

FULL COMMITTEE BUSINESS MEETING

BUSINESS MEETING

BEFORE THE

COMMITTEE ON RULES AND ADMINISTRATION

UNITED STATES SENATE

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FIRST SESSION

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COMMITTEE ON RULES AND ADMINISTRATION

FIRST SESSION

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FULL COMMITTEE BUSINESS MEETING

TUESDAY, NOVEMBER 14, 2023

UNITED STATES SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The Committee met, pursuant to notice, at 3:02 p.m., in Room 301, Russell Senate Office Building, Hon. Amy Klobuchar, Chairwoman of the Committee, presiding.

Present: Senators Klobuchar, Fischer, Schumer, Warner, Merkley, Padilla, Ossoff, Bennet, Welch, Butler, McConnell, Capito, Wicker, Hyde-Smith, Hagerty, and Britt.

OPENING STATEMENT OF HONORABLE AMY KLOBUCHAR, CHAIRWOMAN, A UNITED STATES SENATOR FROM THE STATE OF MINNESOTA

Chairwoman KLOBUCHAR. Good afternoon, everyone. Recognizing a quorum, I call to order this meeting of the Senate Committee on Rules and Administration to consider S.Res. 444, providing for the en bloc consideration of military nominations.

I thank the military friends and families who are here, some of them with loved ones who are awaiting their own decision and promotion. As I thought about this and prepared for this this weekend, like many of my colleagues, I was at veterans events and there was one in particular in a high school gym in Red Wing, Minnesota, which featured hundreds of kids in the bleachers and veterans, including four World War II veterans on the floor of the gym.

The speaker was an Iraq veteran who was really incredible. She told the story of her life, how she had grown up with a single mom in a very difficult circumstance and that it was the Army that saved her. She said, as she got through that time, as she spoke to the high school students, she said she remembered words from the movie Heartbreak Ridge that actually had become an unofficial slogan of the Marine Corps.

It kept everything, every obstacle that she encountered in life, she remembered these three words, and I thought about it with what we are doing today, and the words are improvise, adapt, and overcome—improvise, adapt, and overcome. Simply, that is what we are doing here.

We have come up with a narrow, focused solution. We have improvised. We are adapting to our circumstance, and we will eventually overcome. The first part of overcoming is to actually get this resolution through this Committee today. I want to thank Ranking Member Fischer and our colleagues for being here.

I want to thank Senator Reed for his work on this resolution, the Chairman of the Armed Services Committee, as well as Senator Sinema. I would like to thank Senator Schumer and Senator McConnell. This is the only Committee that both leaders serve on, what can go wrong, and I want to thank them for being here.

Again, to recognize the many members of the audience from military families who took time out of their day to be with us. Here with us are spouses and family members of service members. We are here today because one of our colleagues has used the Senate's rules to hold the entire military chain of command hostage.

Here is our problem. Right now, we have over 350 military positions in limbo because of Senator Tuberville's hold and nearly 650 military leadership positions will be vacant by the year's end if this continues.

This massive hold is hurting our military readiness and our national security. It is hurting the morale of our troops, and it is causing major disruptions in the lives of our military families who have already sacrificed so much.

No one knows that better than those who are joining us today. Military spouses cannot look for jobs if they do not know where they are going to move. Kids do not know where they will be attending school.

Military officers cannot take care of their aging parents or figure out where they should be in an assisted living if they do not know where they are going to live. One Army general officer is having to pay \$10,000 a month to keep his mom in an assisted living facility while he waits to find out if they are going to move to a new house or not.

A naval officer's wife left her job as a public school teacher because they are expecting a new assignment overseas, and now she is unemployed because she cannot take a job in the new place or return to her old school until—instead, she simply waits.

The Marine Corps had to cancel a coast to coast move for a senior officer and his family. Their belongings had already been shipped, but now they are in storage while the officer covers for another unfilled and more senior role.

Yes, as we all know, the Commandant of the Marine Corps had a heart attack while holding down the number one and number two positions with the Marines. I am a former prosecutor. I believe in evidence. I do not know how much more evidence we need to move on this.

