

[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.

The American Bar Association's Standing Committee on the Federal Judiciary evaluated Judge Hollander's nomination and rated her unanimously "well qualified," the highest possible rating.

Judge Hollander, really exemplifies the spirit of public service. She is well known by lawyers and jurors alike in Maryland for her meticulous reasoning process and well-crafted legal opinions. She really is a model of a fair and impartial judge who will dispense equal justice under the law. I know Judge Hollander has also supported efforts to reduce recidivism and is a strong supporter of our drug treatment courts and juvenile diversion programs.

Judge Jim Bredar also comes to the Senate with a wide range of courtroom and litigation experience. He served as a Federal prosecutor in Colorado for 4 years before coming to Maryland and serving as a Federal public defender for 6 years. Since 1998, he has served as a U.S. magistrate judge for U.S. District Court for the District of Maryland, where he works closely with our judges of the U.S. District Court for the District of Maryland. He conducts preliminary proceedings in felony cases, all proceedings in petty offense cases, and all proceedings in misdemeanor and civil matters upon the consent of the parties. Judge Bredar has conducted over 700 mediation and settlement conferences in civil cases.

Judge Bredar has been a member of the Maryland Bar since 1995. The American Bar Association's Standing Committee on the Federal Judiciary evaluated Judge Bredar's nomination and rated him unanimously "well qualified," the highest possible rating.

With Judge Bredar, I see a nominee who is genuinely concerned about broadening the access to justice of Americans to their courts. He believes that we can do better with both our criminal and civil justice systems. I know of Judge's Bredar work as a mediator in our Federal court's alternative dispute resolution program, which has received high praise from Maryland lawyers and litigants alike.

The people of Maryland will be well served by having Judge Bredar and Judge Hollander on the Federal bench in Baltimore. I look forward to the Senate confirming these two outstanding nominations.

We are extremely pleased that we are now getting a chance to vote on the confirmation of Judge Hollander to the Maryland District Court. Senator MIKULSKI has taken the leadership in bringing forward the nominations that we strongly support, the two of us.

I would yield the time to the senior Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, it is with great pleasure that Senator CARDIN and I bring to the Senate Judge Ellen Hollander, an outstanding woman who is currently a member of the Maryland Court of Special Appeals;

has been deemed qualified, very qualified by the Maryland Bar, and every specialized bar in the State of Maryland.

She brings a sense of judicial temperament, great judicial competence, and a commitment to impartial justice. She will be a great addition to the Federal bench in Maryland and to the Federal bench of the United States. She does not live in an ivory tower. Her work on boards and commissions in the nonprofit areas shows a keen involvement in civic affairs. I urge that we adopt the nomination of Judge Hollander. I would hope that we could do it by voice.

Mr. LEAHY. Mr. President, we will now finally have a vote on the nomination of Ellen L. Hollander to serve on the U.S. District Court for the District of Maryland. Her nomination has been pending on the Senate's Executive Calendar since the Judicial Committee reported it unanimously on June 10, more than 6 months ago. Judge Hollander, a well-respected Maryland State judge for the last 16 years, was unanimously rated "well qualified" by the ABA Standing Committee on the Federal Judiciary and has the strong support of both of her home State Senators, Senator MIKULSKI and Senator CARDIN.

After the confirmations today, 30 Federal circuit and district court nominations favorably reported by the Judiciary Committee remain ready for final vote. These include 21 nominations reported unanimously and another 3 reported with strong bipartisan support and only a small number of "no" votes. These 24 nominations should have been confirmed within days of being reported.

In addition, 17 nominations ready for action on the Senate calendar are to fill judicial emergency vacancies. With judicial vacancies at historic highs, we should act on these nominations. We should do as we did during President Bush's first 2 years in office, when the Senate with a Democratic majority had up-or-down votes on all 100 judicial nominations favorably reported by the Judiciary Committee. That included controversial circuit court nominations reported during the lameduck session in 2002. In contrast, during this first Congress of President Obama's administration, the Senate has considered just 49 of the 80 nominations reported by the Judiciary Committee.

I congratulate Judge Hollander and her family on her confirmation today.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Ellen Lipton Hollander, of Maryland, to be United States District Judge for the District of Maryland.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ellen Lipton Hollander, of Maryland, to be U.S. District Court Judge for the District of Maryland.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from West Virginia (Mr. MANCHIN) are necessarily absent.

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 Kentucky (Mr. BUNNING) would have voted "yea" and the Senator from Utah (Mr. HATCH) would have voted "yea."

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 280 Ex.]

YEAS—95

Akaka	Ensign	Merkley
Alexander	Enzi	Mikulski
Barrasso	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Franken	Nelson (NE)
Begich	Gillibrand	Nelson (FL)
Bennet	Graham	Pryor
Bennett	Grassley	Reed
Bingaman	Hagan	Reid
Bond	Harkin	Risch
Boxer	Hutchison	Roberts
Brown (MA)	Inhofe	Rockefeller
Brown (OH)	Inouye	Sanders
Brownback	Isakson	Schumer
Burr	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kerry	Shelby
Carper	Kirk	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Kyl	Tester
Cochran	Lautenberg	Thune
Collins	Leahy	Udall (CO)
Conrad	LeMieux	Udall (NM)
Coons	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	McCaIn	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	McConnell	Wyden
Durbin	Menendez	

NOT VOTING—5

Bunning	Hatch	Manchin
Gregg	Landrieu	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

SBIR/STTR REAUTHORIZATION ACT OF 1999—Continued

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, all consent agreements that I have been involved