don't have the bridges that work, if we don't have the highways that work, if we don't have the waterways to bring our barges down to bring our goods to market, we are not going to be able to compete in this economy. This is simply not an acceptable reality for a country such as America.

Think about the Interstate Highway System, built during Eisenhower's Presidency with a Democratic Congress. Think about rural electrification. These things were built during difficult times in this country. Why? Because we didn't think America was about just tinkering at the edges, we believed America was about moving ahead. That is why we need to move forward today on the Rebuild America Jobs Act. All of us recognize the urgent need for new and bold initiatives to fix what is broken and to build the roads, the bridges, and the airports we need to fuel a 21st-century export economy.

The infrastructure bank, which is, of course, included in this legislation, is something that has enjoyed bipartisan support from the beginning. It is one of those initiatives that will foster public-private partnership, with the potential to leverage hundreds of billions of dollars for infrastructure investment. It is about big projects, but it is also about rural projects in States such as Vermont and Minnesota. It is about wastewater treatment plants and water projects and sewer projects—work that has been neglected for way too long.

Fixing our Nation's infrastructure will provide a broad range of benefits. We can reduce our congestion, we can better compete globally, and we can create jobs and improve public safety. This is about working to ensure that no bridge ever again collapses in the middle of America. This is our challenge. We cannot put it off any longer. This is the time to act.

Traditionally, there had been no such thing as a Democratic bridge or a Republican bridge. In fact, the Transportation Secretary for President Obama is a former Republican Congressman. We have come together on infrastructure. We cannot come apart. This is the time to come together.

I urge my colleagues to vote to allow this bill to proceed to a vote.

Mr. President, I yield back all the time on both sides, 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 to proceed to S. 1769. Under the previous order, 60 votes are required to adopt the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—51

Akaka	Bennet	Boxer
Baucus	Bingaman	Brown (OH)
Begich	Blumenthal	Cantwell
Cardin	Klobuchar	Reed
Carper	Kohl	Reid
Casey	Landrieu	Rockefeller
Conrad	Lautenberg	Sanders
Coons	Leahy	Schumer
Durbin	Levin	Shaheen
Feinstein	Manchin	Stabenow
Franken	McCaskill	Tester
Gillibrand	Menendez	Udall (CO)
Hagan	Merkley	Udall (NM)
Harkin	Mikulski	Warner
Inouye	Murray	Webb
Johnson (SD)	Nelson (FL)	Whitehouse
Kerry	Pryor	Wyden

NAYS—49

Alexander	Graham	Moran
Ayotte	Grassley	Murkowski
Barrasso	Hatch	Nelson (NE)
Blunt	Heller	Paul
Boozman	Hoeven	Portman
Brown (MA)	Hutchison	Risch
Burr	Inhofe	Roberts
Chambliss	Isakson	Rubio
Coats	Johanns	Sessions
Coburn	Johnson (WI)	Shelby
Cochran	Kirk	Snowe
Collins	Kyl	Thune
Corker	Lee	Toomey
Cornyn	Lieberman	Vitter
Crapo	Lugar	Wicker
DeMint	McCain	
Enzi	McConnell	

The PRESIDING OFFICER (Mrs. MCCASKILL). On this vote, the yeas are 51, the nays are 49. Under the previous order requiring 60 votes for the adoption of this motion, the motion to proceed is rejected.

The majority leader.

Mr. REID. Madam President, we wish to outline what the rest of the day appears to be.

I ask unanimous consent that notwithstanding the previous order, following the next vote, the Senate proceed to executive session to consider the following nominations: Calendar No. 353 and Calendar No. 356; that there be 15 minutes for debate equally divided in the usual form; that following that debate, Calendar No. 356 be confirmed and the Senate proceed to vote with no intervening action or debate on Calendar No. 353, with the provisions of the previous order remaining in effect; and that the next 2 votes be 10 minutes in duration.

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

The question is on agreeing to the motion to proceed to S. 1786.

Under the previous order, 60 votes are required to adopt this motion. Under the previous order, there will now be 2 minutes of debate, equally divided.

Who yields time?

The Senator from California.

