As we in New England knew and, of course, as the people of New Hampshire, and we neighbors in Vermont, especially knew—he was a skilled and accomplished legislator. He was a credit to this body. He was a catalyst for reform. He always kept his word. What was most important to me personally is that he was a good and close friend. We traveled together, we worked together, and we never let our different political parties get in the way of doing things that helped our part of the country or our country at large.

I think he was shaped by his experience as well as by his Yankee origins. An Army combat infantry commander, he saw much action during the Korean conflict before coming to the Senate. He had been a widely respected attorney general from New Hampshire.

Senator Rudman embodied the characteristics that many of us call the old school of Senate values. We served together on the Appropriations Committee. We often worked together on national issues, as well as on behalf of our two adjoining States. As I said earlier, I quickly learned that when Warren Rudman gave his word, you could count on it.

He served during a time when Senators would readily put aside party affiliations to work together. When progress required compromise, as it usually does, he was able to help chart the way forward to accommodate different viewpoints and interests. Regrettably, that kind of bipartisanship at this point in the Senate's history is too rare, and I think we have to work to recapture it.

In the can-do Yankee spirit, he took on difficult challenges and stuck with them. From national security and foreign affairs to budget policy, he dug into pressing and often prickly issues, and he made a difference.

Well after his retirement from this body—a voluntary retirement—he continued to serve the country he loved so deeply. Well before the attacks on our Nation of September 11, 2001, he and former Senator Gary Hart headed a national advisory panel investigating the threat of international terrorism. The sobering conclusions they reached about our susceptibility to terrorist attacks were prescient, but largely forgotten, until 9/11.

When I was asked to serve on the advisory board of the Warren B. Rudman Center for Justice, Leadership and Public Policy at the University of New Hampshire, of course I was pleased to accept. His legacy will be reflected well at the Rudman Center, just as his legacy of service and accomplishment will continue to be reflected and appreciated in this body.

Madam President, as I say this, it seems perfectly fitting that the distinguished senior Senator from New Hampshire is presiding: The Senate, and the Nation, are better for Warren Rudman's service.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013—Continued

AMENDMENT NO. 3096, AS MODIFIED

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I ask unanimous consent to call up Merkley amendment No. 3096, as modified.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY], for himself, Mr. PAUL, and Mr. MANCHIN, proposes an amendment numbered 3096, as modified.

Mr. MERKLEY. I ask unanimous consent that further reading of the amendment be waived.

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

The amendment (No. 3096), as modified, is as follows:

At the end of subtitle B of title XII, add the following:

SEC. 1221. COMPLETION OF ACCELERATED TRANSITION OF UNITED STATES COMBAT AND MILITARY AND SECURITY OPERATIONS TO THE GOVERNMENT OF AFGHANISTAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should, in coordination with the Government of Afghanistan, North Atlantic Treaty Organization (NATO) member countries, and other allies in Afghanistan, seek to—

(1) undertake all appropriate activities to accomplish the President's stated goal of transitioning the lead responsibility for security to the Government of Afghanistan by mid-summer 2013;

(2) as part of accomplishing this transition of the lead responsibility for security to the Government of Afghanistan, draw down United States troops to a level sufficient to meet this goal;

(3) as previously announced by the President, continue to draw down United States troop levels at a steady pace through the end of 2014; and

(4) end all regular combat operations by United States troops by not later than December 31, 2014, and take all possible steps to end such operations at the earliest date consistent with a safe and orderly draw down of United States troops in Afghanistan.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to recommend or support any limitation or prohibition on any authority of the President—

(1) to modify the military strategy, tactics, and operations of United States Armed Forces as such Armed Forces redeploy from Afghanistan;

(2) to authorize United States forces in Afghanistan to defend themselves whenever they may be threatened;

(3) to attack Al Qaeda forces wherever such forces are located;

(4) to provide financial support and equipment to the Government of Afghanistan for the training and supply of Afghanistan military and security forces; or

(5) to gather, provide, and share intelligence with United States allies operating in Afghanistan and Pakistan.

Mr. MERKLEY. Mr. President, I am pleased to be able to present this amendment in this Chamber. I appreciate that my lead cosponsor RAND PAUL and nine other Senators have signed on to sponsor this amendment.

This amendment is designed to help draw down the war in Afghanistan in a timely and responsible manner. It is time to bring home our sons and daughters, our brothers and sisters, our husbands and our wives as quickly and as safely as possible and put an end to America's longest war.

We went to Afghanistan with two objectives: destroy al-Qaida training camps and hunt down those responsible for 9/11. Our capable American troops and NATO partners have accomplished those goals. Afghanistan is no longer, and has not been for years, an important hub for al-Qaida activity. Al-Qaida has robust operations in a number of nations around the world, including Yemen and Somalia, but not in Afghanistan.

American forces have also accomplished the second objective: capturing or killing those who attacked America on 9/11. So it is time to put an end to this war.

Simply put, we are currently in the midst of a nation-building strategy that is not working. It simply makes no sense to have nearly 70,000 troops on the ground in Afghanistan when the biggest terrorist threats are elsewhere.

Our President recognizes this fact and has committed to a steady course of drawing down troop levels and handing over security responsibilities to the Government of Afghanistan. In contrast, the House-passed version of this bill calls for keeping at least 68,000 troops in Afghanistan through the end of 2014.

Let me give some details about what this short amendment does. It is a sense of Congress resolution that the President should undertake all appropriate activities to accomplish his stated goal of transitioning the lead responsibility for security to the Government of Afghanistan by midsummer 2013.

This is the President's goal, and our team has been working to make this happen; second, as a part of accomplishing this transition of lead responsibility for security to the Government of Afghanistan, drive down United States troops to a level sufficient to meet this goal.

Third, as previously announced by the President, continue to draw down U.S. troop levels at a steady pace through the end of 2014; and, very importantly, end all regular combat operations by the U.S. troops by not later than December 31, 2014, and take all possible steps to end such operations earlier if it can be done in a manner consistent with a safe and orderly drawdown of U.S. troops.

This amendment very clearly sets out that it is not to be construed that we are recommending or supporting any limitation or prohibition on any authority of the President to modify the military strategy, tactics, and operations of the U.S. Armed Forces as such Armed Forces redeploy from Afghanistan. It also clearly notes that we are not interfering in any way with the

ability of the United States to authorize forces in Afghanistan to defend themselves whenever they may be threatened or to attack al-Qaida forces wherever such forces are located. Moreover, we are not limiting in any way the provision of financial support and equipment to the Government of Afghanistan for the training and supply of Afghan military and security forces, nor are we interfering with the gathering of intelligence.

Essentially, the amendment boils down to this: Mr. President, you have laid out a course to end this war, and we support you in this effort and encourage you to continue this effort and, if conditions allow, to accelerate the pace.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have looked at the amendment by the Senator from Oregon. He has made some modifications that I think are appropriate, and this side has no objection. I understand, however, that he will insist on a recorded vote, which is his right. But I see at this time no objection to the amendment as he describes it.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I appreciate the partnership of my colleague from Arizona.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2995

Mr. PORTMAN. Mr. President, I ask unanimous consent that the pending measure be set aside, and I call up amendment No. 2995.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. PORTMAN] proposes an amendment numbered 2995.

Mr. PORTMAN. Mr. President, I ask that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To enhance authorities relating to the admission of defense industry civilians to certain Department of Defense educational institutions and programs)

At the end of subtitle E of title X, add the following:

SEC. 1048. ENHANCEMENT OF AUTHORITIES ON ADMISSION OF DEFENSE INDUSTRY CIVILIANS TO CERTAIN DEPARTMENT OF DEFENSE EDUCATIONAL INSTITUTIONS AND PROGRAMS.

(a) NAVY DEFENSE PRODUCT DEVELOPMENT PROGRAM.—Section 7049(a) of title 10, United States Code, is amended—

(1) in the second sentence, by inserting ''or professional continuing education certificate'' after ''master's degree'';

(2) in the third sentence, by striking ''125 such defense industry employees'' and inserting ''250 such defense industry employees''; and

(3) in the last sentence, by inserting before the period at the end the following: ''or an appropriate professional continuing education certificate, as applicable''.

(b) UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.—Section 9314a(a) of such title is amended—

(1) in paragraph (1), by inserting ''or professional continuing education certificate'' after ''graduate degree'';

(2) in paragraph (2), by striking ''125 defense industry employees'' and inserting ''250 defense industry employees''; and

(3) in paragraph (3), by inserting before the period at the end the following: ''or an appropriate professional continuing education certificate, as applicable''.

Mr. PORTMAN. Mr. President, this amendment is intended to expand the opportunities for defense industry employees to attend or participate in Department of Defense educational institutions and programs.

Specifically, the amendment will broaden the existing statute that authorizes defense industry employees to obtain a master's degree at Defense Department schools, such as the Naval Postgraduate School, by also allowing them to obtain professional continuing educational certification.

Having key members of the defense industry exposed to the unique courses offered at these institutions is a win-win for the Federal Government. The industry pays the tuition and covers all costs associated with their attendance, and in the process our defense industry partners gain greater expertise in the military application of engineering and science, as well as acquisition and program management expertise.

Again, I believe this is a win-win for the government, and I ask for a voice vote of the pending amendment.

The PRESIDING OFFICER. The Senator will suspend.

The Senator from Michigan.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I don't know of any further debate on this side on the Portman amendment. We support it, and we have no objection to it going to a voice vote at this time.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2995) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. AYOTTE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANDERS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 2948, 2962, 2971, 2986, 2989, 3085, 3110, 3166, 2981 EN BLOC

Mr. LEVIN. Mr. President, I wish now to call up a list of nine amendments, which have been cleared by myself and the ranking member, by Senator MCCAIN: Webb amendment No. 2948, Sessions amendment No. 2962, Inhofe amendment No. 2971, Casey amendment No. 2986, Murray amendment No. 2989, Vitter amendment No. 3085, Coburn amendment 3110, Manchin amendment No. 3166, and Boxer amendment No. 2981. I believe they have been cleared on the Republican side.

Mr. MCCAIN. I have no objection.

Mr. LEVIN. Mr. President, I now ask unanimous consent that the Senate consider these amendments en bloc, the amendments be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 2948

(Purpose: To extend the authority to provide a temporary increase in rates of basic allowance for housing under certain circumstances)

At the end of subtitle A of title VI, add the following:

SEC. 602. EXTENSION OF AUTHORITY TO PROVIDE TEMPORARY INCREASE IN RATES OF BASIC ALLOWANCE FOR HOUSING UNDER CERTAIN CIRCUMSTANCES.

Section 403(b)(7)(E) of title 37, United States Code, is amended by striking ''December 31, 2012'' and inserting ''December 31, 2013''.

AMENDMENT NO. 2962

(Purpose: To express the sense of Congress on the submittal to Congress of the homeland defense hedging policy and strategy of the Secretary of Defense)

At the end of C subtitle of title II, add the following:

SEC. 238. SENSE OF CONGRESS ON THE SUBMITTAL TO CONGRESS OF THE HOMELAND DEFENSE HEDGING POLICY AND STRATEGY REPORT OF THE SECRETARY OF DEFENSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Section 233 of the National Defense Authorization Act for Fiscal Year 2012 (Public

Law 112–81; 125 Stat. 1340) requires a homeland defense hedging policy and strategy report from the Secretary of Defense.

(2) The report was required to be submitted not later than 75 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012, namely by March 16, 2012.

(3) The Secretary of Defense has not yet submitted the report as required.

(4) In March 2012, General Charles Jacoby, Jr., Commander of the United States Northern Command, the combatant command responsible for operation of the Ground-based Midcourse Defense system to defend the homeland against ballistic missile threats, testified before Congress that ''I am confident in my ability to successfully defend the homeland from the current set of limited long-range ballistic missile threats'', and that ''[a]gainst current threats from the Middle East, I am confident we are well postured''.

(5) Phase 4 of the European Phased Adaptive Approach (EPAA) is intended to augment the currently deployed homeland defense capability of the Ground-based Midcourse Defense system against a potential future Iranian long-range missile threat by deploying an additional layer of forward-deployed interceptors in Europe in the 2020 timeframe.

(6) The Director of National Intelligence, James Clapper, has testified to Congress that, although the intelligence community does ''not know if Iran will eventually decide to build nuclear weapons'', it judges ''that Iran would likely choose missile delivery as its preferred method of delivering a nuclear weapon''. He also testified that ''Iran already has the largest inventory of ballistic missiles in the Middle East, and it is expanding the scale, reach, and sophistication of its ballistic missile forces, many of which are inherently capable of carrying a nuclear payload''.

(7) The 2012 Annual Report to Congress on the Military Power of Iran by the Department of Defense states that, in addition to increasing its missile inventories, ''Iran has boosted the lethality and effectiveness of its existing missile systems with accuracy improvements and new submunitions payloads'', and that it continues to develop missiles that can strike Israel and Eastern Europe. It also states that ''Iran has launched multistage space launch vehicles that could serve as a testbed for developing long-range ballistic missiles technologies'', and that ''[w]ith sufficient foreign assistance, Iran may be technically capable of flight-testing an intercontinental ballistic missile by 2015''.

(8) Despite the failure of its April 2012 satellite launch attempt, North Korea warned the United States in October 2012 that the United States mainland is within range of its missiles.

(9) The threat of limited ballistic missile attack against the United States homeland from countries such as North Korea and Iran is increasing.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the homeland defense hedging policy and strategy report required by section 233 of the National Defense Authorization Act for Fiscal Year 2012 is necessary to inform Congress on options to protect the United States homeland against the evolving ballistic missile threat, including potential options prior to the deployment of Phase 4 of the European Phased Adaptive Approach to missile defense; and

(2) the Secretary of Defense should comply with the requirements of section 233 of the National Defense Authorization Act for Fiscal Year 2012 by submitting the homeland defense hedging policy and strategy report to Congress.

AMENDMENT NO. 2971

(Purpose: To express the sense of the Senate on the protection of Department of Defense airfields, training airspace, and air training routes)

At the end of subtitle H of title X, add the following:

SEC. 1084. SENSE OF THE SENATE ON PROTECTION OF DEPARTMENT OF DEFENSE AIRFIELDS, TRAINING AIRSPACE, AND AIR TRAINING ROUTES.

It is the sense of the Senate that—

(1) Department of Defense airfields, training airspace, and air training routes are national treasures that must be protected from encroachment;

(2) placement or emplacement of obstructions near or on Department of Defense airfields, training airspace, or air training routes has the potential of increasing risk to military aircraft and personnel as well as impacting training and readiness; and

(3) the Department of Defense should develop comprehensive rules and regulations to address construction and use of land in close proximity to Department of Defense airfields, training areas, or air training routes to ensure compatibility with military aircraft operations.

AMENDMENT NO. 2986

(Purpose: To require contractors to notify small business concerns that they have included in offers relating to contracts let by Federal agencies)

At the end of subtitle E of title VIII, add the following:

SEC. ____. SUBCONTRACTOR NOTIFICATIONS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(13) NOTIFICATION REQUIREMENT.—An offeror with respect to a contract let by a Federal agency that is to be awarded pursuant to the negotiated method of procurement that intends to identify a small business concern as a potential subcontractor in the offer relating to the contract shall notify the small business concern that the offeror intends to identify the small business concern as a potential subcontractor in the offer.

''(14) REPORTING BY SUBCONTRACTORS.—The Administrator shall establish a reporting mechanism that allows a subcontractor to report fraudulent activity by a contractor with respect to a subcontracting plan submitted to a procurement authority under paragraph (4)(B).''.

AMENDMENT NO. 2989

(Purpose: To extend the authority of the Secretary of Veterans Affairs and the Secretary of Labor to carry out a program of referral and counseling services to veterans at risk of homelessness who are transitioning from certain institutions)

At the end of subtitle H of title X, add the following:

SEC. 1084. EXTENSION OF AUTHORITIES TO CARRY OUT A PROGRAM OF REFERRAL AND COUNSELING SERVICES TO VETERANS AT RISK OF HOMELESSNESS WHO ARE TRANSITIONING FROM CERTAIN INSTITUTIONS.

Section 2023(d) of title 38, United States Code, is amended by striking ''September 30, 2012'' and inserting ''September 30, 2013''.

AMENDMENT NO. 3085

(Purpose: To require additional elements in the plan on the rationalization of cyber networks and cyber personnel of the Department of Defense)

On page 306, between lines 2 and 3, insert the following:

(3) ADDITIONAL ELEMENTS.—In developing the plan required by paragraph (1), the Secretary shall also—

(A) identify targets for the number of personnel to be reassigned to tasks related to offensive cyber operations, and the rate at which such personnel shall be added to the workforce for such tasks; and

(B) identify targets for use of National Guard personnel to support cyber workforce rationalization and the actions taken under subsection (a).

AMENDMENT NO. 3110

(Purpose: To require a report on the balances carried forward by the Department of Defense at the end of fiscal year 2012)

At the end of subtitle A of title X, add the following:

SEC. 1005. REPORT ON BALANCES CARRIED FORWARD BY THE DEPARTMENT OF DEFENSE AT THE END OF FISCAL YEAR 2012.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress, and publish on the Internet website of the Department of Defense available to the public, the following:

(1) The total dollar amount of all balances carried forward by the Department of Defense at the end of fiscal year 2012 by account.

(2) The total dollar amount of all unobligated balances carried forward by the Department of Defense at the end of fiscal year 2012 by account.

(3) The total dollar amount of any balances (both obligated and unobligated) that have been carried forward by the Department of Defense for five years or more as of the end of fiscal year 2012 by account.

AMENDMENT NO. 3166

(Purpose: To require a report on the future of family support programs of the Department of Defense)

At the end of subtitle G of title V, add the following:

SEC. 577. REPORT ON FUTURE OF FAMILY SUPPORT PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the anticipated future of the family support programs of the Department of Defense during the five-year period beginning on the date of the submittal of the report as end strengths for the Armed Forces are reduced and the Armed Forces are drawn down from combat operations in Afghanistan.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the current family support programs of each of the Armed Forces and the Department of Defense, including the name, scope and intended purpose of each program.

(2) An assessment of the current costs of the family support programs covered by paragraph (1), and an estimate of the costs of anticipated family support programs of the Department over the period covered by the report.

(3) An assessment of the costs and other consequences associated with the elimination or reduction of any current family support programs of the Department over the period covered by the report.

(4) An assessment by the Secretary of the Army of the Family Readiness Support Assistant program, and a description of any planned or anticipated changes to that program over the period covered by the report.

AMENDMENT NO. 2981

(Purpose: To prohibit the issuance of a waiver for commissioning or enlistment in the Armed Forces for any individual convicted of a felony sexual offense)

At the end of subtitle C of title V, add the following:

SEC. 526. PROHIBITION ON WAIVER FOR COMMISSIONING OR ENLISTMENT IN THE ARMED FORCES FOR ANY INDIVIDUAL CONVICTED OF A FELONY SEXUAL OFFENSE.

An individual may not be provided a waiver for commissioning or enlistment in the Armed Forces if the individual has been convicted under Federal or State law of a felony offense of any of the following:

(1) Rape.
(2) Sexual abuse.
(3) Sexual assault.
(4) Incest.
(5) Any other sexual offense.

Mr. MCCAIN. Mr. President, I thank my colleague.

By the way, did we move to reconsider?

I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, briefly I was just going over the list of amendments that have been filed. I urge my colleagues who want those amendments considered to come over and state their intention and we will move forward with the amendments. I keep hearing from my staff this Senator is not ready yet, that Senator is not ready yet. I hope they come over, we get these amendments in order and we will dispose of them as soon as possible since we are looking at a rather late evening this evening, and even tomorrow.

We need to move these amendments. I hope my colleagues will cooperate by coming over prepared to offer those amendments.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. The Senator from West Virginia wishes now to speak on the Merkley amendment. Then it is our intention to move to a vote on the Merkley amendment.

AMENDMENT NO. 3096

Amendment No. 3096 would express the Sense of Congress in support of the President's stated goals for transitioning the security lead to the Afghanistan and end the U.S. combat mission in Afghanistan by no later than December 31, 2014. The Sense of Congress supports the goals of: Accomplishing the President's stated goal of transitioning the lead responsibility for security to the Government of Afghanistan by mid-2013; as part of that transition, drawing down U.S. troops to the minimum level required to meet that goal; continuing the drawdown of U.S. troop levels at a steady pace through the end of 2014; and ending ''all regular combat operations'' by U.S. troops by not later than the end of 2014, and earlier to the extent consistent with a safe and orderly drawdown of U.S. troops in Afghanistan.

The Merkley amendment is consistent with President's plans for drawing down U.S. troops in Afghanistan, and it is consistent with our best chances for success in securing Afghanistan.

It expresses this body's support for the President's transition goals which include the handover to Afghan security forces of primary responsibility for security throughout Afghanistan by mid-2013 and the completion of the security transition process by the end of 2014.

Transitioning to Afghan forces in the lead is the roadmap to security in Afghanistan. It challenges the Taliban narrative that commanders need to defend Afghanistan from foreign troops seeking to occupy their country. As Afghan officials recently told me, when they realize they are fighting their fellow Afghans in the Afghan Army, some mid-level Taliban commanders have decided to put aside their arms and seek to re-integrate into Afghan society.

The Afghan people want to see their own Afghan Army soldiers and Afghan police personnel providing security for their communities. A recent public opinion poll in Afghanistan found that the overwhelming majority of the Afghan people have moderate or high confidence in the Afghan Army—93 percent. The Afghan police are also gaining the confidence of the Afghan people—82 percent confidence.

Afghan security forces have shown they are willing to fight. So far this year, Afghan soldiers and police have suffered more casualties—wounded and killed—than have U.S. and coalition forces.

As Afghan security forces assume more and more responsibility for the security lead between now and the end of 2014, NATO and coalition forces will gradually step back into a supporting role and then an overwatch role.

The Merkley amendment reaffirms the President's plan to end U.S. combat operations in Afghanistan by not later than the end of 2014. This is also what was agreed by coalition partners at the NATO Summit in Chicago in May, when the U.S. and its allies declared, ''By the end of 2014, when the Afghan Authorities will have full security responsibility, the NATO-led combat mission will end.'' They also agreed to begin planning a new post–2014 training mission, which ''will not be a combat mission.''

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I rise in support of the amendment of my colleague, Senator MERKLEY from Oregon, his amendment on Afghanistan. I know we all have good ideas. We all have input here. We all have our own personal opinions. But it is time to bring our troops home from Afghanistan. They have been there since October 7, 2001. They have defeated al-Qaida, they have killed Osama bin Laden, and it is time to bring them home.

Mr. President, 66,000 American combat troops still remain in Afghanistan. President Obama plans to reduce that number by ''a steady pace'' until they are moved completely out by the end of 2014. I would prefer a faster pace, as many of my colleague would, but as long as it did not jeopardize the safety of troops, because I think that is the most important thing we do. After all, the war has already surpassed the Vietnam war, your area and mine, Mr. President, as the longest in American history. It has already cost us dearly; more than 2,000 American troops have died for the cause and many thousands more have been maimed and more than $500 billion has been spent just in Afghanistan.

Even so, I support the bipartisan amendment sponsored by Senator MERKLEY. It backs the President's current plan to end combat operations in Afghanistan by the end of 2014, but I support it because it also calls for a quicker transition of security operations from U.S. forces to Afghan security forces. Instead of the end of 2014, the amendment urges the transition to take place in the summer of 2013, this coming year. That, hopefully, would bring a quicker end to the U.S. involvement in combat in Afghanistan. This amendment merely expresses the sense of the Senate. It is not binding on President Obama and it will not affect any negotiations between Washington and Kabul on whether a residual force of U.S. military advisers in Afghanistan would be there after 2014.

U.S. forces went to Afghanistan in pursuit of those who planned and ordered the September 11 terrorist attacks on the United States that killed over 3,000 of our citizens. With valor and courage they drove from power the Taliban, which had given bin Laden a base from which he could launch horrific attacks on innocent American civilians. They captured, killed, or brought to justice the leader of al-Qaida and eventually they tracked down bin Laden himself and made sure he would never, ever harm another American.

After more than 10 years, more than 1,900 American lives, and more than $500 billion, it is time to bring our warriors home to a hero's welcome, time to focus our resources on rebuilding America, not on rebuilding Afghanistan. I have said many times on this floor, if you help us build a new road or bridge in West Virginia, help us build a school for our children, we will not blow it up or burn it down.

It is time to help rebuild America for this great country and bring our heroes back to a hero's welcome.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, we are now going to proceed to a vote on the Merkley amendment. As I indicated, the amendment expresses the support of this body for the transition goals of the President, including the handover to Afghan security forces of primary responsibility for security throughout Afghanistan by mid-2013, the completion of the security transition process by the end of 2014—and of course that has to do with the completion and transition. That is not necessarily by any means a withdrawal of all troops but it is the intent that all combat forces be withdrawn by the end of 2014. I emphasize it is a sense-of-the-Senate resolution.

After the disposition of the Merkley amendment, we then intend to move to the Whitehouse amendment. The Whitehouse amendment has been cleared by the chairman and ranking member of the committee of jurisdiction. However, there is a desire to debate and have a rollcall on that amendment. We are asking Senator WHITEHOUSE to be prepared immediately after this vote to call up formally and debate his amendment and any opponent or opponents of the amendment to be prepared to debate it at that time. So it is our intent—and I ask unanimous consent—that immediately following the vote on the pending Merkley amendment, we then move to the Whitehouse amendment, and following the disposition of the Whitehouse amendment we then move to the Coburn amendment No. 3109, which will require debate, and, hopefully, we can work out a time agreement with Senator COBURN during this vote.

Finally, we are urging Senators who have amendments we have not yet addressed that they intend to press, or hope they can press, to meet with us during this vote so we can continue to make progress on this bill. We will be in tomorrow unless by some wonderful events we are able to finish this bill tonight.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I agree with the unanimous consent request——

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I am sorry, I say to my friend from Arizona. We have to withdraw that unanimous consent request on amendment No. 3109 at this time. I want to try to see what the problem is. There is an objection to my request on this side. We are going to try to work out those objections during this rollcall vote.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I have to object on this side. Senator COBURN wants the same privilege every Senator has; that is, to bring up his amendment. If someone objects to that, I hope that Senator will come down and object in person because this is holding up the progress of the bill. So if there is a Whitehouse amendment that is agreed to, then a Coburn amendment certainly should be allowed as well.

So we have to object to the unanimous consent request. Hopefully, during the vote on the Merkley amendment we can work out some agreement.

Mr. LEVIN. We understand Senator MERKLEY is on his way and wishes to speak for a minute on his own amendment, so I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Oregon.

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

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

Mr. MERKLEY. Mr. President, I rise to speak in favor of my amendment No. 3096 to express the sense of Congress on the accelerated transition of U.S. combat and military security operations for the Government of Afghanistan.

Our President has laid out a course of action that involves putting Afghan troops in charge of the operation in Afghanistan. This amendment fully supports the schedule the President has laid out. Furthermore, it calls upon the President to explore every opportunity to see if that schedule can be accelerated; that we can, with security for our troops and appropriateness for our mission, withdraw at a faster pace.

The two main objectives in Afghanistan were to take out the al-Qaida training camps and to proceed to pursue those responsible for 9/11. We have effectively pursued those missions. Al-Qaida is now much stronger around the rest of the world. A counterterrorism strategy that is appropriate in the rest of the world is appropriate in Afghanistan and it should be pursued. But the newly adopted mission of nation building in Afghanistan has gone terribly off the track and put our troops at great risk. We need to endorse the President's strategy and end this war—the longest war the United States has ever experienced.

I ask for the support of my colleagues.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

Mr. MERKLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Oregon (Mrs. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from North Carolina (Mr. HELLER), and the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 33, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—62

Akaka	Gillibrand	Murray
Baucus	Grassley	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Paul
Bingaman	Hoeven	Reed
Blumenthal	Inouye	Reid
Boxer	Johnson (SD)	Rockefeller
Brown (MA)	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Cochran	Lee	Thune
Collins	Levin	Toomey
Conrad	Lugar	Udall (CO)
Coons	Manchin	Udall (NM)
Corker	Menendez	Warner
Durbin	Merkley	Webb
Feinstein	Mikulski	Whitehouse
Franken	Moran	

NAYS—33

Alexander	Enzi	McConnell
Ayotte	Graham	Murkowski
Barrasso	Hatch	Portman
Blunt	Hutchison	Pryor
Boozman	Inhofe	Risch
Burr	Isakson	Roberts
Chambliss	Johanns	Rubio
Coats	Johnson (WI)	Sessions
Coburn	Kyl	Shelby
Cornyn	Lieberman	Vitter
Crapo	McCain	Wicker

NOT VOTING—5

DeMint	Kirk	Wyden
Heller	McCaskill	

The amendment (No. 3096) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

Mr. LEVIN. Mr. President, what we wish to do now is move to Senator BLUMENTHAL's amendment which has been cleared and I believe can be voice-voted. I think that is the current situation.

Then as soon as that is done, I hope we will have an announcement as to where we go next. With the cooperation of one Senator, whom I do not see on the floor, we may be able to go to Senator WHITEHOUSE's amendment, but I cannot quite announce that yet because we have to find that Senator and make sure that is not objected to. I would hope the chair would now recognize Senator BLUMENTHAL.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 3124, AS MODIFIED

Mr. BLUMENTHAL. Mr. President, I thank my distinguished colleague, the chairman of the Armed Services Committee, as well as the ranking member, Senator MCCAIN, for their leadership on this issue and ask unanimous consent that my amendment 3124 be made

pending, as modified with the changes that are at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. BLUMENTHAL] proposes an amendment numbered 3124, as modified.

The amendment No. 3124, as modified, is as follows:

At the end of title VIII, add the following:

Subtitle F—Ending Trafficking in Government Contracting

SEC. 891. SHORT TITLE.

This subtitle may be cited as the ''End Trafficking in Government Contracting Act of 2012''.

SEC. 892. DEFINITIONS.

In this subtitle:

(1) COMMERCIAL SEX ACT.—The term ''commercial sex act'' has the meaning given the term in section 22.1702 of the Federal Acquisition Regulation (or any similar successor regulation) .

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given the term in section 133 of title 41, United States Code.

(3) SUBCONTRACTOR.—The term ''subcontractor'' means a recipient of a contract at any tier under a grant, contract, or cooperative agreement.

(4) SUBGRANTEE.—The term ''subgrantee'' means a recipient of a grant at any tier under a grant or cooperative agreement.

(5) UNITED STATES.—The term ''United States'' has the meaning provided in section 103(12) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(12)).

SEC. 893. CONTRACTING REQUIREMENTS.

(a) IN GENERAL.—Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) is amended by striking ''if the grantee or any subgrantee,'' and all that follows through the period at the end and inserting the following: ''or take any of the other remedial actions authorized under section 895(c) of the End Trafficking in Government Contracting Act of 2012, if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in—

''(i) severe forms of trafficking in persons;

''(ii) the procurement of a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect;

''(iii) the use of forced labor in the performance of the grant, contract, or cooperative agreement, or

''(iv) acts that directly support or advance trafficking in persons, including the following acts:

''(I) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents.

''(II) Failing to pay return transportation costs to an employee upon the end of employment, unless—

''(aa) exempted from the duty to repatriate by the Federal department or agency providing or entering into the grant, contract, or cooperative agreement; or

''(bb) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.

''(III) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.

''(IV) Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited.

''(V) Providing or arranging housing that fails to meet the host country housing and safety standards.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 894. COMPLIANCE PLAN AND CERTIFICATION REQUIREMENT.

(a) REQUIREMENT.—The head of an executive agency may not provide or enter into a grant, contract, or cooperative agreement if the estimated value of the services required to be performed under the grant, contract, or cooperative agreement outside the United States exceeds $500,000, unless a duly designated representative of the recipient of such grant, contract, or cooperative agreement certifies to the contracting or grant officer prior to receiving an award and on an annual basis thereafter, after having conducted due diligence, that—

(1) the recipient has implemented a plan to prevent the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 3, and is in compliance with that plan;

(2) the recipient has implemented procedures to prevent any activities described in such section 106(g) and to monitor, detect, and terminate any subcontractor, subgrantee, or employee of the recipient engaging in any activities described in such section; and

(3) to the best of the representative's knowledge, neither the recipient, nor any subcontractor or subgrantee of the recipient or any agent of the recipient or of such a subcontractor or subgrantee, is engaged in any of the activities described in such section.

(b) LIMITATION.—Any plan or procedures implemented pursuant to subsection (a) shall be appropriate to the size and complexity of the grant, contract, or cooperative agreement and to the nature and scope of its activities, including the number of non-United States citizens expected to be employed.

(c) DISCLOSURE.—The recipient shall provide a copy of the plan to the contracting or grant officer upon request, and as appropriate, shall post the useful and relevant contents of the plan or related materials on its website and at the workplace.

(d) GUIDANCE.—The President, in consultation with the Secretary of State, the Attorney General, the Secretary of Defense, the Secretary of Labor, the Secretary of Homeland Security, the Administrator for the United States Agency for International Development, and the heads of such other executive agencies as the President deems appropriate, shall establish minimum requirements for contractor plans and procedures to be implemented pursuant to this section.

(e) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The requirements under subsection (a) and (c) shall apply to grants, contracts, and cooperative agreements entered into on or after the date that is 90 days after the Federal Acquisition Regulation is amended pursuant to subsection (e).

SEC. 895. MONITORING AND INVESTIGATION OF TRAFFICKING IN PERSONS.

(a) REFERRAL AND INVESTIGATION.—

(1) REFERRAL.—If the contracting or grant officer of an executive agency for a grant, contract, or cooperative agreement receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893, including a report from a contracting officer representative, an auditor, an alleged victim or victim's representative, or any other credible source, the contracting or grant officer shall promptly refer the matter to the agency's Office of Inspector General for investigation. The contracting officer may also direct the contractor to take specific steps to abate an alleged violation or enforce the requirements of a compliance plan implemented pursuant to section 894.

(2) INVESTIGATION.—Where appropriate, an Inspector General who receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893, pursuant to a referral under paragraph (1) or otherwise, shall promptly initiate an investigation of the matter. In the event that an Inspector General does not initiate an investigation, the Inspector General shall provide an explanation for the decision not to investigate.

Mr. BLUMENTHAL. Very simply, this amendment involves commonsense reforms that will ensure the performance of overseas contracts, paid for by our taxpayers, involving money in this very Defense budget, consistent with the values that we hold dear as Americans.

The Department of Defense has a special responsibility to lead in preventing human trafficking overseas, as this amendment would do. It is not only a matter of humane and moral values, it is a matter of getting value for the dollars we spend in protecting our national security.

The United States has and ought to have a zero-tolerance policy against government employees and contractor personnel engaging in any form of human trafficking. These values are transcendent of party lines, of any other interests. I am very proud to offer this amendment, in fact, with strong support across the aisle, led by my colleague Senator PORTMAN who has joined me in forming a human trafficking caucus to lead the way on these issues. This amendment is the result of efforts we have led and very simply represents the most comprehensive legislative effort ever undertaken in the Congress to stamp out human trafficking in overseas contracting.

I am happy to yield to my colleague from Ohio, Senator PORTMAN.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, I am pleased to join my colleague from Connecticut in offering this amendment, which is modeled on the bipartisan legislation we introduced in March along

with a number of Senators on both sides of the aisle.

We also recently joined to form a Senate caucus to end human trafficking, and I appreciate the chair and ranking member today for allowing this amendment to move forward.

The aim of this amendment is pretty simple. This amendment ensures that our contingency contracting dollars are spent in a manner that is consistent, as Senator BLUMENTHAL said, with our deeply held values as a country. This is particularly important in the context of wartime contracting and reconstruction work.

This amendment comes from the work that both DOD and State Department IGs have done. The inspectors general have told us we lack sufficient monitoring to have the kind of visiblity we need under the labor practices by our contractors and subcontractors who rely on a lot of third-party nationals to do overseas work.

It also comes from the Wartime Contracting Commission, which has reported what is described as evidence of the recurrent problem of trafficking in persons by labor brokers or subcontractors of contingency contractors. The report concluded that existing prohibitions on such trafficking have failed to suppress it.

One of the commission members, a former Reagan and Bush administration defense official, testified before our committee, saying those findings were, in his assessment, just the tip of the iceberg. So I think this legislation is appropriate. It directly affects this issue that has been raised now by the IG and by the Wartime Contracting Commission. This is a commonsense approach to it.

Broadly defined, we believe this will help to deal with the human trafficking issue that has been identified. It deals with recruiting workers to leave their home countries based on fraudulent promises, confiscating passports, limiting the ability of workers to return home, charging workers so-called recruitment fees that consume more than a month's salary, just to name some of the abuses that have been identified.

I think it should be clear that the overwhelming majority of these contractors and subcontractors are law abiding, but we need to be sure these abusive labor practices are dealt with. This legislation will do so. I thank my colleague for raising it today. I am proud to join him in cosponsoring the legislation.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Michigan.

Mr. LEVIN. Madam President, I think we are now willing to proceed to disposition on the Blumenthal amendment. I don't know if anyone wants to speak further on that amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment No. 3124, as modified, was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask unanimous consent to set the pending amendment aside for the consideration of amendment No. 2972.

The PRESIDING OFFICER. Without objection, the Senator——

Mr. LEVIN. Madam President, I wonder if we could ask unanimous consent at this point to take up the Inhofe amendment. We know of no objection to it. Rather than setting any amendment aside, just simply send it to the desk.

Is the amendment at the desk? Just call up the amendment, if the Senator would.

AMENDMENT NO. 2972

Mr. INHOFE. Madam President, I call up amendment No. 2972.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. INHOFE) proposes an amendment No. 2972.

Mr. INHOFE. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of Congress that the bugle call commonly known as ''Taps'' should be designated as the National Song of Military Remembrance)

At the end of subtitle H of title X, add the following:

SEC. 1084. SENSE OF CONGRESS THAT THE BUGLE CALL COMMONLY KNOWN AS TAPS SHOULD BE DESIGNATED AS THE NATIONAL SONG OF MILITARY REMEMBRANCE.

It is the sense of Congress that the bugle call commonly known as ''Taps'' should be designated as the National Song of Military Remembrance.

Mr. INHOFE. Madam President, this is something that I know will be accepted by both sides, by every Member in here. It is a request by all the associations, the veterans and all the others. It is something I wasn't familiar with until fairly recently, and that is, in July of 1862, following the Seven Days Battles, Union GEN Daniel Butterfield and bugler Oliver Wilcox Norton created ''Taps'' at Berkeley Plantation in Virginia.

This is something we are all familiar with, those of us who served in the military. We know what ''Taps'' is. It is a big deal to a lot of people, but it has never had an official designation. We have an amendment now that would be a sense-of-the-Senate that would designate the bugle call commonly known as ''Taps'' to be designated as a national military song of military remembrance. The reason I think it is significant to do it is it raises the song known as ''Taps'' to a national level of significance, specifically for the military veterans as a tribute when played during military funerals and ceremonies. This is a request of various veterans organizations, and I would ask that it be adopted.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. We know of no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2972) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay the motion on the table.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I would now ask unanimous consent that Senator UDALL of Colorado be recognized for 5 minutes to speak as though in morning business.

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

The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, I thank the chairman and ranking member of the Armed Services Committee for the recognition. I am a proud member of that committee, and I am also a member of the Intelligence Committee. From those vantage points, I am well aware of the threats that face our country.

Our military and our intelligence communities have to be prepared to counter threats from a wide range of enemies and bad actors. As we all know, our national security community is decisively engaged against those who would do us harm. When we capture those who are plotting against us, we are swiftly bringing them to justice by trying and convicting those terrorists in civilian courts and, when appropriate, in military commissions.

This is a flexible strategy that has empowered our terrorism community to help keep Americans safe since 9/11, and those brave men and women who spend every waking hour defending this country have been successfully using our laws to pursue terrorists around the globe. But last year Congress changed some of those laws, against the wishes of our military and intelligence communities. Those detainee provisions last year suggest that our military should shift significant resources away from their mission and to instead act as both a domestic law enforcement agency and jailer with respect to terrorist suspects. They also call into question the principles we as Americans hold dear, because they could be interpreted as allowing the military to capture and indefinitely detain American citizens on U.S. soil without trial.

I joined our highest ranking national security officials in warning my colleagues about the dangerous change

that such policies would make and I urge us not to pass them. We have to get our detainee and counterterrorism policies right, but unfortunately I believe the policies that were enacted last year complicate our capacity to prosecute the war on terror and in the process erode our Nation's constitutional principles, both of which concern all of us.

I have been working with the administration to ensure that those detention policies are not harmfully interpreted, but the law itself remains a problem. Several of my colleagues, including the Senator from Kentucky and the chairwoman of the Senate Intelligence Committee, Senator FEINSTEIN, have suggested changes to the law that will help repair the flawed policies enacted last year.

I have also crafted my own legislation working with the ranking member on the House Armed Services Committee, Congressman ADAM SMITH from Washington, to repair some of the harm that I believe was done in last year's NDAA. I filed that bill to this year's NDAA as amendment No. 3115, along with the chairman of the Senate Judiciary Committee, Senator LEAHY.

Senators FEINSTEIN and PAUL have a slightly similar but different approach, created as a result of the detainee provisions passed last year. There are efforts under way to assure that whatever path we take forward is supported by the greatest numbers possible, and I look forward to being part of those important discussions.

I know we addressed this issue in part last year, but in speaking with other Members I know there is a renewed interest in getting our detention policies right, both from the view of counterterrorism effectiveness and constitutional protection. I believe both security and freedom are critically important, and I don't think we have to choose one over the other.

I thank my colleagues for remaining diligent in addressing the detention policies that remain a concern, because Americans must remain engaged on this issue.

Madam President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, I ask unanimous consent that Senator THUNE be allotted 7 minutes to speak on an amendment.

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

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I am working with the managers of the bill to try to address concerns they might have on an amendment I have filed at the desk and hope to get accepted. But I wish to speak to it now, if I might.

Essentially, the amendment is just a sense of Congress regarding the Federal Government's use of spectrum, and, in particular, spectrum use of the Department of Defense. Spectrum is a very important resource to the Department of Defense, and it is a very important resource to the private sector.

Unfortunately, spectrum is becoming a scarcer and scarcer resource, and it is increasingly necessary for there to be better and more efficient management of this scarce resource. Demand for spectrum is sharply rising due to the growing advanced network of communication devices that rely on spectrum to transmit and receive information. The rise of mobile devices, such as smart phones and tablets, the iPhone and iPad over the past few years, are the reason for this sharp rise in demand for spectrum.

According to a recent study by Cisco, last year's mobile data traffic was eight times the size of the entire global Internet in 2000. The Cisco study predicts that global mobile data traffic will increase eighteenfold between 2011 and 2016 at a compound annual growth rate of 78 percent, reaching 10.8 exabytes per month by 2016.

The rise in the smart phone and the tablet has contributed significantly to our Nation's economy. The Nation's mobile communications industry, by one estimate, directly or indirectly supports 3.8 million jobs, contributing $195.5 billion to the U.S. gross domestic product, and driving $33 billion in productivity improvements in 2011.

With all that has gone wrong with our economy over the past several years, it is important that we as policymakers nurture the growth of the economy, especially where growth is already happening and, in fact, is exploding. We need to enact smart progrowth policies relating to spectrum. I know the spectrum issue isn't easy to understand or to manage, but it is crucial we seek to better manage this scarce resource, and where it is possible to allocate more of the scarce resource to the private sector where it can create jobs and grow the economy.

That is the reasoning and purpose behind my amendment. The Federal Government controls the vast amount of spectrum for its own use. It is probably not all as efficiently managed as it could be. Undoubtedly, a sufficient amount of this spectrum could be made available to help create jobs and grow the economy.

One of the low-hanging fruits we can deal with almost immediately is the band of spectrum known as the 1755-to-1780 megahertz band. This spectrum is particularly well suited for reallocation to commercial use because it is identified internationally for commercial mobile services and is used for that purpose throughout most of the world. This 1755-to-1780 band is also immediately adjacent to existing domestic wireless spectrum and would fit seamlessly into the current mobile broadband spectrum portfolio allowing for more immediate equipment development and deployment.

There is no reason for further delay in the reallocation of the 1755-to-1780 band for commercial use. This band was identified for commercial broadband use internationally at the 2000 World Radio Communications Conference over 10 years ago. Despite the international designation of the band for advanced wireless use, it is still allocated domestically for government use, heavily by DOD. The National Telecommunications and Information Administration, or NTIA, the agency which is responsible for all government spectrum, issued studies and reports in 2001, 2002, and 2010 that addressed use of the band for commercial use but took no action. The spectrum was also identified in the National Broadband Plan as potentially available for reallocation.

In March 2012, NTIA released its latest report assessing the availability of the band. Unfortunately, the 2012 NTIA report contains no firm deadline for action and no clear path to making the band available for commercial use. It contemplates a potential 10-year timeframe and potential shared use of spectrum but defers any formal recommendation regarding reallocation until the completion of still further study.

Had NTIA acted when the first band was allocated internationally for advanced wireless use, the band might already be available for commercial services. Without a firm deadline DOD is unlikely to agree to reallocation, and the prospects for reallocating the 1755-to-1780 megahertz band for commercial use remain slim.

That is why my amendment urges the President to direct Federal users on that 1755-to-1780 band to prepare, not later than May 31, 2013, a reallocation plan that includes the cost of relocating from this band, and urges the Federal Communications Commission to reallocate this band to commercial use.

I hasten to add that it is important the cost of relocating the band should be verifiable and transparent. The report for the underlying bill requires the Government Accountability Office to determine if the cost of vacating or sharing the 1755-to-1780 band is sufficiently captured in estimates. I look forward to the GAO's report on this issue.

