

been provided, but summaries do not include the specific information on how the full implementation of this treaty will be done.

As a founding member of the Senate ICBM Coalition, I strongly believe that all three legs of the nuclear triad—missiles, submarines, and bombers—must be maintained in order to retain a highly reliable and credible deterrent nuclear force. This need is even greater as we potentially draw down some of our nuclear forces through the New START treaty. I have worked with other members in the ICBM Coalition and with the administration to encourage them to ensure the treaty does not harm the triad. I appreciated the information provided by the administration on the treaty and the opportunity to meet on this issue during the floor debate. However, I remain deeply concerned about the implications the treaty will have on our country's national security, particularly its potential effects on the current missile force structure. Without the specific information on how the administration is going to implement the treaty and concrete assurances that the current missile force structure of 450 deployed and non-deployed silos be maintained, I remain skeptical of this agreement.

F.E. Warren Air Force Base in Cheyenne, WY, helps the United States maintain one leg of the triad by operating part of the ICBM force. It is my obligation as a Senator from Wyoming to know what effects this treaty will have on the missile defense missions in my home state. I also respect and watch out for the servicemembers in the 90th Space Command and 20th Missile Command who work hard to ensure our country has a strong missile defense. I have not yet been able to get a firm commitment from my Senate colleagues and the administration on a concrete number of missiles that will be maintained under this treaty.

Furthermore, the treaty will require unilateral reductions from the United States with no similar requirements for Russia. Instead, the Russian government is actually given room to build up its nuclear forces with more modern capabilities.

Regardless of this agreement, the United States has not thoroughly addressed the modernization of our country's nuclear capabilities. I have spoken with those involved in the treaty negotiations regarding U.S. modernization. I was told that the modernization efforts are in the works and the funding for these activities is planned. I support this more focused modernization approach. Part of the need for U.S. modernization is to address our Nation's tactical weapons capabilities. As currently written, the treaty will leave Russia in a 10-1 advantage in tactical nuclear weapons. This is disconcerting and modernization must be a priority.

I have concerns about verifiability as well. Former Secretary of State James Baker has described the treaty's verification regime as weaker than its prede-

cessor. If the United States is going to make reductions to our capabilities under this treaty, we should ensure that Russia is doing the same and following the treaty as closely as our country will. We should not settle for some verification—we must require full verification. Second best will do the United States no good in terms of intelligence and response capabilities.

Back in 2002, I traveled to Russia with the University of Georgia to talk about nonproliferation. At that time, I expressed serious concerns not only about Russia's capabilities to secure their nuclear complex, but also to ensure that their nuclear scientists and their knowledge did not become available to bad actors like al-Qaida. Ensuring that Russia continues to keep their capabilities and know-how secure is imperative and cannot be left to second best.

Our two nations may approach nuclear agreements with different goals, but the fact that the United States and Russian governments maintain a dialogue is a highly positive fact. We need and want the cooperation of our counterparts in Russia in both bilateral and multilateral efforts. This is highlighted in the United Nations Security Council discussions on nuclear weapons development in Iran, North Korea, and other actors.

We want and need to create a safer world while maintaining our defensive capabilities for ourselves and our allies. By forcing debate on this treaty during the lame duck session, I do not believe we were able to fully address all concerns in the detail that was warranted. We needed to be sure the treaty does what we expect it to do without any surprises. I am not convinced we will not see any surprises in the future. Thus, I voted against the New START treaty.

NOMINATION OF MARY HELEN MURGUIA TO BE A U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The VICE PRESIDENT. Under the previous order, the question occurs on the following nomination, which the clerk will report.

The assistant legislative clerk reported the nomination of Mary Helen Murguia, of Arizona, to be a U.S. Circuit Judge for the Ninth Circuit.

The VICE PRESIDENT. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I support the nomination of Judge Mary Murguia to the Ninth Circuit Court of Appeals.

Judge Murguia has served on the Federal district court in Arizona for a decade and has a distinguished record that has earned the respect of the legal community in Arizona.

Perhaps most telling is the high regard in which Judge Murguia is held by her colleagues on the district court; they come from different backgrounds and were appointed by presidents of both parties, but they all speak very highly of her.

Judge Murguia was approved by the Judiciary Committee by a vote of 19 to 0. That unanimous vote is an indication of the strength of her record.

Finally, as I mentioned at Judge Murguia's hearing, Judge Murguia's brother Carlos is the first Latino to serve as Federal district court judge in Kansas. Judge Murguia was the first Latina to be appointed to the Federal district court in Arizona and she and Carlos are the only brother and sister sitting as Federal judges in the United States.

I am confident that Judge Murguia is a person of integrity who will do her best to be a fair and objective judge.

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

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, today, the Senate is finally being allowed to consider a judicial nomination that has been stalled since August—the nomination of Judge Mary Murguia of Arizona to serve on the United States Court of Appeals for the Ninth Circuit. I would understand the resistance to considering the nomination if President Obama had selected someone opposed by her home state Senators. But both Republican home state Senators support this nomination. Unlike his predecessor, President Obama has worked with home state Senators, including Republican Senators. Despite all his efforts, this consensus nominee has been stalled for months and months while awaiting final Senate action.

When the nomination was considered by the Judiciary Committee before the August recess, it was reported unanimously. Every Republican and every Democrat, all 19 members of the Judiciary Committee, voted in favor of her nomination. Still, she has been stalled for months and months. This is part of the dangerous pattern perpetrated the past two years as President Obama's highly-qualified judicial nominees have been stalled from final Senate action for extended periods. This is another example of the unnecessary delays that have led to a judicial vacancies crisis throughout the country. Judicial vacancies have skyrocketed to over 100 while nominations are forced to languish without final Senate action. In fact, President Obama's nominees have been forced to wait on average six times longer to be considered than President Bush's judicial nominees reported by the Judiciary Committee during the first 2 years of his Presidency.

