

Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 59, nays 41, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—59

Alexander	DeMint	McConnell
Barrasso	Ensign	Murkowski
Bayh	Enzi	Nelson (NE)
Begich	Graham	Nelson (FL)
Bennet	Grassley	Pryor
Bennett	Gregg	Risch
Bond	Hagan	Roberts
Brown (MA)	Hatch	Sessions
Brownback	Hutchison	Shaheen
Bunning	Inhofe	Shelby
Burr	Isakson	Snowe
Cantwell	Johanns	Tester
Carper	Klobuchar	Thune
Chambliss	Kyl	Udall (CO)
Coburn	LeMieux	Vitter
Cochran	Lieberman	Voinovich
Collins	Lincoln	Warner
Corker	Lugar	Webb
Cornyn	McCain	Wicker
Crapo	McCaskill	

NAYS—41

Akaka	Feinstein	Merkley
Baucus	Franken	Mikulski
Bingaman	Gillibrand	Murray
Boxer	Harkin	Reed
Brown (OH)	Inouye	Reid
Burr	Johnson	Rockefeller
Byrd	Kaufman	Sanders
Cardin	Kerry	Schumer
Casey	Kohl	Specter
Conrad	Landrieu	Stabenow
Dodd	Lautenberg	Udall (NM)
Dorgan	Leahy	Wyden
Durbin	Levin	
Feingold	Menendez	

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 41.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

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

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

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

EXECUTIVE SESSION

NOMINATION OF WILLIAM M. CONLEY TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WISCONSIN

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the following nomination:

The assistant legislative clerk read the nomination of William M. Conley, of Wisconsin, to be United States District Judge for the Western District of Wisconsin.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. DORGAN) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 43 Ex.]

YEAS—99

Akaka	Ensign	McConnell
Alexander	Enzi	Menendez
Barrasso	Feingold	Merkley
Baucus	Feinstein	Mikulski
Bayh	Franken	Murkowski
Begich	Gillibrand	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown (MA)	Hatch	Risch
Brown (OH)	Hutchison	Roberts
Brownback	Inhofe	Rockefeller
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burr	Johanns	Sessions
Byrd	Johnson	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Coburn	Landrieu	Thune
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	LeMieux	Vitter
Corker	Levin	Voinovich
Cornyn	Lieberman	Warner
Crapo	Lincoln	Webb
Casey	Kohl	Whitehouse
Conrad	Landrieu	Wicker
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	
Feingold	Menendez	

NOT VOTING—1

Dorgan

The nomination was confirmed.

Mr. LEAHY. Madam President, the Senate has finally taken action on the nomination of Judge William Conley to be a U.S. district court judge in the Western District of Wisconsin. Judge Conley was reported by the Senate Judiciary Committee without objection last year, on December 10. That is almost 3 months ago. He has waited for this day for some time.

I had hoped that Mr. Conley's confirmation process would resemble those of Judge Christina Reiss of Vermont and Judge Abdul Kallon of Alabama. Those nominees received relatively prompt consideration by the Senate, and they should serve as a model for Senate action. Sadly, they are the exception rather than the rule. They show what the Senate could do, but does not. Time and again, non-controversial nominees are delayed.

The Senate is far behind where we should be in helping to fill judicial vacancies. Vacancies have skyrocketed to more than 100 and more have been announced. We need to do better. The American people deserve better.

As with so many other nominations before the Senate, Judge Conley has waited an extraordinary amount of

time to be confirmed. Instead of time agreements and the will of the majority, the Senate is faced with delays by Senate Republicans. Earlier this week we had to overcome Republican objection and a filibuster to obtain a vote on the nomination of Judge Barbara Keenan. She, too, was confirmed unanimously, 99 to zero. Yet Republicans would not agree to schedule a vote on her nomination. She was forced to wait four months after being reported by the Senate Judiciary Committee, and the Senate was required to end the Republican filibuster.

