

## EXECUTIVE SESSION

## NOMINATION OF MICHELLE T. FRIEDLAND TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Michelle T. Friedland, of California, to be United States Circuit Judge for the Ninth Circuit.

Mr. LEAHY. Mr. President, more than 2 weeks ago, the Senate voted to end the filibuster on the nomination of Michelle Friedland of California to fill a judicial emergency vacancy on the U.S. Court of Appeals for the Ninth Circuit. That vote was the fourth time this year that the Senate had to overcome a Republican filibuster of a highly qualified circuit court nominee. In stark contrast, the Senate confirmed 18 of President Bush's circuit nominees within a week of being reported by the Judiciary Committee.

The Ninth Circuit is the busiest circuit court in the country. It has the highest number of appeals filed, the highest pending appeals per panel and the highest pending appeals per active judge. It also takes far longer than any other circuit court to resolve an appeal. The delay in resolving these appeals hurts the American people. After the confirmation last month of John Owens and what I expect will be today's confirmation of Michelle Friedland, the Ninth Circuit will be operating at full strength for the first time in more than 9 years. This is an important milestone, but we should not stop there. There are five additional circuit court nominees awaiting Senate confirmation. I hope that Senators who care about Americans having access to the courts will allow the Senate to confirm these nominees without further delay.

Michelle Friedland is an exceptionally talented attorney, who like the other 19 judicial nominees confirmed earlier this year, could and should have been confirmed last year. She was first nominated last August and after her hearing was delayed due to the Republican shutdown of our government, she finally came before the Judiciary Committee for a hearing in early November.

In January, Ms. Friedland's nomination was voted out of the Judiciary Committee with bipartisan support and she has the strong support of both of her home state Senators—Senator FEINSTEIN and Senator BOXER. Nevertheless, we were once again forced to follow the costly ritual of filing and voting on cloture and wasting valuable floor time. There is no good reason we could not have voted to confirm Ms. Friedland last year, and there is no good reason that we did not have a

vote to confirm her 2 weeks ago. Meanwhile, it is our Federal judiciary and the American people who suffer from these delays.

If confirmed, Michelle Friedland would increase the gender diversity on the Ninth Circuit Court of Appeals. She would be the seventeenth woman to ever sit on this appellate court. In comparison, 83 men have been appointed to the Ninth Circuit over the course of its history. Her confirmation will bring the percentage of active female judges sitting on the Ninth Circuit Court of Appeals to nearly 38 percent. Her confirmation will also mark the first time since the 29th judgeship was added in 2007, that it has had a full complement of active judges serving on this busy appellate court.

I hope my fellow Senators will join me today to confirm Michele Friedland to the Ninth Circuit so that she can get to work for the American people.

• Mr. INHOFE. Mr. President, I wish to express my opposition to the nomination of Michelle Friedland to the Ninth Circuit Court of Appeals.

Although Ms. Friedland has a fine resume, it is not her work experience that concerns me but, rather, her views on many issues—views that should give anyone reason to question her appointment as a U.S. Circuit Court judge. Most troubling to me is Ms. Friedland's views that the International Court of Justice preempts U.S. law, despite the Supreme Court's repeated rejection of this notion. For those who don't know, the International Court of Justice is the judicial arm of the United Nations and Ms. Friedland believes decisions from this court should be binding on state courts in the U.S. I am thankful that the Supreme Court hasn't agreed with her and I'm fearful that her appointment to the Ninth Circuit will give her the opportunity to surrender U.S. sovereignty to foreign courts and international law.

Another reason we, as legislators, should oppose Ms. Friedland is that she has expressed views that indicate judges are free to legislate from the bench. As we all learn in grade school, the legislative branch creates the laws, the executive branch enforces them, and the judicial branch interprets them. Despite this, Ms. Friedland believes laws have no force unless a judge says they do. So when legislators, elected by the people, pass a law or a constitution is amended, the new law has no power until a judge deems it enforceable and a constitution, state or U.S., does not create any rights unless the judiciary says it does. This is a dangerous notion that tells me that Ms. Friedland is likely to only enforce laws and constitutional rights with which she agrees.

