surface transportation reauthorization process forward by supporting the motion to proceed on S. 1813.

Sincerely,

TRANSPORTATION CONSTRUCTION COALITION.

Mrs. BOXER. It is from the Transportation Construction Coalition. They are urging all of us for an ''aye'' vote on the motion to proceed to the Transportation bill. They have said wonderful things about our bill—that they like the steps we have taken to accelerate all the reviews and flexibility for the States, greater authority for our States, and the fact that we did this in a comprehensive way and in a bipartisan way. I am very grateful.

What I would like to do is read the names of these organizations because it shows you the depth in America of the support for this bill: The American Road and Transportation Builders; Associated General Contractors; the American Coal Ash Association; the American Concrete Pavement Association; the American Concrete Pipe Association; the American Council of Engineering Companies; the American Subcontractors Association; American Iron and Steel Institute; American Society of Civil Engineers; American Traffic Safety Services Association; the Asphalt Emulsion Manufacturers Association; Asphalt Recycling and Reclaiming Association; Associated Equipment Distributors; Association of Equipment Manufacturers; Concrete Reinforcing Steel Institute; International Slurry Surfacing Association; International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers; International Union of Operating Engineers; Laborers-Employers Cooperation and Education Trust; Laborers' International Union of North America; National Asphalt Pavement Association; National Association of Surety Bond Producers; National Ready Mixed Concrete Association; National Stone, Sand & Gravel Association; National Utility Contractors Association; Portland Cement Association; Precase/Prestressed Concrete Institute; the Road Information Program; and the United Brotherhood of Carpenters and Joiners of America.

The reason I read these 29 organizations—there are 1,000 organizations behind our bill—I want colleagues to understand how people have come together from all sides of the aisle—union workers, nonunion workers, the businesses and union businesses. Everybody has come together—Democrats, Republicans, and Independents—on our committee. The reason is that we are coming out of a very tough and deep recession where housing was hurt deeply, and we are having a very tough time coming out of the housing recession. Construction workers have a 15-percent or more unemployment rate, compared to an 8.3-percent unemployment rate in the rest of the workforce. If you put them into Super Bowl stadiums, they would fill 15 Super Bowl stadiums. Imagine that.

We have an obligation to come together on behalf of jobs and the aging infrastructure that needs to be fixed. We have bridges collapsing and roads that are not up to par. We have problems in this Nation, and we can stop them and solve them only if we come together.

I will end here because my colleague would like the floor, and that is fine. I think we will have an opportunity at around the 2:15 hour or so to come together united and give a great vote of confidence to this bill, to move it ahead with an overwhelming vote. Maybe I am dreaming, but I hope for well over 60 votes to go forward. Then let's get to the amendment process and let's not offer extraneous amendments that have to do with everything but transportation. Let's keep this focused. Then we can get to conference and get a bill to the President.

In closing, if our bill is the law of the land, we would save 1.8 million jobs and be able to create up to another million jobs. There is a lot riding on this bill. I hope we will come together this afternoon.

Thank you for your indulgence.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF CATHY ANN BENCIVENGO TO BE A UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Cathy Ann Bencivengo, of California, to be United States District Judge for the Southern District of California.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes of debate, equally divided, prior to a vote on the nomination, with the time already consumed counting toward the majority's portion.

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise to speak on behalf of the nomination of magistrate judge Cathy Ann Bencivengo to the position of district judge for the Southern District of California.

Judge Bencivengo will fill a judicial emergency vacancy in a judicial district along the southwest border that has one of the highest and most rapidly increasing criminal caseloads in the country.

The Southern District of California includes San Diego and Imperial Counties. It borders Mexico, and it consequently has a large immigration caseload. It ranks fourth in the country in terms of criminal case filings per authorized judgeship.

