

fact that they will be committing a felony. If the consequence is enough of a deterrent, we will have better compliance and the privacy of every American will be better protected.

Let me explain specifically what the amendment does. One, it makes it illegal to photograph, record, and subsequently distribute the images taken by body scan machines in an airport or any Federal building.

Two, it imposes a penalty of up to 1 year in prison and up to a \$100,000 fine for those who inappropriately collect and distribute these images.

Three, it says that any individual who is acting within the course and scope of their employment is not breaking the law by saving these images or sending them if the purpose for doing so is to use these images in a criminal investigation or prosecution.

By adopting this amendment, we will be telling the American people and my constituents that we are not going to ignore or compromise their privacy in the process of making sure we have safe airports and Federal buildings. Our amendment takes a commonsense approach to addressing this issue and why I am seeking its inclusion in the FAA authorization.

I thank the chairman and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, in that we have a short reception at 4:30 and then we are going to judges, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### VISIT TO THE SENATE BY THE PRIME MINISTER OF THE REPUBLIC OF SLOVENIA, THE HONORABLE BORUT PAHOR

Mr. HARKIN. Mr. President, today we are honored to have as our guest the Prime Minister of the Republic of Slovenia, the Honorable Borut Pahor. He is the sixth Prime Minister since Slovenia won independence in 1991.

As many of my colleagues know, the Republic of Slovenia holds a very special place in my heart. My mother came to America from the village of Siha in what is now Slovenia nearly 90 years ago, and I have been tremendously impressed with the great strides Slovenia has made since breaking away from the former Yugoslavia. For the last 2 years, Prime Minister Pahor with great skill has continued to lead his nation on a successful course of democratic and free market economics. So make no mistake, the success of independent Slovenia, like the success of the young American Republic two centuries ago, was no accident. It was

secured by visionary leaders and by a determined people. Nine decades ago, my mother left Slovenia—a Slovenia that was impoverished, ruled by autocrats, and dominated by foreign powers; a nation that sent forth immigrants desperate to find a better life. Today, a free, prosperous, and democratic Slovenia sends forth statesmen, diplomats, and humanitarians helping to build a better world.

Again, on behalf of the Senate, I welcome our honored guest, Prime Minister Pahor.

#### RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. HARKIN. I ask unanimous consent that the Senate stand in recess subject to the call of the Chair so that we may welcome the Prime Minister of Slovenia and guests on the Senate floor.

There being no objection, the Senate, at 4:29 p.m., recessed subject to the call of the Chair and reassembled at 4:40 p.m. when called to order by the Presiding Officer.

#### EXECUTIVE SESSION

#### NOMINATION OF DIANA SALDANA TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS

#### NOMINATION OF PAUL KINLOCH HOLMES III TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS

#### NOMINATION OF MARCO A. HERNANDEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON

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

The legislative clerk read the nominations of Diana Saldana, of Texas, to be United States District Judge for the Southern District of Texas, Paul Kinloch Holmes III, of Arkansas, to be United States District Judge for the Western District of Arkansas, and Marco A. Hernandez, of Oregon, to be United States District Judge for the District of Oregon.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, today, the Senate will consider, and I anticipate confirm, 3 of President Obama's nominations to fill judicial vacancies on Federal district courts in Arkansas, Oregon, and Texas. All 3 of the nominations—P.K. Holmes to the Western Dis-

trict of Arkansas, Judge Diana Saldana to the Southern District of Texas, and Judge Marco Hernandez to the District of Oregon—will fill judicial emergency vacancies. Given the serious need on those courts, and the qualifications of these nominees, there is no reason they could not have been confirmed when they were nominated and reported unanimously by the Judiciary Committee last Congress. There is every reason for the Senate to act promptly now that President Obama has renominated them, the Judiciary Committee has reconsidered them, and they have again been reported to the Senate unanimously.

