

will hurt their bottom line and the economy. Gaps in regulation hurt the economy. Bad, reckless decisions on Wall Street hurt the economy. But many top financial executives have apparently forgotten that the only reason they are still in business is that the American taxpayer saved them.

Now, many of these financial institutions have nearly fully recovered, while Main Street Americans continue to pay the price for those bad decisions and inadequate regulations.

The Wall Street Reform Act established responsible rules to make our financial system work for the benefit of all Americans, so that we never return to the days of too big to fail bailouts, backroom derivatives deals, predatory subprime mortgages, and the threat of economic collapse. Passing the Wall Street Reform Act was a monumental achievement, but there is much work left to be done. Now the financial regulators, the experts who have made it their life's work to understand these issues, must work to write rules and implement these reforms. This will take time, and we must get it right.

If the attacks on the law and its implementation are successful in weakening or eliminating these new protections, however, our economy will once again be at risk. Since I became chairman earlier this year, the Banking Committee has held more than 25 hearings and bipartisan briefings on financial reform. We are exercising our oversight authority, following the regulators' progress closely, and are committed to seeing the process of reforming Wall Street through to completion.

We all remember the economic nightmare we lived through 3 years ago, and we should never forget it. That is why I take my responsibility as chairman of the Banking Committee and custodian of this new law so seriously. I am fully committed to helping ensure Congress does its part to hold our regulators accountable and to providing Americans with a financial system they can trust.

I yield the floor, and 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. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2012

The PRESIDING OFFICER. Under the previous order, the Senate will re-

sume consideration of H.R. 2055, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2055) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

Pending:

Coburn (for McCain) amendment No. 553, to eliminate the additional amount of \$10,000,000, not included in the President's budget request for fiscal year 2012, appropriated for the Department of Defense for planning and design for the Energy Conservation Investment Program.

Johnson (SD)/Kirk amendment No. 556, of a perfecting nature.

Mr. JOHNSON of South Dakota. I ask unanimous consent that the reading of the bill be waived.

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

Mr. JOHNSON of South Dakota. Mr. President, as the Senate resumes consideration of the fiscal year 2012 Military Construction, Veterans Affairs, and Related Agencies appropriations bill, I wish to remind my colleagues of the important programs funded in this bill.

This bill funds the infrastructure that is the backbone of our military—the facilities in which our troops work, train, and live—and the facilities that support their families, including family housing, schools, hospitals, and childcare centers. It also funds the medical care and benefits promised to the Nation's veterans—a sacred trust we must not fail to honor.

This is a bipartisan bill that was reported unanimously out of the Appropriations Committee. As I have said before, the bill is balanced, disciplined, and responsible.

Two amendments to this bill are currently pending and several others have been filed. If my colleagues have additional amendments they wish to offer to the bill, I encourage them to file those amendments without delay or call them up if they wish a vote. My staff and Senator KIRK's staff are available to work with Members to clear amendments if possible.

There is a lot going on in Washington this week, but it need not distract from the disposition of this bill. I urge my colleagues to bring any amendments they have to the floor so we can act on them and move quickly to a vote on final passage.

I yield the floor, and 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. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JOHNSON of South Dakota. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The Johnson amendment.

AMENDMENT NO. 556, AS MODIFIED

Mr. JOHNSON of South Dakota. I ask unanimous consent that amendment No. 556 be modified with the modifications at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 114 between lines 18 and 19, insert the following:

SEC. 301. Not later than 90 days after enactment of this Act, the Executive Director of Arlington National Cemetery shall provide a report to the Committees on Appropriations of the Senate and the House of Representatives; the Senate Armed Services Committee; the Senate Veterans' Affairs Committee; and the Senate Homeland Security and Governmental Affairs Committee detailing the strategic plan and timetable to modernize the Cemetery's Information Technology system, including electronic burial records.

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that Senator MCCASKILL be added as a cosponsor to the amendment.

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

Mr. JOHNSON of South Dakota. I yield the floor, and 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. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

NOMINATION OF J. PAUL OETKEN

Mr. SCHUMER. Mr. President, it is my distinct honor to rise in support of Paul Oetken's confirmation to the bench of the Southern District of New York. We have a very deep pool of legal talent in New York, but Paul's nomination is one everybody is talking about. Paul is brilliant, well rounded, and unwavering in his dedication to public service and his commitment to rule of law. His confirmation will only improve the workings of one of the best and busiest courts in the country.

I look for three qualities in judicial candidates: excellence, moderation, and diversity. Paul's Excellence is provable on paper. He is a graduate of the University of Iowa and Yale Law School and has worked in the highest echelons of two of the three branches of government, including for the Office of Legal Counsel at the Department of Justice and for Supreme Court Justice Harry Blackmun. He has also climbed the ranks of private legal practice, serving most recently as the head of litigation for the large New York media company Cablevision, one of our fine companies in New York.

I consider a broad range of experience to be an important training ground for teaching judicial candidates the second quality I look for: moderation. I do not like judges who tend to be too far to the right, but I do not like judges who come from a perspective that is too far

left either. Paul Oetken fits the bill of a mainstream, moderate judge. His moderation and modesty were evident during his confirmation hearing and are clear to all who know him. When judges have in their resume practical experience dealing with real-world problems, they tend to understand that a judge cannot simply impose things from on high without understanding the effect of imposing those decrees on average people, average businesses, and average governments.