While this colossal hold, which is truly an antiseptic word to describe what is essentially a blockade, is creating real costs for our military families, it is also creating real risk to our military readiness and our national security. Senator Tuberville is holding up the Commander of CYBERCOM at a time when threats to our national security do not always involve traditional weapons of war.

He is holding up the head of the Pacific Air Command while China is saber rattling and North Korea sent Russia a million artillery shells. He is holding up the commander of the Fifth Fleet, which oversees our naval forces in the Persian Gulf. There are hundreds of others waiting and the uncertainty is having a devastating impact. Our country deserves better. Our military deserves better.

The world is watching. For months, Senator Tuberville has not listened to his Democratic or his Republican colleagues, and many of them have—now spoken out on the Senate floor. He is not listening to those who run our military. He is not listening to former military officials. We need to stand up for our military and our national security and allow these promotions to move forward.

Because when our troops are on the battlefield, they do not ask if their commander is a Democrat or a Republican. They do not ask what their views are on certain issues that they may not agree with. They just do their jobs. They do not ask if the person next to them voted for and who they voted for and whether they hold a certain political position.

Regardless of our own political views, we need to do what it takes to make sure our military has its leaders in place to protect our country. I get back to my first three words that I learned in that high school gym, improvise, adapt, and overcome.

That is what this policy is about. It is temporary and it makes a change simply for the nominations in the military that are before us through the end of the Congress. It has the support of groups representing our service members and their families, Blue Star Families, the National Military Family Association, and the Secure Family Initiative.

The American Legion has also urged a bipartisan resolution as well. I urge my colleagues on both sides of the aisle to join me in supporting it, and I now recognize Senator Fischer for an opening statement.

**OPENING STATEMENT OF HONORABLE DEB FISCHER, A
UNITED STATES SENATOR FROM THE STATE OF NEBRASKA**

Senator FISCHER. Thank you, Chairwoman Klobuchar. I thank you for holding this markup today. The resolution before us today is an anomaly. It is unusual for the Senate to take up standing orders that temporarily create new Senate procedures.

In fact, in recent decades, the Senate has only taken up and passed three such measures. Two of those resolutions were the power sharing agreements for an evenly divided Senate for the 107th and the 117th Congresses.

The third resolution from the 113th Congress was a carefully negotiated bipartisan agreement that reduced the post cloture debate times for certain nominations in response to concerns about delays in processing nominations.

I would note that even though the resolution passed with a large bipartisan majority, it did not stop then Majority Leader Harry Reid from deploying the nuclear option 11 months later. It is with that history in mind that we turn to Senate Resolution 444.

Certainly, parallels can be drawn between the resolution before us today and previous resolutions. They all create a temporary process that only applies to the current Congress, for example. The previous three resolutions, however, were all created in a bipartisan fashion and passed by unanimous consent or with broad bipartisan support.

This resolution, in contrast, is a political maneuver that does not have the same support. At its core, the resolution is an attempt to protect the Biden Administration's poor policy decisions.

Though Federal law prohibits the Department of Defense from using federal funds for abortions except in very limited circumstances, the Department of Defense has put in place a policy that facilitates abortions by paying for travel across state lines to obtain one.

This policy not only goes beyond the Department of Defense's statutory authority, it does not do anything to create or to increase our military readiness and has not even been broadly utilized.

Unofficial reports indicate it likely has been used by only 12 women. Even so, this Administration refuses to eliminate the policy. What we need right now is to come together and tell the Administration to stop violating the law and revoke this policy. If the policy is revoked, the resolution before us today is not necessary.

This resolution undermines the Senate's long standing tradition of rights for the minority party. With few exceptions, it would take away the right of a single Senator, or 10, or 20, or 40 Senators to object to a military nomination or promotion that is being offered for unanimous consent. It would allow a simple majority to override those objections.

The ability of Senators to demand a vote of the full Senate on a particular nomination or promotion is an important check on the executive branch. This is especially true in this case, where the Administration is refusing to revoke a little used and unlawful policy.

As a Senior Member of the Senate Armed Services Committee, I understand very well the impacts that these nominations and promotions have on our military forces and our military readiness.

