

and the motion to reconsider will be considered made and laid upon the table.

The majority leader.

#### ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding rule XXII, following disposition of the House message related to H.R. 5021, the highway bill, the Senate vote on cloture on Calendar No. 848, the Pryor nomination; further, that if cloture is invoked, all postcloture time be expired at 5:30 p.m. on Monday, September 8, 2014, the Senate resume executive session and the Senate proceed to vote on confirmation of the nomination; further, that if confirmed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, we will have two more votes.

We will be in session tomorrow. There will be no votes tomorrow, but there will be some activity here that we have to complete. So the next vote will be Monday, September 8.

#### HIGHWAY AND TRANSPORTATION FUNDING ACT

Mr. REID. Mr. President, I ask that the Chair lay before the Senate the House message to H.R. 5021.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 5021) entitled "An Act to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the highway trust fund and for other purposes."

The PRESIDING OFFICER. The majority leader.

Mr. REID. I move to recede in the Senate amendment to H.R. 5021.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we request 2 minutes of debate on this side, 1 minute for the chairman of the Finance Committee and 1 minute for the chairman of the public works committee.

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

Mr. REID. Following that, I ask that 18 minutes be dispensed with.

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

The Senator from Oregon.

Mr. WYDEN. Mr. President, it is no secret that this Transportation bill is not the Senate's first choice. However, the alternative to acting tonight on transportation is to put at risk America's economy, our communities, and our quality of life. As Senator HATCH noted earlier tonight, the Senate had a real transportation debate this week with amendments, alternatives, and bipartisan initiatives. This will serve us well as we begin to work as soon as the Senate returns to develop a long-term, bipartisan transportation plan that ensures that our big-league economy is not plagued by little-league infrastructure.

I urge the Senate to support the legislation.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Senators, I will be brief. It is so unfortunate that the House walked away from the work we did, the bipartisan work we did together—79 votes. My goodness. We can't get that these days for Mother's Day. So it was fantastic what we did: the work of Senator WYDEN and Senator HATCH, the work of Senator CARPER and Senator CORKER, the work of Senator VITTER in our committee that I as chair. It is very sad because what we wanted to do was to take care of this problem this year, in this Congress, on our watch, not kick the can down the road. That is what they chose to do in the House. It is most unfortunate, and their pay-fors were just a lot of smoke and mirrors.

Having said all of that, we all know—and colleagues have asked me how am I going to vote—that we can't walk away from the highway trust fund. We can't let it stagger and fall. Millions of jobs and thousands of businesses depend on it.

So I will be voting aye, and I will be working with Senator WYDEN and the rest of my friends and colleagues to make sure we get a multiyear bill as soon as possible.

Thank you. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from North Carolina (Mrs. HAGAN), the Senator from Iowa (Mr. HARKIN), and the Senator from Hawaii (Mr. SCHATZ) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Kansas (Mr. ROBERTS).

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

The result was announced—yeas 81, nays 13, as follows:

[Rollcall Vote No. 255 Leg.]

#### YEAS—81

Ayotte	Gillibrand	Moran
Baldwin	Graham	Murkowski
Barrasso	Grassley	Murphy
Begich	Hatch	Murray
Bennet	Heinrich	Nelson
Blumenthal	Heitkamp	Pryor
Blunt	Heller	Reed
Booker	Hirono	Reid
Boozman	Hoeven	Risch
Boxer	Inhofe	Rockefeller
Brown	Isakson	Sanders
Burr	Johanns	Schumer
Cantwell	Johnson (SD)	Shaheen
Cardin	Kaine	Shelby
Casey	King	Stabenow
Chambliss	Kirk	Tester
Coats	Klobuchar	Thune
Collins	Landrieu	Toomey
Coons	Leahy	Udall (CO)
Cornyn	Levin	Udall (NM)
Crapo	Manchin	Vitter
Donnelly	Markey	Walsh
Durbin	McCaskill	Warner
Enzi	McConnell	Warren
Feinstein	Menendez	Whitehouse
Fischer	Merkley	Wicker
Franken	Mikulski	Wyden

#### NAYS—13

Carper	Johnson (WI)	Rubio
Coburn	Lee	Scott
Corker	McCain	Sessions
Cruz	Paul	
Flake	Portman	

#### NOT VOTING—6

Alexander	Hagan	Roberts
Cochran	Harkin	Schatz

The PRESIDING OFFICER. The motion to recede from the Senate amendment to H.R. 5021 is agreed to.

