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Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. LEAHY).

PRAYER

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

Let us pray.

Eternal God, we have heard with our own ears and seen with our own eyes Your great power on our behalf. Lord, our ancestors told us about You, how You kept them from disgrace, drove out evil, delivered them from shackles, rescued them from trouble, protected them from hardships, and kept this Nation free. We praise You for using our lawmakers for Your glory. Accept our thanksgiving as we press toward the future, eager to serve Your purposes for our lives in this generation.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business until 4:30 this afternoon, with Senators permitted to speak therein for up to 10 minutes each.

At 4:30 p.m. the Senate will proceed to executive session to consider the nomination of Richard F. Griffin, Jr., to be general counsel for the National Labor Relations Board for a term of 4 years. At 5:30 p.m. there will be a cloture vote.

ORDER OF PROCEDURE

I ask unanimous consent the time until 4 p.m. be for debate only.

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

UPCOMING WORK PERIOD

Mr. REID. Mr. President, I welcome back the President pro tempore. I hope he had a productive week in Vermont, and that all my colleagues enjoyed visiting with constituents at home.

This work period is going to be 4 weeks long. We have a great deal to accomplish during this 4-week period and it will go by quickly. We are attempting to work things out so we don't have to work during the holidays for a change. The last several years we have been stuck up to Thanksgiving and right through Christmas on a couple of occasions.

It is obvious Senators aren't making these Monday votes a priority. We have a lot of people not showing up. So everyone should understand, this vote tonight is a very important vote. I am disappointed some Senators aren't going to be here. But in the future the next Mondays we can be expecting a vote or series of votes. I think we have become very complacent and not worrying about the Monday night votes. We will have some votes that may be more meaningful, as this one is.

During this next work period, the only time we will have off will be November 11 for the celebration of Veterans Day. Therefore, if we are going to finish our work in this 4-week period, that means we are going to have to work on Mondays and Fridays. I hope we don't have to work weekends, but we have to get this work done.

(Mr. KAINÉ assumed the Chair.)

SENATOR-ELECT CORY BOOKER

Mr. REID. Mr. President, this week we are going to say goodbye to our colleague who was appointed to represent

the State of New Jersey after the untimely death of Frank Lautenberg, but we also will welcome a new Member to the Senate, Senator-elect from the State of New Jersey CORY BOOKER. What a remarkable young man he is.

He was a student at Stanford, and to get into Stanford you have to be a very good student. I am impressed with his academic skills, but he was also a tight end for the football team at Stanford, No. 5 in the Nation. They have a great football program. Everyone will meet CORY BOOKER and find that he is a very big man physically.

After graduating with a degree from Stanford in political science, he got his master's degree in sociology from Stanford. He then became a Rhodes Scholar and studied U.S. history at Oxford. He received his law degree from Yale. What an outstanding record: Stanford, a couple of degrees; Rhodes Scholar, Oxford; Yale Law School. That is quite impressive. Then he served on the Newark City Council and was mayor for 2 years, a job that has been noticed all over the country, recognizing the great work he has done.

THE WORK AHEAD

Mr. REID. Mr. President, during this 4-week period we are going to do a number of things, not necessarily in this order, but we are going to consider ENDA, known as the Employment Non-Discrimination Act, which would provide basic protections against workplace discrimination on the basis of sexual orientation and gender identity. We haven't taken this up for a number of years. We tried and failed in the House of Representatives before, but we are going to take it up here again.

We are going to consider a bipartisan bill to make compounding drugs safer. As we will recall, there was a terrible tragedy in the Northeast, where a number of people died as a result of not compounding these products properly. This bipartisan legislation will allow

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



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us to have safer compounding drugs and track prescription medicines from factory to the drug store.

We are going to consider job creation legislation that will build on the economic recovery and strengthen middle-class families, and we are going to take up the Defense authorization bill which supports our troops and ensures this Nation does everything in its power to keep America safe from those who would do us harm.

Before we debate any of these matters, we must consider a number of vital Presidential nominations, including several that have been stalled for more than 1 year. One of those is somebody who has been wanting to work in the Defense Department, something vitally important for the Pentagon, and has been held up for 1 year on an unrelated matter. It is too bad, but this has been held up by one Republican Senator. So we are going to move forward and do it very quickly.

