

Kohl	Murkowski	Schumer
Landrieu	Murray	Smith
Lautenberg	Nelson (FL)	Snowe
Leahy	Nelson (NE)	Specter
Levin	Pryor	Stabenow
Lieberman	Reed	Stevens
Lincoln	Reid	Sununu
Lugar	Roberts	Tester
McCaskill	Rockefeller	Webb
Menendez	Salazar	Whitehouse
Mikulski	Sanders	

## NAYS—30

Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bennett	DeMint	Lott
Brownback	Dole	Martinez
Bunning	Ensign	McConnell
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Coburn	Gregg	Thune
Cochran	Hagel	Vitter
Cornyn	Inhofe	Voinovich

## NOT VOTING—5

Clinton	Obama	Wyden
McCain	Warner	

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader is recognized.

Mr. REID. Madam President, we are going to have a vote in just a few minutes. I know people have things to do. This will be the last vote this week. But I alert all Members, we have had a number of meetings today with Senator MCCONNELL. We are trying to work it out so we do not have to have cloture on the motion to proceed to the farm bill.

I understand that the minority has to take a look at the amendment to the bill that has come out of the committee and was all ready to go and the Finance Committee needed to make some changes on it. That should be back from Legislative Counsel in just a matter of minutes—at least we hope that is the case.

If we do not have to do cloture on the motion to proceed, there will be no votes on Monday. If we do have to do a vote on the motion to proceed, there will be a noon vote on the motion to proceed on Monday, and we will have to do that; otherwise, we will come in and go to the farm bill Tuesday around 2 o'clock in the afternoon so the managers can give their opening statements, and anyone who wants to speak on the bill. There are going to be lots of opening statements on the farm bill, so I would hope people would come early and get those out of the way.

There are a number of people who have expressed to me—who have warned me that there are going to be some amendments on that bill. We are going to have to make sure we do this the right way. We want to make sure there are amendments that are offered. We will have to take a look at them because it is late in the session and the farm bill is a tax bill. So we have to make sure we do not get into any issues we do not need to get into. But we will be as fair as we can possibly be on the farm bill. It is a bill we have to complete.

Also during the next 2 weeks, we have to get the first appropriations bill

to the President. I had a very constructive conversation with Josh Bolton today regarding what will happen when we get that bill to him. We also have other important business to do, such as making sure the Government is funded after November 16.

So we have a very busy week. The President has indicated that probably tomorrow he is going to veto WRDA. We will have to take a look at that.

If there is no cloture vote, we will be on the bill Monday for opening statements, as I indicated. We have a productive farm bill.

I wish to express my appreciation to everyone for the work on the children's health bill. I will repeat what I said before the vote: There has been bicameral, bipartisan work on the CHIP bill—bicameral, bipartisan work. At 2:20 today, I went and met with a number of House Republicans trying to move forward on the children's health initiative. It is my recommendation that this bill will be sent to the President. If he vetoes the bill, it is my recommendation—I will express my feelings to the Speaker—that we not even attempt a veto override.

My Republican colleagues—this is difficult for me to be talking about: I should not say “difficult.” It is unusual for me to be talking about my Republican House colleagues. But they indicated that would be the very best step forward. We are very close to being able to do a bipartisan, bicameral children's health bill. I think we can really do that. I have spoken to the Speaker. She believes that is the case, also. If we can do that, at the earliest opportunity, we will bring that back for consideration of the Senators.

I express my appreciation to Senator BAUCUS, Senator ROCKEFELLER, Senator GRASSLEY, Senator HATCH, and many others. This has been a very difficult but rewarding process for me. It indicates to me that there is the ability of this Congress to work on a bipartisan, bicameral basis, and until we accept that as a truth, we are going to have trouble moving these many bills we have bouncing around here to completion.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, with regard to the schedule for Monday, the farm bill has not been printed yet but, as the majority leader indicated, we expect it momentarily. I am optimistic we will not end up having to invoke cloture on the motion to proceed Monday and that we will, as the majority leader suggested, not have to be back until Tuesday morning. I can't announce that right now, but I am optimistic we will be able to get that cleared up in the very near future.