I am hopeful that our actions today signal a return to regular order in the consideration of nominations without unexplained and damaging delays. I am hopeful that this signals a return to cooperation to confront a judicial vacancies crisis that has put at serious risk the ability of all Americans to find equal access to a fair hearing in court. Chief Justice Roberts commented on this in his most recent statement on the judiciary. The White House counsel recently spoke to the crisis. The President wrote us last year urging action. The real costs of these unnecessary partisan delays fall on Americans who depend on the courts. Last September, President Obama wrote that these delays in Senate consideration of judicial nominees are “undermining the ability of our courts to deliver justice to those in need . . . from working mothers seeking timely compensation for their employment discrimination claims to communities hoping for swift punishment for perpetrators of crimes to small business owners seeking protection from unfair and anticompetitive practices.” The President was, and still is, right.

The Attorney General warned us last year that “the system on which we all depend for a prompt and fair hearing of our cases when we need to call on the law—is stressed to the breaking point.” The National Association of Assistant United States Attorneys, a group of career Federal prosecutors likewise wrote to us, stating that, “Our federal courts cannot function effectively when judicial vacancies restrain the ability to render swift and sure justice.”

As we consider these nominations today, there are still more than 100 vacancies in the Federal judiciary. Unlike the progress we made during President Bush's first 2 years in office when the Senate confirmed 100 judges and sharply reduced judicial vacancies, during the first 2 years of President Obama's term, we were only allowed to consider 60 judicial nominations. Despite vacancies for nearly 1 out of every 8 Federal judgeships, last year the Senate adjourned without voting on 19 judicial nominations favorably reported by the Judiciary Committee. The 3 judges we will confirm today were among those 19. They could and should have been confirmed last year.

The Senate must do better. We can consider and confirm this President's

nominations to the Federal bench in a timely manner. This President has reached across the aisle to work with home State Republican Senators. His nominees, like the nominees from Texas and Arkansas before us today, are supported by their home State Republican Senators. They are not controversial. They tend to be superbly qualified nominees with a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution. The 3 nominees before us today, the 11 judicial nominees voted out of the Judiciary Committee unanimously last week, and the 4 other judicial nominations that will be considered on February 17 are all nominees who were nominated last Congress and considered and approved by the Judiciary Committee with strong bipartisan support.

With judicial vacancies now at 104, nearly half of them judicial emergency vacancies, the Nation cannot afford further delays by the Senate in taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. This is unacceptable. In order for the Senate to ensure that the courts are functioning at full capacity, we must restore regular order.

A return to regular order would mean that nominations sent by the Judiciary Committee to the Senate should be considered expeditiously, not stalled interminably. Noncontroversial nominations should be taken up and approved on a regular basis. They should not be stalled for weeks and months for no good reason. We must return to the Senate's longstanding practice of quickly considering well-qualified consensus judicial nominations reported by the Judiciary Committee. Senators should not stall noncontroversial nominees. We should not have months and months of damaging delays for no good reason on virtually every judicial nomination.

If Senators want to debate a nomination, we should have one. But then we should vote. Nominations that do have opposition should be taken up on a regular basis for debate, with cloture votes if necessary, so that all nominations can be acted upon in a reasonable amount of time. The Senate must move beyond the petty partisanship that has resulted in this vacancy crisis.

I thank Senator GRASSLEY, the Judiciary Committee's new ranking member, for his cooperation in helping us to report 11 of the previously reported judicial nominations last week, and for working with me to schedule our first confirmation hearing of the new Congress. I look forward to continuing to work with him, with Majority Leader REID and with Republican Leader MCCONNELL to schedule votes on the many other nominees reported favorably by the Judiciary Committee so

that we can ensure that the Federal judiciary has the judges and resources it needs to provide justice to Americans in courts throughout the country.

When I was chairman of the Judiciary Committee during 17 months of President Bush's first 2 years in office with a Democratic majority, we favorably reported 100 of his Federal circuit and district court nominees. All 100 were confirmed. I continued to work hard to make progress considering President Bush's circuit and district court nominations as ranking member during the President Bush's 3rd and 4th years in office when Senator HATCH was the committee chairman, and the Senate confirmed another 105. That should be our benchmark. By the end of this Congress, we should consider and confirm 205 Federal judges, just as we did during President Bush's first term. That is how we can reduce vacancies from the historically high levels at which they have remained throughout these first 2 years of the Obama administration to the historically low level we reached toward the end of the Bush administration. With the three confirmations today our total will stand at 63.