There are those who may voice concerns about how this impacts our national security. I take a back seat to no one in being pro-military. I sat on the Armed Services Committee for 6 years. I have an Air Force Base in my State that I care deeply about. It is important to understand that existing law provides ample protection to DOD for the relocation to replacement spectrum.

There are those concerned about the cost to DOT to relocate. The law requires DOT relocation costs be covered

by the Spectrum Relocation Fund, which is funded through the proceeds of the auction of the band to commercial licensees. If the auction does not raise 110 percent of the relocation cost, the auction would be canceled, assuring that incumbent users are made whole. Moreover, as part of the U.S. Middle Class Tax Relief and Job Creation Act of 2012, Congress expanded the scope of funding from the relocation fund to include the cost of planning for relocation.

I am confident the Pentagon and the larger Federal Government can more efficiently manage its spectrum holdings and make available additional spectrum to help grow our economy and create jobs.

I hope, Madam President, that we can work this out to have it included as part of the Defense authorization bill. I certainly believe it is an amendment that is important with regard to the issue I mentioned, which is the reallocation and relocation of spectrum in this country to allow for multiple uses—obviously, important private commercial uses—out there and an enormous demand, a demand that is adding significantly to our economy and creating jobs for literally thousands and millions of Americans.

Madam President, I yield the floor.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, I ask unanimous consent that we proceed to the Gillibrand amendment, that there be 20 minutes debate on the amendment, and that it be equally divided between Senator GILLIBRAND and Senator COBURN.

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

The Senator from New York.

AMENDMENT NO. 3058, AS MODIFIED

Mrs. GILLIBRAND. Madam President, I call up amendment No. 3058, as modified.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. GILLIBRAND], for herself, Mr. LIEBERMAN, Mr. BLUMENTHAL, Mr. KERRY, Mr. BROWN of Massachusetts, Mr. BEGICH, and Mr. MENENDEZ, proposes an amendment numbered 3058, as modified.

Mrs. GILLIBRAND. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of subtitle A of title VII, add the following:

SEC. 704. CERTAIN TREATMENT OF DEVELOPMENTAL DISABILITIES, INCLUDING AUTISM, UNDER THE TRICARE PROGRAM.

(a) CERTAIN TREATMENT OF AUTISM.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1077 the following new section:

''§ 1077a. Treatment of autism under the TRICARE program

''(a) IN GENERAL.—Except as provided in subsection (c), for purposes of providing health care services under this chapter, the treatment of developmental disabilities (42 U.S.C. 15002(8)), including autism spectrum disorders shall include behavioral health treatment, including applied behavior analysis, when prescribed by a physician.

''(b) REQUIREMENTS IN PROVISION OF SERVICES.—In carrying out subsection (a), the Secretary of Defense shall ensure that—

''(1) except as provided by paragraph (2), a person who is authorized to provide behavioral health treatment is licensed or certified by a State or accredited national certification board; and

''(2) if applied behavior analysis or other behavioral health treatment is provided by an employee or contractor of a person described in paragraph (1), the employee or contractor shall meet minimum qualifications, training, and supervision requirements as set forth by the Secretary who shall ensure that covered beneficiaries have appropriate access to care in accordance with best practice guidelines.

''(c) EXCLUSIONS.—Subsection (a) shall not apply to the following:

''(1) Covered beneficiaries under this chapter who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act.

''(2) Covered beneficiaries under this chapter who are former members, dependents of former members, or survivors of any uniformed service not under the jurisdiction of the Department of Defense.

''(d) CONSTRUCTION WITH OTHER BENEFITS.—(1) Nothing in this section shall be construed as limiting or otherwise affecting the benefits otherwise provided under this chapter to a covered beneficiary who is a beneficiary by virtue of—

''(A) service in the Coast Guard, the Commissioned Corp of the National Oceanic and Atmospheric Administration, or the Commissioned Corp of the Public Health Service; or

''(B) being a dependent of a member of a service described in subparagraph (A).

''(2) Nothing in this section shall be construed as limiting or otherwise affecting the benefits provided to a medicare-eligible beneficiary under—

''(A) this chapter;

''(B) part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); or

''(C) any other law.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1077 the following new item:

''1077a. Treatment of autism under the TRICARE program.''.

(b) FUNDING.—

(1) INCREASE.—The amount authorized to be appropriated for fiscal year 2013 by section 1406 and available for the Defense Health Program for Private Sector Care as specified in the funding table in section 4501 is hereby increased by $45,000,000, with the amount of the increase to be available for the provision of care in accordance with section 1077a of title 10, United States Code (as added by subsection (a)).

(2) OFFSET.—The amount authorized to be appropriated for fiscal year 2013 by section 301 for Operation and Maintenance and available as specified in the funding table in section 4301 is hereby reduced by $45,000,000.

Mrs. GILLIBRAND. Madam President, I rise today on behalf of the 30,000 military families who have loved ones with disabilities, including those on the autism spectrum. Sadly, thousands of these Americans suffering from autism and other developmental disabilities are not receiving the treatment that best practices has determined they need.

For example, military families with children on the autistic spectrum are receiving fewer services than their civilian governmental counterparts across the country, many of whom have been rightfully aided by laws passed in over 60 percent of our States, representing over 75 percent of the American population.

Autism places such tremendous strain on our families—health strains, financial, and emotional. They take such tolls. I want to share briefly just a couple of the stories I have heard from struggling military families. They have done everything we have asked of them as a nation, but now they can't even provide for their children.

One veteran was severely wounded in Iraq while heroically serving his country. His injuries were such that he was forced to retire. Because he is retired, his autistic son Shane was no longer able to receive the applied behavioral therapies that were recommended. The wait list for the Medicaid waiver services where he lives was 9 years. So Shane's family had to sell their home to pay the roughly $5,000 per month out of pocket for the ABA treatment he so desperately needs.

The money is running out for their family, and they do not know what to do. But they want to do what is best for their son. Without this relief, we risk allowing brave military families just like this one to fall through the cracks.

Another story: A marine on Active Duty serving in Iraq and Afghanistan three times has maxed out all his ABA therapies to treat his 11-year-old autistic son Joshua. Joshua is nonverbal and his safety is a key concern for his family. So Joshua is prescribed 35 hours of ABA therapy per week. Because of the severity of Joshua's symptoms, the family is basically faced with the impossible decision of either foregoing the recommended care the doctor has prescribed for their son or paying these bills out of pocket for as long as they are actually able.

I don't believe this should ever happen to our military families. I don't believe it should happen to any child, and that is why I am introducing my amendment to require TRICARE to cover the recommended ABA therapies that a doctor prescribes. It would be a matter that is consistent with the best practices across this country and in the rest of the Federal Government.

Our children need this kind of support—Shane and Joshua need this kind

of support—and we should be standing by our men and women who serve in the military because they stand by us. Every parent who has a child with autism or another disability faces challenges to ensure their child has access to the treatments they require. For these military families, the challenges are even greater and often compounded by frequent deployments overseas, the frequent moves to different bases across State lines, and sometimes significant gaps in their coverage.

Today, TRICARE coverage of ABA is severely limited. It is capped at $36,000 per year for an Active-Duty member, which falls far below what is medically recommended for so many of these children.

This care is limited to Active-Duty servicemembers only. Guard and Reserve families receive intermittent care, and children of retirees can't even get coverage at all. As a consequence, military servicemembers often must turn to State Medicaid Programs to help provide these services to their children. But the problem is that these services are often unavailable because of long—years—wait lists. In Maryland, for example, the wait list is 7 years, essentially eliminating ABA coverage during the early developmental years when a child needs it most. The wait list in Virginia is 10 years long.

Even more remarkable than TRICARE not covering these treatments is that the Office of Personnel Management has determined that such treatments may be covered as medical therapies for Federal civilian employees. A recent court decision, which the DOD is still reviewing and may appeal, determined that TRICARE must cover these treatments. But this decision is being applied under the most narrow definition in the interim, limiting the potential pool of providers. This amendment requires TRICARE to provide coverage and deliver services in a manner that is consistent with the best practices, thereby improving access to care for our military families and aligning the TRICARE policy with coverage that is basically available to anybody else in the civilian sector.

I believe we have a duty to stand by our military families. We have to address this difficult medical issue. We ask so much of our men and women who serve in the military. We must support their families. This amendment simply fulfills that promise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, first, I wish to announce that I agree with the assessment of the Senator from New York in terms of the treatment that should be offered. I have no problems with that. I think she is right. There are a lot of other things in TRICARE that aren't right. And what the Senator from New York is doing is admirable, but there is a portion of it that is not.

With the modification to her amendment, she has now raised the total cost of this amendment over the next 10 years to $1.9 billion. And it is true that she has managed to insert with some excess funds that will be spent before the end of the year that won't be there by the time the money for this is used to pay for it. So she does meet that standard, but she doesn't meet the standard for the next 10 years.

So we are in the midst of this large discussion about how we are going to get out of this fiscal mess. I take her at her word that she really does want to reform TRICARE and fix it. But realize that TRICARE hasn't had a premium increase since 1995, and all it would take to pay for this is a $2-per-month increase in premiums for those on TRICARE. And it is just TRICARE Prime; it is not TRICARE Standard and TRICARE For Life. It is just $2. Madam President, $550 per year covers your whole family, with no deductibles and no copays right now. It hasn't been increased since 1995.

So one of the things we ought to do is we ought to work to bring TRICARE standards up to make sure they meet the needs of everybody. I don't disagree with that. But the other thing we ought to do is we ought to pay for it. Now, where is the money going to come from to pay for this, this very well-intentioned and proper thing? The way it is written now by the Senator from New York, this will come out of the operations and maintenance fund. So the very father of an autistic child will have less flight time, less drill time, less shooting time, less preparation time to go out and be a warfighter. And as we think about the 10-percent across-the-board cut that is coming or the $500 billion that is proposed to come out of the Defense Department, none of it is going to come out of TRICARE.

So what we ought to do is we ought to fix these things, but we ought to fix them without digging our hole deeper.

Before Secretary Gates left, he said the biggest thing that is eating the lunch in the Defense Department is the department of health within it that manages the health care because we have not done an appropriate job of having a slight rise in premiums to cover some of the tremendous benefits. Nobody else in the country gets the benefits we give with TRICARE—nobody—$550 a year per family, $275 if you are single, and no copay and no deductible. All it would take is $24 a year by our TRICARE Prime to pay to make sure that the people with disabilities and the people with autism have the appropriate therapies and they are covered under TRICARE.

So I would ask my colleague from New York if she would mind withdrawing her amendment, to be voted on later, that I might be able to offer a second-degree amendment and maybe in that way or another way pay for this out of things that we know are going on, that we could find $1.9 billion over the next 10 years to actually pay for the cost of this over the next 10 years. We didn't have time to do that beforehand. I don't know if she would be willing to do that. But there is no way you should justify taking another $1.9 billion out of the operation and maintenance program for our troops to health care. We ought to eliminate something that doesn't take away from their training time, flying time, shooting time, or sailing time. We ought to be taking it from somewhere else, but that is where this is going to come from.

I applaud what she is doing. She is right about fixing the problem. She is totally opposite of what we should be doing in terms of paying for it, and I would offer to work in good faith in the next hour to try to come up with a second-degree amendment that would be acceptable to my colleague and to the chairman and ranking member of this committee that would actually pay for it.

Madam President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COBURN. Madam President, how much time is remaining?

The PRESIDING OFFICER. There is 5 minutes for Senator COBURN and 6 minutes for Senator GILLIBRAND remaining.

Mr. MCCAIN. Will the Senator yield 2 minutes to me?

Mr. COBURN. I would be happy to yield.

Mr. MCCAIN. Madam President, there is no one I know of in this body at any time who would not want to assist and provide the best care, especially for our disabled children who have autism. It is one of the most compelling stories any of us have ever heard. But I think it is also important for us to recognize that when we continue to add on benefits without a hearing, without any scrutiny, without balancing where they are in the array of priorities we have, and without paying for them—it seems to me that in the budget we have and the expenditures we have, to just say, as the distinguished Senator from New York just stated, that we will address it next year, we will get that taken care of—we all know the hardest thing around here is to find funds for programs.

So I appreciate more than I can say the dedication of the Senator from New York on this issue, but here we go again—we are going to now bestow another entitlement that is not paid for. With all due respect, I say to the Senator from New York, why don't she give us something to pay for it with? Why don't she come up with an offset that would then not have us increase the debt by $1.9 billion? We are now adding a cost of $1.9 billion in the name of one of the most humane and compelling causes any of us know. But don't we have an obligation to the taxpayers? We have an obligation to the taxpayers to say that we are going to take care of these special needs Americans but we are going to pay for it. Instead, we are going to lay an additional

burden on the taxpayers of America which someday is going to have to be paid for—someday. It may not be in this bill, but someday it is going to have to be paid for.

Obviously this amendment is going to pass, but I would love to see the Senator from New York tell us how we are going to pay for it. I don't think that is an outrageous demand.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I thank my colleagues for their statements of support for meeting the needs of the children who do suffer from autism and other developmental disorders, and I do appreciate and believe their sincerity in wanting to make sure they are covered with the treatments they need.

I think we can work together to reform the TRICARE system. It is one that has not had the kind of reform it needs. But this is just an authorization for 1 year to meet the needs of these kids now because I don't want to wait until we figure it out and figure out the rest of the program.

In addition, we did have a hearing. We had scientists and doctors and those who are medical professionals come to testify in front of the Armed Services subcommittee. Through that testimony we established that the only reason the DOD wasn't covering this was because they believed it was an educational program. And what we established and what the medical literature says is that it is actually a medically necessary treatment in the same way you would give a child who is sick a medicine.

I want to address the needs of these kids now. I will commit to working with the Senators to reforming TRICARE so we can actually pay for programs over the long term and reform it in a way that is consistent with the benefits our troops so desperately need.

Mr. COBURN. Madam President, might I ask through the Chair the Senator from New York if she would consider for a short period of time withdrawing her amendment and allowing me to develop a second-degree amendment that would actually pay for this so that we would accomplish her goal—and I think all of our goals—of making sure the proper treatment is there but won't handicap the armed services in terms of delayed training, less training, less flying time? Because it is going to come out of the operations and maintenance funds. I wonder if she would do that with the assurance of the chair and the assurance of the ranking member and chairman of the committee that the amendment would still be considered.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I urge my colleagues to take a more lengthy time to consider how to reform TRICARE and pay for this program than just 1 or 2 hours.

I would like to pass this amendment now. Right now operations and maintenance has $174 billion a year in it. This is $45 million for 1 year just to get the treatments in place for these families. In 1 year's time, we will have more accountability and transparency on what the real cost is. This is just an estimate. So what we want to do is be able to have more facts and then go to reform the TRICARE system properly, and I commit to Senators that I will work with you on that. This is only authorized for 1 year.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I believe it was Ronald Reagan who said that the closest thing to eternal life here on Earth is a government program.

Again, the complaint that we continue to hear from our constituents is that we have mortgaged our children's and our grandchildren's futures. And to somehow say, well, we are only authorizing this program for 1 year—does the Senator from New York really believe that once we start treating children with autism, we are going to terminate that program? Does she really believe that? Of course not. Of course not.

We have an obligation to the men and women, the citizens of this country whom we have saddled with a $16 trillion debt to find ways to sacrifice ourselves fiscally to pay for worthwhile programs. So I support a second-degree amendment from the Senator from Oklahoma, which is his right. It is his right to do so. And I don't see how we fulfill our obligation to our citizens by continuing to authorize and appropriate expenditure of their tax dollars without a way to pay for it except to take it out of our taxpayers' pockets.

That is not right. That is not right. The Senator from New York knows it is not right for us, no matter how worthy the cause, for us to continue this continued spend, spend, spend, debt, debt, debt that the American people are saddled with. I probably will not be paying for the national debt but my kids will, my grandkids will. Can't we for once say: Look, this is a worthwhile program, we all support taking care of people with autism, and here is how we are going to pay for it. That would be a unique experience around this body.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. COBURN. I yield the remaining portion of my time.

Mrs. GILLIBRAND. I yield my time.

Mr. COBURN. I think my colleague from New York would like to ask for the yeas and nays.

Mrs. GILLIBRAND. I request a voice vote.

Mr. LEVIN. Is there anyone seeking the yeas and nays?

Mrs. GILLIBRAND. I request a voice vote.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I think we ought to have a recorded vote on this since we are not paying for it and we are taking $1.9 billion out of the O&M budget of the Defense Department. I ask we have a recorded vote.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from South Carolina (Mr. DEMINT), and the Senator from Nevada (Mr. HELLER).

The PRESIDING OFFICER (Mr. COONS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—66

Akaka	Gillibrand	Mikulski
Ayotte	Grassley	Moran
Baucus	Hagan	Murkowski
Begich	Harkin	Murray
Bennet	Hatch	Nelson (FL)
Bingaman	Hutchison	Pryor
Blumenthal	Inouye	Reed
Boxer	Isakson	Reid
Brown (MA)	Johnson (SD)	Roberts
Brown (OH)	Kerry	Rockefeller
Cantwell	Klobuchar	Rubio
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Leahy	Shaheen
Chambliss	Levin	Snowe
Coats	Lieberman	Stabenow
Collins	Lugar	Tester
Conrad	Manchin	Udall (CO)
Coons	McCaskill	Udall (NM)
Durbin	McConnell	Warner
Feinstein	Menendez	Webb
Franken	Merkley	Whitehouse

NAYS—29

Alexander	Enzi	Paul
Barrasso	Graham	Portman
Blunt	Hoeven	Risch
Boozman	Inhofe	Sessions
Burr	Johanns	Shelby
Coburn	Johnson (WI)	Thune
Cochran	Kyl	Toomey
Corker	Lee	Vitter
Cornyn	McCain	Wicker
Crapo	Nelson (NE)	

NOT VOTING—5

DeMint	Kirk	Wyden
Heller	Lautenberg	

The amendment (No. 3058) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe Senator PORTMAN may be ready with an amendment that has been cleared and, I believe, can be voice-voted. I am wondering if my friend from Ohio could confirm my understanding that he is ready to proceed and that he is willing to take a voice vote on this amendment?

Mr. PORTMAN. Yes. That would be great. I am willing to take a voice vote, and I believe it is going to be accepted.

The PRESIDING OFFICER. Does the Senator from Ohio seek recognition?

Mr. PORTMAN. Mr. President, I do seek recognition.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2956

Mr. PORTMAN. Mr. President, I ask unanimous consent that the pending amendment be set aside and call up amendment No. 2956.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The bill clerk read as follows:

The Senator from Ohio [Mr. PORTMAN], for himself and Mr. AKAKA, proposes an amendment numbered 2956.

Mr. PORTMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require a report on Department of Defense efforts to standardize educational transcripts issued to separating members of the Armed Forces)

At the end of subtitle F of title V, add the following:

SEC. 561. REPORT ON DEPARTMENT OF DEFENSE EFFORTS TO STANDARDIZE EDUCATIONAL TRANSCRIPTS ISSUED TO SEPARATING MEMBERS OF THE ARMED FORCES.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the efforts of the Department of Defense to standardize the educational transcripts issued to members of the Armed Forces on their separation from the Armed Forces.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the similarities and differences between the educational transcripts issued to members separating from the various Armed Forces.

(2) A description of any assessments done by the Department, or in conjunction with educational institutions, to identify shortcomings in the transcripts issued to separating members in connection with their ability to qualify for civilian educational credits.

(3) A description of the implementation plan for the Joint Services Transcript, including a schedule and the elements of existing educational transcripts to be incorporated into the Transcript.

Mr. PORTMAN. Mr. President, this is a pretty simple amendment. It has to do with correcting a problem that we have found in Ohio and around the country. Amendment No. 2956 simply calls on the Secretary of Defense to work to standardize the educational transcripts of separating servicemembers. I appreciate Senator AKAKA's leadership and cosponsorship of this amendment.

It is an important issue to a lot of our veterans as they are seeking to pursue their educational opportunities after being in the service. If they seek to use the GI bill or other benefits to further their education after taking off the uniform, they sometimes find they have an issue of getting credit for work they have done in the service.

Each servicemember is issued a transcript upon leaving Active Duty. The transcript equates military training and instruction to academic credits. Colleges and universities then use these transcripts to award transfer credit to veteran students.

Unfortunately, there is a significant difference in the types of transcripts issued by each of the military services. As a result, two veterans from different services who took the exact same military courses could receive significantly different academic credit at the same school. If we multiply that across all the services, all of our veteran students, and across all the colleges and universities in this country, we end up with some real issues. We end up with many veterans losing out on credit they deserve, as well as very well-intentioned colleges and universities spending a lot of time and resources trying to make sense of all these differences to help this process for veterans. It often falls on the Veterans Service Offices in these schools, and as my colleagues know, these Veterans Service Offices should be spending their time assisting veterans with their transition to academic life, which is sometimes a challenge.

Ohio has been leading on this issue and has organized public and private schools, our State board of regents, and even the Ohio National Guard to try to bring some sense to this. That has been helpful, but it would be far easier and far better to standardize the military transcripts themselves. It would avoid, again, a lot of the issues, a lot of the bureaucracy.

The Defense Department has recognized some of these issues, and I think they have started down the path of developing a joint services transcript. This is an important first step, and through this amendment we seek an understanding of those requirements and their implementation plan for this kind of initiative, should it be in place, in order to see it on a path to a swift and thorough resolution.

So I think this is one that, again, as the chairman was asking, could be voice-voted. I hope it will be.

So, Mr. President, I ask for a voice vote on the pending amendment.

The PRESIDING OFFICER. Is there any further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2956) was agreed to.

Mr. PORTMAN. I yield the floor.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. PORTMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I wonder if we could get a unanimous consent that Senator CASEY be allowed to proceed as in morning business to comment on filed amendments for—I am sorry, was it 10 minutes?—10 minutes. I ask unanimous consent that Senator CASEY be allowed to proceed as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise today to talk about our Nation's military in light of the legislation we are considering. I commend Chairman LEVIN and Ranking Member MCCAIN and all those who are working on it. I just have some comments on a number of amendments and a few issues.

For more than a decade now our Nation has been at war. In that time period, the men and women of the U.S. Armed Forces have courageously served in Afghanistan and Iraq, assisted communities after disasters, and continued to provide stability across the world. As the military draws down from foreign engagements and strategic directions are reassessed, the Senate should do the same with regard to these issues.

Unlike previous debates on the National Defense Authorization Act, this year the bill before us seeks to clarify the role of the military for the next decade or more.

We are being asked to evaluate how large our military needs to be as we assess our near- and long-term threats. We are being asked to evaluate what equipment and resources this fighting force will need to keep the peace and to combat new aggressors, all while we are being asked to evaluate programs we have introduced over the past decade to support our servicemembers and their families.

There are just a couple issues that are relevant to this debate, one which has particular significance for southwestern Pennsylvania. This is with regard to the military's force structure. I have been alarmed at two proposals submitted by the Air Force as it seeks to restructure.

In Pennsylvania, the Air Force has sought to eliminate the Pittsburgh Air Reserve Station where approximately 1,500 Reservists and civilians are committed to serving our Nation. After numerous briefings and hearings, the Air Force has yet to provide us—to provide my office and I think other offices as well—with a thorough analysis of several of their proposals. These proposals, as presented, have failed to reflect the low overhead costs, efficiencies, and the value of the 911th Airlift Wing.

For example, the 911th has developed an aircraft maintenance program that has resulted in more aircraft availability days while saving the Department more than $42 million over the last 5 years. The Air Force continues to reiterate that they must find savings in this tight budget environment.

If this is true, I am not convinced the closing of one of their most efficient bases meets this objective of cost savings.

I am also disturbed to see how the Air Force Reserve continues to be treated during this process. While the Guard and Active components have been mostly protected, the Air Force Reserve, including the 911th in Pittsburgh, has borne the brunt of these proposed cuts. Therefore, I am pleased Chairman LEVIN and the members of the Armed Services Committee have worked to prevent the Air Force from moving forward with these proposals in fiscal year 2013.

I ask other colleagues to join Senators BEGICH, GILLIBRAND, and me on amendment No. 2952 that seeks to prevent the military from using a backdoor BRAC process to substantially reduce or close bases, especially without justifying to Congress their intentions. On behalf of Pennsylvania's Air Force Reserve, I will continue to fight for a reasoned and balanced restructuring of the Air Force.

The second issue I wish to raise is the so-called TAA Program. We know our long-term strategic interests must also secure the future of servicemembers and veterans alike. Today, I have introduced an amendment that provides assistance to our servicemembers and their families. It is amendment No. 2297, the Transition Assistance Advisors Program, the so-called TAA Program.

It seeks to make permanent and increase the numbers of transition assistance advisors in every State. These advisors coordinate resources for the Reserve component members and their families to help these individuals navigate the myriad of service programs provided by the VA, TRICARE, veterans service organizations, and other supporting agencies.

These advisors are considered a force multiplier by the National Guard Bureau. The TAA assistance advisors enhance the Bureau's outreach capabilities, serve as a vital link between servicemembers and the benefits to which they are entitled. In the last 2 years, since this initiative was launched, 62 of these advisors have reached more than 194,000 veterans and their families. Yet 62 advisors can only do so much. All too often, I hear from my National Guard constituents and their spouses about how confusing it is to navigate military procedures and benefits, especially as they go on and off duty every 2 years.

Our citizen soldiers have answered the call to serve our Nation in times of need. Should we not be doing everything we can to help them navigate these complicated measures when they return home? I think the answer to that question is a resounding yes.

Last year, Congress authorized end strengths of 464,900 guardsmen and women in the Army and Air National Guard. On average, this comes to an average of 1 transition assistance advisor—just 1—per 7,498 servicemembers and their families, obviously not enough advisors to help our families.

I believe this ratio does a disservice to citizen soldiers and to airmen as well as others and their families. I ask my colleagues to support and strengthen this program as our veterans of Iraq and Afghanistan try to reintegrate back into their lives. I thank Senators LEAHY, BLUMENTHAL, TESTER, MIKULSKI, and WYDEN for cosponsoring this important amendment.

Finally, my last issue. This involves women in Afghanistan. In addition to making important adjustments to the size and strength of our military, the authorization act also helps to shape strategic priorities in critical regions. In Afghanistan, we are reducing the U.S. presence and transitioning security responsibilities to Afghan forces. It is critical this process protects the gains that have been made over the last 10 years, particularly with regard to the rights and opportunities of Afghan women and girls. I am concerned that as our international forces draw down, extremists threaten to once again restrict Afghan women's mobility and opportunities for participation in public life.

Women who are active in public life face serious threats to their personal safety in Afghanistan. Girls have been the targets of extremist violence simply for going to school. We all know the story that was written about the acid thrown in the face of two young girls. That was repeated numerous times across the country. Afghan forces are not doing enough to counter these influences and protect women in their communities. This just does not threaten Afghan women and Afghan girls, it threatens the success of the security transition in Afghanistan that we are paying for, that we have invested in, that our fighting men and women have fought and died for.

We know that when women's security deteriorates, it can be an early indicator of a worsening security condition overall. I am very concerned that if we neglect women's security in Afghanistan during this transition period and if we stand by while women are forced out of public life and have their voice silenced by extremists, we will see a less stable and a less secure Afghanistan in 2014 and beyond.

That is why Senator HUTCHISON and I have introduced the Afghan Women and Girls Security Promotion Act and offered it as an amendment to the National Defense Authorization Act. We are proud to be joined by Senators MIKULSKI, FEINSTEIN, GILLIBRAND, MURKOWSKI, SNOWE, LAUTENBERG, CARDIN, and BOXER.

Here is what the legislation does: It requires the Department of Defense to produce a plan—just a plan—to produce a plan to promote the security of Afghan women and girls during the transition process, including monitoring and responding to changes in women's security.

Second, the Department of Defense must work to improve gender sensitivity and responsiveness among Afghan national security forces personnel. Third, it increases recruitment and retention of women in the Afghan national security forces. It will also require that the Department of Defense report on the implementation of this strategy and its results in semiannual reports that are filed.

When I last visited Afghanistan, leading a CODEL in August of 2011, I was privileged to meet with a group of Afghan women leaders. I was impressed and inspired—that is an understatement—inspired by their determination to continue to fight for women's rights even in the face of extraordinary oppression and violence.

One member of Parliament, Fawzia Kofi, lost her father and her husband as a result of her family's involvement in politics. But she is still determined to be a leader in protecting women's rights and advancing Afghanistan's democratic development. She and her colleagues, along with women across Afghanistan, are prepared to do whatever it takes to make sure their rights are protected and that they have a voice in their country's future. Supporting them is not only in line with our American values, it is critical to discouraging extremism and laying a foundation for a peaceful future in Afghanistan.

I am glad several of my colleagues have joined us as cosponsors in this important amendment. I hope we can see more support as we move forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, the chairman has asked me to manage the bill in the meantime while he is working out with the leadership a list of amendments.

Seeing no other Senator who wants to speak at this point, if I may, then I will talk about an amendment that would be offered in the future.

I am going to offer an amendment to repeal the offset in the Department of Defense and the VA benefits for military widows and widowers. The standalone bill, S. 260, has widespread support from military organizations and has 51 cosponsors in the Senate. This is the ninth time that I have and will bring this amendment to the Defense Authorization Act.

It has passed the Senate six times over the past decade, including last year by voice vote. The Senate has supported eliminating this offset for years. I hope this body will remain steadfast in its support for military widows and survivors.

The Presiding Officer will recall in a number of addresses that President Lincoln gave he spoke of the responsibility the government has to take care of the veteran and his widow and orphans. That is an ingrained principle within the law. That is an ingrained

principle as we uphold the finest fighting force in the world, which is our military.

What this amendment does is it addresses the longstanding problems faced by those survivors of people who are killed in action or whose death is related to the service in the military. The requirement for the dollar-for-dollar reduction of the Department of Defense Survivor Benefit Plan—it is an annuity—is offset by the amount of dependency and indemnity compensation that is received from another department, the Department of Veterans Affairs.

The Survivor Benefit Plan from the Department of Defense is an optional program for military retirees offered by the Department of Defense. Military retirees pay premiums out of their retirement pay to ensure that their survivors will have adequate income upon that servicemember's death. That is an insurance plan paid for by the military retiree.

On the other hand, the Dependency and Indemnity Compensation is a completely different survivor benefit. It is administered by the VA. When military service caused the servicemember's death, either due to service-connected disability or illness or Active-Duty death, surviving spouses are entitled to a monthly compensation. Most recently that has been $1,154. That comes from the VA. That is as a result of death with a service-connected disability or illness or Active-Duty death.

Now, of the 270,000 survivors that are receiving, under the insurance plan, the Survivor Benefit Plan, about 54,000 of those widows and orphans are subject to the offset.

According to the Defense Actuary, 31,000 survivors' SBP, the insurance plan, is completely offset by the dependency and indemnity compensation, meaning that the widow or the widower must live just on the DIC, which is $1,154. Well, that is simply not fair because if you engage in an insurance contract and you pay premiums to give you a certain return upon the happening of an event—in this case, the death of a retired military member—then that contract ought to be offered. But because this has been an expensive item in the past, what has happened over the years that this Senator has been trying to eliminate this offset is we have whittled it down but not completely done the complete offset. The fact is that the group of people affected, the group of widowers or widows, is getting smaller and smaller and therefore is going to cost less. I know of no purchased annuity plan that would deny payout based on the receipt of a different benefit, which is the case here.

Retirees bought into the SBP, the insurance plan, in good faith, these military families planned for the future, and the government failed to hold up its end of the bargain.

The military has a longstanding tradition never to leave a comrade behind, but that is what we are doing to the military survivors, the widows and the orphans. We are not taking care of those who are left behind.

We must meet our obligation to the widow and the orphan with the same sense of honor as was the service their loved one rendered. We must eliminate this SBP-DIC offset. It is the right thing to do, and it is going to cost a lot less than when I tried this 11 years ago, but there will be costs. But we have to start by setting the policy of what is right.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from California.

Mrs. BOXER. Mr. President, just in the lull here—and if there is any legislative business to take place, I will immediately give up the floor—I wish to make the point that I am so proud to be in this Senate, so proud to have been here for a long time now. I came here in 1993. There were 2 women, then we went to 6 women, and now we are going to 20 women. I have seen changes, I have seen good things, and I have seen rough things.

I have to say one of the things that keeps coming up continually here is folks trying to use these debates on bills to add irrelevant amendments, amendments that have nothing to do with the topic at hand.

I think we all agree that defending our Nation is our No. 1 priority, and therefore having a defense authorization bill is very important. I am sure we don't agree with every single sentence of this bill, but in general we all want to make sure that our military is prepared, that they are paid well, that they get good benefits. We must ensure we have a strong military that can meet every threat. Again, we are going to disagree on what all that means, but at least when we legislate, we ought to make sure that when we offer amendments, they are either noncontroversial and committee chairs have signed off if they are in their jurisdiction or we shouldn't offer them.

The reason I rise today is that we may be facing two environmental riders on this bill, and I want to go on record as saying I am not going to let that happen. Now, if colleagues want to override and stay here through the night and the weekend, that is fine, but I am going to be staying right here because one of these amendments would say that the EPA, under the Toxic Substances Control Act, could never regulate the ingredients in ammunition. This means they could never regulate lead and they could never regulate perchlorate. Lead and perchlorate kill, they harm, they do damage to the thyroid, to brain development, and to the behavior of children. Pregnant women are harmed.

So I am not going to allow an environmental rider to get onto this floor and pass this Senate when we are doing a defense bill which is meant to protect our people. I can tell you right now, you don't put a harmful environmental rider in the Defense bill when you are trying to pass a bill to protect our people, not make it easier for them to be exposed to dangerous lead, dangerous perchlorate, and other chemicals. There is a place and a time to do those amendments, and that would be on a relevant bill, a bill that comes out of the Environment Committee. That is fine. We can debate it then and have a vote when everyone understands the ramifications.

Now there is threat here to have another environmental rider that deals with coal ash, the regulation of coal ash. What does that have to do with the military bill? Zero. The components of coal ash are a huge danger to people. We have seen the coal ash pile up and get loose. In the East, it just goes down in a rainstorm and destroys whole communities. There is an environmental rider waiting to be offered that would weaken the EPA's ability to go to that threat and get rid of it.

I am very distressed, and I am sure you can hear it in my voice. I know there are differences around here, but I take my job seriously. As chairman of the Environment Committee, my job is to protect the public health from toxins such as lead, perchlorate, and the amazing collection of chemicals in coal ash that kill and harm and maim.

I know people want to get this bill done, and, believe me, I want to get this bill done. I have several amendments in this bill that are so important, and I thank colleagues on both sides of the aisle, particularly Senator CORNYN and Senator SNOWE, who helped me with an amendment that would say that if someone has been convicted of a sexual assault, they can no longer join the military. That is in this bill. That is very important.

We have other amendments we have worked on, and I thank Senator LEVIN and Senator MCCAIN. They have reached out to the committee chairs, and they have said: Look, we are trying to protect your jurisdiction. They have now said they have no agreement that our jurisdiction will be protected.

As much as I don't want to sit here and stand guard, I am going to do it because I think that is my role and that is my job.

I thank you, Mr. Chairman, for this moment to express the reason I have been on the floor all afternoon and will continue to be on floor until we adjourn this evening.

Mr. President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, we are now going to turn to an amendment of Senator WHITEHOUSE which has been cleared. We have worked to make sure everybody understands that he is going to proceed to the amendment. And then I understand there is not going to be a need for rollcall vote on it.

I ask the Senator from Rhode Island, about how much time does he believe he would need on his amendment before we hopefully voice vote?

Mr. WHITEHOUSE. I would say just 2 or 3 minutes.

Mr. LEVIN. I thank the Presiding Officer.

Mr. WHITEHOUSE. But I do believe that the Senator from Oklahoma wishes to respond.

Mr. LEVIN. And I appreciate that.

Mr. President, I ask unanimous consent that there be 10 minutes on the Whitehouse amendment, equally divided between Senator WHITEHOUSE and Senator COBURN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, may I ask the chairman if he wishes the amendment called up now and made pending or are we simply going to have discussion on it?

Mr. LEVIN. The Senator, we expect now, will be calling up his amendment. And may I, though, correct what I said before. It is possible that there will be a need for a rollcall vote on the Whitehouse amendment.

AMENDMENT NO. 3180

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the pending amendment be set aside in order to call up amendment No. 3180.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE] proposes an amendment numbered 3180.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to dispense with further reading of the bill.

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

The amendment is as follows:

(Purpose: To provide for scientific frameworks with respect to recalcitrant cancers)

At the appropriate place, insert the following:

SEC. ___. SCIENTIFIC FRAMEWORK FOR RECALCITRANT CANCERS.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

''SEC. 417G. SCIENTIFIC FRAMEWORK FOR RECALCITRANT CANCERS.

''(a) DEVELOPMENT OF SCIENTIFIC FRAMEWORK.—

''(1) IN GENERAL.—For each recalcitrant cancer identified under subsection (b), the Director of the Institute shall develop (in accordance with subsection (c)) a scientific framework for the conduct or support of research on such cancer.

''(2) CONTENTS.—The scientific framework with respect to a recalcitrant cancer shall include the following:

''(A) CURRENT STATUS.—

''(i) REVIEW OF LITERATURE.—A summary of findings from the current literature in the areas of—

''(I) the prevention, diagnosis, and treatment of such cancer;

''(II) the fundamental biologic processes that regulate such cancer (including similarities and differences of such processes from the biological processes that regulate other cancers); and

''(III) the epidemiology of such cancer.

''(ii) SCIENTIFIC ADVANCES.—The identification of relevant emerging scientific areas and promising scientific advances in basic, translational, and clinical science relating to the areas described in subclauses (I) and (II) of clause (i).

''(iii) RESEARCHERS.—A description of the availability of qualified individuals to conduct scientific research in the areas described in clause (i).

''(iv) COORDINATED RESEARCH INITIATIVES.—The identification of the types of initiatives and partnerships for the coordination of intramural and extramural research of the Institute in the areas described in clause (i) with research of the relevant national research institutes, Federal agencies, and non-Federal public and private entities in such areas.

''(v) RESEARCH RESOURCES.—The identification of public and private resources, such as patient registries and tissue banks, that are available to facilitate research relating to each of the areas described in clause (i).

''(B) IDENTIFICATION OF RESEARCH QUESTIONS.—The identification of research questions relating to basic, translational, and clinical science in the areas described in subclauses (I) and (II) of subparagraph (A)(i) that have not been adequately addressed with respect to such recalcitrant cancer.

''(C) RECOMMENDATIONS.—Recommendations for appropriate actions that should be taken to advance research in the areas described in subparagraph (A)(i) and to address the research questions identified in subparagraph (B), as well as for appropriate benchmarks to measure progress on achieving such actions, including the following:

''(i) RESEARCHERS.—Ensuring adequate availability of qualified individuals described in subparagraph (A)(iii).

''(ii) COORDINATED RESEARCH INITIATIVES.—Promoting and developing initiatives and partnerships described in subparagraph (A)(iv).

''(iii) RESEARCH RESOURCES.—Developing additional public and private resources described in subparagraph (A)(v) and strengthening existing resources.

''(3) TIMING.—

''(A) INITIAL DEVELOPMENT AND SUBSEQUENT UPDATE.—For each recalcitrant cancer identified under subsection (b)(1), the Director of the Institute shall—

''(i) develop a scientific framework under this subsection not later than 18 months after the date of the enactment of this section; and

''(ii) review and update the scientific framework not later than 5 years after its initial development.

''(B) OTHER UPDATES.—The Director of the Institute may review and update each scientific framework developed under this subsection as necessary.

''(4) PUBLIC NOTICE.—With respect to each scientific framework developed under subsection (a), not later than 30 days after the date of completion of the framework, the Director of the Institute shall—

''(A) submit such framework to the Committee on Energy and Commerce and Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and Committee on Appropriations of the Senate; and

''(B) make such framework publically available on the Internet website of the Department of Health and Human Services.

''(b) IDENTIFICATION OF RECALCITRANT CANCER.—

''(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Director of the Institute shall identify two or more recalcitrant cancers that each—

''(A) have a 5-year relative survival rate of less than 20 percent; and

''(B) are estimated to cause the death of at least 30,000 individuals in the United States per year.

''(2) ADDITIONAL CANCERS.—The Director of the Institute may, at any time, identify other recalcitrant cancers for purposes of this section. In identifying a recalcitrant cancer pursuant to the previous sentence, the Director may consider additional metrics of progress (such as incidence and mortality rates) against such type of cancer.

''(c) WORKING GROUPS.—For each recalcitrant cancer identified under subsection (b), the Director of the Institute shall convene a working group comprised of representatives of appropriate Federal agencies and other non-Federal entities to provide expertise on, and assist in developing, a scientific framework under subsection (a). The Director of the Institute (or the Director's designee) shall participate in the meetings of each such working group.

''(d) REPORTING.—

''(1) BIENNIAL REPORTS.—The Director of NIH shall ensure that each biennial report under section 403 includes information on actions undertaken to carry out each scientific framework developed under subsection (a) with respect to a recalcitrant cancer, including the following:

''(A) Information on research grants awarded by the National Institutes of Health for research relating to such cancer.

''(B) An assessment of the progress made in improving outcomes (including relative survival rates) for individuals diagnosed with such cancer.

''(C) An update on activities pertaining to such cancer under the authority of section 413(b)(7).

''(2) ADDITIONAL ONE-TIME REPORT FOR CERTAIN FRAMEWORKS.—For each recalcitrant cancer identified under subsection (b)(1), the Director of the Institute shall, not later than 6 years after the initial development of a scientific framework under subsection (a), submit a report to the Congress on the effectiveness of the framework (including the update required by subsection (a)(3)(A)(ii)) in improving the prevention, detection, diagnosis, and treatment of such cancer.

''(e) RECOMMENDATIONS FOR EXCEPTION FUNDING.—The Director of the Institute shall consider each relevant scientific framework developed under subsection (a) when making recommendations for exception funding for grant applications.

''(f) DEFINITION.—In this section, the term 'recalcitrant cancer' means a cancer for which the five-year relative survival rate is below 50 percent.''.

Mr. WHITEHOUSE. Mr. President, I thank Chairman LEVIN and Ranking

Member MCCAIN for their patience and persistence in allowing us to get to this vote. I think once I have discussed the bill for a moment, it might not seem as though it would have required much patience or persistence to get here, but it did. They have been very kind and very attentive, and I appreciate it.

The history of this amendment is that it began as a bill in the Senate. This bill passed out of the Health, Education, Labor and Pensions Committee by unanimous consent. An identical bill passed through the House of Representatives under suspension. So in many respects it is noncontroversial.

I also thank Chairman HARKIN and Ranking Member ENZI of the HELP Committee for their help getting it through the HELP Committee unanimously and for clearing it for a vote here today on the floor.

The bill at this point has nearly 60 cosponsors. It has 18 Republican cosponsors, and I thank them individually and by name: Senators BLUNT, BOOZMAN, BROWN of Massachusetts, CHAMBLISS, COCHRAN, COLLINS, CRAPO, GRASSLEY, HELLER, HUTCHISON, ISAKSON, KIRK, LUGAR, MORAN, MURKOWSKI, RUBIO, SNOWE, and WICKER, in addition to all my Democratic cosponsors.

This is a bill that also has the support of the American Cancer Society, the Pancreatic Cancer Action Network, the Lung Cancer Alliance, and the American Association for Medical Research, as well as the American Association of Medical Colleges.

What the bill does is asks that the National Institutes of Health convene and evaluate a discussion about what we call recalcitrant cancers. This actually began as a pancreatic cancer research bill, but it became apparent that there were some other cancers that we group now as what we call recalcitrant cancers in that they have not responded to treatment and research, and they remain cancers for which there has been little progress and survivability. And because they are so deadly and so lethal, we are trying to direct a little more attention out of NIH toward research on these cancers.

For me, this has a personal component, as I know it does for many people who have been touched by pancreatic cancer. My mom died of pancreatic cancer, and I have a number of friends who have been touched by it in their families as well.

I know the distinguished Senator from Oklahoma has opposition to this. If he would like to state his piece, I will be delighted to yield the floor so he may do so now. I hope at the conclusion of his remarks we could move this by a voice vote rather than calling all of our colleagues back for another vote. But if he objects to that, then that is within his prerogatives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, we have made remarkable progress in this country in terms of research into diseases. Since Francis Collins and his great work on the genome complex became successful, the way we research disease has totally changed. I have my favorite aunt who died of pancreatic cancer. I diagnosed it hundreds of times in my own practice of patients who were dear to me and whom I love. The problem with pancreatic cancer is it is diagnosed late. It is an adenocarcinoma of the pancreas, much like an adenocarcinoma of the colon. The reason we do so well on colon cancer is we do colonoscopies and we can treat the disease early. What is well-intended by this recalcitrant cancer bill will actually delay the cure for pancreatic cancer and other recalcitrant diseases.

Let me take a few minutes to explain why I am saying that.

We no longer look at diseases to cure them by looking at the base disease. There is translational and neurocommunicative and peptide and small markers of communication on an intracellular basis. Now, when we do research and we find that, what we find is we find cures for multiple diseases.

The other thing is we can take 100 people with a recalcitrant cancer, and every one of them, when we look at the genetics of cancer, will have to be treated differently. In other words, it is going to take a different approach, even though we might classify it as a neuroblastoma of the kidney or a pancreatic cancer—but looking at the genetics of the cancer, which is what we are doing now, is going to require totally different treatments.

