. These openings erode speedy, economical and fair case resolution.

Observers criticized Obama for nominating too slowly in 2009, but he has since picked up the pace. The chief executive assiduously consulted Republican and Democratic senators from states where vacancies occurred before nominations. He has suggested noncontroversial nominees of balanced temperament, who are intelligent, ethical, industrious, independent and diverse vis-à-vis ethnicity, gender and ideology.

Senator Patrick Leahy, the Vermont Democrat who chairs the Judiciary Committee, has rapidly set hearings and votes, sending nominees to the floor where many have languished. For instance, the Senate recessed September 22 without considering 19 excellent nominees; most enjoyed strong committee votes.

Republicans should cooperate better. The major problem has been the Senate floor. Sen. Mitch McConnell of Kentucky, the Republican Minority Leader, has rarely agreed to ballots, invoking unanimous consent, which allows one senator to halt votes. Especially troubling has been Republican refusal to vote on qualified consensus nominees, inaction that contravenes Senate custom. When senators have cast ballots, they overwhelmingly confirmed most nominees.

The 64 district vacancies are crucial. The Middle and Southern District each experience two. Obama has nominated 33 highly competent prospects nationwide. The President nominated Judge Davis and Judge Walker during February and Judge Chappell in June. Obama must quickly propose candidates for the 31 openings without nominees. Senators approved Judge Walker because he is well qualified. The chamber failed to consider the other similarly qualified Florida nominee, Judge Davis, before recessing in September but must vote on him in the lame duck session that began November 13. The committee reported Judge Davis in June 10–7 with Senator Lindsey Graham, R–S.C., not voting. Senator John Cornyn, R–Texas, voted against. He ''had a concern about some intemperate language that dates back to 1995 in what otherwise appears to be an unblemished record'' and would ''keep an open mind.''

Judge Davis was held over thrice at the request of Senator Charles Grassley, R–Iowa, the ranking member, who appeared concerned about Davis' answers in the May hearing and to later written questions. On June 21, Grassley voiced concern about Davis' perspectives respecting a few issues, particularly implicating race, and voted No.

Now that the committee has reported Judge Chappell, the Senate must quickly consider her, while the chamber should expeditiously process Circuit Judge William Thomas, whom Obama nominated for one Southern District vacancy November 14.

The administration should keep closely conferring with Florida Senators Bill Nelson and Marco Rubio, who expressed strong support for Walker, Davis, Chappell and Thomas, and soon propose a fine nominee for the Southern District opening created November 16 when Judge Patricia Seitz assumed senior status. The Senate, for its part, must speedily process that nominee.

The 64 vacancies undermine the delivery of justice. Accordingly, President Obama must swiftly nominate, and senators promptly approve, numerous excellent judges now that senators have reconvened for their lame duck session.

Mrs. BOXER. Madam President, I am very excited and rise in strong support of Jesus Bernal's nomination to be U.S. District Judge for the Central District of California. He is going to make an amazing judge.

He is the oldest son of two humble factory workers, Gilberto and Martha, who aspired for their sons and daughters to attend college.

As the daughter of a mom who never even graduated from high school because she had to go out and work to provide for her ailing dad, I can say that you know any parents who give up so much for their kids have the heart and you know their sons and daughters will have the heart and will make sure—whether they wind up here or teaching in a school or whatever their profession is, or being on the bench—they will work for justice for all.

Gilberto and Martha would tell young Jesus and his siblings: ''You study, we work.'' Those are the kinds of parents he came from. Their aspirations were realized. All five of their children attended college, and today, I believe, Mr. Bernal will be confirmed as a federal district court judge. What a country we live in.

When confirmed, Mr. Bernal will be the only Latino district court judge serving the central district's eastern division, which includes my home county of Riverside and San Bernardino County as well. What a tremendous honor for his family.

Mr. Bernal graduated from Yale with honors, and then Stanford Law School. After law school, he clerked for Judge David Kenyon on the same court to which he has been nominated. What an amazing thing: The clerk becomes the judge.

He began his career as an associate at Heller Ehrman, where he worked on complex commercial litigation cases. In 1996, he joined the L.A. office of the federal public defender for the central district and represented indigent defendants in federal court.

In 2006, he became the directing attorney for the Riverside branch office where he supervises a team of attorneys, investigators, paralegals, and administrative staff. He served on the board of directors for the Federal Bar Association, Inland Empire Chapter, since 2006, and he has dedicated time to working with at-risk youth.

