

1 EXECUTIVE BUSINESS MEETING TO AUTHORIZE THE COMMITTEE
2 RULES FOR THE 113th CONGRESS; TO AUTHORIZE COMMITTEE
3 FUNDING FOR THE 113th CONGRESS; DESIGNATION OF
4 SUBCOMMITTEES FOR THE 113th CONGRESS; DESIGNATION OF
5 MEMBERS TO SERVE ON THE JOINT COMMITTEE ON TAXATION;
6 DESIGNATION OF MEMBERS TO SERVE ON THE CONGRESSIONAL
7 OVERSIGHT GROUP; DESIGNATION OF MEMBERS TO SERVE AS
8 CONGRESSIONAL TRADE ADVISORS ON TRADE POLICY AND
9 NEGOTIATIONS; AND TO CONSIDER THE NOMINATIONS OF JACOB J.
10 LEW, OF NEW YORK, TO BE SECRETARY OF THE TREASURY;
11 WILLIAM B. SCHULTZ, OF THE DISTRICT OF COLUMBIA, TO BE
12 GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN
13 SERVICES; AND CHRISTOPHER J. MEADE, OF NEW YORK, TO BE
14 GENERAL COUNSEL OF THE DEPARTMENT OF THE TREASURY
15 TUESDAY, FEBRUARY 26, 2013
16 U.S. Senate,
17 Committee on Finance,
18 Washington, DC.

19 The hearing was convened, pursuant to notice, at
20 10:26 a.m., in room 215, Dirksen Senate Office Building,
21 Hon. Max Baucus (chairman of the committee) presiding.

22 Present: Senators Wyden, Schumer, Stabenow,
23 Cantwell, Nelson, Menendez, Carper, Cardin, Brown,
24 Bennett, Casey, Hatch, Grassley, Roberts, Enzi, Cornyn,
25 Thune, Burr, Isakson, and Portman.

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1 Also present: Democratic Staff: Amber Cottle, Staff
2 Director; Mac Campbell, General Counsel; Tiffany Smith,
3 Tax Counsel; and Rory Murphy, International Trade
4 Analyst. Republican Staff: Chris Campbell, Staff
5 Director; Nick Wyatt, Tax and Nomination Professional
6 Staff; and Jeff Wrase, Chief Economist.

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
2 MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The business before the committee is
5 to organize for the 113th Congress. To organize, we have
6 several things we must do: (1) adopt rules of procedure;
7 (2) adopt a committee budget resolution; (3) assign
8 Senators to subcommittees; and (4) designate certain
9 Senators to serve on several panels whose members are
10 drawn from members of this committee.

11 The committee will also consider three nominees:
12 Jacob Lew to be Secretary of Treasury; Christopher Meade,
13 to be General Counsel for Department of Treasury; and
14 William Schultz, to be General Counsel for the Department
15 of Health and Human Services. I encourage Senators to
16 submit any statements they wish for the record, but at
17 this point would recognize any Senators who wish to make
18 any statements with respect to the nominees. If not, we
19 will proceed with next steps.

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1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH

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4 Senator Hatch. Well, let me first second--now that
5 we have a quorum--my colleague's suggestions here.

6 The Chairman. Thank you, Senator.

7 Senator Hatch. In addition to the budget hearing,
8 I also want to take a few minutes to comment on the
9 committee's consideration of the nomination of Jack Lew
10 to be Secretary of the Treasury. At the outset, let me
11 say that I intend to vote today in favor of Mr. Lew's
12 confirmation. I believe the President is owed a fair
13 amount of deference in choosing people to work in his
14 administration. Though I would have chosen a different
15 person for this particular post, I intend to defer to
16 President Obama with regard to the Lew nomination.

17 That said, I do have serious reservations regarding
18 Mr. Lew. I like him personally very much. He certainly
19 has a lot of experience in this town. But I have
20 reservations regarding Mr. Lew that have not been
21 assuaged through the committee's consideration of this
22 appointment.

23 In the end, I hope that he will prove me wrong. For
24 example, I strongly disagree with Mr. Lew on some
25 significant policy issues, most notably his decision to

1 backtrack from the administration's previous position on
2 the need for entitlement reform and his belief in the
3 need for higher taxes.

