

do not end up getting everything the way you would like. I thank both Senator SHELBY and Senator DODD for the way they have worked together over the last week or so to improve this bill.

Look, I think Senator WARNER and I—I will speak for myself. Obviously, there are pieces I wish were a little different. I wish the length of receivership was not 5 years but that it was a much shorter period to wind these companies down more quickly. I wish we had judicial review so if a company is placed into this type of resolution, they actually have the opportunity to have that reviewed in a much better way. We have a bankruptcy court title. I know Senator SHELBY, Senator WARNER, and others would like to see that happen. I am hoping over the course of the amendment process that will happen. Judicial review of claims—I wish that were occurring. I know that is not part of this title. I also wish there was judicial review of the valuation process. There are a number of provisions I wish were better, but I will say that I think the work Senator DODD and Senator SHELBY have done to date is good. I plan to support this.

I say to my colleagues on this side of the aisle who want the bankruptcy process to be the process, I think they should still support what Senator DODD and Senator SHELBY have done because they have tightened this resolution title to make it much better.

I defer to my friend from Virginia because I know he is going to talk about aspects of this bill that are not talked about much. They are preventive measures—at least of this title—to keep us from being in a situation where resolution is even necessary because of precautionary issues that are put in place.

I thank Senator DODD and Senator SHELBY. I thank them for their involvement. I thank them for the way they have worked together to make this bill better with the process that has taken place over the last week.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, let me follow on my colleague's comments. He is my colleague and my friend and my partner for the last year. I think we've both, as former business guys, said this is not an issue that should be partisan. We need to check our "D" and "R" hats at the door and find a way to sort through a new set of financial rules so we never have to face what we faced in 2008.

I think some of the original approaches that we had might have been tighter. I know we talked a little bit off the floor about the notion that actually some of the borrowing authority that now exists might be larger than what we had initially proposed. But at the end of the day, what is important is that, one, the taxpayers are protected—and that is what the Shelby-Dodd approach has; it has no recoupment from the financial industry—and two, to make sure there is

money to wind these firms down in an orderly fashion.

We have seen with Lehman, a year and a half after the fact, literally hundreds of millions, close to billions of dollars, that are being used to unwind. That process takes time and money. I again share the concern of the Senator from Tennessee that we ought to do this in as limited time as possible.

Let me take 2 more quick minutes and say that, if we have done our job right, we are never going to have to get to resolution because bankruptcy should always be the preferred process.

We have put the appropriate speed bumps on these firms that become large and systemically important: higher capital requirements, better review of their leverage, making sure they have good risk management plans. And we have created two new tools that have not gotten any discussion but I know, in our hundreds of meetings we had, kept coming back time and again. One was the creation of a whole new set of capital that would convert from debt into equity if a firm ever gets into a problem. And second, a funeral plan that has to be blessed by the regulator that would show how these large firms, particularly firms with international operations all around the world, can wind themselves down through bankruptcy. If the plan is not approved, the regulators can take more dramatic action.

I think the heart and soul of our challenge, which has been to end too big to fail and make sure taxpayers were not exposed, has been accomplished. I thank the chairman and Ranking Member SHELBY for their work on this. I look forward to support this—and I look forward to support this amendment as well.

I want to conclude with my thanks to my colleague and friend from Tennessee. I think we did check our hats and put a business approach on trying to get these titles right, and I agree with his comments that we appreciate any improvements made by both the chairman and the ranking member. I look forward to supporting this part of the legislation and I hope we can continue to work through on the balance of the titles in this same way.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent to use my leader time right now.

First, I want to express my appreciation to Senators WARNER and CORKER for working to improve this bill. They are very fine Senators. My friend, the Senator from Virginia, Senator WARNER, has been such a great addition to the caucus, the Senate, and the country. His experience as Governor of the State has served him well. He does a wonderful job for the people of Virginia and, of course, our country.

EXECUTIVE SESSION

NOMINATIONS OF GLORIA M. NAVARRO TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA; NANCY D. FREUDENTHAL TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF WYOMING; DENZIL PRICE MARSHALL, JR. TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider nominations which the clerk will report.

