Those who continue to complain about vacancy rate should also be reminded that for more than half the vacancies, the President has failed to even submit a nomination to the Senate. This has been a pattern throughout this administration. This is the case even for vacancies designated as judicial emergencies. Nineteen of those thirty-three emergency vacancies have no nominee. Furthermore, President Obama is significantly behind in the number of nominations he has made. So it is no surprise he would be a little behind in the confirmations as well. In other words, if the President wants the Senate to move faster, send the nominations up here.

I would like to say a few words about the nominee we will be voting on today. Judge Jordan presently serves as a U.S. district judge for the Southern District of Florida. He was appointed to that court byPresident Clinton in 1999, and was confirmed by the Senate later that year.

He received a bachelor of arts from the University of Miami in 1984, his juris doctorate from the University of Miami School of Law in 1987.

Upon graduating from law school, the nominee clerked for Thomas A. Clark of the U.S. Court of Appeals for the Eleventh Circuit and then for Supreme Court Justice Sandra Day O'Connor. He then began his legal career as an associate attorney with Steel Hector & Davis where he handled first amendment matters and commercial litigation cases.

In 1994, he became an assistant U.S. attorney in the appellate division of the U.S. Attorney's Office for the Southern District of Florida. He was made deputy chief of the division in 1996, and chief in 1998. The nominee also worked as an adjunct professor of law at the University of Miami School of Law since 1990. He has taught many courses, including a death penalty seminar, federal courts, a judicial inherent power seminar, and a Federal criminal practice seminar.

Since becoming a district judge in 1999, he has presided over nearly 200 cases and has sat by designation frequently on the Eleventh Circuit Court of Appeals.

The American Bar Association Standing Committee on the Federal Judiciary has rated this nominee with a unanimous ''Well Qualified'' rating. I concur in that rating and will support the nomination.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the clerk will report the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit:

Harry Reid, Joe Manchin III, Sherrod Brown, Tom Udall, Patty Murray, Mark Begich, Herb Kohl, Bill Nelson, Frank R. Lautenberg, Jeanne Shaheen, Richard Blumenthal, Benjamin L. Cardin, Chris Coons, Dianne Feinstein, Patrick J. Leahy, Richard J. Durbin, Joseph I. Lieberman, Charles E. Schumer

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Adalberto Jose Jordan, of Florida, to be U.S. Circuit Judge for the Eleventh Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. DEMINT), the Senator from Illinois (Mr. KIRK), and the Senator from Texas (Mrs. HUTCHISON).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea'' and the Senator from South Carolina (Mr. DEMINT) would have voted ''nay.''

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

The yeas and nays resulted—yeas 89, nays 5, as follows:

[Rollcall Vote No. 18 Ex.]

YEAS—89

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

NAYS—5

Blunt	Paul	Vitter
Lee	Toomey	

NOT VOTING—6

DeMint	Hutchison	Landrieu
Hatch	Kirk	Lieberman

The motion was agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Vermont.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate resume legislative session and proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each; further, that the time postcloture count during morning business and any recess or adjournment of the Senate.

The PRESIDING OFFICER. Is there objection? The Senator from Florida.

Mr. NELSON of Florida. Reserving the right to object, and obviously I am not going to object, but I want to say to the Senate that this is an example—89 to 5—that debate has been cut off on a nomination that has the bipartisan support of Senator RUBIO and myself of a judge from Florida. One Senator was holding up the works in that he would not agree to the consent that you dismiss the 30 hours of debate. That is now causing us to delay this action. Is it any wonder, I ask the distinguished chairman of the Judiciary Committee, that we cannot get things done around here when we see this kind of action even given this kind of bipartisan support of a judge?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I have been here for 37 years. I could not agree more with the distinguished senior Senator from Florida. He notes that 4 months ago, when Judge Adelberto Jordan came out of the Senate Judiciary Committee with every single Republican and every single Democrat voting for him, after the work done by the distinguished senior Senator from Florida and his colleague from Florida, the Senator from Florida, Mr. NELSON, made a commitment that every single Democrat would vote for this Cuban American immediately. Four months later, having had the cloture vote the Senator from Florida just mentioned—there was overwhelming support for him—he is still being held up. This is beneath the Senate of the United States of America. I agree with the Senator from Florida.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, do we have a unanimous consent request pending after the vote?

The PRESIDING OFFICER. A unanimous consent request is pending. Is there objection to the request?

Without objection, it is so ordered.

The Senator from California.

DELAY OF JUDICIAL CONFIRMATIONS

Mrs. BOXER. Madam President, I rise because I want to point out to the people of this country who may be watching this proceeding that what has happened tonight on the Senate floor is just ridiculous. Senator BILL NELSON—I think he was restrained, frankly. I know him. He is a very close friend—was restrained in his comments.

One Senator is stopping us from being able to ensure that justice is done, getting a great judge on the bench. It is sad. It is a historic nominee. It is a bipartisan situation with Senators NELSON and RUBIO together, but it goes beyond this.

In addition to holding up the Senate and wasting time here—because we can't vote on the judge now; we have to wait until hours and hours go by—what happens after? We are supposed to be on a highway bill, a bill that will protect 1.8 million jobs and create an additional million jobs. Mr. President, 2.8 million jobs are hanging in the balance.

