

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. WYDEN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources on Thursday, December 12, 2013, at 9 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the nominations of Dr. Franklin M. Orr to be Under Secretary for Science, Department of Energy, Mr. Jonathan Elkind, to be an Assistant Secretary of Energy, International Affairs, Ms. Rhea S. Suh, to be Assistant Secretary of Fish and Wildlife and Parks, Department of the Interior, and Mr. Tommy P. Beaudreau, to be an Assistant Secretary of the Interior, Policy, Management and Budget.

For further information, please contact Sam Fowler at (202) 224-7571 or Abigail Campbell at (202) 224-4905.

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. WYDEN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting and hearing have been scheduled before the Senate Committee on Energy and Natural Resources on Tuesday, December 17, 2013, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the business meeting is to consider the nominations of Dr. Steven P. Croley, to be the General Counsel, Department of Energy, Mr. Christopher A. Smith, to be an Assistant Secretary of Energy, Fossil Energy, and Ms. Esther P. Kia'aina to be an Assistant Secretary of the Interior, Insular Areas.

The purpose of the hearing is to consider the nominations of Ms. Janice M. Schneider, Assistant Secretary of the Interior, Land and Minerals Management, Department of the Interior, Mr. Neil G. Kornze, Director of the Bureau of Land Management, Department of the Interior, Dr. Marc A. Kastner, Director of the Office of Science, Department of Energy, and Dr. Ellen D. Williams, Director of the Advanced Research Projects Agency-Energy, Department of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to Abigail.Campbell@energy.Senate.gov.

For further information, please contact Sam Fowler at (202) 224-7571 or Abigail.Campbell at (202) 224-4905.

AUTHORITY FOR COMMITTEES TO
MEETCOMMITTEE ON BANKING, HOUSING, AND URBAN
AFFAIRS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 11, 2013, at 3:30 p.m., to conduct a hearing entitled "Rebuilding American Manufacturing."

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

COMMITTEE ON THE JUDICIARY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 11, 2013, at 2 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Continued Oversight of U.S. Government Surveillance Authorities."

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

SUBCOMMITTEE ON FINANCIAL AND
CONTRACTING OVERSIGHT

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Financial and Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 11, 2013, at 2 p.m. to conduct a hearing entitled, "A More Efficient and Effective Government: Streamlining Overseas Trade and Development Agencies."

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

SPECIAL COMMITTEE ON AGING

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on December 11, 2013, in room 562 of the Dirksen Senate Office Building beginning at 3:45 p.m., to conduct a hearing entitled "Protecting Seniors From Medication Labeling Mistakes."

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

CONFIRMATION

Executive nomination confirmed by the Senate: Thursday, December 12, 2013:

THE JUDICIARY

CORNELIA T. L. PILLARD, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture.

The assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission:

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now asks the clerk to call the roll to ascertain the presence of a quorum.

The assistant bill clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5]

Alexander	Grassley	Nelson
Ayotte	Harkin	Paul
Baldwin	Heinrich	Portman
Barrasso	Heitkamp	Reed
Baucus	Heller	Reid
Bennet	Hirono	Risch
Blumenthal	Isakson	Roberts
Blunt	Johanns	Rockefeller
Boozman	Johnson (SD)	Sanders
Boxer	Johnson (WI)	Schumer
Brown	Kaine	Scott
Burr	King	Sessions
Cantwell	Klobuchar	Shelby
Cardin	Landrieu	Stabenow
Coats	Leahy	Tester
Collins	Lee	Thune
Corker	Manchin	Toomey
Cornyn	Markey	Udall (CO)
Crapo	McCaskill	Udall (NM)
Donnelly	McConnell	Vitter
Durbin	Menendez	Warner
Enzi	Merkley	Warren
Feinstein	Mikulski	Wicker
Fischer	Murkowski	Wyden
Flake	Murphy	
Gillibrand	Murray	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

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

The yeas and nays resulted—yeas 57, nays 39, as follows:

[Rollcall Vote No. 257 Ex.]

YEAS—57

Baldwin	Begich	Blumenthal
Baucus	Bennet	Booker

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

NAYS—39

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

NOT VOTING—4

Chambliss	Kirk	Moran
Coburn		

The PRESIDING OFFICER. On this vote the yeas are 57, the nays 39. The motion is agreed to.

NOMINATION OF CHAI RACHEL FELDBLUM TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2018.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

The majority leader.