Overall, judicial vacancies were reduced during the Bush administration from more than 10 percent to less than 4 percent. During the Bush administration, the Federal court vacancies were reduced from 110 to 34 and Federal circuit court vacancies were reduced from a high of 32 down to single digits. Regrettably, this progress has not continued with a Democratic President in office. Instead, the minority has allowed votes on only 60 of President Obama's Federal circuit and district court nominees, judicial vacancies have skyrocketed and remain over 100 and over 10 percent.

Today the Senate considers 3 of President Obama's qualified nominees. President Obama nominated Paul K. Holmes, III, last April to fill an emergency vacancy on the U.S. District Court for the Western District of Arkansas. Mr. Holmes is currently Of Counsel at the Fort Smith, AR, law firm where he formerly worked for more than two decades as an associate and a partner. Previously, he was the U.S. attorney for the Western District of Arkansas. As U.S. Attorney, Holmes served for 2 years on the Attorney General's Advisory Committee. Mr. Holmes earned the highest possible rating—unanimously well qualified—from the American Bar Association's Standing Committee on the Federal Judiciary, and his nomination has now garnered the support of 3 Arkansas Senators, Senators PRYOR and Lincoln last Congress, and also Senator BOOZMAN. I thank the Senators from Arkansas for working with us. I am pleased that Mr. Holmes will be confirmed without further delay.

President Obama nominated Diana Saldana last July to fill an emergency vacancy in the Southern District of Texas, the district she has served as a

magistrate judge since 2006. Before taking the bench, Judge Saldana served the Southern District for 5 years as a Federal prosecutor, and she previously was a lawyer in private practice and a trial attorney in the Civil Rights Division of the U.S. Department of Justice. The child of migrant farmworkers, Judge Saldana began working alongside her family in the sugar beet fields at age 10, and she continued to do so for more than a decade. After graduating from law school, she served as a law clerk to then-Chief Judge George P. Kazen. If confirmed, Judge Saldana will fill the vacancy created by Judge Kazen's retirement. Judge Saldana earned the highest possible rating—unanimously well qualified—from the ABA's Standing Committee on the Federal Judiciary. She has the support of her two Republican home State Senators. Senator CORNYN called her "one of the toughest law enforcers in South Texas," and Senator HUTCHISON added that Judge Saldana "has some of the finest qualities we expect in our judges." Her nomination has twice been reported unanimously by the Judiciary Committee. I am pleased she will be confirmed without further delay.

Marco A. Hernandez was nominated last July to fill an emergency vacancy on the U.S. District Court for the District of Oregon. He has served as a State judge in Oregon for the last 15 years, first on the district court and now as a circuit court judge. Previously, Judge Hernandez was a deputy district attorney in Washington County, OR, and a lawyer for Oregon Legal Services. Judge Hernandez has the support of his two home State Senators, and he has now been nominated to this position by Presidents of both parties. If confirmed, he will become the first Latino to serve as a Federal judge in Oregon. His nomination was reported unanimously by the Judiciary Committee last Congress and again this Congress. It was ironic that after Senator SESSIONS made quite a fuss that Judge Hernandez had not been considered and confirmed when nominated at the very end of the Bush administration, the Senator then proceeded to delay committee consideration of his nomination last year and then Republican objections prevented Senate action last year. I thank Senator WYDEN and Senator MERKLEY for their consistent support for Judge Hernandez's nomination and am pleased that he will be confirmed without further delay.

I have often said that the 100 of us in the Senate stand in the shoes of over 300 million Americans. We owe it to them to do our constitutional duty of voting on the President's nominations to be Federal judges. We owe it to them to make sure that hard-working Americans are able to have their cases heard in our Federal courts.

All three branches of the Federal Government come together when the Senate considers a President's nomination to a lifetime appointment on the

Federal bench. The Senate has a constitutional duty to act responsibly to consider the President's nominees and to confirm members of the Judiciary. Most importantly, the Senate has a responsibility to the American people to help ensure that Federal judges are there to protect their rights and administer justice.

I mentioned that one of the nominees is Judge Diana Saldana to the Southern District of Texas. I see my good friends, both the Senators from Texas, are here, one of whom I have the privilege to serve with on the Senate Judiciary Committee and one of whom I have the privilege to serve with in the Senate.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Judiciary Committee. I rise today to speak in support of the Diana Saldana confirmation to serve as a Federal judge for the Southern District of Texas in Laredo.