This is very well intended. I understand. This is a big disease, and it is terrible that we diagnose it at a time where we cannot end up—less than 10 percent, around 5 percent survival rates, 5-year survival rates on this disease.

I would like to have printed in the RECORD a letter I received from Dr. Francis Collins. I ask unanimous consent to have that printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES,
Bethesda, Maryland, November 16, 2012.

Hon. TOM COBURN,
U.S. Senate,
Washington, DC.

DEAR TOM COBURN: Thank you for your September 17 letter requesting that I address four questions about how disease-specific legislation affects the ability of the National Institutes of Health (NIH) to plan and perform research.

First you asked if the NIH already has the ability to create strategic plans and working groups without a legislative mandate to do so. The Secretary of Health and Human Services and leaders of the Institutes and Centers of the NIH have the authorities needed to constitute standing advisory committees, create working groups, and develop plans for research programs; as a result, they do not need legislative mandates to take such actions. The NIH Institutes and Centers have senior advisory councils that oversee the research portfolio of each component. Individually or in collaboration, the NIH Institutes and Centers frequently form other advisory groups charged with planning research on Institute-specific or trans-NIH subjects. These many activities, in conjunction with our peer review panels, are part of our ongoing effort to evaluate the current scientific landscape and to protect and advance our investments in research for public benefit.

Let me provide a recent example of how these planning processes work. The National Institute of Allergy and Infectious Diseases (NIAID) has used working groups to identify scientific opportunities in areas where there are pressing public health needs. One example is influenza—both seasonal influenza, which kills up to 49,000 Americans each year, as well as pandemic influenza such as the recent 2009 H1N1 pandemic. In early 2006 NIAID convened a Blue Ribbon Panel on Influenza Research to help identify areas in which progress was needed. This panel recommended eight areas in which there were opportunities for scientific advancement, including research on improved influenza vaccines. To continue and build upon these efforts, NIAID released NIAID Influenza Research: 2009 Progress Report, which identified the development of ''universal'' influenza vaccines as an expanding area of scientific opportunity.

Currently, the NIAID's extramural researchers are pursuing multiple vaccine strategies for the development of a universal influenza vaccine. In addition, researchers at the NIAID Vaccine Research Center are making significant progress towards the development of such a vaccine. They have tested in animals a two-step, prime-boost vaccine that generates neutralizing antibodies against many strains of influenza virus. Animal studies of this technique have proven promising, and researchers will soon study the approach in human clinical trials. This past summer, NIAID sponsored, with the Food and Drug Administration, a scientific meeting to revisit progress and challenges with regard to the development of universal influenza vaccines. This comprehensive NIAID effort is just one example of how the NIH constantly examines scientific opportunities and conducts research evaluation and planning activities within its current statutory authority.

You next asked me to address the NIH's ability to foster groundbreaking discoveries without legislation that directs it to address a specific disease or group of diseases. While we seek always to be responsive to the concerns of the public, often expressed through ''report language'' in appropriations bills, the NIH has considerable statutory authority to plan and oversee the research that leads to important discoveries. Because our science often produces new and unexpected findings and because medicine is often confronted with altered or unyielding threats to public health, the NIH Institutes and Centers must constantly assess their research plans and portfolios. For example, the National Cancer Institute recently organized a group to perform a ''horizon scan'' of pancreatic ductal adenocarcinoma (PDAC) research, building on previous planning exercises in 2001 and 2008. This new group will examine current research efforts, benchmark our scientific under aiding, and identify promising and possibly underexplored areas for future research in hopes of improving the still dire outcome of this dreaded disease.

You further asked me to address the impact of disease-specific legislation on the NIH's ability to allocate resources freely and to study basic biology and mechanisms. When providing technical assistance to the Congress on possible legislation, the NIH generally suggests that Congress provide the maximum flexibility for our mission. Basic

research that may lack any overt connection to specific diseases is the foundation for disease-specific translational and clinical research, and it must be preserved to ensure the discoveries that later drive applied work on individual diseases. If Congress is too proscriptive when it directs the NIH to focus on specific diseases, the agency loses its valued flexibility to allocate resources in a manner that optimizes the likelihood that the scientists we support will discover the underlying disease mechanisms that must be understood to achieve our goal of improving the health of our nation.

Let me provide an example of basic research that addresses several specific types of cancer. As early as the 1980s, cancer researchers observed mutations in a certain critical gene, the KRAS gene, in a variety of human cancers, including about a third of lung cancers, about half of colon cancers, and as many as 95 percent of PDACs. Basic research on a wide variety of cell types, from yeast to human, has taught us that the KRAS gene encodes an unusual signaling protein that acts in conjunction with other proteins as a molecular ''on/off' switch for signals promoting cellular growth. Mutations in this gene leave the switch ''on'', resulting in persistent cell growth and division. Despite what we know about KRAS mutations, and despite extensive efforts in both industrial and academic research sectors, we have not yet been able to counter these mutations therapeutically. In order to treat PDAC and many other cancers exhibiting KRAS mutations, we must focus on research that increases our understanding of how such mutations drive the biological effects that cause these devastating diseases. Given what we have learned about molecular mechanisms, it would be counterproductive to limit that effort to a specific cell type. In other words, if Congress directs the NIH to study specific diseases without flexibility, it can limit our ability to follow the best leads in science and to pursue discoveries that move an entire research field forward in a way that produces maximum benefit to the public.

Finally, you asked me to address how genomics has revolutionized the study of underlying mechanisms of disease. Recent advances in genomics are transforming the way science is conducted. Our understanding of basic mechanisms has increased exponentially with the widespread adoption of high-throughput screening, genome sequencing, and advances in bioinformatics. This transformation of the biosciences is profoundly affecting the practice of medicine. Advances in the biological sciences have changed the way we view disease. We now recognize that dysfunction of specific biochemical pathways that govern cell behavior may be similar in superficially disparate diseases or quite different in patients with the same category of diagnosis.

When you and I were in medical school, all patients with cancers of a given organ were treated with the same combination of chemotherapy, radiation therapy, or surgery. With today's application of high-throughput screening and genomics, we are now shifting to treating an individual's cancer with a kind of ''precision medicine'' that is based upon the patient's genome and the genome of his or her individual tumor. As an industry scientist recently told the New York Times, ''[t]he old way of doing clinical trials where patients are only tied together by the organ where their cancer originated, those days are passing.'' This is just one more reason why directing research resources toward a particular disease without flexibility, as defined in the pre-genomic era, can run counter to scientific opportunity.

In closing, let me be clear that the NIH is not permitted to take a position on the recalcitrant cancer legislation being considered by the Congress. Such statements can only be issued by the Office of Management and Budget as a Statement of Administration Policy.

Thank you for your continued support of the NIH.

Sincerely yours, with best personal regards,

FRANCIS S. COLLINS, M.D., PH.D.,
Director

Mr. COBURN. It is outlining NIH's and specifically the National Cancer Institute's concerns with this type of directive from us. I think they care about whether we solve these problems associated with these recalcitrant cancers. I think people who want to get it solved are true in their motives to try to solve it.

But there are some significant things in his letter that I would like to quote for my colleagues because I think it might just change your mind about us micromanaging what they are doing.

First, he says:

We have all the authorities to do whatever we need to do with the money that you have given us. We can do all these things you want us to do. If you tell us to do them, we will do them. But we already have the authority to go where we think we are going to get the best results in the quickest way.

NIH constantly examines scientific opportunities and conducts research evaluation and planning opportunities within its current statutory

In other words they are looking, trying to figure out how they change, where they go now

The national cancer institute recently organized a group to provide a ''horizon scan'' of pancreatic ductal adenocarcinoma ad carcinoma, building on previous planning

They just did all this. They have just been through a total review of pancreatic adenocarcinoma, and they have just shifted where they are spending funds to address this issue.

Basic research that may lack any overt connection to specific diseases is the foundation for disease-specific translational and clinical research.

We must preserve this translational research if in fact we will want to eventually apply it to specific diseases. So I would say this bill, ''pre'' the genomic age, would be a right thing for us to do. It is the wrong thing for us to do because what we are actually going to do is we are going to force the NIH to do things that are not going to benefit the results—the outcome of these diseases and waste money on what is being directed.

Do we have a time limit?

The PRESIDING OFFICER. Evidently; 10 minutes equally divided.

Mr. COBURN. I ask unanimous consent to continue until I finish my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I am distracted. What is the unanimous consent request?

Mr. COBURN. I wanted to finish my remarks.

Mr. LEVIN. I understand. Was it an additional 5 minutes?

Mr. COBURN. It will not be much longer than that. I am certainly not

Mr. LEVIN. I have no objection.

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

Mr. COBURN. ''Advances in the biological sciences have changed the way we view disease. We now recognize the dysfunction of specific biochemical pathways''—not disease-specific pathways—''biochemical pathways that govern cell behavior that may be similar in superficially disparate diseases or quite different in patients with the same disease.

What they are saying to us, through this letter, is that, of course, they are going to do what we tell them to do. But the very intent of what we are wanting to accomplish is we are going to delay the outcome because we have not significantly, in the last 3 years, significantly increased NIH's budget. So limited dollars are going to be spent as directed through this recalcitrant bill that are not going to direct the translational research and biochemical pathway research they are in.

I would just tell my colleagues in the next 10 years we are going to see such phenomenal changes in our approach to disease, and the treatments for that, and the reason we are going to see it is because we stop looking at diseases and started looking at translational genomics and biochemical pathways.

I will be one of the few who vote against this. I am fine with a voice vote if no other colleagues object. I have no problems with that. But in the name of doing good I suggest that we are actually going to limit our ability to achieve, at a sooner time, the cures that everybody who is supporting this bill would like to see.

I yield.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. With the permission of the chairman, may I ask for a voice vote at this time?

Mr. LEVIN. I know of nobody else who wishes to speak on this amendment—I withhold that so we can hold off and see if anybody else wishes to speak.

Mr. President, I know of no further debate on this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3180) was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

Mr. LEVIN. Senator PORTMAN, I believe, wishes to speak relative to an amendment? I believe the Senator from Ohio wishes to speak relative to an amendment? I ask Senator PORTMAN be recognized for—how many minutes, may I ask the Senator?

Mr. PORTMAN. Seven minutes.

Mr. LEVIN. For up to 10 minutes, to speak up to 10 minutes.

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

Mr. PORTMAN. I ask unanimous consent to speak as in morning business.

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

PARTISAN RULE CHANGE

Mr. PORTMAN. Mr. President, I commend the chairman and ranking member for the way they are handling this bill. As we have seen on the floor today, Democrats and Republicans alike are able to offer amendments and have an honest debate on the issues, which is exactly how we ought to be operating.

As the fiscal cliff approaches we should not only be working together across the aisle to address issues like we are today with the Defense authorization bill, but we should also be working to address other critical issues, including tax issues and spending issues. That is what I wanted to address.

We have a lot of challenges. Instead of pulling together we seem to be pulling apart, and I am specifically referring to some of the suggestions by some in the majority that we consider a controversial and partisan rule change that would marginalize minority Members and in a way that breaks the current rules to change the rules.

What I mean by that is it takes 67 votes to change a rule in the Senate. That is a rule, by the way, that dates back to 1917. The reason that is in place is because, obviously, folks wanted to force the majority and minority to work together to make those rule changes. We don't get a two-thirds vote without that. I think it is important that the basic rules are ones that are agreed on.

The party in the majority tends to change a lot around here. In fact, we have shifted back and forth between Republicans and Democrats 7 times in the past 30 years. So at one point we are in the majority, one point in the minority, and that is why having these basic rules in place make sense.

There are some proposing we get around the 67-vote majority by some procedure where, instead of having a two-thirds vote, we would just have a majority vote to change a rule. Regardless of what rule that might be—some would say it would be on the motion to proceed and other aspects of the filibuster. Of course it would set a precedent that could change the rules for other things as well. I think that would prove counterproductive in the short term. I also think it would prove counterproductive in the long run for the Senate.

All of us are focused, I hope, on the serious economic challenges that we face with the fiscal cliff impending. I think this would be the wrong time for us to put this body into an even more partisan environment by changing these rules.

Again, I commend the chairman and ranking member for what we are doing today because this is an example of how the Senate can work and has worked on several bills in my short time here. But in other cases we have not been able to do that. I think that involves both parties, again, working together to solve these problems.

The issue before us is the fiscal cliff, and I also want to address briefly, if I may, the ongoing discussion about taxes and what we should do regarding taxes. I want to take this opportunity to talk a little about why some of us believe that raising tax rates would be counterproductive at a time when our economy is so weak, and that there is another opportunity, and that is for tax reform.

The jobs crisis and the debt crisis are linked, and the President has made that point. He has said his priority in the grand bargain discussions, the fiscal cliff discussions, is to ensure that we encourage economic growth and jobs. So we should use this as an opportunity to address the underlying problems that are holding back our economy, an economy that is in tough shape today. Unemployment is still stuck just below 8 percent. The projections CBO has given us for the next year, by the way, are continued anemic growth in the economy and, in fact, unemployment going up, not down.

The economic case against imposing higher taxes is overwhelming. We all know if we tax something, people tend to do less of it and that is one reason why smoking is taxed, to get people to quit smoking. So why do we want to raise taxes on working, saving, and investing? Instead, we should encourage policies that create jobs, not discourage them through higher taxes.

Don't take it from me. There are others who have commented on this on both sides of the aisle. Christina Romer, President Obama's former Chief Economic Adviser, has written that in most circumstances, a tax increase that equals about 1 percent of GDP actually lowers GDP by about 3 percent. Harvard economist Marty Feldstein has written that a $1 increase in tax rates tends to cost the economy about 76 cents of growth.

There is a global perspective on this as well because other countries have gone through these fiscal problems and they have chosen to cut spending in some cases and raise taxes in other cases. There is a Harvard economist, Alberto Alesina, who has recently studied the experience of 17 countries in the developed world, such as the United States. Over the past 25 years, he has looked at how they have attempted to reduce their budget deficits. Based on IMF data, which is the International Monetary Fund, he concluded that ''tax-based deficit reduction'' was, in his words, ''always recessionary.'' By contrast, reducing deficits by cutting spending and enacting pro-growth reforms, including tax reform, actually spurred economic growth, according to the same study.

I think that this is consistent with our own economic history. Between 1948 and 1961, a period when the highest income tax rate rose from 82 to 91 percent, we went through some tough times. We had four recessions. Thankfully, our exports that helped rebuild Europe following World War II helped keep the economy moving. Reducing the top tax rate to 70 percent also helped, but the 1970s were still a period of stagnation, recession, double-digit unemployment, double-digit interest rates, double-digit inflation. It was when Ronald Reagan reduced rates to 28 percent that we saw this impressive period of growth, maybe the most impressive ever.

It is something we saw again in 1997 when capital gains taxes that were cut under President Clinton and the Republican leadership in Congress were followed by a surge of investment and growth into the late 1990s. Again, after the 2003 tax rate cuts, we saw another example of the power of low tax rates. This was the 2003 tax cuts. In the six quarters before those rate cuts, the economy lost 1 million jobs. In the six quarters after those tax rate reductions, in 2003, economic growth nearly doubled and 2.3 million jobs were added.

Some tax increase advocates may assert a willingness to accept slower economic growth in the cause of deficit reduction and that is a legitimate point of view, that we need to have slower economic growth because deficit reduction is so important. But I would also point out some statistics. Slow growth also means less tax revenue. The White House's own data suggests that even a .26-percent reduction in economic growth—which is likely with big tax hikes—would wipe out the entire $800 billion in promised deficit reduction from higher tax rates. Growth is so incredibly important to reducing our debt and deficit and getting in control of our fiscal situation. So tax rate increases are not only bad economic policy, but they tend to be bad budget policy.

Tax reform is needed, and through tax reform we could have higher revenues. But both theory and practice make a convincing case that keeping rates low is better for the economy and jobs. Structural spending reforms combined with pro-growth tax reform, in my view, are the right approach and I think historically that has proven to be true. I will speak for myself as one Republican, although other Republicans as well are willing to accept new revenues, but the right way to do it is through reforming our outdated Tax Code and having these structural reforms that everybody feels are necessary.

Both the corporate and individual sides of the Code are marked by relatively high marginal rates and a complex maze of tax preferences that distort economic decisions, misallocate capital, and allow some taxpayers to avoid paying their share. Tax reform can kill two birds with one stone. By capping or eliminating inefficient tax

preferences, we can avoid raising corporate and individual rates, without adding a dime to the deficit, by the way. In fact, if done right, tax reform will increase revenues by spurring growth, job creation and, therefore, bigger tax receipts.

Tax reform is both a fiscal and competitive necessity for our country. It has been more than 25 years since we substantially reformed the Tax Code and twice as long—about 50 years—since we did a bottom-up review of our international tax laws. The world has changed a lot in that time period, yet America has not kept up. The underlying assumptions in our Tax Code are, frankly, out of step with today's complex global economy. This is especially evident in our corporate Tax Code. The United States is now the highest corporate tax country among all the developed countries in the developed world. Canada has lowered its federal corporate rate from 16.5 percent to 15 percent, bringing its combined rate to 25 percent—nearly 15 points lower than the U.S. combined rate. Our rate is 39.2 percent when we combine the State and Federal burden. The Federal burden is 35 percent and the State burden is closer to 36 percent. So right now the average among all of the developed countries in the world is 25.1 percent, and the U.S. rate stands at 39.2 percent when we combine the State and Federal burdens.

A similar trend, by the way, has played out with respect to international tax rules, as our trading partners, including Japan and Britain, have moved to a more competitive, territorial-like tax regime over the past 10 years, which encourages movement of investment, capital, and jobs overseas. So there is a simple point here which is, by standing still, the United States is falling behind. The resulting drag on American competitiveness and job creation is real and substantial.

The solution is tax reform that broadens the tax base by scaling back tax preferences and cutting the corporate rate. We could cut it to 25 percent and scale back the deductions, credits, and exemptions, and have a competitive, territorial system and have it all be revenue neutral. There is such a proposal by the Joint Committee on Taxation here in Congress.

I am not saying it is easy. Some of these preferences, of course, and loopholes are ones that are very difficult to reduce or eliminate, but it would be the right thing to do for our economy. I think we have seen some signs of developing bipartisan consensus on this issue and I am hopeful we will see the same movement for pro-growth individual tax reform, because reforming the entire Tax Code is critical to regaining competitiveness, spurring growth, and producing the revenues we need to pay for important public priorities.

The smart way to raise revenue is not through tax hikes that will shrink our economy, but rather through tax reform designed to help grow the economy and help make American workers and businesses more competitive so we can compete and win in the global economy.

Again, today as we are approaching the fiscal cliff I hope this Senate works together on a bipartisan basis to work toward tax reform in a way to increase revenues and grow our economy while we look at the important structural reforms we have to make in order to solve the fiscal crisis we face.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me elaborate a little bit on what the Senator from Ohio just said. I think it is important to remember that the whole idea was a Democratic idea and not a Republican idea. Some of us remember. We were not actually here at the time, but in the 1960s during the Kennedy administration—of course, the last time I checked he was a Democrat—he was the one who made this statement. I have quoted him very often. He said, We need more revenue to take care of the great society programs that he had kind of inherited and was furthering. He said, The best way to increase revenue is to decrease marginal rates. He did that. I remember the top rate went down from 90 percent to 70 percent, and during his period of time, the total amount of revenue that came from marginal rates raised from $94 billion to $153 billion.

Then, a few years later, along came Ronald Reagan and the total amount of revenue that was raised for marginal rates in the year 1980 was $244 billion and in 1990 it was $466 billion, which almost doubled in the decade that had the most streamlining and reduced reduction in marginal rates in our history.

So I think it is interesting to observe that this is not—it wasn't all a Republican idea, but it is something that has worked every time it has been tried.

Mr. PORTMAN. I thank my colleague from Oklahoma. I wish to follow up briefly on that and say that in 1997, when we decided to move toward a balanced budget agreement when President Clinton was President, there was also an agreement to cut the capital gains rate. We sometimes forget the capital gains rate cut produced a lot of revenue that was not expected. As a result, we got to a unified balanced budget on a unified basis more rapidly than anybody thought we would. It came 2 or 3 years sooner than projected, in part because there was about $100 billion of new revenue that showed up the next year from the fact that we did reduce the capital gains rates.

I understand the need for us to deal with the deficit and to have revenue. There is no question that this is necessary, but to do it by raising rates alone, which is what is being proposed by some people, is going to result in lower economic growth, it is going to result in job loss, and it is not going to have the intended benefit on the revenue side. The alternative is clear, which is, for the first time in a couple of decades, we need to get busy on reforming this Tax Code as Ronald Reagan did with Democratic help, including Democratic Senators such as Phil Bradley here in the U.S. Senate, to encourage growth and to encourage the kind of economic growth that is going to result in more revenue coming in. We should not miss this opportunity to do that.

As I said earlier, I believe there is a building consensus around that. We saw it in the Simpson-Bowles Commission. We have seen it in the Rivlin-Domenici work, and other outside groups have looked at this, at our Tax Code. And by broadening the base, we can be more competitive and through growth have additional revenues coming in.

Mr. INHOFE. I appreciate the comments of the Senator from Ohio. I would go a little farther and say this obsession that the only way to do these things is to raise taxes, I think that flies in the face of history.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mrs. BOXER. Mr. President, I ask that the quorum call be dispensed with.

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

Mrs. BOXER. Mr. President, I listened to the Senator from Ohio and I want to be heard because he is talking about the fiscal cliff and how upset he is at the thought that the wealthiest people in America might go back to the tax rates we had under Bill Clinton when we had the greatest prosperity, we had 23 million new jobs, and we balanced the budget to the point where we even had a surplus. My friend comes down here and complains that the proposal on the table would give 98 percent of the people a tax cut and he is upset that 2 percent of the people might have to go back to the rates under Bill Clinton.

I want to say something. We just had an election. We had a big election. We had a tough election. We had an expensive election. One of the major parts of that election revolved around what do we do about the deficits, what do we do about economic growth, what do we do about spending. We discussed it in the Senate races, we discussed it in the House races, and, of course, President Obama and candidate Governor Romney discussed it again and again.

My friend talks about consensus. Let me tell my colleagues the consensus. More than 60 percent of the people agree with President Obama and the Democrats that we ought to climb down off this fiscal cliff in the next 5 minutes and pass what the Senate passed, which is to renew all the Bush tax cuts and go back to those over $250,000 to the rates of Bill Clinton. That is what we passed here. That

would bring us almost $1 trillion over 10 years. That will get us to climb down that cliff.

Then we have other parts of the cliff, there is no question about it, including the automatic sequester. I think it is easy to deal with that by bringing home some of the overseas account money and applying it to the sequester and getting rid of at least half of that sequester, and maybe all of the sequester. But, no, people are going to listen to these speeches every day about how we are obsessed with taxes.

What are people talking about when they say obsessed with taxes? I will tell my colleagues what I am obsessed about. I am obsessed with the fact that we passed a tax cut for 98 percent of the American people and our friends are so worried about the millionaires and the billionaires that they will not allow that bill to be voted on in the House. So people can stand up here morning, noon, and night, and I want them to and I respect their views, believe me, but I do not agree with them.

It is no wonder that the American people are confused. We know we have the fiscal cliff. We know we don't want to see tax rates go up for the middle class. Yet the Republicans say they are going to hold up all those tax breaks for 98 percent of our people because they want to hold on to the tax breaks for billionaires and for millionaires. We had an election about that.

People agreed with us. I suppose we are going to have to hear these speeches every day about how we are going to grow our way out of the deficit. We are going to grow our way out of the deficit? Really? Look what happened under George W. Bush. He inherited surpluses. He turned it into deficits as far as the eye can see, with huge tax cuts to the millionaires and billionaires—huge—the very tax cuts our friends are defending right now. He did two wars on the credit card and we wound up in a mess.

So we have to come together with the best ideas that we can have. I know we can reach agreement. But let's do the first step, which is to take care of 98 percent of the people. The Republicans want to have tax breaks for 100 percent of the people. We are saying: Can you take 98 percent?

If I stopped you on the street and said: I am willing to give you 98 percent of what you say you want, and you walk away from me, and you attack me, and you say I am not ready to do anything, I honestly think people would scratch their heads.

So I think it is clear. The Senate passed a bill to renew the tax breaks for 98 percent of the people. We are saying up to $250,000 in income, we go right back to those Bush tax cut rates. But over $250,000, we go to the Clinton years, pay a little bit more, so we can attack this deficit, so we can make the investments we need to make in this great country of ours.

I will tell you, if the Republicans can do this, we are going to see smiles on the faces of the people. I was very happy to see that TOM COLE over in the House, who was the head of the RCC, the Republican Congressional Committee over there, says it is time to come to an agreement on that proposal.

So I say to the Republicans: We are giving you 98 percent. Take it. Then let's sit down and debate the rest of it. There are a lot of other things we have to do. There is the AMT. We have to do a doc fix. We have to do a lot of other things. I am willing to compromise on those things. But let's at least get those tax cuts in place right now before this holiday season so that the middle class knows they are not going to face a tax increase. I can say honestly that the American people would think we were doing the right thing if we were to see the House take up the Senate bill and pass it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LIEBERMAN. Mr. President, I rise to speak on a broadly bipartisan amendment that I have filed, and that I hope and believe will be called up at some point. Obviously, I would like it to be adopted by unanimous consent but, if not, it merits a rollcall vote, and I am confident it will be addressed on a rollcall vote.

This amendment is amendment No. 3090 to this National Defense Authorization Act for Fiscal Year 2013. It will reauthorize two very important and very broadly supported programs—the Assistance to Firefighters, AFG, Program—which otherwise used to be known as FIRE, the FIRE Act—and the Staffing for Adequate Fire and Emergency Response Program, known as SAFER. This amendment also reauthorizes the U.S. Fire Administration for 5 years, an agency which is a component of FEMA that is focused on supporting firefighters and EMS personnel.

This amendment reauthorizes AFG and SAFER for 5 years but it also takes much needed steps to ensure that the firefighters not only have the equipment, vehicles, and personnel that we need them to have to do the jobs they do for us in our country every day, the amendment also helps departments in communities struggling with economic difficulties, creating a hardship waiver for both of these fire programs—AFG and SAFER—that allows FEMA to waive requirements in communities that have been hard hit in these tough economic times.

Some people might say: Well, why has the Federal Government established these programs to support firefighting? Aren't those local responsibilities? Well, of course, the Federal Government has partnered with many local and State responsibilities that we deem to have national importance.

There is no question since 9–11–2001, as we witnessed those firefighters putting their lives on the line, running into danger to save people as opposed to running away from it—and we contemplated after 9–11–2001, as we have consistently in the Senate Homeland Security Committee, how we would respond—are we ready to respond to, God forbid, another mass terrorist attack on the United States? The first line of defense will be the local firefighters, the local law enforcers, and the local emergency medical personnel.

So these brave and skillful firefighters around America now become part of the first line of response to the kind of threats in this unconventional age in which we live that our homeland security is threatened by.

As important as it is to help our firefighters, obviously, many of us on both sides of the aisle, who have cosponsored both of these bills, understand we have to demand accountability as we spend taxpayer dollars in a time when we are trying to reduce our deficit and debt.

For this reason, the amendment does a couple of things. It includes provisions to prevent earmarks from being attached to these programs. AFG and SAFER actually have never been earmarked, which is an impressive accomplishment. In other words, these are formula programs in that sense and decided on a merit basis, decided on applications, never earmarked from Congress. We should keep it that way.

But this amendment, recognizing the tough economic times we are in, also reduces the authorizations for these two programs, AFG and SAFER, by more than 30 percent—more than 30 percent. So we are meeting a national need with the authorization of these programs, but we are doing it in a way that is mindful of the tough fiscal times we are in.

Supporting our Nation's firefighters and emergency medical service responders is a national priority. It is, in my opinion, one that is not only broadly supported by Members of both parties and an occasional Independent here in the Senate, but is broadly supported by the American people regardless of where they live all over this country.

So, Mr. President, I will, with the cooperation and support of the two managers of the bill, who are supporters of these two pieces of legislation—Chairman LEVIN and Senator MCCAIN—look forward to the time when I can ask that this amendment be the pending business and that we can either adopt it by consent or bring it up for a rollcall vote.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAMBLISS. 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. CHAMBLISS. Mr. President, I ask unanimous consent I be allowed to speak as in morning business.

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

Mr. CHAMBLISS. Mr. President, I rise in support of an Ayotte amendment, No. 3245, an amendment that makes permanent the current prohibition on the use of defense funds to transfer or release Guantanamo Bay detainees into the United States. This amendment is identical in substance to section 1027 of the Fiscal Year 2012 National Defense Authorization Act, except that it prohibits the use of the funds permanently.

We know the President said he would close Guantanamo almost 4 years ago. I thought it was a bad idea then; I think it is an even worse idea today. We should move beyond campaign promises and think about what makes sense on this issue. The stubborn refusal to increase the Gitmo detainee population has been the key stumbling block in establishing an effective long-term detention policy.

The American people have been pretty unified in their opposition to bringing Gitmo detainees to the United States, and I believe we should listen to them.

I understand that Senator FEINSTEIN just released the GAO report she requested regarding facilities and factors to consider if Gitmo detainees were brought to the United States. I have reviewed this report, and I have to respectfully disagree that this report offers any support whatsoever for the idea that Gitmo detainees can or should be moved to the United States.

The very first page of the GAO report lays out in stark terms the serious problems that would come into play if detainees from Guantanamo were transferred to the United States: legal and cost considerations, compliance with U.S. and international laws, collecting intelligence information, and ensuring the safety and security of the general public and personnel at these facilities.

The report makes very clear that the Department of Justice does not have the authority to maintain custody of detainees under the AUMF. In other words, even without the prohibition on transfers of detainees to the United States, it would be illegal for the Bureau of Prisons or the Marshals Service to take custody of Guantanamo detainees.

Moreover, the Department of Justice told the GAO—and I quote—it ''does not plan to transfer detainees to the United States,'' saying it raises legal, policy, and resource issues that descriptions of current policies and practices contained in the GAO report cannot fully address.

Essentially, the Department of Justice is saying that on top of those issues already described in the GAO report, such as insufficient standards for law or war detention, severe overcrowding, and ''implications for the public safety,'' there would be even more issues that are not mentioned at all. And that is from a Department of Justice that has fully supported the idea of moving Gitmo detainees into the United States.

Housing these detainees in DOD corrections facilities does not seem to be the answer either because of equally troubling legal and safety issues for detention of these individuals, including the Geneva Conventions' prohibition on detaining prisoners of war in penitentiaries.

These are just some of the reasons Congress has prohibited the transfer of these detainees to the United States and why those prohibitions must continue.

This prohibition made sense last year and it still makes sense today. The GAO report only confirms that. The detainees who remain at Gitmo include the ones who have been determined to be too dangerous to transfer, including the individuals who were responsible for the masterminding of the attack on September 11, which we just celebrated the 11th anniversary of.

So if that is the case, why on Earth would we put these detainees whom we will not send to other countries in cities and towns across the United States of America? The Federal Government's primary responsibility is to keep the American people safe. Keeping these detainees at Gitmo accomplishes that goal.

I urge my colleagues to support the Ayotte amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I also ask to be recognized as in morning business.

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

Mr. INHOFE. Mr. President, the Senator from Georgia is exactly right. I do not think, in the years I have been here, I have ever seen one issue where everyone is in agreement. If we go back to 2007, 94 Members of this Senate got together and they said—and this is all documented—that: Detainees housed at Guantanamo Bay should not be released into American society, nor should they be transferred stateside into facilities.

We all agreed on that. Then we agreed again in 2009 and every year since then, as the Senator from Georgia has said. But a lot of people have forgotten. We have had this issue for so many years now, they have forgotten some of the original reasons why. One of the obvious reasons—there are three reasons. One was that prisons that hold these detainees become magnets. I do not think people understand that a terrorist is not a criminal. He is a terrorist. His job is to train people to kill other people, to engage in terrorist activities.

Do we truly want them in there talking to all our prisoners? That was one of the major reasons people were all coalescing around the idea that we have a great place to put these guys; that is, Guantanamo Bay.

The second reason is the prison guards. They have to be specially trained in order to guard a prison that has terrorists as opposed to the normal criminal element.

The third is what FBI Director Robert Mueller has said; that there is a very real possibility that Gitmo detainees will recruit more terrorists from among the Federal inmate population and continue al-Qaida operations from the inside, which is how the New York synagogue bombers were recruited.

We should not even be debating this. The Ayotte amendment is one that will take care of this so we do not have to worry about it from year to year, we do not have to stand here and anguish over this thing that we have decided several times.

I can remember—I guess it was back in the early administration of Obama—when he identified 17 areas in the United States that would be appropriate for incarcerating terrorists whom we would take out of Gitmo. One of those places happened to be Fort Sill in my State of Oklahoma. So I went down to Fort Sill. I looked at the facility we had that was within the Fort Sill facility.

There was a lady there whose name is Sergeant Major Carter. I can remember when she came up to me she said: Senator, why in the world? Go back and tell those people back there that they do not understand what is going on. This is coming from a sergeant major. She happened to be a Black lady. She had been down there for some time. She said: Go back and tell them I had two tours in Gitmo. There is no place that is more humane. There is no place that is taking care of them, no place where we can secure the area so we protect our prison guards like Gitmo.

She even went on to say one of the biggest problems we had with the inmates in Gitmo is an overweight problem because they are eating better than they have ever eaten in their lives. They had medical attention for diseases they did not know existed.

So we have an opportunity there to do it. I applaud Senator AYOTTE for wanting to address this so we do not have to go through this every year. Nothing has changed. We know it is a revolving door. People who go out from there, many of them return to the battleground, and there is no place else that offers this security and the confinement.

The last thing I would say, we do not have many good deals in government, and let's see anyone here find a better deal. We have had this—it was either

since 1901 or 1904. I cannot remember the year. But as I do recall we are still under the same lease agreement. That whole facility that we have at Gitmo, along with the court system down there, all we pay is $4,000 a year.

Ever heard of a better deal than that? About half the time Castro does not bill us. So let's take advantage of one of the few good deals we have, one of the few security deals we have, and make this a permanent arrangement. I hope we have the chance to vote on it. It is my understanding we are going to be able to address these and bring them up, put them in the queue and have votes. Hopefully, that will even be tonight.

I yield the floor and I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I ask unanimous consent that it be in order for the Lieberman amendment, No. 3090, to be called up with the modification that is at the desk; that the amendment, as modified, be agreed to; that following disposition of the Lieberman amendment, it be in order for the following amendments to be called up: Ayotte No. 3245 on Guantanamo and Feinstein amendment No. 3018 on detainees; that there be up to 20 minutes of debate equally divided in the usual form on the Ayotte amendment; that upon the use or yielding back of time on the Ayotte amendment, there be up to 60 minutes of debate equally divided in the usual form on the Feinstein amendment; further, that at 9:30 p.m. this evening, the Senate proceed to votes in relation to the Ayotte and Feinstein amendments in the order listed and that no amendments be in order to the amendments prior to the votes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, I believe we will have a package, also, following this, of amendments that have been cleared by both sides.

I would like to express my personal appreciation for the cooperative and compromising fashion in which this unanimous consent agreement was entered. I would like to thank all parties, including the chairperson of the Intelligence Committee and others. I think this will allow us to move forward and complete this legislation sooner rather than later.

There are still a lot of amendments that have been filed, and at some point that has to stop and at some point we are going to have to finish all these. Many of them are duplicative and many of them are not particularly necessary, but I think we have made a giant step forward. I am confident we can complete this authorization bill and we will continue the record of now some 51 years of having completed an authorization bill.

I thank the chairman for his leadership.

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

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that any further amendments must be filed no later than 7:30 tonight.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, does this apply to second-degree amendments?

Mr. LEVIN. If there is an amendment filed tonight by 7:30. It could be offered as a second degree at some later time, but it has to be filed tonight by 7:30.

Mr. KYL. Mr. President, I would indulge my colleague, apparently there are two people on our side we would have to check with. I ask if our colleague could withhold that request to see if we can work it out.

I would also ask, is it not possible that if further amendments can be worked out to be voted on tonight after the two that are scheduled to be voted on, there could be other votes tonight to try to continue to dispose of amendments on the bill; is that correct?

Mr. LEVIN. The Senator is correct. These are not the last two votes tonight necessarily at all. As of now, we are still planning on having votes tomorrow.

The ACTING PRESIDENT pro tempore. Objection is heard to the filing deadline request.

Mr. LEVIN. I withdraw that request.

The ACTING PRESIDENT pro tempore. It is withdrawn.

LIEBERMAN AMENDMENT NO. 3090, AS MODIFIED

The ACTING PRESIDENT pro tempore. The clerk will report the Lieberman amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. LIEBERMAN, proposes an amendment numbered 3090, as modified.

The amendment (No. 3090), as modified, is as follows:

At the end of division A, add the following:

TITLE XVIII—FEDERAL ASSISTANCE TO FIRE DEPARTMENTS

Subtitle A—Fire Grants Reauthorization

SEC. 1801. SHORT TITLE.

This subtitle may be cited as the ''Fire Grants Reauthorization Act of 2012''.

SEC. 1802. AMENDMENTS TO DEFINITIONS.

(a) IN GENERAL.—Section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) is amended—

(1) in paragraph (3), by inserting '', except as otherwise provided,'' after ''means'';

(2) in paragraph (4), by striking '' 'Director' means'' and all that follows through ''Agency;'' and inserting '' 'Administrator of FEMA' means the Administrator of the Federal Emergency Management Agency;'';

(3) in paragraph (5)—

(A) by inserting ''Indian tribe,'' after ''county,''; and

(B) by striking ''and 'firecontrol' '' and inserting ''and 'fire control' '';

(4) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(5) by inserting after paragraph (5), the following:

''(6) 'Indian tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and 'tribal' means of or pertaining to an Indian tribe;'';

(6) by redesignating paragraphs (9) and (10), as redesignated by paragraph (4), as paragraphs (10) and (11);

(7) by inserting after paragraph (8), as redesignated by paragraph (4), the following:

''(9) 'Secretary' means, except as otherwise provided, the Secretary of Homeland Security;''; and

(8) by amending paragraph (10), as redesignated by paragraph (6), to read as follows:

''(10) 'State' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).''.

(b) CONFORMING AMENDMENTS.—

(1) ADMINISTRATOR OF FEMA.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by striking ''Director'' each place it appears and inserting ''Administrator of FEMA''.

(2) ADMINISTRATOR OF FEMA'S AWARD.—Section 15 of such Act (15 U.S.C. 2214) is amended by striking ''Director's Award'' each place it appears and inserting ''Administrator's Award''.

SEC. 1803. ASSISTANCE TO FIREFIGHTERS GRANTS.

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended to read as follows:

''SEC. 33. FIREFIGHTER ASSISTANCE.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR OF FEMA.—The term 'Administrator of FEMA' means the Administrator of FEMA, acting through the Administrator.

''(2) AVAILABLE GRANT FUNDS.—The term 'available grant funds', with respect to a fiscal year, means those funds appropriated pursuant to the authorization of appropriations in subsection (q)(1) for such fiscal year less any funds used for administrative costs pursuant to subsection (q)(2) in such fiscal year.

''(3) CAREER FIRE DEPARTMENT.—The term 'career fire department' means a fire department that has an all-paid force of firefighting personnel other than paid-on-call firefighters.

''(4) COMBINATION FIRE DEPARTMENT.—The term 'combination fire department' means a fire department that has—

''(A) paid firefighting personnel; and

''(B) volunteer firefighting personnel.

''(5) FIREFIGHTING PERSONNEL.—The term 'firefighting personnel' means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

''(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(7) NONAFFILIATED EMS ORGANIZATION.—The term 'nonaffiliated EMS organization' means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Administrator of FEMA finds that emergency medical services are adequately provided by a fire department.

''(8) PAID-ON-CALL.—The term 'paid-on-call' with respect to firefighting personnel means

firefighting personnel who are paid a stipend for each event to which they respond.

''(9) VOLUNTEER FIRE DEPARTMENT.—The term 'volunteer fire department' means a fire department that has an all-volunteer force of firefighting personnel.

''(b) ASSISTANCE PROGRAM.—

''(1) AUTHORITY.—In accordance with this section, the Administrator of FEMA may award—

''(A) assistance to firefighters grants under subsection (c); and

''(B) fire prevention and safety grants and other assistance under subsection (d).

''(2) ADMINISTRATIVE ASSISTANCE.—The Administrator of FEMA shall—

''(A) establish specific criteria for the selection of grant recipients under this section; and

''(B) provide assistance with application preparation to applicants for such grants.

''(c) ASSISTANCE TO FIREFIGHTERS GRANTS.—

''(1) IN GENERAL.—The Administrator of FEMA may, in consultation with the chief executives of the States in which the recipients are located, award grants on a competitive basis directly to—

''(A) fire departments, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the United States against fire, fire-related, and other hazards;

''(B) nonaffiliated EMS organizations to support the provision of emergency medical services; and

''(C) State fire training academies for the purposes described in subparagraphs (G), (H), and (I) of paragraph (3).

''(2) MAXIMUM GRANT AMOUNTS.—

''(A) POPULATION.—The Administrator of FEMA may not award a grant under this subsection in excess of amounts as follows:

''(i) In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of the grant awarded to such recipient shall not exceed $1,000,000 in any fiscal year.

''(ii) In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of the grant awarded to such recipient shall not exceed $2,000,000 in any fiscal year.

''(iii) In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people, the amount of the grant awarded to such recipient shall not exceed $3,000,000 in any fiscal year.

''(iv) In the case of a recipient that serves a jurisdiction with more than 1,000,000 people but not more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed $6,000,000 for any fiscal year.

''(v) In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed $9,000,000 in any fiscal year.

''(B) AGGREGATE.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B) and except as provided under clause (ii), the Administrator of FEMA may not award a grant under this subsection in a fiscal year in an amount that exceeds the amount that is one percent of the available grant funds in such fiscal year.

''(ii) EXCEPTION.—The Administrator of FEMA may waive the limitation in clause (i) with respect to a grant recipient if the Administrator of FEMA determines that such recipient has an extraordinary need for a grant in an amount that exceeds the limit under clause (i).

''(3) USE OF GRANT FUNDS.—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

''(A) To train firefighting personnel in—

''(i) firefighting;

''(ii) emergency medical services and other emergency response (including response to natural disasters, acts of terrorism, and other man-made disasters);

''(iii) arson prevention and detection;

''(iv) maritime firefighting; or

''(v) the handling of hazardous materials.

''(B) To train firefighting personnel to provide any of the training described under subparagraph (A).

''(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

''(D) To certify—

''(i) fire inspectors; and

''(ii) building inspectors—

''(I) whose responsibilities include fire safety inspections; and

''(II) who are employed by or serving as volunteers with a fire department.

''(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel are able to carry out their duties as firefighters, including programs dedicated to raising awareness of, and prevention of, job-related mental health issues.

''(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

''(G) To acquire additional firefighting vehicles, including fire trucks and other apparatus.

''(H) To acquire additional firefighting equipment, including equipment for—

''(i) fighting fires with foam in remote areas without access to water; and

''(ii) communications, monitoring, and response to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.

''(I) To acquire personal protective equipment, including personal protective equipment—

''(i) prescribed for firefighting personnel by the Occupational Safety and Health Administration of the Department of Labor; or

''(ii) for responding to a natural disaster or act of terrorism or other man-made disaster, including the use of a weapon of mass destruction.

''(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

''(K) To educate the public about arson prevention and detection.

''(L) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

''(M) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

''(d) FIRE PREVENTION AND SAFETY GRANTS.—

''(1) IN GENERAL.—For the purpose of assisting fire prevention programs and supporting firefighter health and safety research and development, the Administrator of FEMA may, on a competitive basis—

''(A) award grants to fire departments;

''(B) award grants to, or enter into contracts or cooperative agreements with, national, State, local, tribal, or nonprofit organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs, for the purpose of carrying out—

''(i) fire prevention programs; and

''(ii) research to improve firefighter health and life safety; and

''(C) award grants to institutions of higher education, national fire service organizations, or national fire safety organizations to establish and operate fire safety research centers.

''(2) MAXIMUM GRANT AMOUNT.—A grant awarded under this subsection may not exceed $1,500,000 for a fiscal year.

''(3) USE OF GRANT FUNDS.—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

''(A) To enforce fire codes and promote compliance with fire safety standards.

''(B) To fund fire prevention programs, including programs that educate the public about arson prevention and detection.

''(C) To fund wildland fire prevention programs, including education, awareness, and mitigation programs that protect lives, property, and natural resources from fire in the wildland-urban interface.

''(D) In the case of a grant awarded under paragraph (1)(C), to fund the establishment or operation of a fire safety research center for the purpose of significantly reducing the number of fire-related deaths and injuries among firefighters and the general public through research, development, and technology transfer activities.

''(E) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

''(4) LIMITATION.—None of the funds made available under this subsection may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations.

''(e) APPLICATIONS FOR GRANTS.—

''(1) IN GENERAL.—An entity seeking a grant under this section shall submit to the Administrator of FEMA an application therefor in such form and in such manner as the Administrator of FEMA determines appropriate.

''(2) ELEMENTS.—Each application submitted under paragraph (1) shall include the following:

''(A) A description of the financial need of the applicant for the grant.

''(B) An analysis of the costs and benefits, with respect to public safety, of the use for which a grant is requested.

''(C) An agreement to provide information to the national fire incident reporting system for the period covered by the grant.

''(D) A list of other sources of funding received by the applicant—

''(i) for the same purpose for which the application for a grant under this section was submitted; or

''(ii) from the Federal Government for other fire-related purposes.

