

limited to 10 minutes; further that upon disposition of these amendments, the next amendment in order be Coburn amendment No. 2196.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object, I want to make an observation and thank all the people who were involved in this effort. For our colleagues who might be listening, the reason there is an agreement and there will be no objection is because people on both sides of the aisle were willing to make some concessions to the others with regard to the wording of these two resolutions. I would hope they would be both strongly supported.

I have no objection.

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

Mr. LEVIN. Mr. President, I also would give notice that it is our intention, since we are alternating back and forth, that the next amendment we will attempt to call up will be the Webb amendment No. 2999, but that is not part of the UC agreement.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1585, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1585) to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Nelson (NE)(for Levin) amendment No. 2011, in the nature of a substitute.

Warner (for Graham-Kyl) amendment No. 2064 (to amendment No. 2011), to strike section 1023, relating to the granting of civil rights to terror suspects.

Kyl-Lieberman amendment No. 3017 (to amendment No. 2011), to express the sense of the Senate regarding Iran.

Biden amendment No. 2997 (to amendment No. 2011), to express the sense of Congress on federalism in Iraq.

Reid (for Kennedy-Smith) amendment No. 3035 (to the language proposed to be stricken by amendment No. 2064), to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes.

Motion to recommit the bill to the Committee on Armed Services, with instructions to report back forthwith, with Reid amendment No. 3038, to change the enactment date.

Reid amendment No. 3039 (to the instructions of the motion to recommit), of a technical nature.

Reid amendment No. 3040 (to amendment No. 3039), of a technical nature.

Casey (for Hatch) amendment No. 3047 (to amendment No. 2011), to require comprehensive study and support for criminal investigations and prosecutions by State and local law enforcement officials.

The amendments (No. 2997), as modified, and (No. 3017), as modified, are as follows:

#### AMENDMENT NO. 2997, AS MODIFIED

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

#### SEC. 1535. SENSE OF CONGRESS ON FEDERALISM IN IRAQ.

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

(1) Iraq continues to experience a self-sustaining cycle of sectarian violence.

(2) The ongoing sectarian violence presents a threat to regional and world peace, and the longterm security interests of the United States are best served by an Iraq that is stable, not a haven for terrorists, and not a threat to its neighbors.

(3) A central focus of al Qaeda in Iraq has been to turn sectarian divisions in Iraq into sectarian violence through a concentrated series of attacks, the most significant being the destruction of the Golden Dome of the Shia al-Askariyah Mosque in Samarra in February 2006.

(4) Iraqis must reach a comprehensive and sustainable political settlement in order to achieve stability, and the failure of the Iraqis to reach such a settlement is a primary cause of violence in Iraq.

(5) Article One of the Constitution of Iraq declares Iraq to be a “single, independent federal state”.

(6) Section Five of the Constitution of Iraq declares that the “federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, and local administrations” and enumerates the expansive powers of regions and the limited powers of the central government and establishes the mechanisms for the creation of new federal regions.

(7) The federal system created by the Constitution of Iraq would give Iraqis local control over their police and certain laws, including those related to employment, education, religion, and marriage.

(8) The Constitution of Iraq recognizes the administrative role of the Kurdistan Regional Government in 3 northern Iraqi provinces, known also as the Kurdistan Region.

(9) The Kurdistan region, recognized by the Constitution of Iraq, is largely stable and peaceful.

(10) The Iraqi Parliament approved a federalism law on October 11th, 2006, which establishes procedures for the creation of new federal regions and will go into effect 18 months after approval.

(11) Iraqis recognize Baghdad as the capital of Iraq, and the Constitution of Iraq stipulates that Baghdad may not merge with any federal region.

(12) Despite their differences, Iraq's sectarian and ethnic groups support the unity and territorial integrity of Iraq.

(13) Iraqi Prime Minister Nouri al-Maliki stated on November 27, 2006, “[t]he crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the politicians”.

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

(1) the United States should actively support a political settlement in Iraq based on the final provisions of the Constitution of Iraq that create a federal system of government and allow for the creation of federal regions, consistent with the wishes of the Iraqi people and their elected leaders;

(2) the active support referred to in paragraph (1) should include—

(A) calling on the international community, including countries with troops in Iraq, the permanent 5 members of the United Nations Security Council, members of the Gulf Cooperation Council, and Iraq's neighbors—

(i) to support an Iraqi political settlement based on federalism;

(ii) to acknowledge the sovereignty and territorial integrity of Iraq; and

(iii) to fulfill commitments for the urgent delivery of significant assistance and debt relief to Iraq, especially those made by the member states of the Gulf Cooperation Council;

(B) further calling on Iraq's neighbors to pledge not to intervene in or destabilize Iraq and to agree to related verification mechanisms; and

(C) convening a conference for Iraqis to reach an agreement on a comprehensive political settlement based on the federalism law approved by the Iraqi Parliament on October 11, 2006;

(3) the United States should urge the Government of Iraq to quickly agree upon and implement a law providing for the equitable distribution of oil revenues, which is a critical component of a comprehensive political settlement based upon federalism;

(4) the steps described in paragraphs (1), (2), and (3) could lead to an Iraq that is stable, not a haven for terrorists, and not a threat to its neighbors; and

(5) nothing in this Act should be construed in any way to infringe on the sovereign rights of the nation of Iraq.

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

#### SEC. 1535. SENSE OF SENATE ON IRAN.

(a) FINDINGS.—The Senate makes the following findings:

(1) General David Petraeus, commander of the Multi-National Force-Iraq, stated in testimony before a joint session of the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives on September 10, 2007, that “[i]t is increasingly apparent to both coalition and Iraqi leaders that Iran, through the use of the Iranian Republican Guard Corps Qods Force, seeks to turn the Shi'a militia extremists into a Hezbollah-like force to serve its interests and fight a proxy war against the Iraqi state and coalition forces in Iraq”.

(2) Ambassador Ryan Crocker, United States Ambassador to Iraq, stated in testimony before a joint session of the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives on September 10, 2007, that “Iran plays a harmful role in Iraq. While claiming to support Iraq in its transition, Iran has actively undermined it by providing lethal capabilities to the enemies of the Iraqi state”.

(3) The most recent National Intelligence Estimate on Iraq, published in August 2007, states that “Iran has been intensifying aspects of its lethal support for select groups of Iraqi Shia militants, particularly the JAM [Jays al-Mahdi], since at least the beginning of 2006. Explosively formed penetrator (EFP) attacks have risen dramatically”.

(4) The Report of the Independent Commission on the Security Forces of Iraq, released on September 6, 2007, states that “[t]he Commission concludes that the evidence of Iran's increasing activism in the southeastern part of the country, including Basra and Diyala provinces, is compelling... It is an accepted fact that most of the sophisticated weapons being used to ‘defeat’ our armor protection comes across the border from Iran with relative impunity”.

(5) General (Ret.) James Jones, chairman of the Independent Commission on the Security Forces of Iraq, stated in testimony before the Committee on Armed Services of the Senate on September 6, 2007, that “[w]e judge that the goings-on across the Iranian border in particular are of extreme severity

and have the potential of at least delaying our efforts inside the country. Many of the arms and weapons that kill and maim our soldiers are coming from across the Iranian border".

(6) General Petraeus said of Iranian support for extremist activity in Iraq on April 26, 2007, that "[w]e know that it goes as high as [Brig. Gen. Qassem] Suleimani, who is the head of the Qods Force . . . We believe that he works directly for the supreme leader of the country".

(7) Mahmoud Ahmedinejad, the president of Iran, stated on August 28, 2007, with respect to the United States presence in Iraq, that "[t]he political power of the occupiers is collapsing rapidly. Soon we will see a huge power vacuum in the region. Of course we are prepared to fill the gap".

(8) Ambassador Crocker testified to Congress, with respect to President Ahmedinejad's statement, on September 11, 2007, that "[t]he Iranian involvement in Iraq—its support for extremist militias, training, connections to Lebanese Hezbollah, provision of munitions that are used against our force as well as the Iraqis—are all, in my view, a pretty clear demonstration that Ahmedinejad means what he says, and is already trying to implement it to the best of his ability".

(9) General Petraeus stated on September 12, 2007, with respect to evidence of the complicity of Iran in the murder of members of the Armed Forces of the United States in Iraq, that "[t]he evidence is very, very clear. We captured it when we captured Qais Khazali, the Lebanese Hezbollah deputy commander, and others, and it's in black and white . . . We interrogated these individuals. We have on tape . . . Qais Khazali himself. When asked, could you have done what you have done without Iranian support, he literally throws up his hands and laughs and says, of course not . . . So they told us about the amounts of money that they have received. They told us about the training that they received. They told us about the ammunition and sophisticated weaponry and all of that that they received".

(10) General Petraeus further stated on September 14, 2007, that "[w]hat we have got is evidence. This is not intelligence. This is evidence, off computers that we captured, documents and so forth . . . In one case, a 22-page document that lays out the planning, reconnaissance, rehearsal, conduct, and aftermath of the operation conducted that resulted in the death of five of our soldiers in Karbala back in January".

(11) The Department of Defense report to Congress entitled "Measuring Stability and Security in Iraq" and released on September 18, 2007, consistent with section 9010 of Public Law 109-289, states that "[t]here has been no decrease in Iranian training and funding of illegal Shi'a militias in Iraq that attack Iraqi and Coalition forces and civilians . . . Tehran's support for these groups is one of the greatest impediments to progress on reconciliation".

(12) The Department of Defense report further states, with respect to Iranian support for Shi'a extremist groups in Iraq, that "[m]ost of the explosives and ammunition used by these groups are provided by the Iranian Islamic Revolutionary Guard Corps-Qods Force . . . For the period of June through the end of August, [explosively formed penetrator] events are projected to rise by 39 percent over the period of March through May".

(13) Since May 2007, Ambassador Crocker has held three rounds of talks in Baghdad on Iraq security with representatives of the Government of the Islamic Republic of Iran.

(14) Ambassador Crocker testified before Congress on September 10, 2007, with respect

to these talks, stating that "I laid out the concerns we had over Iranian activity that was damaging to Iraq's security, but found no readiness on Iranians' side at all to engage seriously on these issues. The impression I came with after a couple rounds is that the Iranians were interested simply in the appearance of discussions, of being seen to be at the table with the U.S. as an arbiter of Iraq's present and future, rather than actually doing serious business . . . Right now, I haven't seen any sign of earnest or seriousness on the Iranian side".

(15) Ambassador Crocker testified before Congress on September 11, 2007, stating that "[w]e have seen nothing on the ground that would suggest that the Iranians are altering what they're doing in support of extremist elements that are going after our forces as well as the Iraqis".

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) that the manner in which the United States transitions and structures its military presence in Iraq will have critical long-term consequences for the future of the Persian Gulf and the Middle East, in particular with regard to the capability of the Government of the Islamic Republic of Iran to pose a threat to the security of the region, the prospects for democracy for the people of the region, and the health of the global economy;

(2) that it is a critical national interest of the United States to prevent the Government of the Islamic Republic of Iran from turning Shi'a militia extremists in Iraq into a Hezbollah-like force that could serve its interests inside Iraq, including by overwhelming, subverting, or co-opting institutions of the legitimate Government of Iraq;

(3) that the United States should designate Iran's Islamic Revolutionary Guards Corps as a foreign terrorist organization under section 219 of the Immigration and Nationality Act and place the Islamic Revolutionary Guards Corps on the list of Specially Designated Global Terrorists, as established under the International Emergency Economic Powers Act and initiated under Executive Order 13224; and

(4) that the Department of the Treasury should act with all possible expediency to complete the listing of those entities targeted under United Nations Security Council Resolutions 1737 and 1747 adopted unanimously on December 23, 2006 and March 24, 2007, respectively.

Insert prior to section (6) the following:

(16) Ambassador Crocker further testified before Congress on September 11, 2007, with respect to talks with Iran, that "I think that it's an option that we want to preserve. Our first couple of rounds did not produce anything. I don't think that we should either, therefore, be in a big hurry to have another round, nor do I think we should say we're not going to talk anymore . . . I do believe it's important to keep the option for further discussion on the table."

(17) Secretary of Defense Robert Gates stated on September 16, 2007 that "I think that the administration believes at this point that continuing to try and deal with the Iranian threat, the Iranian challenge, through diplomatic and economic means is by far the preferable approach. That's the one we are using . . . we always say all options are on the table, but clearly, the diplomatic and economic approach is the one that we are pursuing."

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided and controlled between the two leaders or their designees on the Biden amendment.

Who yields time?

Mr. LEVIN. Senator BIDEN will control the time.

Mr. BIDEN. Mr. President, I yield back my time.

CONSTITUTIONAL REVIEW COMMISSION

Mr. LEVIN. Mr. President, I have discussed with the Senator from Delaware modifying his amendment expressing the sense of Congress on Federalism in Iraq.

My concern with the wording of the amendment stems from the fact that the Iraqi Sunnis did not participate fully in the drafting of the constitution of Iraq and the Sunni community voted overwhelmingly against it but were unable to prevent its adoption in a referendum. As a result of their dissatisfaction with the constitution, an agreement was made to convene a Constitutional Review Commission to review the constitution and to make recommendations for changes to the Iraqi Council of Representatives for submission to the Iraqi people. One of the benchmarks that the Iraqi political leaders agreed among themselves called for the Constitutional Review Commission to be formed by September 2006; for the Commission to complete its work by January 2007; and for a constitutional amendments referendum to be held, if required, in March 2007.

