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**Subject:** : Bloomington IL editorial on President's proposal for timely consideration of judges

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With the elections out of the way, Congress and the White House should come to an agreement on improving the process for confirming judicial nominees.

President Bush was right when he said recently, "We clearly have a poisoned and polarized atmosphere in which well-qualified nominees are neither voted up or down."

However, by offering his "solution" to the dilemma a mere week before the election, Bush further politicized an issue that needs no more political gamesmanship.

Only 14 of Bush's 32 nominees for the U.S. Court of Appeals have been confirmed since he became president in January 2001. In addition to 18 appellate court nominees awaiting Senate action, there are 32 pending district court nominees.

Twenty-three of the pending nominations are for posts designated as "judicial emergency" vacancies, according to the U.S. Department of Justice Office of Legal Policy. That designation is based on caseload per judge or in courts where there is only one active judge and more than one is authorized.

Bush wants the Senate to enact a rule that would require a hearing within 90 days of the president submitting a nomination and an up-down vote by the full Senate within 180 days of the nomination being received.

But Senate Judiciary Chairman Patrick Leahy, D-Vt., balked at arbitrary deadlines, saying, "What we need is cooperation from the White House in choosing more noncontroversial nominees."

Controversial nominees should not have any bearing on delays. If a majority of the Senate thinks a nominee is not qualified or will not fulfill the constitutional requirements of the office, the Senate should reject the nominee. A Senate committee should not keep the nominee -- and, therefore, the justice system -- in limbo.

Eight of Bush's 11 initial nominees for the Court of Appeals still haven't received a vote in the Senate after nearly 18 months.

As Bush noted in his recent remarks, such treatment "discourages good people from serving as judges."

Perhaps the logjam will ease with the Republicans regaining a slim majority in the Senate.

The delays are not only unfair to the nominees. They are unfair to the other judges who must pick up the slack in short-staffed jurisdictions, unfair to those whose day in court is delayed by the overburdened system and unfair to Americans who deserve a better-functioning judiciary.

Perhaps caseloads would not have grown so sharply if Congress didn't continue making federal cases out of matters that could be -- and, in many cases, should be -- handled in state courts.

But that didn't cause the problem with getting nominees through the Senate. It just worsens the impact of those delays. Bush's decision to end the practice of the American Bar Association reviewing potential nominees before their names are submitted to the Senate also has contributed to delays. The Senate still seeks ABA input. However, the lawyers' organization cannot begin its review until after a person is nominated. But the biggest blame rests with politics -- the same politics that caused delays when former President Clinton had to deal with a Republican-controlled Senate. The problem seems to grow with each administration that must work with the opposite party in the Senate. The White House and Senate should work together on a solution that will eliminate the logjam no matter which party is in power. Bush's plan offers a good outline.