''(E) Such other information as the Administrator of FEMA determines appropriate.

''(3) JOINT OR REGIONAL APPLICATIONS.—

''(A) IN GENERAL.—Two or more entities may submit an application under paragraph (1) for a grant under this section to fund a joint program or initiative, including acquisition of shared equipment or vehicles.

''(B) NONEXCLUSIVITY.—Applications under this paragraph may be submitted instead of or in addition to any other application submitted under paragraph (1).

''(C) GUIDANCE.—The Administrator of FEMA shall—

''(i) publish guidance on applying for and administering grants awarded for joint programs and initiatives described in subparagraph (A); and

''(ii) encourage applicants to apply for grants for joint programs and initiatives described in subparagraph (A) as the Administrator of FEMA determines appropriate to

achieve greater cost effectiveness and regional efficiency.

''(f) PEER REVIEW OF GRANT APPLICATIONS.—

''(1) IN GENERAL.—The Administrator of FEMA shall, after consultation with national fire service and emergency medical services organizations, appoint fire service personnel to conduct peer reviews of applications received under subsection (e)(1).

''(2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out pursuant to this subsection.

''(g) PRIORITIZATION OF GRANT AWARDS.—In awarding grants under this section, the Administrator of FEMA shall consider the following:

''(1) The findings and recommendations of the peer reviews carried out under subsection (f).

''(2) The degree to which an award will reduce deaths, injuries, and property damage by reducing the risks associated with fire-related and other hazards.

''(3) The extent of the need of an applicant for a grant under this section and the need to protect the United States as a whole.

''(4) The number of calls requesting or requiring a fire fighting or emergency medical response received by an applicant.

''(h) ALLOCATION OF GRANT AWARDS.—In awarding grants under this section, the Administrator of FEMA shall ensure that of the available grant funds in each fiscal year—

''(1) not less than 25 percent are awarded under subsection (c) to career fire departments;

''(2) not less than 25 percent are awarded under subsection (c) to volunteer fire departments;

''(3) not less than 25 percent are awarded under subsection (c) to combination fire departments and fire departments using paid-on-call firefighting personnel;

''(4) not less than 10 percent are available for open competition among career fire departments, volunteer fire departments, combination fire departments, and fire departments using paid-on-call firefighting personnel for grants awarded under subsection (c);

''(5) not less than 10 percent are awarded under subsection (d); and

''(6) not more than 2 percent are awarded under this section to nonaffiliated EMS organizations described in subsection (c)(1)(B).

''(i) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

''(1) FUNDING FOR EMERGENCY MEDICAL SERVICES.—Not less than 3.5 percent of the available grant funds for a fiscal year shall be awarded under this section for purposes described in subsection (c)(3)(F).

''(2) STATE FIRE TRAINING ACADEMIES.—

''(A) MAXIMUM SHARE.—Not more than 3 percent of the available grant funds for a fiscal year may be awarded under subsection (c)(1)(C).

''(B) MAXIMUM GRANT AMOUNT.—The Administrator of FEMA may not award a grant under subsection (c)(1)(C) to a State fire training academy in an amount that exceeds $1,000,000 in any fiscal year.

''(3) AMOUNTS FOR PURCHASING FIREFIGHTING VEHICLES.—Not more than 25 percent of the available grant funds for a fiscal year may be used to assist grant recipients to purchase vehicles pursuant to subsection (c)(3)(G).

''(j) FURTHER CONSIDERATIONS.—

''(1) ASSISTANCE TO FIREFIGHTERS GRANTS TO FIRE DEPARTMENTS.—In considering applications for grants under subsection (c)(1)(A), the Administrator of FEMA shall consider—

''(A) the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property; and

''(B) a broad range of factors important to the applicant's ability to respond to fires and related hazards, such as the following:

''(i) Population served.

''(ii) Geographic response area.

''(iii) Hazards vulnerability.

''(iv) Call volume.

''(v) Financial situation, including unemployment rate of the area being served.

''(vi) Need for training or equipment.

''(2) APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.—In the case of an application submitted under subsection (e)(1) by a nonaffiliated EMS organization, the Administrator of FEMA shall consider the extent to which other sources of Federal funding are available to the applicant to provide the assistance requested in such application.

''(3) AWARDING FIRE PREVENTION AND SAFETY GRANTS TO CERTAIN ORGANIZATIONS THAT ARE NOT FIRE DEPARTMENTS.—In the case of applicants for grants under this section who are described in subsection (d)(1)(B), the Administrator of FEMA shall give priority to applicants who focus on—

''(A) prevention of injuries to high risk groups from fire; and

''(B) research programs that demonstrate a potential to improve firefighter safety.

''(4) AWARDING GRANTS FOR FIRE SAFETY RESEARCH CENTERS.—

''(A) CONSIDERATIONS.—In awarding grants under subsection (d)(1)(C), the Administrator of FEMA shall—

''(i) select each grant recipient on—

''(I) the demonstrated research and extension resources available to the recipient to carry out the research, development, and technology transfer activities;

''(II) the capability of the recipient to provide leadership in making national contributions to fire safety;

''(III) the recipient's ability to disseminate the results of fire safety research; and

''(IV) the strategic plan the recipient proposes to carry out under the grant;

''(ii) give special consideration in selecting recipients under subparagraph (A) to an applicant for a grant that consists of a partnership between—

''(I) a national fire service organization or a national fire safety organization; and

''(II) an institution of higher education, including a minority-serving institution (as described in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))); and

''(iii) consider the research needs identified and prioritized through the workshop required by subparagraph (B)(i).

''(B) RESEARCH NEEDS.—

''(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the Fire Grants Reauthorization Act of 2012, the Administrator of FEMA shall convene a workshop of the fire safety research community, fire service organizations, and other appropriate stakeholders to identify and prioritize fire safety research needs.

''(ii) PUBLICATION.—The Administrator of FEMA shall ensure that the results of the workshop are made available to the public.

''(C) LIMITATIONS ON GRANTS FOR FIRE SAFETY RESEARCH CENTERS.—

''(i) IN GENERAL.—The Administrator of FEMA may award grants under subsection (d) to establish not more than 3 fire safety research centers.

''(ii) RECIPIENTS.—An institution of higher education, a national fire service organization, and a national fire safety organization may not directly receive a grant under subsection (d) for a fiscal year for more than 1 fire safety research center.

''(5) AVOIDING DUPLICATION.—The Administrator of FEMA shall review lists submitted by applicants pursuant to subsection (e)(2)(D) and take such actions as the Administrator of FEMA considers necessary to prevent unnecessary duplication of grant awards.

''(k) MATCHING AND MAINTENANCE OF EXPENDITURE REQUIREMENTS.—

''(1) MATCHING REQUIREMENT FOR ASSISTANCE TO FIREFIGHTERS GRANTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an applicant seeking a grant to carry out an activity under subsection (c) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 15 percent of the grant awarded to such applicant under such subsection.

''(B) EXCEPTION FOR ENTITIES SERVING SMALL COMMUNITIES.—In the case that an applicant seeking a grant to carry out an activity under subsection (c) serves a jurisdiction of—

''(i) more than 20,000 residents but not more than 1,000,000 residents, the application shall agree to make available non-Federal funds in an amount equal to not less than 10 percent of the grant awarded to such applicant under such subsection; and

''(ii) 20,000 residents or fewer, the applicant shall agree to make available non-Federal funds in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

''(2) MATCHING REQUIREMENT FOR FIRE PREVENTION AND SAFETY GRANTS.—

''(A) IN GENERAL.—An applicant seeking a grant to carry out an activity under subsection (d) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

''(B) MEANS OF MATCHING.—An applicant for a grant under subsection (d) may meet the matching requirement under subparagraph (A) through direct funding, funding of complementary activities, or the provision of staff, facilities, services, material, or equipment.

''(3) MAINTENANCE OF EXPENDITURES.—An applicant seeking a grant under subsection (c) or (d) shall agree to maintain during the term of the grant the applicant's aggregate expenditures relating to the uses described in subsections (c)(3) and (d)(3) at not less than 80 percent of the average amount of such expenditures in the 2 fiscal years preceding the fiscal year in which the grant amounts are received.

''(4) WAIVER.—

''(A) IN GENERAL.—Except as provided in subparagraph (C)(ii), the Administrator of FEMA may waive or reduce the requirements of paragraphs (1), (2), and (3) in cases of demonstrated economic hardship.

''(B) GUIDELINES.—

''(i) IN GENERAL.—The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of this paragraph.

''(ii) CONSULTATION.—In developing guidelines under clause (i), the Administrator of FEMA shall consult with individuals who are—

''(I) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and

''(II) members of national fire service organizations or national organizations representing the interests of State and local governments.

''(iii) CONSIDERATIONS.—In developing guidelines under clause (i), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

''(I) Changes in rates of unemployment from previous years.

''(II) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.

''(III) Changes in percentages of individuals eligible to receive food stamps from previous years.

''(IV) Such other factors as the Administrator of FEMA considers appropriate.

''(C) CERTAIN APPLICANTS FOR FIRE PREVENTION AND SAFETY GRANTS.—The authority under subparagraph (A) shall not apply with respect to a nonprofit organization that—

''(i) is described in subsection (d)(1)(B); and

''(ii) is not a fire department or emergency medical services organization.

''(l) GRANT GUIDELINES.—

''(1) GUIDELINES.—For each fiscal year, prior to awarding any grants under this section, the Administrator of FEMA shall publish in the Federal Register—

''(A) guidelines that describe—

''(i) the process for applying for grants under this section; and

''(ii) the criteria that will be used for selecting grant recipients; and

''(B) an explanation of any differences between such guidelines and the recommendations obtained under paragraph (2).

''(2) ANNUAL MEETING TO OBTAIN RECOMMENDATIONS.—

''(A) IN GENERAL.—For each fiscal year, the Administrator of FEMA shall convene a meeting of qualified members of national fire service organizations and, at the discretion of the Administrator of FEMA, qualified members of emergency medical service organizations to obtain recommendations regarding the following:

''(i) Criteria for the awarding of grants under this section.

''(ii) Administrative changes to the assistance program established under subsection (b).

''(B) QUALIFIED MEMBERS.—For purposes of this paragraph, a qualified member of an organization is a member who—

''(i) is recognized for expertise in firefighting or emergency medical services;

''(ii) is not an employee of the Federal Government; and

''(iii) in the case of a member of an emergency medical service organization, is a member of an organization that represents—

''(I) providers of emergency medical services that are affiliated with fire departments; or

''(II) nonaffiliated EMS providers.

''(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out under this subsection.

''(m) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, for purposes of this section, equipment costs shall include all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

''(n) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be eligible to apply for and receive a grant or other assistance under this section on behalf of Alaska Native villages.

''(o) TRAINING STANDARDS.—If an applicant for a grant under this section is applying for such grant to purchase training that does not meet or exceed any applicable national voluntary consensus standards, including those developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall submit to the Administrator of FEMA an explanation of the reasons that the training proposed to be purchased will serve the needs of the applicant better than training that meets or exceeds such standards.

''(p) ENSURING EFFECTIVE USE OF GRANTS.—

''(1) AUDITS.—The Administrator of FEMA may audit a recipient of a grant awarded under this section to ensure that—

''(A) the grant amounts are expended for the intended purposes; and

''(B) the grant recipient complies with the requirements of subsection (k).

''(2) PERFORMANCE ASSESSMENT.—

''(A) IN GENERAL.—The Administrator of FEMA shall develop and implement a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section, including protecting the health and safety of the public and firefighting personnel against fire and fire-related hazards.

''(B) CONSULTATION.—The Administrator of FEMA shall consult with fire service representatives and with the Comptroller General of the United States in developing the assessment system required by subparagraph (A).

''(3) ANNUAL REPORTS TO ADMINISTRATOR OF FEMA.—Not less frequently than once each year during the term of a grant awarded under this section, the recipient of the grant shall submit to the Administrator of FEMA an annual report describing how the recipient used the grant amounts.

''(4) ANNUAL REPORTS TO CONGRESS.—

''(A) IN GENERAL.—Not later than September 30, 2013, and each year thereafter through 2017, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report that provides—

''(i) information on the performance assessment system developed under paragraph (2); and

''(ii) using the performance metrics developed under such paragraph, an evaluation of the effectiveness of the grants awarded under this section.

''(B) ADDITIONAL INFORMATION.—The report due under subparagraph (A) on September 30, 2016, shall also include recommendations for legislative changes to improve grants under this section.

''(q) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section—

''(A) $750,000,000 for fiscal year 2013; and

''(B) for each of fiscal years 2014 through 2017, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

''(i) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

''(ii) the Consumer Price Index for the fiscal year preceding the fiscal year described in clause (i).

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts for salaries and expenses and other administrative costs incurred by the Administrator of FEMA in the course of awarding grants and providing assistance under this section.

''(3) CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirements in subsections (c)(1) and (d)(1) that grants under those subsections be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally directed spending item (as defined under the rules of the Senate and the House of Representatives).

''(r) SUNSET OF AUTHORITIES.—The authority to award assistance and grants under this section shall expire on the date that is 5 years after the date of the enactment of the Fire Grants Reauthorization Act of 2012.''.

SEC. 1804. STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE.

(a) IMPROVEMENTS TO HIRING GRANTS.—

(1) TERM OF GRANTS.—Subparagraph (B) of section 34(a)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a(a)(1)) is amended to read as follows:

''(B) Grants made under this paragraph shall be for 3 years and be used for programs to hire new, additional firefighters.''.

(2) LIMITATION OF PORTION OF COSTS OF HIRING FIREFIGHTERS.—Subparagraph (E) of such section is amended to read as follows:

''(E) The portion of the costs of hiring firefighters provided by a grant under this paragraph may not exceed—

''(i) 75 percent in the first year of the grant;

''(ii) 75 percent in the second year of the grant; and

''(iii) 35 percent in the third year of the grant.''.

(b) CLARIFICATION REGARDING ELIGIBLE ENTITIES FOR RECRUITMENT AND RETENTION GRANTS.—The second sentence of section 34(a)(2) of such Act (15 U.S.C. 2229a(a)(2)) is amended by striking ''organizations on a local or statewide basis'' and inserting ''national, State, local, or tribal organizations''.

(c) MAXIMUM AMOUNT FOR HIRING A FIREFIGHTER.—Paragraph (4) of section 34(c) of such Act (15 U.S.C. 2229a(c)) is amended to read as follows:

''(4) The amount of funding provided under this section to a recipient fire department for hiring a firefighter in any fiscal year may not exceed—

''(A) in the first year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted;

''(B) in the second year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted; and

''(C) in the third year of the grant, 35 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted.''.

(d) WAIVERS.—Section 34 of such Act (15 U.S.C. 2229a) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

(2) by inserting after subsection (c) the following:

''(d) WAIVERS.—

''(1) IN GENERAL.—In a case of demonstrated economic hardship, the Administrator of FEMA may—

''(A) waive the requirements of subsection (c)(1); or

''(B) waive or reduce the requirements in subsection (a)(1)(E) or subsection (c)(2).

''(2) GUIDELINES.—

''(A) IN GENERAL.—The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of paragraph (1).

''(B) CONSULTATION.—In developing guidelines under subparagraph (A), the Administrator of FEMA shall consult with individuals who are—

''(i) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and

''(ii) members of national fire service organizations or national organizations representing the interests of State and local governments.

''(C) CONSIDERATIONS.—In developing guidelines under subparagraph (A), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

''(i) Changes in rates of unemployment from previous years.

''(ii) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.

''(iii) Changes in percentages of individuals eligible to receive food stamps from previous years.

''(iv) Such other factors as the Administrator of FEMA considers appropriate.''.

(e) IMPROVEMENTS TO PERFORMANCE EVALUATION REQUIREMENTS.—Subsection (e) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended by inserting before the first sentence the following:

''(1) IN GENERAL.—The Administrator of FEMA shall establish a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section.

''(2) SUBMITTAL OF INFORMATION.—''.

(f) REPORT.—

(1) IN GENERAL.—Subsection (f) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended by striking ''The authority'' and all that follows through ''Congress concerning'' and inserting the following: ''Not later than September 30, 2014, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report on''.

(2) CONFORMING AMENDMENT.—The heading for subsection (f) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended by striking ''SUNSET AND REPORTS'' and inserting ''REPORT''.

(g) ADDITIONAL DEFINITIONS.—

(1) IN GENERAL.—Subsection (i) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended—

(A) in the matter before paragraph (1), by striking ''In this section, the term—'' and inserting ''In this section:'';

(B) in paragraph (1)—

(i) by inserting ''The term'' before '' 'firefighter' has''; and

(ii) by striking ''; and'' and inserting a period;

(C) by striking paragraph (2); and

(D) by inserting at the end the following:

''(2) The terms 'Administrator of FEMA', 'career fire department', 'combination fire department', and 'volunteer fire department' have the meanings given such terms in section 33(a).''.

(2) CONFORMING AMENDMENT.—Section 34(a)(1)(A) of such Act (15 U.S.C. 2229a(a)(1)(A)) is amended by striking ''career, volunteer, and combination fire departments'' and inserting ''career fire departments, combination fire departments, and volunteer fire departments''.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subsection (j) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(8) $750,000,000 for fiscal year 2013; and

''(9) for each of fiscal years 2014 through 2017, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

''(B) the Consumer Price Index for the fiscal year preceding the fiscal year described in subparagraph (A).''.

(2) ADMINISTRATIVE EXPENSES.—Such subsection (j) is further amended—

(A) in paragraph (9), as added by paragraph (1) of this subsection, by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the left margin of such clauses, as so redesignated, 2 ems to the right;

(B) by redesignating paragraphs (1) through (9) as subparagraphs (A) through (I), respectively, and moving the left margin of such subparagraphs, as so redesignated, 2 ems to the right;

(C) by striking ''There are'' and inserting the following:

''(1) IN GENERAL.—There are''; and

(D) by adding at the end the following:

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts to cover salaries and expenses and other administrative costs incurred by the Administrator of FEMA to make grants and provide assistance under this section.''.

(3) CONGRESSIONALLY DIRECTED SPENDING.—Such subsection (j) is further amended by adding at the end the following:

''(3) CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirement in subsection (a) that grants under this section be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally direct spending item (as defined under the rules of the Senate and the House of Representatives).''.

(i) TECHNICAL AMENDMENT.—Section 34 of such Act (15 U.S.C. 2229a) is amended by striking ''Administrator'' each place it appears and inserting ''Administrator of FEMA''.

(j) CLERICAL AMENDMENT.—Such section is further amended in the heading by striking ''**EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM**'' and inserting the following: ''**STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE**''.

(k) SUNSET OF AUTHORITY TO AWARD HIRING GRANTS.—Such section is further amended by adding at the end the following:

''(k) SUNSET OF AUTHORITIES.—The authority to award assistance and grants under this section shall expire on the date that is 5 years after the date of the enactment of the Fire Grants Reauthorization Act of 2012.''.

SEC. 1805. SENSE OF CONGRESS ON VALUE AND FUNDING OF ASSISTANCE TO FIREFIGHTERS AND STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE PROGRAMS.

It is the sense of Congress that—

(1) the grants and assistance awarded under sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a) have proven equally valuable in protecting the health and safety of the public and firefighting personnel throughout the United States against fire and fire-related hazards; and

(2) providing parity in funding for the awarding of grants and assistance under both such sections will ensure that the grant and assistance programs under such sections can continue to serve their complementary purposes.

SEC. 1806. REPORT ON AMENDMENTS TO ASSISTANCE TO FIREFIGHTERS AND STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE PROGRAMS.

(a) IN GENERAL.—Not later than September 30, 2016, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report on the effect of the amendments made by this title.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An assessment of the effect of the amendments made by sections 1803 and 1804 on the effectiveness, relative allocation, accountability, and administration of the grants and assistance awarded under sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a) after the date of the enactment of this Act.

(2) An evaluation of the extent to which the amendments made by sections 1803 and 1804 have enabled recipients of grants and assistance awarded under such sections 33 and 34 after the date of the enactment of this Act to mitigate fire and fire-related and other hazards more effectively.

SEC. 1807. STUDIES AND REPORTS ON THE STATE OF FIRE SERVICES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Fire Administration.

(2) CAREER FIRE DEPARTMENT, COMBINATION FIRE DEPARTMENT, VOLUNTEER FIRE DEPARTMENT.—The terms ''career fire department'', ''combination fire department'', and ''volunteer fire department'' have the meanings given such terms in section 33(a) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229(a)), as amended by section 1803.

(3) FIRE SERVICE.—The term ''fire service'' has the meaning given such term in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203).

(b) STUDY AND REPORT ON COMPLIANCE WITH STAFFING STANDARDS.—

(1) STUDY.—The Administrator shall conduct a study on the level of compliance with national voluntary consensus standards for staffing, training, safe operations, personal protective equipment, and fitness among the fire services of the United States.

(2) SURVEY.—

(A) IN GENERAL.—In carrying out the study required by paragraph (1), the Administrator shall carry out a survey of fire services to assess the level of compliance of such fire services with the standards described in such paragraph.

(B) ELEMENTS.—The survey required by subparagraph (A) shall—

(i) include career fire departments, volunteer fire departments, combination fire departments, and fire departments serving communities of different sizes, and such other distinguishing factors as the Administrator considers relevant;

(ii) employ methods to ensure that the survey accurately reflects the actual rate of compliance with the standards described in paragraph (1) among fire services; and

(iii) determine the extent of barriers and challenges to achieving compliance with the standards described in paragraph (1) among fire services.

(C) AUTHORITY TO CARRY OUT SURVEY WITH NONPROFIT.—If the Administrator determines that it will reduce the costs incurred by the United States Fire Administration in carrying out the survey required by subparagraph (A), the Administrator may carry out such survey in conjunction with a nonprofit organization that has substantial expertise and experience in the following areas:

(i) The fire services.

(ii) National voluntary consensus standards.

(iii) Contemporary survey methods.

(3) REPORT ON FINDINGS OF STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress

a report on the findings of the Administrator with respect to the study required by paragraph (1).

(B) CONTENTS.—The report required by subparagraph (A) shall include the following:

(i) An accurate description, based on the results of the survey required by paragraph (2)(A), of the rate of compliance with the standards described in paragraph (1) among United States fire services, including a comparison of the rates of compliance among career fire departments, volunteer fire departments, combination fire departments, and fire departments serving communities of different sizes, and such other comparisons as Administrator considers relevant.

(ii) A description of the challenges faced by different types of fire departments and different types of communities in complying with the standards described in paragraph (1).

(c) TASK FORCE TO ENHANCE FIREFIGHTER SAFETY.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish a task force to be known as the ''Task Force to Enhance Firefighter Safety'' (in this subsection referred to as the ''Task Force'').

(2) MEMBERSHIP.—

(A) IN GENERAL.—Members of the Task Force shall be appointed by the Secretary from among the general public and shall include the following:

(i) Representatives of national organizations representing firefighters and fire chiefs.

(ii) Individuals representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community.

(iii) Such other individuals as the Secretary considers appropriate.

(B) REPRESENTATIVES OF OTHER DEPARTMENTS AND AGENCIES.—The Secretary may invite representatives of other Federal departments and agencies that have an interest in fire services to participate in the meetings and other activities of the Task Force.

(C) NUMBER; TERMS OF SERVICE; PAY AND ALLOWANCES.—The Secretary shall determine the number, terms of service, and pay and allowances of members of the Task Force appointed by the Secretary, except that a term of service of any such member may not exceed 2 years.

(3) RESPONSIBILITIES.—The Task Force shall—

(A) consult with the Secretary in the conduct of the study required by subsection (b)(1); and

(B) develop a plan to enhance firefighter safety by increasing fire service compliance with the standards described in subsection (b)(1), including by—

(i) reviewing and evaluating the report required by subsection (b)(3)(A) to determine the extent of and barriers to achieving compliance with the standards described in subsection (b)(1) among fire services; and

(ii) considering ways in which the Federal Government, States, and local governments can promote or encourage fire services to comply with such standards.

(4) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date on which the Secretary submits the report required by subsection (b)(3)(A), the Task Force shall submit to Congress and the Secretary a report on the activities and findings of the Task Force.

(B) CONTENTS.—The report required by subparagraph (A) shall include the following:

(i) The findings and recommendations of the Task Force with respect to the study carried out under subsection (b)(1).

(ii) The plan developed under paragraph (3)(B).

(d) STUDY AND REPORT ON THE NEEDS OF FIRE SERVICES.—

(1) STUDY.—The Administrator shall conduct a study—

(A) to define the current roles and activities associated with fire services on a national, State, regional, and local level;

(B) to identify the equipment, staffing, and training required to fulfill the roles and activities defined under subparagraph (A);

(C) to conduct an assessment to identify gaps between what fire services currently possess and what they require to meet the equipment, staffing, and training needs identified under subparagraph (B) on a national and State-by-State basis; and

(D) to measure the impact of the grant and assistance program under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) in meeting the needs of fire services and filling the gaps identified under subparagraph (C).

(2) REPORT.—Not later than 2 years after the date of the enactment of this title, the Administrator shall submit to Congress a report on the findings of the Administrator with respect to the study conducted under paragraph (1).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section—

(1) $600,000 for fiscal year 2013; and

(2) $600,000 for fiscal year 2014.

Subtitle B—Reauthorization of United States Fire Administration

SEC. 1811. SHORT TITLE.

This subtitle may be cited as the ''United States Fire Administration Reauthorization Act of 2012''.

SEC. 1812. CLARIFICATION OF RELATIONSHIP BETWEEN UNITED STATES FIRE ADMINISTRATION AND FEDERAL EMERGENCY MANAGEMENT AGENCY.

Section 5(c) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204) is amended to read as follows:

''(c) DEPUTY ADMINISTRATOR.—The Administrator may appoint a Deputy Administrator, who shall—

''(1) perform such functions as the Administrator shall from time to time assign or delegate; and

''(2) act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.''.

SEC. 1813. MODIFICATION OF AUTHORITY OF ADMINISTRATOR TO EDUCATE PUBLIC ABOUT FIRE AND FIRE PREVENTION.

Section 6 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2205) is amended by striking ''to take all steps'' and all that follows through ''fire and fire prevention.'' and inserting ''to take such steps as the Administrator considers appropriate to educate the public and overcome public indifference as to fire, fire prevention, and individual preparedness.''.

SEC. 1814. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) in subparagraph (G), by striking ''and'' at the end;

(2) in subparagraph (H), by striking the period at the end and inserting a semicolon;

(3) by adding after subparagraph (H) the following:

''(I) $76,490,890 for fiscal year 2013, of which $2,753,672 shall be used to carry out section 8(f);

''(J) $76,490,890 for fiscal year 2014, of which $2,753,672 shall be used to carry out section 8(f);

''(K) $76,490,890 for fiscal year 2015, of which $2,753,672 shall be used to carry out section 8(f);

''(L) $76,490,890 for fiscal year 2016, of which $2,753,672 shall be used to carry out section 8(f); and

''(M) $76,490,890 for fiscal year 2017, of which $2,753,672 shall be used to carry out section 8(f).''; and

(4) in subparagraphs (E) through (H), by moving each margin 2 ems to the left.

SEC. 1815. REMOVAL OF LIMITATION.

Section 9(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2208(d)) is amended—

(1) by striking ''UPDATE.—'' and all that follows through ''The Administrator'' and inserting ''UPDATE.—The Administrator''; and

(2) by striking paragraph (2).

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I remind my colleagues we have been on the bill now for 2 days, so it might be time to stop filing amendments. I don't think that is an outrageous request on the part of the managers of the bill. I hope we can have those objections or concerns removed so we can at least bring the filing of amendments to a close.

I would ask the distinguished chairman, are we going to move with the managers' package now?

Mr. LEVIN. We could. Let us report this amendment first and then why don't we do that. It will just take us a couple minutes.

The ACTING PRESIDENT pro tempore. Under the previous order, amendment No. 3090, as modified, is agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2929, 2942, 3230, 2966, 2973, 2980, 2994, 3059, 3072, 3086, 3098, 3186

Mr. LEVIN. Mr. President, I call up a list of 12 amendments which have been cleared by myself and Senator MCCAIN:

McCaskill amendment No. 2929, McCaskill amendment No. 2942, Boxer amendment No. 3230, Hatch amendment No. 2966, Inhofe amendment No. 2973, Boxer amendment No. 2980, Casey amendment No. 2994, Toomey amendment No. 3059, Inhofe amendment No. 3072, Vitter amendment No. 3086, Shaheen amendment No. 3098, Coburn amendment No. 3186.

I understand from Senator MCCAIN that these amendments have been cleared on his side.

Mr. MCCAIN. Those amendments are cleared.

Mr. LEVIN. Mr. President, I now ask unanimous consent that the Senate consider these amendments en bloc, the amendments be agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 2929

(The amendment is printed in the RECORD of Monday, November 26, 2012, under ''Text of amendments.'')

AMENDMENT NO. 2942

(Purpose: To expand whistleblower protections to non-Defense contractor and grantee employees)

On page 248, between lines 19 and 20, insert the following:

SEC. 844A. WHISTLEBLOWER PROTECTIONS FOR NON-DEFENSE CONTRACTORS.

(a) WHISTLEBLOWER PROTECTIONS.—

(1) IN GENERAL.—Chapter 47 of title 41, United States Code, is amended by adding at the end the following new section:

''SEC. 4712. CONTRACTOR AND GRANTEE EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.

''(a) PROHIBITION OF REPRISALS.—

''(1) IN GENERAL.—An employee of a contractor, subcontractor, or grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

''(2) PERSONS AND BODIES COVERED.—The persons and bodies described in this paragraph are the persons and bodies as follows:

''(A) A Member of Congress or a representative of a committee of Congress.

''(B) An Inspector General.

''(C) The Government Accountability Office.

''(D) A Federal employee responsible for contract or grant oversight or management at the relevant agency.

''(E) An authorized official of the Department of Justice or other law enforcement agency.

''(F) A court or grand jury.

''(G) A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

''(3) RULES OF CONSTRUCTION.—For the purposes of paragraph (1)—

''(A) an employee who initiates or provides evidence of contractor, subcontractor, or grantee misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Federal contract or grant shall be deemed to have made a disclosure covered by such paragraph; and

''(B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

''(b) INVESTIGATION OF COMPLAINTS.—

''(1) SUBMISSION OF COMPLAINT.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency involved. Unless the Inspector General determines that the complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor or grantee concerned, and the head of the agency.

''(2) INSPECTOR GENERAL ACTION.—

''(A) DETERMINATION OR SUBMISSION OF REPORT ON FINDINGS.—Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant or submit a report under paragraph (1) within 180 days after receiving the complaint.

''(B) EXTENSION OF TIME.—If the Inspector General is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time, up to 180 days, as shall be agreed upon between the Inspector General and the person submitting the complaint.

''(3) PROHIBITION ON DISCLOSURE.—The Inspector General may not respond to any inquiry or disclose any information from or about any person alleging the reprisal, except to the extent that such response or disclosure is—

''(A) made with the consent of the person alleging the reprisal;

''(B) made in accordance with the provisions of section 552a of title 5 or as required by any other applicable Federal law; or

''(C) necessary to conduct an investigation of the alleged reprisal.

''(4) TIME LIMITATION.—A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.

''(c) REMEDY AND ENFORCEMENT AUTHORITY.—

''(1) IN GENERAL.—Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the executive agency concerned shall determine whether there is sufficient basis to conclude that the contractor or grantee concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

''(A) Order the contractor or grantee to take affirmative action to abate the reprisal.

''(B) Order the contractor or grantee to reinstate the person to the position that the person held before the reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

''(C) Order the contractor or grantee to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the executive agency.

''(2) EXHAUSTION OF REMEDIES.—If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor or grantee to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

''(3) ADMISSIBILITY OF EVIDENCE.—An Inspector General determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

''(4) ENFORCEMENT OF ORDERS.—Whenever a person fails to comply with an order issued under paragraph (1), the head of the executive agency concerned shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the executive agency.

''(5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the executive agency. Review shall conform to chapter 7 of title 5. Filing such an appeal shall not act to stay the enforcement of the order of the head of an executive agency, unless a stay is specifically entered by the court.

''(6) BURDENS OF PROOF.—The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an Inspector General, decision by the head of an executive agency, or judicial or administrative proceeding to determine whether discrimination prohibited under this section has occurred.

''(7) RIGHTS AND REMEDIES NOT WAIVABLE.—The rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement, other than an arbitration provision in a collective bargaining agreement.

''(d) NOTIFICATION OF EMPLOYEES.—The head of each executive agency shall ensure that contractors, subcontractors, and grantees of the agency inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

''(e) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

''(f) DEFINITIONS.—In this section:

''(1) The term 'abuse of authority' means an arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency concerned or the successful performance of a contract or grant of such agency.

''(2) The term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978 and any Inspector General that receives funding from, or has oversight over contracts or grants awarded for or on behalf of, the executive agency concerned.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''4712. Contractor and grantee employees: protection from reprisal for disclosure of certain information.''.

(b) ALLOWABILITY OF LEGAL FEES.—Section 4310 of title 41, United States Code, is amended—

(1) in subsection (b), by striking ''commenced by the Federal Government or a State'' and inserting ''commenced by the Federal Government, by a State, or by a contractor or grantee employee submitting a complaint under section 4712 of this title''; and

(2) in subsection (c)(3), by striking ''the imposition of a monetary penalty'' and inserting ''the imposition of a monetary penalty or an order to take corrective action under section 4712 of this title''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply to—

(A) all contracts and grants awarded on or after such date;

(B) all task orders entered on or after such date pursuant to contracts awarded before, on, or after such date; and

(C) all contracts awarded before such date that are modified to include a contract clause providing for the applicability of such amendments.

(2) REVISION OF FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the requirements arising under the amendments made by this section.

(3) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS AWARDED BEFORE EFFECTIVE DATE.—At the time of any major modification to a contract that was awarded before the date that is 180 days after the date of the enactment of this Act, the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section to the contract.

AMENDMENT NO. 3230

(Purpose: To reauthorize and modify the responsibilities of the United States Advisory Commission on Public Diplomacy through fiscal year 2014)

At the appropriate place, insert the following:

SEC. _____. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

(a) TECHNICAL AMENDMENT.—Section 604(a) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469(a)) is amended by inserting ''(referred to in this section as the 'Commission')'' before the period at the end.

(b) DUTIES AND RESPONSIBILITIES.—Section 604(c) of such Act is amended to read as follows:

''(c) DUTIES AND RESPONSIBILITIES.—The Commission shall appraise United States Government activities intended to understand, inform, and influence foreign publics. The activities described in this subsection shall be referred to in this section as 'public diplomacy activities'.''.

(c) REPORTS.—Section 604(d) of such Act is amended to read as follows:

''(d) REPORTS.—

''(1) COMPREHENSIVE ANNUAL REPORT.—

''(A) IN GENERAL.—Not less frequently than annually, the Commission shall submit a comprehensive report on public diplomacy and international broadcasting activities to Congress, the President, and the Secretary of State. This report shall include—

''(i) a detailed list of all public diplomacy activities funded by the United States Government;

''(ii) a description of—

''(I) the purpose, means, and geographic scope of each activity;

''(II) when each activity was started;

''(III) the amount of Federal funding expended on each activity;

''(IV) any significant outside sources of funding; and

''(V) the Federal department or agency to which the activity belongs;

''(iii) the international broadcasting activities under the direction of the Broadcasting Board of Governors;

''(iv) an assessment of potentially duplicative public diplomacy and international broadcasting activities; and

''(v) for any activities determined to be ineffective or results not demonstrated under subparagraph (B), recommendations on existing effective or moderately effective public diplomacy activities that could be augmented to carry out the objectives of the ineffective activities.

''(B) EFFECTIVENESS ASSESSMENT.—In evaluating the public diplomacy and international broadcasting activities described in subparagraph (A), the Commission shall conduct an assessment that considers the public diplomacy target impact, the achieved impact, and the cost of public diplomacy activities and international broadcasting. The assessment shall include, if practicable, an appropriate metric such as 'cost-per-audience' or 'cost-per-student' for each activity. Upon the completion of the assessment, the Commission shall the assign a rating of—

''(i) 'effective' for activities that—

''(I) set appropriate goals;

''(II) achieve results; and

''(III) are well-managed and cost efficient;

''(ii) 'moderately effective' for activities that—

''(I) achieve some results;

''(II) are generally well-managed; and

''(III) need to improve their performance results or cost efficiency, including reducing overhead;

''(iii) 'ineffective' for activities that—

''(I) are not making sufficient use of available resources to achieve stated goals;

''(II) are not well-managed; or

''(III) have excessive overhead; and

''(iv) 'results not demonstrated' for activities that—

''(I) do not have acceptable performance public diplomacy metrics for measuring results; or

''(II) are unable or failed to collect data to determine if they are effective.

''(2) OTHER REPORTS.—

''(A) IN GENERAL.—The Commission shall submit other reports, including working papers, to Congress, the President, and the Secretary of State at least semi-annually on other activities and policies related to United States public diplomacy.

''(B) AVAILABILITY.—The Commission shall make the reports submitted pursuant to subparagraph (A) publicly available on the Website of the Commission to develop a better understanding of, and support for, public diplomacy activities.

''(3) ACCESS TO INFORMATION.—The Secretary of State shall ensure that the Commission has access to all appropriate information to carry out its duties and responsibilities under this subsection.''.

(d) REAUTHORIZATION.—

(1) IN GENERAL.—Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) is amended by striking ''October 1, 2010'' and inserting ''October 1, 2014''.

(2) RETROACTIVITY OF EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2010.

(e) FUNDING.—From amounts appropriated by Congress under the heading ''DIPLOMATIC AND CONSULAR PROGRAMS'', the Secretary of State shall allocate sufficient funding to the United States Advisory Commission on Public Diplomacy to carry out section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469), as amended by this section.

AMENDMENT NO. 2966

(Purpose: To reauthorize and expand the multi-trades demonstration project)

At the end of subtitle C of title III, add the following:

SEC. 322. EXPANSION AND REAUTHORIZATION OF MULTI-TRADES DEMONSTRATION PROJECT.

(a) EXPANSION.—Section 338 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 5013 note) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) DEMONSTRATION PROJECT AUTHORIZED.—In accordance with section 4703 of title 5, United States Code, the Secretary of a military department may carry out a demonstration project at facilities described in subsection (b) under which workers who are certified at the journey level as able to perform multiple trades shall be promoted by one grade level.''; and

(2) in subsection (b), by striking ''Logistics Center, Navy Fleet Readiness Center,'' and inserting ''Logistics Complex, Navy Fleet Readiness Center, Navy shipyard, Marine Corps Logistics Base,''.

(b) REAUTHORIZATION.—Such section is further amended—

(1) in subsection (d), by striking ''2013'' and inserting ''2018''; and

(2) in subsection (e), by striking ''2014'' and inserting ''2019''.

AMENDMENT NO. 2973

(Purpose: To express the sense of the Senate on training of mental health counselors for members of the Armed Forces, veterans, and their families)

At the end of subtitle D of title VII, add the following:

SEC. 735. SENSE OF SENATE ON MENTAL HEALTH COUNSELORS FOR MEMBERS OF THE ARMED FORCES, VETERANS, AND THEIR FAMILIES.

It is the sense of the Senate that—

(1) the Secretary of Defense and the Secretary of Veterans Affairs should develop a plan to ensure a sustainable flow of qualified counselors to meet the long-term needs of members of the Armed Forces, veterans, and their families for counselors; and

(2) the plan should include the participation of accredited schools and universities, health care providers, professional counselors, family service or support centers, chaplains, and other appropriate resources of the Department of Defense and the Department of Veterans Affairs.

AMENDMENT NO. 2980

(Purpose: To require an Inspector General of the Department of Defense report on allowable costs of compensation of employees of Department of Defense contractors)

On page 238. between lines 15 and 16, insert the following:

(c) REPORT ON ALLOWABLE COSTS OF EMPLOYEE COMPENSATION.—Not later than 120 days after the date of the enactment of this

Act, the Inspector General of the Department of Defense shall submit to Congress a report on the effect of the modification of allowable costs of contractor compensation of employees made by subsection (a). The report shall include the following:

(1) The total number of contractor employees whose allowable costs of compensation in fiscal year 2012 exceeded the amount of allowable costs under the modification made by subsection (a).

(2) The total number of contractor employees whose allowable costs of compensation in each of fiscal years 2010, 2011, and 2012 would have exceeded the amount of allowable costs under section 2324(e)(1)(P) of title 10, United States Code, as amended by section 803(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1485).

(3) The total number of contractor employees whose allowable costs of compensation in each of fiscal years 2010, 2011, and 2012 exceeded the amount payable to the President under section 102 of title 3, United States Code.

(4) The total number of contractor employees in fiscal year 2012 that could have been characterized as falling within a narrowly targeted exception established by the Secretary of Defense under section 2324(e)(1)(P) of title 10, United States Code, as a result of the amendment made by section 803(a)(2) of the National Defense Authorization Act for Fiscal Year 2012.

(5) An assessment whether the compensation amounts provided in fiscal year 2012 to employees who were characterized by their employers as falling within a narrowly targeted exception described in paragraph (4) were provided compensation amounts in that fiscal year in manner consistent with private sector practice.

(6) The duties and services performed in fiscal year 2012 by employees who were characterized by their employers as falling within a narrowly targeted exception described in paragraph (4).

(7) An assessment whether there are Federal civilian employees who perform duties and services comparable to the duties and services described pursuant to paragraph (6).

AMENDMENT NO. 2994

(Purpose: To require a report on a program on the return of rare earth phosphors from Department of Defense fluorescent lighting waste to the domestic rare earth supply chain)

At the end of subtitle F of title X, add the following:

SEC. 1064. REPORT ON PROGRAM ON RETURN OF RARE EARTH PHOSPHORS FROM DEPARTMENT OF DEFENSE FLUORESCENT LIGHTING WASTE TO THE DOMESTIC RARE EARTH SUPPLY CHAIN.

(a) FINDINGS.—Congress makes the following findings:

(1) In its December 2011 report entitled ''Critical Materials Strategy'', the Department of Energy states that the heavy rare earth phosphors, dysprosium, europium, terbium, and yttrium, are particularly important given their relative scarcity and their importance to clean energy, energy efficiency, hybrid and electric vehicles, and advanced defense systems, among other key technologies.

(2) While new sources of production of rare earth elements show promise, these are focused primarily on the light rare earth elements.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the recycling of end-use technologies that use rare earth elements can provide near-term opportunities to recapture, reprocess, and reuse some of the rare earth elements contained in them;

(2) fluorescent lighting materials could prove to be a promising recyclable source of heavy rare earth elements;

(3) a cost-benefit analysis would be helpful in determining the viability of a Department of Defense program to recycle fluorescent lighting waste in order to increase its supplies of heavy rare earth elements; and

(4) the recycling of heavy rare earth elements may be one component of a long term strategic plan to address the global demand for such elements, without which such elements could be unnecessarily lost.

(c) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than March 1, 2013, the Secretary of Defense shall submit to the congressional defense committees a report on the results of a cost-benefit analysis on, and on recommendations concerning, the feasibility and advisability of establishing a program within the Department of Defense to—

(A) recapture fluorescent lighting waste; and

(B) make such waste available to entities that have the ability to extract rare earth phosphors, reprocess and separate them in an environmentally safe manner, and return them to the domestic rare earth supply chain.

(2) ELEMENTS.—The report required by paragraph (1) shall include analysis of measures that could be taken to—

(A) provide for the disposal and mitigation of residual mercury and other hazardous byproducts to be produced by the recycling process; and

(B) address concerns regarding the potential export of heavy rare earth materials obtained from United States Government sources to non-allied nations.

AMENDMENT NO. 3059

(Purpose: To require a report on the establishment of a joint Armed Forces historical storage and preservation facility)

At the end of subtitle F of title X, add the following:

SEC. 1064. REPORT ON ESTABLISHMENT OF JOINT ARMED FORCES HISTORICAL STORAGE AND PRESERVATION FACILITY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth an assessment of the feasability and advisability of establishing a joint Armed Forces historical storage and preservation facility. The report shall include a description and assessment of the current capacities and qualities of the historical storage and preservation facilities of each of the Armed Forces, including the following:

(1) An identification of any excess capacity at any such facility.

(2) An identification of any shortfalls in the capacity or quality of such facilities of any Armed Force, and a description of possible actions to address such shortfalls.

AMENDMENT NO. 3072

(Purpose: To express the sense of Senate on increasing the cost-effectiveness of training exercises for members of the Armed Forces)

At the end of subtitle E of title II, add the following:

SEC. 272. SENSE OF SENATE ON INCREASING THE COST-EFFECTIVENESS OF TRAINING EXERCISES FOR MEMBERS OF THE ARMED FORCES.

It is the sense of the Senate that—

(1) modeling and simulation will continue to play a critical role in the training of the members of the Armed Forces;

(2) while increased modeling and simulation has reduced overall costs of training of members of the Armed Forces, there are still significant costs associated with the human resources required to execute certain training exercises where role-playing actors for certain characters such as opposing forces, the civilian populace, other government agencies, and non-governmental organizations are required;

(3) technological advances in areas such as varying levels of autonomy for systems, multi-player gaming techniques, and artificial intelligence could reduce the number of personnel required to support certain training exercises for members of the Armed Forces, and thereby reduce the overall cost of the exercises; and

(4) the Secretary of Defense should develop a plan to increase the use of emerging technologies in autonomous systems, the commercial gaming sector, and artificial intelligence for training exercises for members of the Armed Forces to increase training effectiveness and reduce costs.

