



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 113<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 159

WASHINGTON, FRIDAY, JANUARY 4, 2013

No. 2

## Senate

(Legislative day of Thursday, January 3, 2013)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

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

Let us pray.

Eternal God, sovereign of the nations, we place our trust in You. Infuse our lawmakers with a spirit of discernment that they may fulfill Your purposes for our Nation and world. Lord, stir them up with the fresh realization of the supernatural resources available to them to accomplish their tasks. As they seek Your guidance on all decisions, guard their hearts and minds with Your peace. Help our Senators to give one another kindness, patience, and encouragement as You saturate their hearts with Your grace and joy.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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. LEAHY).

The legislative clerk read the following letter.

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, January 4, 2013.

To the Senate:

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

appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

PATRICK J. LEAHY,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### JOINT SESSION FOR COUNTING OF ELECTORAL VOTES

Mr. REID. Mr. President, the Senate will recess for the joint session for the counting of electoral votes.

Following the joint session, we are hoping to complete action on part of the flood insurance of the Sandy supplemental, which the House just passed.

### RECESS SUBJECT TO THE CALL OF THE CHAIR

I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 12:33 p.m., recessed to reassemble in the Hall of the House of Representatives for a Joint Session and at 1:56 p.m. reassembled in the Senate Chamber when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

### HELPING THE VICTIMS OF HURRICANE SANDY

Mr. SCHUMER. Mr. President, I rise in support of the legislation we are about to vote on that will provide an

additional \$9.7 billion to the National Flood Insurance Program. Without these funds, the program would have run out of money next week, leaving over 100,000 victims of Hurricane Sandy in the lurch.

I would like to thank my colleagues on both sides of the aisle for allowing this vote to go forward. They have acted honorably. The good news is the House passed this bill this morning and the Senate will pass it in a few minutes.

With the passage of this bill, hurricane victims from Staten Island to east Long Island, as well as in New Jersey, can rest assured their flood insurance will have enough money to pay out claims. We had no choice but to pass this provision because the Federal Government is obligated to reimburse when people have floods if they have paid in their flood insurance.

While this bill is important, it is something we were almost obligated to do, and we should not have parades down the street because this bill has passed.

The major work of helping the victims of Sandy is still ahead of us. The bad news is we even had to go through this dog-and-pony show in the first place.

Last month, the Senate passed a good, strong bill to help all victims of Hurricane Sandy, and the House simply could have taken it up and passed it. In fact, they promised to vote on a similar provision before the last Congress ended.

Unfortunately, this changed at the last moment. We do not need to get into the whys right now; we just want it to happen, and we are worried the second major portion of this relief bill will not get through the House in the form it should.

We need the House to pass not only the \$9 billion they passed this morning but the \$51 billion that contains the

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



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bulk of the aid people need, without which we will not be able to recover. To be a bride and left at the altar once is bad enough. To be left twice would be unconscionable.

As I said, this is a good step that we are going to pass this \$9 billion flood insurance bill. This is a good but small first step. It is a small downpayment on the much larger amount of aid we need to get through Congress.

Let me tell you what is not in this bill. What is not in this bill is help for every homeowner who does not have flood insurance and lost their home or suffered major damage.

Homeowners are waiting for Congress to pass relief the way we did for Irene and Katrina and so many other disasters so they can get a contractor to sign a contract, get a bank to make a loan until they know that the Federal Government will be there to reimburse, as it always has in the past.

What is not in this bill is aid to small businesses, small businesspeople who are hanging by their fingernails, who might not be able to restart their businesses unless there is Federal aid, which was already in the Senate bill. Unless it comes back from the House and we are able to pass it in the Senate, they will be hurt.

What is not in this bill is dollars to rebuild our highways and, most importantly, our mass transit systems that were flood, damaged. The MTA alone has taken out a \$5 billion loan, but it will be in real financial jeopardy unless it is assured that it will be reimbursed for all the damage that Sandy caused to our railroads and our tunnels and our mass transit system—our amazing mass transit system that brings 3½ million people off and on Manhattan Island every single day.

