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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

### PRAYER

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

Let us pray.

Lord God Almighty, You have made all the people of the Earth for Your glory, to serve You in freedom and peace. Today, as our lawmakers seek to serve, give them a zeal for justice and the strength of forbearance, that they may accomplish Your purposes. Let them feel the constancy of Your presence, as You guide them with a higher wisdom. May each success prompt them to greater undertakings for human betterment. Lord, renew their commitment to pray not only for those with whom they agree but also for those with whom they disagree. Bring our Senators to the end of this day with their hearts at peace with You.

We pray in Your strong Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JON TESTER 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, January 13, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. TESTER thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each. The majority will control the first 30 minutes, and the Republicans will control the final 30 minutes. Following morning business, the Senate will resume consideration of S. 22, the wilderness bill. Yesterday, I filed cloture on the bill. The cloture vote is expected to occur an hour after the Senate convenes tomorrow. We will be in recess today from 12:30 p.m. until 2:15 p.m. for our weekly caucus luncheons. The filing deadline for first-degree amendments is at 2:30 p.m. today.

Mr. President, I have had a discussion with Senator BINGAMAN this morning. He is going to see if there is something that can be worked out to have a limited number of amendments on the wilderness bill. He will proceed to work on that. If, in fact, he can work something out with those interested on the other side, then we will have a number of votes on that. If they cannot work that out, then, as has been indicated in the past, we will go to cloture tomorrow. If we can work something out there, we can have those votes today and final passage of the bill this afternoon.

We are going to move to the Ledbetter issue dealing with pay eq-

uity, the statute of limitations—call it whatever we wish. That is something we will move to this week. The Troubled Asset Relief Program, TARP, is now here with us, and there is a very strict deadline when we must finish that. We must have a vote on that by this Sunday. So we have our work cut out for us. We have a lot to do.

These are very exciting times, as we know, for our country. We have a new Congress. We have a new President. Senator MCCONNELL and I have done our utmost during these past many weeks to try to work together to get some things done here. We are now at a point where we have resolved, we believe, the issue relating to how committees are funded and what the ratios are going to be on the various committees, and it is easy for me to say that or Senator MCCONNELL to say that, but it has taken weeks of work to get that done. But we are moving forward. We hope the work of this next week will be in keeping with how we intend to maintain a degree of bipartisanship in the Senate during this Congress. We hope that, in fact, is the case. We will do our utmost to comply with that.

### RECOGNITION OF THE MINORITY LEADER

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

### WORK OF THE SENATE

Mr. MCCONNELL. Mr. President, a couple brief observations with reference to what the Democratic leader just indicated. I want to say I appreciate the way in which we are going forward here. When he and I first came to the Senate, the notion that you would pass bills without amendment was foreign to everyone. I think we are getting off to a good start here with a kind of reestablishment of the Senate as it used to operate with amendments

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



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being appropriate. As members of his party said when they were in the minority, the Senate is not the House. I think there is a growing appreciation on both sides of the aisle that we ought not to operate that way.

With regard to the organizing resolution, I agree with the majority leader that we are very close to being ready to move forward on that. It is a difficult process for the two of us, but I think we have gotten close to being at a point of completion, which is, of course, essential to beginning our business.

TARP

Now, on another matter, Mr. President, a few months ago some of our Nation's top economic minds came to the Capitol to tell us about an impending crisis. The crisis, of course, was the accumulation of toxic assets at banks here and around the world that threatened to paralyze America's economy, jeopardizing the livelihood of literally millions. Without action, we were told, the Nation faced certain calamity.

For many, the normal impulse would be to let the bad actors who caused this mess face up to their mistakes. But since millions of families and small business owners, who did nothing wrong, were caught up in the errors of the few, we decided, with some degree of reluctance, to approve funding for the Troubled Asset Relief Program, now commonly referred to as the TARP.

Fearful of waste and abuse, Republicans insisted on a number of taxpayer protections. We also insisted on releasing the money in two installments so we could review how the first one was spent before approving the second. Yesterday, a request for the second installment was made. I had an opportunity to talk to the incoming President about that matter yesterday.

