

1 OPEN EXECUTIVE SESSION TO CONSIDER FAVORABLY REPORTING
2 THE NOMINATIONS OF SARAH BLOOM RASKIN, OF MARYLAND, TO BE
3 DEPUTY SECRETARY OF THE TREASURY; JOHN ANDREW KOSKINEN,
4 OF THE DISTRICT OF COLUMBIA, TO BE COMMISSIONER OF
5 INTERNAL REVENUE FOR THE TERM EXPIRING NOVEMBER 12, 2017;
6 AND RHONDA SCHNARE SCHMIDTLEIN, OF MISSOURI, TO BE A
7 MEMBER OF THE UNITED STATES INTERNATIONAL TRADE
8 COMMISSION FOR THE TERM EXPIRING DECEMBER 16, 2021
9 FRIDAY, DECEMBER 13, 2013
10 U.S. Senate,
11 Committee on Finance,
12 Washington, DC.

13 The hearing was convened, pursuant to notice, at
14 11:06 a.m., in Room 215, Dirksen Senate Office Building,
15 Hon. Max Baucus (chairman of the committee) presiding.

16 Present: Senators Wyden, Schumer, Stabenow,
17 Cantwell, Nelson, Menendez, Carper, Cardin, Brown,
18 Bennet, Casey, Grassley, Roberts, Thune, Burr, and
19 Isakson.

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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 Committee will come to order.

5 The business before the Committee is the
6 consideration of three nominations pending before the
7 Committee: John Koskinen, to be Commissioner of the
8 Internal Revenue Service; Sarah Bloom Raskin, to be
9 Deputy Secretary for the Department of Treasury; and,
10 Rhonda Schmidlein to be a Commissioner at the
11 International Trade Commission.

12 All three individuals, I think, are qualified to
13 serve in the positions to which they have been nominated
14 and deserve our support.

15 First, Sarah Bloom Raskin, nominated to be the
16 Deputy Secretary of Treasury. If confirmed, Ms. Raskin
17 will be the highest ranking woman in the history of the
18 Treasury Department.

19 As a current Federal Reserve Governor and a former
20 Commissioner of Financial Regulation for the State of
21 Maryland, Ms. Raskin brings decades of experience that
22 will prepare her to take on the challenge that she will
23 face at Treasury as it continues to work to strengthen
24 our economy.

25 Second is John Koskinen, nominated to be the

1 Commissioner of the IRS. The IRS is in need of strong
2 leadership. The agency plays an important role I the
3 lives of everyday Americans.

4 It is key to the Affordable Care Act's
5 implementation and is a vital partner in tax reform. It
6 is also an agency recovering from the damage done by the
7 Inspector General's report on the IRS' handling of
8 501(c)(4) applications.

9 The IRS has a lot of work to do to regain the
10 public's trust, and I believe Mr. Koskinen is the right
11 person to take on this challenge.

12 Whether it was at Freddie Mac, as Deputy Mayor of
13 the District of Columbia or in the private sector, Mr.
14 Koskinen has a history of succeeding in jobs with
15 difficult missions.

16 On Tuesday, he told this Committee that his mission
17 is to make the IRS, quote, "the most effective, admired
18 and well-run agency in government.

19 I have no doubt that he can accomplish that goal.
20 He is the type of leader we need at the IRS.

21 The last nominee we will consider is Rhonda
22 Schmidtlein, nominated to the Commissioner at the
23 International Trade Commission, otherwise known as the
24 ITC.

25 If confirmed, she will be tasked with giving fair

1 consideration to the cases pending before the ITC and
2 providing this and other committees with objective, high
3 quality advance to help move our ambitious trade agenda
4 forward. She is the right woman for the job.

5 All three nominees have testified before the
6 Committee and have answered our written questions. It is
7 time we voted their nominations out of the Committee so
8 they get their work done.

9 If any Senators wish to speak, now is the time to
10 speak. Otherwise, your statements will be automatically
11 included in the record.

12 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. Senator Hatch asked if I would
5 be here, since he cannot be here, and I would probably be
6 here anyway. But for the Republicans, I would like to
7 make a statement, although I cannot make a statement for
8 my colleagues, but I can make a statement for myself.

9 I think there are a lot of my colleagues, at least
10 for some of these nominees, who would find very good
11 reason to vote against.

12 I am going to support the nominees, but there are a
13 lot of reasons I could give you for not supporting them.
14 So I am going to take an opportunity to give some of
15 those reasons why maybe I could vote no, even though I am
16 going to vote yes.