4 Ultimately, I hope we end up with the Jack Lew of
5 the Clinton administration, not just another acolyte of
6 the Obama White House. I hope we get a Treasury
7 Secretary willing to work with the other side of the
8 aisle to put our Nation first in order to confront the
9 challenges facing us today. If Mr. Lew is that kind of
10 Treasury Secretary, then I think we can work together to
11 accomplish some great things for our great country.

12 But if Mr. Lew is committed to playing the same
13 partisan games that have gone on for the better part of
14 the last four years, then we are going to have serious
15 difficulties in getting anything done. I hope that will
16 not be the case.

17 In addition, as my questions during the hearing
18 demonstrated, I believe that Mr. Lew has been less than
19 forthcoming about his time at Citigroup and NYU. Indeed,
20 after extensive questioning, we still know very little
21 about these areas of his record. This is problematic,
22 and I plan to go into these concerns more fully when the
23 nomination is debated on the floor.

24 Furthermore, I am deeply concerned about the general
25 lack of responsiveness from the Obama administration to

1 legitimate questions that I and other members of this
2 committee have asked. Sometimes we get no answers at
3 all, and that is entirely unacceptable, as I have said
4 all too many times from this very spot.

5 Mr. Chairman, I expect the committee will report the
6 Lew nomination today and, once again, I intend to vote in
7 favor of doing so. However, as I stated, I have
8 significant concerns that I hope will be addressed by
9 greater responsiveness and transparency from the
10 administration. I hope you will continue to work with me
11 to address these concerns, and I believe you will because
12 of our relationship. I want to thank you, Mr. Chairman,
13 for the work that you do.

14 The Chairman. Thank you, Senator.

15 I will now turn to committee organization, unless
16 Senators wish to make statements now with respect to any
17 of the nominees.

18 Senator Grassley. I would like to.

19 The Chairman. All right. Senator Grassley?

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1 OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
2 FROM IOWA

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4 Senator Grassley. Yes. I do not care whether you
5 have a roll call vote or not, but I want to be recorded
6 as voting "no" on all three nominees, and this is my
7 reason.

8 I will start with Mr. Schultz. I like and respect
9 Mr. Schultz, and I also appreciate that HHS is trying to
10 address my concerns. However, until I receive answers to
11 my letters and document requests from FDA, I am hesitant
12 to support or agree to any movement on this nomination.

13 As for Mr. Meade, I wrote him asking him to clarify
14 his views on interpretation of the statutes. I look
15 forward to Mr. Meade's response, but until my concerns
16 are addressed I cannot support the nomination.

17 Finally, Mr. Lew. First, I am concerned about the
18 attitude of this administration and its supporters who
19 criticize the Senate, usually anonymously, for exercising
20 basic due diligence regarding this nominee. They do not
21 like anyone questioning them and they do not like
22 answering questions. Despite their tactics, we must
23 continue to perform the Senate's vital role of advice and
24 consent.

25 What we have seen so far is that Mr. Lew is very

1 good at getting paid by taxpayer-supported institutions.

2 Citigroup received a taxpayer-funded bail-out and gave
3 Mr. Lew a piece of it on his way out the door. Tax-
4 exempt New York University paid Mr. Lew an over \$900,000
5 salary, paid his mortgage, and paid him a substantial
6 \$685,000 severance payment. The reasons for the
7 severance payment are still unclear.

8 The amount was first reported in a *New York Times*
9 article which called it "unusual." This must be further
10 examined. It is a shame that Mr. Lew failed to understand
11 these details as part of his confirmation process,
12 leaving us to rely on the press to dig out the details.

13 Mr. Lew's eagerness and skill in obtaining bonuses,
14 severance payments, and perks raise questions about
15 whether he appreciates who pays the bill. In fact, when
16 asked basic questions like, what interest did you pay on
17 your \$1.4 million mortgage, Mr. Lew could not remember.
18 Of course, that answer does not pass the laugh test.

19 When asked about communications with Citigroup
20 regarding student loan kick-backs, he responded that he
21 could not remember any. Then he and the administration
22 made it clear that they had no intention of providing
23 documents that might refresh his recollection and shed
24 light on whether he was involved in those kick-backs.

