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House of Representatives

The House was not in session today. Its next meeting will be held on Friday, March 16, 2012, at 10 a.m.

Senate

WEDNESDAY, MARCH 14, 2012

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, sovereign of our Nation, by whose will the world and all creation have their being, we magnify Your Name. We know that You are mighty and we are weak, but we take heart in the knowledge that we can rely on Your strength.

Inspire our Senators today to know the constancy of Your presence, to be aware of the certainty of Your judgment, and to lift their hearts in frequent prayer to You, worshipping as they work. Guide them by Your higher wisdom and fill them with Your peace. May this be a day when we serve You with gladness because Your joy has filled our hearts.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 14, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks the Senate will be in a period of morning business for 1 hour, with the Republicans controlling the first half and the majority controlling the final half. Following morning business the Senate will resume consideration of S. 1813, the highway bill. Senators should expect three rollcall votes at 11:30 a.m. on two remaining amendments to this bill that we have been working on for such a long time and to final passage of that bill.

Upon disposition of that, the Senate will be in morning business until 2 p.m.

At 2 p.m., the Senate will be in executive session. At 2:30 p.m., there could be up to 17 cloture votes unless an agreement can be reached on those nominations.

SURFACE TRANSPORTATION ACT

Mr. REID. Madam President, it is a real accomplishment for this Senate to pass this highway bill, and it will happen. We worked through all these amendments, different tones and variations of subject matter, many of them not having anything to do with the highway bill, but as everyone knows, that is what the Senate is all about a lot of the time.

I now call upon my friend, the Speaker of the House of Representatives, to move this bill over there as quickly as possible. He has indicated that they likely will take up the Senate bill. I hope that is, in fact, the case.

At the end of this month the highway bill expires, which could lead to the laying off and termination of a little more than a million people. This bill, when it is signed by the President, will save or create 2.8 million jobs. It is important to get this done.

As for the judges, there have been conversations with me and a number of different combination of Senators, and I am hopeful we can work something out on this. If not, as I indicated, we will go ahead and have these judges votes. We need to get something done here. We have 17 judges—this does not count the appellate judges—that is, the circuit court judges—and there are 4 of those. I am hopeful we can work our

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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way toward this culmination so we don't have this situation.

We have been in touch with the White House. There has been some concern about what happens with the 2-week recess that we have, and I am confident we will work our way through that. There is a conversation as to how we proceed with the IPO bill we got from the House. I think there is general agreement that there should be an extremely limited number of amendments, and we will move this as quickly as possible. So I hope the next day or two or three brings us more success here in the Senate.

Would the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak therein for 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Madam President, I rise to speak in morning business.

LEADERSHIP

Mr. COBURN. Madam President, I am worried about the Senate as a body today. I came down here to the floor and I listened very intently to the Chaplain's prayer. He asked that we call on the higher wisdom; not man's wisdom, but God's wisdom. And I note with lots of consternation and worry that what is a very fine institution is being put at risk basically through failed leadership.

Let me explain what I mean by that. Having lived 64 years and running an organization and running a business, the quality that is most needed in leadership is a quality called reconciliation. And when that doesn't happen by our leaders—and I'm not singling out any one leader in particular—when that effort, that reconciliation, doesn't happen, it is not just directly related to the events surrounding that lack of reconciliation, it does damage to institutions. What we are about to see carried out today is the placing of partisan principles on both sides of the aisle ahead of the principle of advice and consent and the Senate's role.

Unfortunately, our leader didn't protect the Senate's rights under the Constitution with the last four nominations in terms of recess appointments, and we can debate that. But the fact is

as an institution—whether it had been a Republican leader or Democratic leader—the No. 1 issue that needs to be protected is the rights of the Senate as related to the other branches of government. I think that is unfortunate, and I think that is part of our problem today as we fail to trust one another to do what is right.

Let me go back to leadership. The real qualities of great leaders are they bring people of disparate views together and they solve those problems; they never accept the fact that an impasse is the answer. What we have queued to set up today is going to be an impasse. Everybody knows it. It is going to be an impasse. All that does is reflect poorly on the Senate as a whole and on the leadership of the Senate as a whole on both sides. So my caution would be to return to what Chaplain Black said: There is greater wisdom than we have. That is the wisdom we ought to be drawing from as we reconcile differences in the Senate, rather than destroy the comity of the Senate and destroy the ability of us to work together in the Nation's best interest in the future.

I would also tell you that the other thing I am disappointed about is that we have the Senate focused on that small issue instead of the very great issues in front of our Nation—the very fact that we are going bankrupt; that we have not done one thing this year to actually trim the excesses of the Federal Government; that we have not addressed in any way, shape, or form the very problems that are going to create tremendous burdens not only to our children but those people who, through no fault of their own, will not have a safety net in the future because we failed to make the tough decisions today, and that is wrapped up in political expediency.

One of my favorite quotes—it is a summary of Martin Luther King, Jr.'s words. It is not his exact words, but he said the following: Cowardice asks the question, Is it safe? Expediency asks the question, Is it politic? Vanity asks the question, Is it popular? But conscience and character ask the question, Is it right?

What I put forward to the two leaders today is what we are about to let unfold today in the Senate: Is that the right thing for the Senate or does it have to do with expediency and popularity? And if it is to do with those two things—whether it is connected or not—that is called failed leadership. That is a failure to lead, to reconcile, to bring people together. We are better than that. Our leaders are better than that. We should not allow this to happen.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. I ask unanimous consent to speak in morning business on majority time, and I will yield, of course, to a Republican Senator coming to the floor because I know they have some 15 minutes or so remaining.

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

JUDICIAL NOMINATIONS

Mr. DURBIN. Madam President, it is time to end the delays and move ahead with up-or-down votes on these judicial nominations.

Right now there are 22 judicial nominations sitting on the judicial calendar: 17 district court and 5 circuit court nominees. These are appointments to Federal judgeships. In many instances they are appointments that are long overdue and desperately needed.

Twelve of these nominees were voted out of the Judiciary Committee last year—last year—two of them as far back as last October.

One would think they must be very controversial people to have made it this far but then stalled on the calendar. It turns out 17 of these 22 nominees received strong bipartisan support on the committee. Thirteen had blue slips, which is permission to go forward, from home State Republican Senators. Eleven of them would fill vacancies deemed as judicial emergencies.

I don't understand how we can do this to the Federal judiciary and to the men and women who are involved. The American people need these nominations to be confirmed in a timely fashion, and it is only fair to these men and women who are offering their lives in public service and sometimes jeopardizing their current jobs because of the uncertainty of their future.

All Americans want our Federal courts to be there to prosecute criminals, to make certain they have their day in court in civil proceedings, as well as to maintain the integrity of our judicial process.

There are only two ways to schedule a confirmation vote in the Senate: either a unanimous consent agreement or file cloture, which basically means force the issue. Forcing the issue takes time, and time isn't on our side. We have important things to do: finishing the Transportation bill today and moving forward on other important issues. But since President Obama took office, Senate Republicans have routinely objected when we have asked for their consent to promptly schedule confirmation votes on judicial nominees.

When we take a look at the record President Obama has faced, the obstruction from the Republican side of the aisle is unprecedented. President Obama's district court nominees have been forced to wait on the floor more than four times longer on average than those confirmed under President Bush or under President Clinton. Overall, at this point in their terms, President Obama has had only 131 nominees confirmed while President George W. Bush had 172 and President Clinton had 183.

Right now there are 39 judicial nominees pending either on the Judiciary