The Constitutional Review Commission has not completed its work despite several extensions of time; the most recent extension being until the end of this year. In recognition of the agreement to have a Constitutional Review Committee, the legislation establishing procedures for the creation of new federal regions in Iraq will not go into effect until 18 months after enactment of the legislation, which is April 2008.

Accordingly, I appreciate the modifications that Senator BIDEN is making to his amendment to reflect that the political settlement regarding federalism referred to in his amendment should be based upon the "final" provisions of the Iraq constitution. This will allow for the possibility of changes being made as a result of the work of the Constitutional Review Commission. I also appreciate Senator BIDEN's modifying the amendment to note that whatever the political settlement is, be it pursuant to the current or revised constitutional provisions, it should be based on the "wishes of the Iraqi people and their elected leaders" as we don't want to suggest that we are trying to impose anything on the Iraqis.

Mr. BIDEN. Mr. President, I want to thank my colleague from Michigan for his suggestions. I believe that federalism and the creation of federal regions would be in the best interest of the Iraqi people and holds great promise for a political settlement among the Iraqi political leadership. I know that my friend is particularly concerned about the opposition of the Sunni community to the constitution. I agree with him that, at, the time of

adoption of the constitution, the Sunnis were opposed to many aspects of it including those provisions relating to federalism among others. But in my last visit to Iraq, my conversations with key Sunni leaders reveals a sea change in thinking. There is a growing recognition by the Sunni leadership that Sunnis will not get a fair shake if they are at the mercy of a strong central government controlled by their rivals in the Islamist Shiacamp. One key leader told me that he now understands that federalism is the best option for the Sunnis. Nonetheless, it is not my intention to forego the possibility that the Iraqi Constitutional Review Commission may recommend changes to their constitution nor that the United States should seek to impose a settlement on the Iraqis. I would note, however, at in the last draft proposed by the commission on May 23, 2007, none of the proposed changes would revoke any of the provisions of the constitution which permit the creation of federal regions. However, in deference to the Senator's concerns, I have amended the language to account for the possibility of the issue of regions being reopened by the Iraqis.

Mr. President, I yield the floor.

Mr. KYL. Mr. President, I am checking to see if there is anybody on our side who wishes to speak for any amount of time.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the Biden amendment, as amended.

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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. OBAMA) is necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 75, nays 23, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—75

Akaka	Collins	Klobuchar
Baucus	Conrad	Kohl
Bayh	Dodd	Landrieu
Bennett	Domenici	Lautenberg
Biden	Dorgan	Leahy
Bingaman	Durbin	Levin
Boxer	Ensign	Lieberman
Brown	Feinstein	Lincoln
Brownback	Grassley	Lott
Byrd	Gregg	Lugar
Cantwell	Harkin	Martinez
Cardin	Hatch	McCaskill
Carper	Hutchison	McConnell
Casey	Inouye	Menendez
Chambliss	Isakson	Mikulski
Clinton	Johnson	Murkowski
Cochran	Kennedy	Murray
Coleman	Kerry	Nelson (FL)

Nelson (NE)	Sanders	Stevens
Pryor	Schumer	Sununu
Reed	Shelby	Tester
Reid	Smith	Warner
Roberts	Snowe	Webb
Rockefeller	Specter	Whitehouse
Salazar	Stabenow	Wyden

NAYS—23

Alexander	Cornyn	Hagel
Allard	Craig	Inhofe
Barrasso	Crapo	Kyl
Bond	DeMint	Sessions
Bunning	Dole	Thune
Burr	Enzi	Vitter
Coburn	Feingold	Voinovich
Corker	Graham	

NOT VOTING—2

McCain	Obama
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The PRESIDING OFFICER. On this vote, the yeas are 75, the nays are 23. Under the previous order, requiring 60 votes for the adoption of the amendment, the amendment is agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3017

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 3017, offered by the Senator from Arizona.

Who yields time?

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, very briefly, this amendment is a sense of the Senate introduced by Senator KYL and me. The findings document the evidence that shows that Iran, working through its Islamic Revolutionary Guard Corps, has been training and equipping Iraqi extremists who are killing American soldiers—hundreds of them.

This sense of the Senate calls on the administration to designate the Islamic Revolutionary Guard Corps as a terrorist organization, allowing us to exert economic pressure on those terrorists who also do business and to stop them from killing Americans.

Because some of our colleagues thought paragraphs 3 and 4 of the sense of the Senate may have opened the door to some kind of military action against Iran, Senator KYL and I have struck them from the amendment. That is not our intention. In fact, our intention is to increase the economic pressure on Iran and the Islamic Revolutionary Guard Corps so that we will never have to consider the use of the military to stop them from what they are doing to kill our soldiers.

Mr. BIDEN. Mr. President, I will oppose the Kyl-Lieberman amendment for one simple reason: this administration cannot be trusted.

I am very concerned about the evidence that suggests that Iran is engaged in destabilizing activities inside Iraq. I believe that many of the steps the Senators from Connecticut and Arizona suggest be taken to end this activity can be taken today. We can and

we should move to act against Iranian forces inside Iraq. We can and we should use economic pressure against those who aid and abet attacks on our forces and against Iraqis. The administration already has the authority to do these things and it should be doing them.

Arguably, if we had a different President who abided by the meaning and intent of laws we pass, I might support this amendment. I fear, however, that this President might use the designation of Iran's Revolutionary Guard Corps as a terrorist entity as a pretext to use force against Iran as he sees fit. While this may sound far-fetched to some, my colleagues should examine the record in two particular instances.

First, is the misuse of the authority that we granted the President in 2002 to back our diplomacy with the threat of force. My colleagues will remember that, at the time, we voted to give the President a strong hand to play at the U.N. to get the world to speak with one voice to Saddam: let the inspectors back in and disarm or be disarmed. We thought that would make war less likely.

But in the 5 months between our vote and the invasion of Iraq, the ideologues took over. The President went to war unnecessarily, without letting the weapons inspectors finish their work, without a real coalition, without enough troops, without the right equipment, and without a plan to secure the peace.

The second example is the administration's twisting of our vote on the Iraq Liberation Act of 1998 as an endorsement of military action against Iraq. Let me quote the Vice President from November 2005:

Permit me to burden you with a bit more history: In August of 1998, the U.S. Congress passed a resolution urging President Clinton to take 'appropriate action' to compel Saddam to come into compliance with his obligations to the Security Council. Not a single senator voted no. Two months later, in October of '98—again, without a single dissenting vote in the United States Senate—the Congress passed the Iraq Liberation Act. It explicitly adopted as American policy supporting efforts to remove Saddam Hussein's regime from power and promoting an Iraqi democracy in its place. And just two months after signing the Iraq Liberation law, President Clinton ordered that Iraq be bombed in an effort to destroy facilities that he believed were connected to Saddam's weapons of mass destruction programs.

The Vice President made this argument despite this explicit section of the Iraq Liberation Act: "Nothing in this Act shall be construed to authorize or otherwise speak to the use of United States Armed Forces."

These examples are relevant to the debate today.

The Authorization for the Use of Military Force approved in September 2001 would appear to limit the scope of authority it contains to the terrorists who conducted or aided the attacks of 9/11, or harbored them. But the President and his lawyers have frequently argued for a broad reading of this law,

and believe they are fighting a “global” war on terrorism. In letters to Congress under the war powers resolution, the President has stated that he will “direct additional measures as necessary” in the exercise of self-defense and “to protect U.S. citizens and interests” as part of this global war.

I do not think the suggestion that the President designate an arm of the government of Iran as a “terrorist” entity provides any authority to do anything. After all, it is a nonbinding measure. But this administration already has an unduly broad view of the scope of executive power, particularly in time of war. I do not want to give the President and his lawyers any argument that Congress has somehow authorized military actions. The lesson of the last several years is that we must be cautious about acting impulsively on legislation which can be misconstrued, and misused to justify actions that Congress did not contemplate.

With a different President who had a different track record, I could vote to support this amendment. But given this President’s actions and misuse of authority, I cannot support the amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I have grave concerns about this amendment. I spoke at length on the floor yesterday about them. We have never characterized an entity of a foreign government as a foreign terrorist organization. If we are saying that the Iranian Revolutionary Guard is conducting terrorist activities, what we are saying, in effect, is that the Revolutionary Guard is conducting military activities against us. This has the danger of becoming a de facto authorization for military force against Iran.

We have not had one hearing. I recommended yesterday that the amendment be withdrawn so we can consider it in the appropriate committees. I oppose passage at this time in the hope that we can get further discussion.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. OBAMA) is necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

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

The result was announced—yeas 76, nays 22, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—76

Akaka	Dole	Murkowski
Alexander	Domenici	Murray
Allard	Dorgan	Nelson (FL)
Barrasso	Durbin	Nelson (NE)
Baucus	Ensign	Pryor
Bayh	Enzi	Reed
Bennett	Feinstein	Reid
Bond	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Gregg	Salazar
Burr	Hatch	Schumer
Cardin	Hutchison	Sessions
Carper	Inhofe	Shelby
Casey	Isakson	Smith
Chambliss	Johnson	Snowe
Clinton	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Stevens
Coleman	Lautenberg	Levin
Collins	Levin	Sununu
Conrad	Lieberman	Thune
Corker	Lott	Vitter
Cornyn	Martinez	Voinovich
Craig	McConnell	Warner
Crapo	Menendez	Whitehouse
DeMint	Mikulski	

NAYS—22

Biden	Hagel	Lugar
Bingaman	Harkin	McCaskill
Boxer	Inouye	Sanders
Brown	Kennedy	Tester
Byrd	Kerry	Webb
Cantwell	Klobuchar	Wyden
Dodd	Leahy	
Feingold	Lincoln	

NOT VOTING—2

McCain	Obama
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The PRESIDING OFFICER. On this vote, the yeas are 76, the nays are 22. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

Mr. LIEBERMAN. 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. The Senator from Oklahoma.

AMENDMENT NO. 2196 TO AMENDMENT NO. 2011

Mr. COBURN. Mr. President, I ask unanimous consent that the pending motion and amendments be set aside, and that amendment No. 2196 be called up.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object—and I won’t—is this the amendment which the unanimous consent agreement, previously arrived at, referred to?

Mr. COBURN. It is.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2196.

Mr. COBURN. Mr. President, I ask unanimous consent that the reading of the amendment be waived.

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

The amendment is as follows:

(Purpose: To eliminate wasteful spending and improve the management of counter-drug intelligence)

At the appropriate place, insert the following:

#### SEC. . . NDIC CLOSURE.

Notwithstanding any other provision of this Act, none of the funds authorized to be appropriated by this Act may be used for the National Drug Intelligence Center (NDIC) located in Johnstown, Pennsylvania, except those activities related to the permanent closing of the NDIC and to the relocation of activities performed at NDIC deemed necessary or essential by the Secretary of Defense, in consultation with the appropriate Federal agencies.

Mr. COBURN. Mr. President, I ask unanimous consent that I be given 30 minutes to speak on this subject. I have every intention of speaking less than that, but this is to allow me the flexibility to do so.

I also plan on reserving that time until such time as we come back from our policy luncheon.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, is there any time agreement on this amendment?

The PRESIDING OFFICER. There is not.

Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. COBURN. 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.

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

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

Mrs. McCASKILL. Mr. President, I ask unanimous consent that the motion and all pending amendments be set aside.

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

AMENDMENT NO. 2999, AS MODIFIED, TO AMENDMENT NO. 2011

Mrs. McCASKILL. Mr. President, on behalf of Senator WEBB and myself, I call up amendment No. 2999 and ask that the amendment be modified with the changes at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mrs. McCASKILL], for Mr. WEBB, for himself, Mrs. McCASKILL, Ms. KLOBUCHAR, Mr. BROWN, Mr. CASEY, Mr. TESTER, Mr. CARDIN, Mr. WHITEHOUSE, Mr. SANDERS, Mr. LEVIN, Mr. CARPER, Mrs. FEINSTEIN, Mr. KERRY, Mr. JOHNSON, Mrs. BOXER, Mr. OBAMA, Mr. LEAHY, Mr. HARKIN, Ms. STABENOW, Mr. DODD, Ms. LANDRIEU, Mr. FEINGOLD, Mr. BAYH, Mr. PRYOR, and Mr. BYRD, proposes an amendment numbered 2999, as modified, to amendment No. 2011.

Mrs. McCASKILL. Mr. President, 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 so modified.

The amendment (No. 2999), as modified, is as follows:

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

**SEC. 1535. STUDY AND INVESTIGATION OF WARTIME CONTRACTS AND CONTRACTING PROCESSES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.**

(a) COMMISSION ON WARTIME CONTRACTING.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the “Commission on Wartime Contracting” (in this subsection referred to as the “Commission”).

(2) MEMBERSHIP MATTERS.—

(A) MEMBERSHIP.—The Commission shall be composed of 8 members, as follows:

(i) 2 members shall be appointed by the Majority Leader of the Senate, in consultation with the Chairmen of the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate.

(ii) 2 members shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairmen of the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

(iii) 1 member shall be appointed by the Minority Leader of the Senate, in consultation with the Ranking Minority Members of the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate.

(iv) 1 member shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Minority Member of the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

(v) 1 member shall be appointed by the Secretary of Defense.

(vi) 1 member shall be appointed by the Secretary of State.

(B) DEADLINE FOR APPOINTMENTS.—All appointments to the Commission shall be made not later than 90 days after the date of the enactment of this Act.

(C) CHAIRMAN AND VICE CHAIRMAN.—

(i) CHAIRMAN.—The chairman of the Commission shall be a member of the Commission selected by the members appointed under clauses (i) and (ii) of subparagraph (A), but only if approved by the vote of a majority of the members of the Commission.