Let me be clear, I support moving military nominations and promotions quickly, and I am committed to working with my colleagues to find a path forward, but I will not support this effort to alter Senate process that undermines the long standing traditions of the Senate.

I hope my colleagues will join me in opposing this resolution. Thank you, Madam Chair.

Chairwoman KLOBUCHAR. Thank you very much, Senator Fischer. Leader Schumer.

Senator SCHUMER. Thank you. Thank you, and I wish we did not have to be here this afternoon. Yet we are here today nonetheless because for the last 9 months, one Member of the Senate, one Member, Senior Senator from Alabama, has defied longstanding Senate custom and prevented the swift bipartisan confirmation of hundreds of generals and flag officers.

Senator Fischer said this resolution is an anomaly, but what Senator Tuberville has done is truly an anomaly that requires much harm—that does much harm and requires a response. Every single one of us here, not just Senator Tuberville, has issues we feel totally passionate about and we feel are morally right.

If every one of us had the temerity, the recklessness to do what Senator Tuberville has done, we would have no military. Every—all our national security would vanish. We are here today to consider a resolution brought by Senator Reed that would allow for the swift confirmation of these military nominees that Senator Tuberville has placed on hold.

I thank the Committee for their work on this resolution, especially Chair Klobuchar, Senator Reed as well, and I will vote in

favor of it today. If it is reported out of Committee and if my Republican colleagues cannot convince Senator Tuberville to relent, I will bring it to the floor shortly for a vote.

We need to get these military nominees confirmed ASAP for the sake of our national security. Military nominees for a decade have been the most bipartisan parts of the Senate. The idea of blocking the confirmation of military officers in order to make a political statement, no matter how deeply felt, has long been considered, long been considered unthinkable.

There has been a lot of negativity and dysfunction in the Senate these days, but Senator Tuberville has single handedly brought the Senate to a new low. For months, Members on both sides have reached out to Senator Tuberville to try and find a compromise. Senior defense officials have tried to get our colleague to stand down.

Seven, seven former Secretaries of Defense who served Presidents from both Democratic and Republican parties have spoken out against these holds. At each overture, what is Senator Tuberville response? He digs in.

He has claimed that he simply wanted a vote on these nominees, but he has even objected to up or down votes on the Senate floor. Our colleague from Alabama has made clear, he will not budge.

Every day the Senator from Alabama continues his blockade of military promotions, America's national security pays a heavy price, a heavy price at a time when we are all talking about our national security.

Military families, spouses who need to start new jobs, children who need to start new schools who come from families whose spouse has been in the military for decades and has already sacrificed a lot, are making—are asking to be made an unusual sacrifice, though they have done nothing wrong.

Our military readiness pays the price. As has been mentioned, the hold includes the Commander of the Navy's Fifth Fleet, the Deputy Commander of the United States Central Command, both vital, vital for our operations in the Middle East.

Sadly, it is likely the worst is yet to come, the worst is yet to come, if Senator Tuberville is allowed to continue this reckless policy, because up to three quarters of the generals and admirals in the Defense Department will be affected by Senator Tuberville's actions. Let me say that again. Three quarters of the generals and admirals in DOD will be affected by Senator Tuberville's actions—three quarters. Patience is wearing thin on both sides of the aisle. Democrat and Republican alike want these holds to end.

Today, I commend Members of the Rules Committee for advancing this resolution. Bipartisanship has long been a hallmark of military confirmations. It is essential that it stays that way because the last thing we want is the permanent politicizing of our generals, our flag officers, of the people whose sworn duty it is to keep our Nation safe.

For the sake of our national security, for the sake of our military readiness, for the sake of our military families who have already sacrificed so much, I urge the Rules Committee to act. For the sake of preserving the Senate's long tradition, respected by thousands,

I would say, of Senators on both sides of the aisle, I urge the Rules Committee to act.

For the sake of our military families, for the spouses, the kids, I urge the Committee to act. With your help, my colleagues, right now, we can begin to end this awful impasse, which none of us like. We can confirm these hundreds of nominees.

We can finally do right by the brave Americans who have dedicated their entire adult lives to keeping us safe. Thank you.

