

tax dollars being spent wisely in this humanitarian effort? Yet they languish on this calendar.

If there are objections to these nominees, state them. If not, approve them.

After Greece, we had a visit to Ukraine. I believe what is happening there is deeply important to us in the United States, and I am committed to seeing that Ukraine succeed as a Democratic sovereign nation. It is hard to describe what has happened there in a year and a half. A shamefully corrupt regime which is deeply influenced by Russia was rejected by the Ukrainian people. As the country tried to get back on its feet and build a more transparent and Democratic future, Russia and Vladimir Putin staged an invasion first by taking over Crimea and then by invading eastern Ukraine.

The Russians have turned eastern Ukraine into a dysfunctional, grim, and abandoned wasteland, somehow under the illusion that it would be the new Russia. More than a million people have been displaced in eastern Ukraine and thousands have been killed. The captured land was even used as a base to shoot down a civilian airliner, killing hundreds. A recent Dutch investigation showed that this was done with Russian weaponry. If only President Putin would try to help with the investigation of the Malaysian plane that was shot down instead of nakedly blocking the effort of the U.N. Security Council, we would have even more information about this horrible tragedy.

Despite agreeing in Minsk to a pull-back of heavy weapons, exchange of prisoners, and return of border control in the east, Russia has dragged its feet on every term of the agreement, incorrectly hoping that the world will not notice. We notice.

Yet amid all this transparent and barbaric effort to undermine Ukraine, the country has found a new unity and determination. It has taken on significant reforms. During my visit with my fellow Senators, I was struck by how many dedicated Ukrainians are working for a better future. They are now members of Parliament and local officials coming right out of the Maidan demonstration. They are giving everything they can for the future of their country.

I have been a strong supporter of President Obama's efforts to support Ukraine to train and equip its military and provide significant assistance for their courageous effort. As the world's attention is distracted to many other challenges, let's not lose sight of the ongoing struggle in Ukraine. The United States and Europe must remain united on sanctions against Russia as long as it continues to invade and occupy a sovereign nation like Ukraine.

I will conclude by recognizing the many dedicated Foreign Service officers working in our embassies that we meet with on our trips. They are on the frontlines of American leadership and generosity. Ambassador Geoffrey Pyatt in Ukraine and Ambassador David

Pearce in Greece are two we worked with during our recent visit.

As the Republicans threaten government shutdown after government shutdown, let us not forget that these men and women and many like them literally risk their lives every single day standing up and representing the United States around the world.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

STOP SANCTUARY POLICIES AND PROTECT AMERICANS BILL

Mr. VITTER. Mr. President, I rise again in strong support of the Stop Sanctuary Policies and Protect Americans Act, which we will be voting on later today. I was here on the floor yesterday laying out the strong case in support of that, talking to many colleagues before this vote today, as I have been for the past several days.

Today I rise to focus on some arguments from the other side that are erroneous and misleading, quite frankly, and to debunk those arguments so everyone has the full, true, and clear picture of why this legislation is so needed.

First, I have heard a few of my colleagues talk about the need for Federal and local authorities to do a better job of working together. For instance, Senator DURBIN, who just left the floor, said: "Federal and local authorities must do a better job of communicating and coordinating so that undocumented immigrants with serious criminal records are detained and deported, period."

Similarly, Senator FEINSTEIN said: "It is very clear to me that we have to improve cooperation between local, State, and Federal law enforcement."

Let me say that I completely agree with them, and they are laying out a strong case for this legislation, not against it, because we need to do something about the cause of the non-cooperation, the obstacle between that full cooperation, which absolutely needs to happen every day. Simply wishing for a better outcome isn't going to make it happen.

The fact is, there are dozens of sanctuary cities—jurisdictions that have those policies—that were cooperating in the past and that want to cooperate, but they have been faced with lawsuits from the ACLU and others and court decisions wherein local law enforcement officials could be held liable for violating an individual's constitutional rights simply for honoring a detainer request from ICE. That is ridiculous. That is an abusive threat. Our legislation on the floor today is going to remove that threat.