Confirming a judge to the central district's eastern division comes not a moment too soon. Riverside County has 23 percent of the central district's population. But out of the 25 active judges, there is only 1 active judge sitting in Riverside. The people of Riverside need another judge. I am proud it will be Jesus Bernal, a highly respected member of that community.

I want to thank the Senate Judiciary Committee, for this amazing support. And I want to thank President Obama for moving this recommendation forward.

I also hope that before the Senate adjourns this year we approve four other California nominees who are awaiting confirmation: Fernando Olguin, Jon Tigar, Bill Orrick, and Troy Nunley. All are nominated to serve on courts that are considered judicial emergencies.

Mrs. FEINSTEIN. Madam President, I rise to express my strong support for the nomination of Jesus Bernal to be a U.S. District Judge for the Central District of California.

Born in Mexico, Mr. Bernal is 49 years old. He earned his Bachelor's Degree cum laude from Yale University in 1986 and his law degree from Stanford Law School in 1989. He became a U.S. citizen in 1987.

Following law school, Mr. Bernal spent 2 years as a law clerk for the Honorable David V. Kenyon on the same court to which he is nominated today, the U.S. District Court for the Central District of California.

Mr. Bernal began his career in private practice, working as an associate at the law firm of Heller, Ehrman, White, & McAuliffe in Los Angeles from 1991 through 1996. Mr. Bernal practiced complex civil litigation, representing corporate clients in business disputes.

Since 1996, Mr. Bernal has worked as a Deputy Federal Public Defender in the Central District of California, where he has personally represented hundreds of indigent criminal defendants and overseen hundreds of other representations.

Mr. Bernal has appeared hundreds of times in court. He represents defendants through each phase of their cases—in hearings and plea negotiations, and at trial, sentencing, and on appeal.

Since 2006, Mr. Bernal has been a leader in the Federal Public Defender's Office, experience that will help him manage his courtroom. He is the Directing Attorney of the Riverside Branch Office, a role in which Mr. Bernal supervises trial attorneys, investigators, and other personnel, in addition to carrying his own caseload.

He also serves as chairman of the Ethics Committee for the Federal Public Defender's Office for the whole Central District, which is the largest Federal Public Defender organization in the Nation. In this capacity, Mr. Bernal works to resolve ethical issues and to provide ethical guidance for the 240 employees who work for the Federal Public Defender in the Central District.

Mr. Bernal has over 20 years of legal practice, including 5 years in complex civil litigation and 15 years in Federal criminal defense. He also has extensive practical experience supervising other attorneys. In short, he is well-prepared to serve on the District Court.

The seat Mr. Bernal will fill has been vacant since former District Judge Stephen Larson stepped down from the bench in 2009.

Judge Larson sat in the Eastern Division of the Court, which hears cases in Riverside and covers the counties of San Bernardino and Riverside, the 11th and 12th most populated counties in the Nation.

The Central District is very busy. It has a caseload that is nearly 30 percent above the national average, and the sixth-highest civil caseload in the Nation.

The Eastern Division of the Central District is even more critically overloaded. It has only a single district judge. Yet it encompasses 2,000 annual civil filings and 4.2 million people roughly the population of the entire commonwealth of Kentucky, which has nine active district judges and seven senior judges to handle its workload.

In short, filling this particular seat is very important and will bring needed judicial resources to the Federal bench in Riverside.

I also want to urge the confirmations of other judicial nominees from my home State.

Including Mr. Bernal, 5 of the 15 district court nominees on the Executive Calendar are from California. The other nominees are:

Magistrate Judge Fernando Olguin, a nominee to the Central District whom I recommended to the President;

Superior Court Judge Jon Tigar and Bill Orrick, nominees to the Northern District recommended by Senator BOXER; and

Superior Court Judge Troy Nunley, a nominee to the Eastern District whom I recommended to the President.

All four were approved by bipartisan votes in the Judiciary Committee, three of them by voice vote.

Each of these districts is in a judicial emergency according to the Judicial Conference of the United States.

The Central District's caseload is over 30 percent above the national average. The Northern District's caseload is over 20 percent above the national average. It now takes over 50 percent longer for a case to go to trial than it did a year ago in the Northern District, which hears some of our county's most complex technology cases.

The Eastern District is the most overworked district in the Nation by far. With over 1,100 weighted filings per judgeship, its caseload is over twice the national average.