The legislative clerk read the nomination of Gloria M. Navarro, of Nevada, to be United States District Judge for the District of Nevada; Nancy D. Freudenthal, of Wyoming, to be United States District Judge for the District of Wyoming; and Denzil Price Marshall, Jr., of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

Mr. REID. Mr. President, it is my understanding there is a consent agreement now in effect that has three votes for three judges, and then two other matters related to the banking bill; is that true?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask unanimous consent that agreement be modified to have the first vote be 15 minutes and the next four 10-minute votes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF GLORIA M. NAVARRO

Mr. REID. Mr. President, I will say a few words about the first vote we are going to have today.

I am very happy I had the opportunity and the privilege to nominate Gloria Navarro to be a Federal judge for the District of Nevada. What a wonderful addition she will be to the Federal Judiciary. She has a number of outstanding qualities.

First, she is such a fine human being. She has a wonderful family—a husband who supports her entirely in this terrifically important job she is going to take. He is an accomplished lawyer himself. She has wonderful children and a mom who supports her. She is a Nevadan who has been educated in the Nevada school system. She has attended some of the finest universities in the country—the University of Southern California and Arizona State.

In my interviews with her, I was very impressed. She has proven throughout her personal and professional life that she embodies the values of our country—hard work, discipline, and respect for the rule of law. I have been impressed time and time again by this Nevadan's record and her commitment to public service in all areas of her life. She has worked for two decades in both

the private and public sectors and has experience in every aspect of the law—complex litigation at both the Federal and State levels; murder cases.

She is currently the chief deputy district attorney in the Office of County Counsel, providing legal counsel and litigation defense to the Clark County Board of Commissioners. She has worked as a public defender, and in 2002 she received the Nevada State Bar Access to Justice Pro Bono Public Lawyer of the Year award. She has also worked in private practice, representing clients in Federal and State litigation relating to criminal, civil, and family law. In 2001, she was awarded the very prestigious Louis Wiener Pro Bono Service Award.

She is committed to the State of Nevada. She is committed to her community. Among other things, as president of the Latino Bar Association, she created a mentoring program pairing high school, college, and law school students with community lawyers.

It is my pleasure to have recommended her to be a judge, and everyone can rest assured that she will do an outstanding job for the people of Nevada in dispensing fair, equal justice under the law.

Mr. LEAHY. Mr. President, Senate Republicans have not allowed the Senate to act on a judicial nominee for almost 2 weeks. They have continued to stall the almost two dozen judicial nominees reported favorably by the Senate Judiciary Committee, dating back to last November. These 23 judicial nominees awaiting final Senate action include 17 who were reported without any negative votes. That is right—Senate Republicans continue to block Senate consideration and confirmation of nominees, including judicial nominees, who are not only going to be confirmed, but will likely be confirmed unanimously.

The majority leader has had to file cloture petitions to cut off the Republican stalling by filibuster votes on President Obama's nominees 22 times. Twice he has had to file cloture to proceed with judicial nominees, only to eventually see those nominees confirmed unanimously. This stalling and obstruction is wrong.

Senator WHITEHOUSE, Senator McCASKILL, and a number of other Senators have taken up the cause against these delays and secret holds. I thank them. They made live requests for action on the Senate floor to bring these matters into the light. Regrettably, those Republican Senators who had objected did not come forward to identify themselves or the reasons for their objections in accordance with Senate rules.

By this date in George W. Bush's Presidency, the Senate had confirmed 52 Federal circuit and district court judges. As of today, only 20 Federal circuit and district court confirmations have been allowed by Senate Republicans. As I have noted there remain another two dozen additional judicial

nominations stalled before final Senate action by Republican obstruction. It should not take 2 weeks to work out time agreements on three non-controversial nominees. Nominees reported without a single negative vote in committee should not be stalled for months for no good reason.

Despite the fact that President Obama began sending judicial nominations to the Senate 2 months earlier than President Bush, the Senate is far behind the pace we set during the Bush administration. In the second half of 2001 and through 2002 the Senate confirmed 100 of President Bush's judicial nominees. Given Republican delay and obstruction this Senate may not achieve even half of that. Last year the Senate was allowed to confirm only 12 Federal circuit and district court judges all year. That was the lowest total in more than 50 years. Meanwhile, judicial vacancies have skyrocketed to more than 100, more than 40 of which have been declared to be "judicial emergencies" by the Administrative Office of the U.S. Courts.

There is no explanation or excuse for what continues to be a practice by Senate Republicans of secret holds, and a Senate Republican leadership strategy of delay and obstruction of this President's nominations. That is wrong.