17 This Committee meeting breaks longstanding precedent
18 of bipartisanship that has largely characterized how the
19 Committee has operated.

20 During my tenure as either Chairman or Ranking
21 Member, this Committee always sought to process nominees
22 of either party on an evenhanded and bipartisan basis.

23 Now, that has been done and I am not accusing, in
24 this instance, but we have right now a very difficult
25 situation in the United States Senate and we are all

1 observing that this entire week and probably into next
2 week, and that is the breakdown of the rules and
3 tradition of the Senate that recently culminated in the
4 use of the nuclear option by Majority Leader Reid,
5 allowing to infect the workings of even this Committee.

6 Ranking Member Hatch, with the support of his fellow
7 Republican Committee members requested the mark of Mr. K,
8 if you will let me refer to him as Mr. K, because I am
9 not going o try to pronounce this name all the time -- to
10 have Mr. K wait until the Committee could finish his
11 ongoing investigation of the IRS targeting scandal.

12 This request was not a delaying tactic. In fact,
13 Ranking Member Hatch expressed his support for the
14 nominee, just as I have expressed my support for the
15 nominee, and Senator Hatch did this at a hearing held a
16 little over 48 hours ago.

17 The Ranking Member made a good faith request
18 concerning important business of this committee. The
19 Ranking Member.

20 The Ranking Member's sincerely held view was it
21 would be better for the Committee to complete the
22 Committee's bipartisan investigation into the IRS
23 targeting scandal before moving forward.

24 The Ranking Member -- and I do not doubt that Mr. K
25 fully intends to keep his promises to do all he can to

1 assist the investigation. The Ranking Member's concern,
2 and one that I share, is about opposition he may face
3 from within the IRS and outside of it, particularly if
4 the investigation leads to larger Treasury Department.

5 The Ranking Member's request is not without
6 precedent in this Committee. A similar request was made
7 while I was Chairman of the Committee and every attempt
8 was made to honor that request.

9 Unfortunately, this has not been the case with Mr.
10 K's nomination. His nomination has been raced through
11 the Committee with lightning speed.

12 Mr. K's hearing was held just over 48 hours ago.
13 This has resulted in members having little time to
14 follow-up with nominees concerning questions asked of him
15 at the hearing.

16 Traditionally, members of the Committee are given
17 ample time to submit questions for the record. This
18 allows members to follow-up on responses to questions
19 given by the nominee during the hearing and engage in
20 some agency oversight.

21 Usually, this Committee provides at least 24 hours
22 or longer in which to submit questions for the record.
23 However, for Mr. K, members had, at most, 6 hours to
24 submit questions for the nominee. Given that members and
25 their staffs keep busy schedules, members were hard-

1 pressed to meet the 5 p.m. deadline that was imposed.

2 For such an important nomination as IRS
3 Commissioner, whose rolls have vastly increased because
4 of the Affordable Care Act, one would expect more time
5 for questions, not less. Racing this nomination through
6 the Committee has reduced the quality of the oversight
7 members are able to exercise at a very key time when a
8 person is waiting for confirmation.

9 In less than 24 hours, Mr. K was not able to
10 adequately respond to written questions for the record
11 from myself and other members. The answers I received
12 back reflect this. Many answers look as though someone
13 copied-and-pasted a form response and just filled in
14 blanks to reflect the questions being asked.

15 I think Mr. K is very capable. I would have
16 appreciated his taking the time to provide thorough and
17 substantive answers to my questions. Instead, I received
18 promises to look at reports or learn about issues in the
19 future.

20 In the past, this Committee expected nominees to
21 answer questions before they were confirmed, but the
22 Majority will accept evidence that the nominee merely
23 read the question.

24 I hope the way this nomination was handled is not
25 evidence of how this Committee will proceed in the future

1 and I do not anticipate that that is the way the
2 Committee will in the future, but the environment that
3 Senator Reid and the Majority has created at this
4 particular time seems to have brought this about, because
5 if this were to continue, that would be tragedy for a
6 Committee that has a rich tradition of bipartisanship and
7 collegiality among members.

8 I would add this, even though that is the end of my
9 statement. I would add this, that it is very, very
10 important that we establish with nominees when they come
11 here that they will answer our questions and not just
12 before they get approved by the Senate, but they also
13 give a firm commitment.

14 In fact, the Chairman asks three questions every
15 time and one of those three questions is that you will
16 respond to requests to appear before the Committee, and I
17 think that implies responding to requests.

