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## Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

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

Let us pray.

Loving Lord, who rules the raging of the sea, make us aware of how near You are to us at all times. May this knowledge bring us peace and inspire us to look to You for guidance. Refresh our Senators with Your spirit. Quicken their thinking and reinforce their judgment. Empower them to conserve and strengthen the best and holiest of our American heritage. Lord, help them to remember that righteousness exalts a nation but sin will destroy any people. In all their labors, inspire our lawmakers to fulfill Your purposes.

We pray in Your strong Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, April 23, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### MEASURE PLACED ON THE CALENDAR—H.R. 1664

Mr. REID. Madam President, it is my belief that H.R. 1664 is due for a second reading and is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1664) to amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards.

Mr. REID. Madam President, I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

### SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will resume consideration of S. 386, the Fraud Enforcement and Recovery Act. There are currently six amendments pending. One of those amendments is a second-degree amendment.

When the Senate resumes consideration of this bill this morning—I assume there will be no morning business, so whenever Senator MCCONNELL and I finish—Senator LEAHY will be here to work with the manager on the Republican side and Republicans and Democrats on a time to vote on pending amendments. Those votes, we hope, will occur this morning.

As I announced earlier, we are going to turn to the House message with respect to the budget resolution, which is basically an apparatus to get us to conference on this matter, and we will do that sometime this afternoon. Senator MCCONNELL and I have to go to the White House this afternoon, so we will have all that worked out before we go down there. Senators should be prepared for votes in relation to the motions to instruct conferees this afternoon.

### UNANIMOUS CONSENT REQUESTS—EXECUTIVE CALENDAR

Mr. REID. Madam President, at this time, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 56, the nomination of Thomas L. Strickland to be Assistant Secretary for Fish and Wildlife; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order; that any statements relating to this nomination be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. Reserving the right to object, let me say to my good friend the majority leader, there is at least one Member on my side who is not yet prepared to clear this matter. Therefore, I must, for the moment, object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, we understood that the ranking member of the Environment and Public Works Committee—the committee that reported this—was the individual holding this up, so I talked to Senator INHOFE.

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



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We had a good conversation. I called him back and he said he had no problem with Mr. Strickland. Obviously, this has been rolling around and somebody else has put a snag on it.

I would now ask my friend, the Republican leader, if I ask unanimous consent for 4 hours of debate on this individual, would there be an objection to this?

Mr. McCONNELL. Madam President, I would say to my friend, the majority leader, that I am not able, at this particular time, to enter into an agreement on this nomination.

Mr. REID. Madam President, that is very unfortunate, but I understand.

I now ask unanimous consent, as in executive session, that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to executive session to consider Calendar No. 62, the nomination of Kathleen Sebelius to be Secretary of Health and Human Services; that there be 5 hours of debate with respect to this nomination, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of that time, the Senate proceed to a vote on confirmation of Kathleen Sebelius; that upon confirmation, the normal procedure of the Senate be followed and that following that we resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCONNELL. Madam President, reserving the right to object, this nomination came out of committee yesterday. It was fairly contentious. It was not a party-line vote, but a number of Members on my side opposed the nomination. So at least for today, I am not able to enter into a consent agreement on a time specific to consider the nomination of Governor Sebelius. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, we need not quibble on the time. It came out Tuesday or Wednesday, and I understand people may want to look at this more closely. That is fine. It appears to me it wouldn't do me any good or the Senate any good to ask for more time at this time. No matter what time I set aside, the Republican leader couldn't agree now?

Mr. McCONNELL. I would say to my friend, the majority leader, I cannot today agree to a time specific for consideration of this nomination.

Mr. REID. Madam President, we have another individual who we feel should be approved, David Hayes, to be Deputy Secretary of the Interior. I would ask my friend, the Republican leader, if we suggested 3 hours of debate under the conditions I outlined for the other two, is the Republican leader in a position to agree to have this nomination?

Mr. McCONNELL. Madam President, I would say to my good friend, the majority leader, not at this time.

#### RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### HOLOCAUST DAYS OF REMEMBRANCE

Mr. McCONNELL. Madam President, later this morning, President Obama will speak at a Days of Remembrance ceremony here in the Capitol Rotunda—an annual event that was established by Congress as a living memorial to the victims of the Holocaust. Throughout the week, Louisville, Lexington, and other communities in Kentucky and the Nation have held events to commemorate this solemn occasion.

As we remember the terrible sufferings of the Jewish people and all others who have suffered and who continue to suffer at the hands of hatred and intolerance, we spread one of the most enduring lessons of the Holocaust—that evil exists in the world and it is the responsibility of free and just nations to protect the innocent by speaking for all those who cannot speak for themselves.

The theme of the 2009 Days of Remembrance is “Never Again: What You Do Matters.” Those words should serve as a reminder to all of us that anti-Semitism and other forms of religious hatred are as real today as they were in the middle of the last century and that the best way to honor the victims of the Holocaust is for us to work toward building a more hopeful and a more peaceful world.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 386, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 386) to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Reid amendment No. 984, to increase funding for certain HUD programs to assist individuals to better withstand the current mortgage crisis.

Inhofe amendment No. 996 (to amendment No. 984), to amend title 4, United States Code, to declare English as the national language of the Government of the United States.

Vitter amendment No. 991, to authorize and remove impediments to the repayment

of funds received under the Troubled Asset Relief Program.

Boxer amendment No. 1000, to authorize monies for the special inspector general for the Troubled Asset Relief Program to audit and investigate recipients of nonrecourse Federal loans under the Public Private Investment Program and the Term Asset Loan Facility.

Kyl amendment No. 986, to limit the amount that may be deducted from proceeds due to the United States under the False Claims Act for purposes of compensating private intervenors to the greater of \$50,000,000 or 300 percent of the expenses and cost of the intervenor.

Coburn amendment No. 982, to authorize the use of TARP funds to cover the costs of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The Senate is considering S. 386, to which six amendments are pending.

Mr. LEAHY. I thank the Chair.

Madam President, yesterday, when we were finally allowed to proceed to the Fraud Enforcement and Recovery Act, we began making real progress. Ten amendments were offered during the course of the day, four amendments were adopted, and six remain pending. I believe, had we not stopped voting at 5 o'clock, we could have finished the bill and passed it last night. As things stand, we hope to dispose of the six remaining amendments through the course of this morning. We should complete Senate consideration of the bill without further delay.

I should note that the number of Senators who have cosponsored this bill continue to grow—now at 17 Senators. Most of the Senators who offered amendments yesterday praised the underlying bill. I think we have only one pending amendment that regards the underlying bill; only one that actually directly relates to it. Senator GRASSLEY will speak to that amendment. Most of the amendments that have been offered, almost all the remaining amendments pending, aren't within the jurisdiction of the Judiciary Committee, they are within the jurisdiction of the Banking Committee, and I look forward to the leadership of that committee—the committee of jurisdiction—with respect to guidance on those amendments.

In my view, it would have been better if Senators had withheld their amendments and waited to offer them on the housing and banking legislation that is going to be considered next week by the Senate. Then you would have at least had a bill that was relevant to the amendments. But, of course, every Senator can do whatever he or she wants to. Now, the banking/housing amendments that have been added to this Judiciary bill will complicate passage and enactment of what everyone agrees is needed—the fraud enforcement legislation. I think that is unfortunate.

Among the examples are amendments affecting the use of TARP funds.