

[Rollcall Vote No. 29 Ex.]

## YEAS—99

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

## NOT VOTING—1

Hutchison

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. CARDIN. Mr. President, I ask unanimous consent that the vote on the confirmation of the nominee occur at 2:15 p.m. and that postcloture time be considered expired at that time; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session; further, after this unanimous consent request is granted, the Senate then stand in recess until 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:42 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

## EXECUTIVE SESSION

# NOMINATION OF BARBARA MILANO KEENAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT—Continued

Mr. DODD. Mr. President, I ask for the yeas and nays on the pending nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Under the previous order, the question is, Will the Senate advise and con-

sent to the nomination of Barbara Milano Keenan of Virginia to be United States Circuit Judge for the Fourth Circuit.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that each side be allowed 1 minute before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, as with so many other nominations before the Senate, Justice Keenan has waited an extraordinary amount of time to be confirmed. Her nomination was reported without dissent by the Judiciary Committee more than 4 months ago. The unprecedented pattern of delay and obstruction by Senate Republicans on issue after issue—over 100 filibusters last year—has affected 70 percent of all Senate action. We have to file cloture just to bring up a non-controversial matter.

In addition to the Keenan nomination, 10 judicial nominations that received bipartisan support are being delayed. The Senate can almost double the total number of judicial nominations confirmed by stopping the filibusters—by not requiring that and vote up or down.

Americans elect us to vote yes or no, not to vote maybe, and when you have a filibuster, you vote maybe. We ought to have the guts to vote yes or vote no.

The nomination of Justice Barbara Keenan of Virginia to the Fourth Circuit is noncontroversial. She should have been confirmed long ago. She has the support of her home State Senators and that of Virginians from both parties, and many others. She was approved unanimously by the Senate Judiciary Committee over four months ago. As I predicted, and as the Senators from Virginia predicted, the Senate unanimously voted to end the filibuster of this nomination, 99–0. No member of the Senate has spoken in opposition to her nomination. There is no reason she should not be confirmed unanimously.

Despite the overwhelming support for Justice Keenan, the Senate's consideration of her nomination was filibustered by Senate Republicans. Just as one Senator has objected to passing unemployment insurance and COBRA benefits and Medicare payments for doctors and extending the Satellite Home Viewer Act, Republicans refused to agree to debate and vote on the nomination of Justice Keenan. In fact, they have refused to consider any judicial nominations for the last three weeks. Delay and obstruction, obstruction and delay. Even for nominations that will be confirmed unanimously.

The Senate is far behind where we should be in helping to fill judicial vacancies. Vacancies have skyrocketed to more than 100, and more have been announced. We need to do better. The American people deserve better.

Instead of time agreements and the will of the majority, the Senate is faced with requiring cloture petitions

and 60 votes to overcome a filibuster on issue after issue. In addition to the Keenan nomination, 10 judicial nominations that received strong bipartisan support in the Judiciary Committee—including seven that were reported without dissent—should be considered without delay. Debate should be scheduled, and votes taken on each of 14 judicial nominees stalled who have already been considered and favorably reported by the Judiciary Committee. Only 15 Federal circuit and district court judges have been considered by the Senate during President Obama's 13 months in office. By this date during President Bush's first term, the Senate had confirmed 39 judicial nominees. The Senate can almost double the total number of judicial nominations it has confirmed by considering the other judicial nominees already before the Senate awaiting final action. We should do that now, without more delay, without additional obstruction.

In December, I made several statements in this chamber about the need for progress on the nominees reported by the Senate Judiciary Committee. I also spoke repeatedly to Senate leaders on both sides of the aisle and made the following proposal: Agree to immediate votes on those judicial nominees that are reported by the Senate Judiciary Committee without dissent, and agree to time agreements to debate and vote on the others. I, again, urge Senate Republicans to reconsider their strategy of obstruction and allow prompt consideration of all 14 judicial nominees currently awaiting final Senate consideration. There is no need for these to be dragged out week after week, month after month, with only a single nominee being considered every several weeks. End the blockage of this President's nominees and vote on them.

I congratulate Justice Keenan on her confirmation today. I look forward to the time when the 13 additional judicial nominees being stalled are released from the holds and objections that are preventing votes on their confirmations.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, after all we have done to work with the distinguished chairman of the Judiciary Committee, he still complains. I am amazed.

This nominee seems to be a solid nominee. The President has due deference on nominees, and I think she should be confirmed and I will support her. But President Bush's nominees, for example, to the circuit courts, waited an average of 350 days from nomination to confirmation. And that was just the average. President Obama's circuit nominees have been confirmed, on average, 100 days faster.

Indeed, some of President Bush's nominees to the circuit courts even received a hearing, despite being highly qualified and highly rated nominees.

The majority of President Bush's first nominees waited years for confirmation—the first group he put up.