It is for these reasons that I am opposed to this nomination. •

The PRESIDING OFFICER. Under the previous order, the question occurs on the nomination.

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

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

The question is, Will the Senate advise and consent to the nomination of Michelle T. Friedland, of California, to be United States Circuit Judge for the Ninth Circuit?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. COONS), the Senator from Alaska (Mr. BEGICH), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN), the Senator from Kansas (Mr. MORAN), the Senator from Florida (Mr. RUBIO), and the Senator from Oklahoma (Mr. INHOFE).

Further, if present and voting, the Senator from Arkansas (Mr. BOOZMAN) would have voted "nay," and the Senator from Oklahoma (Mr. INHOFE) would have voted "nay."

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

The result was announced—yeas 51, nays 40, as follows:

## [Rollcall Vote No. 108 Ex.]

## YEAS—51

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

## NAYS—40

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

## NOT VOTING—9

Begich	Harkin	Moran
Boozman	Inhofe	Pryor
Coons	Landrieu	Rubio

The nomination was confirmed.

Mr. REID. Mr. President, I ask unanimous consent that the rest of the votes tonight be 10 minutes in duration.

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

## CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule

XXII, the clerk will report the motion to invoke cloture.

The assistant bill clerk read as follows:

# 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 David Weil, of Massachusetts, to be Administrator of the Wage and Hour Division, Department of Labor.

Harry Reid, Tom Harkin, Jon Tester, Barbara Boxer, Charles E. Schumer, Benjamin L. Cardin, Patrick J. Leahy, Richard J. Durbin, Robert P. Casey, Jr., Christopher A. Coons, John D. Rockefeller IV, Carl Levin, Bill Nelson, Sheldon Whitehouse, Christopher Murphy, Patty Murray, Tom Udall.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of David Weil, of Massachusetts, to be Administrator of the Wage and Hour Division, Department of Labor, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from Delaware (Mr. COONS), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN), the Senator from Kansas (Mr. MORAN), and the Senator from Florida (Mr. RUBIO).

Further, if present and voting, the Senator from Florida (Mr. RUBIO) would have voted "nay."

The yeas and nays resulted—yeas 51, nays 42, as follows:

## [Rollcall Vote No. 109 Ex.]

### YEAS—51

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

### NAYS—42

Alexander	Corker	Heller
Ayotte	Cornyn	Hoeyen
Barrasso	Crapo	Inhofe
Blunt	Cruz	Isakson
Burr	Enzi	Johanns
Chambliss	Fischer	Johnson (WI)
Coats	Flake	Kirk
Coburn	Graham	Lee
Cochran	Grassley	McCain
Collins	Hatch	McConnell

Murkowski	Roberts	Thune
Paul	Scott	Toomey
Portman	Sessions	Vitter
Risch	Shelby	Wicker

## NOT VOTING—7

Begich	Landrieu	Rubio
Boozman	Moran	
Coons	Pryor	

The PRESIDING OFFICER. On this vote the yeas are 51, the nays are 42.

The motion is agreed to.

Mr. ALEXANDER. Mr. President, I have many concerns with the nomination of Dr. David Weil to be the Administrator of the Wage and Hour Division at the Department of Labor—DOL.

The Wage and Hour Division is an important agency that oversees the enforcement of more than a dozen laws that govern just about every private sector employment relationship in America. To fill this position, we need someone who can be trusted by both employees and employers to enforce the law without bias, and we need a qualified manager. Unfortunately, I think Dr. Weil fails to meet that standard.

My greatest concern is about his ability to be impartial in carrying out the duties of his office. This role requires that he be a neutral arbiter of law. But we have a number of writings and lectures by Dr. Weil that suggest he may use the power of government to pursue how he thinks the employer/employee relationship should be defined.