What is not in this bill is help to bring the electricity system back up to snuff so there will not be major blackouts, so people can be assured of their electricity.

What is not in this bill is help for all of the communities that laid out hundreds of millions and billions of dollars for the cleanup. Their taxpayers will foot the bill unless Congress does what it has always done: step to the plate when a major disaster occurs and have the Federal Government help the locality. There has been a wisdom for 100 years that when an area is afflicted by a disaster, we unite as a nation and come together and help that part of the country whether it is New Mexico or California or Louisiana or Florida or Missouri or North Dakota or New York or New Jersey.

This bill is a first step to deal with flood insurance. It is the easiest part. The hard stuff is still ahead of us. We await the House returning in a week and a half, and we hope and expect, in fact, that they will vote the full \$51 billion remainder. We hope and expect, in fact, that they will not put in legislative language that prevents money from getting to homeowners and communities that need it desperately right away.

The draft we have seen contains some major changes from the Senate bill that would make it very difficult for NIH, the Army Corps, and other parts of the government to spend the dollars that are needed efficiently and quickly and to place them where they go. We beseech the House to finish its business, to finish the major part of its business, and approve the \$51 billion that will make up the rest of the \$60.

We beseech them not to hamstring the local homeowners and businesses and governments with language that would prevent recovery. We beseech them to move quickly. Of course, the ideal would be for them to pass the same bill that the Senate passed in the waning hours of the last session. If they cannot, we will have to get legislation through the body again. But through the generosity of the majority leader, he has assured us it will be the first order of business when we return. So we have to move forward.

As we have seen, this is not going to be easy. There are many bumps in the road and obstacles that we cannot yet see. For sure they will arise and for sure we will have to grapple with them.

This vote needs to be the beginning of the process. It cannot certainly be the end, and it certainly cannot be the middle. We cannot just pass the \$9 billion bill and then say that is it. We cannot let the House pass this and rest on its laurels. We in New York and New Jersey cannot let our guard down. Not until the full \$60 billion arrives in New York and New Jersey can we stop working. So I urge my colleagues to support this legislation and then alert them to keep the victims of Sandy in New York, New Jersey, and elsewhere in their thoughts so that we can continue to support the region when we return.

I yield the floor, and 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHUMER). Without objection, it is so ordered.

Mr. REID. Mr. President, in the years I have served in legislative bodies, which is quite a long time now, it is interesting to see how different people approach the legislative process. I have learned over the years there is nothing more important than people working hard. You have to be tenacious to get legislation passed.

The leader of passing Sandy over here—and I am confident when we get back in a couple of weeks after the House works on theirs, the same dynamic will be here—the senior Senator from New York has worked tirelessly to get legislation passed. He has led a team effort of Senators from New Jersey and his partner, Senator GILLIBRAND, but the leader, the quarterback, has been the Senator from New York.

The work he has done not only in the Senate, but having the many years of experience he had in the House of Representatives, the Presiding Officer, the senior Senator from New York, worked day and night making phone calls, personal contacts with people in New York and New Jersey who could call House Members and have them pass this legislation.

On the way back from the joint session dealing with the electoral vote count, he walked up and grabbed me—did not grab me, but we talked for several minutes walking back to the Senate—the majority leader from the House of Representatives. He worked extremely hard on this. He worked hard on it. I indicated to him that I had received calls from people in New York who appreciated very much his efforts to try to get this thing passed.

I really do believe it is important that I have the record reflect the reason we have gotten as far as we have on Sandy is because of the senior Senator from New York. It is too bad that it has taken so long. When we had that devastation from Katrina, we were there within days taking care of Mississippi, Alabama, and especially Louisiana—within days. We are now past 2 months with the people of New York and New Jersey.

The people of New Orleans and that area, they were hurt but nothing in comparison to what happened to the people in New York and New Jersey. Almost 1 million people have lost their homes; 1 million people lost their homes. That is homes, that is not people in those homes. So I think it is just unfortunate that we do not have the relief for New York and New Jersey and the rest already. It has to be done. We have to meet the needs of the American people when an act of God occurs.