#### EXECUTIVE SESSION

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session and, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative 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 Jill A. Pryor, of Georgia, to be United States Circuit Judge for the Eleventh Circuit.

Harry Reid, Patrick J. Leahy, Christopher A. Coons, Sheldon Whitehouse, Patty Murray, Amy Klobuchar, Maria Cantwell, Jack Reed, Bill Nelson, Elizabeth Warren, Tom Udall, Mazie Hirono, Richard Blumenthal, Barbara Boxer, Tom Harkin, Benjamin L. Cardin, Charles E. Schumer.

Mr. LEAHY. Madam President, for the fifth year in a row, more than a dozen qualified, consensus judicial nominees pending before the full Senate will remain on the Executive Calendar during the August recess. Each year, I have come before the Senate to remind my fellow Senators that their refusal to take action on these nominations prior to the August recess is an unfortunate departure from Senate tradition and to urge them to stop their obstructive practices and delay tactics. Again, I am disappointed to see partisanship and senseless obstruction

continue to keep the Senate from fulfilling its constitutional duty of advice and consent.

We could be voting today to confirm 13 nominees to serve on our Federal courts, 12 of whom were reported favorably by the Senate Judiciary Committee by unanimous voice vote. Instead, we are voting to invoke cloture on only one nomination, that of Jill Pryor, to fill a judicial emergency vacancy on the U.S. Court of Appeals for the Eleventh Circuit. She has received the American Bar Association's highest rating of unanimously "well qualified" and has the support of both of her Republican home State Senators. She will no doubt be confirmed unanimously, or near unanimously, when we return in September. As the senior Senator from Georgia, Mr. CHAMBLISS, noted at her confirmation hearing, "Jill Pryor has been in private practice in Atlanta for nearly 25 years. During that time she has played a pivotal role in some of the largest and most complex cases in Georgia history." We have before us an outstanding candidate to serve on the Federal bench. Yet her nomination is being filibustered by Senate Republicans who are delaying her vote for the sake of obstruction.

Despite this unyielding and irrational partisan strategy, the Senate has made great strides to fill vacancies on courts around the Nation by confirming 61 circuit and district court nominees this year. I have heard some Republican Senators point to these confirmations to claim that today's Senate is treating judicial nominees fairly. These Senators overlook an important truth: This progress was made because of the persistent dedication of the majority leader and Democratic Senators to confront vacancies on the Federal bench and despite the unprecedented levels of opposition and obstruction from Republican Senators.

Because of our Democratic leadership in the Senate, there are now fewer vacancies on the Federal courts than at any time since January 2009. Since the beginning of this year, we have reduced the vacancies on our Federal courts by over a third, from 92 to 57, and reduced the number of judicial emergency vacancies by nearly half, from 37 to 19. There are now only eight vacancies on the U.S. courts of appeals. Not since December 1990—over 23 years ago—have there been so few. This is real progress for the millions of Americans who depend on our courts for justice.

Many of these confirmations were of nominees to courts that began the year with record-high numbers of vacancies. In Arizona, I worked with Senator MCCAIN and Senator FLAKE to confirm six nominees to fill judicial emergency vacancies on their district court. In Florida, I worked with Senator NELSON and Senator RUBIO to confirm seven nominees to fill judicial emergency vacancies in the Southern and Middle Districts of Florida as well as on the Eleventh Circuit. These States are success stories, and the people of Arizona

and Florida are better served for having trial and appellate judges ready to hear their cases.

No Senator should believe, however, that our work is done. There are 13 judicial nominees pending on the Senate floor who should be confirmed without delay. Yet, even if the Senate were to confirm these nominees today, the Federal judiciary would remain understaffed. In addition to the 57 current vacancies, the Judicial Conference has identified the need for 91 new judgeships in some of America's judicial districts and circuits with the most burdensome caseloads. Last year, Senator COONS and I introduced the Federal Judgeship Act of 2013 to enact these recommendations into law. The timely administration of justice should not be a partisan issue. It is an issue that affects all Americans and the Senate should take it seriously by passing this bill.

The recommendations of the Judicial Conference only underscore how, despite the 61 judicial confirmations so far in 2014, the Senate continues to fall short of its obligations to the Federal judiciary and the American people. I have heard some Republican Senators claim the opposite by citing the total judicial confirmation figures of current and former Presidents. It is true that the Senate has now confirmed 277 of President Obama's circuit, district, and U.S. Court of International Trade nominees, compared to 253 confirmations at the same point in the last administration. Yet these numbers are meaningless without providing their proper context. These confirmations were sorely needed. There remain 57 vacancies on the Federal bench—far more than the 42 vacancies at this point during the Bush administration. There are an additional 24 announced future vacancies on our Federal courts that will also need to be filled in the coming months.

