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Senate

(Legislative day of Wednesday, December 11, 2013)

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture. The assistant bill clerk read as follows:

NOTICE

If the 113th Congress, 1st Session, adjourns sine die on or before December 24, 2013, a final issue of the *Congressional Record* for the 113th Congress, 1st Session, will be published on Tuesday, December 31, 2013, to permit Members to insert statements.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-59 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Monday, December 30. The final issue will be dated Tuesday, December 31, 2013, and will be delivered on Thursday, January 2, 2014.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman*.

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 nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission:

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard

Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now asks the clerk to call the roll to ascertain the presence of a quorum.

The assistant bill clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

Alexander
Ayotte
Baldwin
Blunt
Barrasso
Baucus
Bennet
Blumenthal
Blunt
Boozman
Boxer
Brown
Burr
Cantwell
Cardin
Coats

[Quorum No. 5]

Collins
Corker
Cornyn
Crapo
Donnelly
Durbin
Enzi
Feinstein
Fischer
Flake
Gillibrand
Grassley
Harkin
Heinrich
Heitkamp
Heller
Hirono
Isakson
Johanns
Johnson (SD)
Johnson (WI)
Kaine
King
Klobuchar
Landrieu
Leahy
Lee
Manchin
Markey
McCaskill

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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McConnell	Reid	Thune
Menendez	Risch	Toomey
Merkley	Roberts	Udall (CO)
Mikulski	Rockefeller	Udall (NM)
Murkowski	Sanders	Vitter
Murphy	Schumer	Warner
Murray	Scott	Warren
Nelson	Sessions	Wicker
Paul	Shelby	Wyden
Portman	Stabenow	
Reed	Tester	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

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

The yeas and nays resulted—yeas 57, nays 39, as follows:

[Rollcall Vote No. 257 Ex.]

YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

NAYS—39

Alexander	Fischer	McConnell
Ayotte	Flake	Paul
Barrasso	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hatch	Roberts
Burr	Heller	Rubio
Coats	Hoeven	Scott
Cochran	Inhofe	Sessions
Corker	Isakson	Shelby
Cornyn	Johanns	Thune
Crapo	Johnson (WI)	Toomey
Cruz	Lee	Vitter
Enzi	McCain	Wicker

NOT VOTING—4

Chambliss	Kirk	Moran
Coburn		

The PRESIDING OFFICER. On this vote the yeas are 57, the nays 39. The motion is agreed to.

NOMINATION OF CHAI RACHEL FELDBLUM TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Chai Rachel Feldblum,

of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2018.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

The majority leader.

Mr. REID. Madam President, it is my understanding that if I yield back 40 minutes, the vote will occur at 9 a.m. tomorrow morning.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I yield back 40 minutes of the Democrats' time.

The PRESIDING OFFICER. The time is so yielded.

The Senator from Arizona.

Mr. FLAKE. Madam President, I rise to address the nomination and some other issues.

I want to say a few words about nominations. The Senate just confirmed President Obama's third nominee to the DC Circuit this year, and did so without the support of a single Senator from the minority party.

I have only been in the Senate for a year, but I understand the importance of minority rights and the moderating effect that the minority has on the nominations and on legislation as a whole. Requiring the support of at least some of the minority Senators encourages both the nomination and appointment of more mainstream nominees.

I think in the case of executive nominees, it ensures the heads of executive agencies are responsible to both the minority and majority parties. Minority input reinforces the separation of powers and safeguards the ability of Congress to conduct effective oversight.

Let me give a couple examples of where I think this is important and something we have lost once the nuclear option was employed with regard to executive appointments.

Earlier this year we had the appointment of a person to head the Environmental Protection Agency. It is an extremely important agency. It is important to Arizona—particularly since Arizona has a lot of Federal, State, and public lands—where actions of the Federal Government are perhaps amplified, and so that was an extremely important appointment. I ended up voting for Gina McCarthy. I think she is a good nominee.

I understand that the President won the election, and he has the power to appoint his people and his team. Unless there are extraordinary circumstances, he ought to have that right. I have voted for nearly all of his nominees.

In this case, the head of the Environmental Protection Agency, while she was the nominee she knew she needed 60 votes. She knew she ought to see not just the Members of the majority party but those in the minority as well, and

she made the rounds to my office as well as others.

We had a good meeting. For example, I explained the importance of the dust regulations that are promulgated by the EPA where Arizona has a problem. We have occasional dust storms that are not recognized as such, and sometimes we have to fill out paperwork that is costly and time consuming just to convince the Federal Government that an occasional dust storm does blow through. It has nothing to do with the air quality protections or provisions that have been put in place but just because of the conditions on the ground. The Environmental Protection Agency's guidance and regulations have not caught up to that.

She was understanding of that. She worked at the State level and agreed to talk to the stakeholders and interested parties in Arizona about this issue. She made good on that promise. We had that conference call a few weeks later, and it was the first time that many of these people in Arizona had been heard on the issue. They had a good meeting with the EPA, and I think it will lead to better regulations coming out of the EPA.

That was a product of the process we had here which requires nominees from the President to not just go to the majority party, but to go to the minority party as well. I fear that has been lost, and I think that is a shame. I wish we could go back to the system we had and the system the Senate has operated on for a long time.

When I gave my maiden speech on the floor a few months ago, I mentioned that the party holding the gavel is on a short leash. Bringing even the most noncontroversial resolutions to the Senate floor requires the agreement, or at least the acquiescence, of the minority party. I mentioned at that time that over the past decade both parties have chafed under these arrangements. Both parties have, at times, considered changing the rules that would in some measure make the Senate more like the House. I mentioned at that time, up to that time, that both parties had resisted that urge. They had been convinced by their own Members and others that it wasn't the way to go. Unfortunately, that is no longer the case, and I think this body, this institution will be the poorer for it. I hope we can return to the traditions of the Senate, one where consensus is the hallmark of this body. I hope we can get there.

Let me turn my attention to one of the issues that I think is a good example of what happens when one party moves legislation through this body too quickly, without consultations from the other party. It has to do with the Affordable Care Act. The Affordable Care Act passed with not a single Republican vote in the House or in the Senate. I think it is a good example of what can happen if legislation is rushed through without consultation or input from both parties.