When a candidate has these two qualities—excellence and moderation—diversity is a bonus. But in this case, at this moment, Paul is not just an excellent candidate. As the first openly gay man to be confirmed as a Federal judge and to serve on the Federal bench, he will be a symbol of how much we have achieved as a country in the last few decades. And importantly, he will give hope to many talented young lawyers who, until now, thought their paths might be limited because of their sexual orientation. When Paul becomes Judge Oetken, he will be living proof to all those young lawyers that it does get better.

Paul Oetken's modest but brave act of going through the confirmation process makes this otherwise quiet moment historic. But long after today, what the history books will note about Paul is his achievement as a fair and brilliant judge.

In a short while, our country will take one step closer toward equality and away from bigotry and prejudice. I am very proud to have played a supporting role, and I look forward to Paul Oetken's service on the bench in the Southern District of New York. Often quoted but still one of my favorites is what Martin Luther King often said:

The arc of history is long, but it bends in the direction of justice.

Paul Oetken's nomination to the Federal bench proves that point once again.

I yield the floor, and 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 that the order for the quorum call be suspended.

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

#### EXECUTIVE SESSION

#### NOMINATION OF J. PAUL OETKEN TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will now report.

The assistant bill clerk read the nomination of J. Paul Oetken, of New

York, to be United States District Judge for the Southern District of New York.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senate will vote on the nomination of J. Paul Oetken to the U.S. district judge for the Southern District of New York.

Today's vote marks the 28th judicial confirmation this year, and I am pleased we are moving forward with filling another vacancy.

When I became ranking member of the Judiciary Committee earlier this year, the courts had 103 vacancies. I have worked with the chairman and other members of the committee to reduce vacancies by confirming consensus nominees. We have brought the vacancies down now to 89. Based upon media stories and other exaggerated statements that I hear from time to time, you would think the Republicans are blocking every judicial nominee. The record shows something quite different. In total, 60 percent of the President's judicial nominees have been confirmed; 33 percent of the nominees have been confirmed during this Congress.

We continue to achieve great progress in committee as well. Seventy-three percent of the judicial nominees submitted this Congress have been afforded hearings. Only 57 percent of President Bush's nominees had hearings for the comparable time period during his Presidency. We have reported 58 percent of the judicial nominees, compared to only 54 percent of President Bush's nominees. In total, the committee has taken positive action on 62 of the 86 nominees submitted this Congress or 72 percent of those nominees submitted.

I could go on with other statistics which demonstrate our cooperation and positive action, but I think I have made my point. We are moving forward on the consensus nominees. Complaints to the contrary are not supported by the facts.

I would like to say a few words about the nominee we are considering today, a nominee I will vote for.

Mr. Oetken grew up in my State of Iowa and attended the University of Iowa, where he received his bachelor of arts degree with distinction in 1988. Following graduation from Yale Law School in 1991, the nominee spent 3 years clerking. He first clerked for the Seventh Circuit, then the DC Circuit, and finally for Justice Harry A. Blackmun of the Supreme Court of the United States.

After his clerkships Mr. Oetken entered private practice. In 1997, he became an attorney-adviser with the Department of Justice Office of Legal Counsel. In 1999, the nominee joined the White House Counsel's Office as associate counsel to then-President Clinton. In 2001, he moved to New York and returned to private practice. In 2004, the nominee joined the legal department of Cablevision Systems Corpora-

tion. Currently, he is the senior vice president and associate general counsel at Cablevision.

The ABA Standing Committee on the Federal Judiciary has given Mr. Oetken a unanimous "qualified" rating. I support this nomination and congratulate him on his professional accomplishments.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering the nomination of Paul Oetken of New York.

Mr. LEAHY. Mr. President, let me speak for a moment on that. With today's vote on the nomination of Paul Oetken to fill a judicial vacancy on the Southern District of New York, the Senate is going to also mark a new and important milestone. Mr. Oetken, of course, is a superbly qualified nominee. He is also the first openly gay man nominated to be a Federal district judge. I fully expect him to be confirmed to a lifetime appointment to the Federal bench. I am proud first of the President for taking this critical step to break down another barrier, increase diversity in the Federal judiciary, but also on the part of Paul Oetken, who stepped forward to serve. He was reported with the support of every member of the Judiciary Committee, Democratic and Republican, and I commend my fellow Republicans and Democrats for that vote. I think he is going to be confirmed by what I believe will be an overwhelming vote in the Senate. It is a sign as a nation we take a new and welcome step on the path of ensuring the Federal judiciary better reflects all Americans.

To reiterate, today, the Senate will finally vote on the nomination of Paul Oetken to fill a judicial vacancy on the Southern District of New York. Mr. Oetken's nomination was reported unanimously by the Judiciary Committee more than 3 months ago and could—and in my view should—have been confirmed within days. Yet, like so many of President Obama's qualified, consensus nominees, Mr. Oetken has been stuck without cause or explanation for months on the Senate's Executive Calendar. At a time when judicial vacancies are above 90 and have remained at that crisis level for 2 years, this kind of needless delay undermines the serious work we have to do to ensure the ability of our Federal courts to provide justice to Americans around the country.

With today's vote the Senate will mark a new and important milestone. Mr. Oetken, a superbly qualified nominee, is the first openly gay man to be