When the Senate is finally allowed to take action, most of his nominations are confirmed by overwhelming bipartisan majorities or unanimously. Final Senate action on dozens of President Obama's judicial nominations has been delayed without explanation or good reason and then confirmed unanimously. The most outrageous examples

are Judge Barbara Keenan of Virginia, who was confirmed unanimously to the Fourth Circuit, and Judge Denny Chin of New York, who was confirmed unanimously to the Second Circuit. Both required cloture petitions to end the filibusters against their confirmations and then they were each confirmed unanimously.

Others confirmed unanimously after months of delay are Judge James A. Wynn, Jr. of North Carolina, who was finally confirmed to the Fourth Circuit after almost 6 months of delay; Judge Albert Diaz of North Carolina, who was finally confirmed to the Fourth Circuit after almost 11 month's delay; Judge Ray Lohier of New York, who was finally confirmed to the Second Circuit after almost 8 months of delay; Judge Beverly Martin of Tennessee, who was finally confirmed to the Eleventh Circuit after more than 4 months of delay; and James Greenaway of New Jersey, who was finally confirmed to the Third Circuit after almost 4 months of delay. I expect Scott Matheson of Utah to be confirmed unanimously to the Tenth Circuit, but not until there have been 6 months of unnecessary delay. I will not be surprised if Judge Murguia is confirmed unanimously, or nearly unanimously, after 4 unnecessary months of delay.

Examples of district court nominees who have been delayed for between 3 and 7 months before being confirmed unanimously are: Judge Kimberly J. Mueller of the Eastern District of California, Judge Catherine Eagles of the Middle District of North Carolina, Judge John A. Gibney, Jr. of the Eastern District of Virginia, Judge Ellen Hollander of the District of Maryland, Judge Susan R. Nelson of the District of Minnesota, Judge James Bredar of the District of Maryland, Judge Carlton Reeves of the Southern District of Mississippi, Judge Edmond Chang of the Northern District of Illinois, Judge Leslie E. Kobayashi of the District of Hawaii, and Judge Denise Casper of the District of Massachusetts.

Ten years ago, Mary Murguia became the first Latina to serve as a Federal Judge in Arizona when she was nominated by President Clinton to serve on the U.S. District Court for the District of Arizona. She will now become the first Hispanic—and only the second woman—from Arizona to serve on the Ninth Circuit. I congratulate Judge Murguia and her family on her confirmation by the Senate today.

The VICE PRESIDENT. The yeas and nays have been ordered.

The question is, shall the Senate advise and consent to the nomination of Mary Helen Murguia, of Arizona, to be a U.S. Circuit Judge for the 9th Circuit.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Iowa (Mr. HARKIN), the Senator from Missouri

(Mrs. MCCASKILL), the Senator from Michigan (Ms. STABENOW), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Kansas (Mr. BROWNBACK), the Senator from Missouri (Mr. BOND), the Senator from Tennessee (Mr. Alexander), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea" and the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 299 Ex.]

YEAS—89

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

NOT VOTING—11

Alexander	Feingold	Stabenow
Bond	Harkin	Vitter
Browback	McCaskill	Wyden
Bunning	Roberts	

The nomination was confirmed.

NOMINATION OF SCOTT M. MATHE- SON, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the question occurs on the following nomination, which the clerk will report.

The legislative clerk read the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to re-

consider is considered made and laid upon the table, and the President shall be immediately notified of the Senate's action.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the following nominations are considered and confirmed en bloc: Calendar No. 1119, No. 1120, and No. 1139. The motions to reconsider are considered made and laid upon the table en bloc, and the President shall be immediately notified of the Senate's action.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Kathleen M. O'Malley, of Ohio, to be United States Circuit Judge for the Federal Circuit.

Beryl Elaine Howell, of the District of Columbia, to be United States District Judge for the District of Columbia.

Robert Leon Wilkins, of the District of Columbia, to be United States District Judge for the District of Columbia.

Mr. BROWN of Ohio. Mr. President, I am very pleased that the Senate has voted to confirm Judge Kathleen McDonald O'Malley to the U.S. court of appeals for the Federal circuit.

The Nation's gain is Ohio's loss. But it is also a proud day for us.

As a child Kate was blessed with wisdom beyond her years. At the age of 12 she was asked what she wanted to be when she grew up. She replied that she wanted to become a Federal judge.

And she excelled in school—high school, college, and law school. She graduated Phi Beta Kappa from Kenyon College in 1979 and first in her class at Case Western Reserve Law School in 1982.

After law school she clerked for the Sixth Circuit Court of Appeals for the distinguished Judge Nathaniel R. Jones, who is one of her major influences and who considers Kate to be like family.

After her clerkship with Judge Jones, Judge O'Malley spent several years in private practice, where she gained invaluable experience representing numerous large corporations in addition to medium-sized and small businesses.

She became an expert in complex corporate litigation, patent and intellectual property cases—experience that will serve her well as a Circuit Judge in the Federal circuit.

She translated her private sector experience into a distinguished career in public service as chief counsel and chief of staff for then-Ohio attorney general Lee Fisher.

Recognizing her talents, Ohio Senators Howard Metzenbaum and John Glenn recommended her to President Clinton for a place on the Federal bench.

On September 20, 1994, President Clinton nominated her to serve on the Federal bench as a U.S. district judge for the Northern District of Ohio.

When she began her service in the Northern District of Ohio, Judge