

our district and appellate courts. This growing crisis threatens the effective delivery of justice to the people and businesses who come before our federal courts.

We recognize that you cannot solve this problem alone. The President must select and submit to the Senate for review nominees to fill these vacancies. Consequently, we are seeking the assistance and commitment of the President to address this crisis as well.

It is no exaggeration to call the growing number of judicial vacancies on our federal courts a crisis. Between 1981 and 2008, there were on average 48 vacancies each year for all of the lower federal courts, including vacancies created by two bills expanding the number of federal judges. Over this same period, the nomination and confirmation process filled only 43 vacancies on average each year, causing the vacancy rate to more than double in the last 30 years. In the Ninth Circuit, the number of vacancies has doubled in the last 22 months.

This fact alone would signal a serious problem but the situation is very likely to get worse. Over the next decade, the number of vacancies on the lower federal courts is likely to increase because of the age of current judges and the need to expand the judiciary to keep up with caseload growth. The Justice Department has estimated that annual vacancies over the coming decade will average closer to 60 positions each year. In the last two years, however, only 41 federal judges have been nominated and confirmed to the federal district and appellate courts nationwide. Unless something changes quickly and dramatically, at the end of the coming decade, half the seats on the lower federal courts could be empty.

The Ninth Circuit is fully immersed in this growing crisis. There are currently 18 vacancies among the 142 authorized appellate and district court Article III judges in the Circuit. The President has forwarded to the Senate nominations for ten of these vacancies but the Senate has yet to act on them. While the Senate has confirmed seven nominees to vacancies within the Circuit since January 1, 2009, seven have been pending without a confirmation vote for more than 120 days and three of these have been voted out of the Senate Judiciary Committee and forwarded to the full Senate for action with little or no Committee opposition.

As you know, our federal judiciary at all levels is a beacon of justice across the country and around the world. The judges who sit on our federal courts are dedicated to their jobs and committed to both the rule of law and the ideal of justice for all. Allowing the current judicial vacancy crisis to continue and expand—as it inevitably will if nothing changes—is unacceptable. The current situation places unreasonable burdens on sitting judges and undermines the ability of our federal courts to serve the people and businesses of the Ninth Circuit.

We recognize that both the President's role in nominating individuals to serve as federal judges and the Senate's role in reviewing and determining whether to confirm those nominees are solemn and serious duties. The health and integrity of an entire branch of our government depends on the faithful and careful execution of these duties. We believe, however, that a crisis in one of our branches of government also demands swift, effective, and appropriate action from the coordinate branches. According to the Library of Congress, from 1977 to 2003, the average time from nomination to confirmation for lower federal court judges was less than 90 days. Current vacancies nationwide have been pending for an unsustainable 516 days. On average, the vacancies filled by the 41 judges confirmed during the 111th Congress were

pending 803 days from vacancy creation to confirmation. We can and must do better.

For this reason, we ask you to make a commitment to a confirmation vote in the Senate for each judicial nominee within no more than 120 days after the Senate receives a nomination from the President. We will make a similar request of the President to forward nominations to the Senate within no more than 120 days after the President learns of a judicial vacancy. While Congress will ultimately need to pass legislation to expand the federal judiciary, filling the current vacancies in a more timely manner will do much to alleviate the immediate crisis and improve the delivery of judicial services to those who come before the federal courts.

We are convinced that with your leadership and that of the President we can solve the vacancy crisis facing our federal courts. We urge you to make a clear and open commitment to address the vacancy crisis in the Ninth Circuit as expeditiously as possible. Thank you for your consideration of this request.

Sincerely,

Todd D. True (Chair), Seattle, WA; Steve Cochran (Past-Chair), Los Angeles, CA; Robert A. Goodin, San Francisco, CA; Margaret C. Toledo, Sacramento, CA; Janet L. Chubb, Reno, NV; Miriam A. Vogel, Los Angeles, CA; Robert S. Brewer, Jr., San Diego, CA; Eric M. George, Los Angeles, CA; William H. Neukom, San Francisco, CA; Norman C. Hile, Sacramento, CA; Harvey I. Saferstein, Los Angeles, CA; Dana L. Christensen, Kalispell, MT; Robert C. Bundy, Anchorage, AK.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:30 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 3:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. MERKLEY).

Mr. BROWN of Ohio. 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. BROWN of Ohio. I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT REQUESTS

Mr. BROWN of Ohio. Mr. President, I will in a moment—in the spirit of fair play, we are waiting for some Republicans to enter the Chamber—I will ask unanimous consent that the Finance Committee be discharged from S. 3981 so we can bring up and move forward on maintaining unemployment benefits for thousands of people. In my State alone, last night at midnight, 88,000—that is 1,000 people in every county; we have 88 counties in Ohio—Ohioans saw their unemployment benefits stopped because my colleagues on the other side of the aisle do not want to maintain unemployment benefits. What is shocking to me is that this Senate and the House of Representatives, regardless of party, for years, when our coun-

try has been in bad economic times, have maintained unemployment benefits for laid-off workers.

Senator MCCONNELL, the Republican leader, has made a couple comments that disturb me and make it very hard to do this. We need a supermajority. We need 60 votes. They continue to filibuster or threaten to filibuster. Senator MCCONNELL has made two statements, one through a letter in the last 24 hours and one 3 or 4 weeks ago when he said his No. 1 goal is that Barack Obama be a one-term President. I understand political parties, but his No. 1 goal is that President Obama serve only one term? Minority Leader MCCONNELL, in a letter signed by all his Republican colleagues, which was sent to Senator REID, signed by every Republican, said:

We write to inform you we will not agree to invoke cloture on the motion to proceed on any legislative item until the Senate has acted to fund the government and we have prevented the tax increases that currently will happen in January.

What the Republicans are doing, I don't even understand it. They are saying they insist on a millionaire and billionaire tax cut come January, and they will, for all intents and purposes, shut down the government if they don't get their way. They are saying: Forget extending unemployment benefits, forget food safety legislation, forget don't ask, don't tell, forget the Russian-American START treaty—it used to be that politics ended at the water's edge; those days are over—and forget a middle-class tax cut. They are saying: We will shut down the government if we can't get a tax cut for billionaires and millionaires. My first priority is extending unemployment benefits to the 60 or 70,000 Michiganders; perhaps from the State of Senator SCHUMER, I would guess over 100,000 New Yorkers; from New Mexico, I would guess probably 10,000; and Alaska, thousands in that State. They are willing to say to those unemployed workers—and this is not unemployment welfare; this is unemployment insurance. Every worker in the State, he or his employer—academicians will debate whether the employee or employer actually pays it, but they put into the unemployment insurance fund. When they are laid off, they get money out of the fund. It is similar to health insurance or car insurance. You don't want to collect on it, but it is called insurance. You hope you are working so you don't have to collect on it, but they need to.

There are five people applying for every open job, on average. In Michigan and Ohio, it is probably worse than that. These are not people sitting around with nothing to do, not wanting to work. I will not do this today, but I have read letter after letter from Ohioans saying: Here is my story. I have lost my medical coverage because I don't have a job, and you are cutting off my unemployment benefits—"you" meaning the Republican filibuster.