Judge Saldana's career has given her a breadth of experience that I believe will serve her well on the Federal bench. She received her B.A. in history and government from the University of Texas and then went on to receive a J.D. from the University of Texas School of Law.

She was born in Carrizo Springs, TX, only a stone's throw from where she is currently serving as a U.S. magistrate judge in Laredo, TX. Prior to that, Judge Saldana served 4 years as an assistant U.S. attorney. She handled as many as 350 active Federal criminal cases a year, ranging from immigration to narcotics to health care. It was in this capacity that she was selected coordinator for Chief Judge George Kazen. Before her work in the U.S. Attorney's Office, Judge Saldana spent time as a lawyer for the U.S. Department of Justice in the Civil Rights Division and the U.S. Department of Agriculture in the General Counsel's Office. She also served as a law clerk to Judge Kazen in the Southern District of Texas.

Judge Saldana has been admitted to practice before the U.S. Southern District of Texas Fifth Circuit Court of Appeals and the U.S. Supreme Court. Judge Saldana has good professional experience, and she is well respected in the South Texas community. The American Bar Association gave her a unanimous "well qualified" rating, and I believe she will be an effective Federal judge in South Texas.

In September, I introduced Judge Saldana before the Judiciary Committee, and today I urge my colleagues in the Senate to support her nomination and confirm her as a Federal judge for the Southern District in Laredo, TX.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I wish to join my colleague, Senator HUTCHISON, in commending to our colleagues the nomination of Judge Diana Saldana of Laredo, TX, who has been nominated, as we have heard, to be a U.S. district judge in the Southern District of Texas. This is a busy docket, as one can imagine, being right on the U.S.-Mexico border, with the unfortunate drug-trafficking and immigration-related cases and the like. So this is a very important nomination. I hope my colleagues will join us in confirming her nomination.

Senator HUTCHISON and I, as do many Senators, have a bipartisan committee of lawyers in the State—people who are very respected in the legal community who screen the people who apply for these positions, recognizing the importance of them and that they are lifetime appointments. We do our very best to make this a depoliticized process, believing that whether one is a good judge doesn't depend on whether one is a Republican or an Independent or Democrat as long as one is always willing to enforce the law and not impose one's own personal beliefs or any other type of agenda.

Diana Saldana really represents the manifestation of the American dream. I had the opportunity to introduce her at the hearing she had before the Judiciary Committee, along with her wonderful family. Throughout the process, the more I learned about Diana's personal story, the more I grew to admire not only all she has accomplished but what she stands for in terms of our national guarantee that if you come to America, if you work hard, if you make the most of your God-given gifts, you can achieve anything. Judge Saldana represents that dream.

At the age of 10, she began traveling with her parents and siblings from her home in Carrizo Springs to Minnesota and North Dakota to work as migrant farmers in the soybean, sugar beet, and potato fields. Because of the seasonal nature of migrant farm work, Diana and her siblings would often leave South Texas before the school year ended and return after the next school year had begun. Of course, one can imagine how tough that is on a young student. She traveled 1,500 miles north and worked with her family in the fields every summer through high school and college, and she even worked in the fields during her first year of law school as well.

Despite these challenges, Diana rose to the occasion, and she succeeded in becoming the first person in her family to get a college degree. She recalls that while working as a migrant farmer, her mother told her that an education was the only way out of doing manual labor, and indeed she learned that lesson very well.

She was once asked what person had the greatest impact on her, and she said, as many of us might answer, her mother. She said:

My mother has a third grade education, but she was able to raise six children by

working hard and having a deep faith in God . . . I remember her working up to three jobs at a time, taking naps in the family car, when our finances were especially tight, to make ends meet . . . My mother instilled in us a strong work ethic and encouraged us to dream for a better life.

Today, Judge Saldana doesn't just receive the gifts she has gotten as being the child of a hard-working and dedicated and sacrificing mother, she has turned it around and become a mentor to young people herself, using her own story as an inspiration to others and saying: If I worked hard and I was successful, you can, too, even as improbable as that may seem at the time.