Simply put, my State more than any other urgently needs us to take prompt action on judicial nominees.

So, I urge my colleagues to support the nomination of Jesus Bernal, and to support confirming the four other distinguished California nominees pending on the Executive Calendar this year.

Mr. LEAHY. Madam President, I ask unanimous consent to proceed as in morning business.

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

THE FARM BILL

Mr. LEAHY. Madam President, no matter what calendar one goes by, we are nearing the end of this Congress. We have only a few short weeks to end the stalemate and pass a farm bill. For months, House leaders have blocked a vote on a bipartisan farm bill. We passed in this body, across the political spectrum—Republicans and Democrats alike—a bill that saved tens of billions of dollars. However, the Republican leadership in the House of Representatives will not allow it to come to a vote. Much is at stake—from rural communities to farmers who need the certainty that a farm bill extension would mean. I have said a lot of times on this floor that farming cannot be put on hold. We can't tell a farmer: Well, hold those crops for a couple of months while we wait to see what we are doing. Don't milk those cows for a few months until we figure out whether the Congress will get its act together on a farm bill. It doesn't work that way. Farmers already cope with innumerable variables in running their businesses. The last thing they need is for Congress to needlessly compound the uncertainty through weeks of delay and obstruction.

The Senate has passed a bipartisan bill under the leadership of the chair of our committee, Senator STABENOW. We passed a bipartisan bill that renews the charter for basic agriculture, nutrition, and conservation programs, while saving taxpayers $23 billion. What I have been told privately is that if the House leaders would permit a vote, this bill would pass in the House. Just as Republicans and Democrats came together in this body, they would in the other body. Passing it would end this corrosive stalemate, while contributing billions of dollars to deficit reduction. Unfortunately, it appears the nutrition programs that help millions of our most vulnerable fellow Americans are the latest excuse for preventing a House vote to get the farm bill done. In this, the wealthiest, most powerful Nation on Earth, some are saying they will hold this up because we have hungry people who need the support our nutrition programs provide.

With so many Americans still struggling to put food on the table, it is not only regrettable, but more than that, it is inexcusable that some House Republicans have turned to slashing central nutrition help for struggling Americans as a means to prevent action on the farm bill. Ensuring that these programs can continue to serve Vermonters and all Americans, especially those in need, is a key part of enacting a strong farm bill for this economy. It is a reality recognized by the Senate-passed farm bill. Unfortunately, consideration of the farm bill is not the first time this Congress has been forced to debate legislation that will greatly reduce the ability of the neediest among us to put food on the table for their families. Bills and amendments have been proposed that would cut tens of billions of dollars from the food stamp program, eliminating nutrition assistance for millions of Americans and denying hundreds of thousands of American children school meals. I am proud that time and again during this Congress the Senate has defeated such proposals. I will continue to help fight back against such attacks.

The bipartisan Senate-passed farm bill makes an investment in American agriculture that benefits our producers, our dairy farmers, our rural communities, our Main Street businesses, our taxpayers, and our consumers. Now it is being held hostage by House Republicans who are demanding Draconian cuts in food assistance programs just as we are coming out of the worst recession in generations. They are preventing final action on a bill that touches every community and millions of our fellow citizens across the Nation. It is ironic that during this holiday season, opponents of nutrition programs that help the poor are insisting on making it drastically more difficult, or impossible, for these families and their children to simply eat.

No Member of the Senate, no Member of the House of Representatives goes hungry except by choice. None of us do. We don't know what that is like. We don't go home and look at our children and say: We can't feed you tonight; hold on for another day. I know you are hungry. I know you are crying. I know you can't sleep. But we can't feed you today. None of us face that. But I can tell my colleagues that there are people in every single State we represent where that is their reality.

Those advocating for these drastic cuts couldn't have chosen a worse time. As winter approaches, Vermonters and others across the country are going to find the demands for paying for heat, electricity, and food a large strain on their family's budget. All this is before we even take into account those areas where they are recovering from such terrible natural disasters and those communities who probably face disasters in the future. I know there are Vermonters, as there are so many other Americans, who struggle every day to make ends meet and are forced to make tough decisions about whether to pay for rent or heat or medications or food. We are talking about essentials.

The Presiding Officer and I represent two of the most beautiful States in this country, but we also know that both our States can get very cold in the wintertime. When it is 5 and 10 below zero, heat is not a luxury and food shouldn't be a luxury. When it is 5 below zero, the choice should not be, can we heat or can we eat? This in America? That is wrong.