So I, on behalf of the entire Senate, and certainly my Democratic caucus, express my appreciation to the legislative initiative and the legislative expertise of my friend from New York, an experienced legislator in the State of New York, the House of Representatives, and the Senate. He has done a masterful job.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### WIND ENERGY TAX CREDIT

Mr. UDALL of Colorado. Mr. President, today marks my 28th time here on the Senate floor to talk about the Production Tax Credit for wind energy. Twenty-seven other times I stood here—oftentimes joined by like-minded colleagues from around the country—to urge Congress to extend this vital tax credit, which has helped the wind

industry create tens of thousands of jobs and spur tens of billions of dollars in investment. And Coloradans have been with me the whole way.

Well, Mr. President, 27 must be a lucky number—because today, I am thrilled to use my time to thank my colleagues for making the extension of the PTC a reality. Earlier this week, Congress came together across party lines to do the right thing to assist our fragile economic recovery.

Throughout my previous efforts here on the floor, I talked a lot about jobs. From Colorado to Kansas, Oregon and Maine and the Carolinas, my remarks always came back to one simple but true statement: the PTC equals jobs.

These are good-paying jobs for hard-working Americans. From gearboxes in Georgia to wind blades in Rhode Island to towers in Colorado, the construction of wind turbines has invigorated an entire supply chain. Factories in the Midwest have been retooled to make steel components that are shipped to places like Iowa, where cutting edge composite materials are used to make state of the art blades for turbines that ultimately create wind farms built with labor from local construction workers. That's thousands of jobs across this country.

Wind generates clean, renewable energy, which helps move our country toward a more secure energy future. This is clean, American energy that does not produce carbon dioxide pollution—and by making it here at home, it helps us become less reliant on foreign nations for our energy security.

These wind farms are also paying dividends to towns and counties across America, benefitting the families who live there and the small businesses that operate there. The tax revenues from wind turbines have allowed communities to build new schools and roads, as well as provide other basic services. These additional sources of income have been especially important during the recent economic downturn, where the budgets of many states and rural communities have been stretched thin. Quite simply, wind energy jobs have a positive ripple effect wherever they are.

I am relieved that after months of uncertainty as to whether or not the PTC would be extended, Congress has finally done the commonsense thing, making sure we did not lose this vital tax credit. Although it was my preference to have Congress act much sooner and prevent the thousands of layoffs that resulted from the uncertainty Congress created, I am pleased that we have finally acted for the good of our constituents.

With the passage of the PTC, the wind industry can get back to doing the important work of moving America toward a clean energy future, a direction that will benefit middle-class American workers and ensure America leads the world in clean energy manufacturing, even as foreign competitors like China work to surpass us.

And the final language passed by Congress will have an immediate and positive impact on the construction of new wind farms. This year, projects will be eligible to take advantage of the PTC if construction begins before the end of 2013, rather than racing to complete the project by the end of the year. This commonsense change in the law will encourage larger, longer-term projects over the course of the next few years as opposed to just in 2013, which is particularly important since Congress did not pass the extension until the very last minute.

I was not alone in this fight. Coloradans motivated me to keep up the battle the entire time. And many of my colleagues—both Republicans and Democrats—joined me. In particular, I would like to thank Senator GRASSLEY of Iowa—the “father of the wind PTC”—for his efforts to get this done.

Senator BAUCUS and Senator BINGAMAN have also been long-time champions of the PTC on the Finance Committee, and were an integral part of the fight to extend it. My good friend and colleague from Colorado Senator BENNET has also been a strong supporter of the PTC, joining me in speeches, letters, and legislation. Senator MORAN of Kansas has been right there with us as well.

And many more members from both sides of the aisle and both sides of the Capitol supported these efforts. The broadly bipartisan and bicameral group was driven by a mutual commitment to creating jobs, simultaneously improving our economy and economic competitiveness while moving us toward a more secure energy future.

