



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 112<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 158

WASHINGTON, THURSDAY, DECEMBER 20, 2012

No. 165

## Senate

The Senate met at 11 a.m. and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

### PRAYER

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

Let us pray.

O God, whose mercy exceeds our sins, we thank You for the failures that drive us again and again to You for forgiveness and restoration. May we see in our setbacks opportunities for growth and progress.

Lord, change our lawmakers not from what they were but toward what they really are: generous, wise, and responsible stewards of Your bountiful grace. Keep us from becoming a country that wants to feel good rather than be good, as You empower us to live worthy of our forebears who sacrificed so much for freedom.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN 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 bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, December 20, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a

Senator from the State of Ohio, to perform the duties of the Chair.

PATRICK J. LEAHY,  
President pro tempore.

Mr. BROWN of Ohio thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

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

### MODIFICATIONS TO AMENDMENTS—H.R. 1

Mr. REID. Mr. President, I ask unanimous consent that the clerk be authorized to modify the instruction lines on amendments proposed to the substitute amendment No. 3395.

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

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of H.R. 1, which is the legislative vehicle for the supplemental appropriations bill involving the terrible storm that struck New England. The filing deadline for the first-degree amendments is 1 p.m. today. We will work on an agreement for amendments in order to complete action on the bill.

We are also hopeful that we can complete the extremely important Defense authorization bill today, and we are moving forward on FISA today. We are moving forward one way or the other. I hope we can get an agreement to move forward. If not, we will move forward without an agreement.

We will need everyone to pay attention as they always do but maybe more so today. There are a lot of things going on here, and people need to understand that we have things to do if

we want to be able to get home for a few days for Christmas, even though we will be back on the Thursday after Christmas.

### TRIBUTES TO DEPARTING SENATORS

JEFF BINGAMAN

Mr. REID. Mr. President, I wish to take a few minutes today to honor my colleague, the senior Senator from New Mexico, JEFF BINGAMAN, as he retires from a long career of service to our country.

For 30 years Senator BINGAMAN has been a dedicated representative of the people of New Mexico, but for 26 of those years he was the junior Senator from New Mexico. The only person I know of who was a junior Senator longer than Senator BINGAMAN was Fritz Hollings. He was a junior Senator for many decades to Strom Thurmond. But 26 years as a junior Senator still makes you a fairly senior Senator. JEFF served alongside Senator Pete Domenici, the longest serving Senator in New Mexico's history. Until 2009 he was the most senior junior Senator.

JEFF BINGAMAN has never been one to get hung up on titles and credits. If there was ever a conscience of this body, it is JEFF BINGAMAN, a man who has been called by others, including Byron Dorgan, a workhorse. That is really true. For three decades he has quietly but diligently fought for the people of New Mexico and this country.

American industrialist Henry Kaiser once gave this bit of advice: "When your work speaks for itself, don't interrupt." And that is JEFF BINGAMAN. That could have been written for JEFF BINGAMAN by Henry Kaiser. That has been JEFF BINGAMAN's motto for years. He is not one for flashy press conferences. Most of the time he is too busy.

JEFF learned humility in the small town of Silver City, NM, where he grew up. His father was a professor and his

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



Printed on recycled paper.

It is well recognized that small- and medium-sized business are the backbone of our economy, employing half of private sector workers and accounting for the creation of two out of three new jobs in the United States. Immediate support and stabilization is critical to full recovery of small businesses, which, as noted, make up about 90 percent of the 265,000 estimated New York firms impacted by Sandy. Business continuation, including keeping the doors open while loans, insurance payments and other incentives are realized, is essential. One Federal investment worthy of consideration is temporary employment support, which will help maintain both business operations and help prevent the loss of jobs through the recovery, reducing the need for unemployment and other Federal benefits.

In addition to Federal investment in workforce retention programs, rapid response in identifying and servicing impacted businesses and unemployed workers is required. As recovery efforts move forward, Federal, State, and local authorities should look for ways to invest in and partner with the extensive networks of community-based organizations, economic development groups, as well as organized labor and affiliated management to deliver workforce development services, including outreach for job opportunities, job training, and placement for in-demand occupations and other related reemployment activities.