(ii) VICE CHAIRMAN.—The vice chairman of the Commission shall be a member of the Commission selected by the members appointed under clauses (iii) and (iv) of subparagraph (A), but only if approved by the vote of a majority of the members of the Commission.

(D) In the event a Commission seat becomes vacant, the nominee to fill the vacant seat must be of the same political party as the departing commissioner.

(3) DUTIES.—

(A) GENERAL DUTIES.—The Commission shall study and investigate the following matters:

(i) Federal agency contracting for the reconstruction of Iraq and Afghanistan.

(ii) Federal agency contracting for the logistical support of coalition forces in Operation Iraqi Freedom and Operation Enduring Freedom.

(iii) Federal agency contracting for the performance of security and intelligence functions in Operation Iraqi Freedom and Operation Enduring Freedom.

(B) SCOPE OF CONTRACTING COVERED.—The Federal agency contracting covered by this paragraph includes contracts entered into both in the United States and abroad for the performance of activities described in subparagraph (A), whether performed in the United States or abroad.

(C) PARTICULAR DUTIES.—In carrying out the study under this paragraph, the Commission shall assess—

(i) the extent and impact of the reliance of the Federal Government on contractors to perform functions (including security, intelligence, and management functions) in Operation Iraqi Freedom and Operation Enduring Freedom;

(ii) the performance of the contracts under review, and the mechanisms used to manage the performance of the contracts under review;

(iii) the extent of waste, fraud, abuse, or mismanagement under such contracts;

(iv) the extent to which those responsible for such waste, fraud, abuse, or mismanagement have been held financially or legally accountable;

(v) the appropriateness of the organizational structure, policies, practices, and resources of the Department of Defense and the Department of State for handling contingency contract management and support; and

(vi) the extent of the misuse of force or violations of the laws of war or federal statutes by contractors.

(4) REPORTS.—

(A) INTERIM REPORT.—On January 15, 2009, the Commission shall submit to Congress an interim report on the study carried out under paragraph (3), including the results and findings of the study as of that date.

(B) OTHER REPORTS.—The Commission may from time to time submit to Congress such other reports on the study carried out under paragraph (3) as the Commission considers appropriate.

(C) FINAL REPORT.—Not later than two years after the date of the appointment of all of the members of the Commission under paragraph (2), the Commission shall submit to Congress a report on the study carried out under paragraph (3). The report shall—

(i) include the findings of the Commission;

(ii) identify lessons learned on the contracting covered by the study; and

(iii) include specific recommendations for improvements to be made in—

(I) the process for developing contract requirements for wartime contracts and contracts for contingency operations;

(II) the process for awarding contracts and task orders for wartime contracts and contracts for contingency operations;

(III) the process for managing and providing oversight for the performance of wartime contracts and contracts for contingency operations;

(IV) the process for holding contractors and their employees accountable for waste, fraud, abuse, or mismanagement under wartime contracts and contracts for contingency operations;

(V) the process for determining which functions are inherently governmental and which functions are appropriate for performance by contractors in an area of combat operations (including an area of a contingency operation), including a determination whether the use of civilian contractors to provide security in an area of combat operations is a function that is inherently governmental;

(VI) the organizational structure, resources, policies and practices of the Department of Defense and the Department of State handling contract management and support for wartime contracts and contracts for contingency operations; and

(VII) the process by which roles and responsibilities with respect to wartime contracts and contracts for contingency operations are distributed among the various departments and agencies of the Federal Government, and interagency coordination and communication mechanisms associated with

wartime contracts and contracts for contingency operations.

(5) OTHER POWERS AND AUTHORITIES.—

(A) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this subsection—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(ii) subject to subparagraph (B)(i), require, by subpoena or otherwise, require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(B) SUBPOENAS.—

(i) ISSUANCE.—

(I) IN GENERAL.—A subpoena may be issued under subparagraph (A) only—

(aa) by the agreement of the chairman and the vice chairman; or

(bb) by the affirmative vote of 5 members of the Commission.

(II) SIGNATURE.—Subject to subclause (I), subpoenas issued under this subparagraph may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(ii) ENFORCEMENT.—

(I) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under clause (i), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(II) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of subclause (I) or this subclause, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(C) ACCESS TO INFORMATION.—The Commission may secure directly from the Department of Defense and any other department or agency of the Federal Government any information or assistance that the Commission considers necessary to enable the Commission to carry out the requirements of this subsection. Upon request of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission. Whenever information or assistance requested by the Commission is unreasonably refused or not provided, the Commission shall report the circumstances to Congress without delay.

(D) PERSONNEL.—The Commission shall have the authorities provided in section 3161 of title 5, United States Code, and shall be subject to the conditions set forth in such section, except to the extent that such conditions would be inconsistent with the requirements of this subsection.

(E) DETAILEES.—Any employee of the Federal Government employee may be detailed

to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(F) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(G) VIOLATIONS OF LAW.—

(i) REFERRAL TO ATTORNEY GENERAL.—The Commission may refer to the Attorney General any violation or potential violation of law identified by the Commission in carrying out its duties under this subsection.

(ii) REPORTS ON RESULTS OF REFERRAL.—The Attorney General shall submit to Congress a report on each prosecution, conviction, resolution, or other disposition that results from a referral made under this subparagraph.

(6) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date of the submittal of its final report under paragraph (4)(C).

(7) CONTINGENCY OPERATION DEFINED.—In this subsection, the term “contingency operation” has the meaning given that term in section 101 of title 10, United States Code.

(b) INVESTIGATION OF WASTE, FRAUD, ABUSE, AND MISMANAGEMENT.—

(1) IN GENERAL.—The Special Inspector General for Iraq Reconstruction shall, in collaboration with the Inspector General of the Department of Defense, the Inspector General of the Department of State, the Inspector General of the United States Agency for International Development, the Inspector General or the Director of National Intelligence, the Inspector General of the Central Intelligence Agency, and the Inspector General of the Defense Intelligence Agency, and in consultation with the Commission on Wartime Contracting established by subsection (a), conduct a series of audits to identify potential waste, fraud, abuse, or mismanagement in the performance of—

(A) Department of Defense contracts and subcontracts for the logistical support of coalition forces in Operation Iraqi Freedom and Operation Enduring Freedom; and

(B) Federal agency contracts and subcontracts for the performance of security, intelligence, and reconstruction functions in Operation Iraqi Freedom and Operation Enduring Freedom.

(2) SCOPE OF AUDITS OF CONTRACTS.—Each audit conducted pursuant to paragraph (1)(A) shall focus on a specific contract, task order, or site of performance under a contract or task order and shall examine, at a minimum, one or more of the following issues:

(A) The manner in which requirements were developed.

(B) The procedures under which the contract or task order was awarded.

(C) The terms and conditions of the contract or task order.

(D) The contractor's staffing and method of performance, including cost controls.

(E) The efficacy of Department of Defense management and oversight, Department of State management and oversight, and United States Agency for International Development management and oversight, including the adequacy of staffing and training of officials responsible for such management and oversight.

(F) The flow of information from the contractor to officials responsible for contract management and oversight.

(3) SCOPE OF AUDITS OF OTHER CONTRACTS.—Each audit conducted pursuant to paragraph (1)(B) shall focus on a specific contract, task order, or site of performance under a contract or task order and shall examine, at a minimum, one or more of the following issues:

(A) The manner in which the requirements were developed and the contract or task order was awarded.

(B) The manner in which the Federal agency exercised control over the contractor's performance.

(C) The extent to which operational field commanders are able to coordinate or direct the contractor's performance in an area of combat operations.

(D) The extent to which the functions performed were appropriate for performance by a contractor.

(E) The degree to which contractor employees were properly screened, selected, trained, and equipped for the functions to be performed.

(F) The nature and extent of any incidents of misconduct or unlawful activity by contractor employees.

(G) The extent to which any incidents of misconduct or unlawful activity were reported, documented, investigated, and (where appropriate) prosecuted.

(4) CONTINUATION OF SPECIAL INSPECTOR GENERAL.—

(A) IN GENERAL.—Notwithstanding section 3001(o) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106; 5 U.S.C. App. 8G note), the Office of the Special Inspector General for Iraq Reconstruction shall not terminate until the date that is 60 days after the date of the submittal under paragraph (4)(C) of subsection (a) of the final report of the Commission on Wartime Contracting established by subsection (a).

(B) REAFFIRMATION OF CERTAIN DUTIES AND RESPONSIBILITIES.—Congress reaffirms that the Special Inspector General for Iraq Reconstruction retains the duties and responsibilities in sections 4 of the Inspector General Act of 1978 (5 U.S.C. App. 4; relating to reports of criminal violations to the Attorney General) and section 5 of the Inspector General Act of 1978 (5 U.S.C. App. 5; relating to reports to Congress) as expressly provided in subsections (f)(3) and (i)(3), respectively, of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.

(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be required to carry out the provisions of this section.

Mrs. McCASKILL. Mr. President, today we have an important opportunity to do some good-government. It is so hard in the context of the conflict in Iraq to get beyond some of the political posturing that has, frankly, been inevitable. As campaigns have occurred, and we have campaigns looming next year, there has been a tendency for this body to separate at the middle and not find common ground.

We have an opportunity this afternoon to find common ground, and my job over the next few minutes is to try to convince my colleagues that this attempt to create a War Contracting Commission is not about politics, it is about reform.

It would be hard not to notice the scandals that have occurred in relationship to war contracting. I come to

this as a student of history and a huge fan of Harry Truman. I am honored to stand at his desk as I speak today. I am honored to follow in his tradition when he said: War profiteering is unacceptable, especially when you realize it is skimming away and denying the men and women who are fighting resources.

In a very modest fashion, at a time that he, frankly, was not supporting his President, who was of his party, he was saying to the President: We need to do some reform here, even though the President was a Democrat, just as he was, and he began looking at war profiteering. Frankly, that is where Harry Truman first made his mark in the history books of this country. It was because he realized this was so much bigger than being a Democrat or Republican; it was about how we behave when we place men and women in danger on behalf of our Nation. In that vein, this amendment is going to try to take the politics out of the issue of war contracting and try to make things better. Let me first summarize what the amendment is going to do.

It will establish an independent and bipartisan eight-member Commission—bipartisan eight-member Commission, four Republicans and four Democrats. They will study and investigate Federal agency contracting for reconstruction in Iraq and Afghanistan, Federal funding and contracting for the logistical support of coalition forces in Iraq and Afghanistan, Federal contracting for the performance of security and intelligence functions in Iraq and Afghanistan, and will expand the special inspector general's role to include the responsibility of logistical support and security and intelligence functions.

Currently, the special inspector general, Stuart Bowen, only has jurisdiction over reconstruction funds in Iraq. Clearly, frankly, as I met with contracting officials on my trip to Iraq and Kuwait, where I spent most of my time talking to the people who have taken responsibility for issuing these contracts and monitoring these contracts, as I talked to all of them, I mean at every meeting I kind of just went: Oh, my gosh, this is so bad—except when I met with the SIGIR.

When I met with the people who worked for the special inspector general, I was so comforted as an auditor. These were professional auditors, and they were on top of it. They were identifying the problem, they saw the shortcomings, whether they were in the way contracts were distributed or let or, frankly, not competed or whether they were in the monitoring of those contracts, the definitization of those contracts, the oversight of those contracts, or the way we actually pay bonuses on some of those contracts. All of those issues have been looked at by the SIGIR. They have been limited because their jurisdiction was limited. This will expand their jurisdiction and, most importantly, efficiently, it partners them with the Commission. So we

do not have to hire a huge staff for this Commission; they can utilize the work of SIGIR, the work of the Special Inspector General for Iraq Reconstruction, to come to conclusions about how we can do better.

Honestly and sincerely—I know Senator WEBB and I have talked about this at great length—this is not about “gotcha,” this is about turning the corner, because, let’s be honest, will there ever be a time where we are not contracting at this kind of level? Will we ever go back to a time when we have Active military peeling potatoes and cleaning latrines? Will we ever go back to a time where we have Active military driving all of the supply trucks? Will we ever go back to a time where we have Active military providing all of the security needs? I am not sure we will because our struggle is to maintain a Volunteer military but provide them all the support they need in terms of logistics.

Frankly, there are some efficiencies that could be gained if we were contracting in a way that took care of the taxpayer dollars. I do not argue that contracting might be necessary—in fact, better in some instances—but not the way we are doing it now.

Now, you say: Well, there are a lot of people looking at this. That may be true. There have been a lot of journalists who have looked at it. We have certainly had various parts of the Department of Defense and the military, various inspectors general, and we certainly have SIGIR. But let me just point out one thing. As one of the generals said to me when I was in Iraq, sheepishly: You know, everything you are seeing in terms of mistakes that have been made, most of them were made in Bosnia. And by the way, there was a lesson learned after Bosnia, except there was one problem: They forgot to learn the lesson.

So if we are going to elevate this problem to where we really acknowledge that it is systemic, it is overarching, and it is interagency, what do we have if we do a congressional hearing? Well, first of all, we are going to have a committee that has more Democrats than Republicans on it, so we have at the very outset the allegation that it is political. We also have battling turf. Is it Homeland Security and Governmental Affairs? Is it Armed Services? Is it Foreign Relations? Because all of the problems swirl around all of those committees. How do we get above the interagency issue if we do not have this kind of commission?

The makeup of the Commission would be as follows: eight people—two people appointed by the majority leader in the Senate, two people appointed by the Speaker in the House, one person appointed by the minority leader in the Senate, one person appointed by the minority leader in the House—that gets you to six—and then one person appointed by the President of the United States and one person appointed by Secretary Gates at the Department of Defense.