25 Clearly, these questions do not matter to them

1 because they think they have the votes, but transparency
2 and sunlight are essential for Congress and for the
3 American people. If Mr. Lew will not answer our
4 questions now, why should we on this committee expect him
5 to answer any questions if he is confirmed? That is
6 unacceptable. For these reasons, I will vote "no" on
7 that nomination.

8 The Chairman. Are there any other Senators who
9 wish to speak on any of the nominees? Senator Roberts?

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1 OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR
2 FROM KANSAS

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4 Senator Roberts. Thank you, Mr. Chairman. This is
5 in regard to the nomination of Jack Lew. His response to
6 my question last week regarding general aviation and then
7 the written comments to questions that I submitted were
8 informative, but at the same time very troubling, to me.

9 He confirmed a couple of key points that I have been
10 making since there has been quite a campaign of unfair
11 attacks on the industry.

12 Let me just point out once again that general
13 aviation is used in the normal course of business. It is
14 not a fat-cat corporate jet with Oscar-winning Hollywood
15 folks aboard. That may be true in some cases, but not a
16 lot. They are used to increase efficiency, to make
17 personnel more productive, and to facilitate key
18 functions of the companies and firms that use general
19 aviation aircraft.

20 Now, when we wrote a question and asked for his
21 written response to my questions on general aviation, he
22 responded by saying "these aircraft are not always used
23 by top executives but by lower level employees such as
24 myself when I flew on the Citicorp corporate jets."

25 Well, if we have an attack on general aviation, or

1 at least that is one of the people in the barrel around
2 here, and then we have the nominee saying, well, they are
3 just used by top executives but I happened to fly on
4 them, I think that is a little disingenuous.

5 Basically, I also hope that Mr. Lew will work with
6 us on comprehensive tax reform. Basically, the very
7 important topic to me is of great importance about
8 regulatory implementation. We had a discussion with Mr.
9 Lew, and then I raised the question when he was here
10 before us.

11 Treasury and many of the departments implementing
12 the Affordable Care Act have often referred to
13 subregulatory guidance documents, such as bulletins,
14 guidance, postings on the website, FAQs, to demonstrate
15 that they are really letting all the providers and the
16 stakeholders know what is happening with regards to
17 regulations. This is not working. This raises several
18 concerns, as subregulatory guidance does not hold the
19 force of law. It generally does not reach to the same
20 notification and other means, the same amount of
21 stakeholder participation, and is outside the traditional
22 regulatory process.

23 Now, this can really confound stakeholders and
24 providers with limited resources, both time and money, on
25 where they should place their focus. They do not know

1 what is going on, do not know where to go get help, and
2 all of a sudden they are guilty until proven innocent.

3 The traditional regulatory process, as described in
4 both statute and executive order, calls for notice,
5 comment, review, and consideration of comments and then
6 issuing a final rule, not a bunch of IFRs, interim final
7 rules, or sub-regulatory means of informing the
8 stakeholder. So, I am very hopeful that we can make some
9 progress on that.

10 I just did not feel that Mr. Lew really focused on
11 that to the degree that this problem demands in regards
12 to attention. So I hope we can work with him once he is
13 confirmed, but I do have these concerns, and I will be
14 voting "no." Thank you.

15 The Chairman. Thank you, Senator.

16 Are there any other Senators who wish to make any
17 statements?

18 [No response.]

19 The Chairman. I will now turn to committee
20 organization. All Senators have a copy of the committee
21 rules and procedures in the materials before them. They
22 are unchanged from the last Congress.

23 I will now entertain a motion.

24 Senator Hatch. I so move.

25 Senator Wyden. Second.

1 The Chairman. If there is no further debate,
2 without objection the committee rules of procedure are
3 adopted.

4 [No response.]

5 The Chairman. The next order of business before
6 the committee is to adopt the committee budget
7 resolution.

8 Senator Hatch. I will move that the committee do
9 that.

10 The Chairman. If there is no further debate, the
11 budget resolution is adopted.

12 [No response.]

13 The Chairman. Next, is to assign Senators to
14 subcommittees. Senators have before them the list.

15 Senator Hatch. I will move again.

16 Voice. I second.

17 The Chairman. With no further debate and without
18 objection, the assignments are made.

19 [No response.]