Mrs. BOXER. Madam President, what is before us now is supposed to be a jobs bill. Actually, all they do in this alternative, my Republican friends, is extend the highway trust fund at the current levels. That is something we intend to do, and Senator INHOFE and I are going to bring the bill to the floor that does that, but they decided they want to do it now. And how do they pay for it? They cut $40 billion out of such functions as firefighters, police, Border Patrol, food safety inspectors, and we will lose 200,000 jobs from that action.

In addition, there are two rollbacks of environmental laws that deserve a heck of a lot more notice than putting them in this bill. That is going to hurt our people because if you can't breathe, you can't work. We have to get the mercury and the soot and the arsenic out of the air.

I hope we will vote no on this. It is not a jobs bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

All time is yielded back.

Mr. COCHRAN. 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 bill clerk called the roll.

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—47

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Moran
Blunt	Hatch	Murkowski
Boozman	Heller	Paul
Brown (MA)	Hoeven	Portman
Burr	Hutchison	Risch
Chambliss	Inhofe	Roberts
Coats	Isakson	Rubio
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	Manchin	

NAYS—53

Akaka	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson (SD)	Reid
Bingaman	Kerry	Rockefeller
Blumenthal	Klobuchar	Sanders
Boxer	Kohl	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Conrad	McCaskill	Udall (NM)
Coons	Menendez	Warner
Durbin	Merkley	Webb
Feinstein	Mikulski	Whitehouse
Franken	Murray	Wyden
Gillibrand	Nelson (NE)	

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 53. Under the previous order requiring 60 votes for the adoption of this motion, the motion to proceed is rejected.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT OF 2012

The PRESIDING OFFICER. Under the previous order, the Senate having received from the House a message with respect to H.R. 2112, the Senate insists on its amendments, agrees to a conference with the House, and the Chair appoints Mr. KOHL, Mr. HARKIN, Mrs. FEINSTEIN, Mr. JOHNSON of South Dakota, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. BROWN of Ohio, Mr. INOUYE, Mrs. MURRAY, Ms. MIKULSKI, Mr.

BLUNT, Mr. COCHRAN, Mr. MCCONNELL, Ms. COLLINS, Mr. MORAN, Mr. HOEVEN, Mrs. HUTCHISON, and Mr. SHELBY conferees on the part of the Senate.

EXECUTIVE SESSION

NOMINATION OF SCOTT WESLEY SKAVDAHL TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF WYOMING

NOMINATION OF RICHARD G. ANDREWS TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE

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 Scott Wesley Skavdahl, of Wyoming, to be United States District Judge for the District of Wyoming, and Richard G. Andrews, of Delaware, to be United States District Judge for the District of Delaware.

The PRESIDING OFFICER. There is 2 minutes, equally divided.

The Senator from Wyoming.

Mr. ENZI. Madam President, I wish to ask for your wholehearted support for Judge Skavdahl of Wyoming. He was nominated by our Democratic Governor. He was appointed by the President, and he has the wholehearted support of our delegation. We have spoken for him in committee and are doing that again on the floor. We have a full statement we submitted. So I would thank you for your vote on this nomination. He came up through the courts in Wyoming and now will be a Federal judge, with your help.

I thank the Chair.

Mr. LEAHY. Madam President, I thank the majority leader for securing votes on 2 of the 22 judicial nominees on the Senate's Executive Calendar ready for Senate consideration. I am glad that we will finally vote on the nominations of Scott Skavdahl to the District of Wyoming and Richard Andrews to the District of Delaware, both qualified, consensus nominees reported unanimously by the Judiciary Committee nearly 2 months ago. I wish that we were able to vote today on the other 20 judicial nominees who have been ready and waiting for final Senate action.

This morning the Judiciary Committee reported another 5 judicial nominations, bringing the total to 27 who have been thoroughly vetted, considered and reported by the Judiciary Committee. All 27 of these nominees are qualified and have the support of their home State Senators, Republican and Democratic. Twenty-three of the 27 nominees, like the 2 we will consider today, were unanimously approved by the Judiciary Committee with all members. Senate Democrats are prepared to have votes on all these important nominations. I know of no good reason why the Republican leadership is refusing to proceed on the 20 nominees who have been stalled before the Senate for weeks and months. At a time when vacancies on Federal courts throughout the country remain near 10 percent, the delay in taking up and confirming these consensus judicial nominees is inexcusable.