Despite the importance of the wind PTC extension, there is still much more work to do. This extension only lasts until the end of 2013. So, although we might want to take a breather, we cannot. Instead, we must begin work today on a path forward that will give the wind industry much-needed certainty over the long term. Without certainty, businesses cannot do the long-term planning that is necessary to robustly grow and add good-paying American jobs. And, this time, we cannot wait until the last minute to do it. We must work together to find a plan that allows this industry to reach maturity and thrive while also being fiscally responsible. Yes, that means a gradual phase-out of the wind PTC in the coming years—but my goal is to get Congress to also work together on comprehensive energy legislation that creates long-term certainty for all energy sources. I strongly believe that any national energy policy we develop should reflect the success Colorado has had as an all-of-the-above energy State.

Again, I want to thank my colleagues who worked alongside me to push the wind PTC extension over the finish line. This is hugely important to maintaining American jobs, manufacturing prowess, and energy security. It's a win for Colorado and it's a win for us all.

## DYSFUNCTION OF THE SENATE

Mr. MERKLEY. Mr. President, I rise today to talk about the dysfunction of the Senate, the rules of this governing body, and what we need to do to change them in order to take on the big challenges we face as a Nation.

These last 2 years have created an unprecedented sense among the American people that Congress isn't measuring up to the needs of our time.

This is especially troubling when we are up against tremendous challenges: the most profound jobs crisis in a generation; skyrocketing income inequality; and a tax system that unfairly rewards the wealthy and well-connected over working Americans who are struggling to make ends meet.

But unfortunately, we can't tackle this jobs crisis or the problem of inequality until this body, our revered Senate, restores the ability to debate, deliberate and decide on strategies to take our Nation forward.

I believe that reforming the filibuster is one of the most critical steps we can take to repair the Senate and rebuild confidence in Congress's ability to govern.

When I first came to the Senate, it was 1976. What I saw then could hardly have been farther from the Senate of today. Routine use of the “filibuster”—or to put it differently, a routine use of an objection to a simple majority vote—has turned the U.S. Senate into a supermajority body.

In short, the U.S. Senate, which once claimed to be “the world's greatest deliberative body,” has possibly become “the world's least deliberative body.” The institution of the Senate will not function again until we end the abuse of the filibuster. We must put an end to the silent, secret filibuster that is paralyzing the Senate.

The use of this objection has expanded dramatically in recent decades. What was once used only to block legislation that conflicted with deep, personal principles is now used as a routine political strategy for deliberate paralysis. In the 6 years Lyndon Baines Johnson was majority leader, he dealt with one filibuster. Leader REID during his 6 years as majority leader: 391.

One casualty of the partisan filibuster is executive branch and judicial nominations. The Senate's power to advise and consent, as provided in the Constitution, was never intended to enable the legislators to inflict deep harm on the other branches of government. Yet that is exactly what has happened. Nearly one out of every eleven judgeships is vacant—triple the rate of 8 years ago. Our court systems are severely strained, with 27 vacancies rated as “judicial emergencies” at the end of 2012.

This is deeply damaging, for several reasons. It prevents the legislature from responding to the Nation's pressing problems and severely hampers the executive and judicial branches, which rely on the Senate to confirm their leaders. Because the Senate is unable

to fulfill, on a timely basis, its constitutional responsibility to “advise and consent” to nominations, judge-ships and executive branch management positions simply go unfilled.

Now, you may wonder, if this system is so dysfunctional, why did our Founding Fathers ever design the Senate like this? The answer is that they didn’t. The Founders envisioned the Senate and House passing legislation and confirming nominations by a simple majority, reserving supermajority for special purposes such as constitutional amendments and overriding a veto.

Alexander Hamilton, in fact, foresaw the current state of affairs in the Federalist Papers, observing that a supermajority requirement would have the “tendency to embarrass the operations of government,” and would create “tedious delays, continual negotiation and intrigue, [and] contemptible compromises of the public good.”

As a result of the Senate’s silent filibuster, the Senate failed to pass almost all of the appropriations bills in the last Congress. The number of bills the Senate passes has hit new lows, with fewer than 3 percent of bills introduced in the last Senate ever passing.