AMENDMENT NO. 3086

(Purpose: To require assessments by the Air Force of the effects of proposed movements of airframes on joint readiness training)

At the end of title XVII, add the following:

SEC. 1711. AIR FORCE ASSESSMENTS OF THE EFFECTS OF PROPOSED MOVEMENTS OF AIRFRAMES ON JOINT READINESS TRAINING.

The Secretary of the Air Force shall—

(1) undertake an assessment of the effects of currently-proposed movements of Air Force airframes on Green Flag East and Green Flag West joint readiness training; and

(2) if the Secretary determines it appropriate, submit to the congressional defense committees a report setting forth a proposal to make future replacements of capabilities for purposes of augmenting training at the joint readiness training center (JRTC) or for such other purposes as the Secretary considers appropriate.

AMENDMENT NO. 3098

(Purpose: To require a report by the suspension and debarment officials of the military departments and the Defense Logistics Agency)

At the end of subtitle E of title VIII, add the following:

SEC. 888. REPORT BY THE SUSPENSION AND DEBARMENT OFFICIALS OF THE MILITARY DEPARTMENTS AND THE DEFENSE LOGISTICS AGENCY.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the suspension and debarment official of each agency specified in subsection (b) shall submit to the congressional defense committees a report on the suspension and debarment activities of such official containing the information specified in subsection (c).

(b) COVERED AGENCIES.—The agencies specified in this subsection are the following:

(1) The Department of the Army.

(2) The Department of the Navy.

(3) The Department of the Air Force.

(4) The Defense Logistics Agency.

(c) COVERED INFORMATION.—The information specified in this subsection to be included in the report of a suspension and debarment official under subsection (a) is the following:

(1) The number of open suspension and debarment cases of such official as of the date of such report.

(2) The current average processing time for suspension and debarment cases.

(3) The target goal of such official for average processing time for suspension and debarment proposals.

(4) If the average time required for such official to process suspension and debarment proposals is more than twice the target goal specified under paragraph (3)—

(A) an explanation why the average time exceeds the target goal by more than twice the target goal; and

(B) a description of the actions to be taken by such official to ensure that the average processing time for suspension and debarment proposals meets the target goal.

AMENDMENT NO. 3186

(Purpose: To require a study on small arms and ammunition acquisition)

At the end of subtitle E of title VIII, add the following:

SEC. 888. STUDY ON ARMY SMALL ARMS AND AMMUNITION ACQUISITION.

(a) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall enter into a contract with a Federally Funded Research and Development Center to conduct a study on the Army's acquisition of small arms and ammunition to determine each of the following:

(A) A comparative evaluation of the current military small arms in use by United States general purpose and special operations forces, allied foreign militaries, and those potential candidate small arms not necessarily in use militarily but available commercially.

(B) An assessment of the Department of Defense's current plans to modernize its small arms capabilities.

(C) A comparative evaluation of the Army's standard small arms ammunition with other small arms ammunition alternatives.

(2) FACTORS TO CONSIDER.—The study required under subsection (a) shall take into consideration the following factors:

(A) Current and future operating environments as specified or referred to in Department of Defense strategic guidance and planning documents.

(B) Modifications and improvements recently applied to United States general purpose and special operations forces small arms as well as their potential for continued modification and improvement.

(C) Industrial base impacts.

(3) ACCESS TO INFORMATION.—The Secretary of Defense and the Secretary of the Army shall ensure that the Federally Funded Research and Development Center conducting the study required under subsection (a) has access to all necessary data, records, analysis, personnel, and other resources necessary to complete the study.

(b) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2013, the Secretary of Defense shall submit to the congressional defense committees a report containing the results of the study conducted under subsection (a), together with the comments of the Secretary of Defense on the findings contained in the study.

(2) CLASSIFIED ANNEX.—The report shall be in unclassified form, but may contain a classified annex.

(c) DEFINITIONS.—In this section:

(1) The term ''small arms'' means—

(A) firearms up to but not including .50 caliber; and

(B) shotguns.

(2) The term ''small arms ammunition'' means ammunition or ordnance for—

(A) firearms up to but not including .50 caliber; and

(B) shotguns.

Mr. LEVIN. Mr. President, what is the pending matter?

The ACTING PRESIDENT pro tempore. It is now in order for the Senator from New Hampshire to offer an amendment.

Mr. LEVIN. There is 20 minutes evenly divided?

The ACTING PRESIDENT pro tempore. There will be.

The Senator from New Hampshire.

AMENDMENT NO. 3245

Ms. AYOTTE. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment so I may call up my amendment No. 3245, which is at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Ms. AYOTTE] proposes an amendment numbered 3245.

The amendment is as follows:

(Purpose: To prohibit the use of funds for the transfer or release of certain individuals from United States Naval Station, Guantanamo Bay, Cuba)

At the end of subtitle D of title X, add the following:

SEC. 1032. PROHIBITION ON USE OF FUNDS FOR THE TRANSFER OR RELEASE OF INDIVIDUALS FROM UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

No authorized to be appropriated funds may be used to transfer, release, or assist in the transfer or release to or within the United States, its territories, or possessions of Khalid Sheikh Mohammed or any other detainee who—

(1) is not a United States citizen or a member of the Armed Forces of the United States; and

(2) is or was held on or after January 20, 2009, at United States Naval Station, Guantanamo Bay, Cuba, by the Department of Defense.

Ms. AYOTTE. Mr. President, I rise in support of my amendment No. 3245.

Last year, in the Defense authorization bill we had in it a prohibition that would prohibit transferring those who are held in military custody at the Guantanamo Bay facility from there to the United States of America. This year, as the language of the Defense authorization stands, there is no such prohibition, making it possible for the administration, should it choose, to transfer from the Guantanamo Bay detention facility 166 foreign enemy combatants who are being currently detained at Guantanamo. I am deeply concerned that the Defense authorization does not include this prohibition of transfer language, and that is why I have brought forth this amendment.

I am also pleased that this amendment is being cosponsored by the vice chairman of the Senate Select Committee on Intelligence, Senator CHAMBLISS, as well as Senators Inhofe, Graham, Kirk, and Sessions.

We have at Guantanamo Bay a top-rate facility that allows for the secure and humane detention and interrogation of foreign terrorist detainees, including right now the mastermind of the attacks of our country on 9/11.

I don't think anyone in this body would dispute that when our country was attacked on September 11, that was an act of war against the United States of America, and we remain, unfortunately, at war with members of al-Qaida and other terrorist organizations that want to kill Americans and our allies simply for what we believe in and for what we stand for in this country. This is a war, and those who were killed on September 11 were victims of this war.

One of the concerns I have is that when we are at war, the priority always has to be to detain those who are captured, pursuant to that war, in military custody.

We have at Guantanamo Bay a top-rate facility. I have visited it personally. Those who are held there are treated humanely. It is a very secure facility that is not on our homeland, and it is very well protected by our military.

Also at that facility is a top-rate court, where military commissions can be held for those who are charged who are held at Guantanamo Bay. Why is that important? Because when you are at war, those aren't mere criminals—they are not mere criminals who have committed a burglary in our neighborhood. They have committed acts of terror against our country, and they are very dangerous individuals, many of whom would attempt do so again were they released. That is another reason why I have brought this amendment forward, because I think it is very important that the American people be safe and secure and that those individuals who are being held there—many of them who are tremendously dangerous—be held in a secure facility that is not on our soil.

In 2009, the Attorney General discussed and sought to bring Khalid Shaikh Mohammed—the mastermind of 9/11—to trial in New York City. The American people and members of both sides of the aisle objected to having the trial of Khalid Shaikh Mohammed in New York City. As a result, Khalid Shaikh Mohammed is being held at Guantanamo Bay. He will be tried by a military commission. But that demonstration made it clear the American people do not want foreign members of al-Qaida and associated terrorist organizations being brought to the United States when we have a secure facility at Guantanamo Bay that we have spent resources to update, that is very humane.

In fact, in February of 2012, the Washington Post asked: Do you approve of the decision to keep open the Guantanamo Bay prison for terror suspects? Seventy percent of the American people who answered that survey said: Yes, we approve of it.

I want people to understand whom we are talking about transferring from Guantanamo Bay to the United States of America and understand the individuals and some of the background of those who are being held at Guantanamo Bay, coming to a neighborhood near you.

This is, of course, the mastermind of the September 11 attacks, Khalid Shaikh Mohammed, who is being held at Guantanamo Bay. He is often called KSM. He claims to have personally decapitated American journalist Daniel Pearl in 2002, and he admitted to playing a role in over 30 terrorist plots. Some of these include a 1995 plot to blow up 12 U.S. airliners flying from Southeast Asia to the United States for which he was indicted the following year; the 1993 World Trade Center bombing; a plot to hit towers in Chicago, Seattle, Los Angeles, New York's Empire State Building, and nuclear power stations. KSM also claimed he was involved in a plot to assassinate Pope John Paul II and President Bill Clinton. He, of course, met Osama bin Laden in the 1980s, and in 1999 KSM persuaded Osama bin Laden to support the horrible acts that occurred on our soil on September 11.

Mullah Mohammad Fazil is another individual being held at Guantanamo Bay. Fazil is suspected in the death of CIA Officer Johnny ''Mike'' Spann in 2001, the first casualty of the Afghanistan war. He was deemed by U.S. officials as a high threat to the United States. It was assessed that he would likely rejoin the Taliban and participate in operations against U.S. and coalition forces if released. He was at one time the most senior Taliban leader in northern Afghanistan. In fact, he was so senior he once threatened Taliban leader Mullah Omar. Fazil has been implicated in the murder of thousands of Shiites in northern Afghanistan under Taliban control, and he is wanted by the United Nations for possible war crimes.

Another individual being held at Guantanamo Bay, Mohammad Nabi, is tied to a 2002 attack that killed two Americans and maintains loyalty to al-Qaida.

Let's be clear. There is a 28-percent recidivism rate of those we have released from Guantanamo Bay back to foreign nationals who have gotten back into the battle against our country. These are individuals who have not renounced the war on terror. The recidivism record speaks for itself. They have gotten into the battle. They still want to be involved in terrorist activities. They still want to be a member of al-Qaida or other terrorist groups and commit acts against our country and our allies.

Again, Mohammed Nabi is tied to the 2002 attack that killed two Americans. He maintains loyalty to al-Qaida. Yet some of my colleagues, if you think about it, would insist in other amendments we are dealing with today that he be treated as a common criminal.

One of the concerns I have is that if we close Guantanamo and we transfer all of those individuals to the U.S. courts, will they then claim all of the rights here in the United States? And God forbid any of them had to be released here as a result of challenges they would bring.

Nabi was a senior Taliban official also who helped finance the Taliban and smuggled weapons used against our troops. Nabi maintained weapons stockpiles and helped smuggle fighters and weapons to attack our warfighters. He is reportedly loyal to the Pakistan-based Haqqani terrorist network. The Haqqani network, of course, has been designated by the State Department as a foreign terrorist organization, and the Haqqanis are loyal to the Taliban and behind some of the largest attacks against the United States, Afghan, and coalition troops and interests in Afghanistan. He was also a member of a joint al-Qaida/Taliban cell in Khost, Afghanistan, that was involved in attacks against the United States and coalition forces. He continues to have issues with his behavior and how he has conducted himself.

The ACTING PRESIDENT pro tempore. The Senator has used 10 minutes.

Ms. AYOTTE. He is just one of the individuals who, if we do not have this prohibition, may be transferred to the United States of America.

Those are just three of the individuals who are present at Guantanamo Bay who could be coming to a neighborhood near you. Some may cite—one of the reasons I brought forth this amendment as well is some may cite a GAO report saying that we could somehow transfer these individuals here. Let's be clear what that GAO report says.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Ms. AYOTTE. I ask this body to agree to this amendment and not bring these terrorists here to the United States of America.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I oppose this amendment, and I ask Members to vote against it. The distinguished Senator from New Hampshire just said that any transfer of Guantanamo detainees out of that facility essentially endangers Americans. But consider how effectively we hold terrorists in the United States today.

We have 180 terrorists in Federal prisons in the United States of America who are in maximum security, and they cannot escape. We have supermax prisons. We have prisons where for 23 hours a day individuals are in a cell that is all concrete with just a small viewing place.

What this amendment would do is prevent any flexibility forever in how the U.S. government can handle those held in Guantanamo Bay. For example, the Guantanamo detainees could not be moved to a supermax prison in the United States. I don't think preventing options is the right thing to do. No one in all these years has escaped from a supermax prison in the United States of America. So clearly, the detainees could be held safely and securely.

Additionally, I believe this amendment could bring on a veto by the President. Today, a statement of administration policy was issued that indicated concern about restricting the transfer of Guantanamo detainees.

I believe Guantanamo has been a blight on the image of our country across this world and it should be closed down. It is important to note that there are reasons to have the flexibility that Senator AYOTTE's amendment would restrict.

For example, there are detainees at Guantanamo who could be transferred to the U.S. to be convicted in federal criminal courts. Others try to leave, like the Uighurs, for instance, but there is no place for them to go. And this amendment restricts them from being transferred here to the United States.

Many say, why would we let terrorists come to our backyard? Well, let's consider the hundreds of terrorists that are already in our backyard serving time at 98 facilities across the United States, according to a GAO report released yesterday.

The Blind Sheik is incarcerated in a Federal prison in the U.S. Khalid Shaikh Mohammed's nephew, Ramzi Yousef, is in a Federal prison here. Richard Reid, the Shoe Bomber, is in a Federal prison here. Najibullah Zazi and Adis Medunjanin, who plotted to bomb New York subway system, are both in Federal prison here.

I have a list of terrorists arrested here, 98 of them since 2009, who will go to Federal prisons. Let me describe a few of these arrests. One of the examples was earlier this month, Ralph Deleon, with Miguel Alejandro Santana Vidriales and Arifeen David Gojali were arrested by the FBI. They were planning to travel to Afghanistan to attend terrorist training and commit violent jihad. They will do time in a Federal prison here. Rezwanul Ahsan Nafis plotted to bomb the New York Federal Reserve Bank on October 20, 2012. He will do time in a Federal prison here. Adel Daoud plotted to bomb a downtown Chicago bar in September 2012, and he will do time in a Federal prison here.

Our Federal prisons hold terrorists already and they will continue to hold them. So to remove any kind of flexibility on Guantanamo and to say that you cannot move a detainee out of the facility and into a Federal prison in the United States is a mistake. I very strongly believe perpetuating Guantanamo forever is a mistake. So I ask my colleagues to vote no on this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, I ask unanimous consent to have 2 minutes to respond, and then I will defer to my colleague from South Carolina.

Mr. LEVIN. Reserving the right to object, how much time is left on each side?

The ACTING PRESIDENT pro tempore. Time in opposition is 5½ minutes.

The proponents of the amendment have no time remaining.

Ms. AYOTTE. I don't have any time remaining. OK.

Mr. LEVIN. Would the Senator from California agree that there be 5 minutes added to each side?

Mrs. FEINSTEIN. I do not need additional time. I would be willing to add an additional 2 minutes.

Ms. AYOTTE. Then I defer.

Mr. LEVIN. That is fine. I think there is no objection.

Mr. GRAHAM. We thought there was 20 minutes on each side. Apparently, it is close enough. Just a few minutes? But I want Senator AYOTTE to wrap this up.

Mr. LEVIN. I ask unanimous consent that 6 additional minutes be added to the proponents of this amendment and, if needed, that 6 additional minutes be added to the other side.

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

Ms. AYOTTE. Mr. President, I would like to respond briefly.

I have great respect for the Senator from California. The distinction here in the cases she has been citing—the disposition of them—I think is a very important distinction. Certainly we have good Federal court systems. They are designed, though, for criminals and for crimes. Guantanamo Bay is a secure facility on which we have spent substantial resources to make a top-grade facility. I visited there. That is for terrorists when there is an act of war against our country, and those individuals who are being held there have committed acts that warrant them being held in military detention because of the terrorist acts I have outlined and the individuals involved. There is a big distinction, and the American people do not want those individuals brought here to the United States of America.

With that, I yield the remainder of my time to the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, long story short, the American people believe that the military prison in Guantanamo Bay, Cuba, isolated from the American population, that is being well run by our military and monitored by all kinds of organizations, is a satisfactory answer to the problem of terrorism. Simply stated, the American people do not want to close Guantanamo Bay, which is an isolated, military-controlled facility, to bring these crazy bastards who want to kill us all to the United States. Most Americans believe that the people at Guantanamo Bay are not some kind of burglar or bank robber. They are bent on our destruction. I stand with the American people, that we are under siege, we are under attack, and we are at war.

Some of my colleagues in this body have forgotten what 9/11 is all about. The people in that prison who attacked us on 9/11 want to destroy our way of life. They do not want to steal your car. They don't want to break into your house.

We have a military prison being well run, so I think the American people are telling everybody in this body: Have you lost your minds? We are at war; act like we are at war.

I yield.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I have heard a lot of hyperbole tonight. Of course we are at war. Part of the glory of this country is the values we hold dear. We have a Federal court system that has worked. We have 373 people connected to terrorism serving time in the Federal prisons of the United States of America. They are under an entity called the Bureau of Prisons that sees that the facilities are run the way they should be. Most are in isolated areas, such as the one in Florence in Colorado. It is far from the city—I think some 30 miles—and is a maximum security prison in part.

The GAO report just released yesterday showed that the Federal prison system can hold Guantanamo detainees safely and securely. To keep Guantanamo open forever, to say that there is no flexibility as to what you can do with the detainees in terms of transferring them into the United States, into Federal custody, I think is wrong.

I have seen and watched on the Judiciary Committee and the Intelligence Committee real problems with military commissions. I think Senator GRAHAM understands that and has seen it as well. I do not believe the rate of convictions in Military Commissions any way equals the rate of convictions in Federal courts and think about how much time it has taken to get the Military Commission trials going compared to federal courts.

I really think this is very much a kind of political movement, that Guantanamo, isolated from everything, run by the military, has to keep people for the rest of their lives. Maybe that is what some people think. But a terrorist act is also a criminal act. It is a heinous criminal act, but one which our federal criminal courts can provide justice. Not just Guantanamo. So I really urge a ''no'' vote on this. Hopefully, if it passes, it can be removed in conference.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. How much time remains for the opponents?

The ACTING PRESIDENT pro tempore. Three minutes.

Mr. LEVIN. Mr. President, I very much oppose this amendment. We have a court system in this country which is second to none. To deny this administration or any administration the opportunity, should they choose to exercise their discretion, to charge terrorists as criminals seems to me to be highly unwise and is not a particularly strong step in the war against terrorism.

This amendment is undesirable. It would create a permanent restriction on the administration's options—not, by the way, just this administration's options, any administration's options in conducting the fight against terrorism. It prevents the administration's ability to bring any detainee from Guantanamo for any purpose, including their prosecution in court. I think it is unwise and not a strong step at all in the war on terror to deprive the President of the tools he might need to carry out the protection of this country from the threat of terrorism.

This amendment would permanently cut off the possibility of prosecuting these Guantanamo detainees in Federal court. I hope we do not do that. I hope we defeat the amendment of my friend from New Hampshire, Senator AYOTTE.

Finally, this is what we call veto bait. The administration continues to strongly oppose these provisions which intrude upon the executive branch's ability to carry out its military, national security, and foreign relations activities and to determine when and where to prosecute Guantanamo detainees.

So it is unwise in terms of our national security; it is unwise in terms of the rigidity it imposes on the executive branch as to where to prosecute terrorists, alleged terrorists, and it also jeopardizes the signing of this bill as soon as we can get this bill to a conference and get a conference report back to both bodies. So I hope we defeat the Ayotte amendment.

If we have any time left, I yield it back.

Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Ayotte amendment is pending.

Mr. LEVIN. Has all time been used?

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. LEVIN. So under the existing UC, we are now moving to the Feinstein amendment, and that is now the pending business?

The ACTING PRESIDENT pro tempore. It has not been called up yet by the Senator from California.

Mr. LEVIN. I understand. Let me then ask unanimous consent that Senator INHOFE, on behalf of Senator COONS and himself, offer a cleared amendment at this point.

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

AMENDMENT NO. 3201

Mr. INHOFE. Mr. President, I ask unanimous consent to set aside the pending amendment for the consideration of amendment No. 3201.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. COONS and himself, proposes an amendment numbered 3201.

Mr. INHOFE. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of the Senate on ongoing efforts to apprehend or remove Joseph Kony and his top commanders from the battlefield and end atrocities perpetuated by his Lord's Resistance Army)

At the end of subtitle D of title XII, add the following:

SEC. 1246. EFFORTS TO REMOVE JOSEPH KONY FROM POWER AND END ATROCITIES COMMITTED BY THE LORD'S RESISTANCE ARMY.

Consistent with the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 (Public Law 111–172), it is the sense of the Senate that—

(1) the ongoing United States advise and assist operation to support the regional governments in Africa in their ongoing efforts to apprehend or remove Joseph Kony and his top commanders from the battlefield and end atrocities perpetuated by his Lord's Resistance Army should continue;

(2) using amounts authorized to be appropriated by section 301 and specified in the funding table in section 4301 for Operation and Maintenance, Defense-wide for ''Additional ISR Support to Operation Observant Compass'', the Secretary of Defense should provide increased intelligence, surveillance, and reconnaissance assets to support the ongoing efforts of United States Special Operations Forces to advise and assist regional partners as they conduct operations against the Lord's Resistance Army in Central Africa;

(3) United States and regional African forces should increase their operational coordination; and

(4) the regional governments should recommit themselves to the operations sanctioned by the African Union Peace and Security Council resolution.

Mr. INHOFE. Mr. President, this amendment has been cleared on both sides. This is the one that originally we had several years ago concerning the Lord's Resistance Army in Africa and the showing that we have a policy in this country to bring this man down, the man called Joseph Kony. And we want to renew this so that we will have this pending again. It doesn't change anything that is going on at the present time except it keeps our policy in effect; that we are after the Lord's Resistance Army, and we will do what we have been doing in the past until it is completed.

So I ask my colleagues to adopt this amendment.

The ACTING PRESIDENT pro tempore. Is there further debate?

The Senator from Michigan.

Mr. LEVIN. Let me, first of all, commend Senators INHOFE and COONS. This is a very important amendment, and the determination to go after Kony and the Lord's Resistance Army is essential not just in terms of the values that we so dearly believe in, but also in terms of avoiding further slaughter that has been perpetrated by Kony.

So I commend Senators INHOFE and COONS, and I hope this amendment will not only pass but will send a very important statement as to where America stands on this subject.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 3201) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INHOFE. Mr. President, I think we may have someone—we want to yield 5 minutes to the Senator from Utah.

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

The Senator from Michigan.

Mr. LEVIN. The pending business is still the Ayotte amendment. I am just wondering if the Senator from Utah might indicate what it is that he will speak on.

Mr. LEE. I wish to speak for 5 minutes regarding the Feinstein-Lee amendment.

Mr. LEVIN. I wonder if we could get to the Feinstein amendment. I am sure Senator FEINSTEIN will be happy to yield time to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from California.

AMENDMENT NO. 3018

Mrs. FEINSTEIN. I ask unanimous consent to call up amendment No. 3018.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. LEE, Mr. COONS, Ms. COLLINS, Mr. PAUL, Mr. LAUTENBERG, Mrs. GILLIBRAND, and Mr. KIRK, proposes an amendment numbered 3018.

Mrs. FEINSTEIN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify that an authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States)

At the end of subtitle D of title X, add the following:

SEC. 1032. PROHIBITION ON THE INDEFINITE DETENTION OF CITIZENS AND LAWFUL PERMANENT RESIDENTS.

Section 4001 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b)(1) An authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States, unless an Act of Congress expressly authorizes such detention.

''(2) Paragraph (1) applies to an authorization to use military force, a declaration of war, or any similar authority enacted before, on, or after the date of the enactment of the National Defense Authorization Act For Fiscal Year 2013.

''(3) Paragraph (1) shall not be construed to authorize the detention of a citizen of the United States, a lawful permanent resident of the United States, or any other person who is apprehended in the United States.''.

Mrs. FEINSTEIN. I note that Senator LEE is on the floor, and I know he wants to speak as he is a cosponsor of this amendment. So I will yield to him, and then when he finishes I will speak.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. LEE. Mr. President, I appreciate the opportunity to speak regarding amendment No. 3018, the Feinstein-Lee amendment.

It has come to my attention that some opponents of the Feinstein-Lee amendment have made an argument that habeas corpus is sufficient to protect the rights of Americans apprehended on American soil and detained by the United States Government. This is nothing more than another way of suggesting that the government should be able to detain some Americans indefinitely without charge or trial. I disagree and believe that our constitutional traditions demand more than this—significantly more.

The fifth amendment of our Constitution provides that ''No person . . . shall be . . . deprived of life, liberty, or property without due process of law.''

As Supreme Court Justice Antonin Scalia has written:

> The gist of the Due Process Clause, as understood at the founding and since, was to force the government to follow . . . common-law procedures traditionally deemed necessary before depriving a person of life, liberty, or property.

This right of American persons to due process of law is foundational to the very idea of individual liberty from unwarranted government intrusion.

I have worked with Senator FEINSTEIN and other colleagues on both sides of the aisle to craft an amendment originally entitled the Due Process Guarantee Act to ensure that this basic constitutional right is indeed protected. I believe even with the serious national security threats we now face, America must hold fast to our most fundamental constitutional rights and liberties.

The U.S. Government should not be authorized to detain Americans indefinitely without charge and without trial. As Justice Scalia explained, the proposition that the Executive lacks indefinite wartime detention authority over citizens is consistent with the Founders' general mistrust of military power permanently at the Executive's disposal.

I believe it is clear that the Founders of our Constitution were acutely aware of this critical tradeoff—the tradeoff

we still face today—between safety on the one hand and freedom on the other. On this very point, Alexander Hamilton was prescient. He wrote:

> Safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. The violent destruction of life and property incident to war; the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty, to resort for repose and security to institutions which have a tendency to destroy their civil and their political rights. To be more safe they, at length, become willing to run the risk of being less free.

Our Nation's Founders warned us about the great danger of sacrificing our most basic liberties in the pursuit of security—security at all costs. They provided us with a Constitution framed to prevent precisely such a tragic outcome.

I urge my colleagues to vote in favor of the Feinstein-Lee amendment and against the mistaken idea that the government may detain American persons indefinitely without charge and without trial.

Thank you, Mr. President. I yield back the remainder of my time to Senator FEINSTEIN.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the amendment before us is cosponsored by the distinguished Senator who just spoke, Senator LEE, as well as Senators COONS, COLLINS, PAUL, LAUTENBERG, GILLIBRAND, KIRK, TESTER, JOHNSON, SANDERS, WHITEHOUSE, HELLER, BAUCUS, DEMINT, WEBB, KLOBUCHAR, BINGAMAN, ROCKEFELLER, BEGICH, and BOXER. An amendment similar to this received 45 votes in the last session.

I wish to spend a moment on the genesis of this amendment because, for me, it goes back to April 1942, the day a Western Defense Command and Fourth Army Wartime Civil Control order went out in San Francisco with instructions to all persons of Japanese ancestry, that: All Japanese persons, both alien and nonalien, will be evacuated from the above designated areas by 12 o'clock noon on Tuesday, April 7, 1942. No Japanese person will be permitted to enter or leave the above described area after 8 a.m. Thursday.

That was in the city of San Francisco.

What was created was an internment camp near the city which became a staging area for the placement of Japanese Americans in detention camps without charge or trial for the remainder of World War II.

This was Tanforan Racetrack, directly south of San Francisco. One Sunday afternoon—I was a small child in 1942—my father took me down to show it to me. This is what I saw. We see stalls made into bunk houses. We see the center of the field made into barracks. We see the little places where individuals were kept. We see Japanese-American citizens who did nothing wrong who were being interned for years during World War II.

It was shocking. Then it took until 1971 for a bill to be passed and then signed by President Nixon reversing the policy. That bill was called the Non-Detention Act of 1971, and it repealed a 1950 statute that explicitly allowed detention of U.S. citizens. That 1971 bill said—and I quote:

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress.

Since then and after 9/11, various cases were litigated and went as far up as the Supreme Court. One of them in 2004 was Hamdi v. Rumsfeld, and it addressed a very narrow issue involving a citizen captured on the battlefield of Afghanistan. Then a second case, Padilla v. Rumsfeld, in the Second Circuit Court of Appeals involved an American citizen captured in the U.S.

So the question is whether the Non-Detention Act of 1971 prevents U.S. citizens captured in the U.S. like Padilla from being detained or whether the AUMF passed after 9/11 authorizes such law of war detention in the U.S.

What we are trying to do with this simple amendment is what is called a clear statement rule, to say once and for all:

> An authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States unless an Act of Congress expressly authorizes such detention.

I know this is a sensitive subject, but I believe we stand on the values of our country, and one of the values of our country is justice for all. And we have a Constitution that has 7 articles and 27 amendments that give us fundamental protections.

This amendment, which builds on the continuing application of the principles behind the Non-Detention Act of 1971, would provide very clearly that no military authorization allows the indefinite detention of U.S. citizens or green card holders who are apprehended inside the United States. Some may ask why just include citizens and green card holders. Let me be clear, if I could further and add ''all persons'' and get as many votes, I would. I do not think it would, and we have looked into how to do this for a year now. So we have limited it to what we believed could get the maximum number of votes in this body.

Here is the point of this amendment: What if something happens and you are of the wrong race in the wrong place at the wrong time, and you are picked up and held without trial or charge in detention ad infinitum? We want to clarify so this cannot happen; so that the law does not permit an American citizen or a legal permanent resident to be picked up and held without end, without charge or trial.

I want to say that the FBI and other law enforcement agencies have proven time and time again that they are up to the challenge of detecting, stopping, arresting, and convicting terrorists found on U.S. soil.

I have a document that was prepared by the Intelligence Committee staff lists 98 terrorists who have been arrested and are on their way to conviction and will do time, many of them life sentences, in Federal prisons, and these are just those arrested in the last 3 or 4 years.

Since January of 2009, there are 98 who have been successfully arrested. I think it is important to understand that suspected terrorists who may be in the United States illegally can be detained within the criminal justice system under four options that exist today. They can be charged with a Federal or State crime and held. They can be held for violating immigration laws. They can be held as material witnesses as part of a Federal grand jury proceedings. They can be held under section 412 of the PATRIOT Act for up to 12 months.

This amendment is not about whether citizens such as Hamdi and Padilla—or others who would do us harm—should be captured, interrogated, incarcerated, and severely punished. They should be and they are.

It is about the innocent American, again in the wrong place, at the wrong time, who gets picked up, like these innocent Japanese Americans shown in this picture who just happened to live in a certain part of the United States, in my hometown, San Francisco. But this was what happened. People were picked up and held for the duration of the war—just because of their race.

Finally, I want to quote Justice Sandra Day O'Connor, who wrote for the plurality in the Hamdi decision in 2004:

> As critical as the Government's interest may be in detaining those who actually pose an immediate threat to the national security of the United States during ongoing international conflict, history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others who do not present that sort of threat.

So it is my hope we can clarify U.S. law to state unequivocally that the government cannot indefinitely detain American citizens or legal residents captured inside this country without trial or charge.

We live with the stain of how we treated some of our own people during World War II. It should not be repeated.

I thank the Acting President pro tempore, and I would like to yield to the distinguished Senator PAUL, if I may.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. PAUL. Mr. President, I rise today in support of the Feinstein-Lee amendment to prevent the indefinite detention of American citizens without a trial by jury. In the year 1215, the English barons gathered on the plain at Runnymede. They gathered to protest against King John. They gathered for their rights as free men. And they gathered for the right to trial by jury.

We have had it enshrined in both English law and American law for 800 years. It seems a shame to scrap it now.

People say: But these terrorists are horrible people. Yes, they are horrible people. But every day and every night in our country horrible people are accused of crimes, and they are taken to court. They have an attorney on their side. They are given a trial. People we despise, people who murder and rape, are given trials by juries. We can try and we can prosecute terrorists.

People say: But they are terrorists. Well, the thing is, you are an American citizen and you are accused of terrorism. Who is going to determine who is a terrorist and who is not a terrorist? They do not walk around with a badge. They do not walk around with a card that says: I am from al-Qaida. They will be accused of a crime, and there will be facts. Someone must judge the facts. That is what a jury does.

To give up on this because we are afraid of terrorists is to give in to the terrorists. If we give up our rights, if we relinquish our rights, haven't the terrorists then won?

Jefferson said the right to trial by jury was the ''anchor,'' it was the anchor by which we protect ''the principles of the Constitution.''

Senator La Follette, a Senator from Wisconsin, said if we give up these rights, if we are unable to protect these rights, that ultimately the Bill of Rights loses its value.

He said:

> Let no man think that we can deny civil liberty to others and retain it for ourselves. When zealot agents of the governments arrest suspected radicals without warrant, hold them without prompt trial, deny them access to counsel and admission of bail . . . we have shorn the Bill of Rights of its sanctity. . . .

I would ask today of my colleagues that we have a chance to replace fear with confidence—confidence that no terrorist will ever conquer us if we remain steadfast to our principles—the principles of our Founders. We have nothing to fear except our own unwillingness to protect our rights. If we relinquish our right to trial by jury, we will have given up so much. Do not let those who would instill fear let you give up the most basic of rights—a right that prevents the oppression of government and the evolution or devolution into despotism.

So I hope my colleagues will today vote to uphold an 800-year-old tradition, a tradition that is enshrined in the body of our Constitution, a tradition that is enshrined in our Bill of Rights, and a tradition that is in every constitution of all 50 States. Are we to give that up because we are fearful? We can and have convicted terrorists. We are not talking about terrorists from overseas. We are not talking about a battlefield somewhere else. We are talking about American citizens accused in our country.

Why should you be wary? The government has descriptions of who might be a terrorist. If you have 7 days' of food in your basement, you might be a terrorist. If you have weatherized ammunition, you might be a terrorist. This is what your government describes as things you should report. Know your neighbor to report your neighbor. If you have weatherized ammunition, multiple guns, food in your basement, if you like to pay by cash—if these are the characteristics for which you might be accused of terrorism, would you not, at the very least, still want to retain your right as an American citizen to a right to a trial by a jury of your peers?

I ask that we step up today and support an ancient tradition. And I worry about a country that would let a tradition like the right to trial by jury go so easily.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I appreciate the opportunity. This is a good debate. It is a fascinating discussion. I guess the way I look at this issue—and we will talk with Senator LEVIN in a bit—I have been a military lawyer for about 30 years, and the first thing you do in JAG school is have a discussion about the difference between the law of war and criminal law. Every military lawyer is taught from the very beginning of their career that law of war detention is designed to neutralize the enemy and to gather intelligence about the enemy.

There is a reason that when we capture somebody in a war we do not give them a trial by jury, and we do not give them a lawyer. We have 3,000 people in American military custody in Afghanistan who were captured on the battlefield, and they are held under the law of war because we do not want to let them go back to killing us. And they are not given a lawyer because we are not trying to solve a crime; we are trying to win a war.

Here is the question to my good friend from California: I do not want anyone to believe that under the law of war construct we have created over the last 7 or 8 years that you can be put in jail because you look like a Muslim, that you sound like a Muslim, that you have got a name Mohammad. What happened to Japanese-American citizens is they were put in military custody because we were all afraid and they looked like the enemy. That was not a high point in America.

What are we talking about here? We are talking about detaining people under the law of war who are suspected of joining al-Qaida or the Taliban and engaging in a belligerent act against the United States. I want to make the record clear that some of my colleagues on the Republican side have been trying to deny law of war detention to the Obama administration, and they have openly said this: If you allow this to happen, President Obama is going to put you in jail because of political dissent.

There are people on my side who are afraid of law of war detention being in Barack Obama's hands because they think,—they hate him so much they think he is going to use a provision to protect us against an al-Qaida attack to put them in jail because they disagree with his agenda.

It gets worse. I want you to know this. There has been a statement in our conference that habeas corpus review by an independent judiciary where the intelligence community, the military, would have to prove in court by a preponderance of the evidence that the person in question has, in fact, engaged in hostilities against the United States by helping the Taliban or al-Qaida—that is the requirement of the government—they have to prove that to the judge, that is not really a check on government power because the judge could be an Obama appointee.

As much as I disagree with President Obama, as much as I think he has been a divisive President, in many ways has failed to lead, I want to disassociate myself from the concept that you cannot give this Commander in Chief the powers that Commanders in Chief have enjoyed in other wars because we hate him so much.

To my friends who get on the Internet and talk radio and stoke this paranoia, we are afraid enough for good reason. This is a dangerous world. We are about to walk off the fiscal cliff. We have people out there trying to undermine our way of life. There is a lot to be afraid of: Al-Qaida coming back to our shores, recruiting American citizens to help their endeavors. I hate to say it, in every war we have ever been in, there have been occasions when Americans joined the enemy.

In World War II that happened. You had German saboteurs land on Long Island, aided and abetted by American citizens sympathetic to the Nazis. All of those American citizens in In Re: Quirin were held in military custody and tried by the military because we have long understood that when you join the enemy, that is not a crime but an act of war.

We have very bad people who get a right to a jury trial. I will be the first one to say that when you go to court, no matter if you are the worst terrorist in the world, you will get a jury trial, you will get a lawyer, and you will have your due process rights. But the difference I am trying to inform the body of when you are fighting a war is the goal is not to prosecute people, the goal is to win. And how do you win a war? You kill them; you capture them; you interrogate them to find out what they are up to next. So I am here to say to my colleagues that the al-Qaida-Taliban efforts to do harm to our Nation are alive and growing. The narrative that al-Qaida has been decimated is a false narrative. What happened in Libya, unfortunately, is going to happen again.

I know my good friend from California, who is the chairman of the Intelligence Committee, knows there are active efforts in our own backyard—and JOE LIEBERMAN can tell you, too—to recruit American citizens to attack us—not to commit a crime, to join the enemy.

All I am suggesting is that Barack Obama and every Commander in Chief in the future needs to have the tools available to protect us against an enemy. And the basic question is: Is fighting al-Qaida fighting a crime or fighting a war? I believe with all of my heart and soul that they do not want our property, they do not want our cars, they do not want our bank accounts, they want to destroy us. They hate what we stand for. Just as in World War II, when you decided to help the Nazis, you were held in military custody because you did something other than commit a crime.

The goal here is if you capture an American citizen who has sided with the enemy that we preserve the ability of our military intelligence community to find out what they know about future attacks and present attacks. The goal of a criminal prosecution is to find justice under a criminal statute. The goal in time of war is to win.

I do not believe in torturing people to get good information, but I do believe in interrogating them for military purposes if they have sided with the enemy.

This is a great debate. But the one thing I do not want to associate myself with is as much as I may disagree with this President's agenda, there are people on my side of the aisle who are stirring up their fellow Americans, making them afraid that Barack Obama could use legitimate powers in a time of war to gather intelligence against people who sided with the enemy to come after them because they look different or they may have a different political belief. I want to disassociate myself with those on my side of the aisle who say that habeas corpus, an independent judiciary, is not an adequate check because Barack Obama may have appointed the judge. That undermines our judiciary. That creates paranoia. That creates a fundamental distrust of what I think is something we should be all proud of: America.

This war will last probably longer than most of us. It is an ideological struggle. There is no capital to conquer, like Berlin and Japan. There is no air force to shoot down. There is no navy to sink. It is about an ideology that must be contained and fought, an ideology, unfortunately, that will be attractive to some Americans as it was in other wars.

Unfortunately, as I speak today, the enemy is trying to come back to our shores and use some American citizens to further their cause. To an American citizen: Do not join al-Qaida or the Taliban. Do not turn on your country. Do not side with their view of humanity. If you do, you have not committed a crime, you have engaged in an act of war against the rest of us and we have a right to win this war. We have a right to hold you under the law of armed conflict as we have held others in the past, to find out why you joined, what you know, and what they are up to next. There is no American citizen in law of war custody. This President has not rounded up one person and put them in jail using the statute that exists today because they disagreed with him. I do not believe he will. All I am asking is that we have options available in this war that have existed in every war America has fought. Because here is my bottom-line belief, that as much as the Nazis represented a threat to humanity, al-Qaida represents an equal threat to humanity. And nobody in World War II would have entertained the idea that if you sided with the Nazis and you helped the saboteurs blow up parts of America, you should be considered anything other than an enemy who has joined the other side.

So unlike criminal law, where you are trying to find justice for victims, this is about winning a war and marginalizing the enemy. And when the enemy is able to turn one of our own, the last thing in the world we should do is deny ourselves the ability to interrogate that person in a way to help us win the war and keep us safe. That has been the law forever when it comes to war. That is the law today, that will be the law tomorrow.

I look forward to talking to Senator LEVIN, who has been a 100-percent voice of reason, to talk about authorization to use force and the ability to detain.

I will end with this thought: If you deny the ability to gather intelligence and detain, you do not want to put our troops in a position where they have to kill everybody they find. We want to capture the enemy when we can. Because when you capture the enemy, not only do you hurt the enemy, you find out a lot about what they are up to. Here is the question: If an American citizen is engaging in helping al-Qaida and the Taliban in a terrorist activity on our shores, are they the enemy? Yes, they are. We need to know about why they did what they did and what they are going to do next.

With that, I will yield.

Mrs. FEINSTEIN. Mr. President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. There is 9 minutes 15 seconds.

Mr. LEVIN. How much time is there left on our side?

The ACTING PRESIDENT pro tempore. There is 17 minutes 24 seconds.

Mrs. FEINSTEIN. I will wait until the very end and give the distinguished chairman the opportunity.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, it would be my intent, if we need additional time, unless there is something else that is needed at about 9:30 or so when this time runs out, to seek additional time for both—for anyone who needs it, frankly. I do not know about both sides, because this is a multifaceted debate that we are going to have here tonight on this issue.

I would yield myself 10 minutes. I would ask to be notified when I get to 10 minutes.

The Feinstein amendment provides that no authorization for the use of military force may be construed to authorize the detention of U.S. citizens or lawful resident aliens who are captured inside the United States, unless—and this is a big ''unless''—an act of Congress expressly authorizes such detention.

As I read the amendment, it says the military detention of U.S. citizens may be authorized in accordance with the law of war as long as this action is expressly authorized by Congress. Further, the amendment's requirement for express authorization applies only to the detention of U.S. citizens who are captured inside the United States. So no such authorization would be required for the detention of a U.S. citizen in the course of military operations overseas. I believe it is appropriate that Congress focus on the issue of military detention at the time they authorize the use of military force, as would be required by the Feinstein amendment.

As the Supreme Court has stated: Detention is a fundamental and accepted incident to armed conflict. Without such authority, our Armed Forces could be put in the untenable position of being able to shoot to kill but not to capture and detain enemy forces.

As to the ongoing conflict, I believe the 2001 authorization for the use of military force authorized the detention of U.S. citizens when appropriate in accordance with the laws of war.

I base this view on the fact that the Supreme Court has said so.

In the Hamdi case, the Supreme Court considered the relationship between the AUMF and the nondetention act which prohibits the detention of a U.S. citizen except where authorized by an act of Congress. The Supreme Court held in Hamdi that this statute does not preclude the detention of U.S. citizens on the battlefield in Afghanistan because the 2000 authorization for the use of military force, quoting the Supreme Court, ''is explicit congressional authorization for the detention of individuals'' in such circumstances. The Court explained that such detention is so fundamental and accepted as an incident to war as to be an exercise of the ''necessary and appropriate force'' that Congress authorized the President to use in the AUMF. In other words, the Supreme Court has already concluded that the authorization to use necessary and appropriate force is an explicit authorization to detain enemy combatants in accordance with the law of war, and that meets the test of the Feinstein amendment.

Any other conclusion would lead to absurd results, under which we would tie the hands of our Armed Forces even

in the face of an actual invasion. For example, if a group of terrorists were to approach one of our Navy bases in boats loaded with bombs, our sailors protecting those ships at that base would be in the untenable position of being able to shoot to kill, but not to capture the enemy forces if Hamdi did not reach the conclusion it did.

Similarly, in the unthinkable event that we were to experience a 9/11-type attack, our military would be in the untenable position of having the authority to shoot down the hijacked aircraft but not to force them to land and to capture the enemy hijacker. Of course, we could not expect our military to inquire as to whether any of the enemy force were American citizens before deciding on the level of force to be applied.

As the Supreme Court explained in its Hamdi decision, ''the capture, detention, and trial of unlawful combatants, by 'universal agreement and practice,' are 'important incidents of war''' and a ''fundamental and accepted incident to war.''

What the Supreme Court said in Hamdi is explicit in the AUMF, in the authorization for use of military force, the core ''law of war'' authority for our military to capture and detain those who join enemy forces at a time of war and plan or participate in attacks against us. This core authority to use less than lethal force, rather than lethal force, in appropriate circumstances must be available to our military whenever and wherever it engages with the enemy.

Again, Senator FEINSTEIN's amendment does not prohibit the military detention of U.S. citizens who are captured or apprehended inside the United States because a U.S. citizen who joins a foreign army and attacks the United States should be subject to detention as an enemy combatant if it does not prohibit military detention and if it is expressly authorized by law. I read this as a statute authorizing the use of military force itself or some other act of Congress.

This is a major difference between or from the amendment Senator FEINSTEIN offered last year, which included no exception for congressional authorization. This new approach is appropriate because I believe that Congress ought to address the issue of detention of U.S. citizens when captured in the United States at the time that we authorize the use of force.

The Supreme Court in Hamdi held that the existing authorization for use of military force does address this issue and does explicitly, in their words, authorize detention of U.S. citizens in that situation which was on the battlefield in Afghanistan, but that it explicitly, again in the words of the Hamdi Court, authorized the detention of U.S. citizens in the case of an individual who was captured in Afghanistan who was attacking U.S. forces.