Chairwoman KLOBUCHAR. Thank you very much. Leader Schumer. Ranking Leader McConnell, thank you for being here.

Senator MCCONNELL. Thank you, Madam Chair, and Ranking Member Fischer. I would like to begin with the prime mover in this situation, an Administration policy I strongly oppose was designed to force American taxpayers to violate their rights of conscience.

The Department of Defense is in the business of raising, equipping, training, and maintaining the strongest fighting forces in the world. Inserting our military into the center of a politically divisive subject is not just an ill-advised policy choice. It is actually dangerous.

But as I have said for months now, our colleague from Alabama's response is not, not the way to reach the desired outcome he and I share. In fact, it has created a nearly unprecedented situation for the Senate to address.

As a general rule, when a President takes an Executive Action that a minority in Congress thinks is unlawful, you challenge it in the courts, and then when the time comes, you elect a different President.

The Senate, for our part, also has the power to hold the nomination of a civilian Biden Administration official to a role with actual responsibility for the objectionable policy. Unfortunately, our colleague has chosen instead to exert his leverage on career military officers with no influence over this Administration's policy priorities.

Right now, these holds affect 370 active duty positions. By the end of the year, if this situation is left unaddressed, it will impact 90 percent of our senior most military commanders. Madam Chair, any one of us can talk for days about the growing challenges we are facing around the world, but none of it is worth a dime if we cannot put experienced commanders in command in a timely manner.

I am grateful to a number of our colleagues on both sides who have proposed plausible solutions to the situation. Ultimately, the best path forward for everyone involved will be one that allows us to clear the nominations backlog and preserve our substantive opposition to the Biden Administration's atrocious policy.

Productive discussions on that front are ongoing, and I am of the mind that we ought to allow them to continue. I appreciate the work put into the standing order proposal that the Committee is considering, but I am going to oppose taking that route at this particular moment.

Chairwoman KLOBUCHAR. Thank you, Senator McConnell. With opening statements now being concluded, I think we are going to allow people—there is many—several Members that want to speak and we are going to do it after the vote.

I urge people to stay because I think people including, we have Senator Warner here, the Chair of the Intel Committee and several others, have some really important opinions that they want to offer.

But with everyone here, I think it is a good time to go to the vote. The Committee will now proceed to consideration of S.Res. 444, providing for the en bloc consideration of military nominations.

The resolution, which is a standing order for this Congress only, allows nominations favorably approved by the Armed Services Committee to be voted on as a group on the Senate floor, with some exceptions, and that would be for the 8 Members of the Joint Chiefs of Staff and 11 commanders of a combatant command.

Since no amendments were filed by yesterday's deadline, we will now proceed to the resolution. The question is on reporting S.Res. 444, providing for the en bloc consideration of military nominations, favorably to the Senate. The clerk will call the roll.

The Clerk. Senator Schumer?

Senator SCHUMER. Aye.

The Clerk. Senator Warner?

Senator WARNER. Aye.

The Clerk. Senator Merkley?

Senator MERKLEY. Aye.

The Clerk. Senator Padilla?

Senator PADILLA. Aye.

The Clerk. Senator Ossoff?

Senator OSSOFF. Aye.

The Clerk. Senator Bennet?

Senator BENNET. Aye.

The Clerk. Senator Welch?

Senator WELCH. Aye.

The Clerk. Senator Butler?

Senator BUTLER. Aye.

The Clerk. Senator Fischer?

Senator FISCHER. No.

The Clerk. Senator McConnell?

Senator MCCONNELL. No.

The Clerk. Senator Cruz?

Senator FISCHER. No by proxy.

The Clerk. Senator Capito?

Senator CAPITO. No.

The Clerk. Senator Wicker?

Senator WICKER. No.

The Clerk. Senator Hyde-Smith?

Senator HYDE-SMITH. No.

The Clerk. Senator Hagerty?

Senator HAGERTY. No.

The Clerk. Senator Britt?

Senator BRITT. No.

The Clerk. The ayes are 8, the noes are 7—

Chairwoman KLOBUCHAR. I am also an aye.

The Clerk. Senator Klobuchar—the ayes are 9, the noes are 7.