20 The Chairman. Next, is to designate Finance
21 Committee members on the Joint Committee on Taxation, on
22 the Congressional Oversight Group, as Congressional Trade
23 Advisory on Trade Policy and Negotiations. By statute
24 and tradition, the committee designates its most senior
25 five Senators to fill these roles, and that is the

1 designation proposed in the papers before every Senator.

2 Senator Hatch. I so move again.

3 The Chairman. Fine. Good. That is done. The
4 designations are made.

5 We will now consider the pending nominees. The
6 first nomination for the committee to consider is Jacob
7 Lew, nominated to be Secretary of Treasury. If there is
8 no further debate, I will entertain a motion that the
9 committee report the nomination.

10 Senator Hatch. We are going to need a roll call
11 vote on all three, on each one of them.

12 The Chairman. All right. A roll call vote has
13 been requested. The Clerk will call the roll on Jack
14 Lew.

15 The Clerk. Mr. Rockefeller?

16 The Chairman. Aye by proxy.

17 The Clerk. Mr. Wyden?

18 Senator Wyden. Aye.

19 The Clerk. Mr. Schumer?

20 Senator Schumer. Aye.

21 The Clerk. Ms. Stabenow?

22 Senator Stabenow. Aye.

23 The Clerk. Ms. Cantwell?

24 Senator Cantwell. Aye.

25 The Clerk. Mr. Nelson?

1 Senator Nelson. Aye.
2 The Clerk. Mr. Menendez?
3 Senator Menendez. Aye.
4 The Clerk. Mr. Carper?
5 Senator Carper. Aye.
6 The Clerk. Mr. Cardin?
7 Senator Cardin. Aye.
8 The Clerk. Mr. Brown?
9 Senator Brown. Aye.
10 The Clerk. Mr. Bennett?
11 Senator Bennett. Aye.
12 The Clerk. Mr. Casey?
13 Senator Casey. Aye.
14 The Clerk. Mr. Hatch?
15 Senator Hatch. Aye.
16 The Clerk. Mr. Grassley?
17 Senator Grassley. No.
18 The Clerk. Mr. Crapo?
19 Senator Hatch. No by proxy.
20 The Clerk. Mr. Roberts?
21 Senator Roberts. No.
22 The Clerk. Mr. Enzi?
23 Senator Enzi. No.
24 The Clerk. Mr. Cornyn?
25 Senator Cornyn. No.

1 The Clerk. Mr. Thune?
2 Senator Thune. Aye.
3 The Clerk. Mr. Burr?
4 Senator Burr. Aye.
5 The Clerk. Mr. Isakson?
6 Senator Isakson. Aye.
7 The Clerk. Mr. Portman?
8 Senator Portman. Aye.
9 The Clerk. Mr. Toomey?
10 Senator Hatch. We will have to pass.
11 The Clerk. Mr. Chairman?
12 The Chairman. Aye. The Clerk will announce the
13 results of the vote.
14 Senator Hatch. Could I interrupt?
15 The Chairman. Certainly.
16 Senator Hatch. Mr. Toomey is aye by proxy.
17 The Clerk. Mr. Toomey, aye by proxy.
18 The Chairman. The Clerk will announce the results.
19 The Clerk. Mr. Chairman, the final tally
20 including proxies is 19 ayes and 5 nays.
21 The Chairman. The ayes have it. The nomination is
22 ordered reported.
23 The next nomination for the committee to consider is
24 Christopher Meade, nominated to be general counsel to the
25 Department of Treasury. If there is no further debate, I

1 will entertain a motion for the committee to report the
2 nomination.