The district's former chief judge, Irma Gonzalez, wrote me a letter urging Judge Bencivengo's confirmation and highlighting the felony caseload crisis in the district. As Chief Judge Gonzalez explained, since 2008 criminal case filings in the district have increased by 42 percent and civil case filings by 25 percent. In the past fiscal year alone, criminal cases had risen 17 percent up to the time of her letter. It is, in fact, a judicial emergency.

The ACTING PRESIDENT pro tempore. The Senator is advised the previous allotted time has expired.

Mrs. FEINSTEIN. I ask unanimous consent to speak for 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. FEINSTEIN. Let me tell everyone a little about Judge Bencivengo. She is a consensus nominee who was approved by the Judiciary Committee by a voice vote. That does not often happen. There was no objection from any colleague on any side of the aisle.

She was recommended to me by a bipartisan judicial selection committee which I have established in California to advise me in recommending judicial nominees to the President. This committee reviews judicial candidates based on their legal skill, reputation, experience, temperament, and overall commitment to excellence.

Judge Bencivengo has been a U.S. magistrate judge in San Diego for the last 6 years, and she has earned an outstanding reputation in that judicial role.

Throughout my advisory committee's process, Judge Bencivengo has actually set herself apart as a person who would be truly exceptional. She was born in New Jersey. She began her undergraduate career at Rutgers. She earned a bachelor's in journalism and political science and a master's from Rutgers as well.

She worked for a leading American corporation—Johnson & Johnson—in New Brunswick. She then attended the University of Michigan Law School, where she excelled, graduating magna cum laude, and was inducted into the Order of the Coif.

After law school, she joined the San Diego firm of Gray Cary, which later became part of a major international law firm. She became a founding member of the firm's patent litigation group. Her knowledge of patent law, which she honed in law school and in private practice, made her a valued resource for her colleagues and clients, so she quickly rose through the ranks at her firm. She was selected as the national cochair of her firm's patent litigation group, a role in which she managed 70 patent attorneys.

In 2005, she became a magistrate judge, a role in which she has served as a serious and thoughtful jurist. Since her appointment, she has published 180 opinions, over 190 reports and recommendations, over 1,800 orders on nondispositive motions, and roughly 800 of her orders involved felony criminal cases.

She has substantial expertise in patent law, which will be welcome in the district, which is part of a new Federal judicial program designed to assign more patent cases to judges who are experts in the field of patent law. So she will be helpful.

Judge Bencivengo has received high praise from any number of people. I know of no opposition to her confirmation. I think this advice and consent process will yield a very good, seasoned San Diego magistrate judge for the district court, and I am very proud to recommend her and to have had unanimous consent of the Judiciary Committee for her confirmation.

I see Senator LEE on the floor. Perhaps I could ask unanimous consent that when Senator LEE concludes, and if there is time remaining, I be recognized to speak for a couple minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Utah.

Mr. LEE. Mr. President, I ask unanimous consent to speak for a period of up to 7 minutes.

The ACTING PRESIDENT pro tempore. The Senator has that time.

Mr. LEE. Mr. President, I rise in opposition to this nomination. I do so not because of the qualifications of this particular nominee, but instead I do so in defense of the U.S. Constitution.

In opposing President Obama's appointments, I have repeatedly made clear this is a constitutional issue. Each time I have spoken—and I have done so on numerous occasions—I have set forth in detail the reasons why I believe on a legal basis, on a constitutional basis, why President Obama's recent purported recess appointments are unprecedented and unconstitutional. I have also made absolutely clear that my opposition to President Obama's appointments is not partisan and that I will hold a Republican President equally accountable whenever any Republican President makes a similarly unconstitutional claim of power.

This President has enjoyed my cooperation up to this point. I voted for many, if not most, of his nominees. That cooperation cannot continue—not in the same way he has enjoyed it up to this point. In light of the fact he has disrespected our authority within this body, he has disrespected the Constitution.