I could go on and on about Judge Saldana because her life story is truly remarkable and quite an inspiration, but I will conclude with this: Diana Saldana has been nominated to fill the vacancy left by her own mentor, Judge George Kazen, who is taking senior status. Judge Kazen knows Diana better than just about anybody, other than her family. She served as his law clerk, appeared before him as a Federal prosecutor, and presided over many cases as a Federal magistrate judge. Judge Kazen described Diana as "one of the finest law clerks" he ever had and a "tough, no-nonsense prosecutor." He called her the "quintessential judge—intelligent, hard-working, fair, honest, and decisive." Finally, Judge Kazen told us it would be his "personal honor" if Judge Saldana was confirmed as his successor. I can't think of any higher praise.

In just a few minutes, the Senate will confirm Diana Saldana as a U.S. district judge for the Southern District of Texas. I know I speak for many Texans when I say we could not be more proud.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, on the floor tonight we have three very distinguished individuals whom President Obama has nominated to be Federal judges. I commend the committee for bringing them forward and Senator LEAHY for his tremendous ongoing leadership on the Judiciary Committee. I know, as my colleagues from Texas have indicated, these are extremely competent individuals. All three of them were reported out of the Judiciary Committee with unanimous approval. In light of the current judicial emergencies, I urge my colleagues to confirm them this evening.

Mr. President, I ask unanimous consent that the time used during the quorum call be charged equally to both sides.

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

Ms. STABENOW. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, in addition to my support for Judge Saldana and Mr. Holmes, I rise in support of Marco A. Hernandez to be U.S. district judge for the District of Oregon.

I am pleased the Senate is finally turning to this nomination. This is the third Congress to consider Mr. Hernandez's nomination. President Bush nominated Judge Hernandez to this seat in the 110th Congress. Unfortunately, his nomination stalled in the Judiciary Committee, although he had the full support of every Republican on the committee. After pending for over 5 months with no action, his nomination, at that time, was returned to the President.

This vacancy has been designated a judicial emergency. Therefore, I would have expected his nomination to have been made very early in the 111th Congress. However, it was not sent to the Senate until July of last year. Because of that delayed nomination, the Senate was unable to complete action on the nomination in that Congress. At the close of the 111th Congress, the nomination was again returned to the President.

Mr. Hernandez has been rated "qualified" by the American Bar Association. He received his B.A. from Western Oregon State College and his J.D. from the University of Washington School of Law.

After graduating from law school, he served as an attorney for Oregon Legal Services, where he represented migrant farmworkers. He later joined the Washington County district attorney's office as a deputy district attorney.

Mr. Hernandez is a fine nominee under President Bush's standards but also a fine nominee under President Obama's standards. I am pleased this nomination is finally before the Senate. I am, however, disappointed that we have a vacancy that could have been filled over 2 years ago. With our vote today, the President can fill this judicial emergency seat with a qualified nominee.

Mr. President, I also support the nomination of Diana Saldana to be a U.S. district judge for the Southern District of Texas. She has the support of both home State Senators who spoke very highly of her at her September 29, 2010, nomination hearing.

Judge Saldana received a BA in history and in government from the University of Texas. She received her JD from the University of Texas School of Law. Upon graduation, she clerked for the Honorable George Kazen.

She has had a very successful career. Judge Saldana has been a staff attorney in the Civil Rights Division at the U.S. Department of Agriculture, a trial attorney with the Department of Justice, and served as an assistant U.S. attorney in the Southern District of Texas. She was appointed to be a U.S. magistrate judge in 2006.

Judge Saldana was nominated by the President on July 14, 2010. She was rated unanimously well qualified by the American Bar Association.

I am pleased to support Judge Saldana's nomination to this very important seat. Not only has it been deemed to be a judicial emergency but it is also the seat to which her mentor, Judge Kazen, previously occupied.

Mr. President, I also support Paul Kinloch Holmes III, a nominee to be a U.S. district judge for the Western District of Arkansas. A graduate of Westminster College and the University of Arkansas School of Law, Mr. Holmes has been rated unanimously well qualified by the American Bar Association.

After graduating from law school, Mr. Holmes became an associate at the law firm of Warner & Smith, a firm that focused on general civil practice. On August 6, 1993, President Clinton nominated him to be the U.S. attorney for the Western District of Arkansas. The Senate confirmed his nomination shortly after, and he served his role with distinction until 2001. Since then, Mr. Holmes has been in private practice handling both criminal and civil litigation.