That is why yesterday, with my partner, Senator TOM UDALL, I introduced a resolution that will enhance debate and limit obstruction.

Core to these reforms is the “talking filibuster.” A Senator can still object but she or he must be continuously on the floor maintaining a debate on the subject. This still allows Senators to block a simple majority vote on a bill of profound consequence, but they have to spend a lot of time and energy to do so.

This reform would have two major consequences. By requiring time and energy to filibuster, it would strip away filibusters on noncontroversial issues that are currently used just to obstruct and delay, allowing the Senate to debate and decide issues. Second, it puts the filibuster on display before the American people, increasing transparency and accountability. If you filibuster, you must make your case before your colleagues and the public, so they know who is obstructing and what your arguments are, and allow the people to judge if you are a hero or a bum.

Senate dysfunction is compromising the Senate’s ability to respond to major issues facing our Nation. I want to thank Leader REID for reserving the right to not adopt the rules of the previous Congress, so we can have this important debate on the rules of this body when we come back from the State work period.

#### HONORING OUR ARMED FORCES

SERGEANT CLINTON K. RUIZ

Mr. UDALL of New Mexico. Mr. President, just a few weeks ago Americans gathered all across the Nation to commemorate Veterans Day. It is a day that we set aside to remember, and express our gratitude to, the men and

women who have served in our Armed Forces. It is a day to honor the heroes among us, and those who, sadly, have left us.

Today I wish to pay tribute to an American hero, Army SGT Clinton K. Ruiz. Sergeant Ruiz died on October 25 while on patrol in Uruzgan Province, Afghanistan, from injuries sustained from small arms fire. He was just 22 years old. He leaves behind a wife, Kira, and a baby son, Caleb.

As we face the tragedy of this brave young soldier’s death, it is important too that we remember his life. Sergeant Ruiz’s journey on this Earth ended far too soon, but his memory among those whose lives he touched, and in a nation’s gratitude, will endure.

Clinton Ruiz was born on March 14, 1990. He graduated from Murrieta Valley High School in Murrieta, CA, and enlisted with the Army in 2009. He was assigned to A Company, 9th Military Information Support Battalion, 8th Military Information Support Group. Sergeant Ruiz was deployed to Afghanistan in September.

In the decade that our military has been fighting in Afghanistan, thousands of our fellow citizens have volunteered to serve. These courageous men and women risk their own safety to protect the safety of others. They leave their homes and their loved ones to defend the freedoms that we hold dear. Over 2,000 of these heroes have paid the ultimate price, for our freedoms, in Afghanistan.

Words cannot lessen the sorrow of the loved ones who grieve for Sergeant Ruiz now. Words cannot fully express the gratitude our Nation owes this valiant soldier. We can only remember, indeed we must never forget, the sacrifice that SGT Clinton Ruiz made in service to our country.

President Kennedy said that “stories of past courage . . . can teach, they can offer hope, they can provide inspiration. But, they cannot supply courage itself. For this, each man must look into his own soul.” Sergeant Clinton Ruiz had such courage. In the face of great danger, at great risk to himself, he went where his country sent him. He was awarded the Bronze Star and the Purple Heart. He kept the promise he had made to serve. Our Nation is forever in his debt.

Sergeant Ruiz loved his family. He loved his country. He made the ultimate sacrifice defending it. To Sergeant Ruiz’s family, I offer my deepest sympathies. We honor Sergeant Ruiz’s courage. We remember his sacrifice. And we mourn your loss.

#### ADDITIONAL STATEMENTS

##### REMEMBERING BEN EISEMAN, MD

• Mr. UDALL of Colorado. Mr. President, today I wish to pay tribute to Dr. Ben Eiseman, a world-renowned surgeon, a true American and a great

friend of mine. Dr. Eiseman was an accomplished man in every sense of the word and is survived by his wife of 67 years, his four children and five grandchildren.

Dr. Eiseman was an incredibly intelligent individual and an avid self-learner. He graduated from Yale University in 1939 and went on to receive his Medical Degree from Harvard University in 1943. Dr. Eiseman possessed extraordinary scientific ingenuity that led him to discover an astonishing number of medical complications and cures.