We have obstruction from my friends on the Republican side—and they are my friends. I don't know what they are doing. I don't know whom they think they are helping, but it is not the American people. Whether it is standing in the way of this judge or whether it is stopping this highway bill, they are hurting America. I want to tell them to wake up and smell the roses—we are trying to get out of this recession. This is a jobs bill that is just waiting to happen. We have myself and Senator INHOFE as partners in this effort. We have Senator BAUCUS working with the Republicans in the Finance Committee. We have Senator JOHNSON working in concert with Senator SHELBY on the Banking Committee. On the Commerce Committee, we have a few bumps in the road, but we are going to straighten those out because Senators HUTCHISON and ROCKEFELLER are working together.

Why is it that we are doing nothing? Is it because Senators on the other side do not want us to move ahead? It is no wonder we have 13 percent approval from the American people. I will tell you, if they did not let our families vote, it would be less. How low can it go? We are going to know.

I have to say we want to get to this highway bill. It also had an 85-to-11 vote to move forward—an 85-to-11 vote to move forward—and guess what the first amendment is. It is not about making sure our highways keep up with the demand. It is not about how we can make sure our transit systems are functional. It is not about how we make our bridges safer. It is about birth control. Excuse me, the first amendment my friends on the other side want to offer is about birth control? I honor my friends' views on birth control. I personally believe, as the vast majority of Americans believe, that it is important women have the ability to have their insurance cover contraception. It saves money, it saves lives, and it reduces abortions by the tens of thousands. It saves insurance companies 15 percent because it avoids so many problems. Fifteen percent of the women who use birth control use it for non-birth-control reasons, such as helping prevent an ovarian cyst from turning into a dangerous situation. They use it to prevent endometriosis. They use it to prevent debilitating pain.

It is a highway bill. I am interested to see what Senator—I have to read again what he is offering. I think it is so broad, it says that anybody in America—any employer can refuse to offer any part of insurance they want if they say it is a religious objection. So let's say you are a Christian Scientist and you run a big organization and don't believe children should get chemotherapy—and we have had those cases. Under the Blunt amendment, I guess you don't have to do it. You just say it is a religious objection. It is so sweeping. My point tonight is to say that such an amendment does not belong on a highway bill. To that end, and I will stop here, we received a letter today: ''To the Members of the United States Senate.'' This is one of the clearest letters I have ever seen. Here is what it says:

> The time is now to pass S. 1813, Moving Ahead for Progress in the 21st Century, the bipartisan highway bill crafted by the Environment and Public Works Committee. Last Thursday 85 Senators voted to invoke cloture on the motion to proceed to S. 1813, clearly demonstrating bipartisan support for passing the highway and transit bill. While we are encouraged by the show of support, the undersigned organizations are concerned that progress may be impeded if non-germane amendments are offered as part of the deliberations on this bill.

I love this letter. Listen to what they say.

> The organizations that we represent may hold diverse views on social, energy, and fiscal issues, but we are united in our desire to see immediate action on the Senate's bipartisan highway and transit reauthorization measures.

This is to every Senator.

Senators, please listen carefully.

> Therefore, we strongly urge you to abstain from offering nongermane amendments that would impede the passage of this legislation, which is essential to job creation, economic growth and to the long-term stability of vital transportation programs.

I will read who signed this:

AAA, the American Association of State Highway and Transit Officials, the American Bus Association, American Concrete Association, American Council of Engineering Companies, American Highway Users Alliance, American Moving and Storage Association, American Public Transportation Association, American Road and Transportation Builders Association, American Society of Civil Engineers, American Traffic Safety Services Association, American Trucking Associations, Associated General Contractors of America, Associated Equipment Distributors, Association of Equipment Manufacturers, Association of Metropolitan Planning Organizations, Commercial Vehicle Safety Alliance, Governors Highway Safety Association, Intelligent Transportation Society, International Union of Operating Engineers, Motor and Equipment Manufacturers Association, the National Asphalt Pavement Association, the National Association of Development Organizations, the National Construction Alliance II, National Stone, Sand and Gravel Association, Portland Cement Association, and U.S. Chamber of Commerce.

Listen, we have to put aside these wedge issues, these ''gotcha'' issues. We have the equivalent of 10 Super Bowl stadiums filled with unemployed construction workers. We have business after business that is struggling.

This is a bipartisan bill. This will save 1.8 million jobs and create an additional 1 million jobs, and we are talking about birth control amendments, line-item veto amendments, amendments about foreign policy. I have to say to those colleagues of mine, whatever side of the aisle they are on—at this time I only know Republican amendments, but anyone who comes forward with a nongermane amendment and tries to put it on this important bill—let me say this as best I can, either they don't care a hoot about jobs for our people or they just want this economy to tank for political reasons. Because if we don't pass a highway bill—and the authorization ends at the end of March—I am going to be blunt with you. What is going to happen? Our States are going to start shutting down these projects and people will be unemployed and we will see reversal in this very delicate economic recovery.

This is a critical bill, and I am going to be on this floor every single day and I am going to be going on my Facebook and I am going to be going on Twitter and TV and radio everywhere. Why? To say a very simple thing to my colleagues—get out of the way of this jobs bill. Get out of the way. All of America supports it, from the left to the right, to the center and everything in between.

I yield the floor. I thank the Chair.

Mrs. FEINSTEIN. Mr. President, today I have filed Amendment No. 1536 to the pending surface transportation reauthorization bill. This amendment is also supported by Senator BOXER.

This amendment would change the railcar procurement rules to allow transit systems to contract for delivery of railcars for up to 5 years from the date of delivery of the first railcar.

Current law requires the purchase of buses and railcars to be completed