

NAYS—47

Baldwin	Heinrich	Reed
Bennet	Hirono	Rosen
Blumenthal	Jones	Schatz
Booker	Kaine	Schumer
Brown	Kelly	Shaheen
Cantwell	King	Sinema
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Tester
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Paul	Wyden
Hassan	Peters	
NOT VOTING—5		
Graham	Loeffler	Sanders
Harris	Perdue	

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.

Mr. THUNE. Madam President, I ask unanimous consent that the mandatory quorum call be waived.

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

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The 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, do hereby move to bring to a close debate on the nomination of Liam P. Hardy, of Virginia, to be a Judge of the United States Court of Appeals for the Armed Forces for the term of fifteen years to expire on the date prescribed by law.

Mitch McConnell, Shelley Moore Capito, John Hoeven, Roger F. Wicker, Cindy Hyde-Smith, Joni Ernst, Roy Blunt, Todd Young, Mike Rounds, Thom Tillis, John Cornyn, Michael B. Enzi, Lindsey Graham, Tim Scott, Mike Crapo, James E. Risch, James Lankford.

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 Liam P. Hardy, of Virginia, to be a Judge of the United States Court of Appeals for the Armed Forces for the term of fifteen years to expire on the date prescribed by law, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mrs. LEOFFLER), and the Senator from Georgia (Mr. PERDUE).

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

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

The yeas and nays resulted—yeas 61, nays 34, as follows:

[Rollcall Vote No. 252 Ex.]

YEAS—61

Alexander	Gardner	Reed
Barrasso	Grassley	Risch
Blackburn	Hassan	Roberts
Blunt	Hawley	Romney
Boozman	Hoeven	Rounds
Braun	Hyde-Smith	Rubio
Burr	Inhofe	Sasse
Capito	Johnson	Scott (FL)
Cardin	Jones	Scott (SC)
Carper	Kelly	Shaheen
Cassidy	Kennedy	Shelby
Collins	King	Sinema
Cornyn	Lankford	Sullivan
Cotton	Lee	Tester
Cramer	Manchin	Thune
Crapo	McConnell	Tillis
Cruz	Moran	Toomey
Daines	Murkowski	Wicker
Enzi	Murphy	Young
Ernst	Paul	
Fischer	Portman	

NAYS—34

Baldwin	Gillibrand	Schatz
Bennet	Heinrich	Schumer
Blumenthal	Hirono	Smith
Booker	Kaine	Stabenow
Brown	Klobuchar	Udall
Cantwell	Leahy	Van Hollen
Casey	Markey	Warner
Coons	Menendez	Warren
Cortez Masto	Merkley	Whitehouse
Duckworth	Murray	Wyden
Durbin	Peters	
Feinstein	Rosen	

NOT VOTING—5

Graham	Loeffler	Sanders
Harris	Perdue	

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 34.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Liam P. Hardy, of Virginia, to be a Judge of the United States Court of Appeals for the Armed Forces for the term of fifteen years to expire on the date prescribed by law.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Maryland.

UNANIMOUS CONSENT REQUEST—S. 4810

Mr. VAN HOLLEN. Mr. President, I am on the floor today to discuss a question of fundamental fairness to members of our Armed Forces and to Federal employees.

I think we all may recall a few months ago when President Trump ordered the Department of the Treasury to establish a system to push businesses, companies, and employers around the country to defer the collection of employees' payroll taxes. Those are the taxes that go to Social Security and Medicare. The key word here is "defer" because this is really a shell game.

Any moneys that businesses do not pay into Social Security and Medicare now are going to have to be paid by those Federal employees right after the holidays, starting in January.

And many employees around the country were at first confused. They

thought they were getting a payroll tax holiday, but that is not the case.

The reality is, whatever they didn't pay in the form of payroll taxes now and in the past couple months they would be required to pay back right after those holidays.

And when businesses looked at this and when workers and employees around the country looked at this, they overwhelmingly rejected it. They said they didn't want to participate.

Here is what UPS said about this proposal: "We recognize that for some, it may have been helpful to have more money in their paychecks in 2020, yet not all employees have professional tax planning needed to prepare effectively for the added obligation they would face in 2021."

So even though this payroll tax deferral proposal got a burst of attention, it turned out to be meaningless for most workers around the country. Most private sector employers didn't participate, and their employees and workers didn't want them to participate.