Chairwoman KLOBUCHAR. Okay, very good. The resolution will be favorably reported. I will note that what this means is that Sen-

ator Schumer will be able to call this resolution up to the floor for a vote.

As you are all aware, there are a number of Senators on both sides of the aisle and a number of Republican Senators who have been very, I will say, loud about wanting to change this policy and wanting to do something, as Senator McConnell just pointed out, to get these nominations through.

We believe this is the most sensible way to do it, because they are—it is a temporary policy, and I want people to have hope that we are going to get this done. This is the first step in this process to get these promotions through.

Senator WICKER. Madam Chair. Madam Chair.

Chairwoman KLOBUCHAR. Yes.

Senator WICKER. I had counted eight no votes. Did the proxy not count?

Chairwoman KLOBUCHAR. The proxy, I believe—yes, the proxy does not count for the final vote. That is why we had all our people here.

Senator WICKER. Thank you.

Chairwoman KLOBUCHAR. Yes.

Senator FISCHER. The proxy only counts for recording the Senator's position.

Chairwoman KLOBUCHAR. Okay. I am going to—do you want us to adjourn and then have the speakers, or can we continue on? Okay, I think we are not going to adjourn yet because we really want to listen to some of the other Senators' viewpoints. With that, I turn it over to Senator Warner.

Senator WARNER. Madam Chair, I do not want my colleagues to all rush before they hear my brilliant—

Chairwoman KLOBUCHAR. We are. Senator Fischer and I are raptly listening, Senator Warner.

Senator WARNER. I am not going to speak for a long time. I hope folks will listen on this, though. I spend almost all my time now in SCIFs, which are secure areas, as Chairman of the Intelligence Committee.

I just got to tell you, a lot of folks are asking, what is happening in the United States of America? What is happening when we do not have a Speaker of the House for weeks on end. What is happening when some want to walk away from our commitment to Ukraine. Does that mean you cannot trust America anymore when they make commitments, particularly with organizations like NATO, and when clearly there are adversaries like Russia, which have acted so abhorrently?

Apparently, a lot of folks are asking, what is America's role going to be to try to navigate through the turmoil in the Middle East? Our folks are asking, what in the heck is going on when America's military leadership cannot get the promotions that they have earned.

I do not think most folks are going to ask what was a precedent and not a precedent, or what some obscure Senate rule or the other. But I just believe this is one other example where we have got to get our act together, do the right thing, not just for military families, for military readiness, but just for the long-term sake of

how our Nation is viewed at this most critical time in history. Thank you, Madam Chair.

Chairwoman KLOBUCHAR. Thank you very much, Senator Warner. I will note as I turn to another of our colleagues that asked to give some remarks, the most important people in the room are still here, and that is our military families that stayed to listen to you and those who have friends and loved ones who are awaiting appointment. Senator Ossoff.

Senator OSSOFF. Thank you, Madam Chair. Thank you for your leadership. I want to begin by thanking all of the military spouses, military families, active duty service members, veterans who are with us today.

This is a national security crisis to have hundreds of general officers whose promotions cannot be confirmed with impacts on our military readiness that cascade down through the chain of command and impact officers at all levels.

This impacts the readiness of some of the most important units deployed around the world, strategic facilities at a moment of great peril and global instability. The step that we have taken today to empower the Senate finally to confirm the promotions of hundreds of deserving career military officers, apolitical, public servants who are sworn to defend the United States and all of its people, regardless of politics, is critically important to my constituents in Georgia, to United States national security, and to our reputation in the world.

I am glad that we have taken this step. Madam Chair, I appreciate your leadership. Most of all, I appreciate all of you who are here in the audience today showing your support for sound governance and United States national security free of irresponsible and abusive political interference.

Chairwoman KLOBUCHAR. Thank you. Senator Merkley.

Senator MERKLEY. Thank you, Madam Chair. I am reflecting on the two years I spent working for Secretary Weinberger in the Pentagon and all of—so many of my colleagues in the Pentagon at that time. Many of them had been in the Vietnam War.