In addition to these discoveries, Dr. Eiseman also authored and coauthored over 450 scientific papers, was principal editor of seven books on general surgery and was a retired Rear Admiral in the U.S. Navy Reserves—he was very proud of his service to his country. Whenever I mentioned Dr. Eiseman to other surgeons, whether they live in another State or another country, he or she would instantly know his name.

I worked with Dr. Eiseman during my time as Executive Director of the Colorado Outward Bound School. At that time he was chairman of the Board of Trustees, and he was a major influence in my life, an incredible friend, and a wise mentor. One of the reasons Dr. Eiseman and I were so close had much to do with our shared love for the great outdoors. He was one of the few people I knew who had climbed all of the mountains in Colorado over 14,000 feet.

I recall a time almost three decades ago—while I was still with Outward Bound—when Dr. Eiseman accompanied me on a winter climbing trip for advanced climbers. He was always asking us to think through each and every step. In asking the right questions and challenging us along the way, he made me a stronger leader.

One reason we all respected Dr. Eiseman was because we all admired his unassuming ruggedness. On this trip, where it was at least 10 degrees below zero, none of us were surprised as Dr. Eiseman walked around comfortably in his Converse high-tops while the rest of us muddled around, freezing in our high-tech, insulated boots. When it was time to rest for the night, most of the team rolled out their latest and greatest sleeping bags, while Dr. Eiseman pulled out the equivalent of a lawn chair cushion to curl up on for the night. Always the task master, Dr. Eiseman was the first one up in the morning to make sure that everyone, including myself, was thoroughly prepared to take on whatever was in store for us each day. It was just the way he was tough, rugged and focused.

Dr. Eiseman inspired me by the way he commanded respect from all who interacted with him. Sure, he was seen as intimidating by some, but for those who knew him, they were treated to his wonderful sense of humor. He was a dedicated community leader, outdoorsman, and patriot.

I am deeply saddened by the loss of my friend Ben Eiseman, but I know

that his work here on this Earth changed the lives of thousands and that his legacy will not be forgotten.

May his memory live on for years to come.●

#### HONORING GEORGE SMITH

● Mr. UDALL of New Mexico. Mr. President, just a few weeks ago our Nation commemorated Veterans Day. It is above all a day of remembrance and gratitude. A time to remember the courage and sacrifice of the brave men and women who have served our Nation in the Armed Forces. It is a day when we pay tribute to the heroes among us. And to those who are no longer with us.

Today I wish to honor one of those heroes. On Tuesday, October 30, our Nation lost a great American, Navajo Code Talker George Smith. Mr. Smith was born on June 15, 1922, in Mariano Lake, NM, and was Salt People Clan, born for Black Streak Wood People Clan. In 1943, he enlisted with the Marines. He was trained as a Navajo Code Talker and achieved the rank of corporal while serving in the Pacific. Corporal Smith fought in battles in Saipan, Tinian, Ryukyu Islands. He also served in Okinawa, Hawaii, and Japan. His brother, Albert Smith, also trained as a Code Talker, and served with him.

The Marines who constituted the Navajo Code Talkers were small in number, but monumental in significance. Their skills were crucial to American victory in the Pacific during World War II. They turned their language into an unbreakable code. In battle after battle, in the thick of ferocious combat, they used that code as a powerful weapon in securing Allied victory. Our Nation will never forget what George Smith, and his brother, Albert Smith, and all of their fellow Code Talkers accomplished.

Their service is all the more poignant in that they fought for freedom in a world that did not always accord freedom to them. When America entered World War II, the U.S. government had only recognized Native Americans as citizens for 17 years. In some places, tribal members still did not have the right to vote. 45,000 of the 350,000 Native Americans in the U.S. at that time served in the war. This tradition of military service by Native Americans continues to this day. Native Americans have the highest rate of service of any ethnic group.