Dr. Weil has written a new book called "The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It." In this book, he suggests the Department of Labor Wage and Hour Division—the division he is nominated to lead—could look for ways to expand its current interpretations of labor law and should target employers who use certain business models. In addition, in his book, Dr. Weil singles out a number of major employers, such as Marriott, Time Warner, Bank of America, Walmart, Hershey, AT&T, Verizon, Subway, Hyatt, Apple, and FedEx. Dr. Weil states that current labor laws and traditional regulatory enforcement allow companies such as these to "have their cake and eat it too," because they use common business models such as subcontracting and supply chains and, therefore, can push liability for compliance with workplace statutes off to other entities that are in their business model.

He further says that companies use multilayer business models "to avoid unionization," and appears to be critical of that, stating that employers "she[d] employment" to find "more subtle ways to shift away from a highly unionized workforce or move work to forms of employment that are both legally and strategically difficult for unions to organize[.]"

Dr. Weil has been critical of the franchising industry as a whole. For example, Dr. Weil believes the Wage and Hour Division should investigate corporate entities for wage and hour violations at individual franchises/locations

even though a direct employer-employee relationship may not exist. He recommends investigating industries that employ significant numbers of low-wage workers, such as the fast food, hotel/lodging, and construction industries.

The franchising industry has been an incredible engine of economic growth in this country and, according to the International Franchise Association, has created hundreds of thousands of successful small businesses, employing over 8 million individuals. Many of these businesses are owned by people who started on the bottom rung of the economic ladder, making minimum wage, and worked their way up all the way to the top. Many of them are owned by women and minorities. For so many people, franchising has been the path to the American Dream.

Take, for example, Laurie Palmer of Waterville, ME, who owns four Burger King franchises and employs approximately 140 people. She is already worried about the prospect of closing her business with possible minimum wage increases and the cost of Obamacare. The last thing she should be worrying about is being singled out for a wage and hour investigation simply because she is a franchisee.

Dr. Weil's responses to written questions while his nomination was before the HELP Committee also raised several questions about his policy positions. He gave non-answers to some pretty simple questions.

He would not answer yes or no when asked if he supports instructing Wage and Hour Division investigators to presume a worker is an employee even if the employer has told investigators the worker is an independent contractor. In other words, if an employer hires an independent contractor, Dr. Weil may feel that he has the discretion to decide that person is really an employee.

This is important because, just this month, a Texas Federal district court judge slapped DOL, and ultimately the taxpayer, with half a million dollars in costs for a failed wage and hour lawsuit. The Wage and Hour Division unsuccessfully tried to claim that a company's independent contractors were employees. After multiple investigative missteps noted by the court, including a wage and hour investigator improperly shredding and burning interview notes and incorrectly assessing a \$6 million penalty against the company, the court found "DOL failed to act in a reasonable manner" and did not believe a reasonable person would conclude the folks in question were employees. If Dr. Weil is confirmed, I hope he reads the court's decision closely to ensure this type of investigative behavior does not happen again.

Dr. Weil's writings suggest he may have a bull's eye on industries that use subcontracting and franchising. And he would not answer yes or no when asked to commit to treating all complaints equally based on the merits instead of the industry. Instead, he committed to

giving the agency's investigators guidance on how to prioritize complaints, but made no indication of what complaints he thinks should be a priority.

I am also concerned about Dr. Weil's lack of management experience. If confirmed, Dr. Weil will be charged with supervising the work of more than 1,800 employees in 54 field offices covering all of our states and territories, with a \$224 million budget. Dr. Weil has no management experience beyond supervising small teams of people at Boston University and Harvard.