I believe the same reasoning applies to persons who join foreign armies and attack us militarily here in the United States when they bring the war here to the United States and attack us here. If they attack a Navy base and are captured by sailors defending their ships, the same logic that Hamdi applied to an attack in Afghanistan against our forces applies here. That is the same reason they used in that case to find that there was an explicit authorization for the detention of U.S. citizens in the Afghanistan circumstance; that it is an inherent fundamental function of war, that you be able to capture and detain people who are at war with you, applies when that act of war is carried out here in the United States, such as in the attack on a Navy base.

I request 1 additional minute.

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

Mr. LEVIN. The Feinstein amendment provides an appropriate signal to Congress that in an authorizing context they should be aware of detention authority issues. Therefore, I intend to vote for the Feinstein amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, may I ask how much time remains on our side and on the other side?

The ACTING PRESIDENT pro tempore. There is 17 minutes remaining.

Ms. AYOTTE. There is 17 minutes remaining in opposition?

The ACTING PRESIDENT pro tempore. Yes.

Ms. AYOTTE. Mr. President, I rise to agree with my colleague Senator LEVIN, the chairman of the Armed Services Committee, in his interpretation of the Hamdi decision with regard to the review of the current amendment pending before us. The Feinstein amendment includes different language than the amendment that was brought forward and defeated in this body last year. The language says in 2(b)(1) that an authorization to use military force, a declaration of war, or any similar authority, shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States, apprehended in the United States, unless an act of Congress expressly authorizes such detention.

I do view, as does my colleague from Michigan, Senator LEVIN, the Hamdi decision that was decided before our U.S. Supreme Court as rendering an opinion that the current authorization for the use of military force that is in effect for our country gives explicit congressional authority for the detention of individuals such as in the case of Hamdi. He was an American citizen engaged in the battle against our country and would fall underneath the authorization for military force. In the Hamdi decision, the Court said that the AUMF, which has currently been approved by Congress, having the full force and effect of law, gives explicit congressional authorization for such detention.

I too believe, as Senator LEVIN has said, under that authorization, the Hamdi decision would be interpreted similarly if an individual who was a covered individual—a member who was covered by the authorization for military force but was nevertheless a United States citizen—was caught here committing an act of terrorism in this country. Our Supreme Court has already interpreted that in Hamdi in such a way. I wanted to add my support for his interpretation of the current Feinstein language in that way.

I wish also to say in response to the arguments of some of my colleagues that if the argument that is being made is this, that if you are an American citizen who is captured in this country committing an act of terrorism against our country and collaborating with al-Qaida, committing belligerent acts in this country, then you should be held under the law of war. If you are not, then we will have to give you Miranda rights. We will have to tell you you have the right to remain silent.

Let me remind you, in those situations, can you imagine if an American citizen had been one of the collaborators of 9/11, would we want to tell a member of someone who had committed an act like 9/11 against us—an act of war against this country—the first thing you hear is you have the right to be silent? Our goal is we have to be there to gather intelligence to see if there is another attack coming. Is it coming to the Pentagon, is it coming to the White House, is it coming to that second tower? Then we can protect American lives.

That is the difference between war and common crime. That is an important distinction that has been recognized long before—with all respect to my colleague from Kentucky—in World War II in In Re: Quirin. Our U.S. Supreme Court in World War II recognized this authority, the difference between the law of war. In that case an American citizen who collaborated with the Nazis was held under the law of war because our country was at war.

I would also wish to point out that this would only cover under the current law authorized by this Congress. It would not apply to someone who is holding ammunition or someone who is paying with cash. It only applies to a person who has planned, authorized, committed, or aided the terrorist attack that occurred on 9/11 or harbored those responsible for the attacks, or a person who has a part or substantially supported al-Qaida, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partner, including any person who has committed a belligerent act or directly supported such hostilities in aid of enemy forces against our country.

That is very different than some of the examples that were cited here. It is

called being a member of al-Qaida, being involved in September 11, being a member of the Taliban and committing belligerent acts against this country. That is terrorism.

Let me point out what I think is the most absurd distinction of all. This is Anwar al-Awlaki. He is someone who is a U.S. citizen. He is someone who was an influential leader in al-Qaida in the Arabian Peninsula. He advocated for violent jihad. He was involved in a dozen terror investigations. He was alleged to be involved in killing Americans and collaborating to kill our allies. On September 30, 2011, it was reported that al-Awlaki was killed by the CIA in a drone strike in Yemen. Yet it is being interpreted, as we have heard by some of my colleagues represented here, if the Feinstein amendment were interpreted the way they have interpreted, if al-Awlaki made it to America to commit these terrorist acts, he gets his Miranda rights. He gets all his rights here. But yet if he is in Yemen to do these acts, to try to kill Americans and our allies, then we can use a drone attack to him. But if he makes it to America—which, by the way, the terrorists want to make it to America; 9/11 is Exhibit A of that—why do we want to be in a position to read them their Miranda rights, tell them you have the right to remain silent? Our priority there has to be protecting American lives. That is the distinction between the law of war and a common criminal in this country.

By the way, there are protections under the law. It is the right of habeas corpus where you do have a right to challenge your detention before the Federal court through appeals with counsel. That is certainly a protection that we have respected in this country for a long time.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I would like to inform the body that I think Senator LEVIN's understanding and reasoning is incredibly sound. We have actually been talking about this for a couple of days. And in light of the Hamdi decision and just plain old common sense, I will support the Feinstein amendment.

I will be the first to say that if we are attacked by the Iranians tomorrow or some other group, we have an authorization to use force. Senator LEVIN and I will be the first to say in that authorization that it will provide that if an American citizen joins the Iranians in a war against America, they can be detained under the law of war.

Now, you can vote however you like. I know how I will vote. But this has already gone up to the Supreme Court. And if I can build on what Senator LEVIN said as to the logic of the Court and I think the logic of our position, let's get us back to the United States. I don't think anybody in their right mind would say the United States is not part of the battlefield in the war on terror. I would suggest that of all the places the enemy wants to hit us, they want to hit us here at home the most. Their goal is to kill us here. They will kill us in Libya, they will kill us in Afghanistan, they will attack our consulates, they will kill our soldiers, they will blow up our embassies, they will hit us all over the world, but don't be misled—they want to hit us here. Remember 9/11? I do. I am sure you all do.

You know what. The only reason we haven't had another 9/11 is we have been fighting these bastards over there, where we have been getting good intelligence. It took a couple of years before any of the people held at Guantanamo Bay told us what was going on, but we found out about bin Laden—and not because we tortured people but because we put the intelligence puzzle together over time by holding people under the law of war and gathering good intelligence. That is how we got bin Laden. So bin Laden is dead, but the war is not over. I wish it were.

Now, the homeland. If there is a planned attack on a Navy vessel or a military installation, I think the point Senator LEVIN was making is that we have already authorized the use of force to protect the country against the Taliban and al-Qaida; is that right?

Mr. LEVIN. That is my opinion, and that is the fundamental core ruling in the Hamdi case. Now, we have to be accurate. Hamdi applied circumstances to citizens that were captured in Afghanistan, but the reason they use led them to conclude there was an explicit—explicit—authorization to detain those citizens even though they are American citizens. Their argument was that capture and detention was inherent, in their words—so fundamental—to capture and detain as such is an accepted incident to war as to be an exercise of the necessary and appropriate force which Congress authorized the President to use.

So in my analogy, if a boatload full of al-Qaida, including an American citizen, comes to a Navy base and attacks that base and is captured by those sailors, that is surely an incident of war, and I believe the capture and detention of those al-Qaida terrorists would be the exercise of necessary and appropriate force which we authorized the President to use in the authorization for military force.

Mr. GRAHAM. I want to build on that just to make sure we understand about a potential attack on a Navy base here at home. No one is suggesting the military could not use force against an al-Qaida attack here at home. The Hamdi case was an American citizen captured in Afghanistan. I hope we are not trying to create a picture that somehow America is a place where our own military cannot fire a shot in defense of their ships or our country.

Let's say we have some ships up there in Virginia and we have a boatload of al-Qaida types trying to ram the ship. Does the Senator agree with me that our military can use force to defend us here at home against al-Qaida?

Mr. LEVIN. That is correct.

Mr. GRAHAM. So if our military is authorized to use force, they do not have to call the FBI or the Virginia State Police to shoot. They can shoot against an enemy themselves coming at them in America.

Mr. LEVIN. Coming into America and attacking us on a Navy base or——

Mr. GRAHAM. Right. Because we are not fighting a crime. We don't have to disarm our military and call the local cops and say: Would you please shoot these people before they get here? No. Our guys are going to shoot you. If you are an American citizen asked to get in a boat and asked to attack a military ship or installation in the United States, we are going to shoot you, and if we wound you, we are going to capture you. And here is what we are going to do to you as an incident of using force. The Supreme Court has said that when you authorize the use of force, it makes no sense to give that authorization if you don't have the power to detain because the worst thing you can do to the American military is to make them kill everybody and capture no one or let the other guys go. So kill-them-all is not good policy, and it is a bad spot to put your military in. And the option shouldn't be to kill them all or let them all go; the option should be to kill where you have to and, if you can, capture. Does the Senator agree with that?

Mr. LEVIN. I do.

Mr. GRAHAM. And our military can fire the shots because of the use of force to defend the homeland and to defend themselves here at home. And the Supreme Court says that once you authorize the ability to use force, it just follows, as night follows day, that detention is part of the ability to use force because, ladies and gentlemen, if it is not, you have turned our military into murderers because you are not supposed to shoot somebody and leave them wounded in the water, and you shouldn't watch them swim away. You capture them and interrogate them under the law of war. Isn't that what Hamdi is about and the point they are trying to make?

Mr. LEVIN. It is. As part of that point, it cites the Quirin case, which says:

> Citizenship in the United States of an enemy belligerent does not relieve him from the consequences of a belligerency which is unlawful because in violation of the law of war.

And here are the key words:

> Citizens who associate themselves with the military arm of an enemy government, and with its aid, guidance and direction enter this country bent on hostile acts, are enemy belligerents within the meaning of the Hague Convention.

Mr. GRAHAM. I will read another quote from Hamdi.

> There is no bar to this Nation's holding one of its own citizens as an enemy combatant.

Hamdi's detention could last for the rest of his life because the law of war detention can last for the duration of the relevant conflict.

Here is what we are trying to do. We are trying to create a system consistent with the Hamdi decision, and quite frankly, ladies and gentlemen, what I am trying to avoid is the criminal paradigm because I know the difference between criminal law and law of war. Under the law of war, you can detain somebody for interrogation to find out what the enemy is up to if you believe that person to be part of the enemy.

And let me tell my friends, I do not want to take our criminal justice system and bastardize it. During the Bush years when we had the military commission rollout, they had a provision that in a military commission trial, the military jury could be given classified information but not share it with the defendant. I said: No. If a trial means anything, it means the right to confront those witnesses against you. I jealously guard that. The worst al-Qaida member in the world, when they go on trial in military commissions, will have a lawyer, a right to appeal to our Supreme Court, and will be able to confront every witness against them. An American citizen who joins al-Qaida or the Taliban will be tried in Federal court because we took military commissions off the table. That is the trial.

Here is the main point: If you are allowing our military to use force to protect themselves, as Hamdi says, it naturally follows that with the use of force comes the lawful detention. And that is why I will be voting for Feinstein. I think that is where most Americans are. If there is any confusion, we can talk about this in conference.

But, Senator LEVIN, I want to thank you for—since 2006—working with me and against me. You know, our dispute about what would be an active substitute for habeas went to the Supreme Court, and you won 5 to 4. Damn those Justices, but that is the way it goes. And you know what. There were some Republicans and Democrats who disagreed with me and you both. But I respect an independent judiciary, and I know Justice Roberts kind of got some people mad at him because of the ObamaCare decision, but that is the way it goes. That is the way these old judges are. I just really appreciate an independent judiciary.

I just want to say that after that decision in 2006 or 2007, how much of a pleasure it has been to work with you and others to try to find a way to achieve a balance in a war that is hard to understand. There is no capital to conquer, no airplanes to shoot down in terms of their jet fighters, there is no navy to sink, but they use boats to attack us and they use private planes to kill us. At the end of the day, we are at war. The outcome does matter, and I want to win this war. I know everybody in this body wants to win this war. But I want to live within our values.

So I will work with Senator LEVIN and Senator MCCAIN and say that even though we are fighting the worst people on the planet, count me out when it comes to waterboarding. I remember when people on my side would say—and I understand them very well—why do you care about what we do to these people? They will cut our heads off.

Because we are Americans. It is not necessary to go down that road to win the war. And quite frankly, ladies and gentlemen, the opposite is true. You can't win this war if you don't realize you are in a war. We are not fighting common crime, we are fighting a vicious enemy. And we can do it within our values. We can do it within due process consistent with the law of war and, when we get in that criminal arena, consistent with criminal law.

As much as I disagree with this President, I will not deny him the ability that every Commander in Chief has had for decades as an option, if he chooses to use it. And if you want to go down the criminal road, we can, but we need the option. As much as I dislike President Obama, I am not going to use as a reason to change the law of war that Barack Obama may put some people in jail who disagree with him, and I am not going to buy into some of the rhetoric coming out of our side that a habeas corpus independent judiciary view means nothing if Obama appointed the judge. We are better than that.

I stand ready to vote for Feinstein, I stand ready to work with my colleagues to continue to find a way to fight and win a war within our values, the outcome of which will matter not only to us but those who follow.

God bless every person on the front line who is risking their life at home and abroad. And here is what you have as a promise between Senator LEVIN and myself and many others: We are going to give you the tools to keep us safe and to keep your comrades safe. We are not going to do things in this war that made no sense in other wars. You need our help, you need our prayers, and you need the tools to fight and win this war, and we will give you those tools.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. PAUL. Mr. President, even though my colleagues sometimes appear to have disdain for the trial by jury, it now appears they are supporting the right to trial by jury, and so I congratulate them on their conversion. However, I think they are still a little confused on Hamdi.

Hamdi had to do with a citizen fighting overseas and nothing to do with a citizen here. I have great confidence that the Supreme Court, given a ruling on the right to trial by jury, will affirm the right to trial by jury whether they were appointed by Ronald Reagan or President Obama. So we will have that fight on another day.

I will say, though, that our oath of office says we will defend the Constitution against enemies foreign and domestic.

I met with cadets this week and they asked me, What is the freedom we fight for? The freedom we fight for is the Bill of Rights, is the Constitution. If we have careless disregard for the Constitution, what are we fighting for?

I will tell you, since I know the record of this debate will be widely read, I want to make formal objection to the crazy bastard standard. I don't think if we are going to have a crazy bastard standard that we shouldn't have a right to trial by jury. Because if we are going to lock up all the crazy bastards, for goodness sake, would you not want, if you are a crazy bastard, to have a right to trial by jury?

I think this is a very serious debate and should not be made frivolous. This is an ancient right that we have defended for 800 years. To say that habeas is due process is absurd. It is the beginning of due process. If you don't have a right to trial by jury, you do not have due process. You do not have a constitution. What are you fighting against and for if you throw the Constitution out, if you throw the sixth amendment out? It is in the body of our Constitution. It is in the Bill of Rights. It is in every Constitution in the United States. Trial by jury has been a longstanding and ancient and noble right. Let's not scrap it now.

I will accept victory today. I hope we will win victory and reaffirm the right to trial by jury. But let's don't play any games with any aspect and believe that any Supreme Court in the United States, whether appointed by Republican or Democrat, is going to say that an American citizen does not have a right to trial by jury.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. If Mr. President could tell me what the respective times for either side in this amendment are?

The ACTING PRESIDENT pro tempore. The opposition time has expired. Proponents have 6 minutes remaining.

Mr. LEVIN. If the Senator would yield.

Mrs. FEINSTEIN. I will.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. We are significantly over our time, I believe. We would be happy to accommodate Senator FEINSTEIN or others.

Mrs. FEINSTEIN. I just wanted to thank everybody. I think we had a good debate. I think we ended in a good place. I am very hopeful that the body will pass this now by a large majority. So I hope we are successful tonight in achieving something that hasn't been achieved for decades.

I want to thank everybody, our cosponsors, the chairman of the committee, and Senator GRAHAM for the debate.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, that was a good debate. Senator FEINSTEIN

is always gracious and alert and smart in her arguments.

I want to say one thing that is not in doubt. Some of my colleagues—I think Senator PAUL and others—have suggested that somehow the law of the United States has been changed in recent years, and we need the Feinstein amendment to fix it and restore the constitutional rights we are all entitled to.

What I want to say, without any doubt and I think any fear of real contradiction, is this amendment alters the history of the United States, alters the long-term understanding of the rules of war, and places American citizens in a position where they cannot be treated effectively as an enemy of the state and detained, and actually be in a position to be released to continue their war against the United States. I think that is a bad policy.

I agree with Senators LEVIN, AYOTTE, and others who share their view. I am not quite able to understand—and I am not sure Senator FEINSTEIN does—that this therefore establishes through understandings of Hamdi and the Supreme Court decision that therefore we can vote for it. I don't think it is the right step. I don't think we should alter the historical position of the United States that those who are at war with the United States are not treated as criminals. Southerners who were captured by Lincoln weren't released. When Washington dealt with the Whiskey Rebellion, he sent out Alexander Hamilton. They weren't given Miranda rights. They went out there to stop the rebellion. They were citizens. That is the way I feel about it.

AMENDMENT NO. 3009

Mr. SESSIONS. Mr. President, I ask unanimous consent to set aside the pending business and call up amendment No. 3009.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LEVIN. Reserving the right to object, I am wondering if the Senator from Alabama would repeat the request.

Mr. SESSIONS. I wish to set aside the pending amendment and call up amendment No. 3009. I understand it would not be voted on tonight, but I wish to get it pending.

Mr. LEVIN. I wonder if the Senator would speak on the amendment, though, without calling up the amendment.

Mr. SESSIONS. I would be glad to, if the chairman thinks it won't be a problem calling it up at a later date.

Mr. LEVIN. I hope not. I don't even know what is in the amendment. But we are trying to accommodate the process where everybody could have a chance, hopefully, to call up their amendments. We have to do it in order where we know what is in the amendment, we have to have our staffs have an opportunity to make sure we understand what is in the amendment. We are working on this amendment. So I have no objection whatever to the Senator talking about the amendment. We are working hard on the amendment to get it in order.

Mr. SESSIONS. It has been conveyed to the Senator's staff.

Mr. LEVIN. And we are working on it. But if the Senator could just not proceed to call it up but speak to it, we would appreciate it.

Mr. SESSIONS. Mr. President, I withdraw the offer of calling up that amendment and my request to set aside the pending amendment, but I would share some thoughts about it.

The amendment deals with the ability of the Congress of the United States to review any bilateral security agreement with Afghanistan.

Congress was not consulted regarding the framework or the substance of the Enduring Strategic Partnership Agreement between the United States of America and the Islamic Republic of Afghanistan that was signed on May 1, 2012. This agreement commits the United States to establishing a long-term bilateral security agreement with Afghanistan. In the past, Congress has been consulted and has sometimes provided its advice and consent to the ratification of these type agreements.

The strategic partnership agreement, already signed by President Obama, is a legally binding agreement that committed the United States to various policies including those related to the drawdown of U.S. forces in Afghanistan. It is broad and vague, and any further agreements entered into by the President that are based upon it should be reviewed by the appropriate congressional committees.

The President and the Secretary of Defense have stated that the United States continues to fight in Afghanistan to defeat al-Qaida. While the authorization of military force authorizes the President to use any means necessary to prevent any acts of terrorism against the United States, his authority to enter into bilateral security agreements with Afghanistan should be looked at and reviewed at least by Congress.

The bilateral security agreement will supersede not only the strategic partnership agreement—so this will be the bilateral security agreement—but additional memoranda of understanding related to special operations in Afghanistan and detainee transfers will be part of this agreement. The issues addressed in the forthcoming bilateral security agreement are too important not to require congressional review.

The amendment would require the President to submit any proposed bilateral security agreement to the appropriate congressional committees 30 days before entering into the agreement. This is not unreasonable. Congress is exercising its role of oversight before the President makes long-term commitments that have significant ramifications from the size of forces that we commit to the legal authority of our commanders. So this will be a final agreement that will impact quite significantly the commitment—financially, militarily, and in blood—the human support of our members.

There is a history behind these SOFA agreements. The Senate approved the NATO Status of Forces Agreement. We actually voted on it and approved it in advance. A formal treaty was used as an underlying source of authority for a Status of Forces Agreement on seven different occasions: Australia, Guatemala, Haiti, Honduras, Japan, Korea, and the Philippines. Congress has voted and approved Status of Forces Agreements three additional times: Marshall Islands, Micronesia, and Palau.

I hope Senator WEBB is able to come over tonight. He has raised his concerns about this, and expressed concern in the Armed Services Committee that the Afghani and the Iraqi Parliaments vote on the Status of Forces Agreement, but our Congress is not voting on the Status of Forces Agreement. Senator WEBB is a cosponsor of this amendment. And just to have that agreement, the full and complete agreement that commits the United States to be fully reported to the Congress of the United States I don't think is too much to ask. Right now, we don't have any indication that would happen, and there is some opposition to it. But why would that be a problem? Why would the administration not want Congress to know what our commitments are and what we would be expected to support?

I believe it is a good amendment. Hopefully we can get it moved forward and maybe accepted; but, if not, by vote. I think we could handle it. I don't think it should cause the objection that some see in it. This does not require that the Congress have a right to vote to reject the amendment or approve the amendment. It simply says the agreement that is entered into, the SOFA, has to be produced promptly to the Congress. I think that is a reasonable position, and I ask my colleagues to support it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Mr. President, I think it is time to explain amendment No. 3025 that I hope I will be able to call up shortly, knowing full well that our schedule might get difficult when these amendments are brought up at a later point.

My amendment would strike section 341 of the fiscal year 2013 National Defense Authorization Act. It included language that would arbitrarily require the Secretary of Defense to cut the civilian and contractor workforce to achieve equal savings as they achieve from planned reductions in the military personnel for fiscal year 2012 through 2017.

This provision does not consider the work requirements of the Department nor the law that states:

The civilian personnel of the Department of Defense shall be managed each fiscal year solely on the basis of and consistent with (1)

the workload required to carry out the functions and activities of the department.

What that means is that when we consider the number of civilian personnel needed by the Department of Defense, we look at the mission they need to accomplish and we look at the budget support. That is how those decisions have been made.

My amendment would strike the current section 341 that is in the committee draft and reaffirms the civilian manpower requirements by stating the following: The Secretary of Defense, consistent with longstanding law—which was expanded in a bipartisan effort in the fiscal year 2012 NDAA bill—ensures that the civilian workforce is sufficiently sized—a term copied from 10 USC 129a)—after taking into account military strategy requirements and military endstrength.

The Comptroller General is required to report back to the Congress whether the Department is compliant with the law.

I am pleased this amendment is cosponsored by Senators AKAKA, BOXER, BEGICH, BROWN of Ohio, DURBIN, HARKIN, LEAHY, MIKULSKI, MCCASKILL, and TESTER.

I might point out that there is no such provision included in the House NDAA.

I would like to note what this amendment does not do. It would not prevent the Department of Defense from downsizing the civilian workforce. Indeed, according to the House Armed Services Committee, the Department is already reducing its civilian workforce by over 10,000 positions in fiscal year 2012 alone. It would not treat service contractors any differently than civilian employees.

The goal of this amendment is pretty simple. It would reaffirm the law that prohibits DOD from managing its civilian workforce by arbitrary constraints. That is what this provision that I am asking to be stricken by my amendment would do. It would set caps and cuts. Downsizing is inevitable but be consistent with the law. It should be based on a workload analysis and the budgets that are provided through the congressional process.

This would repudiate the notion that what happens in one department's workforce automatically affects the other. The way the language came out from the committee, regardless of the needs of our civilian missions within the Department of Defense, its cut would be tied to the military side and the contractors would also be affected. It should be based upon their vision. It should be based upon their budget. There should not be arbitrary provisions.

Proponents of section 341 would insist that the civilian workforce should be automatically reduced by approximately 5 percent because the Obama administration would reduce the military workforce by approximately 5 percent. They are different missions, different priorities; they need to be judged based upon their respective priorities and missions.

Earlier today the administration released a Statement of Administration Policy that clearly rejects the current section 341 of the bill. I am quoting from the administration's statement of policy:

> The Administration objects to section 341, which would reduce funding for the civilian and contractor workforce by a rate that is at least equal to the percentage of funding saved from the planned reductions of military personnel end strength. This would require savings in civilian and contract workforces in excess of $5 billion over the planned savings through FY 2017. The Administration believes the size of the civilian workforce should be determined based on workload and funding, not on arbitrary comparisons to the military. To comply with this legislation, the Department would need to significantly divest workload and impose workforce caps.

What the committee did—I don't know if it was intentional or not—what the committee did, they imposed their own sequestration order on the civilian and contractor workforce within DOD. That makes no sense whatsoever. Everyone here has been outspoken that it is wrong to do these across-the-board cuts that have nothing to do with priority or mission. My amendment would strike that provision from the committee bill. It would substitute instead law that requires that the workforce be determined by mission and budget. It does not at all prevent us from downsizing. We all know we have to downsize, and the budget downsizes the civilian and contractor workforce. But we should not be setting arbitrary caps within what we have already done through the review and budget process.

I am pleased that this amendment is supported by many of the groups directly impacted by the decisions here. When I have a chance to offer this amendment, I will urge my colleagues to support the amendment so we can correct this provision in the bill, which I think allows us to comply with current law, protect the mission of the Department of Defense, and establish priorities in the way we should, not by arbitrary caps.

I yield the floor.

AMENDMENT NO. 3199

Mr. INHOFE. Mr. President, I have been attempting to contact the primary author of amendment No. 3199, Senator DURBIN. Let me first of all ask unanimous consent that I be added, if I am not already, as original cosponsor to the amendment No. 3199.

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

Mr. INHOFE. Mr. President, I think it is interesting that this amendment is coming up at this time. It is a matter of just a couple of hours ago that we passed an amendment on this floor extending our effort and policy against the LRA, the Lord's Resistance Army, and that is Joseph Kony, the individual who for now over 20 years has been abducting young people, training them, taking them up and forcing them to go out and fight with the LRA. If they did not do it, they would have to go home and murder their own family. It has been just horrible. We are making great progress now. I spent a lot of time primarily in Uganda where this all began, and it looks now as though we are getting closer to doing that.

The reason I am interested in amendment No. 3199 by Senator DURBIN and am supporting it is because a very similar thing is going on right now. I happen to have spent some time in the eastern part of the Congo, where I have seen the rise of another individual, Colonel Makenga. He is very much like Joseph Kony. In fact, he is training the young people, young kids to be fighters. We all know about the effort out there with what they call the rebel leader of M23. That is very similar to what is happening up in Uganda. In fact, the Uganda effort and the LRA effort were very prominent, actually, in eastern Congo, the same place where this—and I suspected myself that there is a relationship between the two efforts. So I strongly support that.

I want to say one thing, though. I have strong feelings about this, and I want to get it on the record, and I would like to have my comments placed in the RECORD at the time this amendment comes up for consideration.

A lot of people were feeling that one of the problems with the M23 leaders came from Rwanda itself. At some time, they talked about President Kagame, President Paul Kagame, as if there were a relationship between this butcher over there, Colonel Makenga, and President Kagame. There is no relationship whatsoever. In fact, President Kagame rejects what this rebel leader is trying to do.

I had occasion to spend some time with Louise Mushikiwabo, who is the Foreign Affairs Minister for the Republic of Rwanda. I was with her. I have her picture right here. I was with her recently, and she gave us the assurance that the President, President Paul Kagame, is just as adamant about doing away with this rebel leader, Colonel Makenga, of the M23 rebel movement. I am happy to join in with this. I wanted to make sure I have my assurance in this that there is no relationship between this rebel movement and the President of Rwanda.

I yield the floor. I see the author of this amendment is on the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Illinois.

Mr. DURBIN. I thank my colleague from Oklahoma. Many of my other colleagues may not be aware of his interest and dedication to the continent of Africa. He has traveled there probably as much if not more than any other Member of the Senate. It has been a great opportunity, experience, and education for me to travel there over the years, but my few visits do not come close to the commitment that has been made by the Senator from Oklahoma. I

greatly respect his knowledge of the area and appreciate his cosponsorship of the amendment which is pending which we hope will be cleared.

I have been to eastern Congo twice, 2005 and 2010—Goma. Goma is one of those places you will never forget once you visit them. This is one of the poorest places on Earth. You see the poverty in every direction. You see the disease. You see the victims of war in every direction because there has been an ongoing war in this part of the world which literally rivals some of the great wars of our history in terms of the innocent people who have been killed, maimed, raped, and have suffered displacement. On top of all of these things in Goma is an active volcano that erupted not that many years ago, covering this poor, godforsaken part of the world with lava. It troubles me to go there and see the suffering that goes on every day.

The ongoing war that is taking place—the rebel groups, M23—have now taken over sections of eastern Congo. Eastern Congo is known as the rape capital of the world. One of the tactics of war is to rape the women of any age in front of their families and then force these women, many times, to kill other members of the family who have witnessed it. They estimate that regional war and rape leave an estimated 1,000 or more women assaulted every day in the Congo. Twelve percent of all Congolese women have been victimized by this. I met some in a hospital called Heal Africa.

There is a population of 8 million people, and Heal Africa is the only hospital in the area that offers any antiretroviral drugs for children with HIV and surgery to repair the bodies of these traumatized women. Heal Africa's cofounder, Lyn Lusi, passed away this past March. What a saint she was. While her death was a terrible loss, Heal Africa and other organizations continue to carry on her vision, including many American medical students who go there to volunteer. God bless them. There was a delegation from Purdue University there when I visited, and many others have followed.

The Rwandan genocide has been the root cause of many of the problems, as well as a weak government in Congo. Eastern Congo is virtually on its own, with very little governance or protection, and criminals run rampant.

Dr. Denis Mukwege runs another hospital in Bukavu, the capital of South Kivu province.

Panzi Hospital is a one-story building on a tree-lined, dirt road. It receives about 10 new rape cases a day, every day. And that is only the tip of the iceberg, since most rape survivors never seek treatment.

The victims range in age from 2 to 80 years old. Dr. Mukwege says they arrive ''broken, waiting for death, hiding their faces.''

Last month armed gunmen attacked this genuine hero at his home, murdering his guard and shooting at him, likely because of a strong speech he gave at the United Nations last month, denouncing mass rape and impunity in Congo.

The United Nations has a 20,000 member peacekeeping force in eastern Congo to help the region's violence—but the area is still very fragile, awash in weapons, warlords, and competing regional interests. It is also rich in valuable minerals that are found in our everyday electronic and other products.

It has been said that the Congo war contains ''wars within wars''—and that is true. But fueling much of the violence is a bloody contest for control of these vast mineral resources.

In the last Congress I was proud to join in a bipartisan effort with Senators BROWNBACK, FEINGOLD, DODD, JOHNSON, and others to try to prevent the country's mineral wealth from fueling the region's horrific violence.

The bill we eventually passed included a simple transparency requirement—if a company registered in the United States uses any of a small list of key minerals from Congo or its neighbors, then it has to disclose in its SEC filings what, if anything, it is doing to prevent the mineral purchases from funding the region's violence.

I was happy to see that in August, the Securities and Exchange Commission approved a rule based on this legislation. It is a sound and fair rule, so you can imagine my disappointment that the National Association of Manufactures has already started a legal challenge to this modest provision. I appeal to the conscience of the CEOs of these companies in America to do their part to help end this violence that is going on in Congo. Please stop fighting this simple provision so we can trace these minerals and stop the exploitation of these poor people.

Last week a well-armed group of rebels calling themselves M23 overran and occupied the key city of Goma in eastern Congo. These rebels have threatened to continue their incursions and set a course for Kinshasa, Congo's capital in the west. They have created a new wave of fleeing refugees in need of clean water, food, and shelter. This move was condemned by the U.N. Security Council, which expressed deep concerns about M23. These rebels are known for brutal violence. This is a photograph of a little baby being passed into a truck hopefully, to safety—a victim of the violence going on by the M23 rebels who have taken over this part of the Congo. Some of my colleagues may have seen this tragic photo in Monday's New York Times. This baby is being hoisted into a packed truck while his family is trying to get out. Even more troubling is that there is considerable evidence that these rebels have and are continuing to receive strategic and materiel support from neighboring Rwanda, just as Senator INHOFE mentioned on the Senate floor, and potentially from Uganda as well. News reports indicate that the M23 rebels have access to night vision goggles and other equipment they never had before, indicative of significant assistance from the well-supplied Rwandan Army. We have seen reports that the Rwandan Army crossed the border working side-by-side with these rebels.

A Congolese regional governor, Julien Paluku, stated that the Rwandan Army entered his province behind the M23 rebels and forced the Congolese military to flee. Human Rights Watch has corroborated these reports and has independently confirmed the Rwandan Government's role.

There was some hope that the leaders of Congo, Rwanda, and Uganda would meet last week and find a way to end this violence. Yet it didn't occur. It appears Rwandan President Kagame did not attend as he had once promised.

Rwanda is a friend of the United States. I have visited President Kagame and I have been to Rwanda. It has certainly been through its share of suffering during the genocide in 1994. It helped in peacekeeping efforts in Sudan. With that kind of leadership, though, comes an important responsibility. No one in Rwanda or any country will benefit from a collapsed Congo in which the rebels hold large swaths of territory and these impoverished people at gunpoint. I urge Rwanda to rein in the M23 rebels and work with its regional neighbors to bring stability to eastern Congo.

To make sure this happens, Senators BOOZMAN, BOXER, COONS—let me get the entire list because I am proud they have joined me in this effort—BROWN of Ohio, CARDIN, and now Senator INHOFE have joined me in filing an amendment to this Defense authorization bill that would impose an asset freeze and visa ban on any outside parties who are providing support to the M23 rebels, an amendment I urge my friends, Senators LEVIN and MCCAIN, to accept.

I hope such sanctions will not be needed and that wiser heads prevail. The people of eastern Congo have suffered long enough.

I know Senator LEVIN is working for the approval of this amendment. I sincerely hope it can be done before the end of the evening. I am going to at this point yield the floor in the hopes that we can bring this to a positive conclusion.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me compliment Senator DURBIN for his concern for this activity that is going on there. I wish to clarify the record because I have had personal conversations with the President and with many members of the staff and good friends over there.

Africa is a little bit different than other areas. Sometimes there can be rebel groups within a country that are doing something people attribute to a country. In this case, that isn't true with Rwanda. In the case of Rwanda, if they say that some of the Rwandan

military was supporting the M23 movement, that would not be with the authority or the knowledge even of President Kagame himself and his administration. I want to make sure to clarify that.

Also, I want to mention, the area of Goma that the Senator from Illinois is talking about is something that a lot of people are not—they don't understand what that is. Goma is in the far eastern part of Congo. The capital is Kinshasa. It is further from Kinshasa to Goma than it is, of course, all the way across this country twice. So we are talking about an area where there is not much control.

It happens that Robert Ruberwa, Parliamentarian Ruberwa, is the one who is responsible for that area. The way it is working there, they don't have any control over there. This is a rebel movement.

The reason I say I believe, and I have always believed, that there is a relationship between the LRA and the M23 is because I was over there when the LRA had just left. We were hoping to be there at the same time. It was a matter of a couple of days before. They went north up through the Central African Republic and up through south Sudan, over to Uganda, where they originally started. That is the same area and the same motive, the same way of operating as M23.

They are abducting little kids. People don't realize this. They abduct little kids and teach them how to use weapons and make them go back to their villages, murder their parents and their siblings, and if they don't do that, they cut their noses off and their ears off. We have pictures. We have seen this happen.

I am pleased that we have adopted as a policy of this country to intervene.

Let's keep in mind, we have a war against terrorists. These are terrorists and this has spread throughout—starting actually more in the Horn of Africa, Djibouti, and then moving down into the continent. This is the type of terrorism that comes from it. I consider this as a part of that war.

But I do want to emphasize that the accusation that Rwanda and their leadership, specifically President Kagame—let's remember what happened with Paul Kagame. He was the one back during the genocide of 1994 who was able to come in and pull everybody together. A lot of the rebels went to the west out in Rwanda and went into the eastern part of Congo. We know that is right. But they have been rejected. There is no accusation that there is even a relationship there. But I hope people realize we do have some great Presidents throughout the continent of Africa, and he is one of them. It is a difficult situation there. It is one on which we need to focus our attention.

By the way, I would say I don't believe it has been cleared on our side. It would be with me, but it hasn't happened yet, and we hope to work in that direction so we can take this up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent that the filing deadline for first-degree amendments to S. 3254, the Department of Defense authorization bill, be set at 9:45 tonight.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I understand that amendment No. 3199, an amendment of Senators Durbin and Inhofe, has now been cleared on both sides. So I ask unanimous consent that this amendment now be called up and considered.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3199.

Mr. LEVIN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To impose sanctions with respect to persons that provide significant financial, material, or technological support to the rebel group known as M23 operating in the Democratic Republic of the Congo)

At the end of subtitle D of title XII, add the following:

SEC. 1246. IMPOSITION OF SANCTIONS WITH RESPECT TO SUPPORT FOR THE REBEL GROUP KNOWN AS M23.

(a) BLOCKING OF ASSETS.—The Secretary of the Treasury shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and Executive Order 13413 (74 Fed. Reg. 64105; relating to blocking property of certain persons contributing to the conflict in the Democratic Republic of the Congo), block and prohibit all transactions in all property and interests in property of a person described in subsection (c) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(b) VISA BAN.—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who is a person described in subsection (c).

(c) PERSONS DESCRIBED.—A person described in this subsection is a person that the President determines provides, on or after the date of the enactment of this Act, significant financial, material, or technological support to M23.

(d) WAIVER.—The President may waive the application of this section with respect to a person if the President determines and reports to the appropriate congressional committees that the waiver is in the national interest of the United States.

(e) TERMINATION OF SANCTIONS.—The President may terminate sanctions imposed under this section with respect to a person on and after the date on which the President determines and reports to the appropriate congressional committees that the person has terminated the provision of significant financial, material, and technological support to M23.

(f) TERMINATION OF SECTION.—This section shall terminate on the date on which the President determines that M23 is no longer a significant threat to peace and security in the Democratic Republic of the Congo.

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives.

(2) M23.—The term ''M23'' refers to the rebel group known as M23 operating in the Democratic Republic of the Congo that derives its name from the March 23, 2009, agreement between the Government of the Democratic Republic of the Congo and the National Congress for the Defense of the People (or any successor group).

(3) UNITED STATES PERSON.—The term ''United States person'' means—

(A) an individual who is a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States.

Mr. LEVIN. I know of no further debate.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3199) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

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

Mr. LEVIN. Mr. President, let me thank Senators DURBIN and INHOFE for again focusing on a critical issue. I know Africa seems far away and some of these events seem far away, but they have tried to bring them home to us and, hopefully, we will be listening, all of us, to what they have accomplished and what they have done tonight. I hope the American people realize the importance of this issue and that the message will be clear to those who are violating civil rights so horrendously.

I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 3245

Under the previous order, the question is on agreeing to amendment No.

3245 offered by the Senator from New Hampshire.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Nevada (Mr. HELLER), and the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER (Mr. BLUMENTHAL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—54

Alexander	Grassley	Moran
Ayotte	Hagan	Murkowski
Barrasso	Hatch	Nelson (NE)
Baucus	Hoeven	Paul
Blunt	Hutchison	Portman
Boozman	Inhofe	Pryor
Brown (MA)	Inouye	Risch
Burr	Isakson	Roberts
Chambliss	Johanns	Rubio
Coats	Johnson (WI)	Sessions
Coburn	Kyl	Shelby
Cochran	Landrieu	Snowe
Collins	Lee	Stabenow
Corker	Lieberman	Thune
Cornyn	Lugar	Toomey
Crapo	Manchin	Vitter
Enzi	McCain	Webb
Graham	McConnell	Wicker

NAYS—41

Akaka	Feinstein	Mikulski
Begich	Franken	Murray
Bennet	Gillibrand	Nelson (FL)
Bingaman	Harkin	Reed
Blumenthal	Johnson (SD)	Reid
Boxer	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Conrad	McCaskill	Warner
Coons	Menendez	Whitehouse
Durbin	Merkley	

NOT VOTING—5

DeMint	Kirk	Wyden
Heller	Rockefeller	

The amendment (No. 3245) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Ms. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CORNYN. Mr. President, tonight the Senate will vote on an amendment offered by the senior Senator from California that affects the lawful authority of the U.S. military to detain enemy belligerents during wartime. This issue is necessarily complicated and difficult because the universe of detainees at issue includes U.S. citizens who are captured on American soil while taking up arms against their fellow citizens in the name of a foreign power or global terrorist organization.

This is not an abstract issue. The U.S. homeland remains a target for al Qaida terrorists, who hide among civilian populations and have successfully recruited our fellow citizens to carry out acts of terrorism.

Some of my colleagues contend that U.S. citizens forfeit their citizenship when they commit terrorist acts or acts of war against their fellow citizens but that they nevertheless should be tried and treated as common criminals with all of the attendant constitutional rights. Others believe that U.S. citizen-enemy combatants forfeit their constitutional rights altogether and can be detained indefinitely by the military without any judicial review.

I respectfully reject both of these positions. It is entirely consistent with both the Constitution and laws of war for the U.S. military to detain such individuals pursuant to a force authorization or war resolution until the cessation of hostilities. To be sure, there is historical precedent for this proposition. What is critical to remember and too often seems to be omitted from this debate is that a U.S. citizen or any other person lawfully inside our nation's borders—who is detained by our military does not forfeit their rights to habeas corpus review in a Federal court. In other words, they retain the constitutional right to challenge their detention before an impartial civilian judge.

The Supreme Court has noted that the ''writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action.'' And, in fact, a citizen's right to habeas corpus extends all of the way to review by the U.S. Supreme Court, the highest Court in the land.

In closing, what I find so confounding about this debate is the fact that groups like the American Civil Liberties Union, ACLU, Human Rights Watch, and Amnesty International have urged the Senate to reject the Feinstein amendment. These groups have said that a vote against the Feinstein amendment would send a clear message about our commitment to constitutional rights. I respect the views and passion of these groups but would urge a vote against the amendment for a different reason: namely, I believe that we can keep faith with the Constitution and maintain the global fight against al-Qaida.

Mr. DURBIN. Mr. President, I will support the Feinstein-Paul amendment. This amendment would make it clear that Congress has not authorized the indefinite detention of American citizens or lawful permanent residents apprehended in the United States without charge or trial. This is a commonsense amendment that should be completely noncontroversial. It has long been understood that is unconstitutional to indefinitely detain someone apprehended in the United States without charge or trial. Indeed, the fifth amendment of the Constitution provides simply that ''no person shall be . . . deprived of life, liberty, or property without due process of law.''

Indefinite detention in the United States is not just unconstitutional, it is unnecessary. Look at the track record. Since 9/11, our counterterrorism professionals have prevented another terrorist attack in the United States. And more than 400 terrorists have successfully been prosecuted and convicted in federal court. Here are just a few of the terrorists who have been convicted in federal court and are serving long prison sentences: Umar Faruk Abulmutallab, the Underwear Bomber; Ramzi Yousef, the mastermind of the 1993 WTC bombing; Omar Abdel Rahman, the so-called ''Blind Sheikh''; 20th 9/11 hijacker Zacarias Moussaoui; and Richard Reid, the ''Shoebomber''.

Some of my colleagues have claimed that the Supreme Court's Hamdi decision upheld the indefinite detention of U.S. citizens captured in the United States, but it did no such thing. Hamdi was captured in Afghanistan, not the United States. And Justice O'Connor, the author of the opinion, was very careful to say that the Hamdi decision was limited to, ''individuals who fought against the United States in Afghanistan as part of the Taliban.''

Some of my colleagues also cited the case of Jose Padilla, claiming that it is a precedent for the indefinite detention of U.S. citizens captured in the United States. But look at what happened in the Padilla case. Padilla is a U.S. citizen who was placed in military custody in the United States. The 4th Circuit Court of Appeals, one of the most conservative courts in the country, upheld Padilla's military detention. But then, before the Supreme Court had the chance to review the 4th Circuit's decision, the Bush administration transferred Padilla out of military custody and prosecuted him in criminal court. To this day, the Supreme Court has never ruled on the question of whether it is constitutional to indefinitely detain a U.S. citizen captured in the United States.

A number of prominent civil liberties and human rights organizations have expressed their concern that because the Feinstein-Paul amendment only prohibits indefinite detention of U.S. citizens and lawful permanent residents, it implicitly authorizes indefinite detention of others apprehended in the United States. I am very sympathetic to this concern. As Senator FEINSTEIN and Senator PAUL have both said on the floor of the Senate, they oppose the indefinite detention of anyone apprehended in the United States, including non-U.S. citizens and nonlawful permanent residents. I agree.

Senator FEINSTEIN and Senator PAUL included language in this amendment to make it clear that we are not implicitly authorizing the indefinite detention of individuals who are not U.S. citizens or legal permanent residents. On page 2, line 14, the amendment says

that the prohibition on indefinite detention of U.S. citizens and legal permanent residents ''shall not be construed to authorize the detention of . . . any other person who is apprehended in the United States.'' So in adopting this amendment, the Senate is not implicitly authorizing the indefinite detention of anyone.

