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In Utah, Miers' exit surprising to some, expected by others

Leaders' reactions: While Sen. Bennett bemoans the decision, the U. politics director says it 'had to happen'

By Robert Gehrke
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WASHINGTON - Utah's senators said they were surprised by Harriet Miers' decision to withdraw her name from consideration for the U.S. Supreme Court, but other Utah political observers say it was becoming increasingly apparent that Miers' nomination was doomed.

Sen. Orrin Hatch said he had spoken Wednesday with Miers and planned to spend long hours with her in the coming days preparing for the Judiciary Committee Hearings.

"I think she would have made it through if she'd just held on," Hatch said. "She came to the conclusion that the president was being embarrassed and she's so loyal to the president that . . . she wouldn't want to bring one bit of difficulty to him."

He said attacks coming from both parties became too much to withstand.

"I think she was treated pretty despicably and unfairly," said Hatch.

Sen. Bob Bennett said, after the initial surprise of Miers' nomination, he was pleased with the choice and believes she would have brought "a diversity of experience to the court."

"I would've voted for her with a completely clear conscience and I'm sorry that others have not seen it that way," Bennett said.

But Bennett said there was "unease" among Senate Republicans in the way the nomination was unfolding, although most assumed that Miers would drop out only if the committee hearings went badly.

"No senator in either party had publicly stated his or her firm decision to oppose her, so I think that's indicative of the fact that the cement was still pretty wet," Bennett said.

But Gayle Ruzicka, head of the conservative Utah Eagle Forum, said Miers' withdrawal was the right outcome for a botched nomination.

Bush "picked the wrong person," she said. "Hopefully, the president will learn something from this and pick somebody who is more qualified."

Dan Witte, a board member of the conservative Sutherland Institute based in Salt Lake City, dismisses complaints over Miers' qualifications as just "a cover story."

"It all comes down to the way she was going to vote and she has an odd assortment of policy positions that didn't make the purists on either side happy," Witte said. "She is on the wrong side of affirmative action for conservatives and on the wrong side of abortion for liberals."

Kirk Jowers, director of the Hinckley Institute of Politics at the University of Utah, said Thursday's announcement was the sensible end, given the White House's "completely unexplainable error" in picking Miers.

"This had to happen and it had to happen the way it did," he said. "Harriet Miers had to request to have it withdrawn so President Bush could reluctantly accept it, because otherwise it would look like he made a mistake."

Jowers predicted the White House will now nominate a strong conservative with "drop-dead impressive qualifications" and few attachments to the president.

Professor John Fee of Brigham Young University's J. Reuben Clark Law School thinks the president and his advisors failed to anticipate opposition among conservatives and the questions about Miers' qualifications, figuring her closeness to Bush would be an asset. Instead, it turned out to be a negative.

"It was a political miscalculation," said Fee, a former law clerk to Supreme Court Justice Antonin Scalia. "I think they're going to work hard not to do that again."

President Bush will have to look for a nominee with a distinguished background who is not too conservative in order to get the support of moderate Republicans and some Democrats, Fee said.

Scott M. Matheson Jr., dean of the S.J. Quinney College of Law at the University of Utah, said there could be "more of a consultative process between the White House and the Senate the next time around."

Hatch said he believes Bush now has wide latitude to pick his new nominee, and won't feel beholden to the conservative critics who opposed Miers.

"I don't think he owes them anything," Hatch said. "I don't think anybody is going to blame him if he picks a white male at this point. In fact, I would recommend that he not be in the least bit concerned about it."

Tribune reporters Pamela Manson and Matt Canham contributed to this report.