Unfortunately, many of my colleagues have refused to engage on the real substance of this issue. Instead, they have repeatedly changed the subject to partisan politics, the nominations process, and Richard Cordray's qualifications to head the CFPB. Even worse, and despite my repeatedly making clear I intend to hold any Republican President to the same standard to protect the institutional and constitutional prerogatives of the Senate rather than the interests of any political party—given those are at stake—the Democrats, including the President himself, have accused me of playing politics. I wish to be clear again: This is not the case. I am here to defend the constitutional prerogatives of the Senate and the separation of powers and the system of checks and balances that are at the heart of our constitutional system.

The Senate's advice-and-consent role is grounded in the Constitution's system of checks and balances. In Federalist 51, James Madison wrote:

> . . . the great security against a gradual concentration of the several powers in the same [branch of government], consists in giving to those who administer each [branch] the necessary constitutional means and personal motives to resist encroachments of the others.

Among those constitutional means is the Senate's ability to withhold its consent for a nominee, forcing the President to work with Congress to address that body's concerns.

The key conclusion of the Department of Justice's Office of Legal Counsel memorandum, on which President Obama relied in making these recess appointments, is that the President may unilaterally decide and conclude that the Senate's pro forma sessions somehow do not constitute sessions of the Senate for purposes relevant to the recess appointments clause, in clause 3 of article II, section 2. If allowed to stand, this deeply flawed assertion would upend an important element of the Constitution's separation of powers. Under the procedures set forth by the Constitution, it is for the Senate, not for the President, to determine when the Senate is in session. Indeed, the Constitution expressly grants the Senate that prerogative, the power to ''determine the Rules of its Proceedings.''

Commenting on this very provision in his authoritative constitutional treatise, Joseph Story noted:

> [t]he humblest assembly of men is understood to possess [the power to make its own rules,] and it would be absurd to deprive the councils of the nation of a like authority.

Yet this is precisely the result of President Obama's attempt to tell the Senate when it is or is not in recess.

I am saddened some of my colleagues in the Senate are not more jealous of this body's rightful constitutional, institutional prerogatives. As they well know, the Constitution's protections do not belong to any one party, and its structural separation of powers is meant to protect against the abuses of present and future Presidents of both parties. Acquiescing to the President in the moment may result in temporary political gain for the President's party, but relinquishing this important piece of the Senate's constitutional role has lasting consequences for Republicans and Democrats alike.

It is on this basis, and because of the oath I have taken to uphold the Constitution of the United States, that I find myself dutybound to oppose this nomination. I strongly urge my colleagues on both sides of the aisle to take seriously their obligation both to the Constitution and to the institutional prerogatives of the Senate and to do the same.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would like to briefly respond to Senator LEE's comments.

I understand the reasons for which he is opposing this nominee. I would again point out that, in my opinion, based on what I heard the distinguished Senator say, it has nothing to do with the nominee. It has to do with a peripheral issue. I would hope a majority of the Senate would understand this is a totally noncontroversial, totally capable, totally qualified, and totally good nominee. To hold her confirmation hostage is something that doesn't redound well on this body.

This is a judicial emergency in the Southern District of California, and we need to get this judge approved. So while I appreciate the Senator's comments—I think most of us are well aware of the feelings on the other side—I think somehow, some way, we have to come together and prevent what is happening. And what is happening is, if I don't get my way on something, I am going to hold up appointments, I am going to hold up confirmations, and I am going to do whatever I can to show I have power to disrupt this body.

In essence, the body can be disrupted. We know that. There are very strong minority rights in the Senate rules of order. But at the same time, we have an obligation to see that qualified people who want to serve in this government—in this case in the judicial arm, in the Federal Court system—have an opportunity to do so, and where there is real danger in terms of overly high caseloads, we can respond and get qualified nominees in place.

I appreciate what the Senator had to say. I understand it. But I appeal to this body: Please vote to approve Cathy Bencivengo to the Southern District of California.