The Stop Sanctuary Policies and Protect Americans Act allows for that cooperation between local and Federal authorities to resume again because section 4 of the bill will facilitate State and local compliance with the ICE detainer and remove that onerous and unreasonable threat. Cooperation has been stifled by lawsuits aimed at

bullying local law enforcement, and this bill will grant local law enforcement the authority to clearly comply with ICE detainers without threat of liability. It will protect them from that liability for simply complying with ICE detainers.

I will remind my colleagues that it will do nothing to infringe on an individual's civil or constitutional rights. They still have the same ability to pursue those against ICE or anyone else they choose.

That is why this legislation is supported by people who know something about what needs to happen for local and Federal authorities to cooperate. Who am I talking about? The Federal Law Enforcement Officers Association—they know what they are talking about. The International Union of Police Associations—they live it every day. The National Association of Police Organizations and the National Sheriffs' Association—don't my colleagues think they know what is needed on the ground? They do. And because they do, they strongly support this legislation.

Second, some colleagues on the other side argue that this bill won't do anything; instead, we need so-called comprehensive immigration reform such as the Gang of 8 bill. But the Gang of 8 bill that my colleagues are pushing—1,200 pages long when it passed the Senate—didn't do anything to resolve this issue of sanctuary cities. It didn't do anything to change the abusive lawsuits I am speaking about. It didn't do anything to encourage Federal and local authorities to cooperate in real time—absolutely nothing. That is just the fact, once we read the 1,200 pages. All the Gang of 8 bill does is lead with a big amnesty—an amnesty overnight—for about 11 million illegal immigrants in our country today. So that comprehensive immigration reform bill—the Gang of 8 bill or whatever we want to call it—does nothing in this area that is so crucial to fix, does nothing about sanctuary cities, does nothing to remove these abusive lawsuits as obstacles to the clear and full cooperation between Federal, State, and local authorities, which even folks on the other side of the bill admit needs to happen and is a problem right now.

There are lots of myths about our bill versus the facts.

With that in mind, I ask unanimous consent to have printed in the RECORD a myth v. fact sheet that lays out clearly the myths, the arguments made against this legislation, and the real facts of the Stop Sanctuary Policies and Protect Americans Act, S. 2146.

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

MYTH V. FACT—STOP SANCTUARY POLICIES ACT (S.2146)

1. S.2146 does not punish illegal immigrants who come forward to report crimes.

Myth: Under S.2146, "reporting crimes or otherwise interacting with law enforcement could lead to immigration detention and deportation."¹

Fact: S.2146 provides that if a jurisdiction has a policy that local law enforcement will not inquire about the immigration status of crime victims or witnesses, such jurisdiction will not be deemed a sanctuary jurisdiction and will not lose any federal funds. See section 3(e).

2. S.2146 does not require local law enforcement to carry out federal immigration responsibilities.

Myth: S.2146 would “require[e] state and local law enforcement to carry out the federal government’s immigration enforcement responsibilities,” and thus “the federal government would be substituting its judgment for the judgment of state and local law enforcement agencies.”²

Fact: The bill does not require local law enforcement “to carry out federal immigration responsibilities.” Removing illegal immigrants remains the exclusive province of the federal government. The bill simply withholds certain federal funds from jurisdictions that prohibit their local law enforcement officers from cooperating with federal officials in the limited circumstance of honoring an immigration detainer.

It is politicians in sanctuary jurisdictions who, by tying the hands of local law enforcement, are “substituting [their] judgment for the judgment of state and local law enforcement.”

3. S.2146 is necessary to keep dangerous criminals off of the streets.

Myth: “Congress should focus on overdue reforms of the broken immigration system to allow state and local law enforcement to focus their resources on true threats—dangerous criminals and criminal organizations.”³

Fact: Sanctuary cities are the ones preventing local law enforcement from focusing on dangerous criminals and criminal organizations—by forbidding local law enforcement officers from holding such criminals.