For example, the Consortium for Worker Education, CWE, a nonprofit agency specializing in workforce preparation, industry specific training, and employment services has partnered in the past with all levels of government and other community based organizations to deliver job placement services and temporary employment support programs to ensure worker retention in the aftermath of disasters. Their efforts alone have helped train and put back to work thousands of people during similar workforce crisis situations as New York finds itself in now following Sandy.

By investing in innovative programs like CWE's, workforce recovery efforts will more effectively take into account the unique needs of each impacted area and deliver tailored services to impacted businesses and displaced workers alike.

Mr. HARKIN. Mr. President, let me commend the Senator from New York for highlighting the critical employment and workforce needs in the areas impacted by Superstorm Sandy. Now more than ever, Congress must give our States and localities that have been hard hit by Sandy the tools and resources that help dislocated workers return to their jobs or, if necessary, find new, good-paying employment. The supplemental appropriations for disaster assistance bill's funding for dislocated workers is just one step in the recovery process, but an important one to help workers get back on their feet.

As New York, New Jersey, and the other impacted areas move forward with their recovery, I will continue to work with Senator GILLIBRAND so that the short- and long-term needs of impacted workers are addressed.

Ms. COLLINS. Mr. President, I rise today to engage my colleague, Senator TESTER, in a colloquy regarding language he authored in this bill that would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This language would authorize chief executives of federally recognized tribes to submit a request for a major disaster or emergency declaration directly to the President of the United States.

The principal effect of this language would be to eliminate the current requirement that tribal chief executives submit such requests to the Governor of the State in which the tribal reservation is located; tribal chief executives would be permitted to submit such requests to the President without first obtaining the Governor's approval.

The tribes of Maine—the Penobscot, the Passamaquoddy, the Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs—have a jurisdictional relationships with the State of Maine which is unique among the 50 States. Although, based on my analysis, this language would not in any way affect the relationship between the State of Maine and the tribes of Maine, to make this clear, I would like to pose some questions to the Senator regarding the intent of the language.

The jurisdictional relationship between the tribes of Maine and the State of Maine is set forth in the Maine Indian Claims Settlement Act and the Maine Implementing Act, the latter having been enacted by the Maine State Legislature and ratified and approved by Congress when it enacted the Maine Indian Claims Settlement Act.

If the language the Senator authored was to be enacted into law, would this in any way change the relationship of the State of Maine and the tribes of Maine?

Mr. TESTER. No. I understand that the Maine Indian Claims Settlement Act not only recognized the uniqueness and significance of that jurisdictional arrangement but specifically provided that, following the enactment of the Settlement Act, no future congressional legislation would in any way alter or affect that arrangement unless Congress specifically so provided. This requirement is set forth in Title 25, Section 1735, of the United States Code.

Ms. COLLINS. Did the Senator take Section 1735 into account in his drafting of this legislation?

Mr. TESTER. Yes. I understood that, given the requirement that Section 1735 imposed on Congress, this provision would not and should not apply within or to the State of Maine unless Congress specifically so provided. Knowing that Section 1735 operated to that effect, I did not include specific

language making this legislation inapplicable to Maine, as such language was unnecessary. Our Senate colleagues should understand that this legislation in no way supersedes Section 1735.

Ms. COLLINS. Did my colleague also consider the unique foundation for the Maine Indian Claims Settlement Act and the Maine Implementing Act, as well as the subsequent acts for the Houlton Band and the Aroostook Band?

Mr. TESTER. Yes. I understood that the Maine Indian Claims Settlement Act and the Maine Implementing Act constitute statutory settlement documents. Therefore, our colleagues should understand that the current legislation respects the intent of the parties to Maine's historic and complex settlement and does not in any way disturb the settlement agreement or the statutory construct on which that settlement rests.

The intent of this legislation is to improve communication, response times, and recovery of disasters in Indian Country while better respecting tribal sovereignty. I understand that tribes in Maine have a unique relationship with the State of Maine and nothing in this Act should be interpreted to change or degrade that relationship.

This legislation, if enacted into law, would in no way change the relationship between the State of Maine and the tribes of Maine. That means that, even after the enactment of this legislation, if any of the tribes of Maine wished to obtain a declaration from the President that a major disaster existed, they would have to bring their request to the Governor of Maine, who would have to consider the request in accordance with existing standards and procedures but who would retain the discretion to deny that request.

Ms. COLLINS. I appreciate the time and attention of my colleague from Montana, Senator TESTER, regarding the intent of this language, as well as the care that he took in crafting this legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that 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.