To the contrary, the language I have just quoted makes it clear that this amendment does not change existing detention authority of non-U.S. citizens and non-lawful permanent residents in any way. What does that mean? It means that the Supreme Court will decide whether non-U.S. citizens and non-lawful permanent residents can be detained indefinitely without trial, not the United States Senate.

I want to thank Senator FEINSTEIN and Senator PAUL for their leadership on this issue and am proud to support their amendment.

Mrs. FEINSTEIN. Mr. President, in 1971, Congress passed and President Nixon signed into law the Non-Detention Act of 1971, which repealed a 1950 statute that explicitly allowed detention of U.S. citizens.

The Non-Detention Act of 1971 clearly states:

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress.

Despite this history, during last year's debate on the Defense authorization bill some in this body advocated for the indefinite detention of American citizens. This is an issue that has been the subject of much legal controversy since 9/11.

Proponents of indefinitely detaining U.S. citizens argue that the Authorization for Use of Military Force, AUMF, that was enacted in the wake of 9/11 is ''an act of Congress,'' in the language of the Non-Detention Act, that authorizes the indefinite detention of American citizens regardless of where they are captured.

We heard this argument again tonight from Senators LEVIN and GRAHAM. They assert that their position is justified by the U.S. Supreme Court's plurality decision in the 2004 case of Hamdi v. Rumsfeld. However, that position is undercut by the 2003 case of Padilla v. Rumsfeld in the Second Circuit Court of Appeals.

But let me discuss the facts of Hamdi because it is important to note that Yaser Esam Hamdi was a U.S. citizen who took up arms on behalf of the Taliban and was captured on the battlefield in Afghanistan. The Supreme Court effectively did uphold his military detention, so some of my colleagues seize upon this to say that the military can detain even U.S. citizens who are arrested domestically.

However, the Supreme Court's opinion in that case was a muddled decision by a four-vote plurality that recognized the power of the government to detain U.S. citizens captured in such circumstances as ''enemy combatants'' for some period, but otherwise repudiated the government's broad assertions of executive authority to detain citizens without charge or trial.

To the extent the Hamdi case permits the government to detain a U.S. citizen ''until the end of hostilities,'' it does so only under a very limited set of circumstances; namely, citizens taking an active part in hostilities who are captured in Afghanistan and who are afforded certain due process protections, at a minimum.

Additionally, decisions by the lower courts have contributed to the current state of legal ambiguity, principally those decisions involving Jose Padilla, a U.S. citizen who was arrested in Chicago. He was initially detained pursuant to a material witness warrant based on the 9/11 terrorist attacks.

In Padilla v. Rumsfeld the Second Circuit Court of Appeals held that the AUMF did not authorize his detention, saying:

> We conclude that clear congressional authorization is required for detentions of American citizens on American soil because . . . the Non-Detention Act . . . prohibits such detentions absent specific congressional authorization.

The Second Circuit went on to say that the 2001 Authorization for Use of Military Force ''is not such an authorization, and no exception to [the Non-Detention Act] otherwise exists.''

I think this history is particularly important in light of tonight's debate.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we have one more vote to start in just a few minutes. Senator LEVIN wants to say something about the schedule for tomorrow.

Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. We are going to be making a unanimous consent request, and would like to do it right now, that tomorrow morning there be debate and votes on the following five amendments: Senator SESSIONS on bilateral discussions with Afghanistan, Sessions amendment No. 3009; Cardin amendment No. 3025 on civilian personnel; Menendez amendment No. 3232 on Iran sanctions; Bill Nelson amendment No. 3073 involving widows and orphans; and Coburn amendment No. 3254 involving second amendment rights for veterans.

My request is that we have—I will make a unanimous consent request now that tomorrow morning, at whatever time is allotted for morning business by the leaders——

Mr. REID. There will be no morning business.

Mr. LEVIN. There will be no morning business—that we then proceed. Now we don't have time agreements yet on these five. That is going to take a few minutes. My unanimous consent request is that immediately after prayer tomorrow we move to these five amendments. We will allocate as little time as we can tonight after this unanimous consent agreement is agreed to, if it is.

Mr. SCHUMER. Reserving the right to object, would this allow a vote, an up-or-down vote on the Coburn amendment? Would this allow an up-or-down vote on the Coburn amendment?

Mr. LEVIN. This will.

Mr. SCHUMER. I object.

The PRESIDING OFFICER. The objection is heard.

VOTE ON AMENDMENT NO. 3018

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 3018, offered by the Senator from California, Mrs. FEINSTEIN.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nevada (Mr. HELLER) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Nevada (Mr. HELLER) would have voted ''yea.''

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 29, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—67

Akaka	Durbin	Merkley
Alexander	Enzi	Mikulski
Barrasso	Feinstein	Moran
Baucus	Franken	Murkowski
Begich	Gillibrand	Murray
Bennet	Graham	Nelson (FL)
Bingaman	Hagan	Paul
Blumenthal	Harkin	Reed
Blunt	Hoeven	Reid
Boozman	Inhofe	Risch
Boxer	Inouye	Sanders
Brown (OH)	Johnson (SD)	Schumer
Cantwell	Kerry	Shaheen
Cardin	Klobuchar	Snowe
Carper	Kohl	Stabenow
Casey	Landrieu	Tester
Coburn	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Lee	Warner
Coons	Levin	Webb
Corker	McCain	Whitehouse
Crapo	McCaskill	
DeMint	Menendez	

NAYS—29

Ayotte	Isakson	Pryor
Brown (MA)	Johanns	Roberts
Burr	Johnson (WI)	Rubio
Chambliss	Kyl	Sessions
Coats	Lieberman	Shelby
Cochran	Lugar	Thune
Cornyn	Manchin	Toomey
Grassley	McConnell	Vitter
Hatch	Nelson (NE)	Wicker
Hutchison	Portman	

NOT VOTING—4

Heller	Rockefeller
Kirk	Wyden

The amendment (No. 3018) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the last unanimous consent which was objected to listed the five amendments. I am now going to list the first four of those five amendments so everybody knows what I am doing.

I ask unanimous consent that it be in order for the following first-degree amendments to be offered tomorrow, with no more amendments tonight: Sessions 3009, Cardin 3025, Menendez 3232, and Nelson of Florida 3073.

The PRESIDING OFFICER. Is there objection?

The Senator from Oklahoma.

Mr. COBURN. Mr. President, reserving the right to object, I find it highly ironic that we just passed an amendment to protect the constitutional rights of Americans, and we have an objection to protecting the second amendment rights of the veterans of this country. How in the world can we say to people who fight and defend for us through a social worker deemed incompetent to carry a gun, that ought to be on the basis of a danger to themselves or to someone else, and it ought to be adjudicated, and we have Senators objecting to protecting the rights of the people who defend us?

On that basis, the contrary nature of that basis of what we just did, I will object to any further unanimous consents on this bill until we have a vote to protect the rights of the people who defend this country.

The PRESIDING OFFICER. Objection is heard.

The Senator from New York.

Mr. SCHUMER. Mr. President, I want to set the record straight. This is a provision in the law that I worked on in fact with the Senator from Oklahoma, and it says something very simple: If you are adjudicated mentally infirm, you are on the same list that prevents you from buying a gun as if you are a felon.

In my judgment—I love our veterans, I vote for them all the time. They defend us. But if you are mentally ill, whether you are a veteran or not—just as if you are a felon. If you are a veteran or not and you have been judged to be mentally infirm, you should not have a gun.

And no amendment, my friend, is absolute. The first amendment is not absolute. You are against antipornography laws. The third, fourth, fifth, sixth, seventh, eighth, and ninth amendments. And as much as I believe in the second amendment and the right to bear arms and was a supporter of the Heller decision, neither is the second amendment.

I continue my objections to the provision.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, after 12 hours today, 8 hours yesterday, over 42 amendments, and many more coming in the managers' package, what we have is a situation where the Senator from New York—because of his passion, which he just articulated—refuses to allow the Senator from Oklahoma his rights as a Senator; and that would be, since we have taken up this legislation with amendments and votes with a 51-vote majority as applicable, we have moved through, I am very proud to say, I think a very good process that I think all of us can be proud of.

But the Senator from New York, because of his passion and commitment and belief—all of which I respect—will now prevent the Senator from Oklahoma from having his amendment considered. Why? Because he is afraid he will lose. The Senator from South Carolina and the Senator from New Hampshire and I have been losing all day long, and I am passionate about that.

But I ask my colleague from New York, do we really want to have a situation where the depth of our passion now dictates whether the Senate should be allowed to go forward? The Senator from Oklahoma has the same right as every other Senator has had to propose an amendment. I will be glad to debate it, and up or down. Because if we are now going to tell our colleagues that if you have an amendment and you feel that you are going to lose and it really goes to the heart of your beliefs, that you are not going to allow the Senate to work, I think that is a very bad and dangerous precedent for us to set.

Passions are high tonight, I say to my friend from Michigan. I think we have a pending amendment now and there will be other amendments that we will line up. We could maybe overnight calm down a little bit and move forward with a process that we have enjoyed for the last 2 days. No matter how passionate we feel about a particular issue, we should let the Senate work its will; otherwise, we will never complete a piece of legislation around here unless we go back to what we have been doing before, and that is fill up the tree, file cloture, and then none of us are able to engage in what the Senate should—and that is open and honest debate and respecting the will of the majority.

So I urge, with all respect and appreciation for the passion of the Senator from New York, allow this process to go forward. Let an amendment be considered, let a second-degree amendment be considered, and respect the will of the majority, and move on and live to fight another day; otherwise, we will derail the Defense authorization bill that we have managed to pass for the last 51 years, and the men and women who are serving in the military and our Nation's security will be jeopardized.

I don't want to get into a fight with the Senator from New York. I respect his passion. But I hope for the good of the institution he would allow this process to go forward just as it has for the last couple of days.

I thank my friend from New York for listening.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, along the same lines, I would hope that at least with these four amendments—which are now ready to be debated and voted upon—that our friend from Oklahoma would allow that to proceed, with the notice that from thereon he would not allow any unanimous consent agreement. But this has been worked on for so long and these four amendments are lined up so nicely for debate tomorrow that I would urge him to relent and allow us to at least proceed to those four amendments. And he has now put the body on notice that he would not agree to any additional beyond that.

I happen to agree with my friend from Arizona. We are going to debate, folks. Sooner or later, these amendments are going to be debated, unless a cloture motion—which is going to be filed tomorrow—is approved on Monday. And then we are right back in the same problem we have had, which has just been eloquently described by Senator MCCAIN. And if we don't vote cloture, this bill isn't going anywhere. If we do vote cloture, then we will have made it impossible for some people to offer amendments, which they should be allowed to offer.

Let us be clear on what is happening tomorrow, to the extent it is possible—which is not very extensive. And I want to get the Chair to confirm this. There is a pending amendment. It is a modified Kyl amendment. This has been modified so that it was been worked out with Senator KERRY. That is pending. Is the Senator correct?

The PRESIDING OFFICER. The amendment has not yet been modified, but it is pending.

Mr. LEVIN. It is pending and will be modified tomorrow.

At that point the Chair is going to ask whether there is any additional debate on that amendment. If there is no additional debate, then the Chair is going to put the question. If there is a request for a rollcall, there will be a rollcall. If there is not, it will be voice voted. At that point, the floor is open. And I intend to then offer the Sessions amendment, the first one on this list, and then that is going to be open to debate. And if our colleagues want to come here tomorrow and filibuster or prevent a vote on the Sessions amendment, they are going to have to come here and debate.

But we have tried the best we know how to move this bill forward. We have done everything we know how, and we have made great progress, with the Members of this body being extremely cooperative. We are not giving up.

So the only technique left to us, given these two objections, is the one I just identified: to have the pending Kyl

amendment, after it is modified, debated. If no one wants to debate, the Chair is going to put the question, or we will have a rollcall on it if people want it. And then the floor is open, and I will be offering the next one in line, which is the Sessions amendment. Then if people want to debate that or filibuster that, the rules of the Senate allow you to do it. But I don't think that is what is going to happen.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, could I also add, I think we need to look at this in the larger context. The larger context is that there is a looming crisis in this body. The majority leader is going to possibly exercise a nuclear option, which then would change the way we do business around here, especially on the motion to proceed. The Senator from Michigan and I had two goals in mind: one, to achieve conclusion of the Defense authorization bill, which is vital to our national security on which I think we would all agree. But we also wanted to show our colleagues, and maybe the country, that we could move forward in a normal fashion with legislation, amendments, and final votes without cloture motions, without blocking things, without objecting to other people's amendments, and time agreements such as we have just completed in the last 20 hours, some 42 amendments that have been completed.

Again, I urge my colleagues, let's show ourselves and the majority leader and those who want to exercise this nuclear option that we can take up legislation in an orderly fashion and come to a conclusion and do the people's work.

There is more here, frankly, than just a refusal to allow an amendment.

We are again going to show that we have to file cloture and then there will be people going on and on. Then I say to my friends on this side of the aisle, that is going to mean it is more likely that we have this showdown which we think, many of us think, would be devastating to this institution and the way that it has done business for a couple of hundred years.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to say to my colleague from Arizona I very much appreciate his words and I appreciate the respect he has shown for how I feel about this particular issue. But I would like to say another thing here. We are in a little bit of ''Alice in Wonderland.'' The number of times I have risen to my feet in this body to object because I did not want an amendment to come forward can be counted on a single hand over the last year or two. My good colleague from Oklahoma has made himself a legislative powerhouse by regularly using that practice. In fact, my guess is—more than my guess, the reason his amendment was included on the list of five—there are hundreds of amendments pending—is because he told people just what he would do: He would object to every other amendment unless his amendment was included.

Let me say here that if this process is going to change, it is not going to start changing in one of the rare moments when the Senator from New York or some of my colleagues here use a process that has been regularly used by the other side to achieve their goals or thwart other people's goals. We are not going to start at this moment changing things when an amendment of great importance to many of us on this side is at risk. I find it unfair and in fact I find it a little bit turning the world—not the world, but the facts of how this body works—inside out. Because it is well known that my good friend from Oklahoma and others have used the very rule I have used tonight over and over again. That in fact, I would say to both my colleagues from Michigan and from Arizona, is one of the reasons we are so frustrated with the present state of the rules.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. All we are asking for the veterans of this country is that if their rights are taken away that it be adjudicated by a judge or magistrate. That is all we are asking. Rather than a social worker at the VA—which is what happens today to veterans. We are not asking for anything big. We are just saying if you are going to take away the second amendment rights, which means all those who truly should lose their rights will lose them, but they ought to have it adjudicated rather than mandated by somebody who is unqualified to state that they should lose their rights.

I will announce today right now that I will not object if Senator LEVIN again offers the request that will put four amendments on the floor. I will not object to that. I want to cooperate in this body. But I think you ought to think about what we just voted on—which I voted for—which is to protect the Bill of Rights for people of this country. To protect the Bill of Rights for people of this country. There could be no one for whom we should want to protect the Bill of Rights more than somebody who served our country.

We can object. All I am saying is, let them at least have their day in court if you are going to take away a fundamental right given under the Constitution. I will say today, if the Senator from Michigan offers his unanimous consent again I will not object and we will move forward because I want us to move forward. I want us to finish this bill. I want the Defense Department to be able to have something they can count on for the next year. But ask yourself in your heart, how fair is it? We are worried about terrorists and their Bill of Rights but we are not worried about the people who defend our country and their Bill of Rights? Tell me how we got to that point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent it be in order for the following first-degree amendments to be offered: Sessions No. 3009, Cardin No. 3025, Menendez No. 3232, Nelson of Florida no. 3073; that at 9:30 a.m. on Friday, tomorrow, November 30, following the prayer, that the Senate proceed to votes in relation to the amendments in the order listed; that there be 2 minutes equally divided prior to each vote; that there be no amendments in order to the amendments prior to the votes.

Mr. MCCAIN. Reserving the right to object, and I will not object, as I understand it, there are still no time agreements on this?

Mr. LEVIN. That is correct. We will work out time agreements——

Mrs. BOXER. Reserving the right——

Mr. MCCAIN. I still have the floor.

Mr. LEVIN. The only time agreement we have in yet is the time we come in, not a time for a vote.

Mr. MCCAIN. I wanted to clarify.

Mr. LEVIN. Oh, I did not state that correctly. I believed, and I am now wrong, that there would be a time agreement on each amendment that we would attempt to arrive at. That is not what this says. This provides, and I am going to read it again, and I did not listen to my own reading—that at 9:30, following the prayer tomorrow, the Senate proceed to votes in relation to the amendments in the order listed and that there be 2 minutes equally divided prior to each vote; and there be no amendments in order to the amendments prior to the votes.

I think we ought to have more debate on some of these amendments than that. The debates could take place tonight.

Mr. MENENDEZ. Reserving the right to object, I ask the Senator——

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Did the Senator say the only time for debate on these amendments would be 2 minutes?

Mr. LEVIN. Tonight is open for debate.

Mr. MENENDEZ. Tonight is open. Tomorrow there would just be 2 minutes on each amendment? Because Senator KIRK and I, and Senator LIEBERMAN, have amendments that several Members have asked to speak on, including the distinguished ranking member. I would then urge them to come tonight and speak on it. I will not object.

The PRESIDING OFFICER. The Senator from Arizona. Is there objection?

Mr. MCCAIN. I completed my statement.

Mrs. BOXER. Reserving the right to object and I will not object, I want to speak for 20 seconds. This is what I want to say.

There are amendments and there are amendments. We all know that. I think we have shown that we can work together. But when you try to repeal a

law that protects the lives of people—you talk about protecting rights, I am with you. I also want to protect the lives of people. Coming from a State where we have had many mass shootings it may take a little longer. Maybe we ought to have a hearing or two before you repeal a law that is so important to the safety of the people.

I will not object. I will see you all tomorrow.

Mr. COBURN. Reserving the right to object, this bill came out of the Veterans' Committee 14 to 0. They had hearings on it. We have done the work. It has been done. It came unanimously out of the Veterans' Committee. There is no question about what is right to do in terms of protecting—this is not about allowing anybody with any mental disease to have a gun. This is about taking the rights of those who do not have a mental disease to have their rights restored.

The PRESIDING OFFICER. Does the Senator from Oklahoma object?

Mr. COBURN. I do not.

The PRESIDING OFFICER. There has been a unanimous consent request. If there is no objection, it is so ordered.

The Senator from Michigan.

AMENDMENTS NOS. 2940, 3036, 3064, 3114, 3193, 3213, 3220, 3222, 3237, 3243, 3256, 3260, 3261, 3271, 3275, AND 3279

Mr. LEVIN. Mr. President, I now call up a list of 17 amendments which have been cleared by myself and Senator MCCAIN. I am going to list these amendments:

Blumenthal amendment No. 2940, Brown of Massachusetts amendment No. 3036, Toomey amendment No. 3064, Levin amendment No. 3114, Casey amendment No. 3193, Risch amendment No. 3213, Wicker amendment No. 3220, Johanns amendment No. 3222, Coburn amendment No. 3237, Levin amendment No. 3243, Lieberman amendment No. 3256, Cornyn amendment No. 3260, McCain amendment No. 3261, Kyl amendment No. 3271, Webb amendment No. 3275, Nelson of Nebraska amendment No. 3279.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Mr. President, reserving the right to object, and I will not object——

The PRESIDING OFFICER. The Senate will come to order.

Mr. MCCAIN. We now have 17 more amendments. We will be proceeding tomorrow morning. I want to tell my colleagues, we will be looking at other amendments to put into a package we can agree on, but I also urge many of my colleagues who have redundant and duplicative amendments to look at their amendments and withdraw them if possible so we can dispose of remaining amendments as soon as possible tomorrow.

I thank especially Senator FEINSTEIN and Senator GRAHAM and Senator AYOTTE and those who were involved in this whole detainee issue. I think it was a result that helped us to move forward enormously. I thank, obviously, the chairman for his unlimited patience, which is a quality which I do not have.

The PRESIDING OFFICER. Is there objection to the unanimous consent request to adopt the amendments en bloc?

Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 2940

(Purpose: To provide certain requirements relating to the retirement, adoption, care, and recognition of military working dogs)

At the end of subtitle E of title X, add the following:

SEC. 1048. MILITARY WORKING DOG MATTERS.

(a) RETIREMENT OF MILITARY WORKING DOGS.—

(1) Section 2583 of title 10, United States Code, is amended—

(A) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(B) by inserting after subsection (e) the following new subsection (f):

''(f) TRANSFER OF RETIRED MILITARY WORKING DOGS.—If the Secretary of the military department concerned determines that a military working dog should be retired, and no suitable adoption is available at the military facility where the dog is located, the Secretary may transfer the dog—

''(1) to the 341st Training Squadron; or

''(2) to another location for adoption under this section.''.

(b) VETERINARY CARE FOR RETIRED MILITARY WORKING DOGS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 993. Military working dogs: veterinary care for retired military working dogs

''(a) IN GENERAL.—The Secretary of Defense may establish and maintain a system to provide for the veterinary care of retired military working dogs. No funds may be provided by the Federal Government for this purpose.

''(b) ELIGIBLE DOGS.—A retired military working dog eligible for veterinary care under this section is any military working dog adopted under section 2583 of this title.

''(c) STANDARDS OF CARE.—The veterinary care provided under the system authorized by this section shall meet such standards as the Secretary shall establish and from time to time update.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 50 of such title is amended by adding at the end the following new item:

''993. Military working dogs: veterinary care for retired military working dogs.''.

(c) RECOGNITION OF SERVICE OF MILITARY WORKING DOGS.—The Secretary of Defense may authorize the recognition of military working dogs that are killed, wounded, or missing in action and military working dogs that perform an exceptionally meritorious or courageous act in service to the United States.

AMENDMENT NO. 3036

(Purpose: To require reports on the potential security threat posed by Boko Haram)

At the end of subtitle H of title X, add the following:

SEC. 1084. REPORTS ON THE POTENTIAL SECURITY THREAT POSED BY BOKO HARAM.

(a) DIRECTOR OF NATIONAL INTELLIGENCE REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress an intelligence assessment of the Nigerian organization known as Boko Haram. Such assessment shall address the following:

(1) The organizational structure, operational goals, and funding sources of Boko Haram.

(2) The extent to which Boko Haram threatens the stability of Nigeria and surrounding countries.

(3) The extent to which Boko Haram threatens the security of citizens of the United States or the national security or interests of the United States.

(4) Any interaction between Boko Haram and al-Qaeda in the Islamic Maghreb or other al-Qaeda affiliates with respect to operational planning and execution, training, and funding.

(5) The capacity of Nigerian security forces to counter the threat posed by Boko Haram and an assessment of the effectiveness of the strategy of the Nigerian government to date.

(6) Any intelligence gaps with respect to the leadership, operational goals, and capabilities of Boko Haram.

(b) SECRETARY OF STATE REPORT.—Not later than 90 days after the date the report required by subsection (a) is submitted to Congress, the Secretary of State shall submit to Congress a report describing the strategy of the United States to counter the threat posed by Boko Haram.

AMENDMENT NO. 3064

(Purpose: To require a study on the Bradley Fighting Vehicle industrial base)

At the end of subtitle F of title X, add the following:

SEC. 1064. STUDY ON BRADLEY FIGHTING VEHICLE INDUSTRIAL BASE.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall conduct a study on the Bradley Fighting Vehicle industrial base.

(b) CONTENT.—The study required under subsection (a) shall—

(1) assess the quantitative impacts of a production break for the Bradley Fighting Vehicle, including the cost of shutdown compared to the cost of continued production; and

(2) assess the qualitative impacts of a production break for the Bradley Fighting Vehicle, including the loss of a specialized workforce and supplier base.

AMENDMENT NO. 3114

(Purpose: To authorize the repair, overhaul, and refurbishment of defense articles for sale or transfer to eligible foreign countries and entities)

At the end of subtitle D of title XII, add the following:

SEC. 1246. PROGRAM ON REPAIR, OVERHAUL, AND REFURBISHMENT OF DEFENSE ARTICLES FOR SALE OR TRANSFER TO ELIGIBLE FOREIGN COUNTRIES AND ENTITIES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program to repair, overhaul, or refurbish in-stock defense articles in anticipation of the sale or transfer of such defense articles to eligible foreign countries or international organizations under law.

(b) FUND FOR SUPPORT OF PROGRAM AUTHORIZED.—The Secretary of Defense may establish and administer a fund to be known as the ''Special Defense Repair Fund'' (in this section referred to as the ''Fund'') to support the program authorized by subsection (a).

(c) CREDITS TO FUND.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the following shall be credited to the Fund:

(A) Subject to applicable provisions of appropriations Acts, such amounts, not to exceed $48,400,000 per fiscal year, from amounts authorized to be appropriated for the Department of Defense for operation and maintenance for the Army as the Secretary of Defense considers appropriate.

(B) Notwithstanding section 114(c) of title 10, United States Code, any collection from the sale or transfer of defense articles from Department of Defense stocks repaired, overhauled, or refurbished with amounts from the Fund that are not intended to be replaced which sale or transfer is made pursuant to section 21(a)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(a)(1)(A)), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or another provision of law.

(C) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), any cash payment from the sale or transfer of defense articles from Department of Defense stocks repaired, overhauled, or refurbished with amounts from the Fund that are intended to be replaced.

(2) LIMITATION ON AMOUNTS CREDITABLE FROM SALE OR TRANSFER OF ARTICLES.—

(A) CREDITS IN CONNECTION WITH ARTICLES NOT TO BE REPLACED.—The amount credited to the Fund under paragraph (1)(B) in connection with a collection from the sale or transfer of defense articles may not exceed the cost incurred by the Department of Defense in repairing, overhauling, or refurbishing such defense articles under the program authorized by subsection (a).

(B) CREDITS IN CONNECTION WITH ARTICLES TO BE REPLACED.—The amount credited to the Fund under paragraph (1)(C) in connection with a sale or transfer of defense articles may not exceed the amounts from the Fund used to repair, overhaul, or refurbish such defense articles.

(3) LIMITATION ON SIZE OF FUND.—The total amount in the Fund at any time may not exceed $50,000,000.

(4) TREATMENT OF AMOUNTS CREDITED.—Amounts credited to the Fund under this subsection shall be merged with amounts in the Fund, and shall remain available until expended.

(d) NONAVAILABILITY OF AMOUNTS IN FUND FOR STORAGE, MAINTENANCE, AND RELATED COSTS.—Following the repair, overhaul, or refurbishment of defense articles under the program authorized by subsection (a), amounts in the Fund may not be used to pay costs of storage and maintenance of such defense articles or any other costs associated with the preservation or preparation for sale or transfer of such defense articles.

(e) SALES OR TRANSFERS OF DEFENSE ARTICLES.—

(1) IN GENERAL.—Any sale or transfer of defense articles repaired, overhauled, or refurbished under the program authorized by subsection (a) shall be in accordance with—

(A) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(B) the Foreign Assistance Act of 1961; or

(C) another provision of law authorizing such sale or transfer.

(2) SECRETARY OF STATE CONCURRENCE REQUIRED FOR CERTAIN SALES OR TRANSFERS TO FOREIGN COUNTRIES.—If the sale or transfer of defense articles occurs in accordance with a provision of law referred to in paragraph (1)(C) that does not otherwise require the concurrence of the Secretary of State for the sale or transfer, the sale or transfer may be made only with the concurrence of the Secretary of State.

(f) TRANSFERS OF AMOUNTS.—

(1) TRANSFER TO OTHER DEPARTMENT OF DEFENSE ACCOUNTS.—Amounts in the Fund may be transferred to any Department of Defense account used to carry out the program authorized by subsection (a). Any amount so transferred shall be merged with amounts in the account to which transferred, and shall be available for the same purposes and the same time period as amounts in the account to which transferred.

(2) TRANSFER FROM OTHER DEPARTMENT OF DEFENSE ACCOUNTS.—Upon a determination by the Secretary of Defense with respect to an amount transferred under paragraph (1) that all or part of such transfer is not necessary for the purposes transferred, such amount may be transferred back to the Fund. Any amount so transferred shall be merged with amounts in the Fund, and shall remain available until expended.

(g) CERTAIN EXCESS PROCEEDS TO BE CREDITED TO SPECIAL DEFENSE ACQUISITION FUND.—Any collection from the sale or transfer of defense articles that are not intended to be replaced in excess of the amount creditable to the Fund under subsection (c)(2)(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.).

(h) REPORTS.—

(1) ANNUAL REPORT.—Not later than 45 days after the end of each fiscal year through the date of expiration specified in subsection (j), the Secretary of Defense shall submit to the congressional defense committees a report on the authorities under this section during such fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

(A) The types and quantities of defense articles repaired, overhauled, or refurbished under the program authorized by subsection (a).

(B) The value of the repair, overhaul, or refurbishment performed under the program.

(C) The amount of operation and maintenance funds credited to the Fund under subsection (c)(1)(A).

(D) The amount of any collections from the sale or transfer of defense articles repaired, overhauled, or refurbished under the program that was credited to the Fund under subsection (c)(1)(B).

(E) The amount of any cash payments from the sale or transfer of defense articles repaired, overhauled, or refurbished under the program that was credited to the Fund under subsection (c)(1)(C).

(2) ASSESSMENT REPORT.—Not later than February 1, 2015, the Secretary of Defense shall submit to the congressional defense committees a report on the operation of the authorities in this section. The report shall include an assessment of the effectiveness of the authorities in meeting the objectives of the program authorized by subsection (a).

(i) DEFENSE ARTICLE DEFINED.—In this section, the term ''defense article'' has the meaning given that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

(j) EXPIRATION OF AUTHORITY.—The authority to carry out the program authorized by subsection (a), and to use amounts in the Fund in support of the program, shall expire on September 30, 2015.

(k) FUNDING FOR FISCAL YEAR 2013.—Of the amounts authorized to be appropriated for fiscal year 2013 by section 1504 for Overseas Contingency Operations and available for operation and maintenance for the Army as specified in funding table in section 4302, $48,400,000 shall be available for deposit in the Fund pursuant to subsection (c)(1)(A), with the amount of the deposit to be attributable to amounts otherwise so available for the YMQ–18A unmanned aerial vehicle, which has been cancelled.

AMENDMENT NO. 3193

(Purpose: To require the Department of Defense to develop a plan to promote the security of Afghan women and girls during the security transition process)

The text of the amendment is printed in today's RECORD under ''Text of Amendments.''

AMENDMENT NO. 3213

(Purpose: To add the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives to the list of congressional committees to receive the submission of reports on the program for scientific engagement for nonproliferation)

Strike section 3114 and insert the following:

SEC. 3114. PROGRAM ON SCIENTIFIC ENGAGEMENT FOR NONPROLIFERATION.

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—Title XLIII of the Atomic Energy Defense Act (50 U.S.C. 2562 et seq.) is amended by adding at the end the following new section:

''SEC. 4309. PROGRAM ON SCIENTIFIC ENGAGEMENT FOR NONPROLIFERATION.

''(a) PROGRAM REQUIRED.—(1) The Secretary of Energy shall, acting through the Administrator of the National Nuclear Security Administration, carry out a program on scientific engagement in countries selected by the Secretary for purposes of the program in order to advance global nonproliferation and nuclear security efforts.

''(2) The program required by this section shall be a distinct program from the Global Initiatives for Proliferation Prevention program.

''(b) ELEMENTS.—The program shall include the elements as follows:

''(1) Training and capacity-building to strengthen nonproliferation and security best practices.

''(2) Engagement of United States scientists with foreign counterparts to advance nonproliferation goals.

''(c) REPORT ON COMMENCEMENT OF PROGRAM.—Funds may not be expended under the program required by this section until the Administrator submits to the appropriate congressional committees a report setting forth the following:

''(1) For each country selected for the program as of the date of such report—

''(A) a proliferation threat assessment prepared by the Director of National Intelligence; and

''(B) metrics for evaluating the success of the program.

''(2) Accounting standards for the conduct of the program approved by the Comptroller General of the United States.

''(d) REPORTS ON MODIFICATION OF PROGRAM.—Before making any modification in the program (whether selecting a new country for the program, ceasing the selection of a country for the program, or modifying an element of the program), the Administrator shall submit to the appropriate congressional committees a report on the modification. If the modification consists of the selection for the program of a country not previously selected for the program, the report shall include the matters specified in subsection (c)(1) for the country.

''(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

''(1) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

''(2) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 4001(b) of such Act (division D of Public Law 107–314) is amended by

inserting after the item relating to section 4308 the following new item:

''Sec. 4309. Program on scientific engagement for nonproliferation.''.

(b) REPORT ON COORDINATION WITH OTHER UNITED STATES NONPROLIFERATION PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the National Nuclear Security Administration shall submit to the appropriate congressional committees a report describing the manner in which the program on scientific engagement for nonproliferation under section 4309 of the Atomic Energy Defense Act (as added by subsection (a)) coordinates with and complements, but does not duplicate, other nonproliferation programs of the United States Government.

(c) COMPTROLLER GENERAL OF THE UNITED STATES REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the program on scientific engagement for nonproliferation under section 4309 of the Atomic Energy Defense Act (as so added). The report shall include an assessment by the Comptroller General of the success of the program, as determined in accordance with the metrics for evaluating the success of the program under subsection (c)(1)(B) of such section 4309, and such other matters on the program as the Comptroller General considers appropriate.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

AMENDMENT NO. 3220

(Purpose: To express the sense of Congress in support of the Israeli Iron Dome defensive weapon system)

At the end of subtitle D of title XII, add the following:

SEC. 1246. SENSE OF CONGRESS ON THE ISRAELI IRON DOME DEFENSIVE WEAPON SYSTEM.

(a) FINDINGS.—Congress makes the following findings:

(1) The citizens of Israel have suffered under a continual barrage of missiles, rockets, and mortar shells from the Hamas-controlled Gaza Strip.

(2) Hamas has been designated by the Secretary of State as a Foreign Terrorist Organization.

(3) Hamas and other terrorist groups in Gaza have routinely used human shields and launched rockets from civilian areas.

(4) Israel has gone to extraordinary lengths to avoid Palestinian civilian casualties, including aborting attacks on military targets because of the presence of civilians, alerting civilians to leave areas of potential conflict, and allowing the importation of medical and other supplies into Gaza.

(5) Israel faces additional rocket and missile threats from Lebanon and Syria.

(6) The Government of Iran has supplied Hamas with advanced longer range missiles such as the Fajar–5.

(7) Hamas has deployed these weapons to be fired from within their own civilian population.

(8) The Government of Israel, taking seriously the threat of short range rockets and mortars, designed, developed, and produced the Iron Dome system to address those threats.

(9) The Iron Dome system has successfully intercepted hundreds of rockets targeting population centers in Israel.

(10) The Iron Dome system has maintained a success rate of close to 90 percent.

(11) The Government of Israel currently maintains 5 Iron Dome batteries, a number insufficient to protect all of Israel.

(12) It appears that approximately 10 additional Iron Dome batteries are needed to protect all of Israel.

(13) The United States Government, recognizing the threat to Israeli citizens and desirous of promoting peace, approved funding to assist the Government of Israel in procuring Iron Dome batteries.

(14) Israel maintains a significant inventory of Iron Dome interceptors which has been reduced due to attacks from Gaza.

(15) Israel used a significant number of precision-guided munitions in order to destroy military targets while minimizing civilian casualties in its recent defensive effort in Gaza.

(16) President Barack Obama has expressed his intention to seek additional funding for Iron Dome and other United States-Israel missile defense systems.

(b) SENSE OF CONGRESS.—Congress—

(1) reaffirms its commitment to the security of our ally and strategic partner, Israel;

(2) fully supports Israel's right to defend itself against acts of terrorism;

(3) sympathizes with the families of Israelis who have come under the indiscriminate rocket fire from Hamas-controlled Gaza;

(4) recognizes the exceptional success of the Iron Dome Missile Defense system in defending the population of Israel;

(5) desires to help ensure that Israel has the means to defend itself against terrorist attacks, including through the acquisition of additional Iron Dome batteries and interceptors; and

(6) urges the Departments of Defense and State to explore with their Israeli counterparts and alert Congress of any needs the Israeli Defense Force may have for additional Iron Dome batteries, interceptors, or other equipment depleted during the current conflict.

AMENDMENT NO. 3222

(Purpose: To express the expectation of Congress to be consulted by the Secretary of Defense before the Secretary pursues a change in the command status of the United States Cyber Command)

At the end of subtitle C of title IX, add the following:

SEC. 935. SENSE OF CONGRESS ON THE UNITED STATES CYBER COMMAND.

(a) FINDINGS.—Congress makes the following findings:

(1) On June 23, 2009, the Secretary of Defense directed the Commander of the United States Strategic Command to establish the United States Cyber Command, which became operational on May 21, 2010, and operates as a sub-unified command subordinate to the United States Strategic Command.

(2) In May 2012, media reports indicated that General Martin Dempsey, the Chairman of the Joint Chiefs of Staff, planned to recommend to Secretary of Defense Leon Panetta that the two-year-old United States Cyber Command be elevated to full combatant command status.

(3) On August 14, 2012, General Keith Alexander, the Commander of the United States Cyber Command and the Director of the National Security Agency, addressed the TechNet Land Forces conference and stated that ''[i]n 2007 we drafted . . . a paper . . . about establishing a Cyber Command . . . [which concluded that] . . . the most logical is to set it up as a sub unified and grow it to a unified, and I think that's the process that we're going to work our way through''.

(4) On October 11, 2012, Secretary of Defense Leon Panetta discussed cybersecurity in a speech to the Business Executives for National Security in New York, New York, specifically calling for a strengthening of the United States Cyber Command and stating that the Department of Defense ''must ensure that [the United States Cyber Command] has the resources, that it has the authorities, that it has the capabilities required to perform this growing mission. And it must also be able to react quickly to events unfolding in cyberspace and help fully integrate cyber into all of the department's plans and activities.''.

(b) SENSE OF CONGRESS.—Congress—

(1) recognizes the serious cyber threat to national security and the need to work both offensively and defensively to protect the Nation's networks and critical infrastructure;

(2) acknowledges the importance of the unified command structure of the Department in directing military operations in cyberspace and recognizes that a change in the status of the United States Cyber Command has Department-wide and national security implications, which require careful consideration;

(3) expects to be briefed and consulted about any proposal to elevate the United States Cyber Command to a unified command before a decision by the Secretary make such a proposal to the President and to receive, at a minimum—

(A) a clear statement of mission and related legal definitions;

(B) an outline of the specific national security benefits of elevating the sub-unified United States Cyber Command to a unified command;

(C) an estimate of the cost of creating a unified United States Cyber Command and a justification of the expenditure; and

(D) if the Secretary considers it advisable to continue the designation of the Commander of the United States Cyber Command as also being the Director of the National Security Agency—

(i) an explanation of how a single individual could serve as a commander of a combatant command that conducts overt, albeit clandestine, cyber operations under title 10, United States Code, as well as the director of an intelligence agency that conducts covert cyber operations under the National Security Act of 1947 (50 U.S.C. 401 et seq.) in a manner that affords deniability to the United States; and

(ii) a statement of whether the Secretary believes it is appropriate either to appoint a line officer as the Director of the National Security Agency or to take the unprecedented step of appointing an intelligence officer as a unified commander; and

(4) believes that appropriate policy foundations and standing rules of engagement must be in place before any decision to create a unified United States Cyber Command.

AMENDMENT NO. 3237

(Purpose: To set forth consequences for the failure of the Department of Defense to obtain audits with an unqualified opinion on its financial statements by fiscal year 2017)

At the end of subtitle A of title IX, add the following:

SEC. 903. FAILURE OF THE DEPARTMENT OF DEFENSE TO OBTAIN AUDITS WITH AN UNQUALIFIED OPINION ON ITS FINANCIAL STATEMENTS BY FISCAL YEAR 2017.

If the Department of Defense fails to obtain an audit with an unqualified opinion on

its financial statements for fiscal year 2017, the following shall take effect, effective as of the date of the issuance of the opinion on such audit:

(1) REORGANIZATION OF RESPONSIBILITIES OF CHIEF MANAGEMENT OFFICER.—

(A) POSITION OF CHIEF MANAGEMENT OFFICER.—Section 132a of title 10, United States Code, is amended to read as follows:

''§ 132a. Chief Management Officer

''(a) IN GENERAL.—(1) There is a Chief Management Officer of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

''(2) Any individual nominated for appointment as Chief Management Officer shall be an individual who has—

''(A) extensive executive level leadership and management experience in the public or private sector;

''(B) strong leadership skills;

''(C) a demonstrated ability to manage large and complex organizations; and

''(D) a proven record in achieving positive operational results.

''(b) POWERS AND DUTIES.—The Chief Management Officer shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

''(c) SERVICE AS CHIEF MANAGEMENT OFFICER.—(1) The Chief Management Officer is the Chief Management Officer of the Department of Defense.

''(2) In serving as the Chief Management Officer of the Department of Defense, the Chief Management Officer shall be responsible for the management and administration of the Department of Defense with respect to the following:

''(A) The expenditure of funds, accounting, and finance.

''(B) Procurement, including procurement of any enterprise resource planning (ERP) system and any information technology (IT) system that is a financial feeder system, human resources system, or logistics system.

''(C) Facilities, property, nonmilitary equipment, and other resources.

''(D) Strategic planning, and annual performance planning, and identification and tracking of performance measures.

''(E) Internal audits and management analyses of the programs and activities of the Department, including the Defense Contract Audit Agency.

''(F) Such other areas or matters as the Secretary of Defense may designate.

''(3) The head of the Defense Contract Audit Agency shall be under the supervision of, and shall report directly to, the Chief Management Officer.

''(d) PRECEDENCE.—The Chief Management Officer takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 131(b) of title 10, United States Code, is amended—

(I) by striking paragraph (3);

(II) by redesignating paragraph (2) as paragraph (3); and

(III) by inserting after paragraph (1) the following new paragraph (2):

''(2) The Chief Management Officer of the Department of Defense.''.

(ii) Section 132 of such title is amended—

(I) by striking subsection (c); and

(II) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(iii) Section 133(e)(1) of such title is amended by striking ''and the Deputy Secretary of Defense'' and inserting '', the Deputy Secretary of Defense, and the Chief Management Officer of the Department of Defense''.

(iv) Such title is further amended by inserting ''the Chief Management Officer of the Department of Defense,'' after ''the Deputy Secretary of Defense,'' each place it appears in the provisions as follows:

(I) Section 133(e)(2).

(II) Section 134(c).

(v) Section 137a(d) of such title is amended by striking ''the Secretaries of the military departments,'' and all that follows and inserting ''the Chief Management Officer of the Department of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.''.

(vi) Section 138(d) of such title is amended by striking ''the Secretaries of the military departments,'' and all that follows through the period and inserting ''the Chief Management Officer of the Department of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, and the Director of Defense Research and Engineering.''.

(C) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title is amended by striking the item relating to section 132a and inserting the following new item:

''132a. Chief Management Officer.''.

(D) EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Chief Management Officer of the Department of Defense.''.

(E) REFERENCE IN LAW.—Any reference in any provision of law to the Chief Management Officer of the Department of Defense shall be deemed to refer to the Chief Management Officer of the Department of Defense under section 132a of title 10, United States Code (as amended by this paragraph).

(2) JURISDICTION OF DFAS.—

(A) TRANSFER TO DEPARTMENT OF THE TREASURY.—Jurisdiction of the Defense Finance and Accounting Service (DFAS) is transferred from the Department of Defense to the Department of the Treasury.

(B) ADMINISTRATION.—The Secretary of the Treasury shall administer the Defense Finance and Accounting Service following transfer under this paragraph through the Financial Management Service of the Department of the Treasury.

(C) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense and the Secretary of the Treasury shall jointly enter into a memorandum of understanding regarding the transfer of jurisdiction of the Defense Finance and Accounting Service under this paragraph. The memorandum of understanding shall provide for the transfer of the personnel and other resources of the Service to the Department of the Treasury and for the assumption of responsibility for such personnel and resources by the Department of the Treasury.

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed as terminating, altering, or revising any responsibilities or authorities of the Defense Finance and Accounting Service (other than responsibilities and authorities in connection with the exercise of jurisdiction of the Service following transfer under this paragraph).

AMENDMENT NO. 3243

(Purpose: To commend the Enduring Strategic Partnership Agreement between the United States of America and the Islamic Republic of Afghanistan)

At the end of subtitle B of title XII, add the following:

SEC. 1221. SENSE OF CONGRESS COMMENDING THE ENDURING STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE UNITED STATES AND AFGHANISTAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Afghanistan have been allies in the conflict against al Qaeda and its affiliates for over a decade, with the shared goal of ensuring that Afghanistan is never again a sanctuary for al Qaeda.

(2) The United States and Afghanistan are committed to the framework agreed to at the North Atlantic Treaty Organization (NATO) Summit in Lisbon in 2010, and reaffirmed at the NATO Summit in Chicago in 2012, for the transition from coalition forces to the Afghan National Security Forces of lead responsibility for security throughout Afghanistan by the end of 2014.

(3) In June 2011, President Barack Obama said, ''What we can do, and will do, is build a partnership with the Afghan people that endures—one that ensures that we will be able to continue targeting terrorists and supporting a sovereign Afghan government.''

(4) In November 2011, a traditional loya jirga in Kabul declared that ''strategic cooperation with the United States of America, which is a strategic ally of the people and government of Afghanistan, is considered important in order to ensure political, economic, and military security'' and also stated, ''Signing a strategic cooperation document with the United States conforms with the national interest of Afghanistan and is of significant importance.''

(5) On May 2, 2012, President Obama and President Hamid Karzai signed the Enduring Strategic Partnership Agreement Between the United States of America and the Islamic Republic of Afghanistan.