Mr. Smith was awarded the Congressional Silver Medal. After the war, Code Talker Smith returned home and dedicated himself to his family and community. He worked at Fort Wingate in disposing of old ammunition, and then as a mechanic at Fort Wingate Trading Post. Eventually, he went to Fort Defiance, where he served as a shop foreman. He later worked as a heavy equipment mechanic in Shiprock.

Code Talker George Smith was blessed with a long life. When he passed

away last month, he was 90 years old. He will be missed by his family, his friends, and his community, and he will always be remembered by a grateful nation. I extend my deepest sympathies to his family. We are forever in his debt. I hope that those who mourn him now will find comfort in all that he accomplished. His life made a difference. His invaluable service during World War II saved lives. Our Nation is free because of heroes like Code Talker George Smith.●

#### HONORING VIRGIL WALLACE

● Mr. UDALL of New Mexico. Mr. President, in the annals of our Nation's military history, the story of the defenders of Bataan will long live in our collective memory. One of those great defenders, Mr. Virgil Wallace, recently passed away at the age of 99. Mr. Wallace survived the 4 month battle, the infamous Bataan Death March, and 3 years of horrendous captivity. He was the State of New Mexico's oldest Bataan veteran.

Our Nation is forever in debt to the extraordinary courage and sacrifice that Mr. Wallace and the "Batling Bastards of Bataan" demonstrated in the early days of World War II. Their heroic resistance helped slow the Japanese advance, allowing crucial time for the Allied forces to reorganize and eventually reverse Japan's progress. They played a crucial role in our Nation's history. I am proud to have sponsored legislation to award these valiant soldiers the Congressional Gold Medal.

The Japanese attack on the Philippines in December, 1941, just hours after the attack on Pearl Harbor, led to 4 months of intense combat. Outnumbered, outgunned, Mr. Wallace and his fellow soldiers put up a desperate fight. For 4 months, they struggled, they valiantly fought, against impossible odds, and without hope of resupply, until they finally surrendered.

Their suffering was only just beginning. The brutal Bataan Death March was followed by terrible conditions in Japanese prisons and work camps. Starvation. Torture. Forced work. And, for so many of these brave men, death. By the time they were rescued, toward the end of the war, half of New Mexico's 1,800 soldiers serving in Bataan had died. Another 300 would die from complications related to their captivity within a year of returning to the U.S. Mr. Wallace was held captive for more than 3 horrific years.

Virgil Wallace was awarded the Bronze Star and numerous other commendations for his heroic service. After the war, he returned to New Mexico, where he worked for the Department of Transportation and later Carrie Tingley Hospital in Truth or Consequences.

Our Nation will long remember this courageous soldier, a man who gave so much in service to his country. Mr. Wallace is one of the last of a legendary band of brothers, who rep-

resented the very best of who we are. In the dark days of the beginning of World War II, they showed America's fighting spirit and inspired a nation.

I extend my deepest sympathies to Mr. Wallace's family and friends. I hope that you will find comfort in your memories of his long, and distinguished, life. We honor his valor and his example, and we mourn your loss.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The messages received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 12:32 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 41. An act to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the National Flood Insurance Program.

The message further announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 1. Concurrent resolution to provide for the counting on January 4, 2013, of the electoral votes for President and Vice President of the United States.

S. Con. Res. 2. Concurrent resolution extending the life of the Joint Congressional Committee on Inaugural Ceremonies.

S. Con. Res. 3. Concurrent resolution providing for a conditional adjournment or recess of the Senate and an adjournment of the House of Representatives.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 1. Concurrent resolution regarding consent to assemble outside the seat of government.

The message further announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 3, 2013, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee: Mr. BRADY of Texas and Mrs. MALONEY of New York.

#### TO TEMPORARILY INCREASE FEMA BORROWING AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to the consideration H.R. 41, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 41) to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the National Flood Insurance Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, this is a small part of what we have needed to do for the people of New York and New Jersey.

I ask unanimous consent that the bill be read a third time and the Senate proceed to a vote on passage of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. If there is no further debate, the bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 41) was passed.