Mr. LEAHY. Mr. President, today, the Senate will finally vote on the nomination of Judge Cathy Bencivengo to fill a vacancy on the the U.S. District Court for the Southern District of California, where she has served as a Magistrate Judge since 2005. An experienced judge and lawyer, with 17 years in private practice before becoming a Magistrate Judge, Judge Bencivengo received the highest possible rating from the ABA's Standing Committee on the Federal Judiciary, unanimously ''well qualified.'' Her nomination, which has the strong support of her home state Senators, Senators Feinstein and Boxer, was reported unanimously by the Judiciary Committee on October 6. Yet, despite the support of every Member of the Judiciary Committee, Democratic and Republican, and despite vacancies across the country in nearly one out of every 10 Federal judgeships, it has taken over 4

months for Senate Republicans to consent to a vote on Judge Bencivengo's nomination.

I thank the Majority Leader for securing today's vote. There is no reason or explanation why the Senate Republican leadership will not consent to vote on the other 18 judicial nominations waiting for final Senate action. All but three of them were reported by the Judiciary Committee without opposition, just like Judge Bencivengo's nomination.

Earlier this week I urged Senate Republicans to join with Democrats and take long overdue steps to remedy the serious vacancies crisis on Federal courts throughout the country. Consenting to vote on a single judicial nomination, only the third such vote we have had this year, is not much in the way of progress.

There is no reason or explanation for why Senate Republicans continue to block a vote on the nomination of Jesse Furman to fill a vacancy on the Southern District of New York. His nomination was voted out of the Judiciary Committee on September 15, nearly 5 months ago, without opposition from a single member of the Committee and a month before the nomination being considered today. Mr. Furman, an experienced Federal prosecutor who served as Counselor to Attorney General Michael Mukasey for 2 years during the Bush administration, is a nominee with an impressive background and bipartisan support. We should have voted on his nomination many months ago, and certainly before the end of the last session. Senate Republicans have now skipped over that nomination and stalled it for almost 5 months.

Senate Republicans continue to block even judicial nominations with home State support from Republican Senators. Republican Senator MARCO RUBIO and Democratic Senator BILL NELSON of Florida both introduced Judge Adalberto Jordan of Florida to the Judiciary Committee when we held his confirmation hearing last September for his nomination to fill a judicial emergency vacancy on the Eleventh Circuit, and both strongly support his nomination.

Judge Jordan is an experienced jurist who has served as a judge for the Southern District of Florida since 1999. If confirmed, Judge Jordan will be the first Cuban-born judge to serve on the Eleventh Circuit, which covers Florida, Georgia and Alabama. Born in Havana, Cuba, Judge Jordan immigrated to the United States at age 6, going on to graduate summa cum laude from the University of Miami law school. After law school, he clerked for Judge Thomas A. Clark on the Eleventh Circuit, the court to which he is now nominationed, and for Justice Sandra Day O'Connor, a President Reagan appointee to the United States Supreme Court. Judge Jordan has been a prosecutor in the Southern District of Florida, serving as Deputy Chief and then Chief of the Appellate Division. Judge Jordan has been a professor, since 1990 teaching at his alma mater, the University of Miami School of Law, as well as the Florida International University College of Law. It is no suprrise that the ABA's Standing Committee on the Federal Judiciary unanimously rated Judge Jordan ''well qualified'' to serve on the Eleventh Circuit, the highest possible rating from its non-partisan peer review. It is also no surprise that his nomination was reported unanimously by the Judiciary Committee nearly 4 months ago. The surprise is that Senate Republicans continue to stall action on this nomination for no good reason.

Judge Jordan is the kind of consensus judicial nominee that should be welcomed as one of the many examples of President Obama reaching out to work with Republican and Democratic home State senators and the kind of superbly qualified nominee we should all encourage to serve on the distinguished bench of Federal appeals court judges. In the past the Senate would have voted on his nomination within days or weeks of its being reported unanimously by the Judiciary Committee. Yet Republicans refused to consent to a vote on Judge Jordan's nomination before the end of the last session and it has been stalled on the Senate Calenadar for nearly 4 months. When we finally do vote on Judge Jordan's nomination I am certain he will be confirmed with broad bipartisan support, perhaps unanimously. There is no good reason the Senate is not voting to confirm Judge Jordan today.