18 Quite frankly, everybody says that they will do
19 that, but everyone turns out to being less than truthful
20 in their activity after they get once into office. And
21 it seems to me like it is getting worse and worse and if
22 we are going to have the constitutional responsibility of
23 Congress not only to pass laws, not only to appropriate
24 money, but, also, as a check on the Executive Branch of
25 government that laws are faithfully executed, that you

1 are going to have to make sure that the culture that
2 allows people to promise something here and not carrying
3 it out when they are in office to be done away with.

4 And now I know, because we have a Democrat President
5 and we have a Democrat Majority, that that may not be so
6 much concern, but sometime we are going to have a
7 Republican President, sometime we are going to have a
8 Republican Majority, and you folks that are now in the
9 Majority are going to want the help of us in the minority
10 to make sure that we carry out our constitutional
11 responsibility of oversight.

12 So I hope, as Majority members, you will take the
13 opportunity and make sure that you secure that the truth
14 on a promise that people at Committee will deliver
15 answers to questions by members of Congress is carried
16 out, because someday you may be in the same boat we are
17 in now. And the extent to which you do not get your
18 questions answered, you are being affected the same way,
19 and we are compromising our constitutional job of checks
20 and balances.

21 Thank you, Mr. Chairman.

22 The Chairman. Thank you, Senator.

23 Do any other Senators wish to make any statements?

24 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. And I
5 think that the distinguished Senator from Iowa has made a
6 statement in behalf of Senator Hatch, and, obviously,
7 made that statement -- made a very strong statement, and
8 I want to associate my remarks with his.

9 I want to make it very clear that when I vote no,
10 and I will vote no, this is not personal, but this is
11 about process. Senator Coats from Indiana took an hour
12 this morning in this 51/50 overflow or whatever we are
13 into here, and I joined him in quite a colloquy with
14 regard to individual frustration that those of us in the
15 Minority feel on what has happened. I am not going to
16 repeat that, but if anybody wants to know, on the
17 Majority side, how we really feel about it, why, Dan
18 Coats put it very well and, hopefully, I added my two
19 cents' worth.

20 I want to call to the attention of the Committee an
21 article that I want to submit for the record, and I will
22 try to make this as short as possible. This is in the
23 *Wall Street Journal*, December 12, by Kimberly Strassel,
24 who is a columnist.

25 She calls it "IRS Targeting Round 2." And the

1 reason I bring this up in the short time that we had to
2 question Mr. Koskinen and who, by the way, came by my
3 office, as very cordial. We had a good visit about this
4 and about the ability of IRS to really enforce the
5 Affordable Health Care Act, could they do it, and I asked
6 him how many employees he needed to have. He said 8,000.
7 I said the chances of that are slim and none, and slim
8 left town.

9 So he said, "We'll just have to do more with less."
10 I mean, this is a man who is called Mr. Fix-It. So we
11 had a good meeting.

12 However, here is what I would like those in the
13 Majority to understand, and I am in full agreement with
14 this article.

15 Bear with me, Mr. Chairman. I apologize for taking
16 the time on a busy morning, or maybe it is a busy
17 morning.

18 In the media blackout of Thanksgiving week, the
19 Treasury Department dumped -- that is Kimberly's word,
20 not mine -- a new proposal to govern the political
21 activity of 501(c)(4) groups. The Administration claims
22 this rule is needed to clarify confusing tax laws.
23 "Hardly," she says. "The rule is the IRS' new targeting
24 program, only this time systematic, more effective and
25 with the force of law."

1 That this rule was meant to crack down on the White
2 House political opponents was never in doubt. What is
3 new is the growing concern by the House Ways and Means
4 Committee investigators that the regulation was reverse-
5 engineered, designed to isolate and shut down the same
6 groups victimized in the first targeting round, referred
7 to in most cases as the tea party groups, although there
8 are many other groups involved.

9 Treasury appears to have combed through those tea
10 party applications, compiled all the groups' main
11 activities, and then restricted those activities in the
12 new rule. Quote, "The Committee has reviewed thousands
13 of tax-exempt applications" -- that is a quote from
14 Chairman Dave Camp over in the House.

15 The new regulation so closely mirrors the abused tea
16 party group applications; i.e., their First Amendment
17 rights -- that is my words, not Ms. Strassel's.

18 It leads me to question if this new proposed
19 regulation is simply another form of targeting. Here is
20 how it works. To get or keep tax-exempt status,
21 501(c)(4) organizations must devote a majority of their
22 work to their primary social welfare purpose.