It is no secret the Republicans have systematically slow-walked and blocked scores of President Obama's judicial and executive branch nominations. Pending executive nominations wait an average of 5 months. Democrats have broken filibusters of 66 of the President's nominations. Republicans have blocked or delayed more than that with secret holds and procedural holds.

As a Senate, we reached an agreement the first of the year to consider a number of important nominations that have been stalled for months and, in far too many cases, for years. But obstructionism once again has reared its ugly head and we have a backlog now. It is time to move forward without delay and fill those crucial roles.

In the wake of a Republican government shutdown, the Nation is watching for a sign the Senate can function efficiently and normally. It is time to show the American people how well and how quickly the Senate can work when cooperation is present. Likewise, our colleagues in the House of Representatives owe the American people to stop wasting time on political show votes and start legislating.

I have enough trouble with my schedule, but I just have to briefly comment on the House schedule. They are going to work until noon on Wednesday and then they are taking off the next 10 days. From now until the first of the year, they have scheduled 18 working days. That is all I will say on that.

Our colleagues in the House owe it to the American people to move forward on legislation. On many of the most important issues of the day, the Republican leaders have refused to allow the House of Representatives to be heard. Some are allowed to be heard, but Speaker BOEHNER has a rule that Democrats don't get to participate unless he can first prove there is a majority of the majority to vote on an issue. That is not the way it needs to be.

We are going to have a celebration here tomorrow on the life of Tom Foley. I had the good fortune of serving

with him in the House. He came from a real conservative district in the State of Washington. He served for many years. He was the majority leader, he was the Speaker and a fine man. He, similar to the other leaders I served with, O'Neill and Wright, tried to get 218 votes to pass a measure. They didn't try to get 218 from the Democrats. They had plenty of Democrats and could have done that. But everyone was allowed to vote. That is the way it should be now. It is too bad it isn't. What has happened over there is the Republican leadership has refused to allow the whole House of Representatives to work its will.

Immigration reform is one of the most glaring examples of their not allowing the body to run as it used to. Last June the Senate passed a commonsense bipartisan bill to fix the broken illegal immigration system. It would have strengthened our borders, required undocumented people to get right with the law, and put them on a path to citizenship. There are about 11 million people. But for 4 months—120-plus days—the House of Representatives has failed to act on immigration legislation. If we brought up a bill, the Senate bill would pass overwhelmingly. Even many mainstream Republicans believe House Republican leadership should allow a vote on the comprehensive plan to amend the broken immigration system. I repeat, if the whole House were allowed to vote, it would pass.

The House also failed to take up the Senate's bipartisan agricultural jobs bill—the farm bill, as we call it—a bill that cuts the debt by \$23 billion and supports 16 million American jobs. They have also refused to bring up something so common sense.

The Presiding Officer, before coming here, was Governor of the State of Virginia. I am sure the Presiding Officer, as I have, has gone through towns and neighborhoods and seen those little strip malls with all these places for lease. If we passed in Congress, as we have done in the Senate, the so-called Workplace Fairness Act, it would allow these small businesses to get back and rent space allowing it to survive. Think of the advantages online retailers have. They don't have to pay 5 percent, 7 percent of what the others pay. So it is very unfair for these brick-and-mortar places to be left to the mercy of these big online folks.

When we brought up this bill, I got a call from one of the major online organizations. They said: We will support your legislation if you will put a ceiling that we don't have to do anything until there is \$5 million in sales. They want \$5 million in sales and then pay no sales tax—a pretty good deal. We passed—rightfully so—a bipartisan bill. The House will not take this up. It is too bad.

So on these and other issues, it is time for reasonable Republicans to raise their voice in the Senate and of course in the House of Representatives.

There has been a troubling trend over the last 3 years. I have been troubled to watch these so-called mainstream Republicans be marginalized by Members of their own party. It is not the marginal people who are being marginalized. It is the mainstream Republicans. Even more troubling, moderate Republicans have been complicit in allowing this disturbing trend to continue. It is no surprise when tea party extremists force our economy to the brink of disaster when they shut down the government for the sake of ideological stunts. We saw what happened. We weren't surprised that the tea party did this, but I was surprised that the sensible mainstream Republicans didn't speak up—and speak up sooner—and many didn't speak up at all in defense of reason and responsibility.