Throughout this ordeal, I have not wavered on one basic principle: I voted for the first installment on the condition that it be used to prevent a systemic—a systemic—economic collapse affecting every single American. And I continue to believe this money should be used for the reason it was first approved. The current administration, regretfully, used these funds for the auto industry, a move I opposed. Now congressional Democrats are suggesting more of the same. The American people still do not have assurances that this money will not be wasted or misused to play favorites.

So far, the incoming administration has not said whether it plans to limit the funds to their original purpose or to expand their use to help specific industries. The taxpayers are eager to hear the new administration's plan, and so are Republicans in Congress. We will hear from the incoming administration soon. We will be happy to listen. They will have a receptive, albeit cautious, audience.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate shall proceed to a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent that all the remaining time on the Democratic side be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MINNESOTA SENATE ELECTION

Mr. KYL. Mr. President, I wish to speak briefly about the contest in Minnesota involving the Senate seat currently held by Senator NORM COLEMAN. Obviously, the other new Members of the Senate were sworn in last week, but this seat remains empty, a winner yet undeclared.

To be clear, under Minnesota law, that is the way it has to be right now because there is an election contest that has been filed in the courts, and under Minnesota law, therefore, neither the Secretary of State nor the Governor can declare the seat filled.

Senator COLEMAN had been declared the winner on election night and through the ensuing administrative canvassing process. But throughout the following State Canvassing Board stage of the proceedings, there were numerous inconsistencies and problems uncovered, and the board-certified totals were different. They are, obviously, at issue, and they are preliminary.

The Minnesota State Canvassing Board totals, for example, include more votes than voters in a significant number of the Minnesota precincts. So, clearly, there is something wrong, and it has to be resolved by the court.

The Coleman campaign has followed Minnesota election law in filing an election contest, and that comes before a three-judge panel in Minnesota before the end of this month.

The contest is based on significant errors. I wish to mention four of these

categories so folks will understand what is at issue.

First is newly discovered ballots which appeared for the first time during the recount and are included in the State Canvassing Board totals.

Second is missing ballots supposedly tallied on election night but which could not be found during the recount process—obviously a problem.

Third is double-counting of duplicate and original ballots of the same voter during the recount process.

Fourth is wrongly rejected absentee ballots and inconsistent standards regarding what constitutes a wrongly rejected absentee ballot applied in different locations throughout the State.

Let me discuss each of these briefly in turn.

On the newly discovered ballots, there are 171 such ballots that appeared without explanation several days after the election in Ramsey County precinct Maplewood P6. Election officials were unable to reconcile the number of votes cast with the number of voters signed in, but the board, nevertheless, included the additional votes in Al Franken's favor in its totals. Furthermore, the board directed that this issue should properly be dealt with during the contest phase, and that, of course, is now occurring.

On the missing ballots, there were 133 ballots in Hennepin County that could not be found during the recount and were declared "missing," despite the fact that there are any number of possible reasons for the change, including the possibility that the ballots never existed in the first place. But instead of following a consistent standard and including the new recount total, the board reverted to election night totals, again resulting in more votes for Al Franken.

On the double-counting, in at least 25 precincts in Minnesota, there are more votes than voters in the Canvassing Board's totals, and there are 150 separate incident logs prepared by local recount officials describing issues involving duplicate and original ballot counting. This is due to the counting of both the voter's original ballot and a duplicate ballot which was created to take the place of the original ballot, resulting in double-counting of some votes when both of those ballots are included in the total. That is, obviously a blatant error and one that threatens the sanctity of "one person, one vote." Obviously, most people get one vote. Those who got more than one vote have an advantage for whom they cast their ballot.

Both the Canvassing Board and the Minnesota Supreme Court directed the issue to be dealt with during the election contest. So that issue is now being dealt with.

Finally, on the category of wrongly rejected absentee ballots, during the recount process, a "fifth pile" was created for absentee ballots that were rejected but not because one of the four reasons stipulated by Minnesota election law. This fifth pile was requested