Now, are we going to have a long bureaucratic commission that just does a lot of testimony and we do not get to the end? No. They must finish their work within 2 years. And they must, as I mentioned before, partner with the SIGIR, partner with the Special Inspector General of Iraq Reconstruction, in a way that they can efficiently take the work that has been done by a number of different agencies and a number of different oversight entities, a number of different auditors and bring it together and identify how do we, in a contingency, contract in a way that takes care of taxpayers’ money?

Now, we have an election coming up. I have to tell you, I have talked to a couple of my friends across the aisle, and I am concerned about the vote on this amendment because there is a knee-jerk reaction. If we are talking about war contracting, this is political. This is a political witch hunt. It is the D’s versus the R’s. Let me say that I do not think they have taken time to look at how bipartisan this is because if they did, I think it would assure them that this is not an attempt to do this. We have to fix this, and we have to fix it as quickly as possible. It has to do the work within 2 years.

We have modified the amendment to reassure my friends across the aisle that, first of all, if one of the President’s appointments or if one of the other appointments who would represent the Republican Party on this Commission were to quit or for some reason not be able to continue to serve, someone of the same party must be appointed. So we are never going to get to a situation if we have a new President that the new President could say: I am going to appoint two. If the new President were a Democrat, you would end up with six to two.

The other thing that is important to remember is we have modified the amendment so the report of this Commission will come out after next year’s election, January of 2009. What a great way to start a new Congress and a new Presidential term. The new President and the new Congress can look at these recommendations—very similar to the 9/11 Commission, very similar to the Baker-Hamilton Commission—and realize there are systemic institutional problems with the way we have been contacting and get it fixed.

I have met with the special inspector general for Iraq, Mr. Bowen, and he has indicated his support for this approach. This is not about in any way diminishing the role of the special inspector general for Iraq—just the opposite. It is going to give the special inspector general a voice that is above the political din in order to issue recommendations. They are going to have their capping report ready next March. That will be a great starting point for this Commission, to look at SIGIR’s capping report of all of their work on Iraq reconstruction.

Let me give you a list of some of the groups that have supported this

amendment, and we have had many, many groups that have come to the support of this.

First, the Project on Government Oversight is very strongly in favor of it. POGO particularly supports the independent and bipartisan nature of this Commission and the recommended collaboration and consultation with the special inspector general and the expansion of the role of the special inspector general.

OMB Watch, a Government transparency, fiscal policy, and regulatory watchdog nonprofit, wants to applaud the Commission on War Contracting Establishment Act; that is, in fact, this amendment.

The Government Accountability Project also has indicated their support.

The Iraq and Afghanistan Veterans of America have indicated their support.

The Taxpayers for Common Sense has weighed in with their strong support of this amendment.

The Federation of State PIRGs, public interest research groups, has weighed in with their support also, and Common Cause has indicated this is a good government, bipartisan way to fix a serious problem. I may return later to talk about some of the scandals. There have been many, many scandals. Some of them are heartbreaking. Some of them make you want to tear your hair out; whether it is the way some of the whistleblowers have been treated, whether it is contracts that have ballooned out of control, whether it is paying bonuses to companies that haven’t done their work, \$200 million in bonuses to companies that have not done their work. We obviously have issues with the security company Blackwater and who has authority over them and to whom are they accountable when they take action in the war zone. It is heartbreaking that some in our active military—unfortunately, more than a few—have been charged and pled guilty to actually taking bribes, tens of millions of dollars in their pocket. The Department of State IG, there are problems with whether the investigations have been conducted.

Whether you agree that the investigations have occurred in the State Department or they have not, why not do a bipartisan commission that will look at this fairly under the light of transparency and good government, without the cloud of politics and accusations by one political party or another?

I am especially proud of the fact that this is an amendment that was cosponsored by the nine freshmen Democrats who arrived here in January. We, frankly, probably are not as well versed or schooled in some of the turf fights that occur between committees. It will be a long time before any of us need to worry about whether our committee, as chairman or ranking member, has the ability to have a hearing. We look at it with the eyes of the general public. We come here fresh from

speaking with thousands and thousands of people we represent. We hear their frustration that billions of dollars have been lost, tens upon millions of dollars have been stolen, and an incredible amount of money wasted in the name of contracting. We also have 20 cosponsors on this amendment which we believe is very important. I welcome the support.

I do emphasize that we can behave today like people probably expect. We can have a 50-50 vote, and the American public is going to sit back, if we have a 50-50 vote, and they are going to say: What in the name is going on? How do you get a 50-50 vote on an effort, with four Republicans and four Democrats, to get a handle on war contracting? How does that happen? We all sit around and talk—I know the Republicans talk about it; we talk about it—about our approval ratings and why our approval ratings are not higher. This is our chance. This is our chance to say to the American public: We are spending your money wisely, making sure the men and women who fight get the armor they need and the MRAPs they need on their humvees, instead of billions being wasted on war profiteering. This is our chance to show them we can come together and overcome the politics of this place for the good of our national security and the strength of our military.

I yield the floor and suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WEBB. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WEBB. Mr. President, I would like to add to the comments made by my colleague from Missouri about the Truman Commission follow-on that we have jointly introduced, along with other freshmen Members on the Democratic side, the Independent side, and with a total of 27 cosponsors as of this morning.

I don't think there is a more important or volatile issue, in terms of Government accountability, than the issue of the expenditures that have gone into Iraq and Afghanistan and the accountability of not only contractors but of the quasi-military forces operating there. We have put a great deal of effort into designing a wartime commission that was inspired by the Truman Commission in World War II but has its own uniqueness, given the issues of today. I am very proud to be one of the original sponsors on this amendment. I hope Members on both sides of the aisle can support it.

We are attempting, in a fair way, with experts in the field—not simply a group of Senators forming a panel, bringing in experts from the areas, experts in competence from the areas

they would be looking at in a short period of time, 2 years—to examine the amounts of money that have been spent, where this money has gone, to try to bring some accountability into the system and to make their reports, in some cases with legal accountability, and then to wrap it up and go home. This is not an attempt to create a permanent standing organization but, rather, one that can come in with the right people, take a look at what went wrong, make a report to the American people and, in some cases, give them their money back, since all of these now nearly a trillion dollars have been spent on the wars in Iraq and Afghanistan without a lot of accountability—that is taxpayer money—to try to find out how it was spent.

In most cases, it has been spent properly. But in those cases where it has not, we want to get people their money back and get accountability to the people who did not spend it back. This is about improved transparency. It would be forward looking in terms of looking at systemic problems and attempting to address them.

It is more than that. This amendment is supported by nearly every major taxpayer watchdog group. We are now, with the present state of the Department of Defense and of the wars in Iraq and Afghanistan, outsourcing war in ways that we have never seen before in our history. Hundreds of billions of dollars have been allocated for reconstruction and for wartime support, creating a strong potential for fraud, waste, and abuse. This commission will ensure financial accountability in those areas where there has been fraud, waste, and abuse with provisions that allow for legal accountability in cases of wrongdoing.

It also will look at such organizations as Blackwater, which has recently been in the news for the alleged series of wrongful killings of Iraqis and excessive use of force. This is an area that has slid past us as a representative government which is a cause for great concern for anyone who has been involved in national security affairs over the years. We now have in Iraq 180,000 contractors working in a war where there are 160,000 troops. They are doing a whole panorama of chores that traditionally have been done by military people, all the way from operating the mess halls to providing security for even, on some occasions, General Petraeus himself. There is no accountability, none, in terms of legal accountability for actions that have been taken that result in inappropriate use of force and, in some cases, wrongful deaths of people in the area. This committee would help address that.

We are also looking at basic contractor accountability. As one example, not long ago the Special Inspector General for Iraq Reconstruction reported that of the \$32 billion at that time that had been spent on reconstruction and relief funds—this is State Department programs—\$9 billion was

unaccounted for. We need desperately to have an independent, fair, objective analysis of what has happened, what is happening, not only for accountability but also to help us design a structure for the future. Again, we are not trying to create a new bureaucracy. The commission will rely on the inspectors general in agencies that already exist for most of the analysis. We are sunsetting the provision at 2 years. We are very comfortable with SIGIR's excellent performance in uncovering waste, fraud, and abuse in Iraq of reconstruction projects. We believe that is proof of the ability to do this on a more comprehensive and thorough level.

I strongly urge our colleagues on both sides of the aisle to lay aside political differences and come together with the reality that all of us have an obligation to put accountability into the system for the American people and, in some cases, to give people back the money they spend in tax dollars for programs that were wrongfully carried out or, in some cases, not carried out at all.

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

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

AMENDMENT NO. 2196

Mr. COBURN. Mr. President, I have an amendment pending. This is a straightforward amendment. Over the last 10 years, we have spent a half-billion dollars of Defense Department money on a program run by the Justice Department that has achieved probably the least of any program in the entire budget of the Department. This is the National Drug Intelligence Center. It came into being initially through directed spending on a Defense appropriations bill. The reason for adding this amendment to the authorization bill is to preclude any further money on spending on this intelligence center and only allowing money to shut it down and have it consolidated with other intelligence centers.

If we think about what \$500 million could be doing for us now in the Defense Department in the true defense of our Nation and then look at the history of this center, this isn't about trying to direct things against any group of people or any Congressman or Senator. It is about the commonsense view that we ought to be spending money in a prioritized way that gets us results.

By any measure—anyone's measure—including the Justice Department, all the other national drug intelligence centers—all of the others—the former directors of this intelligence center, and the directors of others, this intelligence center has been looking for a mission and has accomplished very little.

Of the two things they have accomplished, one is highly expensive and not accurate. The other is the investigation of intelligence information captures on drugs and could be well done at any other facility we have.

The Department of Justice believes the drug center's operations are duplicative and reassigning their responsibilities would improve the management of counterdrug intelligence activities and would allow for funds to be spent on the additional hiring of more drug enforcement officers. So we are going to have anywhere from \$30 million to \$40 million a year continued to be spent on this center. What this simply is, in the authorization, is a prohibition that we will not do this.

When the Department of Justice, which is charged with running this center, says it does not work, it is not effective, it is not accomplished, and should be consolidated, we have to ask the question: Why does it continue? It continues through the force of directed spending in the Defense appropriations bill.

Now, how is it we have drug enforcement funded through the Defense Department to give the money to the Department of Justice to run a program they say is ineffectual? The whole purpose for this amendment is to not castigate anyone but to say: Shouldn't we be spending the money more wisely? Shouldn't we be accomplishing, with that \$500 million we already spent, something of value to the American taxpayer rather than something not of value?

This amendment would protect Defense dollars from being misspent and improve the management of our counterdrug intelligence efforts by eliminating the wasteful spending. It would also direct the necessary funds to close the NDIC. It also would say any activities that might be performed by the center that are deemed necessary, which are minimal—let me emphasize that again: minimal in terms of all the experts we have throughout the rest of the Government—that they would, in fact, be transferred to the appropriate agencies.

In 2002, this intelligence center received \$42 million—\$39 million, \$44 million, \$39 million, \$38 million, \$39 million—for a total of \$509 million since its inception. It is duplicative, it is unnecessary, and it is unworkable.

Even the former director said: Most of the time the work was shoddy, of poor quality, and quite often wrong. This is the same director who is no longer there—a Mr. Horn—who was admonished by the Department of Justice for his excessive spending while he was there, on travel, on international things that had nothing to do with the NDIC's goals or direction.

Mr. President, there have been numerous articles written, two of which I ask unanimous consent to have printed in the RECORD, one being a complete dossier on this agency from US News & World Report.

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

[From the U.S. News & World Report, May 9, 2005]

#### A DRUG WAR BOONDOGGLE

(By Bret Schulte)

THE WHITE HOUSE WANTS TO KILL IT, BUT A LITTLE GOVERNMENT AGENCY MAY MANAGE TO LIVE ON

It merits only the briefest of mentions in the president's new budget, but those few lines of type could represent the final chapter in a long and twisted Washington saga. Stashed away on Page 1,181 is a paragraph that would effectively kill the little-known National Drug Intelligence Center, located in Johnstown, Pa., the site of the famous flood of 1889. Bush's budget proposes that the center's \$40 million annual budget be slashed to \$17 million—just enough to facilitate “the shutdown of the center and transfer of its responsibilities... to other Department of Justice elements.”

If President Bush has his way, the center would be one of 154 programs eliminated or cut as part of his promise to curb federal spending. But as any veteran of Washington's budget wars will tell you, closing even a single federal program can be a herculean task. Perhaps no example is more illuminating than the NDIC, which, in its 12 years, has cost taxpayers at least \$350 million. The facility has run through six directors, been rocked by scandal, and been subjected to persistent criticisms that it should have never been created at all.

Pork? In the beginning, the Johnstown center did have some friends in the White House. With the blessing of President George Herbert Walker Bush, then drug czar William Bennett proposed the creation of the NDIC in 1990. Its mission: to collect and coordinate intelligence from often-feuding law enforcement agencies in order to provide a strategic look at the war on drugs. But the Drug Enforcement Administration, worried that its pre-eminent role in the drug war was slipping away, openly fought the idea. So did many on Capitol Hill, arguing that the new center would duplicate the efforts of existing intelligence centers, notably the El Paso Intelligence Center, operated by the DEA. With little support in the law enforcement community, the NDIC looked all but dead. Enter Congressman John Murtha. The Pennsylvania Democrat, who chaired the House Appropriations Subcommittee for Defense, tucked the enabling legislation for the center into a Pentagon authorization bill, with the caveat that it would be placed in his district.