Vacancies remain high not because of a failure of Senate Democrats or President Obama to make judicial confirmations a priority; Americans seeking justice around the country face delays because of the endless obstruction of partisan Republicans who take every opportunity they can to shut down the important work of the Senate. Last year, no longer content to block individual judges, Senate Republicans attempted a wholesale filibuster of three nominees to the DC Circuit, without even considering their qualifications. Then, instead of confirming the consensus judicial nominees pending on the Executive Calendar prior to the end of the congressional session, Republicans forced the President to renominate each nominee and the Senate Judiciary Committee to report them again this year.

This year, Senate Republicans have proceeded to filibuster each and every judicial nominee. After today, the Senate will have taken 62 cloture votes on judicial nominations so far this year, amounting to well over 400 wasted

hours the Senate should have spent considering legislation to help the American people. Never before has the Senate seen the systematic filibuster of every judicial nominee, or such unfair treatment of qualified, consensus nominees.

The result of these tactics has been high vacancy levels on the Federal courts. The implications of these vacancies were made clear by a recent Brennan Center for Justice paper titled "The Impact of Judicial Vacancies on Federal Trial Courts." In it, judges and attorneys in districts with high levels of vacancies describe the way empty court rooms slow the administration of justice, "raise the cost of litigation, cause evidence to go stale, make it harder to settle civil cases, and even put pressure on criminal defendants to plead guilty." Chief Judge Leonard Davis in the Eastern District of Texas said the impact of vacancies comes down to "simple math." Vacancies lead to heavier caseloads and judges "have less time to give to [an individual] case . . . It affects the quality of justice that's being dispensed and the quantity of work you can complete."

The incredible burden facing Federal courts in Texas is understandable with its nine current district court vacancies—more than any other State. Therefore, I hope that Republicans on the Judiciary Committee, including both Senators from Texas, will be ready to proceed with a hearing on the three pending Texas district court nominees as soon as the Senate returns to session in September. I also hope that the Texas Senators will continue to work with the administration on nominees to fill the six other current district vacancies in their State as well as the four known future district court vacancies.

The continued high number of vacancies across our Federal courts is unacceptable to me and should be unacceptable to every Member of this body. The Senate should act quickly to confirm the consensus nominees pending on the Senate floor. The Senate should also pass the Federal Judgeship Act of 2013 to ensure that our coequal branch of government has the resources it needs to serve its constitutionally mandated function.

I am glad that we are voting to overcome the Republican filibuster of the nomination of Jill Pryor, and I thank the majority leader for taking action on her nomination. If the Senate were operating as it once did, without this partisan treatment of judicial nominations, she would have been confirmed weeks ago.

I hope that in the weeks following the August recess Senators will start working together to continue the progress we have made so far in 2014. The American people deserve courts capable of providing access to swift justice, not empty courtrooms and delays.

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 Jill A. Pryor, of Georgia, to be United States Circuit Judge for the Eleventh Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN, I announce that the Senator from North Carolina (Mrs. HAGAN), the Senator from Iowa (Mr. HARKIN), and the Senator from Hawaii (Mr. SCHATZ) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. ROBERTS), the Senator from South Carolina (Mr. SCOTT), and the Senator from Pennsylvania (Mr. TOOMEY).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "nay" and the Senator from Texas (Mr. CORNYN) would have voted "nay."

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

The yeas and nays resulted—yeas 58, nays 33, as follows:

[Rollcall Vote No. 256 Ex.]

#### YEAS—58

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

#### NAYS—33

Barrasso	Graham	McConnell
Blunt	Grassley	Moran
Boozman	Hatch	Paul
Burr	Heller	Portman
Coats	Hoeven	Risch
Coburn	Inhofe	Rubio
Corker	Johanns	Sessions
Crapo	Johnson (WI)	Shelby
Cruz	Kirk	Thune
Enzi	Lee	Vitter
Flake	McCain	Wicker

#### NOT VOTING—9

Alexander	Hagan	Schatz
Cochran	Harkin	Scott
Cornyn	Roberts	Toomey

The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 33. The motion is agreed to.