In addition to Judge Keenan and Judge Conley, there are 17 additional judicial nominations on the Senate Executive Calendar, all of which have been considered and favorably reported by the Senate Judiciary Committee. Thirteen of those judicial nominations received unanimous or strong bipartisan support in the Judiciary Committee. They should all be considered without further delay. Debate and votes should be scheduled on all of the judicial nominees being stalled. Those opposed by a minority should be debated and then receive a vote.

Only 16 Federal circuit and district court judges have been considered by the Senate so far during President Obama's 13 months in office. By this date during President Bush's first term, the Senate had confirmed 39 judicial nominees.

I remain very concerned about the new standard the Republican minority is applying to many of President Obama's district court nominees. Democrats never used this standard with President Bush's nominees, whether we were in the majority or the minority. In 8 years, the Judiciary Committee reported only a single Bush district court nomination by a party-line vote. That was the nomination of Leon Holmes, who was opposed not because of some litmus test, but because of his strident, intemperate, and insensitive public statements over the years. During President Obama's short time in office, not one, not two, but three district court nominees have been reported on a party-line vote. I hope this new standard does not become the rule for Senate Republicans.

In December, I made several statements in this chamber about the need for progress on the nominees reported by the Senate Judiciary Committee. I also spoke repeatedly to Senate leaders on both sides of the aisle and made the following proposal: Agree to immediate votes on those judicial nominees that are reported by the Senate Judiciary Committee without dissent, and agree to time agreements to debate and vote on the others. I reiterated my proposal earlier this week and do so, again, now: I urge Senate Republicans to reconsider their strategy of obstruction and allow prompt consideration of all 18 judicial nominees currently awaiting final Senate consideration. There is no need for these nominations to be dragged out week after week, month after month.

After 3 months of delay, today we finally considered the nomination of William Conley. Mr. Conley is a partner in the Madison, WI, office of Foley and Lardner, where he is widely recognized as a top antitrust and appellate lawyer. He has represented clients before the U.S. Supreme Court, the Wisconsin Supreme Court, and the Seventh Circuit, among others. Mr. Conley attended the University of Wisconsin, where he earned his B.A. and J.D. with honors. Mr. Conley also served as a law clerk for Judge Thomas Fairchild on the Seventh Circuit. I congratulate Judge Conley on his confirmation today. I look forward to the time when the 17 additional judicial nominees being stalled are released from the holds and objections that are preventing votes on them and their confirmations.

I, again, urge Senate Republicans to reconsider their strategy and allow prompt consideration of all 18 judicial nominees awaiting Senate consideration, not just William Conley of Wisconsin but also the following nominees: Jane Stranch of Tennessee, nominated to the Sixth Circuit; Judge Thomas Vanaskie of Pennsylvania, nominated to the Third Circuit; Judge Denny Chin of New York, nominated to the Second Circuit; Justice Rogeriee Thompson of Rhode Island, nominated to the First Circuit; Judge James Wynn of North Carolina, nominated to the Fourth Circuit; Judge Albert Diaz of North Carolina, nominated to the Fourth Circuit; Judge Edward Chen, nominated to the Northern District of California; and Justice Louis Butler, nominated to the Western District of Wisconsin; Nancy Freudenthal, nominated to the District of Wyoming; Denzil Marshall, nominated to the Eastern District of Arkansas; Benita Pearson, nominated to the Northern District of Ohio; Timothy Black, nominated to the Southern District of Ohio; Gloria M. Navarro, nominated to the District of Nevada; Audrey G. Fleissig, nominated to the Eastern District of Missouri; Lucy H. Koh, nominated to the Northern District of California; Jon E. DeGulio, nominated to the Northern District of Indiana; and Tanya Walton Pratt, nominated to the Southern District of Indiana.

The PRESIDING OFFICER. A motion to reconsider is considered made and laid on the table. The President shall be notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate returns to legislative session.

The Senator from New Hampshire.

#### TAX EXTENDERS ACT OF 2009— Continued

Mr. GREGG. Madam President, I understand the Senator from Illinois is planning to speak. I wish to speak after he completes his remarks. I ask unanimous consent he be recognized and then I be recognized.