The center was troubled from the start. Murtha's new drug agency was funded by the Pentagon, but the Department of Justice was authorized to run it—an arrangement bound to cause problems. “All of us wanted the NDIC,” says John Carnevale, a former official with the Office of National Drug Control Policy, as the drug czar's office is known. “But none of us wanted it in Johnstown. We viewed it as a jobs program that Mr. Murtha wanted [for his district].”

Murtha bristles at implications that the Johnstown center is a boondoggle. “They say anything we do is pork barrel,” he fumes. The congressman argues that the federal government should spread its facilities around the country, citing the security risk of a centralized government and cheaper operating costs elsewhere. But “obviously,” he says, “I wanted it in my district. I make no apologies for that.”

Headquartered in a renovated department store downtown, the center has brought nearly 400 federal jobs to Johnstown, a strug-

gling former steel-mill town. Law enforcement agencies, ordered to send employees to the new center, had trouble finding skilled analysts or executives who would agree to live in Johnstown. Even the bosses didn't want to go. The first director, former FBI official Doug Ball, traveled back and forth from his home near Washington. His deputy, former DEA agent Jim Milford, did the same and made no bones about it. “I've never come to terms,” Milford says, “with the justification for the NDIC.”

In 1993, when the NDIC officially opened, the congressional General Accounting Office issued a damning report citing duplication among 19 drug intelligence centers that already existed. And many involved in the process said the idea of gathering information from other law enforcement agencies for strategic assessments on drug trafficking just wasn't workable. In some cases, federal law prevented agencies from sharing sensitive intelligence; in others, rival agencies simply refused to give up proprietary information. “The bottom line,” Milford said, “was that we had to actually search for a mission.”

Stonewalled, the NDIC began operating, effectively, as an extended staff for other drug agencies, working on projects too cumbersome, peripheral, or time-consuming for their own teams of intelligence analysts. The center was costing about \$30 million a year, but, as a former official of the drug czar's office put it bluntly, “we saw nothing” from it.

Former DEA official Dick Canas, who took over the NDIC in 1996—one of the few bosses who actually moved to Johnstown—was determined to elevate the facility's status. He began collating and analyzing “open-source information”—intelligence already available to the public—and pulling it all together in one place. The plan was “nonthreatening” to other agencies, Canas argued, and would at least provide policymakers with a general overview of the war on drugs. That project morphed into an annual report called the National Drug Threat Assessment, which officials say is of some real value.

The Johnstown center racked up one other success. Its “document exploitation” program regularly dispatched analysts into the field to process files seized by other law-enforcement agencies using software it developed called RAID (real-time analytical intelligence database). Johnstown analysts used the software to organize data and help law enforcement agencies develop investigative leads.

Cronyism? In 2000, the Clinton administration tried to define the center's role more sharply by releasing the General Counterdrug Intelligence Plan, which restricted the reach of the Johnstown center to domestic intelligence only. Canas, gone by 1999, was replaced by another DEA executive, Mike Horn, who was the fifth interim or permanent director in six years; Horn kept an apartment in Johnstown but traveled back to a home in the Washington area on weekends.

Horn's tenure made everything that came before it seem placid. Despite the NDIC's domestic mandate, Horn and his assistant, Mary Lou Rodgers, made frequent trips abroad to promote a new version of the RAID software in places like Hong Kong, London, and Vienna, racking up nearly \$164,000 in travel expenses in less than four years. A Justice Department investigation in 2003 admonished Horn for “unprofessional conduct in... dealings with Ms. Rodgers,” but that wasn't the end of it. A letter-writing campaign by NDIC employees accused Horn of continued travel abuse and cronyism, prompting another review by Justice lawyers last year. It was also discovered that the new

version of the RAID software promoted by Horn had yet to be developed. Many NDIC insiders say morale was poor.

In March 2004, Associate Deputy Attorney General David Margolis suspended Horn's power to authorize travel for Rodgers. In June 2004, Margolis fired Horn. The Justice Department won't comment on the matter. Horn claims all travel was approved and says he has not been made to pay restitution. Horn blames the low morale on malcontents who resented the quality of work he demanded. "I recognized that a lot of reports were God-awful, poorly written, poorly researched, and, in some cases, wrong," he says. Some insiders say that under Horn, the center got as close as it ever would to producing some truly strategic intelligence reports. Not surprisingly, in light of the morale and other problems, others disagree.

Either way, the White House appears to have had it with the NDIC. In its budget report, the Office of Management and Budget says "the proliferation of intelligence centers across the government has not necessarily led to more or better intelligence, but rather more complications in the management of information." For the Johnstown center, it's an ironic coda, then, that the White House is simultaneously supporting a new program—the multiagency Drug Intelligence Fusion Center. Blessed by the DEA, the fusion center will be located in the Washington area. It has already received \$25 million from Congress in start-up costs and is slated to open its doors later this year. The idea that a different agency can do the job the NDIC failed to do has left some shaking their heads. "You have to ask, 'What is the master plan?'" said a former official in the office of the drug czar. "The answer is there is no master plan." Proponents say the new agency will succeed because its location makes sense.

That doesn't mean the NDIC is finished. It has supporters in state and local law enforcement, and even some federal officials have come to respect its document exploitation division. The NDIC's biggest supporter, though, is Murtha. "I can assure employees that the NDIC won't be closed," he said in a public statement after Bush's budget was released. While Murtha is no longer chair of the House Appropriations Subcommittee on Defense, he remains the ranking Democrat and a backroom dealer with few equals. In the Senate, Pennsylvania Republican Arlen Specter will fight to keep the center open from his seat on the Appropriations Committee. The showdown could come as soon as next month, when appropriations subcommittees begin tackling the budget.

To paraphrase Mark Twain, reports of Johnstown center's death may be premature. "Barring another flood," says a former law-enforcement official, "I doubt you'll see it go anywhere."

[From the Centre Daily News, Sat., June 30, 2007]

OFFICIAL: DISPUTED PA. FACILITY PLAYS VITAL PART IN DRUG WAR

(By Daniel Lovering)

For years, the National Drug Intelligence Center has operated quietly on the upper floors of a former department store, with scores of employees authorized at the highest levels of government security.

But the Justice Department facility, which blends into the landscape of this once-thriving mill town 60 miles east of Pittsburgh, has long caught the attention of critics in Washington.

Watchdog groups and lawmakers have blasted it as a pet project of U.S. Rep. John Murtha, whose special funding requests—or earmarks—have sustained the center since it opened in his home district in the early 1990s.

It has been derided as a product of pork barrel spending and an unnecessary out-

growth of the war on drugs that duplicates work done elsewhere. The Bush administration has tried to close it, requesting millions to cover shutdown costs.

The latest salvo came last month, when Rep. Mike Rogers, R-Mich., tried to remove an earmark for the center, drawing Murtha's ire.

But the NDIC has persisted, despite lingering questions about its effectiveness in coordinating the efforts of federal authorities to collect and analyze intelligence on the domestic trafficking of cocaine, heroin, methamphetamine and other drugs.

Acting director Irene S. Hernandez insists the center plays a critical and unique role in the nation's anti-drug effort, and that its mission has evolved from an initial focus on trafficking syndicates to its current emphasis on broad trends.

"We can do an independent assessment of the drug trafficking situation, and we can say this is what's happening," Hernandez told The Associated Press in an exclusive interview. "There's nobody else positioned to do what we do."

She said the center differs from other agencies, which may be preoccupied with tactical operations, and informs policy makers.

Over the years, directors have come and gone, in one case under a cloud of scandal. The current director, Michael F. Walther, an army reservist and former federal prosecutor, is currently serving in Iraq.

The center's funding has been precarious—a factor that has impeded hiring efforts, officials say. With a budget of \$39 million annually, the center's survival again appears uncertain as a spending bill moves through Congress.

The NDIC conducts what it calls strategic assessments of illicit drug trends. It analyzes evidence for federal investigators and prosecutors, gathers intelligence, trains law enforcement officers and produces a raft of reports. Some of its work is classified.

Its 268 employees have top secret security clearance and include 121 intelligence analysts with backgrounds as diverse as real estate, chemistry, banking and law. It also uses contractors, some of whom are retired federal agents. In their midst are a small number of analysts from the Drug Enforcement Administration and other agencies.

Hernandez, who joined the agency in 2004 after a 27-year DEA career, points to the center's ability to cull information from seized evidence—including ledgers, phone and real estate records, computers and cell phones—and funnel that data to investigators and prosecutors, helping them build cases against suspects. The center has developed its own software, including a program currently used by U.S. military investigators in Iraq.

It works with a broad range of law enforcement agencies, from the Federal Bureau of Investigation to the Internal Revenue Service, and supports the National Counter terrorism Center's efforts to sever ties between drug traffickers and terrorists.

The NDIC assisted in an operation that led to the arrest of one of the world's most hunted drug traffickers, Pablo Rayo Montano, and helped detect growing abuse of the painkiller OxyContin, officials said.

Its marquee report, the National Drug Threat Assessment, charts patterns of drug production, availability and demand. Some law enforcement officials and academics praise the report, but former drug officials question its value as a policy instrument.

Gary L. Fisher, a professor at the University of Nevada-Reno, called the report objective and independent. "It really accurately reflects how futile the (drug) supply control efforts have been," he said. "You'll find the DEA reports are much more biased to fit their agenda."

Another professor, Matthew B. Robinson of North Carolina's Appalachian State Univer-

sity, said he and a colleague used the report to challenge assertions by the Office of National Drug Control Policy, the White House agency responsible for the drug war.

The data showed illicit drugs are cheaper and purer today than they were in the 1980s and 1990s, said Robinson, co-author of "Lies, Damned Lies, and Drug War Statistics: A Critical Analysis of Claims Made by the Office of National Drug Control Policy." Some local law enforcement officials lauded the reports, saying they circulated them among their analysts.

But John Carnevale, a former ONDCP official who worked under three administrations and four drug czars, said the center's work was of no value to him when he was in government, though he has since used its reports.

"I had access to the data well before they did," said Carnevale, now a Maryland-based consultant. "So I pretty much ignored them."

Eric Sterling, president of the Criminal Justice Policy Foundation, an advocacy group based in Maryland, said: "In many respects it seems that their stuff is out of date. . . . I would describe it as a tool of limited value."

Critics have also questioned the center's location 140 miles from Washington, citing political maneuvering by Murtha.

"I know what their capabilities are, I know what they can do, but that didn't need to go to Johnstown, Pennsylvania," said James Mavromatis, a former director of the El Paso Intelligence Center, a Texas-based DEA agency.

He said the center could have been housed at the El Paso facility, closer to the U.S. border with Mexico, where most illicit drugs enter the country. The NDIC had considered moving a team there, he said.

The NDIC's document analysis differs completely from EPIC's work, he added, despite criticism they overlap completely.

NDIC officials and others contend that the center's Johnstown address is hardly a hindrance. It may be an asset, they say, as its low cost of living appeals to job candidates.

Asa Hutchinson, a former DEA head and a former Republican congressman, said he was "a fan of folks performing important government services, and not necessarily in Washington." But he conceded the center may need adjustments.

"I think it is underutilized," he said. "I think they can expand their mission, and I think that should be examined."

An activist group, Citizens Against Government Waste, recently chided Murtha for threatening fellow congressman Rogers with legislative reprisals after Rogers tried to strike a \$23 million earmark for the center.

"We're not saying there shouldn't be an NDIC," said David Williams, the group's vice president for policy. "What we're saying is, why should one member of Congress be able to set up a field office like this?"

Rogers said he believed the El Paso center was supposed to be the main drug intelligence agency.

"I strongly believe it is not a good use of very valuable intelligence resources," he told The Associated Press, adding that \$23 million amounted to the salaries of hundreds of DEA agents.

The Bush administration evidently agrees. Sean Kevelighan, a spokesman for the Office of Management and Budget, said the center has "been slow to delineate a unique or useful role within the drug intelligence community."

For that reason, the OMB's 2008 budget request "fully funds all shutdown costs" of about \$16 million he said.

Mr. COBURN. I quote from the *Centre Daily News* of this last June:

... the NDIC has persisted, despite lingering questions about its effectiveness in coordinating the efforts of federal authorities to collect and analyze intelligence on the domestic trafficking of cocaine, heroin, methamphetamine, and other drugs.

What is at stake here? Running this center means we will not have enough DEA agents—and we do not. Running this center continues to spend \$30 to \$40 million a year that could do great things for our military. Why would we not want to redirect or at least prohibit the continued funding through this Defense authorization bill?

Now, there are going to be some claims: Why are you doing this here? Why aren't you doing it on an appropriations bill when it comes through? We cannot have it both ways. We heard in the debate on WRDA that authorizations matter, and it is important for us to have priorities. So the claim is you should not be doing this here on the Defense authorization but, rather, on the appropriations bill. The authorization is the place to do this, to limit the expenditure of funds on something that does not pass muster by anybody's standard.

So it is my hope that consideration will be given to this amendment, and that we will truly have the courage to make a vote to spend money wisely. To continue to spend money on this center means we are going to continue to throw \$40 million away, according to the Department of Justice, which runs this center, in something that will not give them any benefit.

I cannot think of a greater thing we could do than to start doing this and look at every program such as this that is not accomplishing any goals. There are no metrics to measure it, other than what the Department of Justice says.

There will be claims saying it has programs that work. They have some programs, but they are highly expensive. They are not as efficient, and they are always late. So over the 12 or 13 years this center has existed, only two of those programs have been successful, and they are not as successful as the other programs within the Department of Justice in this very area. So it is hard to justify the basis for this center.