Unfortunately, the one big exception to this has been members of our Armed Forces, the folks who every day stand guard to protect our country, and Federal employees who do the Nation's business with respect to important services they provide.

And as the private sector has rejected this, we have heard from thousands of Federal employees who say: We don't want to participate either. We have heard from members of the Armed Forces that say: We don't want to be used as guinea pigs and be required to participate.

So I want to be really clear that if we don't correct this, the damage will continue to be done, and these members of our Armed Forces and Federal employees will be forced to pay even more back after the holidays.

Now, I wrote to Treasury Secretary Mnuchin and to OMB Director Vought about this back in September, September 8, just as the deferral was starting, and we were joined in that letter by 22 Senators—Senators from both sides of the aisle. We had a simple bipartisan request. It was: Make this payroll tax deferral optional, make it voluntary. If Federal employees and members of our Armed Forces want to participate in this proposal, fine. Let them do it, but don't force, don't require, don't coerce members of our military and Federal employees to participate.

And we didn't get a response to that letter to Secretary Mnuchin and CBO Director Vought. So I asked Secretary Mnuchin about this issue at a Senate Banking Committee hearing on September 24. I said: Mr. Secretary, why shouldn't we make this voluntary? Why should you require members of our Armed Forces and Federal employees to participate in the program if they don't want to? And his response was: Yeah, it would be "reasonable" for

the payroll tax to be voluntary “if people don’t want to participate. Sounds like common sense.”

Well, we expected some followup from the Secretary of Treasury. Nothing. So we sent a followup letter—again, a bipartisan letter. Nothing.

So now it is December, and the Trump administration is still forcing members of our Armed Forces and Federal employees who don’t want to participate in this now-forced deferral program—they want to continue to force them to do it. So we introduced a bipartisan piece of legislation called the Protecting Employees from Surprise Taxes Act. It is pretty straightforward. It says: If a Federal employee or member of the armed services wants to participate, let them participate. If they want to opt out, let them opt out of it.

I want to stress that the Federal workers we have heard from and the organizations and unions that represent Federal workers strongly support this measure. And why not? It is hard to argue that we shouldn’t let the folks who are standing guard to protect us make a choice about whether they want to participate in this program.

Also, just to remind our colleagues—maybe they haven’t kept track of this—the Senate chose not to participate. The Senate chose not to participate in this program, whether on a mandatory or a voluntary basis. The House of Representatives chose not to participate in this program.

So it is going to be interesting to hear the Senators say that they want to require members of our Armed Forces and Federal employees to enroll in a program that this Senate decided was not good for members of the Senate staff and the House of Representatives decided was not good for House staff.

Yet, if we don’t support this proposal, this is simply passing the bipartisan legislation I mentioned to give our members of the Armed Forces and Federal employees that choice. If we don’t pass this, we are going to require them to continue to participate in a program they don’t like.

So, Mr. President, as if in legislative session, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 4810 and the Senate proceed to its immediate consideration. I further ask that the bill be read a third time and passed and the motion to reconsider be made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. DAINES. Mr. President, reserving the right to object, I am here to express support for this payroll tax holiday, and I think Congress should do much better than that, and that is to come together and forgive these taxes, period.

In fact, back in March, I pushed for Congress to include a payroll tax cut in the CARES Act, and I still support that

today because the payroll tax cut is about supporting workers who might have had their hours reduced.

These are workers who are living paycheck to paycheck, workers across our country who are struggling to make ends meet because of the impact of COVID-19 on our economy.

Allowing folks to keep more of their hard-earned money could make a big difference. It would provide immediate support—immediate support—for Montana’s families who are struggling to get by. And, importantly, we ensure that this will have no impact—zero impact—on Social Security because we transfer money from the general fund to the Treasury.

This is not a new concept. It has been done by Congress. In fact, it was done under the Obama administration. As an example, a Montanan who earns an annual salary of about \$40,000 typically pays about \$2,500 in payroll taxes every year. Forgiving the taxes deferred during this 4-month payroll tax deferral would save that Montanan about \$827.

What we should be doing is working together to pass a COVID relief package that delivers much needed aid for families who have had a tough go the last several months. And it is going to get tougher going forward, not only for these families but workers and small businesses.

Instead, my colleagues across the aisle have continued to block very targeted relief, several times, right here on the floor of the U.S. Senate, which is holding Montanans and the American people hostage. We should come together and agree on this targeted relief. We can continue to disagree on these other items, but let’s get this targeted relief package passed.