If caseloads were really a concern of Republican Senators, as they contended when they filibustered the nomination last December of Caitlin Halligan to the D.C. Circuit, they would not continue to block us from voting on Judge Jordan's nomination to fill a judicial emergency vacancy on the Eleventh Circuit, one of the busier circuits in the country. They would not continue to block a vote on the nomination of Judge Jacqueline Nguyen, reported last December to fill a judicial emergency vacancy on the Ninth Circuit, the busiest Federal appeals court in the country. They would consent to vote on the nomination of Paul Watford, a well-qualified nominee to fill another judicial emeregency on the Ninth Circuit. They would stop blocking us from voting on the nominations of David Nuffer to fill a judicial emergency vacancy on the District of Utah, Michael Fitzgerald to fill a judicial emergency vacancy on the Central District of California, Miranda Du to fill a judicial emergency vacancy on the District of Nevada, Gregg Costa to fill a judicial emeregency vacancy on the Southern District of Texas, and David Guaderrama to fill a judicial emergency vacancy on the Western District of Texas.

Of the 19 judicial nominations now awaiting a final vote by the Senate, 16 were reported by the Judiciary Committee with the support of every Senator on the Committee, Democratic and Republican. Month after month and year after year, Senate Republicans find excuses to delay confirmation of consensus judicial nominees for no good reason. These delays are a disservice to the American people. They prevent the Senate from fulfilling its constitutional duty. And they are damaging to the ability of our Federal courts to provide justice to Americans around the country.

The cost of this across-the-board Republican obstruction is borne by the American people. More than half of all Americans, nearly 160 million, live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans just agreed to vote on the nominations that have been reported favorably by the Judiciary Committee. It is wrong to delay votes on these qualified, consensus judicial nominees. The Senate should fill these numerous, extended judicial vacancies, not delay final action for no good reason.

By nearly any measure we are well behind where we should be. Three years into President Obama's first term, the Senate has confirmed a lower percentage of President Obama's judicial nominees than those of any President in the last 35 years. The Senate has confirmed just over 70 percent of President Obama's circuit and district nominees, with more than one in four not confirmed. This is in stark contrast to the nearly 87 percent of President George W. Bush's nominees who were confirmed, nearly nine out of every 10 nominees he sent to the Senate.

We remain well behind the pace set by the Senate during President Bush's first term. By this date in President Bush's first term, the Senate had confirmed 170 Federal circuit and district court nominations on the way to 205, and had lowered judicial vacancies to 46. By the time Americans went to the polls in November 2004, we had reduced vacancies to 28 nationwide, the lowest level in the last 20 years. In contrast, the Senate has confirmed only 125 of President Obama's district and circuit nominees, and judicial vacancies remain over 85. The vacancy rate is double what it was at this point in the Bush administration.

I, again, urge Senate Republicans to abandon their obstructionist tactics and do as Senate Democrats did when we worked to confirm 100 of President Bush's judicial nominees in 17 months. I urge them to work to reduce judicial vacancies as we did by considering and confirming President Bush's judicial nominations late into the Presidential election years of 2004 and 2008, reducing the vacancy rates in those years to their lowest levels in decades. That is the only way we have a chance to make up some of the ground we have lost and to address the serious and extended crisis in judicial vacancies.

I congratulate Judge Bencivengo on her confirmation today and hope that

we can soon take up the rest of the 18 judicial nominations still awaiting a Senate vote.

Mr. GRASSLEY. Mr. President, today the Senate is considering the nomination of Cathy Ann Bencivengo to be U.S. district judge for the Southern District of California. I support this nomination which will fill the vacancy that has been created by Judge Jeffrey Miller taking senior status. I would also note that this vacancy has been designated as a judicial emergency.

