

Mr. SESSIONS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I would like to take a moment to discuss my vote today against ending debate on the Dream Act, a bill that would provide legal status to millions of people in this country who are illegally present. Before I discuss the substance of the bill, I want to express my frustration on the process of how this bill was brought to the floor for a vote. This bill has been around for nearly 10 years. In 2003, the Senate Judiciary Committee considered and debated the bill, and voted to send it to the full Senate for consideration. It didn't pass at that time, and since then, not one hearing has taken place on the legislation.

The bill we considered today was the sixth version of the Dream Act that we have seen in the last 2 months. Five of the six versions were introduced and immediately put on the calendar, bypassing the committee process. The Judiciary Committee, of which I am a member, didn't have the opportunity to debate it or make it better. Instead, the full Senate was asked to consider the bill as written, without the ability to amend it. You see, the majority leader used his ability to block all amendments through a process known as "filling the tree." This procedure means that no amendments could be in order. No improvements could have been made. The democratic process was effectively blocked.

Now, allow me to express some concerns that I have had about this version of the bill. The Dream Act would legalize an unlimited number of people who are here illegally, including the relatives of the alien that applies. It would put millions of individuals not just young people on a path to citizenship. The bill also leaves the door open to more fraud and abuse of our immigration system. It leaves a lot of discretion to the Secretary of Homeland Security, including authority to waive bars of inadmissibility. This latest version of this legislation provides very few assurances that criminal aliens would be barred from applying. The Dream Act, according to the Congressional Budget Office has a \$5 billion price tag, and could require hard-working Americans to foot the bill for this amnesty program. The bill fails to require individuals to graduate from college or to complete their military service, even though proponents claim that this is the sole mission of the bill. Finally, one of the most alarming provisions of the bill allows aliens who apply, no matter how frivolous their claim, to be granted safe harbor from enforcement officials by prohibiting the Secretary of Homeland Security from removing an alien who has a pending application.

I agree that we should take a hard look at protecting the youth who are forced to come here illegally, unaware

of the consequences. However, we also need to be conscious of those people standing in line, all around the world, who follow the law and wait their turn to come here legally. This bill just wouldn't be fair to those people.

Congress and this administration must come to terms with the immigration problems we have. We need true reform of our immigration laws, starting with border security and enforcement of the laws already on the books. We need to consider changes to our legal immigration system, including expanding or improving visa programs, to make sure people are incentivized to come in legally rather than illegally. These reforms will make the system better for future generations because a short term amnesty program as proposed by the Dream Act—doesn't solve the underlying problem.

I voted against ending debate today because I believe this bill required serious deliberation. I thought we deserved to have amendments considered. It is unfortunate that the majority attempted to push this bill through at the final hour, circumventing the democratic process that allows for amendments and serious debate on an issue that would dramatically undermine our rule of law.

#### SBIR/STTR REAUTHORIZATION ACT OF 1999—RESUMED

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill.

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid amendment No. 4827 (to the House amendment to the Senate amendment), to change the enactment date.

Reid amendment No. 4828 (to amendment No. 4827), to change the enactment date.

Reid motion to refer the message of the House on the bill to the Committee on Armed Services, with instructions, Reid amendment No. 4829, to provide for a study.

Reid amendment No. 4830 (to (the instructions) amendment No. 4829), of a perfecting nature.

Reid amendment No. 4831 (to amendment No. 4830), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided. The Senate will be in order. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I rise to ask my colleagues on both sides of the political aisle to support this cloture motion. The fact is that removing a form of legalized discrimination from our books, allowing people to serve our military regardless of sexual orientation, is not a liberal or conservative idea; it is not a Republican or Democratic idea; it is an American idea consistent with American values. We have come to a point in our history, I hope, where neither race nor religion, ethnicity nor gender nor sexual orientation should deprive Americans of serving our country as the patriots that they are. This measure would ac-

complish that result in an orderly way to be determined by the leaders of our military when they decide that the military is ready to implement the change, repeal don't ask, don't tell, without negative effect on military effectiveness, unit cohesion, and military morale. It is time to right a wrong and put the military in line with the best of American values.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Today is a very sad day. The Commandant of the U.S. Marine Corps says: When your life hangs on the line, you don't want anything distracting. Mistakes and inattention and distractions cost marines' lives. I don't want to permit that opportunity to happen and I will tell you why. You go up to Bethesda Naval Hospital, marines are up there with no legs, none. We have marines in Walter Reed with no limbs.

#### CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 debate on the motion to concur in the House amendment to the Senate amendment to H.R. 2965, the SBIR/STTR Reauthorization Act.

Joseph I. Lieberman, Barbara Boxer, Ron Wyden, Michael F. Bennet, Robert Menendez, Robert P. Casey, Jr., Frank R. Lautenberg, Debbie Stabenow, Mark R. Warner, Tom Udall, Jeff Merkley, Benjamin L. Cardin, Amy Klobuchar, Christopher J. Dodd, Tom Carper, Al Franken.

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 motion to concur in the House amendment to the Senate amendment to H.R. 2965, the SBIR/STTR Reauthorization Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) is necessarily absent.

I further announce that if present and voting, the Senator from West Virginia (Mr. MANCHIN) would vote "nay."