So instead of coming to the floor today to try to pass a bill that undermines a payroll tax holiday to save folks more of their hard-earned money, I urge my colleague here before us to work with Members of his caucus and get the COVID-19 relief passed.

Once again, we should be forgiving these taxes as a payroll tax holiday, not unlike what happened during the Obama administration, and for these reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator for Maryland.

Mr. VAN HOLLEN. Mr. President, just to respond to the Senator from Montana, I think he well knows that it has been over 6 months since the House of Representatives passed the first Heroes Act with comprehensive COVID-19 relief. They have also passed an updated ‘Heroes 2 Act,’ but we never even had a vote here in the U.S. Senate on that provision. We have been blocked from having that vote by the Republican leader.

I don’t know where my colleague stands on the bipartisan framework that was just released. That is something that I can support and pursue, but listening to the Senate majority leader, he has been pouring cold water

on it. And, by the way, the measure that the Senator from Montana mentioned that we should pass right now for coronavirus relief, that doesn’t have a payroll tax holiday. It doesn’t do what the Senator just said he wants to do. It doesn’t say anything about that.

So if the Senator or others want to introduce legislation to have a payroll tax holiday for those who have been enrolled in this program for the last 4 months, go ahead. But why would you allow another day to pass requiring members of our Armed Forces who don’t want to participate to participate to participate or requiring Federal employees who are out there providing public services to participate? That is all this does. This doesn’t preclude anything the Senator talked about doing. All it does is to say: Right now, for those people who are calling who don’t want to be enrolled in this program, let them out. Let them out.

And what the Senator from Montana is saying is: No, I want to continue to hold them hostage to pass a proposal that isn’t even in the majority leader’s own bill.

And that is what people get sick and tired about around this country.

So let’s just pass this. This is a simple, straightforward bill. I welcome debate on the bipartisan proposal that has been put forward by a number of Republican Senators and a number of Democratic Senators, but don’t try and mix this up into that larger debate. This is very simple. It just says to a member of the Army, the Navy or any of the services who doesn’t want to be forced to participate in this right now that they don’t have to. That is what this says, and by opposing this, you are saying that you want to prolong the requirement that they participate in a program that they don’t want to be a part of.

The PRESIDING OFFICER. The Senator from Montana.

Mr. DAINES. Mr. President, I appreciate the Senator from Maryland raising these points. In regard to the proposal of the bill that was passed by NANCY PELOSI, the Speaker of House, the reason we didn’t take a vote on that bill in the U.S. Senate is because it was full, basically, of her wish list of many items that didn’t really relate to COVID-19 relief. We did put a targeted bill on the floor of the U.S. Senate in the amount of \$600 billion that, frankly, addressed many of the issues that the House had in their bill, and we had many issues that we agreed on here in the Senate that would be at least targeted. This is about the Paycheck Protection Program. This is relief for schools. This is resources for the vaccine, for additional PPE, for additional testing. It is a long list, including relief for the U.S. Postal Service. Of course, I would hope that you would support it, but we were blocked from even bringing that bill to the floor of the U.S. Senate. We couldn’t get to debate on that bill in September when it came before the U.S. Senate.

I appreciate these points. Obviously, we have a disagreement. President Trump pushed for Congress to pass a payroll tax cut. I would rather see a cut, not a deferral. That is the way to really help workers across this country. When Congress failed to act in July, the President enacted that deferral as a way to provide immediate relief to the American people. I would ask that we come together and let's forgive those taxes. Forgive them, and they won't be getting a surprise tax increase if we do that.

Mr. VAN HOLLEN. Mr. President, just very briefly in response, I think everyone knows what is going on here. This is a very simple proposal. If you want to participate in President Trump's deferral, you can continue to participate in the deferral program. But if you are in the Armed Forces or are a Federal employee and you are being required to do that right now and you don't want to, we should let them opt out. That is all this is about, and I am really surprised that our Republican colleagues would block members of our Armed Forces and Federal employees from making a simple choice which they believe is in their best interest.

So I am disappointed with the objection and will continue to pursue this.

Thank you.

The PRESIDING OFFICER. The Senator from Montana.

Mr. DAINES. Mr. President, I ask unanimous consent to yield back the time in order for the vote to occur now.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VOTE ON HARDY NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Hardy nomination?

Mr. DAINES. 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. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from Oklahoma (Mr. INHOFE), the Senator from Georgia (Mrs. LOEFFLER), the Senator from Georgia (Mr. PERDUE), and the Senator from Ohio (Mr. PORTMAN).