While the economy continues to recover, and we hope it will, we still have many Americans who rely on basic assistance to get by each month. Thankfully, the Supplemental Nutrition Assistance Program, or SNAP, has helped fill the gap. It offers the most comprehensive assistance available to the poorest Americans.

No one can deny the effects of hunger on Americans, especially children. Children who live in food insecure homes are at a greater risk of developmental delays, poor academic performance, nutrient deficiencies, obesity, and depression. Yet participation in food assistance programs turns these statistics on their head. Federal nutrition programs have been shown to lessen the risk that a child will develop health problems, and they are associated with decreases in the incidence of child abuse. Children from families who receive SNAP have higher achievement in math and reading. They have improved behavior, social interactions, and diet quality than children who go without this nutrition help.

It is unfortunate that during this fall's campaign, we saw candidates who were intent on spreading misconceptions about a program that lifts millions of Americans above the poverty line each year. The contention that SNAP beneficiaries are largely out-of-work Americans is far from accurate. Two-thirds of the beneficiaries are children, the disabled, or the elderly who cannot be expected to work. The remaining participants are subjected to rigorous work requirements in order to receive continuing benefits. And while SNAP offers crucial support to a family's grocery expenses, the benefits far from cover all of a family's food needs. With a benefit average of $1.25 per person, per meal, it is understandable that families typically fall short on benefits by the middle of the month.

Vermont has done a remarkable job at urging Vermonters to register for our SNAP program. We call it 3Squares. But the unfortunate reality is that thousands of Vermonters continue to go without food they could receive. I hear from Vermont families who participate in 3Squares about the importance of Federal food assistance. Parents have told me they ignore their own hunger to ensure their kids are fed, but they don't know how they can cope if benefits are cut further. Kathy, a mother from Barre, VT, where my father was born, says her child has come to her crying, wondering whether they will have enough money for food. Others have noted that expenses for necessities, such as heating and rent, are fixed costs. When Three Squares benefits run out, skipping breakfast or lunch is the only way to scrape by.

Unfortunately, both the Senate bill and the committee-passed farm bill in

the House include cuts to the nutrition assistance. Nonetheless, the Senate bill takes a more sensible approach. Of the $23 billion in deficit reduction included in our bill, $4.5 billion comes from nutrition programs, nearly four times less than the House Agriculture Committee bill. I do not support the cuts in the Senate bill, and I supported an amendment during the Floor debate to restore this funding to SNAP, so that families across the country would not lose an average of $90 per month in benefits. But the cuts in the Senate bill represent a concession from our Chair, and ultimately the Senate farm bill passed the Senate on a bipartisan vote, including mine, as it always has.

This concession is not enough for many House Republicans. The $16 billion reduction in nutrition programs they wish to see in a farm bill would devastate nutrition programs nationwide. Millions in every State in this country would be left without means to purchase food. These drastic reductions would result in the elimination of food assistance for an estimated 2 to 3 million people, and 280,000 children would lose eligibility for free school meals. This is shameful.

The budget choices we make in Congress reflect who we are as Americans. The American people want budget decisions that are fair and sensible. Americans do not want their friends, neighbors, or family members struggling to feed themselves or their children. Proposed cuts to food assistance programs will mean more hungry families in America. I have spent nearly 38 years in the Senate fighting hunger and I will continue to oppose efforts in the farm bill to further roll back hunger assistance programs that help our neediest fellow Americans. In a nation that spends billions on wasted diet fads, I would like to see us spend some money to feed the hungry in the most powerful Nation on Earth.

Madam President, I see my good friend from Oklahoma on the floor, and I know he wishes to speak on behalf of his nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, first of all, let me thank the chairman of the Judiciary Committee for allowing me to say something about our vote that is coming up.

Mr. Dowdell has been nominated to a vacancy on the U.S. District Court for the Northern District of Oklahoma, which sits in my hometown of Tulsa. In fact, he is a neighbor of mine in Tulsa.

After graduating from the University of Tulsa's College of Law, Mr. Dowdell began his legal career as a clerk to the chief judge of the Tenth Circuit Court of Appeals. Since 1983, Mr. Dowdell has accumulated extensive State and Federal litigation experience representing a variety of clients working at the same firm in Tulsa of which he is a partner.