The illegal immigrant who killed Kate Steinle explained that he chose to live in San Francisco because it was a sanctuary city, and he knew San Francisco would not take action against him. He was right. Three months before Kate’s death, the federal government asked San Francisco officials to hold him, but San Francisco refused.

4. S.2146 does not force the U.S. to bear liability for unconstitutional actions by local law enforcement.

Myth: S.2146 includes “provisions requiring DHS to absorb all liability in lawsuits brought by individuals unlawfully detained in violation of the Fourth Amendment.”⁴

Fact: If a lawsuit alleges that a local officer knowingly violated Fourth Amendment or other constitutional rights, under S.2146, the individual officer, not the federal government, will bear all liability. See section 4(c).

For some lawsuits, the U.S. will be substituted as defendant—specifically, suits alleging that that the immigration detainer should not have been issued. But such a claim could already be brought against the U.S. under existing law; thus, S.2146 does not create a new source of liability for the federal government. S.2146 simply provides that if the federal government made the error, the federal government should be the defendant.

5. S.2146 is fully consistent with the Fourth Amendment and preserves individuals’ rights to sue for constitutional violations.

Myth: “The Fourth Amendment provides that the government cannot hold anyone in jail without getting a warrant or the approval of a judge.”⁵

Fact: The Constitution requires probable cause to detain an individual, which can be established by a judicial warrant issued before the arrest or by a demonstration of probable cause after the arrest. Otherwise

police could never arrest someone whom they see committing a crime.

S.2146 does not alter the requirement for probable cause. In fact, S.2146 explicitly preserves an individual’s ability to sue if he or she is held without probable cause or has suffered any other violation of a constitutional right.

ENDNOTES

1. Email from Lutheran Immigration and Refugee Service (Oct. 19, 2015).

2. Letter from Law Enforcement Immigration Task Force (Oct. 15, 2015).

3. Letter from Law Enforcement Immigration Task Force (Oct. 15, 2015).

4. Letter from ACLU (Oct. 19, 2015).

5. Letter from ACLU (Oct. 19, 2015).

Mr. VITTER. Mr. President, let me highlight the two biggest ones. The first one is that our legislation would somehow punish and make it more difficult for illegal persons to report crimes and cooperate with local law enforcement. That is a pure myth. What is the fact? Well, read the bill, as the American people suggest. Read the bill. Our bill, S. 2146, specifically provides that if a jurisdiction has a policy that local law enforcement will not inquire about the immigration status of crime victims or witnesses, such jurisdiction will not be deemed a sanctuary jurisdiction and it will not lose Federal funds over that. So that argument is simply a myth.

The second argument often made is that somehow this legislation is requiring local law enforcement to carry out Federal immigration responsibilities. Again, that is a pure myth, a purely erroneous argument, and if we read the bill, S. 2146, we will see it is simply not true. The bill does not require local law enforcement “to carry out Federal immigration responsibilities” in any way, shape, or form. Removing illegal immigrants remains the exclusive province of the Federal Government. The bill simply withholds certain Federal funds from jurisdictions that prohibit exactly the cooperation that our opponents on the other side say is so necessary and correctly say is so necessary. So that, again, is the fact versus the myth that is being propagated.

Again, we have several myths versus facts as part of the record, and I urge everyone, starting with our colleagues, Democrats and Republicans, to study it carefully.

This is an important issue. Sanctuary cities are a real problem, and we need to fix that problem to move forward. So I urge my colleagues to look carefully at this issue of what is driving these sanctuary cities policies. Our legislation will take up those drivers, those obstacles, will solve those problems, and will result in the cooperation at all levels of law enforcement that we desperately need.

I urge my colleagues to vote yes later today so we can push forward with this important and critical legislation.