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

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

The result was announced—yeas 59, nays 34, as follows:

[Rollcall Vote No. 253 Ex.]

YEAS—59

Alexander	Blunt	Capito
Barrasso	Boozman	Cardin
Blackburn	Braun	Carper

Cassidy	Hyde-Smith	Romney
Collins	Johnson	Rounds
Cornyn	Jones	Rubio
Cotton	Kelly	Sasse
Cramer	Kennedy	Scott (FL)
Crapo	King	Scott (SC)
Cruz	Lankford	Shaheen
Daines	Lee	Shelby
Enzi	Manchin	Sinema
Ernst	McConnell	Sullivan
Fischer	Moran	Tester
Gardner	Murkowski	Thune
Graham	Murphy	Tillis
Grassley	Paul	Toomey
Hassan	Reed	Wicker
Hawley	Risch	Young
Hoeven	Roberts	

NAYS—34

Baldwin	Gillibrand	Schatz
Bennet	Heinrich	Schumer
Blumenthal	Hirono	Smith
Booker	Kaine	Stabenow
Brown	Klobuchar	Udall
Cantwell	Leahy	Van Hollen
Casey	Markley	Warner
Coons	Menendez	Warren
Cortez Masto	Merkley	Whitehouse
Duckworth	Murray	Wyden
Durbin	Peters	
Feinstein	Rosen	

NOT VOTING—7

Burr	Loeffler	Sanders
Harris	Perdue	
Inhofe	Portman	

The nomination was confirmed.

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

The Senator from Tennessee.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. ALEXANDER. Madam President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. ALEXANDER. Madam President, I ask unanimous consent that I be recognized to speak for as long as I may require.

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

RECOGNIZING THE STAFF OF SENATOR ALEXANDER

Mr. ALEXANDER. Madam President, here is my view of serving in the U.S. Senate: It is hard to get here, it is hard to stay here, and while you are here, you might as well try to accomplish something good for the country. Accomplishing something good in the U.S. Senate means working with a superior staff.

Today, I want to pay tribute to the 270 men and women who have served on my staff since I came to the Senate in 2003, in my personal office, both here in Washington, DC, and in the six Tennessee offices; in the Senate Health, Education, Labor, and Pensions Committee; the Senate Rules Committee;

the Senate Appropriations Committee; and at the Senate Republican conference.

Some who started with me in 2003 are still working for me after 18 years, and some have moved on to other opportunities, but each has played a major role in the Senate, whether they were helping to pass laws, serve our constituents, or answering the front-office phone.

We have some important traditions here in the Senate, including the maiden speech, which I delivered 17 years ago, in my case, and the farewell speech, which I delivered yesterday, but for me, something is missing. Usually staff is acknowledged in the farewell address, which either makes the address way too long or at least too little time to properly acknowledge their contributions. I am here today to make a “Salute to the Staff” speech. I know my colleagues agree that their own accomplishments are the result of working with superior staff, so perhaps, if I may not be presumptuous, a “Salute to the Staff” speech might become an additional Senate tradition.

When I say “superior staff,” here is what I mean: superior in being what Senator Howard Baker used to call an eloquent listener—that the constituent on the phone might be right or even the staffer in the other office might be right; superior in courtesy to the Tennesseans for whom we work; superior in insight; superior in resolving complex issues and wrapping up the result in a nice package with a ribbon tied around it, ready to be passed and signed into law whenever the moment came that it could be passed, which would usually be a surprise and at an inconvenient time; and superior in writing and speaking plain English in order to persuade at least half the people we are right; and superior in working well together—something you are supposed to learn in kindergarten—so we have a good time while we are working.

Unlike almost every other Senate office, at the suggestion of my chief of staff, David Cleary, we created a single team composed of personal office staff here and in Washington, DC, and the committee staff, with David in charge of all of that. I originally thought that was a big mistake. I didn't see how anyone could be in charge of all of that, but I was wrong about it because what it did was break down barriers and eliminate jealousy, improve communication, and create a much happier and effective working condition.

The results have been exceptional. For 18 years, I have gotten up every morning thinking I might be able to do something good to help our country, and I have gone to bed most nights thinking that I have. That couldn't have happened without the privilege of working with an exceptional staff.

The truth is—we all know this—that there is just no physical way for any U.S. Senator to see every single one of our constituents every time we want to