3 Senator Hatch. So moved. We want a roll call
4 vote.

5 The Chairman. A roll call has been requested. The
6 Clerk will call the roll.

7 The Clerk. Mr. Rockefeller?

8 The Chairman. Aye by proxy.

9 The Clerk. Mr. Wyden?

10 Senator Wyden. Aye.

11 The Clerk. Mr. Schumer?

12 Senator Schumer. Aye.

13 The Clerk. Ms. Stabenow?

14 Senator Stabenow. Aye.

15 The Clerk. Ms. Cantwell?

16 Senator Cantwell. Aye.

17 The Clerk. Mr. Nelson?

18 Senator Nelson. Aye.

19 The Clerk. Mr. Menendez?

20 Senator Menendez. Aye.

21 The Clerk. Mr. Carper?

22 Senator Carper. Aye.

23 The Clerk. Mr. Cardin?

24 Senator Cardin. Aye.

25 The Clerk. Mr. Brown?

1 Senator Brown. Aye.
2 The Clerk. Mr. Bennett?
3 Senator Bennett. Aye.
4 The Clerk. Mr. Casey?
5 Senator Casey. Aye.
6 The Clerk. Mr. Hatch?
7 Senator Hatch. Aye.
8 The Clerk. Mr. Grassley?
9 Senator Grassley. No.
10 The Clerk. Mr. Crapo?
11 Senator Hatch. Aye by proxy.
12 The Clerk. Mr. Roberts?
13 Senator Roberts. Aye.
14 The Clerk. Mr. Enzi?
15 Senator Enzi. Aye.
16 The Clerk. Mr. Cornyn?
17 Senator Cornyn. Aye.
18 The Clerk. Mr. Thune?
19 Senator Thune. Aye.
20 The Clerk. Mr. Burr?
21 Senator Burr. Aye.
22 The Clerk. Mr. Isakson?
23 Senator Isakson. Aye.
24 The Clerk. Mr. Portman?
25 Senator Portman. Aye.

1 The Clerk. Mr. Toomey?

2 Senator Hatch. Aye by proxy.

3 The Clerk. Mr. Chairman?

4 The Chairman. Aye.

5 The Clerk will announce the results.

6 The Clerk. Mr. Chairman, the final tally including
7 proxies is 23 ayes and 1 nay.

8 The Chairman. The ayes have it. The nomination is
9 ordered reported.

10 The final piece of the committee business today is
11 to consider the nomination of William Schultz to be
12 General Counsel at the Department of Health and Human
13 Services. If there is no further debate, I will
14 entertain a motion for the committee to report.

15 Senator Hatch. I move to have a roll call vote.

16 The Chairman. A recorded vote has been requested.

17 The Clerk will call the roll.

18 The Clerk. Mr. Rockefeller?

19 The Chairman. Aye by proxy.

20 The Clerk. Mr. Wyden?

21 Senator Wyden. Aye.

22 The Clerk. Mr. Schumer?

23 Senator Schumer. Aye.

24 The Clerk. Ms. Stabenow?

25 Senator Stabenow. Aye.

1 The Clerk. Ms. Cantwell?
2 Senator Cantwell. Aye.
3 The Clerk. Mr. Nelson?
4 Senator Nelson. Aye.
5 The Clerk. Mr. Menendez?
6 Senator Menendez. Aye.
7 The Clerk. Mr. Carper?
8 Senator Carper. Aye.
9 The Clerk. Mr. Cardin?
10 Senator Cardin. Aye.
11 The Clerk. Mr. Brown?
12 Senator Brown. Aye.
13 The Clerk. Mr. Bennett?
14 Senator Bennett. Aye.
15 The Clerk. Mr. Casey?
16 Senator Casey. Aye.
17 The Clerk. Mr. Hatch?
18 Senator Hatch. Aye.
19 The Clerk. Mr. Grassley?
20 Senator Grassley. No.
21 The Clerk. Mr. Crapo?
22 Senator Hatch. Aye by proxy.
23 The Clerk. Mr. Roberts?
24 Senator Roberts. Aye.
25 The Clerk. Mr. Enzi?

1 Senator Enzi. Aye.

2 The Clerk. Mr. Cornyn?

3 Senator Cornyn. Aye.

4 The Clerk. Mr. Thune?

5 Senator Thune. Aye.

6 The Clerk. Mr. Burr?

7 Senator Burr. Aye.

8 The Clerk. Mr. Isakson?

9 Senator Isakson. Aye.

10 The Clerk. Mr. Portman?

11 Senator Portman. Aye.

12 The Clerk. Mr. Toomey?

13 Senator Hatch. Aye by proxy.

14 The Clerk. Mr. Chairman?

15 The Chairman. Aye.

16 The Clerk will announce the results.

17 The Clerk. Mr. Chairman, the final tally including

18 proxies is 23 ayes and 1 nay.

19 The Chairman. The ayes have it. The nomination is

20 reported.

21 I thank all Senators for their attendance and

22 expeditious approval of the nominees.

23 [Whereupon, at 10:40 a.m., the executive business

24 meeting was adjourned.]

I N D E X

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