Several outside groups, including the Associated Builders and Contractors, the International Franchise Association, and the National Restaurant Association have also expressed their opposition to Dr. Weil. The Wall Street Journal underscored its concerns with Dr. Weil by describing him as "a life-long, left-wing academic with labor union sympathies, no private-sector experience or legal training, and limited management experience."

Last, I will note that this position has not had a confirmed Administrator since the Bush Administration and this fact cannot be blamed on Republican delays or use of the filibuster. The President has nominated two individuals to this position, both of whom voluntarily withdrew before any HELP Committee votes were scheduled. The last nominee withdrew his nomination in August of 2011—a full 32 months ago.

After waiting this long, we need to get this right. I cannot support a nominee who has advocated expanding current law beyond what Congress intended, nor could I support a nominee who is a proponent of targeting industries and employers who use certain business models rather than being responsive to complaints of breaches of the law or one that has the underlying goal of increasing unionization without regard to the desires of employees themselves. Therefore, I cannot support Dr. Weil's confirmation.

Mr. HARKIN. Mr. President, I rise today to express my strong support for the nomination of Dr. David Weil to serve as Administrator of the Wage and Hour Division at the Department of Labor.

The Wage and Hour Division oversees some of the most fundamental protections for American workers: it ensures that people are paid fairly in accordance with our minimum wage and overtime laws. It protects vulnerable children when our child labor laws are abused. It ensures that workers can spend time with their families when a new baby is born or a health crisis is looming. In short, this relatively unknown agency plays a huge role in how Americans experience their day-to-day working lives.

However despite this important mission, this critical agency was unfortunately allowed to atrophy during the last administration. The division took a backseat approach that relied almost exclusively on complaint-driven enforcement—relying on the questionable

assumption that vulnerable workers know their rights and will approach the agency to report violations of the law—rather than taking a more proactive approach to educate workers and seek out industries and populations where abuses are likely to happen. Furthermore, even this complaint-driven system was often poorly managed—the Government Accountability Office issued a harshly critical report finding that Wage and Hour "frequently responded inadequately" to those complaints that it did receive.

The current administration has corrected these problems and beefed up enforcement, revitalizing this essential agency. It has improved the complaint process and encouraged "strategic enforcement" that is geared to efficiently using limited resources to maximize compliance with the law.

With this new vision, the division has made great strides. Over the past 5 years, the Wage and Hour Division has returned more than \$1.1 billion in stolen wages to workers whose rights were violated. They have done the best job ever of targeting their investigations to the workplaces that have the most violations, even when the workers felt too threatened or too disempowered to complain. The Division also successfully completed vital regulations to expand minimum wage and overtime protections to nearly 2 million home health aides. As a result of the division's efforts, these hardworking people will soon get the most basic of worker protections, and our country will benefit from a more stable and reliable workforce to assist people with disabilities and our elderly loved ones live full and independent lives.

There are certainly more challenges ahead for Wage and Hour. In addition to implementing the new minimum wage rules for home care workers in a careful and thoughtful manner, the division will be tasked with developing an important new Obama administration initiative to update our outdated overtime rules. I am a strong supporter of this effort. Too many Americans are working longer and harder without anything to show for their efforts in their paycheck. Often low-wage and modestly paid workers can be forced to work long hours without overtime compensation because the threshold for determining which workers are automatically eligible for overtime pay is set too low. It is long past time to update these rules, to prevent abuses of low-wage workers and ensure fair compensation for those who work long hours.

The Wage and Hour Division will also be tasked with implementing any minimum wage legislation passed here in Congress. While we will, of course, set the contours of the law here in Congress, the Wage and Hour Division will be tasked with ensuring that employees and employers are educated about the new law and that employers are complying with its requirements.