The American people need functioning Federal courts with judges, not vacancies. Though it is within the Senate's power to take significant steps to address this problem, refusal by Senate Republicans to consent to voting on consensus judicial nominations has kept vacancies high for years. The number of judicial vacancies has been near or above 90 for over 2½ years. A recent report by the nonpartisan Congressional Research Service found that we are in the longest period of historically high vacancy rates in the last 35 years. These needless delays do nothing to help solve this serious problem and are damaging to the Federal courts and the American people who depend on them.

More than half of all Americans—over 163 million—live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans just agreed to vote on the nominations reported by the Judiciary Committee with bipartisan support. As many as 26 States are served by Federal courts with vacancies that would be filled by these nominations. Millions of Americans across the country are harmed by delays in overburdened courts. The Republican leadership should explain why they will not consent to vote on the qualified, consensus candidates nominated to fill these extended judicial vacancies.

Senator GRASSLEY and I have worked together to ensure that each of the 27 nominations reported by the Judiciary Committee was fully considered after a thorough but fair process, including completing our extensive questionnaire and questioning at a hearing. This White House has worked with the home State Senators, Republicans and Democrats, and each of the judicial nominees being delayed from a Senate vote is supported by both home State Senators. The FBI has conducted a thorough background review of each nominee. The American Bar Association's Standing Committee on the Federal Judiciary has conducted a peer review of their professional qualifications. When the nominations are then reported unanimously by the Judiciary Committee, there is no reason for months and months of further delay before they begin serving the American people.

Despite the damagingly high number of vacancies that has persisted throughout President Obama's term, some Republican Senators have tried to excuse their delay in taking up nominations by suggesting that the Senate is doing better than we did during the first 3 years of President Bush's administration. That is simply not true. It is wrong to suggest that the Senate has achieved better results than we did in 2001 through 2003. As I have pointed out, in the 17 months I chaired the Judiciary Committee in 2001 and 2002, the Senate confirmed 100 of President Bush's Federal circuit and district court nominees. By contrast, after the first 2 years of President Obama's administration, the Senate was allowed to proceed to confirm only 60 of his Federal circuit and district court nominees.

Indeed, as 2010 was drawing to a close, Senate Republicans refused to proceed on 19 judicial nominees who had been considered and reported by the Judiciary Committee and forced them to be returned to the President. It has taken the Senate nearly twice as long to confirm the 100th Federal circuit and district court judge nominated by President Obama as we had when President Bush was in the White House.

During the third year of President Bush's administration, the Senate confirmed 68 of his Federal circuit and district court nominees. By early November, 66 judges had been confirmed. In contrast this year, even including many nominees confirmed this year who should have been confirmed last year, the Senate has only confirmed 53 of President Obama's judicial nominees. Fifty-three is not better than 66. By this point in President Bush's first 3 years, the Senate had confirmed 166 of his Federal circuit and district court nominees. So far in the 3 years of the Obama administration, that total is only 113. One hundred and thirteen is not better than 166. Notably, the Senate this year is lagging far behind the pace we set for circuit court nominations in the third year of President Bush's administration. The Senate this year has confirmed just 6 circuit court nominations, compared to 12 at this point in President Bush's third year. The six confirmations this year are only half as many as were confirmed at this point in President Bush's third year. There are five circuit court nominations pending on the Senate's Executive Calendar today and a sixth circuit court nomination reported by the committee this morning. By this point in the third year of President Bush's administration, the Senate had confirmed a total of 29 of his circuit court nominees. By comparison, the Senate has confirmed only 22 of President Obama's circuit court nominees. Twenty-two is not better than 29. By this point in the Bush administration, vacancies had been reduced to 42. Today they stand at 85. Eighty-five vacancies is not better than 42.

This is not the way to make real progress. No resort to percentages of nominees ''processed'' or ''positive action'' by the committee can excuse the lack of real progress by the Senate. In the past, we were able to confirm consensus nominees more promptly, often