Again, I am pleased to support the nomination of Mr. Holmes to this seat that has been deemed a judicial emergency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I rise to also support the nomination of Judge Marco Hernandez of Oregon to the U.S. district court. Judge Hernandez is unquestionably qualified to serve on this court. He has built his career through hard work and determination.

As a young man, he attended night classes at a local community college before enrolling at Western Oregon State College. He then proceeded to get a law degree at the University of Washington School of Law.

As a young man, he picked crops. After he graduated from law school at the University of Washington, he returned to Oregon to join Legal Aid Services and represent farm workers. He went on to serve as deputy district attorney in Washington County and was later appointed to be a State court judge, a position he has held since 1995.

As a State court judge, he established an innovative domestic violence program designed to aggressively pursue offenders. He also established a new program to assist mentally ill defendants, a program he continues to oversee.

Judge Hernandez was first nominated to the district court by President Bush in 2008. Although Congress did not act on his nomination, he has again been nominated by President Obama and has the support of Republicans, Democrats, and organizations representing the spectrum of the legal community.

He also has strong support from the Hispanic National Bar Association and,

if confirmed, will be the first Hispanic article III judge in the State of Oregon.

I urge my colleagues to support Judge Hernandez's confirmation. I look forward to his contributions, based on the depth and breadth of his life experience, to the U.S. district court.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that all time be yielded back so we can proceed to our votes.

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

Under the previous order, all time having been yielded back, the nomination of Marco A. Hernandez is confirmed.

The Senate will proceed to vote on the nomination of Diana Saldana to be U.S. district judge for the Southern District of Texas.

Mr. ROCKEFELLER. 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 Diana Saldana, of Texas, to be United States District Judge for the Southern District of Texas?

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. LAUTENBERG) would vote "yea."

Mr. KYL. The following Senator is necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

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

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 12 Ex.]

YEAS—94

Akaka	Boozman	Chambliss
Ayotte	Boxer	Coats
Barrasso	Brown (MA)	Coburn
Baucus	Brown (OH)	Cochran
Begich	Burr	Collins
Bennet	Cantwell	Conrad
Bingaman	Cardin	Coons
Blumenthal	Carper	Corker
Blunt	Casey	Cornyn

Crapo	Kyl	Roberts
DeMint	Landrieu	Rockefeller
Durbin	Leahy	Rubio
Ensign	Lee	Sanders
Enzi	Levin	Schumer
Feinstein	Lugar	Sessions
Franken	Manchin	Shaheen
Gillibrand	McCain	Shelby
Graham	McCaskill	Snowe
Grassley	McConnell	Stabenow
Hagan	Merkley	Tester
Harkin	Mikulski	Thune
Hatch	Moran	Toomey
Hoeven	Murkowski	Udall (CO)
Hutchinson	Murray	Udall (NM)
Inhofe	Nelson (NE)	Vitter
Inouye	Nelson (FL)	Warner
Isakson	Paul	Webb
Johanns	Portman	Whitehouse
Johnson (SD)	Pryor	Wicker
Johnson (WI)	Reed	Wyden
Kirk	Reid	
Klobuchar	Risch	

## NOT VOTING—6

Alexander	Kohl	Lieberman
Kerry	Lautenberg	Menendez

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we are going to have one more vote tonight. Senator MCCONNELL and I have spoken earlier today. We will have one or two votes in the morning. We will terminate before 11 o'clock, so we will have a vote around 10 o'clock, 10:15 in the morning—maybe two—on the FAA bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, is there time for the Senator from Arkansas if he wants it? I request 2 minutes equally divided on the Arkansas nomination, and I yield my time to the senior Senator from Arkansas.

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

Mr. PRYOR. Mr. President, I rise today to support the nomination of Paul K. Holmes—in Arkansas we call him P.K. Holmes—for the district court judgeship in western Arkansas. A lot of times when you stand here at this moment in a nomination, it is like making a closing argument. But in this particular case there is no argument; everybody is for him. The American Bar Association, Democrats, Republicans, plaintiffs, defendants, everybody in Arkansas is for him.