The PRESIDING OFFICER. Under the previous order, the clerk will read the bill for the third time.

The bill was read the third time.

The PRESIDING OFFICER. Under the previous order, the question is on passage of the bill.

The yeas and nays have not been ordered.

Mr. COCHRAN. 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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. OBAMA), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 64, nays 30, as follows:

## [Rollcall Vote No. 403 Leg.]

## YEAS—64

Akaka	Feinstein	Murray
Alexander	Grassley	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Hatch	Pryor
Biden	Hutchison	Reed
Bingaman	Inouye	Reid
Bond	Johnson	Roberts
Boxer	Kennedy	Rockefeller
Brown	Kerry	Salazar
Byrd	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Smith
Carper	Lautenberg	Snowe
Casey	Leahy	Specter
Coleman	Levin	Stabenow
Collins	Lieberman	Stevens
Conrad	Lincoln	Sununu
Corker	Lugar	Tester
Domenici	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	
Feingold	Murkowski	

## NAYS—30

Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bennett	DeMint	Lott
Brownback	Dole	Martinez
Bunning	Ensign	McConnell
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Coburn	Gregg	Thune
Cochran	Hagel	Vitter
Cornyn	Inhofe	Voinovich

## NOT VOTING—6

Clinton	McCain	Warner
Dodd	Obama	Wyden

The bill (H.R. 3963) was passed.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

Mr. BROWNBACK. Mr. President, thank you very much.

## NOMINATION OF JUDGE MICHAEL MUKASEY

Mr. BROWNBACK. Mr. President, I will not take that much time, but I do want to draw my colleagues' attention to an issue that is going to be in front of the Judiciary Committee and my colleague, the Presiding Officer, this next week, and that is the nomination of Judge Michael Mukasey to be Attorney General of the United States.

Judge Mukasey is an outstanding nominee, highly qualified by anybody's definition, a consensus nominee who has now drawn fire. It strikes me as a situation of ignoring the forest for a tree. I want to talk about the specific tree that is here in the way, but I want to also point out the forest we have.

Judge Mukasey is an outstanding, qualified nominee, strongly supported, warmly put forward by Republicans and Democrats alike. He is not an ideologue by any means.

Senator SCHUMER said, at the outset:

[H]e could get a unanimous vote out of this committee.

Senator SCHUMER had previously discussed Judge Mukasey as a possible appointee to the U.S. Supreme Court—a lifetime appointment to the U.S. Supreme Court.

Here again, Senator SCHUMER's words:

Let me say, if the president were to nominate somebody, albeit a conservative, but somebody who put the rule of law first, someone like a . . . Mike Mukasey, my guess is that they would get through the Senate very, very quickly.

Well, it has now been 41 days that the nomination has been pending. That is longer than any other nominee for Attorney General in over 20 years. He is a consensus nominee.

I have my problems with Judge Mukasey on narrow issues. But if we look at the central issue of our day, which is the war on terrorism, the war we are having with militant Islamists that we are likely to be in for a generation, you could not ask for a more qualified Attorney General nominee than Judge Mukasey.

He is a gentleman who, as a judge, has handled some of the most difficult terrorism cases we have had in the country. He is an outstanding jurist. He is highly qualified. He handled the blind sheik case that came in front of his court. He has handled others. This is a nominee who is going to be in position for, well, the rest of this year and next year, and that is it, as Attorney General. I think he is so highly qualified he could well proceed into a next administration if he could get in in this administration. Yet he is not being put forward.

I want to quote—and this is an extraordinary quote. This is the Second Circuit Court of Appeals praising his work as a trial court judge in some of these difficult cases. I have not read before where a circuit court has praised the work of a trial court judge to such an extraordinary degree as they did of Judge Mukasey where they noted this. This is the Second Circuit saying this about him: "extraordinary skill and patience." Further continuing to quote: "outstanding achievement in the face of challenges far beyond those normally endured by a trial judge." That is the Second Circuit Court of Appeals about Judge Mukasey. This is an outstanding individual.