23 Most tea party groups were set up for the primary
24 purpose of educating Americans on pressing problems;
25 i.e., the sizes of government, the erosion of the

1 Constitution, et cetera, and did so mainly through non-
2 partisan voter guides, speaker forms, pamphlets or other
3 voter registration drives.

4 What the proposed Treasury IRS regulation would do
5 is to recategorize all these efforts as political
6 activity, thereby making it all but impossible for tea
7 party groups and other groups to qualify for the
8 501(c)(4) status.

9 Now, say an outfit's primary purpose is educating
10 voters on our unsustainable debt, which it does mainly
11 with a guide explaining the problem and various public
12 servants, she uses politicians, I am cleaning that up.

13 Voting records. Under the new rule, the guide is
14 now political activity rather than social welfare, which
15 likely loses the group's tax-exempt status.

16 The rule, in other words, is not designed to provide
17 helpful guidance on allowable activities. It was
18 designed, rather, as Chairman Camp explains, to put the
19 tea party groups out of business.

20 What makes this targeting move more obvious is that
21 the Treasury rule only applies to 501(c)(4) groups. The
22 League of Women Voters' education fund is registered as a
23 501(c)(3). One of those charities supposedly held to the
24 strictest IRN standards on politicking.

25 Ms. Strassel goes on to say, "Yet, it brags on its

1 Website that it holds candidate debates and forums and
2 that is educational activities, including understanding
3 candidate views and ballot initiatives."

4 The League -- and I am not opposed to the League of
5 Women Voters, I want to make that clear. The League will
6 continue to be able to do its voter guide and
7 registration of candidate forms, yet, under this rule,
8 any conservative social welfare organization that
9 attempts to do so, the same will likely lose its tax-
10 exempt status, nor does the new rule apply to the biggest
11 spenders of all in politics -- unions, which are
12 registered as 501(c)(5)s.

13 The only category muzzle is the one recently flooded
14 by conservative groups that the Majority fears in the
15 2014 election.

16 Now, consider the timing of this guidance. While
17 technically pending public comment, it puts conservative
18 groups on immediate notice that it could be enforced at
19 any moment. It is clearly designed to have a chilling
20 effect on any group gearing up for next year's midterms,
21 just as the first round of targeting was designed to
22 dampen conservative participation in the 2010 and 2012
23 elections.

24 I am not going to go on with this article, there are
25 several more paragraphs, but I think you will get the

1 drift of her comments. And, basically, taking this
2 article aside, that was the main topic of conversation I
3 had with Mr. Koskinen. Again, he is known as Mr. Fix-It,
4 but I say if you are going to fix something, why do you
5 not just get out of politics.

6 I told him that in Kansas and many other States, IRS
7 is a four-letter word and it is because of their
8 restrictions on political activity, which many of us
9 think basically took away First Amendment rights.

10 This gets back to 51/50, I guess, but -- and I am
11 also informed by staff that the proposed regs' comments
12 are for 90 days, but there will be a public hearing,
13 which then lengthens the comment. As a result, the
14 proposals will be subject to comment for up to a year.

15 I hope this is the case. I hope we at least have a
16 year of public comment to say, "Look, this is not right."

17 You may not agree with somebody's purpose or idea,
18 regardless of what organization you belong to, tea party,
19 League of Women Voters, those were the two referenced,
20 but you could just go down the list.

21 Senator Schumer. Would my colleague yield for a
22 question?

23 Senator Roberts. Not at this time. I will be
24 happy to yield in just a moment. Let me finish my rant,
25 if I might.

1 So my point is --

2 Senator Schumer. I was trying to calm you down.

3 Senator Roberts. You can order me something or
4 whatever you might. I did not have breakfast this
5 morning. I am in a bad mood. So, please, I would like
6 to get that out of my main comment, if I might. I think
7 we can do that on down the road, and I would be delighted
8 to yield to the distinguished Chairman of the Rules
9 Committee, who I rarely see in the Rules Committee, but
10 would like to see on many issues.

11 Why can we not get the IRS to do what the IRS is
12 supposed to do, which is to better enforce the tax code?
13 If we can reform the tax code and that is our big
14 opportunity here and the Chairman wants to do that and
15 collect the revenue to fund the United States Government
16 instead of getting into regulating politics.

17 I know well that nine Senators on the other side
18 wrote letters that were highly defined in purpose to the
19 IRS to say, whoa, wait a minute, let us take a look at
20 who is tax-exempt and who is not. Obviously, that is the
21 comment that will be made by my distinguished friend from
22 New York.