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "nay," and the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

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

The yeas and nays resulted—yeas 63, nays 33, as follows:

[Rollcall Vote No. 279 Leg.]

## YEAS—63

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

## NAYS—33

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Risch
Burr	Grassley	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker

## NOT VOTING—4

Bunning	Hatch
Gregg	Manchin

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 33. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. Closure having been invoked, the motion to refer falls.

## EXECUTIVE SESSION

# NOMINATION OF ALBERT DIAZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

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

The bill clerk read the nomination of Albert Diaz, of North Carolina, to be United States Circuit Court Judge for the Fourth Circuit.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, I yield my time to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mrs. HAGAN. Mr. President, I am thrilled that after 11 months on the Executive Calendar, we are finally voting to confirm Judge Albert Diaz to the Fourth Circuit Court of Appeals. I have spoken about Judge Diaz's qualifications a number of times here on the floor, so I will not list them again. But let me say that every Senator should feel comfortable voting to confirm this

excellent judge to the Federal bench. I have no doubt that as the first Hispanic judge on the Fourth Circuit, he will serve our Nation with distinction. The senior Senator from North Carolina, Mr. BURR, also strongly supports Judge Diaz. I wish to thank him for his work on this nomination.

I wish also to thank the chairman of the Judiciary Committee for his tireless work to confirm so many desperately needed judges, including Judge Diaz. Judge Diaz will make an outstanding addition to the Fourth Circuit. I would urge all of my colleagues to support his nomination.

I yield the floor.

Mr. LEAHY. Mr. President, today the Senate will finally consider two judicial nominations that have been stalled for months on the Executive Calendar after being reported unanimously by the Judiciary Committee.

The first nomination is Albert Diaz of North Carolina, who was nominated in November 2009 to fill a judicial emergency vacancy on the Fourth Circuit. His Republican home State senator, Senator BURR, asked nearly a year ago that the Judiciary Committee "look for an expedited review and referral to the full Senate so that that deficiency on the fourth circuit can be filled." We did and the Judiciary Committee reported his nomination after unanimous rollcall vote—19 to 0—on January 28, nearly 11 months ago. There has been no explanation for the lengthy delays preventing final consideration of his nomination.

Judge Albert Diaz is a respected and experienced North Carolina jurist who served in the Armed Forces.

He has the support of both his home State Senators, Senator HAGAN and Senator BURR. The ABA Standing Committee on the Federal Judiciary rated him unanimously "well qualified", and the North Carolina Bar Association has urged us to confirm him. When he is confirmed today, Judge Diaz will be the first Latino to sit on the Fourth Circuit. I congratulate Judge Diaz and his family on his confirmation.

In addition to Judge Diaz, there are six more superbly qualified consensus circuit court nominees ready for consideration by the Senate, four of them for judicial emergency vacancies. Five of these were reported unanimously, and another was reported with the support of 17 of the 19 Senators on the Judiciary Committee. I predict all six would be confirmed with strong bipartisan support, and I hope all six can get up-or-down votes before the Senate adjourns.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I join my colleague from North Carolina in praising the nomination of Judge Albert Diaz, and urge my colleagues to approve this nomination. The Fourth Circuit has suffered for some time under partisan politics. Good nominees have fallen by the wayside, and that time needs to stop.

Judge Diaz is immensely qualified for this position and will serve well on the court. He has proven himself already by earning a reputation as a fair and impartial judge, and also for dedicated public service in the Marines and his community.

After the treatment of some of the nominees for the Fourth Circuit and what they were subjected to, I am impressed that we still have high caliber nominees such as Judge Albert Diaz who would step forward to go through the nomination process.

It is a proud day that Judge Diaz is getting the vote that so many never did. I urge my colleagues to vote in favor of this nomination and get this good man on the Fourth Circuit.

I yield the floor.

The PRESIDING OFFICER (Mr. LEAHY.) All time has expired.

The question is, Will the Senate advise and consent to the nomination of Albert Diaz to be U.S. Circuit Judge for the Fourth Circuit?

The nomination was confirmed.

# NOMINATION OF ELLEN LIPTON HOLLANDER TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate on the Hollander nomination.

The Senator from Maryland.

Mr. CARDIN. Mr. President, I am pleased to rise today in support of the confirmation of two judicial confirmations pending before the Senate from my home State of Maryland. Both James Bredar and Ellen Hollander have been nominated by the President to be U.S. district judges for the District of Maryland.

I was pleased to work with our senior Senator, Ms. MIKULSKI, to recommend these nominations to the President last year. I chaired their confirmation hearing in May of this year before the Judiciary Committee, on which I serve. These two judges were approved by a voice vote in the Judiciary Committee in June.

Judge Ellen Hollander currently serves as a judge on the Maryland Court of Special Appeals, Maryland's second highest court, which hears mandatory appeals from our State trial courts in Maryland.

She has served as a judge on that court since 1994. Judge Hollander comes to the Senate with an impressive amount of experience in Federal and State court. She served as a Federal prosecutor in Maryland for 4 years, served as a State circuit court judge in Baltimore City for 5 years, and has served as a State appellate court judge for 16 years. As a State trial court judge, she heard thousands of criminal and civil cases—hundreds of which went to verdict or final judgment—and handled both jury trials and bench trials. As an appellate judge, she has authored over 1,000 opinions.