Mr. REID. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SIGNING AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that from Friday, January 4, through Monday, January 21, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR MONDAY, JANUARY 21, 2013

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess under the provisions of S. Con. Res. 3 until 11:30 a.m. on Monday, January 21,

2013, for the Joint Session of the Inaugural Ceremonies, and that upon conclusion of the joint session, the Senate recess until 10 a.m. on Tuesday, January 22, 2013; that following the prayer and pledge, the Journal of proceedings be approved to date and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for debate only until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each; and that the Senate recess from 12:30 p.m. to 2:15 p.m. to allow for the weekly caucus meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADJOURNMENT UNTIL MONDAY, JANUARY 21, 2013, AT 11:30 A.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the previous order.

There being no objection, the Senate, at 2:11 p.m., adjourned until Monday, January 21, 2013, at 11:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### THE JUDICIARY

ROBERT E. BACHARACH, OF OKLAHOMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT, VICE ROBERT HARLAN HENRY, RESIGNED.

CAITLIN JOAN HALLIGAN, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE JOHN G. ROBERTS, JR., ELEVATED.

WILLIAM J. KAYATTA, JR., OF MAINE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT, VICE KERMIT LIPEZ, RETIRED.

JILL A. PRYOR, OF GEORGIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT, VICE STANLEY F. BIRCH, JR., RETIRED.

PATTY SHWARTZ, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE MARYANNE TRUMP BARRY, RETIRED.

SRIKANTH SRINIVASAN, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE A. RAYMOND RANDOLPH, RETIRED.

RICHARD GARY TARANTO, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE PAUL R. MICHEL, RETIRED.

ELISSA F. CADISH, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE PHILIP M. PRO, RETIRED.

VALERIE E. CAPRONI, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE RICHARD J. HOLWELL, RESIGNED.

SHERI POLSTER CHAPPELL, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA, VICE GREGORY A. PRESNELL, RETIRED.

PAMELA KI MAI CHEN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE RAYMOND J. DEARIE, RETIRED.

BRIAN J. DAVIS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA, VICE RICHARD A. LAZZARA, RETIRED.

SHELLY DECKERT DICK, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF LOUISIANA, VICE RALPH E. TYSON, DECEASED.

JENNIFER A. DORSEY, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE LARRY R. HICKS, RETIRED.

KATHERINE POLK FAILLA, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE DENISE COTE, RETIRED.

KENNETH JOHN GONZALES, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO, VICE BRUCE D. BLACK, RETIRED.

ANDREW PATRICK GORDON, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE KENT J. DAWSON, RETIRED.

KETANJI BROWN JACKSON, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE HENRY HAROLD KENNEDY, RETIRED.

ROSEMARY MARQUEZ, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA, VICE FRANK R. ZAPATA, RETIRED.

MICHAEL J. MCSHANE, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON, VICE MICHAEL R. HOGAN, RETIRED.

RAYMOND P. MOORE, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE WILEY Y. DANIEL, RETIRED.

TROY L. NUNLEY, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA, VICE GARLAND E. BURRELL, JR., RETIRED.

BEVERLY REID O'CONNELL, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE VALERIE L. BAKER, RETIRED.

WILLIAM H. ORRICK, III, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE CHARLES R. BREYER, RETIRED.

NITZA I. QUINONES ALEJANDRO, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE RICHARD BARCLAY SURRICK, RETIRED.

LUIS FELIPE RESTREPO, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE ANITA B. BRODY, RETIRED.

NELSON STEPHEN ROMAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE RICHARD M. BERMAN, RETIRED.

JEFFREY L. SCHMEHL, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE THOMAS M. GOLDEN, DECEASED.

WILLIAM L. THOMAS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA, VICE ADALBERTO JOSE JORDAN, ELEVATED.

ANALISA TORRES, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE NAOMI REICE BUCHWALD, RETIRED.

DERRICK KAHALA WATSON, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII, VICE DAVID A. EZRA, RETIRED.

MARK A. BARNETT, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE, VICE JUDITH M. BARZILAY, RETIRED.

CLAIRE R. KELLY, OF NEW YORK, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE, VICE EVAN J. WALLACH, ELEVATED.