AMENDMENT NO. 2999

Finally, Mr. President, I want to spend a minute talking about the Webb amendment. One of the things we know is that we do not do a good job on contracting. I know some of the Members on my side of the aisle perceive the potential for this commission to be used in a political framework. I am not worried about that. I do not think it is intended to be used in a political framework. I think it is intended to hold the agencies accountable for how they spend the money and whether we are going to get a handle on our contracting procedures, both through the State Department and the Defense De-

partment so we can see we actually get value for the money we spend.

I am highly supportive of the amendment because I think it is going to give us transparency, it is going to give us recommendations, and it is going to make clear where we have confusion now in how we contract and whether we get value for our money.

With that, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 3035

Mr. MENENDEZ. Mr. President, I rise to speak on an amendment that we will have a cloture vote on at some point today or tomorrow, Senator KENNEDY's and Senator SMITH's Hate Crimes Prevention Act—a vote by which I hope the Senate will succeed, in a robust way, to invoke cloture and to move forward.

Nine years ago, a young man sat in a bar having a good time, like many young men throughout America. Not unlike thousands of young adults at bars across America, this young man needed a ride home from the bar. So he asked two people he had befriended for a ride. They agreed. On the way home, they robbed him, they pistol whipped him, and tied him to a fence, leaving him for dead. They committed this brutal crime for one reason—and one reason only—because the victim was gay.

Since that time, the Congress has been struggling to enact the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act—a bill I am proud to cosponsor. It has received bipartisan support in both the House and the Senate. But for some reason, we have been unable to make the bill a law. Today—as soon as this vote takes place—I hope that will change.

Hate crimes violate every principle upon which this country was founded. When our Declaration of Independence proclaimed that “all men are created equal”—of course, I would take that to mean today all men and women are created equal—it did not go on to say, however, “except Muslim or Sikh or homosexual Americans.” It had no exceptions to the rights and liberties Americans had under the Constitution and that Declaration. The freedoms we often take for granted—freedom of speech, freedom of association, freedom of religion—become empty promises if we do not protect all those who seek to exercise these freedoms under the Constitution.

Sadly, right now we are not protecting all of our citizens. This is not, by the way, about providing special rights. It is about ensuring constitutional rights.

Local, State, and Federal governments need additional resources and authority to investigate and prosecute hate crimes based on race, ethnicity, religion, sexual orientation, disability, and gender identity. That is exactly what this bill will do. It will allow the Department of Justice to assist in these investigations and prosecutions,

and it will provide grants for State and local governments struggling with the costs and logistics of prosecuting these crimes.

Some people may not think hate crimes are a real problem in this country. They are absolutely mistaken. In 2005—the most recent year we have data on—8,380 hate crimes were reported. Of the single-bias incidents, 54.7 percent were racially motivated; 17.1 percent were motivated by religious bias; 14.2 percent resulted from sexual orientation bias; 13.2 percent by ethnicity or national origin bias; and a little under 1 percent by disability bias.

My home State of New Jersey experienced at least 756 bias incidents, 47 percent of which were based on racial bias, 36 percent were based on religious bias, and 11 percent were based on ethnic bias. I say “at least 756 bias incidents” because we do not know how many of these vile attacks have gone unnoticed and unprosecuted due to the scarce resources currently available to local law enforcement.

Now, I am proud to have been the author of New Jersey's landmark bias crimes law when I was in the State legislature. We said then we could not eradicate hate or bigotry in New Jersey with a single law, but we could send a strong societal message that such acts would not be tolerated. With this law, we can do the same for our great Nation.

Of course, you do not need to rely on my numbers or my experiences to know that hate crimes are alive and well in the United States. All you have to do is watch television.

Last Thursday, thousands of protesters descended on the small town of Jena, LA, to protest the treatment of six young African Americans. The town was a picture of racial tension, all of which came to the surface months ago when three nooses were hung from a “whites-only” tree at the Jena High School. Perhaps if we had stronger hate crimes enforcement, this original action which provoked such violence and started the town down its path would have been properly handled and would have never escalated to the degree it did.

Make no mistake about it, hate crimes are a serious problem in the United States—a problem we can no longer afford to ignore.

Some may protest that this is not the time or place to be debating hate crimes legislation. I disagree. For some, it never seems to be the right time or the right place.

Members of our military are not immune from hate crimes. To the contrary, hate crimes can happen anywhere there are emotions, anywhere there are people with the capability to hate. In 1992, a Navy sailor, Allen Schindler, was murdered by two fellow sailors because of his sexual orientation. In 1999, PFC Barry Winchell was similarly killed because his attackers believed—he was gay. The military has recognized that hate

crimes are a problem and sought to prevent them, but more can and must be done.

It is absolutely appropriate to protect members of our Armed Forces from the vicious attacks that constitute hate crimes while we are debating the Department of Defense authorization bill. It is absolutely the right time to enact this hate crimes legislation. After all, what are our men and women doing in uniform? They are fighting for us around the world to preserve our way of life and to promote democracy, and all of them take an oath to uphold and defend the Constitution. Let the preservation of the rights of all Americans be the essence of what they are fighting for.

I will vote to invoke cloture on the hate crimes amendment offered by Senator KENNEDY and Senator SMITH, and I urge my colleagues to do the same.

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.

AMENDMENT NO. 2999

Mr. LEVIN. Mr. President, I want to speak for a few minutes in support of the Webb-McCaskill amendment that would establish a contracting commission relative to contracting in Iraq, but it also does another very important thing, which is it broadens the jurisdiction of the Special Inspector General for Iraq Reconstruction, or SIGIR. Over the last 4 years, the United States has spent more than \$20 billion on reconstruction contracting in Iraq. In report after report, the Special Inspector General for Iraq Reconstruction, SIGIR, has demonstrated that this effort was poorly planned, inadequately staffed, and poorly managed.

For example, the special inspector general has reported that plumbing was so poorly installed at the Baghdad Police College that dripping sewage not only threatened the health of students and inspectors but could have affected the structural integrity of the building.

The special inspector general reported that the security walls built for the Babylon Police Academy in Hilla were full of gaps and deficiencies, some of which were filled with sandbags; lighting systems and guard towers called for in the contract were never installed. As a result, the academy was vulnerable to attack.

The special inspector general reported that a prison in Nasiriyah was originally supposed to house 4,400 inmates, but the scope was reduced to the point where it would only house 800. After most of the available money had been spent, the contract was terminated due to schedule delays and cost overruns.

He reported that neither the government nor the contractor could verify the status of a new oil pipeline from Kirkuk to Baiji because project monitoring was very limited and sporadic. However, at least 25 percent of the welds on the pipeline was defective, and one major canal crossing was only 10 percent complete. The failure to complete this project resulted in the loss of as much as \$14.8 billion in oil revenues to the Iraqi Government.

He reported that after the Army Corps of Engineers spent \$186 million on primary health care centers throughout Iraq, the contract was terminated with only 6 health care centers completed, 135 partially constructed, and the remainder “descoped.” The special inspector general determined that the contractor had lacked qualified engineering staff, failed to check the capacity of its subcontractors, failed to properly supervise the work, and failed to enforce quality control requirements.

The Department of Defense has spent even more money on logistical support contracts for U.S. forces in Iraq and Afghanistan. There have been numerous indications of fraud, waste, and abuse in these contracts as well. For example, recent press reports indicate that the Department of Defense contracting officials in Iraq and Kuwait received millions of dollars in kickbacks, tainting several billion dollars of DOD logistics support contracts. Similarly, the Armed Services Committee held a hearing in April on Halliburton’s LOGCAP contract for logistics support in Iraq. Our committee learned that the company was given work that appears to have far exceeded the scope of the contract. All of this added work was provided to the contractor without competition. The contractor resisted providing us with information that we needed to monitor and control costs. There are almost \$2 billion of overcharges on the contract, and the contractor received highly favorable settlements on these overcharges.

Unfortunately, the special inspector general does not have jurisdiction over Department of Defense logistic support contracts, and the Department of Defense inspector general who does have jurisdiction refused for several years to send auditors to Iraq and is now playing catchup. As a result, billions of dollars have been spent on these contracts without sufficient oversight.

In addition, there have been numerous reports of abuses by private security contractors operating in Iraq. More recently, the Iraqi Government has complained about an incident in which employees of Blackwater, Inc., allegedly opened fire on innocent Iraqis in Baghdad. This incident is apparently the latest in a long series of similar cases in which Blackwater employees were alleged to have used excessive force.

Unfortunately, the special inspector general does not have jurisdiction over private security contractors. The DOD

inspector general does not have jurisdiction over State Department contractors like Blackwater either. Published reports in the last few weeks indicate that the State Department inspector general has systematically avoided looking into allegations of contract abuse in Iraq.

In short, despite almost 5 years of allegations of waste, fraud, and abuse in Iraq contracting, we continue to have huge gaps in our oversight of these activities. The Webb-McCaskill amendment will address these gaps by, first, establishing an independent commission to look into Federal agency contracting for reconstruction, logistical support, and the performance of private security and intelligence functions in Iraq and Afghanistan; and, second, expanding the jurisdiction of the special inspector general to logistical support contracts and contracts for the performance of private security and intelligence functions in Iraq and Afghanistan.

Under this provision, the special inspector general, in collaboration with other relevant inspectors general, would conduct a comprehensive series of audits of logistical support contracts and private security contracts in Iraq and Afghanistan comparable to the audits the special inspector general has already conducted for Iraq reconstruction contracts. The commission would review these materials, conduct hearings, and issue a report identifying lessons learned and making specific recommendations for improvements that should be made in future contracting.

So the Webb-McCaskill amendment would ensure that we finally have appropriate oversight over the full range of contracting in Iraq and Afghanistan. It will ensure that we are in a position to learn from the mistakes we have made, and we will be better positioned to avoid making similar mistakes in the future. I hope there will be a broad bipartisan vote for Webb-McCaskill, just the way there is already broad bipartisan sponsorship for their amendment.

Mr. WARNER. Mr. President, if I could ask my distinguished chairman and longtime colleague a question, I read this amendment, and it seems to me it has laudatory goals. But it is—we are outsourcing the work of the Congress, and, most specifically, outsourcing the work of our Armed Services Committee. That is the thing that concerns me.

We have two very distinguished sponsors, our colleague from Virginia and our other colleague on our committee. But I find it difficult to rationalize how this commission would function at the same time in a manner that literally outsources the responsibilities of our committee.

Mr. LEVIN. Mr. President, I thank the Senator for his question. Our committee, as the Senator knows perhaps better than any other Member of this body, has a huge responsibility month

after month, year after year, on the authorization bill. Most of our focus is on that bill in terms of staff assignments.

We also from time to time do have oversight hearings. We have had a couple on Iraq, but in terms of what is needed with the immense fraud and abuse and waste that has gone on in Iraq, we could assign our committee nothing else and still not catch up to what needs to be done relative to the waste and the fraud and the abuse that has taken place in Iraq contracting. We have perhaps three or four staff members assigned to investigation. They are in the middle of an investigation now. They could not possibly—with the very small number of staffers assigned to that responsibility—take on the breadth of work which needs to be done relative to Iraq.

Also, this amendment not only has a contracting commission, but it also is going to amend the Special Inspector General Act relative to Iraq to fill in a number of gaps which exist in the inspector general's jurisdiction.

The areas which I just outlined that the current special inspector general does not have jurisdiction over, we must have a modification of that jurisdiction in order that the special inspector general will have that capability which is now omitted from the tasking of the special inspector general. As the Senator also knows because he was responsible for the appointment of a number of these commissions, our committee supports, and indeed has led the way, in the creation of independent commissions all the time. It was not an abdication of our jurisdiction or our authority when the Packard Commission was created, when the section 800 commission was created, or when the Service Acquisition Reform Act Commission was recently created. There are many commissions that we appoint, and we are leading the way and have led the way to have created, and in no way does that diminish the jurisdiction of our committee.

In fact, it is quite the opposite. The creation of these commissions has been able to lead to reforms, legislative reforms at times, which our committee then is able to take up and adopt, hopefully, in many cases, and in fact has adopted in many cases.

So there is nothing novel about the creation of commissions. As a matter of fact, I think the Senator from Virginia, perhaps almost on his own, was the creator of a commission which we recently heard from to give us the independent assessment of the military capability of the Iraqi military forces, the commission led by General Jones.

Mr. WARNER. Mr. President, I acknowledge that, yes, I did conceive that idea, and successfully, with the help of Senator BYRD and others, got that legislation through. But that was for a tightly defined purpose within a prescribed short period of time.

This one, I believe, is of 2 years duration. Mr. President, I say to my distinguished chairman, I have listened to

him recount some of the commissions that our committee has sanctioned. But I am now prepared on this floor to tell my chairman, if you believe we need extra help, I will lead the effort with you to get more money from our committee to take over some of the responsibilities that the Senator is about to recommend to the Senate be outsourced to a commission.

Mr. LEVIN. Did we outsource to the Packard Commission, the reforms they recommended?

Mr. WARNER. I remember that Packard Commission very well, but that was a tightly knit commission for a specific purpose. I used to be at the Pentagon and worked under David Packard as Secretary of the Navy. We were fortunate to get him to do that. This seems to be an omnibus situation to me. I am concerned about having the inspector generals, which, again, is a creation by our committee, against some of the administration's wishes. They weren't overly keen on putting inspector generals in there. Our colleague from New Jersey has a bill to have an IG now for Iraq. I want to support that. But these inspector generals have to report to this Commission, I understand. I would not want to be a party to amending the law there. They were created by the Congress, and they should report to the Congress, not to a commission.