Throughout the past month, a number of Senators have come before the Senate to discuss this untenable situation and to ask for consent to proceed to scores of noncontroversial nominations. Republicans objected anonymously and without specifying any basis whatsoever.

These long delays unfortunately continue to be part of a pattern of Republican obstructionism that we have seen since President Obama took office. In a dramatic departure from the Senate's traditional practice of prompt and routine consideration of noncontroversial nominations, Senate Republicans have refused month after month to join agreements to consider, debate and vote on nominations. This unprecedented practice has led to a backlog of nominations and a historically low number of judicial confirmations.

We should restore the Senate's tradition of moving promptly to consider noncontroversial nominees pending on the calendar, with up-or-down votes in a matter of days, not weeks, and certainly not months. For those nominees Republicans wish to debate, we should come to agreements for when to have those debates and votes. It should not take cloture in order for the Senate to get its work done and fulfill its constitutional advice and consent responsibilities.

I, again, urge the Senate Republican leadership to abandon its destructive delaying tactics and allow the Senate to act on the backlog of nearly two dozen judicial nominees reported by the Senate Judiciary Committee over the last 6 months that they have stalled for no good purpose.

The three nominations we consider today should have been confirmed

months ago, and I predict will each be confirmed overwhelmingly. Nancy Freudenthal has been nominated to fill a vacancy on the District of Wyoming. She has decades of experience as a public servant and a lawyer in private practice, and she currently serves as Wyoming's First Lady. Ms. Freudenthal has been rated "well qualified" by the American Bar Association's, ABA, Standing Committee on the Federal Judiciary and, when confirmed, she will be that state's first female Federal judge. The Judiciary Committee favorably reported Ms. Freudenthal's nomination by voice vote without dissent on February 11—nearly 3 months ago—and her nomination has the support of both of Wyoming's Republican Senators, Senator ENZI and Senator BARRASSO.

Judge D. Price Marshall has been nominated to fill a vacancy on the Eastern District of Arkansas. The Judiciary Committee also favorably reported his nomination by voice vote without dissent nearly 3 months ago, on February 11. Judge Marshall is currently a well-respected judge on the Arkansas Court of Appeals, and he spent 15 years in private practice in Jonesboro, Arkansas. He also served as a law clerk to Seventh Circuit Judge Richard S. Arnold. Judge Marshall has earned the highest possible rating, unanimously "well qualified" from the ABA Standing Committee, and he has the strong support of both of his home State Senators, Senator PRYOR and Senator LINCOLN.

Gloria Navarro has been nominated to serve as a Federal district court judge in Nevada. The Judiciary Committee reported her nomination by voice vote without dissent 2 months ago, on March 4. When the Senate finally confirms her, Ms. Navarro will become the only woman, and the only Hispanic, on the Nevada district court. Ms. Navarro, who has been rated "qualified" by the ABA's standing committee has gained valuable experience as a chief deputy district attorney in Clark County, NV, as a public defender and as a lawyer in private practice. Her nomination has the support of both of her home State Senators, Senator REID and Senator ENSIGN.

The three judicial nominees the Senate considers today have each been stalled by Republican objection for months. Each has the support of his or her home State Senators. In one case, that is two Republican Senators, in another that is two Democratic Senators, and in the third case that is one Democratic Senator and a Republican Senator. Each of these confirmations is long overdue. I congratulate the nominees and their families on their confirmations today.

I urge the Republican leadership to agree to prompt consideration of the additional 20 judicial nominees they continue to stall.

The ACTING PRESIDENT pro tempore. Is there any debate in opposition to the nomination?

If not, the question is, Will the Senate advise and consent to the nomination of Gloria M. Navarro, of Nevada, to be United States District Judge for the District of Nevada?

Mr. REID. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 128 Ex.]

YEAS—98

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

NOT VOTING—2

Bennett Byrd

The nomination was confirmed.

NOMINATION OF NANCY D. FREUDENTHAL

The PRESIDING OFFICER. There will now be 2 minutes of debate, evenly divided, on the nomination of Nancy D. Freudenthal, of Wyoming, to be U.S. circuit judge.

Mr. ENZI. Mr. President, I am pleased to rise in support of the nomination of Nancy Freudenthal to serve as a judge for the U.S. District Court for the District of Wyoming. I want to thank Chairman LEAHY and Senator SESSIONS and the Judiciary Committee staff for their assistance moving this nomination through the process.