But besides that, as I told the chairman, I hope to end the tit-for-tats on this issue. He is having a good record of moving nominees who are good, and the ones who are opposed on this side will be vigorously opposed. But this nominee is qualified, and I support the nominee and urge my colleagues to do so.

I yield the floor.

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

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 30 Ex.]

YEAS—99

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

NOT VOTING—1

Hutchison

The nomination was confirmed.

The PRESIDING OFFICER. The motion to reconsider is 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.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXPIRING PROVISIONS AND JOB CREATION

Mr. BAUCUS. We now return to the urgent legislation to create jobs and

extend vital safety net and tax provisions.

This urgent legislation would prevent millions of Americans from falling through the safety net. It would extend vital programs that expired Sunday. It would put cash into the hands of Americans who would spend it quickly, boosting economic demand.

It would extend critical programs and tax incentives that create jobs. Let me be specific. Just today, we received detailed estimates from the National Economic Council on what would happen if we fail to act. Unless we act, a half million workers who lose their jobs nationwide, including nearly 1,600 in Montana, would be ineligible for help paying for their health insurance under COBRA.

Unless we act, the average doctor in America would stand to lose more than \$16,600 in payments for Medicare. The average doctor in Montana would lose about \$13,000. Unless we act, nearly 40 million Medicare beneficiaries and nearly 9 million TRICARE beneficiaries nationwide would be affected. That includes nearly 144,000 Montanans with Medicare and nearly 33,000 Montanans with TRICARE.

Unless we act, 400,000 Americans would be ineligible for expanded unemployment insurance benefits. This is urgent legislation. We must extend this legislation, and soon.

We had a productive day on the bill yesterday. Senator SESSIONS offered his amendment to impose discretionary spending caps. This is essentially the same amendment the Senate rejected on January 28. A point of order lies against the amendment under section 306 of the Congressional Budget Act, which requires 60 votes to waive that point of order. At the appropriate time, I intend to raise that point of order against the Sessions amendment.

As well, Senator THUNE offered his amendment proposing business tax cuts offset by cutting back stimulus funding in the Recovery Act. This is essentially the same argument the Senator from Kentucky, Mr. BUNNING, has been raising on the narrower, short-term unemployment and COBRA extension bill. The Senator from South Dakota and the Senator from Kentucky both seek to cut back the Recovery Act.

I believe these efforts are mistaken. Let me tell you why. On issues relating to the budget and the economy, we turn to the nonpartisan Congressional Budget Office for the straight story. They are the neutral referees, and the CBO says the Recovery Act is working. That is why it would be a mistake to cut back on the Recovery Act.

Last month CBO issued its report on the effects of the Recovery Act in the fourth quarter. In that report, this is what the CBO said:

CBO estimates that in the fourth quarter of calendar year 2009, the Recovery Act added between 1 million and 2.1 million to the number of workers employed in the United States, and it increased the number

of full-time equivalent jobs by between 1.4 million and 3 million.

That is what CBO says. They say the Recovery Act created or saved between 1 and 3 million jobs. That is real job creation. That means the Recovery Act is working. That is why we need to defeat efforts such as that made by the Senator from Kentucky and the Senator from South Dakota to cut back on the Recovery Act. Cutting back on a proven job creator is the last thing we would want to do right now.

We are working to line up votes on the pending amendments and an amendment the Senator from Kentucky seeks to offer on the short-term unemployment and COBRA bill. I am hopeful we may be able to reach an agreement on these matters this afternoon. I thank all Senators for their cooperation.

The PRESIDING OFFICER (Mrs. GILLIBRAND.) The Senator from Illinois is recognized.

Mr. BURRIS. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MOVING FORWARD TOGETHER

Mr. BURRIS. Madam President, as a freshman Member of this body, I have a great deal of respect for those who have been a part of this institution for many years.

On both sides of the aisle, veteran Senators lend their experience, and their invaluable knowledge of procedure, to the debates that take place in this Chamber every day.

And, as anyone who knows the history of the Senate can tell you, this has always been a friendly place, no matter which party is in control.

This has always been a place where political leaders could disagree without being disagreeable, no matter how vast their differences happen to be. This Senate has always been governed by mutual respect, mutual trust, and mutual friendship. Without these key ingredients, it is impossible for us to work together.

Such was the genius of our Founding Fathers, who framed this system of government.

They knew that partisan politics would rage outside these walls, so they created the Senate to be a refuge for those who are prepared to move forward together to solve national problems.

The history of this Chamber is filled with legendary stories of compromise, of relationships across party lines that drove Senators from different backgrounds to find common purpose.

Our dear friend Senator Kennedy, the last lion of this Senate, was one of the greatest at forging bipartisan consensus and fostering mutual respect with the other side.

These stories remind us of the value of civil discourse. They speak to the necessity of working with one another,