In facing these critical challenges, I can think of no one better to lead the

Wage and Hour Division into the future than Dr. David Weil. Dr. Weil is one of the Nation's leading experts on enforcement of wage and hour, safety and health, and other workplace regulations. He has spent the last 20 years teaching at Boston University's School of Management, where he has done extensive empirical research on the prevalence of wage and hour violations and the effectiveness of different enforcement strategies. Because of his expertise, he has been called on to work extensively with Labor Department officials for many years to help them improve the efficiency and effectiveness of the Wage and Hour Division. He has served as a consultant to the Department of Labor under both Democratic and Republican administrations, and has also advised both Democratic and Republican officials at the State level. His expertise on these issues is indisputable.

Dr. Weil also approaches these issues from a unique perspective. He has spent two decades as a professor of management at a business school, teaching a course on strategic decision-making for businesses. This insight into businesses' decision-making process will be invaluable to working at the Wage and Hour Division—both to understand businesses better and to work with them more effectively. Dr. Weil also has extensive experience in collaborating with a variety of groups, often playing a role of mediator and advisor—skills that will help him work effectively with both worker advocates and the business community to advance the mission of the Wage and Hour Division.

Some of my colleagues on the other side of the aisle have taken issue with Dr. Weil's scholarship promoting strategic enforcement. I will confess that I find these criticisms hard to understand. The basic idea that Dr. Weil has articulated is that we have limited enforcement resources, and that we should target those resources—to the best of our ability—to industries where there is an objectively verifiable pattern of noncompliance and where workers are particularly vulnerable to abuse.

This is a commonsense approach, especially in times of tight budgets. We need to be trying to get the best bang for our enforcement buck, and Dr. Weil has some great ideas for how to do that. I would think all the fiscal conservatives in this Chamber would be applauding his suggestions to build a more efficient and effective Wage and Hour Division. This sort of innovative thinking and strategic and efficient planning will be a tremendous asset to the agency.

Indeed, a group of Dr. Weil's peers, respected academics at a variety of universities, strongly agree with this conclusion. They note: David is one of if not the nation's leading expert on enforcement of safety and health, wage and hour, and other workplace regulations. He has done extensive research

on the effectiveness of different enforcement strategies and has worked intensively with Labor Department officials for many years to improve the efficiency and effectiveness of the policies he will be entrusted to administer. The letter also notes his "long history of public service," including his work with current and former agency leadership on both the Democratic and Republican sides. I ask unanimous consent to have the text of this letter printed in the RECORD.

As this letter confirms, while Dr. Weil has never worked directly for the division, he is intimately familiar with its mission and operations. He knows the Department, he knows the laws, and he can hit the ground running to move this important agency forward.

It is clear that Dr. Weil is an exemplary candidate to administer the Wage and Hour Division. It is unfortunate that the Wage and Hour Division has been without a Senate-confirmed leader for many years now, and I am glad that we will soon be able to change that. I thank Dr. Weil for his willingness to go through this process, and for his commitment to public service. I urge my colleagues on both sides of the aisle to support this nomination and allow it to move forward quickly so that Dr. Weil can get to work doing the important business of the Wage and Hour Division.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 29, 2013.

Hon. TOM HARKIN,  
Chairman.

Hon. LAMAR ALEXANDER,  
Ranking Minority Member, Committee on  
Health, Education, Labor and Pensions,  
Washington, DC.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ALEXANDER: We are all academics who study different aspects of employment relations and public policy. Each of us has worked in and/or advised the Department of Labor and other federal and state government agencies in both Democratic and Republican administrations. While we do not all share the same views on employment policy issues, we share a tremendous respect for David Weil and believe he would be an excellent Administrator of the Wage and Hour Division of the Department of Labor.

David is one of if not the nation's leading expert on enforcement of safety and health, wage and hour, and other workplace regulations. He has done extensive research on the effectiveness of different enforcement strategies and has worked intensively with Labor Department officials for many years to improve the efficiency and effectiveness of the policies he will be entrusted to administer.