Mr. REID. Madam President, it is my understanding that if I yield back 40 minutes, the vote will occur at 9 a.m. tomorrow morning.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I yield back 40 minutes of the Democrats' time.

The PRESIDING OFFICER. The time is so yielded.

The Senator from Arizona.

Mr. FLAKE. Madam President, I rise to address the nomination and some other issues.

I want to say a few words about nominations. The Senate just confirmed President Obama's third nominee to the D.C. Circuit this year, and did so without the support of a single Senator from the minority party.

I have only been in the Senate for a year, but I understand the importance

of minority rights and the moderating effect that the minority has on the nominations and on legislation as a whole. Requiring the support of at least some of the minority Senators encourages both the nomination and appointment of more mainstream nominees.

I think in the case of executive nominees, it ensures the heads of executive agencies are responsible to both the minority and majority parties. Minority input reinforces the separation of powers and safeguards the ability of Congress to conduct effective oversight.

Let me give a couple examples of where I think this is important and something we have lost once the nuclear option was employed with regard to executive appointments.

Earlier this year we had the appointment of a person to head the Environmental Protection Agency. It is an extremely important agency. It is important to Arizona—particularly since Arizona has a lot of Federal, State, and public lands—where actions of the Federal Government are perhaps amplified, and so that was an extremely important appointment. I ended up voting for Gina McCarthy. I think she is a good nominee.

I understand that the President won the election, and he has the power to appoint his people and his team. Unless there are extraordinary circumstances, he ought to have that right. I have voted for nearly all of his nominees.

In this case, the head of the Environmental Protection Agency, while she was the nominee she knew she needed 60 votes. She knew she ought to see not just the Members of the majority party but those in the minority as well, and she made the rounds to my office as well as others.

We had a good meeting. For example, I explained the importance of the dust regulations that are promulgated by the EPA where Arizona has a problem. We have occasional dust storms that are not recognized as such, and sometimes we have to fill out paperwork that is costly and time consuming just to convince the Federal Government that an occasional dust storm does blow through. It has nothing to do with the air quality protections or provisions that have been put in place but just because of the conditions on the ground. The Environmental Protection Agency's guidance and regulations have not caught up to that.

She was understanding of that. She worked at the State level and agreed to talk to the stakeholders and interested parties in Arizona about this issue. She made good on that promise. We had that conference call a few weeks later, and it was the first time that many of these people in Arizona had been heard on the issue. They had a good meeting with the EPA, and I think it will lead to better regulations coming out of the EPA.

That was a product of the process we had here which requires nominees from the President to not just go to the majority party, but to go to the minority party as well. I fear that has been lost, and I think that is a shame. I wish we could go back to the system we had and the system the Senate has operated on for a long time.

When I gave my maiden speech on the floor a few months ago, I mentioned that the party holding the gavel is on a short leash. Bringing even the most noncontroversial resolutions to the Senate floor requires the agreement, or at least the acquiescence, of the minority party. I mentioned at that time that over the past decade both parties have chafed under these arrangements. Both parties have, at times, considered changing the rules that would in some measure make the Senate more like the House. I mentioned at that time, up to that time, that both parties had resisted that urge. They had been convinced by their own Members and others that it wasn't the way to go. Unfortunately, that is no longer the case, and I think this body, this institution will be the poorer for it. I hope we can return to the traditions of the Senate, one where consensus is the hallmark of this body. I hope we can get there.

Let me turn my attention to one of the issues that I think is a good example of what happens when one party moves legislation through this body too quickly, without consultations from the other party. It has to do with the Affordable Care Act. The Affordable Care Act passed with not a single Republican vote in the House or in the Senate. I think it is a good example of what can happen if legislation is rushed through without consultation or input from both parties.

Let me speak about some of the issues that have come up with the Affordable Care Act, better known as ObamaCare. The Wall Street Journal had an editorial the other day that talked about some of the issues that are going on with the enrollment data. It says:

Most of Washington seems to have bought the White House claim that 36 federal exchanges are finally working. . . .

They go on to explain what working really means:

A charitable reading suggests that ObamaCare's net enrollment stands at about negative four million. That's the estimated four million to five and a half million people who had their individual plans liquidated as ObamaCare-noncompliant—

They are liquidated because they were noncompliant with ObamaCare—offset by about 364,682 who have signed up for a plan on a state or federal exchange and the 803,077 who have been found to be eligible to receive Medicaid.

So if we take that and net it out, it means that net enrollment—people who now are covered by insurance of