Mr. LEVIN. I don't think working closely with the Commission collaboratively in any way means they are not going to report to us. They will continue to report to the Congress. There is no shift of the reporting function. As a matter of fact, the IG for Iraq does not have the authority which should have been given to him, and would now be given to him by this bill, for instance, on logistics support contracts. Why in heaven's name should the special IG not have logistics support contracts jurisdiction?

Mr. WARNER. Mr. President, if you want to take those provisions out and make it a freestanding amendment, I would be supportive of modifying it.

Mr. LEVIN. I have never seen as much fraud, waste, and abuse. There is no analogy in the history of this country, I don't believe, for the amount of fraud and waste and abuse that is taking place in Iraq and Afghanistan. I don't think our committee could do anything else if we took on that responsibility. I think we would be having hearings every week, when we need to have hearings on all of the other matters under our jurisdiction. I don't know that we could do an authorization bill properly if we took on this responsibility. It is too massive.

I wonder whether the Senator can give me one example in American history where there has been this degree of waste, fraud, and abuse. We now see a massive investigation taking place because of the alleged fraud of a number of members of the armed services. I cannot remember anything comparable. This is a massive undertaking.

It is most appropriate that we have a special commission to do that. There is no reason why they should not work in concert with an IG. We don't want them overlapping and conflicting.

The issue is whether we are going to take on this responsibility one way or the other. This is only one practical way to do it. I wish we had the resources and time in our committee to do the kind of oversight that has to be done relative to Iraq. To me, it has been the most shocking abuse of the taxpayers' dollars that we have seen. As a practical matter, I think the former chairman of the committee would acknowledge it would take a huge amount of staff and committee time.

I want to give one example. We have an ongoing investigation right now, and it is very small relative to the size and scope of this one. We wanted to talk to a witness. During this investigation, a number of witnesses talked to us voluntarily, but a few witnesses would not. In our committee, we don't even have subpoena power unless the full committee votes for it. The Senator from Virginia was very helpful to me, as he remembers, in getting the full committee to vote for a subpoena. I extended my appreciation to him then, and I do it publicly now for his cooperation and that of Senator McCAIN. Every one of those subpoenas required a vote. Then there had to be a hearing. We have to go through a hearing of our committee to hear from a witness that is subpoenaed, even though that should be through a discovery process. Even our rules are so limiting in our committee that we could not undertake an investigation of this scope.

This is a massive undertaking. To me, it would be suggesting, for instance, that if there was an Iran-Contra Commission, somehow or other the appointment of that Iran-Contra Commission—there was a special committee of the Congress. Was that an abdication of the work of the existing committee? I don't think so. It fit a special need at that time. Each of the committees from which that special committee was drawn didn't have the resources to do it on their own. So each of these are designed for a purpose.

I don't know why there would be objection. The reason for the length of time that the amendment takes is two-fold: One is that this is a major investigation that will take a lot of time because its scope is huge. Secondly, we want to take it out of politics. I think the sponsors will speak to this, and perhaps already have. This should not be something where there is going to be a report in the middle of a Presidential campaign. It ought to end after that campaign is over. I think they provide for interim reporting, as I remember, in January after the Presidential campaign.

So I hope there will be bipartisan support. It is not a political effort. The report comes after the Presidential

campaign. There is no practical way that our committee has the resources to undertake the travel and the responsibility and the scope of this. This is huge. There has never been this degree of waste that I know of in American history. I know enough about this already from our one hearing, on one matter, involving one contractor, involving the scope of a contract that we touched literally with the tail of an elephant or donkey. It is massive.

I plead with the former chairman here, who knows exactly the responsibilities of our committee, who knows more than anyone in this body what responsibilities our committee has, that there is no practical way, given our bill that comes up every year, given our nominations process with which the Senator is fully familiar—we have four nominations that we have to hear tomorrow. We have dozens of nominations each year. On top of all of that, we have oversight, which we try to do in a number of areas. We had oversight on the Boeing contract. That was one contract that took a significant amount of time. We did some major good. I don't know the magnitude, but if you look at the Boeing contract, for instance, this contracting abuse scandal has to be a multiple of 10 to 100 times that one investigation. I plead with my friend to support this as the only practical way to get our hands around this situation.

Mr. WARNER. Mr. President, I know our chairman has another engagement. We will return to this debate. This thing really poses, in my judgment, new ground for the committee, to outsource this much responsibility of oversight. At this point, I will yield the floor. I see our colleague seeking recognition.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. McCASKILL. Mr. President, if I may address the question of the Senator from Virginia briefly, I think it is important to keep this in context.

First, the Senator from Virginia worries that the Armed Services Committee was giving up jurisdiction in order to form this Commission. I think it is important to remember that this mess is not just the jurisdiction of the Armed Services Committee. This mess is also the jurisdiction of the Foreign Relations Committee. It is also the jurisdiction of the Homeland Security and Governmental Affairs Committee—three different committees, including the Permanent Subcommittee on Investigations. The first interim report is due January 2009. The final report must be presented by January 2010. This is a 2-year period of time to work and collaborate.

One could make the argument that the State Department should be answering to Foreign Relations for the messes in contracting in terms of reconstruction. One could argue that the active military should be answering to Armed Services. Government Affairs should be looking at the whole mess. The bottom line is that this Commis-

sion does two important things: First, it gets above all of the agencies to bring all of the problems to one place, so we don't have the turf fights over which committee has jurisdiction over this particular problem that we have encountered like never before. As the Senator from Michigan, chairman of the committee, said, we have never had this kind of problem before in terms of an armed conflict.

The other thing to remember is that, unlike those committees, this is bipartisan. This Commission is four Democrats and four Republicans. It is not a commission where one party is going to take precedence over the other party. We have a representative of the President and the Secretary of Defense on this Commission. So the bipartisan nature allows us to get above this knee-jerk reaction we have around here that if they are for it, we are against it; and if they are against it, we are for it. This is way too important to engage in that.

Finally, in terms of time period, this has a set time; it is only 2 years. The first report is due after the Presidential election in January 2009—the first interim report. Next year, when the capping report is presented to us, they can give it to this Commission, and they can look it over. Stuart Bowen is onboard with this. We discussed it at length, and he thinks this is a great way to move forward and get this above each individual committee and above some of the partisanship. Frankly, we have engaged in it. We are not without sin here. My party has engaged in partisanship over this. I understand that it may feel that this is an effort to engage in partisanship. That is why we went out of our way to say it is going to be bipartisan in nature, limited in time, getting above the various committees that have jurisdiction here because of the State Department's involvement, DOD's involvement, and the involvement of the Homeland Security and Governmental Affairs Committee—three different committees, including the Permanent Subcommittee on Investigations. The first interim report is due January 2009. The final report must be presented by January 2010. This is a 2-year period of time to work and collaborate.

By the way, I tried to count up—and I am sure the Senator from Virginia is aware of this—how many people we have working in the Department of Defense in auditing and auditing-related activities. There are 20,000 people. Now, if you think about that in the context of what has gone on, you realize we need some help. How do we have 20,000 people in contracting and auditing and related investigative activities in the DOD and have the kind of runaway abuse that we have had.

By the way, in talking to the generals in Iraq who are involved, they were focused on their mission. I have no ill will toward these commanders who were trying to get a job done in terms of a military context. That is

why we need this Commission, to give the military clear guidance, along with the State Department, of how we fix this systemically. What kind of training do we need to do? These detailers within these various areas given the contract oversight responsibility, the CORs, are not trained right now. They don't have the core competency in terms of contract monitoring that we must have under these conditions where we are contracting at an unprecedented level. If you look at the modifications we have made, where we have actually said we are not ever going to allow this Commission, in terms of members leaving, to get to anything other than a four-four, we are never going to have a situation where it is not completely bipartisan and where they are not going to focus with expertise on ways they can guide our committee and guide the committee I serve on, Homeland Security and Governmental Affairs and guide the Foreign Relations Committee in making sure we help the State Department and Department of Defense and any other Government agencies involved, including inspector general agencies and other auditing agencies. Frankly, GAO does a lot of this work for Congress, and we take their reports.

I think that in light of what has occurred and the scope of this beyond the jurisdiction of any one committee, 2 years is a reasonable finite time to come with concrete, meaningful suggestions that get us above this partisan rancor over the conflict in Iraq and using it as a political football that we have a tendency to throw around here with some frequency.

The Senator's leadership on this particular issue is so key to us having success with this amendment. I ask the Senator to take some time to look at it. I will be happy to visit with him about the conversation I had with Stewart Bowen about the valid approach we are making that I think will bring about some of the same positive results that were brought about in the past, whether it was the 9/11 Commission, the Baker-Hamilton Commission or the other commissions the Senator from Michigan referenced that the Senator has been involved with and party to in terms of wanting outside eyes at some point to help us get beyond some of the stuff that goes on that we cannot help.

I think it is tremendously important, and I implore the Senator from Virginia to take a look at it again and see if we haven't done the things that will reassure him this will be an augmentation of the Armed Services Committee's work instead of an abdication of their responsibility.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Missouri. I must say, having been on this Armed Services Committee now 29 years with my good friend, Senator LEVIN, we "old bulls," as we are referred to, are very much impressed with our new member, her vigor, her

foresight, her determination to get things done. She has stirred us up in a very constructive way, I might say.

As to this measure, this will require a little more study on this side. But I am concerned with the fundamental proposition that we are abdicating the duties of the committee, but we are not quite there yet in this debate to try to reach some final determinations.

An interesting observation: 20,000 individuals, and probably that is correct. They are scattered not just in Washington but all across America in military departments. The Department of the Army has its procurement center outside the Nation's Capital.

In a sense, as the chairman said and I think the Senator from Missouri has said, the enormity of the problem out there—is the Senator suggesting that the enormity of that problem is a consequence of this 20,000 or so not performing their duties as prescribed?

**Mrs. McCASKILL.** I believe that what happened was in an unprecedented fashion, we engaged in contracting—I know the Senator is a student of history, and if he looks back at the history of the Seabees and where the Seabees came from in terms of the idea that you are going to put people in the middle of a conflict who are not military personnel, in terms of doing ancillary activities apart from the direct military mission, it is unprecedented what we have done in this conflict in terms of the contracting.

I don't think the active military was prepared for this kind of scope in terms of the types of contracts that were entered into, many of them not definitized, many of them not with the kind of oversight that one would expect for contracts that run into \$15 billion, \$20 billion per contract, in some instances. I think this was a matter of we need it now, we don't have the end strength to get everything done we need to get done; if we contract it, it is going to be cheaper in terms of legacy costs to get a worker to peel potatoes than to recruit a soldier to peel potatoes or to cook.

I understand that was done long term because it had the potential for efficiencies, it had a potential to preserve our ground strength for the military mission and to allow us to not incur the legacy costs of another member of the active military.

In reality, because they were not prepared in terms of their systems for this level of contracting and oversight, bad things happened—very bad things happened.

If we are going to continue to contract at this level, why not at this fork in the road embark upon a limited 2-year exercise in a nonpartisan way to get concrete suggestions with expertise and not creating a new bureaucracy, because they can access those 20,000 people, they can access the Army auditor, they can access the contracting agency within the Army, they can access all the inspectors general, they can access all the acquisition and pro-

curement specialists. They can access that information, bring it together for the State Department and for DOD and say: If moving forward we are going to continue to contract at this level—and let's be honest, I think we are—then these are things we need to be doing.

If the military could do this on its own, we wouldn't have the "lessons learned" book in Bosnia not even getting to the people in Iraq until after they entered into most of these contracts. We remember the testimony from David Walker. He talked about the fact that even though they had drawn up the book and said these are all the mistakes we made in Bosnia, guess what. They forgot to look at the book before they began down the very same road in the Iraq conflict. That is what I want to prevent in the future.

This is about looking forward and not about looking back. This is about figuring out a way forward that we can responsibly contract in a way that protects our military and the strength of our military, and, boy, would I like the help of the Senator from Virginia.

**Mr. WARNER.** Mr. President, I thank the Senator for her analysis. As I read this, they can look backward, forward, sideways, any way they wish and have one of the strongest powers Congress can confer on any commission—subpoena power—compelling persons against their wishes to come before that committee, take an oath, and provide testimony. That is something that Congress should consider very carefully before it confers that on—for the moment we know not who will be on this commission.

As I say, we will require further deliberation. But I do point out that the Senator talked about the uniform side. Much of the military procurement system is performed by very able career civilians. From time to time, military officers are detailed as a part of their career and otherwise to work with those civilians. But I feel the Senator is putting on report an awful lot of people with a broad brush. I want to think about that. Having had the privilege of serving with those people in the Department of Defense—perhaps not the ones who are there now but many. I think at the time I was Secretary of the Navy, I had 700,000 to 800,000 civilians in the Department of the Navy. They are very conscientious people. I acknowledge there have been a lot of unfortunate things in the rush to do what we felt was necessary with respect to Iraq and, to a lesser degree but nevertheless to a degree, Afghanistan.

Haste makes waste is the old adage. For the moment, I have thoroughly been informed by the views of the Senator, and I hope to continue to have a dialog with the Senator as this matter is now before the full Senate.

I yield the floor.

**Mrs. McCASKILL.** Mr. President, I thank the distinguished Senator from Virginia. I don't want to overemphasize his support, but there are few people around here who can get us past

partisanship. I have noticed in my short time in the Senate he is one of the chosen ones. He can get us past that partisanship sometimes.

I am very hopeful and remain optimistic that I can convince the Senator from Virginia this is a measured and appropriate way to provide some accountability to all those men and women to whom he referred who are trying to do the right thing. We have not figured this out yet, and I think we have to try something different to see if we can figure it out.