He brings a long history of public service to this position. Among other things he worked closely with the late John Dunlop, Secretary of Labor in the Ford Administration, on a major study of work practices and productivity in the apparel and textile industries. He currently serves as Co-Director of the Transparency Policy Project at Harvard University's Kennedy School of Government. He is recognized by his colleagues at Boston University as an extremely competent, fair, and thorough administrator.

For the past eight years he has served as the neutral Chair of the Dunlop Agricultural Labor Commission, a position that requires gaining and maintaining respect and trust

from diverse groups of employers, contractors, employees, immigrants, and unions.

For all these reasons, we are pleased to endorse the President's nomination of David Weil to be the Administrator of the Department of Labor's Wage and Hour Division. Please feel free to contact any of us if we can be of further help to your Committee.

Sincerely,

Richard Freeman, Professor, Department of Economics, Harvard University;

Harry Katz, Dean, School of Industrial and Labor Relations, Cornell University;

Lawrence Katz, Professor, Department of Economics, Harvard University;

Thomas Kochan, Professor, MIT Sloan School of Management;

David Levine, Professor, Haas School of Business, University of California-Berkeley;

Lisa Lynch, Dean, Heller School for Social Policy and Management, Brandeis University;

Robert McKersie, Professor Emeritus, MIT Sloan School of Management;

Paul Osterman, Professor MIT Sloan School of Management;

James Rebitzer, Chair, Dept. of Economics, Law & Policy, School of Management, Boston University.

#### NOMINATION OF DAVID WEIL TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR—Resumed

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of David Weil, of Massachusetts, to be Administrator of the Wage and Hour Division, Department of Labor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. This should be the last vote this evening. The next vote will be by voice.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of David Weil, of Massachusetts, to be Administrator of the Wage and Hour Division, Department of Labor?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from Delaware (Mr. COONS), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN), the Senator from Kansas (Mr. MORAN), and the Senator from Florida (Mr. RUBIO).

Further, if present and voting, the Senator from Florida (Mr. RUBIO) would have voted "nay."

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 110 Ex.]

YEAS—51

Baldwin	Blumenthal	Boxer
Bennet	Booker	Brown

Cantwell	Kaine	Reid
Cardin	King	Rockefeller
Carper	Klobuchar	Sanders
Casey	Leahy	Schatz
Donnelly	Levin	Schumer
Durbin	Manchin	Shaheen
Feinstein	Markey	Stabenow
Franken	McCaskill	Tester
Gillibrand	Menendez	Udall (CO)
Hagan	Merkley	Udall (NM)
Harkin	Mikulski	Walsh
Heinrich	Murphy	Warner
Heitkamp	Murray	Warren
Hirono	Nelson	Whitehouse
Johnson (SD)	Reed	Wyden

#### NAYS—42

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

#### NOT VOTING—7

Begich	Landrieu	Rubio
Boozman	Moran	
Coons	Pryor	

The nomination was confirmed.

#### NOMINATION OF KATHERINE M. O'REGAN TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT

The PRESIDING OFFICER. Under the previous order, the clerk will report the O'Regan nomination.

The legislative clerk read the nomination of Katherine M. O'Regan, of New York, to be an Assistant Secretary of Housing and Urban Development.

Mr. CARPER. Mr. President, I ask unanimous consent that all time be yielded back.

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

The question is, Will the Senate advise and consent to the nomination of Katherine M. O'Regan, of New York, to be an Assistant Secretary of Housing and Urban Development?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table and the President shall be immediately notified of the Senate's action.

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, April 29, 2014, at 11 a.m., the Senate proceed to executive session, and that notwithstanding rule XXII, the Senate proceed to vote on cloture on Executive Calendar Nos. 585, 586, 587, 588, 589, and 590; further, that if cloture is invoked on any of those nominations, all postcloture time be considered expired; that following the series of votes, the Senate resume legislative session; further, that on Wednesday, at a time to be determined by me, after consultation with the Republican leader, the Senate proceed to vote on confirmation of the nominations in the order upon which cloture was invoked; that there