Mr. LEAHY. Mr. President, today, we will finally vote on the nomination of Judge Ann Donnelly to be a Federal district judge in the Eastern District of

New York. She was first nominated for this judicial emergency vacancy nearly a year ago, back in November 2014. She was voted out of the Judiciary Committee by unanimous voice vote over 4 months ago on June 4, but since then she has been blocked from receiving a vote on the Senate floor. Senator SCHUMER has twice sought to secure a vote for Judge Donnelly through unanimous consent requests in July and September, but was blocked by Republicans both times. No substantive reason was given for this obstruction, which is hurting both our justice system and the people who seek justice in those courts.

Judge Donnelly is not the only New York nominee ready for a vote today on the Executive Calendar. LaShann Hall, a partner at a prominent national law firm, was nominated to the other judicial emergency vacancy in the Eastern District of New York last November as well. She was voted out of the Judiciary Committee by unanimous voice vote at the same time as Judge Donnelly, and she is still awaiting a vote.

Also waiting for a vote is Lawrence Vilardo, who has been nominated to the vacancy in the Western District of New York in Buffalo. The Western District of New York has one of the busiest caseloads in the country and handles more criminal cases than Washington, DC, Boston, or Cleveland; yet there is not a single active Federal judge in that district, and the court is staying afloat only through the voluntary efforts of two judges on senior status who are hearing cases in their retirement. Despite these circumstances, Republicans continue to hold Mr. Vilardo’s nomination up as well. There is no good reason why these two other noncontroversial New York nominees could not be confirmed today. The same goes for the rest of the noncontroversial judicial nominees on the Executive Calendar.

In the Judiciary Committee, I have continued to work with Chairman GRASSLEY to hold hearings on judicial nominees. We will hold a hearing tomorrow for four more judicial nominees. But the pattern we have seen over the last 9 months is that, once nominees are voted out of committee and awaiting confirmation on the floor, the Republican leadership refuses to schedule votes. So far this year, we have only confirmed seven judges. That is not even one judge per month. Some Republicans claim that this is reasonable, but by any measure, it is not. By this same point in 2007, when I was chairman of the Judiciary Committee and we had a Republican President, the Senate had already confirmed 33 judges. At this current rate, by the end of the year, the Senate will have confirmed the fewest number of judges in more than a half century.

This pattern is especially egregious in light of the rising number of judicial vacancies. In fact, as a direct result of Republican obstruction, vacancies have

increased by more than 50 percent, from 43 to 67. That means there are not enough judges to handle the overwhelming number of cases in many of our Federal courtrooms. Additionally, the number of Federal court vacancies deemed to be “judicial emergencies” by the nonpartisan Administrative Office of the U.S. Courts has increased by 158 percent since the beginning of the year. There are now 30 judicial emergency vacancies that are affecting communities across the country.

The Leadership Conference on Civil and Human Rights recently issued a memorandum documenting the real life impact of the Senate Republicans’ obstruction on the judicial confirmation process. Three States where communities are most hurt are Texas, Alabama, and Florida. Texas, for example, has nine judicial vacancies—with seven of them deemed to be judicial emergencies. Incredibly, one of the district court positions has been vacant for over 4 years, and a fifth circuit position in Texas has been vacant for more than 3 years. The memorandum reports that, in the Eastern District of Texas, the delays caused by the vacancy in that court has placed greater pressure on criminal defendants to forego trials and simply plead guilty to avoid uncertain and lengthy pretrial detentions. That is not justice.

Similarly, Alabama has five current vacancies that remain unfilled, and Florida has three. These rising vacancies are leading to an unsustainable situation in too many states. As Chief Judge Federico Moreno of the Southern District of Florida noted, “It’s like an emergency room in a hospital. The judges are used to it and people come in and out and get good treatment. But the question is, can you sustain it? Eventually you burn out.”

I urge the majority leader to schedule votes for the 14 other consensus judicial nominees on the Executive Calendar without further delay. If the Republican obstruction continues and if home State Senators cannot persuade the majority leader to schedule a vote for their nominees soon, then it is unlikely that even highly qualified nominees with Republican support will be confirmed by the end of the year. These are nominees that members of the leader’s own party want confirmed. Let us work together to confirm nominees and help restore our third branch to full strength.