Think about that. There are 232 Republicans in the House of Representatives. On a vote to open the government after 16 days of being closed and defaulting on the debt, only 85 of the 232 voted to reopen the government and keep us from defaulting on our debt. That is a scary number. So the vast majority of the Republicans in the House wanted to keep the government closed and to default on the debt.

Wow, that is spooky.

As their more radical colleagues drove the nation and the world to the brink of economic collapse, most middle-of-the-road Republicans said nothing and did nothing to stop it, which was certainly a surprise to me. Although I deplore the behavior of the extremists who sparked this month's manufactured crisis—and many of the crises over the past 3 years—I do not blame only them for holding the United States Government's full faith and credit hostage. I also blame the so-called main stream Republican colleagues who remained silent even as these anarchists among us committed political malpractice. They knew better. They should have known better. They know the consequence of default, and they know the cost of a government shutdown. Yet they allowed members of their own party to take the country down a dangerous road, doing irreparable harm to the country and, I believe, to the Republican Party.

As a conference committee sits down to negotiate a long-term budget agreement and sets a course for fiscal responsibility, reasonable and moderate Republicans, main stream Republicans, must not absent themselves from these discussions. A significant number of radical Republicans have said they would rather risk default than cooperate or compromise with Democrats. Sensible Republicans must not allow these radicals to rule the day.

We, the Democrats, are ready to do the difficult work of finding common ground for the good of our country. We don't expect radical tea party Republicans to join us, but we do hope our mainstream Republican colleagues will find their voices, reclaim their party,

and work with Democrats to govern once again.

RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business of the day?

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each and with debate only until 4 p.m.

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

The PRESIDING OFFICER (Ms. HIRONO). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF ALAN F. ESTEVEZ TO BE A PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE

Mr. REID. Madam President, I now move to proceed to executive session to consider Calendar No. 53.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Alan F. Estevez, of the District of Columbia, to be a Principal Deputy Under Secretary of Defense.

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report 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 nomination of Alan F. Estevez, of the District of Columbia, to be a Principal Deputy Under Secretary of Defense.

Harry Reid, Carl Levin, Robert Menendez, Charles E. Schumer, Jack Reed, Kirsten E. Gillibrand, Sheldon Whitehouse, Richard Blumenthal, Jeff Merkley, Christopher A. Coons, Debbie Stabenow, Christopher Murphy, Patty Murray, Tom Harkin, John D. Rockefeller IV, Bill Nelson, Benjamin L. Cardin.

Mr. REID. I ask consent that the mandatory quorum under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. REID. I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

NOMINATION OF KATHERINE ARCHULETA TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

Mr. REID. I now move to proceed to executive session to consider Calendar No. 307.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion is agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Katherine Archuleta, of Colorado, to be Director of the Office of Personnel Management.

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report 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 nomination of Katherine Archuleta, of Colorado, to be Director of the Office of Personnel Management.

Harry Reid, Bill Nelson, Barbara A. Mikulski, Patty Murray, Barbara Boxer, Bernard Sanders, Amy Klobuchar, Carl Levin, Thomas R. Carper, Jr., Tim Johnson, Patrick J. Leahy, Max Baucus, Robert Menendez, Richard J. Durbin, John D. Rockefeller IV, Tim Kaine, Mazie K. Hirono.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. REID. I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

NOMINATION OF THOMAS EDGAR WHEELER TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. REID. I now move to proceed to executive session to consider Calendar No. 242.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Thomas Edgar Wheeler, of the District of Columbia, to be a Member of the Federal Communications Commission.

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report 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 nomination of Thomas Edgar Wheeler, of the District of Columbia, to be a Member of the Federal Communications Commission.

Harry Reid, Patrick J. Leahy, Debbie Stabenow, Richard J. Durbin, John D. Rockefeller IV, Benjamin L. Cardin, Jon Tester, Sheldon Whitehouse, Mark R. Warner, Patty Murray, Mazie K. Hirono, Angus S. King, Jr., Barbara Boxer, Jeanne Shaheen, Robert Menendez, Bill Nelson, Richard Blumenthal.

Mr. REID. I ask consent that the mandatory quorum under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. REID. I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

NOMINATION OF JACOB J. LEW TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Mr. REID. I now move to proceed to executive session to consider Calendar No. 63.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Jacob J. Lew, of New York, to be United States Governor of the International Monetary Fund; United States Governor of the International