(6) At the signing of the Enduring Strategic Partnership Agreement, President Obama said, ''Today we're agreeing to be long-term partners in combating terrorism, and training Afghan security forces, strengthening democratic institutions and supporting development, and protecting human rights of all Afghans. With this agreement, the Afghan people, and the world, should know that Afghanistan has a friend and a partner in the United States.''

(7) At a May 20, 2012, bilateral meeting with President Karzai at the NATO Summit in Chicago, President Obama said that the Enduring Strategic Partnership Agreement ''reflects a future in which two sovereign nations—the United States and Afghanistan—are operating as partners, to the benefit of our countries' citizens, but also for the benefit of peace and security and stability in the region and around the world''.

(8) President Karzai said at the May 20, 2012, bilateral meeting with President Obama, ''Mr. President, the partnership that we signed a few weeks ago in Kabul has turned a new page in our relations. And the new page is a page of two sovereign countries working together for the mutual interests—peace and security and in all other areas.''

(9) On May 26, 2012, the Wolesi Jirga, the lower house of the Afghan parliament, approved the Agreement by a vote of 191–7 with 2 abstentions.

(10) On June 3, 2012, the Meshrano Jirga, the upper house of the Afghan parliament, approved the Agreement by a vote of 67–13.

(11) On July 8, 2012, at the Tokyo Conference on Afghanistan, the international community and the Government of Afghanistan reaffirmed their partnership in the economic growth and development of Afghanistan through a process of mutual commitments and accountability.

(12) On July 4, 2012, the Enduring Strategic Partnership Agreement entered into force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the members of the United States Armed Forces, intelligence community, and diplomatic and development community of the United States are to be commended for their dedicated efforts and sacrifices in support of military and stability operations in

Afghanistan that have helped strengthen security in Afghanistan, laid the foundation for transition to a long-term partnership between the United States and a sovereign Afghanistan, and supported the Government and people of Afghanistan as they continue to build their capacity to effectively and justly govern;

(2) the United States negotiating team for the Enduring Strategic Partnership Agreement, including the United States Embassy personnel in Kabul under the leadership of Ambassador Ryan Crocker, is to be commended for its committed diplomatic efforts;

(3) the Governments of the United States and Afghanistan are to be commended for concluding the Enduring Strategic Partnership Agreement;

(4) Congress supports the objectives and principles of the Enduring Strategic Partnership Agreement, including protecting and promoting shared democratic values, advancing long-term security, reinforcing regional security and cooperation, fostering social and economic development, upholding the rights of women and minorities, and strengthening institutions and governance in Afghanistan;

(5) it is essential that the Government and people of Afghanistan fulfill Afghanistan's international commitments as agreed at the Tokyo Conference of July 2012, the Bonn Conference of December 2011, the Kabul Conference of July 2011, and other venues to combat corruption, protect the equal rights of all citizens of Afghanistan and enforce the rule of law, hold free and fair elections in 2014, and build inclusive and effective institutions of democratic governance;

(6) a key national security interest of the United States is to maintain a long-term political, economic, and military relationship with Afghanistan, including a limited presence of United States Armed Forces for the purpose of training, advising, and supporting Afghan National Security Forces and cooperating on shared counterterrorism objectives;

(7) the negotiation and conclusion of a Bilateral Security Agreement, as called for in the Enduring Strategic Partnership Agreement, will provide a fundamental framework for the long-term security relationship between the United States and Afghanistan; and

(8) Congress has a critical role in continuing to provide the support and assistance necessary to achieve the goals of the Enduring Strategic Partnership Agreement.

AMENDMENT NO. 3256

(Purpose: To require reports from the Comptroller General of the United States on certain aspects of joint professional military education)

At the end of subtitle F of title V, add the following:

SEC. 561. COMPTROLLER GENERAL OF THE UNITED STATES REPORTS ON JOINT PROFESSIONAL MILITARY EDUCATION MATTERS.

(a) REPORT ON REVIEW OF MILITARY EDUCATION COORDINATION COUNCIL REPORT.—

(1) REVIEW OF METHODOLOGY.—The Comptroller General of the United States shall review the methodology used by the Military Education Coordination Council in compiling the report on joint professional military education that is to be submitted to the Director of Joint Force Development by March 1, 2013, pursuant to the Joint Staff Memorandum, Joint Staff Review, dated July 16, 2012. The review shall include an examination of the analytical approach used by the Council for that report, including the types of information considered, the cost savings identified, the benefits of options considered, the time frames for implementation, and transparency.

(2) REPORT.—Not later than 90 days after receiving from the Director of Joint Force Development the report described in paragraph (1), the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review under paragraph (1) of the report described in that paragraph. The report of the Comptroller General under this paragraph shall set forth the following:

(A) The results of the review under paragraph (1).

(B) Such recommendations as the Comptroller General considers appropriate in light of the results of the review.

(b) REPORT ON JOINT PROFESSIONAL MILITARY EDUCATION RESEARCH INSTITUTIONS.—

(1) REPORT REQUIRED.—Not later than January 31, 2014, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the assessment by the Comptroller General of the work performed by joint professional military education research institutions in support of professional military education and the broader mission of the Department of Defense, the military departments, and the Defense Agencies.

(2) ELEMENTS.—The report required by paragraph (1) shall include an assessment of the following:

(A) The systems, mechanisms, and structures within the senior and intermediate joint professional military education colleges and universities for oversight, governance, and management of the joint professional military education research institutions, including systems, mechanisms, and structures relating to the development of policies and budgets for research.

(B) The factors contributing to and the extent of growth in the number and size of joint professional military education research institutions since 2000.

(C) The causes and extent of cost growth at joint professional military education research institutions since 2000.

(D) The focus of research activity conducted by the joint professional military education research institutions, and the extent to which each joint professional military education research institution performs a unique research function or engages in similar or duplicative efforts with other components or elements of the Department of Defense.

(E) The measures of effectiveness used by the joint professional military education research institutions, the senior and intermediate joint professional military education colleges and universities, and other oversight entities to evaluate the performance of the joint professional military education research institutions in meeting established goals or objectives.

(3) DEFINITIONS.—In this subsection:

(A) The term ''joint professional military education research institutions'' means subordinate organizations (including centers, institutes, and schools) under the senior and intermediate joint professional military education colleges and universities for which research is the primary mission or reason for existence.

(B) The term ''senior and intermediate joint professional military education colleges and universities'' means the following:

(i) The National Defense University.

(ii) The Army War College.

(iii) The Navy War College.

(iv) The Air University.

(v) The Air War College.

(vi) The Marine Corp University.

AMENDMENT NO. 3260

(Purpose: To prohibit the use of funds to enter into contracts or agreements with Rosoboronexport)

At the end of subtitle E of title X, add the following:

SEC. 1048. PROHIBITION ON FUNDS TO ENTER INTO CONTRACTS OR AGREEMENTS WITH ROSOBORONEXPORT.

(a) PROHIBITION.—None of the funds authorized to be appropriated by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, to make a grant to, or to provide a loan or loan guarantee to Rosoboronexport.

(b) NATIONAL SECURITY WAIVER AUTHORITY.—The Secretary of Defense may waive the applicability of subsection (a) if the Secretary determines that such a waiver is in the national security interests of the United States with respect to the capacity of the Afghan National Security Forces (ANSF).

AMENDMENT NO. 3261

(Purpose: To require the submittal to Congress of risk assessments on changes in United States troop levels in Afghanistan)

At the end of subtitle C of title XV, add the following:

SEC. 1536. SUBMITTAL TO CONGRESS OF RISK ASSESSMENTS ON CHANGES IN UNITED STATES TROOP LEVELS IN AFGHANISTAN.

(a) SUBMITTAL REQUIRED.—Not later than 30 days after a decision by the President to change the levels of United States Armed Forces deployed in Afghanistan, the Chairman of the Joint Chiefs of Staff shall, through the Secretary of Defense, submit to the congressional defense committees a detailed assessment of the risk to the United States mission and interests in Afghanistan as the change in levels is implemented.

(b) ELEMENTS.—The risk assessment under subsection (a) on a change in levels of United States Armed Forces in Afghanistan shall include the following:

(1) A description of the current security situation in Afghanistan.

(2) A description of any anticipated changes to United States military operations and objectives in Afghanistan associated with such change in levels.

(3) An identification and assessment of any changes in United States military capabilities, including manpower, logistics, intelligence, and mobility support, in Afghanistan associated with such change in levels.

(4) An identification and assessment of the risk associated with any changes in United States mission, military capabilities, operations, and objectives in Afghanistan associated with such change in levels.

(5) An identification and assessment of any capability gaps within the Afghanistan security forces that will impact their ability to conduct operations following such change in levels.

(6) An identification and assessment of the risk associated with the transition of combat responsibilities to the Afghanistan security forces following such change in levels.

(7) An assessment of the impact of such change in levels on coalition military contributions to the mission in Afghanistan.

(8) A description of the assumptions to be in force regarding the security situation in Afghanistan following such change in levels.

(9) Such other matters regarding such change in levels as the Chairman considers appropriate.

AMENDMENT NO. 3271

(Purpose: To promote the development of an adequate, reliable, and stable supply of critical and essential minerals in the United States in order to strengthen and sustain the military readiness, national security, and critical infrastructure of the United States)

At the end of subtitle D of title XIV, add the following:

SEC. 1433. POLICY OF THE UNITED STATES WITH RESPECT TO A DOMESTIC SUPPLY OF CRITICAL AND ESSENTIAL MINERALS.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States to promote the development of an adequate, reliable, and stable supply of critical and essential minerals in the United States in order to strengthen and sustain the military readiness, national security, and critical infrastructure of the United States.

(b) COORDINATION OF DEVELOPMENT OF SUPPLY OF CRITICAL AND ESSENTIAL MINERALS.—To implement the policy described in subsection (a), the President shall, acting through the Executive Office of the President, coordinate the actions of the appropriate federal agencies to identify opportunities for and to facilitate the development of resources in the United States to meet the critical and essential mineral needs of the United States.

AMENDMENT NO. 3275

(Purpose: To express the sense of the Senate on the situation in the Senkaku Islands)

At the end of subtitle D of title XII, add the following:

SEC. 1246. SENSE OF THE SENATE ON THE SITUATION IN THE SENKAKU ISLANDS.

It is the sense of the Senate that—

(1) the East China Sea is a vital part of the maritime commons of Asia, including critical sea lanes of communication and commerce that benefit all nations of the Asia-Pacific region;

(2) the peaceful settlement of territorial and jurisdictional disputes in the East China Sea requires the exercise of self-restraint by all parties in the conduct of activities that would complicate or escalate disputes and destabilize the region, and differences should be handled in a constructive manner consistent with universally recognized principles of customary international law;

(3) while the United States takes no position on the ultimate sovereignty of the Senkaku islands, the United States acknowledges the administration of Japan over the Senkaku Islands;

(4) The unilateral actions of a third party will not affect the United States' acknowledgement of the administration of Japan over the Senkaku Islands;

(5) the United States has national interests in freedom of navigation, the maintenance of peace and stability, respect for international law, and unimpeded lawful commerce;

(6) the United States supports a collaborative diplomatic process by claimants to resolve territorial disputes without coercion, and opposes efforts at coercion, the threat of use of force, or use of force by any claimant in seeking to resolve sovereignty and territorial issues in the East China Sea;

(7) the United States reaffirms its commitment to the Government of Japan under Article V of the Treaty of Mutual Cooperation and Security that ''[e]ach Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes''.

AMENDMENT NO. 3279

(Purpose: To express the sense of Congress that external and independent oversight of the National Nuclear Security Administration by the Department of Energy is critical to the mission of protecting the United States nuclear security enterprise)

At the end of title XXXI, add the following:

Subtitle D—Other Matters

SEC. 3141. SENSE OF CONGRESS ON OVERSIGHT OF THE NUCLEAR SECURITY ENTERPRISE.

(a) FINDINGS.—Congress makes the following findings:

(1) In 2000, the National Nuclear Security Administration was established as an independent entity within the Department of Energy to manage and secure the nuclear weapons stockpile of the United States and to manage nuclear nonproliferation and naval reactor programs.

(2) Serious security and health incidents continue to occur at sites of the National Nuclear Security Administration.

(3) In September 2012, an official of the Government Accountability Office testified to Congress that lax laboratory attitudes toward safety procedures, laboratory inadequacies in identifying and addressing safety problems with appropriate corrective actions, and inadequate oversight by site offices of the National Nuclear Security Administration were responsible for nearly 100 safety incidents since 2000.

(4) On July 28, 2012, three unarmed individuals compromised security at the Y–12 National Security Complex in Oak Ridge, Tennessee, and according to the Government Accountability Office, ''gained access to the protected security area directly adjacent to one of the nation's most critically important nuclear weapons-related facilities''.

(5) In June 2006, hackers attacked an unclassified computer system at the National Nuclear Security Administration's Service Center in Albuquerque, New Mexico, and gained access to a file containing the names and social security numbers of more than 1,500 employees of the National Nuclear Security Administration.

(6) As early as February 2005, the Inspector General of the Department of Energy identified problems with the retrieval of badges from terminated employees at Los Alamos National Laboratory and other sites of the National Nuclear Security Administration.

(7) In 2004, a pattern of safety and security incidents that occurred over the course of a year prompted the stand-down of Los Alamos National Laboratory.

(8) The National Nuclear Security Administration, independent of the safety and security reform efforts of the Department of Energy, has launched an overhaul of its contracting oversight, placing an emphasis on contractor self-policing through an untested ''contractor assurance'' approach.

(9) The Government Accountability Office has given the contractor administration and project management capabilities of the National Nuclear Security Administration a ''high risk'' designation and found there to be insufficient qualified Federal acquisition professionals to ''plan, direct, and oversee project execution''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) there is a need for strong, independent oversight of the United States nuclear security enterprise;

(2) any attempt to reform oversight of the nuclear security enterprise that transfers oversight from the Department of Energy to the National Nuclear Security Administration, reduces protections for worker health and safety at facilities of the National Nuclear Security Administration to levels below the standards of the Department of Energy, or transfers construction appropriations for the nuclear security enterprise from the Department of Energy appropriation account to the military construction appropriation account, should be carefully evaluated;

(3) the Office of Health, Safety, and Security of the Department of Energy, which reports to the Secretary of Energy but is also accountable for routinely reporting to Congress on the performance with respect to safety and security of the Department, including the National Nuclear Security Administration, and the role of that Office in overseeing safety and security at the National Nuclear Security Administration, should not be diminished but should be routinely evaluated;

(4) any future modifications to the management or structure of the nuclear security enterprise should be done in a way that maintains or increases oversight of critical construction, security, and acquisition capabilities;

(5) to the extent possible, oversight of programs of the National Nuclear Security Administration by the Department of Defense should increase to ensure current and future warfighting requirements are met; and

(6) the Nuclear Weapons Council should provide proper oversight in the execution of its responsibilities under section 179 of title 10, United States Code.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent that regarding these amendments, which I believe by the Chair's ruling have been—are to be considered en bloc, also that the motion to reconsider be laid on the table.

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

Mr. LEVIN. I thank the Presiding Officer. My understanding is now that the Senate floor is open to debate. Hopefully people who want to debate on these four amendments will debate tonight so the 2 minutes tomorrow will be adequate.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, if I could ask the distinguished chairman a question, I would assume, then, that at this point I would not have to call up the amendment? That would be in order tomorrow?

Mr. LEVIN. No.

AMENDMENT NO. 3232

Mr. MENENDEZ. Mr. President, I will ask to call up my amendment, the only amendment I have pending with Senator KIRK.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself and Mr. KIRK, and Mr. LIEBERMAN, proposes an amendment numbered 3232.

Mr. MENENDEZ. I ask unanimous consent further reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. MENENDEZ. Mr. President, first I appreciate where we are. This is a bipartisan amendment. It is an amendment with Senator KIRK and Senator LIEBERMAN. It is a continuing perfection of sanctions as it relates to Iran that has been unanimously passed by this body approximately a year ago last December. Iran has set its sights on achieving nuclear weapons capability and this would not be in the national security interests of the United States because we have tens of thousands of our troops who would be in harm's way if Iran had nuclear weapons.

It would also not be in our national security interests because we clearly have to ensure that the Straits of Hormuz remain open and accessible and we would be obligated under our NATO agreements to respond should a Shabab missile be launched against one of our allies. Of course a Shabab missile is an Iranian missile that has the type of flight and capability to do so.

It is not in our national security interests because the last thing we need is a nuclear arms race in the tinderbox of the world where countries, for example, such as Turkey and Saudi Arabia would feel obligated to follow suit if Iran were to become a nuclear power.

For all of those reasons among others, it would not be in the national security interests of the United States. That achievement would jeopardize U.S. national security interests, pose an existential threat to the state of Israel, and would result in a nuclear arms race that would further destabilize the region.

The news out of Iran is dire. Just this week the Director of the International Atomic Energy Administration told the press Iran has not slowed its enrichment activities. The International Atomic Energy Administration also suspects that Iran has conducted live tests of conventional explosives that could be used to detonate a nuclear weapon at the Parchin military base—a facility the Iranians have denied access to by the International Atomic Energy Administration.

Between May and August of this year, Iran doubled the number of centrifuges at its fortified Fordow facility, buried deep inside a mountain to protect it against strikes. Iran now has over 2,140 centrifuges for enriching uranium and it continues to enrich to 20 percent. Iran claims it needs this higher grade uranium for its peaceful nuclear program, but a country with peaceful ambitions doesn't enrich uranium in defiance of U.N. Security Council resolutions. It doesn't refuse to disclose its operations. It doesn't hide them inside a mountain. A peaceful nation doesn't breach the international inspections regime compelled by the Nuclear Nonproliferation Treaty, and a peaceful nation is not one that pursues weaponization of missiles that can reach countries far beyond its borders.

The sanctions passed by this body unanimously last December are having a significant impact. The Iranian currency, the rial, has lost much of its value, and Iran's oil exports have dropped to a new daily low of 860,000 barrels per day, which is over 1 million barrels of oil per day less than 1 year ago.

Through our sanctions and the combined effort of the European Union, we have forced the Iranians back to the negotiating table. By passing these additional measures—requiring the cessation of sales to and transactions within Iranian sectors that support proliferation, including energy, shipping, shipbuilding, and port sectors, as well as anyone on our specially designated national list—we will send a message to Iran that the time for confidence-building measures is over. We do not want the Iranian regime simply to believe they can toughen out the sanctions. This sends a clear message that toughening it out will not work and it will only get worse.

If Iran is serious about wanting to reach a diplomatic solution, then it must quickly and fully implement U.N. Security Council resolutions. It must stop enriching uranium, permit removal from its territory of enriched uranium, close the Fordow enrichment facility, and submit to a robust inspections regime that includes inspections of the Parchin military facility.

Clearly, sanctions are not the ultimate goal. They are only a means to a clear end, in this case preventing Iran from becoming the next nuclear state and an existential threat to our ally, the State of Israel. Let me highlight the major provisions of this amendment.

First, this amendment designates Iran's energy, port, shipping, and shipbuilding sectors as entities of proliferation because of the role they play in supporting and funding Iran's obvious proliferation activities. With the exception of permissible petroleum transactions under the existing sanctions regime from countries that have significantly reduced their purchases of oil from Iran, these sectors will now be off limits. We will sanction any transactions with these sectors and we will block the property—and any third party—that engages in transactions with them.

Second, we impose sanctions on persons selling or supplying a defined list of commodities to Iran—commodities that are relevant to Iran's shipbuilding and nuclear sectors such as graphite, aluminum, steel, metallurgical coal, and software for integrating industrial processes. We also will prevent Iran from circumventing sanctions on its Central Bank that this Congress and the President signed by receiving payments in precious metals.

Third, we designate the Islamic Republic of Iran Broadcasting entity and its President as human rights abusers for their broadcasting of forced television confessions and show trials, thereby blocking their assets and preventing others from doing business with the IRIB.

To address concerns about access to humanitarian goods in Iran, which is a very real and serious concern, we have provided for exceptions for the provision and sale to Iran of food, agricultural commodities, medicine, medical devices, and other humanitarian goods. We have imposed new human rights sanctions on those in Iran who are engaged in corruption or the diversion of resources related to these goods and that are preventing them from reaching the Iranian people.

Our message is clear. The window is closing. The time for the waiting game is over. Yes, our sanctions are having a demonstrable effect on the Iranian economy, but Iran is still working just as hard to develop nuclear weapons. Iran has to decide what it will do. Will it continue down the path to proliferation and risk further crushing economic sanctions or will it end the madness and negotiate a responsible end to its nuclear ambition? The waiting game is over and, in the end, one way or the other, Iran will not be allowed to acquire a nuclear weapon that could threaten the national interests and security interests of the United States, Israel, the region, and the world.

I wish to thank Senator KIRK, whom we have worked with on this issue for quite some time, as well as Senator LIEBERMAN, Senator CASEY, and many others who have shared their interests and their views, and we have tried to incorporate those views. I hope that tomorrow when we cast a vote, it will be the type of unanimous vote this Senate passed nearly 1 year ago, that ultimately sends a very clear message to the Iranians that if they seek to evade, if they seek to avoid, if they think they can wait out the process, they are wrong. That is, in essence, what we are doing through this amendment. It is, in essence, why we believe it is so critical to move forward, to send a very clear message to the Iranians.

This is about the national security of the United States. It is the existential challenge to the State of Israel, our ally, and it is the best of a bipartisan effort that we have seen in this Senate.

With that, I look forward to tomorrow's vote.

I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Menendez amendment No. 3232 is pending.

Mr. MCCAIN. All right. I intend to speak on that shortly.

I see the chairman is here.

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

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

Mr. LEVIN. Mr. President, what Senator MCCAIN and I and our staffs are going to attempt to do tomorrow morning is that shortly after the fourth vote that is now scheduled, the fourth rollcall vote, we hope to be able to announce a finite list of amendments which would need to be disposed of before completion of this bill. That is going to be our goal, and we are going to repeat that goal the first thing in the morning. But it is important people know that. That is now something that is important that we do because we expect there will be a cloture motion tomorrow that will be filed, and if we can put together a finite list of amendments that need to be disposed of before final passage of this bill, that step may be unnecessary.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise to say I think we have made great progress. I think we have addressed the major issues concerning this legislation, although there are certainly other issues our colleagues feel are very important. But we should have reached a point now after 3 days that we put together a list of amendments. We can decide whether those amendments can be agreed upon, dropped or voted on. But it is time we put that list together and, obviously, with that being accomplished, we could get this thing wrapped up without having to go through the process of cloture and the intervening hours and all the parliamentary procedures that are embodied in that process.

I thank the chairman and thank the presiding officer.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO 3199, AS MODIFIED

Mr. LEVIN. Mr. President, I ask unanimous consent that notwithstanding the adoption of Durbin amendment No. 3199, it be modified with the changes at the desk.

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

The amendment (No. 3199) was modified, is as follows:

At the end of subtitle D of title XII, add the following:

SEC. 1246. IMPOSITION OF SANCTIONS WITH RESPECT TO SUPPORT FOR THE REBEL GROUP KNOWN AS M23.

(a) BLOCKING OF ASSETS.—The Secretary of the Treasury shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or Executive Order 13413 (74 Fed. Reg. 64105; relating to blocking property of certain persons contributing to the conflict in the Democratic Republic of the Congo), block and prohibit all transactions in all property and interests in property of a person described in subsection (c) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(b) VISA BAN.—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who is a person described in subsection (c).

(c) PERSONS DESCRIBED.—A person described in this subsection is a person that the President determines provides, on or after the date of the enactment of this Act, significant financial, material, or technological support to M23.

(d) WAIVER.—The President may waive the application of this section with respect to a person if the President determines and reports to the appropriate congressional committees that the waiver is in the national interest of the United States.

(e) TERMINATION OF SANCTIONS.—The President may terminate sanctions imposed under this section with respect to a person on and after the date on which the President determines and reports to the appropriate congressional committees that the person has terminated the provision of significant financial, material, and technological support to M23.

(f) TERMINATION OF SECTION.—This section shall terminate on the date on which the President determines that M23 is no longer a significant threat to peace and security in the Democratic Republic of the Congo.

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives.

(2) M23.—The term ''M23'' refers to the rebel group known as M23 operating in the Democratic Republic of the Congo that derives its name from the March 23, 2009, agreement between the Government of the Democratic Republic of the Congo and the National Congress for the Defense of the People (or any successor group).

(3) UNITED STATES PERSON.—The term ''United States person'' means—

(A) an individual who is a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States.

Ms. SNOWE. Mr. President, my colleague Senator LANDRIEU and I have an amendment to remove inequities that exist in the women-owned small business contracting program, when compared to other socioeconomic programs.

As former chair and now ranking member of the Senate Committee on Small Business and Entrepreneurship, I have long championed women entrepreneurship and have urged both past and present administrations to implement the woman-owned small business, WOSB, Federal contracting program, which was enacted into law 10 years ago. On March 4, 2010, the Small Business Administration, SBA, finally proposed a workable rule to implement the women's procurement program. And I am pleased to report that today there is a functional WOSB contracting program, however, the program lacks the critical elements that the SBA's 8(a), historically underutilized business zones, and the service-disabled veteran-owned government contracting programs include.

To remedy this, our bipartisan amendment will help provide tools women need to compete fairly in the Federal contracting arena by eliminating a restriction on the dollar amount of a contract that a WOSB can compete for, thus putting them on a level playing field with the other socioeconomic contracting programs.

Women-owned small businesses have yet to receive their fair share of the Federal marketplace. In fact, our government has never achieved its goal of 5 percent of contracts going to WOSBs, achieving only 3.98 percent in fiscal year 2011. This amendment would greatly assist Federal agencies in achieving the small business goaling requirement for WOSBs.

Mr. President, I also wish to speak to an amendment to S. 3254, the National Defense Authorization Act, to cease Federal involvement in the National Veterans Business Development Corporation.

This bipartisan amendment would cease, once and for all, Federal involvement in the National Veterans Business Development Corporation, also known as The Veterans Corporation or simply TVC. Let me begin by thanking the bill's cosponsors, Small Business Committee Chair MARY LANDRIEU, former Small Business Committee Chair JOHN KERRY and Senator TOM COBURN. Senator COBURN, as most in this body will recognize, is a true leader in efforts to streamline the Federal government. Recently he spoke with us about ideas for federal entities or programs that could be eliminated and we readily provided TVC as an example of an entity that we had already identified that the Federal government should sever its ties with.

I want to say at the outset that an amendment, with identical text as this one, passed the Senate by a vote of 99–0 in May of 2011, but the bill it was attached to did not pass. We are introducing this repeal as a stand-alone bill because TVC has been ineffective and controversial since its inception as part of the Veterans Entrepreneurship and Small Business Development Act—P.L. 106–50—in 1999. In December of 2008, former Small Business Committee Chairman KERRY and I investigated TVC, and issued a report detailing the organization's blatant mismanagement and wasting of taxpayers' dollars.

The report found, among other things, that TVC (a) failed to support

Veteran Business Resource Centers; (b) had wasteful programs; (c) lacked outcomes-based measurements; (d) provided it's employees with unacceptably high executive compensation; (e) engaged in dubious expenditures, and (f) failed to properly fundraise.

For instance, our report concluded that TVC had spent only 15 percent of the federal funding that it had received on veterans business resource centers, which TVC was required to establish and maintain under law. In FY 2008, the percentage dropped to about 9 percent. We also found that TVC's executives received unacceptably high levels of compensation given the organization's limited resources and reach. While an average of 15 percent of TVC's federally appropriated funds went to the Centers, 22 percent of TVC's FY 2007 federal appropriation dollars were spent on its top two executives' compensation packages alone. Moreover, the organization miserably failed to fundraise—which was required by law in order for it to become self-sufficient—and during fiscal years 2005 through 2007, TVC leaders spent $2.50 for every $1.00 they raised through the organization's fundraising efforts—almost entirely at the taxpayers' expense. Additionally, through broad decision-making powers granted to TVC's executive committee under the organization's bylaws, the committee approved a number of measures without proper approval or ratification form the full Board, including $40,000 in employee bonuses in one year alone.

Since the issuing of the Small Business Committee's report, Congress has appropriated no further funding for TVC, and the Small Business Administration has incorporated the Veteran Business Resource Centers that TVC previously funded into its existing network of Veteran Business Outreach Centers. These moves were publically supported by a variety of veteran service organizations, including the American Legion and the Veterans of Foreign Wars (VFW). For instance, in August of 2008, the American Legion passed a resolution at its national convention, Resolution No. 223, stating that the Legion ''no longer support[s] the continuing initiatives or existence of the national Veterans Business Development Corporation.''

At present, TVC is still Federally chartered. At the same time, it receives no Federal funds, has no department or agency oversight. In light of everything I have discussed, it is my belief that the Federal government must take the next step and fully sever all ties with the organization. I ask my colleagues to support this bipartisan amendment.

Ms. COLLINS. Mr. President, I rise in support of the Fiscal Year 2013 National Defense Authorization Act. This bill represents a bipartisan commitment to ensuring that our brave men and women in uniform have the resources, equipment, and support they require to defend the interests of the United States around the globe.

I wish to commend Chairman LEVIN and Ranking Member MCCAIN for their efforts.

This bill represents a prudent path forward for the Department of Defense. But it is a path that could be shortly undermined if a compromise is not reached to avert the impending self-inflicted crisis of sequestration. Without action, sequestration could spell disaster for many of the programs that we would authorize through this bill. I stand ready to work with all my colleagues, on both sides of the aisle, to correct the short-sighted policy of sequestration and determine a sustainable way forward for our country.

I am pleased this bill recognizes the importance of shipbuilding to our Nation's defense, authorizing $778 million more than the administration's fiscal year 2013 request for Navy ships.

While the total annual shipbuilding budget is less than what the United States pays each month on interest to service the national debt, the ships built by the Navy represent such an important part of our national military strategy. The Navy's fleet, as an instrument of national policy, has a positive effect upon global security that far exceeds the percentage of the budget it represents.

This bill authorizes multiyear procurement authority for both the *Virginia*-class submarine program and for up to ten *Arleigh Burke*-class destroyers. The two programs are projected to achieve savings of 14 percent and 9 percent respectively, when compared to the cost of annual contracting.

I congratulate both the chairman and ranking member for their willingness to direct the Navy to make good on cost-effective planning and, as a result, to increase the size of the fleet. For as we have heard this year in the testimony of virtually every combatant commander, the importance of the maritime environment continues to grow with each passing year.

As our Nation and our military look to the Western Pacific, that trend is sure to continue. Events this year in the South China Sea, which saw a disconcerting maritime standoff between the Philippines and the People's Republic of China, highlight just how important the maritime environment is to global security. Although thankfully the crisis abated, the ability of the Navy to respond with forward-deployed multimission platforms capable of operating in anti-access and area-denial environments must be maintained. Moreover, we must continue to make the necessary investments in both our public and private shipyards to allow for a strong domestic shipbuilding and ship repair industrial base.

I am proud that my own State of Maine contributes so much to the strength of our Navy. Maine, after all, has a proud maritime legacy. Tens of thousands of Mainers earn their living from the sea, as commercial fishermen or lobstermen, as merchant sailors, as Coast Guardsmen or Navy Sailors, as part of Maine's tourist industry, or as workers at Maine's public and private shipyards.

Bath Iron Works, a private shipyard and Maine's largest private employer, has been building ships for the Navy since 1893, and the shipyard continues to be known by the phrase ''Bath built is best built.''

Portsmouth Naval Shipyard, in Kittery, ME, is one of only four public shipyards that remain in the United States, and conducts repair and refueling work on nuclear submarines. Both of the yards, along with the other public and private yards across the country, are truly national strategic assets, and the workers in these yards are the world's leading experts in ship construction and repair. As Chinese yards continue to churn out modern warships, and as the Chinese fleet continues to expand, we cannot allow any of the capabilities represented by our shipyards to atrophy.

Given the events of this month in the Middle East, I am pleased this bill also authorizes important additional funding for the Iron Dome program and cooperative programs with the State of Israel. As the Senate has affirmed time and again, most recently on November 15 when we passed S. Res. 599 introduced by Senator GILLIBRAND, Israel has an inherent right to act in self defense. In that resolution, the Senate expressed our unwavering commitment to Israel's security—a security which unfortunately continues to be threatened.

While I commend the efforts undertaken by those in the Middle East and by Secretary Clinton to achieve the recent ceasefire, we must continue to make the investments necessary to guarantee Israel's security. I can think of no better investment than the Iron Dome system, which had a success rate of 80–90 percent against the hundreds of rockets fired into Israel's borders.

And while Iron Dome protects the State of Israel, we must also look at how to better secure the United States, particularly those states on the East Coast, from the threat of a missile attack from rogue regimes in the Middle East. According to the Pentagon's Annual Report on the Military Power of Iran, parts of which were released in July, Iran could produce missiles capable of reaching the U.S. within 3 years.

To address this threat, Senators LIEBERMAN, AYOTTE, and I have filed an amendment which would require the Department to conduct an Environmental Impact Statement and create a plan for establishing a missile defense site on the East Coast of the United States. Such a site, whether sea-based or on land, located in the northeast tip of our country, could better protect the East Coast from an intercontinental ballistic missile attack. Beginning an EIS now, a task which could take up to 18–24 months, is a prudent measure to preserve our options in the future.

Just as we must protect the East Coast, we must also provide the military the tools to protect the mental

and physical wellbeing of military personnel. This year, the suicide rate amongst Active-Duty personnel has continued to soar. On average, more than one soldier, sailor, airman, or Marine has taken their own life every day this year. That is a tragedy of the first degree.

For every servicemember who dies in battle, 25 veterans die by their own hands. Not only have more military personnel killed themselves than were killed in Afghanistan this year, but the rate of suicides in the military significantly exceeds the rate of suicides in the general population. Veterans, many of whom are dealing with financial or posttraumatic stress, chronic pain, or depression resulting from their time in uniform, also face high rates of suicide. According to a Department of Veterans Affairs report this spring, a veteran commits suicide every 80 minutes.

While I applaud the military and the VA efforts to address this threat seriously, especially the Army, we can and must do more. To that end, I have filed an amendment with Senators LIEBERMAN and BLUMENTHAL to require the Attorney General to exercise authority granted to him by the Secure and Responsible Drug Disposal Act of 2010 to establish a drug take-back program in coordination with both the Secretary of Defense and the Secretary of Veterans Affairs.

There is substantial evidence that prescription drug abuse is a major factor in military and veteran suicides. The Army has reported that 29 percent of suicides had known history of psychotropic medication use, including anti-depressants, anti-anxiety medicine, anti-psychotics, and other controlled substances such as opioids.

I understand the legitimate concerns raised by some law enforcement officials that accountability of drugs must be strictly maintained and that these drugs must be prevented from being misused, abused, or sold in the black market. I am confident, however, that both the military—an institution that has developed and implemented programs for the handling of nuclear weapons and classified information—and the VA are capable of running a drug take-back program with the utmost accountability and highest of standards.

I have also filed another amendment to establish a resilience research program in the Army to study the effectiveness of the Comprehensive Soldier Fitness program. This program is intended to improve the resilience of our active duty force.

The loss of even one servicemember to a potentially preventable suicide is unacceptable. We have a responsibility to take every practical step that we can to help the military win the battle against suicides. Over the past decade, we have made an incredible investment to prevent deaths or injuries from IEDs. Although the threat to our forces posed by suicide will not be solved overnight, it deserves a similar commitment to combat this epidemic.

Likewise, the high incidence of military sexual assaults also continue to warrant our attention, particularly after the scandal at Lackland Air Force Base. This bill includes two provisions that I support which would codify into law regulations that were issued by the Department earlier this year. We should all continue to watch the Department closely to see that the changes are implemented wisely, that the Department's policy of zero tolerance becomes a culture of zero tolerance, and that the incidence of these crimes is dramatically reduced.

In the area of mental health, this bill includes a provision to grant authority for additional behavioral health professionals to conduct pre-separation medical examinations for post-traumatic stress disorder. This provision would increase the number of medical professionals available to conduct evaluations because the backlog of cases within the integrated disability evaluation system is significant, and results in unacceptable wait times for our military personnel being processed for separation.

Unfortunately, the military does not even know the true scope of the backlog within the disability evaluation system, and I am sure that many of our colleagues receive letters from their constituents expressing this concern each week. This year's bill contains a provision I authored that would require DOD to collect data on the physical, mental, and behavioral health of Wounded Warriors in order to accurately assess the efficacy of the military's Wounded Warrior programs.

In Afghanistan, where many of our wounded warriors received their injuries, military personnel continue to pay a high cost. As we head into the final 2 years of combat in Afghanistan, after more than a decade of war, I have grown increasingly concerned about the high number of insider attacks and their effect upon our strategy to transition to Afghan Security Forces leadership and for U.S. forces to assume a training and mentoring role after 2014.

Each death caused by the tactic of insider attacks has a strategic effect upon the war, both in terms of the American people's perception, and the willingness of our partners in NATO and ISAF to remain engaged in battle.

In 2012 alone, 60 Coalition troops, representing 16 percent of Coalition deaths, have been slain at the hands of those upon which our strategy depends. It is for that reason that I, along with Senators UDALL, PORTMAN, and SHAHEEN have filed an amendment that would require the Secretary of Defense to report on the effect of insider attacks upon the progress of the war and the effect these attacks have upon our strategy and the behavior of our partners. Our Nation has made too great an investment in blood and treasure in Afghanistan; Congress must understand the strategic environment, and be presented with all the information to make informed decisions about how to proceed in Afghanistan.

The Afghan war has also left us with important questions about detention policy here at home that must be resolved. One of the questions that has been left unaddressed in the eleven years since the Congress authorized the use of military force to go after al-Qaeda and the Taliban is whether the Congress intended to authorize the detention of persons in the United States, and specifically the detention of American citizens. I have cosponsored an amendment with Senator FEINSTEIN that would explicitly prohibit the indefinite detention of U.S. citizens captured on U.S. soil.

The final amendment I have offered, along with Senators KERRY, BROWN of Massachusetts, BLUMENTHAL, WHITEHOUSE, SNOWE, and BROWN of Ohio, would require the Department of Defense to establish a temporary pilot program to issue domestically procured athletic shoes to Army recruits in initial entry training. DOD historically provided athletic footwear to new recruits that comply with the Berry Amendment, but DOD's current procurement process has allowed it to circumvent the spirit, letter, and intent of the law. I have no doubt that domestic suppliers will be able to produce a Berry compliant shoe, with minimal waivers necessary, that can meet the needs of recruits and the Army in a cost-effective manner. We should not allow government funds to be used to support foreign-made shoes, when American shoes are available. Much like our Olympic athletes should be clothed in domestically produced apparel, so too should our military recruits be wearing athletic shoes made in the U.S.A.

I am also cosponsoring two amendments that grew out of the work of the Commission on Wartime Contracting. I have cosponsored Senator BLUMENTHAL's End Trafficking in Government Contracting Act to tighten the U.S. government's zero tolerance policy for any form of human trafficking. This amendment would require contractors to certify that they have plans in place to prevent such practices. It also makes it a crime to engage in such labor practices overseas on U.S.-controlled property or while working on a U.S. contract.

The Commission on Wartime Contracting also found that contingency contracting in Iraq and Afghanistan has been plagued by high levels of waste, fraud, and abuse—estimating that at least $31 billion had been lost to contract waste and fraud. Without high-level attention, acquisition planning and allocation of resources, we are likely to repeat the contracting mistakes of the last contingency operation.

Therefore, I have cosponsored Senator MCCASKILL's amendment to strengthen contingency contracting at DoD, State, and the U.S. Agency for

International Development—USAID—by improving planning, execution, and oversight of this function at these agencies and requiring education for personnel who engage in contingency contracting.

From the Maine Military Authority and the DFAS Center in Limestone to the Portsmouth Naval Shipyard in Kittery, from innovative composite and renewable energy research at the University of Maine to high-tech firms like Vingtech, Hodgdon Defense Composites, Maine Machine Products, and Mt. Desert Island Biological Laboratory, Mainers continue to support national defense with ingenuity and craftsmanship.

The investments authorized in this bill support these efforts in Maine and in States around the Nation, and they ensure that our military is the best trained and equipped in the world. I urge my colleagues to support passage of this bill.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. LIEBERMAN. Mr. President, I rise to speak in support of the National Defense Authorization Act for Fiscal Year 2013. Congress has passed the Defense Authorization every year for the past 5 decades and it remains one of the most bipartisan pieces of legislation we produce in this body. I believe strongly that there is no more important responsibility that we have than providing for our common defense. The NDAA is a crucial part of that responsibility and I am glad to have the opportunity to speak in favor of it today. As Senators, it is one of our most important duties, and one of our greatest privileges, to debate and pass this bill every year.

I would like to thank Chairman LEVIN and Ranking Member MCCAIN for their leadership of the Armed Services Committee and their determination in getting the NDAA to the floor.

I have had the honor to serve as Chairman of the AirLand Subcommittee, of which I have been a member of since its inception in 1995 and been either Chairman or Ranking Member since 1999. I would like to recognize Ranking Member SCOTT BROWN and thank him. We have worked together very well once again this year. Ours has been a bipartisan effort through our hearings, our markup, and now on the floor. I would also like to thank the Subcommittee staff, Bill Sutey and Creighton Greene of the majority and Church Hutton and Pablo Carrillo of the minority, for their hard work that helped make this bill possible.

This year, the portion of the budget request falling under the Airland Subcommittee's jurisdiction total over $50 billion, including $37.4 billion in procurement, and $12.9 billion in research and development. The portion of the bill under the AirLand Subcommittee's jurisdiction supports the Defense Department's requests for several major weapons programs, including:

$639.9 million for the Army's new Ground Combat Vehicle that will replace some of the M2 Bradley Infantry Fighting Vehicles in the current force;

$2.7 billion for procurement of UH–60 Blackhawk and CH–47 Chinook helicopters so critically important to operations in Afghanistan and around the world;

$6.9 billion in the base request for the Navy, Marine Corps, and Air Force's F–35 Joint Strike Fighter program;

$60.0 million for F/A–18E/F advance procurement to preserve the Navy's option to produce additional aircraft in fiscal year 2014.

$91.0 million for M1 Abrams tank upgrades and $123.0 million for M88A2 advanced recovery vehicles. These recommended increases will extend armored vehicle production through fiscal year 2013 and allow tank production through 2014, thus preserving important combat vehicle industrial capability.

Perhaps of greatest interest to many of our colleagues, the bill addresses concerns that the Air Force proposed disproportionate cuts to the Air National Guard in its FY13 budget submission by establishing an independent commission to study the appropriate force structure of the Air Force, including the Air National Guard and the Air Force Reserve, and providing $1.4 billion to freeze Air Force force structure pending the commission's review.

The NDAA also provides an opportunity to address policy concerns important to military families, defense, and National security at large. There are a number of worthwhile amendments that have been filed and that I support, including my amendment with Senator GILLIBRAND providing TRICARE coverage for important autism treatments and my amendment with Senator COLLINS mandating a prescription drug take-back program to help reduce the scourge of military suicide. I would like to briefly highlight a pair of issues I hope we address through floor amendments.

Finally and most importantly, I hope this bill will include a new package of Iran sanctions that Senator MENENDEZ, Senator KIRK, and I plan to introduce. The fact is, Iran is continuing to make progress towards a nuclear weapons capability, and time is running out to stop them, short of the military option that none of us desire. That is why we need to do everything in our power to ratchet up the pressure on the Iranian government, as quickly as possible. The NDAA provides the last, best chance that we will have in this Congress to impose tougher sanctions on Iran, and we must seize it.

In conclusion, I urge all my colleagues to support the NDAA for FY13. It is a strong bill that provides critical funding and authorities to our military, and it has always been passed on a broad bipartisan basis. As I approach the end of my career in the Senate, I look back gratefully upon the annual floor debates on the NDAA as examples of the way this body should operate.

MORNING BUSINESS

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

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

TRIBUTE TO MARSHA KREUCHER

Mr. LEVIN. Mr. President, tomorrow night will be bittersweet in Jackson, MI; it is the night the Community Action Agency will bid a formal farewell to its leader and CEO, Marsha Kreucher. For nearly a quarter century, the Community Action Agency has been guided by a leader with vision and compassion. Her work has been squarely focused on making the lives of those in need better. She has gone about this work with humility and tenacity, ensuring that her work and the work of the agency she leads does its part to improve the lives of the countless people served by the Community Action Agency.

The roots of poverty are complex and deep. Marsha's work, which takes a holistic and innovative approach to promoting self-sufficiency among at-risk and low-income residents, has sought to identify the issues associated with poverty and develop programs to alleviate them. Her efforts have reaped many rewards for the residents of Jackson, Lenawee, and Hillsdale counties and have improved their economic, social, and health conditions as a consequence.

In the late 1980s, when she began working at the Community Action Agency, the agency administered about two dozen programs and had a budget of roughly $4 million. Nearly a quarter century later, the agency serves more than 27,000 residents annually through more than 80 programs with a budget that averages around $20 million. This is impressive growth and a testament to the quality of service the agency provides and the talent of those leading the way.

It doesn't take very long to observe the profound impact the Community Action Agency has had on this region in the last two decades. The Center for Healthy Beginnings was established and currently provides full health care services to more than 27,000 residents annually. The Partnership Park Downtown Neighborhood Project was formed to help revitalize and redevelop a 23-block area in Jackson, MI, through $15 million in investments. More than 1,000 children a year receive early childhood education opportunities through agency activities. And thousands of families receive free assistance filing their income tax returns each year. These are but a few examples of the good work of this impressive agency and a glimpse