Mr. Dowdell is a native Tulsan and has been extensively involved in the community, in addition to being widely recognized for his work on behalf of his clients. I received a number of letters from members of the legal community throughout Tulsa highlighting Mr. Dowdell's work ethic, his character, and his abilities as an advocate for his clients.

Mr. Dowdell already has experience as a mediator and arbitrator and has served as an adjunct settlement judge in the Northern District for the past 14 years, which is the district for which he is nominated. He and his wife of 24 years, Rochelle, like my wife and I, have four children, which I always remind people is just the right amount. If you are ever going to have 20 kids and grandkids, you have to start with 4, and he understands that.

Although it often seems as if I am on the opposite side of many of this administration's judicial nominees, I can say with confidence that this is not the case with Mr. Dowdell. Mr. Dowdell has the requisite experience and judicial temperament to make a fine judge in the Northern District of Oklahoma.

I am particularly impressed with Mr. Dowdell's commitment to ''render decisions fairly and impartially, applying the relevant law to the facts without bias or prejudgment,'' to interpret a statute or constitutional provision in a case of first impression by first considering ''the statutory text or provision in the context of its plain and ordinary meaning''—that says a lot—and to not consult foreign law when interpreting the U.S. Constitution. Too often in this country we have judges applying their own meanings to the Constitution and to the laws passed by Congress or allowing their own biases to affect their decisions. I can state confidently to my colleagues that Judge Dowdell will not be this type of a judge.

In his Questions for the Record to the Senate Judiciary Committee, Mr. Dowdell has stated that he does not agree with the notion that the Constitution is a ''living'' document that constantly evolves as society interprets it. He further states that the ''Constitution changes only through the amendment process, as set forth in Article V of the Constitution.'' That is refreshing. ''A court's job is to interpret and apply the Constitution, not to add or amend the rights contained therein.'' That is a quote by him.

Based on these statements, I can say that Mr. Dowdell's judicial philosophy is in keeping with the Framers and in lockstep with my own philosophy. My only wish is that we would get more of this type of judicial nominee from the administration.

It is for these reasons that I support Mr. Dowdell's confirmation to the U.S. District Court for the Northern District of Oklahoma, and I hope my colleagues will do the same.

This vote should be coming up in about 10 minutes. I do encourage a positive vote on Mr. Dowdell.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

VOTE ON NOMINATION OF JOHN E. DOWDELL

Under the previous order, the question is, Will the Senate advise and consent to the nomination of John E. Dowdell, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma?

Mr. ISAKSON. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 226 Ex.]

YEAS—95

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

NOT VOTING—5

Inouye	Lautenberg	Nelson (NE)
Kirk	McCaskill	

The nomination was confirmed.

VOTE ON NOMINATION OF JESUS G. BERNAL

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Jesus G. Bernal, of California, to be United States District Judge for the Central District of California?

The nomination was confirmed.

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

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT—Continued

Mr. COONS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BUSH TAX CUTS

Mr. GRASSLEY. Mr. President, we have been hearing a lot about the so-called Bush tax cuts from my colleagues on the other side of the aisle. Given the rhetoric being used by some on the other side to describe this tax relief, I would like to take this time to correct the record.

But, first, during this talk about the fiscal cliff and about the tax cuts that sunset at the end of the year, all we have been hearing since the election is, What are we going to do about taxes? That is very significant as a result of the last election because I think it is a foregone conclusion there is going to be more revenue raised.

But if we raise the amount of revenue the President wants raised, and raise it from the 2 percent he wants to raise it from—the wealthy—that is only going to run the government for 8 days. So what will we do the other 357 days or, if we look at the deficit, it will only take care of 7 percent of the trillion-plus deficit we have every year. What about the other 93 percent?

So the point is that we can talk about taxes and taxes and taxes, but it is not going to solve the fiscal problems facing our Nation. We don't have a taxing problem, we have a spending problem. So we should have been spending the last 3 weeks talking about how we are going to take care of the other 93 percent of the problem. The President should have declared victory 3 weeks ago, and we wouldn't have had all this lost time between now and right after the election.

But I said I wanted to set the record straight. This tax relief of 2001 and 2003 reduced the tax burden for virtually every tax-paying American. It did this through across-the-board tax rate reductions, marriage penalty relief, and enhancing certain tax provisions for hard-working families, such as doubling the child tax credit.