Shortly we will begin voting on Judge Ann Donnelly to fill a judicial emergency vacancy in the Federal District Court for the Eastern District of New York. Since September 2014, she has served as a judge on the New York County Supreme Court. Judge Donnelly previously presided on the Kings County Supreme Court from 2013 to 2014 and in the Bronx County Supreme Court from 2009 to 2013. Prior to becoming a judge, she worked at the New York County District Attorney’s Office for 25 years as an assistant district attorney, senior trial counsel, and as

chief of the Family Violence Child Abuse Bureau. She has the support of her two home State Senators, Senator SCHUMER and Senator GILLIBRAND. She was voted out of the Judiciary Committee by unanimous voice vote on June 4, 2015. I will vote to support her nomination.

Mr. VITTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FLAKE). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Ann Donnelly, of New York, to be United States District Judge for the Eastern District of New York?

Mr. FRANKEN. 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 clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) and the Senator from Florida (Mr. RUBIO).

Mr. DURBIN. I announce that the Senator from New Hampshire (Mrs. SHAHEEN) is necessarily absent.

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

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 279 Ex.]

YEAS—95

Alexander	Fischer	Murphy
Ayotte	Flake	Murray
Baldwin	Franken	Nelson
Barrasso	Gardner	Paul
Bennet	Gillibrand	Perdue
Blumenthal	Grassley	Peters
Booker	Hatch	Portman
Boozman	Heinrich	Reed
Boxer	Heitkamp	Reid
Brown	Heller	Risch
Burr	Hirono	Roberts
Cantwell	Hoeven	Rounds
Capito	Inhofe	Sanders
Cardin	Isakson	Sasse
Carper	Johnson	Schatz
Casey	Kaine	Schumer
Cassidy	King	Scott
Coats	Kirk	Sessions
Cochran	Klobuchar	Shelby
Collins	Lankford	Stabenow
Coons	Leahy	Tester
Corker	Lee	Thune
Cornyn	Manchin	Tillis
Cotton	Markey	Toomey
Crapo	McCain	Udall
Cruz	McCaskill	Vitter
Daines	McConnell	Warner
Donnelly	Menendez	Warren
Durbin	Merkley	Whitehouse
Enzi	Mikulski	Wicker
Ernst	Moran	Wyden
Feinstein	Murkowski	

NAYS—2

Blunt Sullivan

NOT VOTING—3

Graham Rubio Shaheen

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate’s action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

STOP SANCTUARY POLICIES AND PROTECT AMERICANS ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2146, which the clerk shall now report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 252, S. 2146, a bill to hold sanctuary jurisdictions accountable for defying Federal law, to increase penalties for individuals who illegally reenter the United States after being removed, and to provide liability protection for State and local law enforcement who cooperate with Federal law enforcement and for other purposes.

The Senator from Texas.

Mr. CRUZ. Mr. President, the American people have demanded for years that the Federal Government faithfully enforce our Nation’s immigration laws. Americans are tired of seeing their laws flouted and their communities plagued by the horrible crimes that typically accompany illegal immigration. But for too long, the pleas of the American people on this issue have gone unheeded here in Washington.

See, when it comes to the problem of illegal immigration, the political class and the business class—our Nation’s elites—are of one mind. They promise robust enforcement at some point in the future but only on the condition that the American people accept a pathway to citizenship now for the millions of illegal immigrants who are already in this country.

Not wanting to be swindled, the American people wisely rejected this deal, which the Washington class calls “comprehensive immigration reform.” Of course, the elites don’t like this one bit. So instead, they have taken matters into their own hands. They bend or ignore the law to make it more difficult for immigration enforcement officers to do their job.

We have seen this repeatedly with the Obama administration. President Obama has illegally granted amnesty to millions of illegal immigrants with no statutory authorization whatsoever, even though, before his reelection, the President assured the American people he couldn’t do so without an act of Congress. As President Obama said, when asked whether he could grant amnesty, “I am not an emperor.”