After today, the Senate will have confirmed 126 nominees to our article III courts. I would note that even as we continue to reduce judicial vacancies, the majority of vacancies have no nominee. In fact, 46 of 86 vacancies have no nomination. Furthermore, 18 of the 33 seats designated judicial emergencies have no nominee. So when I hear comments about ''unprecedented'' vacancy rates, I would ask my colleagues and the other interested parties to look first to the White House. The fact is, the Senate is doing its job in providing advice and consent to the President's judicial nominees.

Judge Cathy Ann Bencivengo presently serves as a U.S. magistrate judge for the Southern District of California. She was appointed to that court in 2005.

She received a bachelor of arts from the Rutgers University in 1980, a masters from Rutgers in 1981, and her juris doctorate from University of Michigan Law School in 1988.

Upon graduating law school, Judge Bencivengo became an associate at the law firm DLA Piper. There, she worked as a civil litigator, primarily handling intellectual property cases. In 1996, she became a partner at DLA Piper. She also was the national cochair of patent litigation for DLA Piper from 1993 to 2005.

In 1994, Judge Bencivengo was appointed as a judge pro tem for the San Diego Small Claims Court. She served there until 2006, volunteering approximately six times a year and hearing judgments on about 100 cases.

Since becoming a magistrate judge in 2005, Judge Bencivengo has presided over two cases that have gone to final verdict.

The American Bar Association Standing Committee on the Federal Judiciary has rated Judge Bencivengo with a unanimous ''well-qualified'' rating.

Mrs. BOXER: Mr. President, I am proud to vote for the confirmation of Magistrate Judge Cathy Ann Bencivengo to the U.S. District Court for the Southern District of California. Judge Bencivengo was recommended to the President by my colleague, Senator FEINSTEIN, and will be a great addition to the Federal bench.

Judge Bencivengo will bring to the bench her broad experience as a skilled lawyer and a Federal magistrate. A graduate of Rutgers University and the University of Michigan Law School, Judge Bencivengo served as a partner and the National Co-Chair of Patent Litigation Group for the international law firm of DLA Piper. In 2005, she received an appointment to become a Magistrate Judge for the Southern District of California, where she has authored more than 170 opinions.

I congratulate Judge Bencivengo and her family on this important day, and urge my colleagues in the Senate to join in voting to confirm this highly qualified nominee to the Federal bench.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is, Shall the Senate advise and consent to the nomination of Cathy Ann Bencivengo, of California, to be United States District Judge for the Southern District of California.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. MORAN), the Senator from Kansas (Mr. ROBERTS), and the Senator from Mississippi (Mr. WICKER).

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

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 16 Ex.]

YEAS—90

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

NAYS—6

Crapo	Lee	Risch
DeMint	Paul	Shelby

NOT VOTING—4

Kirk	Roberts
Moran	Wicker

The nomination was confirmed.

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

LEGISLATIVE SESSION

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

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—MOTION TO PROCEED

CLOTURE MOTION

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

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 motion to proceed to Calendar No. 311, S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes:

Barbara Boxer, Max Baucus, Mark L. Pryor, John D. Rockefeller IV, Benjamin L. Cardin, Al Franken, Jack Reed (RI), Sheldon Whitehouse, Amy Klobuchar, Bernard Sanders, Patrick J. Leahy, Tom Udall (NM), Frank R. Lautenberg, Richard Blumenthal, Jeff Merkley, Richard J. Durbin, Harry Reid.

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 motion to proceed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. ROBERTS), the Senator from Kansas (Mr. MORAN), and the Senator from Mississippi (Mr. WICKER).

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

The yeas and nays resulted—yeas 85, nays 11, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—85

Akaka	Ayotte	Baucus
Alexander	Barrasso	Bennet