#### NOMINATION OF JILL A. PRYOR TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS CONSENT REQUEST—H.J. RES. 76

Mr. REID. Madam President, I renew the request I made earlier this evening.

I ask unanimous consent that the Senate proceed to Calendar No. 220; that a Reid-McConnell-Mikulski substitute amendment at the desk providing emergency appropriations for the Iron Dome defense system in Israel be agreed to; that the joint resolution, as amended, be read a third time and passed; that the motions to reconsider be considered made and laid on the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

#### UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. MENENDEZ. Madam President, I rise in support of all of the career Foreign Service officers whose nominations have been held up in the Chamber until there is a crisis somewhere in the world, until there is a Presidential or Vice Presidential trip to some part of the world that suddenly demands our attention, and then miraculously holds are lifted and nominees are approved.

On a Thursday, Malaysian Airlines Flight 17 crashed in eastern Ukraine. On the following Monday, the Senate confirmed Michael Lawson as the U.S. Ambassador to the International Civil Aviation Organization. He had been pending before the Senate. His first day on the job, his first time meeting his colleagues, he was forced to grapple with this crisis.

In the last week or 10 days, two more plane crashes have occurred in Taiwan and in Mali, an Algerian plane. Random events around the world cannot determine when the Senate acts on nominees. We cannot continue to follow a policy of confirmation by crisis. It took the President to travel to Saudi Arabia—an important ally—and the Vice President to travel to Chile for the Senate to confirm the nominees to those countries. In the case of Chile, Ambassador Hammer was taken to his new office in Santiago for his first day on the job on Air Force Two because the Senate approved his nomination just before the Vice President was to visit Chile. It should not require flying on Air Force Two to get to your posting for your first day of work as a U.S. Ambassador. Take the case of our Ambassador to Qatar. She waited for months, and then Bergdahl was exchanged for five Guantanamo detainees released to Qatar, and suddenly she was approved. It almost required the President to be "wheels up" on Air Force One on his way to Riyadh before we confirmed an Ambassador to Saudi Arabia.

I repeat, the criteria for confirming nominees should not be determined by a sudden just-breaking crisis, with the

urgent need to fill a vacant post. Confirmation-by-crisis is not a strategy. It is not in the national security interests of the United States.

Now the Foreign Relations Committee has moved judiciously—in some cases with record-setting speed—to confirm nominees. In the face of obstructionism on the floor of the Senate, the committee has proven that bipartisanship is not only possible but it can thrive when American national security interests are put first.

It is my view that we must lift up our Ambassadors and their families, not put them down. These individuals are serving our Nation. Their families are sacrificing for our Nation. They deserve better. Our career Foreign Service officers serve Democratic and Republican Presidents. They should not, must not be treated as political pawns.

We cannot continue to allow the pulpits where we preach American values to remain vacant. No Nation can listen to us if we are not present to speak for ourselves. American leadership can only occur if American leaders are present on the international stage.

The Senate standoff that has left so many career Foreign Service nominees in political and personal limbo is damaging our credibility, undermining our national security, and it has to end now.

I rise today for the career ambassadors who have not gotten the decency of a vote in the Senate, career ambassadors who are waiting, along with their families, for months, some more than a year, to take their posts. They are trapped on the Executive Calendar, unable to assume their appointed posts because the leadership on the Republican side has chosen to hold them hostage as a political tool. They have consciously chosen a strategy to do nothing, pass nothing, approve nothing, and leave key diplomatic posts unfilled for months, threatening national security and our ability to conduct foreign policy.

I ask unanimous consent that the Senate proceed to executive session to consider the following nominees: Calendar No. 524, Adam M. Scheinman to be Special Representative of the President for Nuclear Nonproliferation, with the rank of Ambassador; Calendar No. 533, Karen Stanton to be the Ambassador to the Republic of Timor-Leste; Calendar No. 536, Eric Schultz to be Ambassador to the Republic of Zambia; Calendar No. 540, Donald Lu to be the Ambassador to the Republic of Albania; Calendar No. 542, Amy Hyatt to be Ambassador to the Republic of Palau; Calendar No. 544, John Hoover to be the Ambassador to the Republic of Sierra Leone; Calendar No. 546, Matthew Harrington to be the Ambassador to the Kingdom of Lesotho; Calendar No. 548, Thomas Daughton to be the Ambassador to Namibia; Calendar No. 637, Arnold Chacon to be Director General of the Foreign Service; Calendar No. 696, Luis Moreno to be Ambassador to Jamaica; Calendar No. 699, Maureen