There were, of course, some very dedicated to the national security of our of our country. Never in my wildest dream would I have anticipated that Senators in this body would vote to hold the hostages—as hostage, the families of our military personnel. Everyone who is a member of a military family, could you raise your hand? Yes. Thank you. Thank you for coming.

I think our Chairwoman really delineated all of the hardships that are imposed on families, on the spouses, on the children. Where will people go to school? Where will you live? Just a huge set of uncertainties that accompany this nine month delay. I heard the argument that somehow this resolution undermines a Senate tradition.

The Senate tradition is to, by unanimous consent, consider, en bloc, and approve the military promotions. Going back to our earliest times, if there is a violation of Senate tradition, it is the violation of holding hostage our military families and denying the national security needs of our Nation by doing so as well.

I cannot speak more passionately about how wrong this is. It is a symptom of a broader paralysis in the Senate. We are witnessing

now so many elements of the Senate code—the Senate code which you listen to everybody in room and then you vote. You do not hold everything hostage to a supermajority.

You do not proceed to have one person hold everything up. There were moments when one person could hold something up by holding the floor continuously. Well, my colleague wants to speak continuously until he collapses in the wall of the Senate, and then we can get on with this vote, I would be just fine with that.

But this nine month determination to undermine our national security, damage our military families is beyond unacceptable, and I am pleased that the Committee today has taken action. Thank you, Madam Chair.

Chairwoman KLOBUCHAR. Very good. Senator Fischer, If you want to—anything more? Okay. Thank you very much, Senator Merkley, and thank you for reminding us of those Senate rules and how over the years as a student of those rules, I know Senator Merkley, you know how many times there have been changes to the rules, sometimes temporary, sometimes permanent.

Senator MERKLEY. Madam Chair, I am thinking about this last weekend, Veterans weekend, where so often Members of this body will give a speech and it will go something like along the lines of our military families as well as our military service members have stood up for our Nation. We have to stand up for them. Well, this is the way you stand up for them, is you resolve this unacceptable impasse. That is the concrete commitment. Flowery words do not get the job done.

Chairwoman KLOBUCHAR. Okay. Very good. I just want to, a few things I want to just clarify and then we are going to bring this to an end. What this policy is about, this DOD policy is consistent with the law.

The DOD's policy change provides allowances for travel and transportation for service members and dependents to travel to the closest medical facility if they need abortion or fertility care that they cannot access.

This has been a policy that is, again, under the law. The Department of Defense has not changed its policy on providing abortion access. It is simply allowing for that travel, which is allowed for in other instances where someone, and I know military families are nodding their head, cannot get access where they are stationed for some reason to some kind of health care. That is simply what this is about.

Then the second thing I wanted to note is someone says, well, why don't we just change the policy? Well, and I think you have heard from my colleagues here, if we start doing that, okay, I really want to get the Afghan Adjustment Act done. It is a bill actually I have with Senator Lindsey Graham. To be able to get those that were promised a life here in this country after they put their lives on the line for our soldiers, I would like to get them out of that limbo and get that passed.

Now, am I going to hold up every military promotion to do that? No. I would like to really get my legislation, again, bipartisan on some of the exposures that kids have to tech with fentanyl and all these things that are happening, but we find ways to get this done and this is not one of them.

That is why we have found this what I would consider elegant solution that Senator Reed, who like myself, has a habit of working across the aisle and trying to find solutions. That is what this is.

The final vote, just to clarify, a lot of questions about proxies and the like, the final vote was 9 to 7. We, for those of us that want to keep this moving and to stop our chain of command from being held hostage, this is a victory because it is the first step to getting this done.

Now we go to the floor and one of the reasons it was important to do this at this time is a number of our Republican colleagues are speaking out not just behind closed door, but on the floor. It is our hope that once we get there, we will get, I think we need nine votes in addition to the Democratic votes to advance this policy.

It was with that spirit that I will adjourn this hearing and this markup. I want to thank Senator Fischer and thank all of our colleagues who came today. I thank them also for not throwing a bunch of amendments on this.

At least it will allow us on the floor to debate this and make any changes necessary to get this done. With that, the meeting is adjourned. Thank you.

[Whereupon, at 3:39 p.m., the meeting was adjourned.]