Nancy is a Wyoming native, born in Cody, and received both her B.A. and her J.D. from the University of Wyoming.

After being admitted to the Wyoming State Bar in 1980, Nancy took a position with Governor Ed Herschler as his attorney for intergovernmental affairs

for 8 years. She then served in the same position for Governor Mike Sullivan for 2 years. In this capacity, Nancy served as the Governor's representative on numerous boards, worked extensively with the State legislature, taught at the University of Wyoming College of Law, and served as acting administrator of the Department of Environmental Quality in the Land Quality Division.

In 1989, Nancy was appointed by Governor Sullivan to the Wyoming Tax Commission and State Board of Equalization, where she served as Chairman for a 6-year term. While the State board of equalization is tasked with the annual process of equalizing valuation of property in Wyoming counties, the board has a main function of listening to disputes between taxpayers and the Department of Revenue and reviewing appeals. Nancy's experience as chairman of this board will greatly enhance her abilities as a judge.

Since joining Davis & Cannon, LLP in 1995, Nancy has handled a wide variety of matters, including complex mineral tax litigation, environmental and natural resource disputes, public utility law, oil and gas litigation, employment litigation, and commercial transactions. She has experience at both the trial and appellate levels. Nancy is well respected among her peers and judges in Wyoming.

I also want to mention how important this judgeship is for Wyoming. While Senators disagree at times about specific nominees, we can all agree that without judges in place our legal system slows down and does a disservice to the people we represent.

Nancy Freudenthal's experiences as a private attorney and in State government will serve her well as a district court judge. I am pleased that her nomination has received the strong support of my Senate colleagues.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will support this nominee, but I should mention again that Senate Republicans have not allowed us to vote on a judicial nominee for almost 2 weeks.

By this date in George W. Bush's Presidency, the Senate had confirmed 52 Federal circuit and district court judges. As of today, we had only been allowed only 20 by the Senate Republicans. Counting the recent vote on Gloria M. Navarro this brings us just up to 21 confirmations.

There are nearly two dozen additional nominations stalled. It should not take 2 weeks to try to get through these secret holds. When we have people who are confirmed unanimously in the committee, then confirmed unanimously on the floor, it is unconscionable to hold them up week after week after week.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I am rising in support of the nominee. Any delays that there have been have not been for

this particular nominee, nor by the Wyoming delegation at all.

This is a position that has been open now for over 2 years. The first nominee for this position got a hearing but could not get a vote in committee. The nomination ran out and we now have a new nominee, who is Mrs. Freudenthal, Nancy Freudenthal, who is also the first lady of Wyoming.

But she, in her own right, has been an attorney, has served with three different Governors in the State of Wyoming, and does a phenomenal job. She has her law degree from the University of Wyoming and would make an outstanding person to fill in this roll. Both Senator BARRASSO and I are strongly in support of her and have been pushing for her nomination since we first started.

Mr. LEAHY. Would the Senator yield? The Senator is absolutely right. The Wyoming Senators did not hold up this nominee, but the Republican side did.

Mr. ENZI. Mr. President, the Republican side may have been doing things to be sure we had votes on judges, which is the same thing the Democrats did when we were in the majority. We had to have votes on all these. I am glad we finally got to the position of having a vote.

The PRESIDING OFFICER. Time has expired.

Mr. ENZI. I ask everyone to vote aye.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is, Will the Senate advise and consent to the nomination of Nancy D. Freudenthal, of Wyoming, to be U.S. district judge for the District of Wyoming?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 129 Ex.]

YEAS—96

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| Akaka | Casey | Grassley |
| Alexander | Chambliss | Gregg |
| Barrasso | Cochran | Hagan |
| Baucus | Collins | Harkin |
| Bayh | Conrad | Hatch |
| Begich | Corker | Hutchison |
| Bennet | Cornyn | Inhofe |
| Bingaman | Crapo | Inouye |
| Bond | DeMint | Isakson |
| Boxer | Dodd | Johanns |
| Brown (MA) | Dorgan | Johnson |
| Brown (OH) | Durbin | Kaufman |
| Brownback | Ensign | Klobuchar |
| Bunning | Enzi | Kohl |
| Burr | Feingold | Kyl |
| Burr | Feinstein | Landrieu |
| Cantwell | Franken | Lautenberg |
| Cardin | Gillibrand | Leahy |
| Carper | Graham | LeMieux |