23 But it would seem to me that we could all do
24 ourselves a favor to have the IRS do their job. There
25 are many people in the IRS who have worked many years

1 that we should respect and they have done a great job,
2 but, unfortunately, because of this attack on the First
3 Amendment rights of one particular group in our society
4 who wants less government, less regulation, and going
5 back to the Constitution, this has all taken place.

6 And that is part of the very difficult frustration
7 and feelings we feel around here and why we have this
8 51/50 stuff going on to the point that everybody wonders
9 what we are doing.

10 So with that, that is why I am voting no, and I
11 appreciate the opportunity.

12 And now I would be happy to yield to Senator
13 Schumer.

14 Senator Schumer. Well, I thank my colleague on the
15 Rules Committee. I am always happy to see him in any
16 place, time, or whatever. Place, time, manner.

17 Senator Roberts. Does that include on the
18 basketball floor, again?

19 Senator Schumer. No. I remember what you did to
20 Bill Gray, the late Bill Gray. But in any case --

21 Senator Roberts. I did not cause his death, by the
22 way.

23 [Laughter.]

24 Senator Schumer. No, you did not or the death of
25 two of his molars or something.

1 Senator Roberts. He charged into my shoulder.

2 Senator Schumer. Yes, he did. And out went his
3 two front teeth. But there was no foul called by the --

4 Senator Roberts. No. We did not have fouls.

5 Senator Schumer. Exactly.

6 Senator Roberts. I just set a blindside pick, just
7 like you have done with the 51/50 vote.

8 [Laughter.]

9 Senator Schumer. No one is better at setting
10 picks, at least on the basketball court, than my
11 colleague from Kansas.

12 I was just going to ask him, in terms of First
13 Amendment, and I understand our view of the First
14 Amendment is quite different, that the right of someone
15 to be on a soapbox and speak is not exactly the same as
16 the right of someone who is worth \$100 million to put
17 that seven millionth dollar of ads on TV. But that is
18 not the question I had.

19 What about disclosure? That furthers the First
20 Amendment. One of the things that the IRS ruling will do
21 will at least disclose when you are putting all these ads
22 on TV and the public does have a -- should have a right
23 to know that.

24 Could we work together at least on disclosure?

25 Senator Roberts. I have always been for

1 transparency. After all, it was President Obama who said
2 he would have the most transparent Administration in the
3 history of the world. And as we have seen in many
4 instances with the Affordable Health Care Act and other
5 situations, that leaves a lot to be desired, period.

6 The Chairman. I thank both Senators for their
7 elucidation. Thank you very much.

8 We have three nominees before us now, which I think
9 most of us would like to vote on, act on. John Koskinen,
10 to be Commissioner of IRS; Sarah Bloom Raskin, Deputy
11 Secretary for the Department of Treasury; and, Rhonda
12 Schmidtlein, ITC Commissioner.

13 I will start first with John Koskinen, otherwise
14 known as Mr. K.

15 All those in favor of John Koskinen to be IRS
16 Commissioner, vote by saying aye.

17 [A Chorus of Ayes.]

18 The Chairman. Those opposed, no?

19 [A Chorus of Nays.]

20 The Chairman. The ayes have it. The nomination
21 will be reported.

22 Next is Sarah Bloom Raskin.

23 All those in favor, say aye.

24 [A Chorus of Ayes.]

25 The Chairman. Those opposed, no?

1 [A Chorus of Nays.]

2 The Chairman. The ayes have it. The nomination
3 will be reported.

4 Finally, Rhonda Schmidtlein.

5 All those in favor, say aye.

6 [A Chorus of Ayes.]

7 The Chairman. Those opposed, no?

8 [A Chorus of Nays.]

9 The Chairman. The ayes have it. The nomination
10 will be reported.

11 I thank all my colleagues for appearing. It is not
12 easy to get a quorum, and I thank you for appearing
13 today. And I especially want to thank my colleagues to
14 my left. Sometimes to my right. At the moment, at my
15 left.

16 So thank you for appearing. You did not have to be
17 here and you decided to come here and I deeply appreciate
18 it.

19 Senator Carper. How am I voted?

20 The Chairman. How is the Senator -- Senator, you
21 can announce out loud how you want to vote.

22 Senator Carper. Aye.

23 The Chairman. The Senator from Delaware voted aye.

24 The nominations are reported. The Committee is
25 adjourned.

1 [Whereupon, at 11:30 a.m., the hearing was
2 concluded.]
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