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

Mr. BURRIS. Madam President, after I speak I ask unanimous consent that the Senator from Delaware be able to speak for a period of time.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. The Senator is speaking after me?

Mr. BURRIS. Yes, after the Senator from New Hampshire.

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

#### AMENDMENT NO. 3388

Mr. BURRIS. Madam President, I rise to speak on H.R. 4213. One amendment has already been dropped. I do plan to submit a second amendment. This amendment is dealing with the Recovery Act funds.

During my three terms as State comptroller of Illinois, I worked very hard to maintain accountability for the money we spent from our State. I have been contacted by my State officials, the various auditors, comptrollers, and treasurers, to say the stimulus money that is coming into the States is coming in and they have no funds to do all this transparency and accountability. I put an amendment on this bill to say that we should. I filed amendment No. 3388 which addresses currently underfunding the costs of tracking and reporting the stimulus money.

This measure would set aside up to one half of 1 percent of all existing stimulus funds and allow States and local governments to use this administrative expense reserve to distribute and track this money as it is received and spent. It would allow the American people to hold their representatives accountable and it would help ensure that every dollar is targeted effectively and spent wisely, without waste, fraud, or abuse.

Agreeing to this amendment will restore oversight to this process and will keep Americans on the road to economic recovery without incurring a dime of new spending.

In addition to restoring accountability, I believe we need to take an active role—as my second amendment would do, which I have not dropped yet; it is coming, though. It would deal with small businesses. I believe we should take an active role in supporting small and minority businesses because Main Street will be the engine of the American economic recovery. That is where jobs will be created. That is where the rubber meets the road—where we can turn this crisis around. That is why I am proud to offer another amendment which will require the Transportation Security Administration, the TSA, to award contracts to small businesses and disadvantaged businesses wherever and whenever possible. This amendment would ensure compliance with existing standards of government contracts and subcontracts and would keep dollars flow-

ing into real communities rather than to the corporate treasuries.

By strengthening reporting standards and forcing participation goals for TSA projects, we can target Federal spending to the capable worker who has always been at the center of the American economic prosperity.

We are also saying we need these two amendments. They will strengthen and improve upon the key provisions of our jobs bill as well. I ask my friends in this Chamber to join me in renewing our commitment to transparency, honesty, and accountability. I ask them to stand for small businesses and minority subcontractors so we can make sure Main Street has a major share of our ongoing economic recovery.

The issue is the amendment to H.R. 4213 which would be the amendment No. 3388, and also the other amendment I am getting ready to drop which will deal with small and minority businesses.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I rise to go over, for the sake of the record and also for those people who may be listening and may be reading this dialog, where we stand relative to the health care debate. I think it is important for people to understand what has happened. There has been a lot of talk about a lot of different things, with reconciliation, the term "reconciliation" taking a front row seat.

What is happening here essentially is this. The House of Representatives is going to have to make a decision whether they want to pass the bill that passed here in the Senate. Remember, the bill that passed here in the Senate was a bill that was produced and delivered to the Senate on a Saturday afternoon, for all intents and purposes—the core of the bill, the managers' amendment. No amendments were allowed after that Saturday afternoon and a final vote was taken 3 days later on Christmas Eve.

It was a bill that expanded the size of the government by \$2.5 trillion, when fully implemented. It was a bill that reduced Medicare by \$1 trillion when fully implemented and was scored at \$500 billion in the first 10-year tranche, by \$1 trillion when fully implemented, and took those savings from Medicare, from Medicare recipients, and used them to fund a brandnew entitlement which had nothing to do with Medicare, it didn't involve the people who receive Medicare, and to extend dramatically an already existing entitlement called Medicaid.

It was a bill that basically said to small employers we are going to make it so darned expensive for you to keep the insurance you presently give to your employees that a lot of you are going to decide to throw up your hands, stop insuring your employees and send your employees down the street to something called an exchange. It was a bill that basically set up a structure