Since the passage of this tax relief, there has been a concerted effort by my colleagues on the other side of the aisle to distort the truth about the present tax policy of the Federal Government. That tax policy has been in place for the last 12 years now. They have attempted to distort the truth behind its bipartisan support, its benefits to low- and middle-income Americans, and its fiscal and economic impact.

As one of the architects of the 2001 and 2003 tax legislation, I come to the floor to correct what I believe have become three common myths about this tax relief. The first myth is that this tax relief was a partisan Republican product. The second is that the tax relief was a giveaway to the wealthy. And the third is that the tax relief is a primary source of our current fiscal and economic problems.

First things first. We often hear the other side divisively refer to this tax relief as the Bush tax cuts. Given the rhetoric on the other side, one would think all this tax relief was forced through along party-line votes. The record proves otherwise. The conference report to the Economic Growth and Tax Reconciliation Act of 2001 passed the Senate by a vote of 58 to 33. In all, 12 Democrats voted for this legislation. Senator Jeffords, who later caucused with the Democrats, also voted for it.

As far as major pieces of legislation goes, it is difficult to find such major legislation passed with such broad support since there has been Democratic control of both the Senate and the White House. The President's 2009 stimulus bill, as an example, only had the support of three Republicans, as well as the Dodd-Frank bill. Of course, there is the health care bill, the President's signature legislation, which passed with no Republican votes.

Moreover, all the 2001 and 2003 tax relief was extended in 2010, just 2 years ago, with strong bipartisan support, and signed into law by this President. At that time—2 years ago—the Senate vote tally was 81 to 19. Now, understand, that has to be considered overwhelmingly bipartisan. So just 2 years ago we had overwhelming bipartisan support for the Bush tax cuts. Yet somehow this is a partisan measure we are dealing with. Given this record, instead of calling it the Bush tax cuts, as they are called, we really should be calling it the bipartisan tax relief.

I now would like to turn to the other side's criticism of the bipartisan tax relief or, as they say, tax cuts for the wealthy or another way they say it is it is a giveaway to the rich. This rhetoric demonstrates the difference in philosophy between this Senator and my Democratic colleagues.

First of all, a reduction in tax rates is not a giveaway to anyone. The income a taxpayer earns belongs to that taxpayer. It is not a pittance the taxpayer may keep based upon the good graces of our government. The burden should not be on the taxpayer to justify keeping their income. Instead, it should be on us in Washington to justify taking more away from them.

Secondly, there is a tendency on the other side to view everything as a zero sum game. In their minds, if someone has more, it means someone else will have less. So I would like to quote Ronald Reagan as the best example of this attitude when he said too many people in Washington ''can't see a fat man standing beside a thin one without coming to the conclusion that the fat man got that way by taking advantage of the thin one.''

I believe this is what is driving the animus against the so-called wealthy on the other side. They are under the impression the wealthy got rich at the expense of someone less fortunate.

The problem with this view is that in a free economy goods and services are transferred through voluntary exchanges. Both parties are better off as a result of this exchange; otherwise, it wouldn't occur. Moreover, wealth is not static. It can be both created as well as destroyed.

At worst, the government is a destroyer of wealth. At best, the government is a redistributor of wealth. It is through the force of government the zero sum exchanges occur. It is the private sector that creates wealth through innovation and providing the goods and services we need and want.

The leadership of the other side has become fixated on redistributing the existing economic pie. I believe the better policy is to increase the size of the pie. When this occurs, no one is made better off at the expense of anyone else.

The constant rhetoric of pitting American against American based upon economic status is not constructive. It also has not been constructive to accuse those of us who support the present tax policy for all Americans as agents of the rich. And I will soon get into discussing why that isn't true, as a result of the 2001 and 2003 tax bills.

I do not support tax cuts for the wealthy for the purpose of wealth redistribution. I support progrowth policies to increase the size of the economic pie. Free market, progrowth policies are the only proven way to improve the well-being of everybody.

My objection to the other side's characterization of the bipartisan tax relief is not only a philosophical one, but it is a factual one. The truth is that the bipartisan tax relief that was voted on in 2001 made the Tax Code more progressive, not less. With all the rhetoric around here over the last 5 or 6 years, nobody believes that, so I have a chart to show that.

Since its implementation, the share of the tax burden paid by the top 20 percent has increased. Conversely, the bottom 80 percent has seen its share of tax burden decrease. Additionally, the percentage reduction in average tax rates between 2000 and 2007 was the largest for the lowest income groups.

As you can see from this chart, there is a general trend downward from the