He has been an Arkansas Lawyer of the Year. He has been the Western District U.S. Attorney. He is a partner in Warner, Smith and Harris. P. K. Holmes has an outstanding record and outstanding reputation. He likes to talk about the fact that he has a small town general practice, and that is true. He has handled a little bit of everything, but he has always done it with integrity. He has an outstanding reputation in Arkansas as a lawyer and a great member of the community.

I would hope all of my colleagues support this nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Paul Kinloch Holmes III, of Arkansas, to be U.S. district judge for the Western District of Arkansas?

Mr. INOUE. Mr. President, 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

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

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

The result was announced—yeas 95, nays 0, as follows:

## [Rollcall Vote No. 13 Ex.]

## YEAS—95

Akaka	Feinstein	Murkowski
Ayotte	Franken	Murray
Barrasso	Gillibrand	Nelson (NE)
Baucus	Graham	Nelson (FL)
Begich	Grassley	Paul
Bennet	Hagan	Portman
Bingaman	Harkin	Pryor
Blumenthal	Hatch	Reed
Blunt	Hoeven	Reid
Boozman	Hutchinson	Risch
Boxer	Inhofe	Roberts
Brown (MA)	Inouye	Rockefeller
Brown (OH)	Isakson	Rubio
Burr	Johanns	Sanders
Cantwell	Johnson (SD)	Schumer
Cardin	Johnson (WI)	Sessions
Carper	Kirk	Sessions
Casey	Klobuchar	Shaheen
Chambliss	Kyl	Shelby
Coats	Landrieu	Snowe
Coburn	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Lee	Thune
Conrad	Levin	Toomey
Coons	Lugar	Udall (CO)
Corker	Manchin	Udall (NM)
Cornyn	McCain	Vitter
Crapo	McCaskill	Warner
DeMint	McConnell	Webb
Durbin	Merkley	Whitehouse
Ensign	Mikulski	Wicker
Enzi	Moran	Wyden

## NOT VOTING—5

Alexander	Kohl	Menendez
Kerry	Lieberman	

The nomination was confirmed.

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

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

## VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the votes on the nomination of Paul Holmes to be United States District Judge for the Western District of Arkansas and Diana Saldana to be United States District Judge for the Southern District of Texas. If I were able to attend today's

session, I would have supported both nominees.●

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session. The Senator from Iowa.

## FOR-PROFIT ONLINE COLLEGES AND UNIVERSITIES

Mr. HARKIN. Mr. President, last December I came to the floor to discuss the Health, Education, Labor, and Pensions Committee investigation into for-profit online colleges and universities. It is an investigation that has now been going on for almost a year, and it is an investigation with profound consequences for taxpayers.

For-profit colleges, mostly online, receive more than \$26 billion in Federal student aid each year. While some of these schools may be doing a good job, taxpayers deserve to know that their education dollars are being well spent. It is also an investigation with profound consequences for students.

According to data released last week by the Department of Education, 25 percent of for-profit college student loan borrowers default within 3 years of leaving school. One out of every four student loan borrowers who go to these for-profit schools defaults within 3 years of leaving school.

For-profit colleges have correctly pointed out that they educate a disproportionate number of low-income and minority students. They argue that if they were not doing a good job, students would not continue to enroll. How, then, is it possible that schools with very high rates of withdrawal, high rates of loan debt, and high rates of default continue to enroll more and more students each year? The answer, according to my committee's investigation, lies in the enormous expenditure of money and effort that the for-profit colleges put into their recruitment process.

There have been many stories about abusive recruitment practices in newspapers and television programs across the country. Last August, the Government Accountability Office documented many of those abuses in undercover videos presented at a HELP Committee hearing. The industry argued that these misleading and deceptive practices were the work of a few rogue actors, but the overwhelming evidence of misleading, deceptive, and even fraudulent conduct documented by GAO cannot be attributed to anything but a systemic effort to enroll students at any cost.

For anyone who questions that this is a systemic effort to pressure, deceive, and mislead, I wish to take a few minutes to explore the details of the training practices that led directly to the GAO findings. I hope my colleagues on both sides of the aisle and on both sides of the Capitol find this a useful window into the training tactics used by these companies.