Now, he was sailing along, doing well as a nominee, going through a tough

confirmation process, handling the hearings well, dealing with the issues, and then an issue came up about torture, and waterboarding in particular. Then there seemed to be some confusion being declared about this, so he has cleared up the record on that issue.

I want to read what he has stated on the record about this particular issue. And I want to say at the outset, it cannot be clearer that Judge Mukasey does not approve of waterboarding. He does not approve of it. He has called the procedure "repugnant to me." He wrote to the Judiciary Committee Democrats that "nothing . . . in my testimony should be read as an approval of the interrogation techniques presented to me at the hearing or in your letter, or any comparable technique."

"[N]othing . . . in my testimony should be read as an approval of [this] interrogation technique. . . ."

He has pledged, if confirmed, he will examine interrogation programs thoroughly, and he has promised that "if, after such a review, [he] determine[s] that any technique is unlawful, [he] will not hesitate to so advise the President and . . . rescind or correct any legal opinion of the Department of Justice that supports use of the technique."

Now, do my colleagues doubt Judge Mukasey, whom they roundly praised just weeks ago, is a man of his word? Do they believe he would permit an illegal program to go forward? I do not think so. He will not. This is a straight-shooter. He is not a yes-man. He is not a yes-man to anybody. He has been on the bench for years. He has handled tough terrorism cases. He recognizes the threat terrorism is to this country. He also recognizes that the United States must stand for what is right. If we don't, that will be used against us in other places around the world, and it doesn't flow to the best image and it doesn't flow to the heart of what America is: a rule-of-law nation that stands up for what is right. He is going to do that. He has done that. He will do that.

He is not a yes-man to anybody. He is not a yes-man to people who would oppose him in this body. He is not a yes-man to the President. He has far too distinguished a career to be a yes-man, with less than 14 months left in an administration, for him to say: OK, I am just going to roll over and approve something I disagree with, in the final 14 months of an administration.

We need an Attorney General. We need an Attorney General in this country. This one has been pending far too long. I ask my colleagues who are seeking to oppose him—I think primarily on the grounds that they just want to oppose the Attorney General nominee of the United States or oppose the President—to back up and to take a second look at this gentleman and his great qualifications, his integrity he has conducted his entire life with, what he has specifically said about

waterboarding, and find it in themselves to do the right thing and support him. This is an outstanding nominee who doesn't deserve this sort of treatment. We need to get this vote up and approved.

I believe the chairman of the Judiciary Committee, whom I have worked with a great deal and whom I have a great deal of respect and admiration for, is going to hold hearings on Judge Mukasey on Tuesday, and a vote. I am hopeful we can vote him out of committee and vote him through the Senate, clearly before the Thanksgiving Day break. We need to. We need an Attorney General. This is the right man at the right time for this job.

I thank you very much, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The majority leader is recognized.

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

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

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#### SCHIP

Mr. REID. Mr. President, in my remarks dealing with the CHIP bill, I spoke profusely about the cooperation of the distinguished Speaker. She has been wonderful on this issue.

Sometimes, you leave out your friends. Steny Hoyer and I have known each other for many years. We have served in Congress together for 25 years. I failed to mention his work on this bill. He has been vigilant and with us every step of the way, and I should have mentioned his name.

I also want to say that in speaking—my staff, frankly, has spoken to him; I have not in the last hour or so. One of the things that very well could happen is that the House may not send the bill to the President for a while—the bill he says he is going to veto—to give the negotiators more time to see if they can come up with something. That is certainly something I think would be a wise thing for the House to do. Since we got the suggestion from Steny Hoyer, I am sure it is very wise. So that is one thing the House may do.

Again, everyone has cooperated. I appreciate very much the work and the stage where we are.

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#### MORNING BUSINESS

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#### FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, section 301 of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels for legislation that reauthorizes the State Children's Health