I yield the floor.

**Mr. WARNER.** I thank my distinguished colleague from Missouri, the State in which my mother was born.

**The PRESIDING OFFICER.** The Senator from Pennsylvania is recognized.

**Mr. CASEY.** Mr. President, I rise to speak about two matters, but I wish to, first of all, associate myself with the remarks by my distinguished colleague from the State of Missouri. Our first-year class of Senators has worked hard on a lot of issues. She and our colleague from Virginia, Mr. WEBB, have worked hard on this issue. I appreciate her comments today, as well as the enlightening exchange and as well as Senator LEVIN's comments.

#### AMENDMENT NO. 2196

Mr. President, I rise to speak first about amendment No. 2196 pertaining to the National Drug Intelligence Center which is located in Johnstown, PA, in southwestern Pennsylvania. This center was created in 1993 and provides Federal, State, and local law enforcement and national security agencies with crucial information about the structure, membership, finances, communications, and activities of drugtrafficking organizations.

While a number of Federal agencies play different roles in combating illegal drug use and distribution, the National Drug Intelligence Center, which some know as NDIC, performs a unique role by providing independent information about drug use to other Federal, State, and local agencies.

This center produces an annual national drug assessment report which is the principal report by which Federal policymakers evaluate trends in drug use and the overall drug threat faced by this Nation. Given the role drug trafficking plays in financing international terrorism, information compiled by the NDIC about drug distribution plays an important role in combating terrorism worldwide.

Much has been made about the fact that the NDIC is located in Johnstown, PA. Let me speak for a few moments about the benefits of locating outside Washington.

All the answers to our Nation's problems do not reside here. Sometimes there are a lot of good answers outside Washington. To some, that may be a news bulletin.

First, the Johnstown location translates into reduced overhead and lower administrative costs.

Second, being outside the beltway allows for greater coordination with

State and local law enforcement. The work done by NDIC does not have to be conducted in Washington and, I would argue, the Johnstown location offers greater cost savings for the Federal Government.

This amendment comes at an interesting time where recently—yesterday, actually—the Drug Enforcement Agency, DEA, announced that this center, in particular, played key roles in an international case targeting the global underground trade of anabolic steroids, human growth hormone, and insulin growth factors, in addition to some other information. The investigation included significant enforcement of illicit underground trafficking of ancillary and counterfeit medications.

The investigation represents the largest steroid enforcement action in U.S. history, and it took place in conjunction with enforcement operations in nine countries worldwide.

The information provided by this center in Johnstown, PA, played an important role in this investigation.

I also wish to add my own feelings with regard to this particular center in Johnstown, PA. I am very proud of the people in Johnstown, PA. They share a heritage of hard work and sacrifice, they have overcome a lot, and they have a tremendous work ethic. Any investment in a city such as Johnstown, PA, is a prudent investment, not just because of economic activity but principally, and most importantly, the important work this center provides for law enforcement.

If we want to do comparisons with other places around the country, I am sure that will be constructive. I rise to speak against this amendment and urge my colleagues to vote against it and also to highlight the value of having this center in the State of Pennsylvania for our Nation.

AMENDMENT NO. 3035

I wish to change subjects. I have a second set of remarks which I wish to take the time to deliver.

We are contemplating voting on legislation that pertains to hate crimes. The Hate Crimes Prevention Act at long last may be voted on in the Senate. There are a lot of reasons for me to stand up not only as a supporter of this legislation but a cosponsor; one of, at last count, 43 bipartisan cosponsors. In the other body, there are more than 170, I am told.

This act is simple but profoundly important. First of all, the Hate Crimes Prevention Act will strengthen—strengthen law enforcement's ability to crack down on these kinds of crimes by providing grants to local and State agencies to fight the particular evil that resides in the hearts of those who want to commit crimes based upon this kind of motivation—a motivation of hate, pure and simple. Secondly, in terms of the mechanics of how this will work, this legislation will help the Department of Justice work with local and State law enforcement agencies to assist in the prosecution of these crimes.

But beyond the program and beyond the details of a government program lie some very personal stories. One story that all of America knows, but we need to be reminded sometimes about these stories, is one we saw play out in the 1990s.

His name was Matthew Shepard. He was born on December 1, 1976, to Judy and Dennis Shepard in Casper, WY. He went to the University of Wyoming and had a great interest in politics and a great interest in the environment. In October of 1998, two men tied him to a split rail fence, tortured and beat him, and left him to die in freezing temperatures. He was found 18 hours later, and he died several days later in October of 1998 at the age of 21.

I had the opportunity in September 2005 to meet Matthew Shepard's mother. We had a private meeting where she expressed her deep concern about this crime we see play out across the country. She, obviously, will probably never fully recover from the loss of her son and the way he died, but when I rise to speak about this, I think we have to consider who speaks for that mother if the Senate doesn't stand up and speak with one voice on an issue such as this.

This is about combating hate, hate in the hearts of men and women across this country. We talk all the time about people from other parts of the world and how evil they can be, especially the terrorists, but there are examples in our country of real hate. If we do not stamp them out and prosecute vigorously these kinds of crimes, we cannot fully appreciate nor can we fully expect others to appreciate the feeling in our hearts about making sure we treat people with dignity, with respect, and acceptance, but that we do it in the spirit of brotherhood and sisterhood.

When such a crime as this happens, I would hope the Senate would do everything possible to fully and vigorously prosecute and sanction anyone who engages in this activity. This legislation, the Hate Crimes Prevention Act, is one important step to achieving that goal, and I speak in support of that legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, would the Senator from Pennsylvania mind answering a couple of questions before he leaves?

No. 1, I would note, just on the hate crimes legislation, that the perpetrators of the heinous crimes against Matthew Shepard had full justice carried out against them. That is true, is it not?

Mr. CASEY. Well, there are a lot of ways to prosecute someone.

Mr. COBURN. Were they prosecuted, I guess, and did they receive significant punishment?

Mr. CASEY. Let me finish my thought. There are a lot of ways to prosecute a crime like that. But when you have legislation that is supported

broadly across the country, including by law enforcement agencies, district attorneys, and police organizations across the country, I rely upon their judgment when it comes to what are the tools we need for law enforcement.

AMENDMENT NO. 2196

Mr. COBURN. The second question—and I want to make sure you understand as the author of this that it doesn't say anything about Johnstown, PA, which has great folks. This amendment isn't about the people of Johnstown, PA, and what they can offer. They offer great things to our country, and it is not meant to degrade or delineate anything other than the utmost respect for them.

What this amendment is about is, are we getting the value for what we are spending? And all you have to do is look at what the Department of Justice says, which is running this program, and what the DEA says, and what every other intelligence-run enforcement center is saying: that, in fact, there is not added value for the dollars that are spent there, and anything that is a positive contribution could be more effectively utilized at some other center.

So it is not about the people of Pennsylvania and it is not about who did it or whether we all shouldn't try to get a Federal facility to help areas that are economically depressed across the country. That is not a bad idea. There is nothing wrong with that. The purpose of this amendment is to delineate that there is not good value for the half a billion dollars we have already spent and that taxpayers could get more value out of less money if, in fact, we did what the professionals and everyone else has said, including former directors of that center.

Mr. CASEY. Let me just respond to my colleague, the distinguished Senator from Oklahoma, who has been on this floor for many years holding public agencies accountable, and we appreciate that and I share that concern. I only raised the question about Johnstown, I guess, because as a Senator from Pennsylvania, I want to make sure we are fighting for an important community. I am not saying that is the intent of the legislation. I just wanted to reiterate how much I appreciate the work ethic of that community.

Every program that is funded with taxpayer dollars has to be accountable, and I appreciate that. We have an opportunity on this floor to debate programs where we spend significant sums of public dollars. When I was in State government, as Senator COBURN knows, my job for the better part of a decade was to do just that, and it is close to my heart, the kind of accountability I know the Senator is concerned about. But I would hope, in pursuing that, we don't unjustifiably have an impact on a facility that is providing a great benefit for law enforcement well beyond Pennsylvania and, secondly, that we work to be equitable about it. I know that is the intent, but I think we have

an honest disagreement about this particular center.

Mr. COBURN. I thank the Senator for answering my question. I guess my debatable point is the offering of the value, in the judgment of the professionals who are running all of the Department, including the Department of Justice and the DEA, which says it doesn't measure up. That is my point. That is why I brought the amendment. It doesn't denigrate the work of the people there.

The fact is, if we are really going to continue to send \$30 million to \$40 million a year, let's find them something that will give us better value. If we choose not to support this amendment, let's give them direction so that the \$30 million or \$40 million we do invest actually brings us something that is worth \$30 million or \$40 million.

And it is not the employees there who are at fault. In fact, the direction and the mission has been one that hasn't been accomplished because it wasn't needed in the first place.

Mr. CASEY. Quickly, by way of a response, I have to say that when I was the auditor general of Pennsylvania, our office authored lots of reports about waste, fraud, and abuse and about problems in spending. What we tried to do as well was not just point out where the problems were but also to point out and to list, actually in reports, a series of recommendations and corrective actions.

I think there is ample reason in a lot of public programs to make changes and to have corrective action. I don't think that always should result in the defunding or the elimination of an entire program. But we might have a disagreement on this issue, and I respectfully submit that.

Mr. COBURN. I thank the Senator for his words and his courtesy in answering my questions.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Montana.

AMENDMENT NO. 2999

Mr. TESTER. Mr. President, I am proud to join with my Democratic colleagues in the freshmen class who are offering amendment No. 2999 today. I wish to give my thanks in particular to Senator McCASKILL, Senator WEBB, as well as the other six freshmen Senators in the Democratic caucus in offering this amendment that deals with accountability as it applies to contracting in Iraq and Afghanistan.

The nine of us were elected last fall in large measure because the people in this country were tired of the war in Iraq and tired of a lack of accountability for how our tax dollars have been spent in the wars in Iraq and Afghanistan. The fact is, people in Montana and around the country work way too hard to have their tax dollars stolen from them by people who think they can take advantage of an environment where there is little or no oversight or accountability. This amendment will bring some much needed ac-

countability in the way our tax dollars are spent in Iraq and Afghanistan, and we will do it in a way that takes this issue out of the political spotlight.

This amendment will establish a bipartisan commission to review the contracts we have entered into in fighting the wars in Iraq and Afghanistan. The Commission will be outside of Congress and will be outside of the Bush administration. The amendment will also direct this new Commission to review the way new contracts are awarded and overseen. This will give us a chance to prevent future waste, fraud, and abuse.

The Commission will work in consultation with the Special Inspector General for Iraq Reconstruction, which currently oversees only reconstruction contracts in Iraq, to review and investigate logistics, security, and intelligence work that has been contracted out by the Defense Department.

According to the nonpartisan Government Accountability Office, we have squandered \$10 billion in Iraq reconstruction funds due to contract overcharges and unsupported expenses. That means 1 out of every 6 reconstruction dollars spent in Iraq is not accounted for, and only now, after 5 years of war in Iraq, the Army is looking back at nearly \$100 million in contracts to determine how these funds have been spent.

I think it is important for folks to understand we are not coming at this with the idea that every contract is a bad one. There are many contractors who are doing a good job and who are being responsible with our tax dollars. But there are others who are not. At a time when we are struggling to win the hearts and minds of the Iraqi and Afghani people, those who are deliberately overeating at the taxpayer trough, while our troops are fighting and dying in Iraq, are nothing short of treasonous.

Many Americans have questioned how their tax dollars are being spent in Iraq and Afghanistan. They have wondered why it is that there are more contractors than troops in Iraq. They have wondered why some companies are enjoying record profits even though so many projects remain incomplete. For too long, the answer from the Government has been a deafening silence. This amendment is a long-overdue response to the cries for accountability and transparency in our contracting process. It should not be and is not a partisan issue. It is about good government. I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, first, let me concur with my colleague, Senator TESTER, in support of the amendment being offered by Senators WEBB and McCASKILL and which Senator LEVIN also spoke on a little earlier, and that is the need for us to have this independent Commission look at what has happened in Iraq as far as the U.S. tax-

payer dollars. I am proud that our new Members of the Senate have made this a priority. I think it is important that the taxpayers have confidence that the money we appropriate will be spent appropriately, and that has not been the case in the reconstruction of Iraq.

AMENDMENT NO. 3035

I also take the floor to speak about an amendment offered by Senator KENNEDY that will be voted on later. I spoke last week about hate crimes in America, and I talked about what is happening in our own communities. I spoke about an episode in College Park, MD, and we are all familiar with what happened in Jena, LA. The FBI has indicated that the number of hate crimes reported is unacceptably high in all communities in America today.

Today, we are going to have an opportunity to do something about that. We are going to have an opportunity to support S. 1105, the Matthew Shepard Act. I am proud to be a cosponsor of that bill, and I thank the senior Senator from Massachusetts, Mr. KENNEDY, for bringing forward this issue. We will have a chance on this very important bill to speak about the moral commitment of our own country and what we stand for as a nation. This is an issue which we need to deal with because it speaks to what type of people we are in this country, that we will not tolerate hate crime activities.

This legislation gives the Department of Justice jurisdiction over violent crimes where a perpetrator picks the victim on the basis of race, color, national origin, gender, sexual orientation, gender identity, or disability.

Now, why do we give the Department of Justice jurisdiction in these areas? Well, we all know, first, that it will make it clear this is a national priority. Secondly, the Department of Justice is in a far better position, in many cases, than local law enforcement working by itself to successfully complete an investigation.

This legislation gives additional tools to local law enforcement so they can get their job done. It gives them training dollars. It gives them other resources and assistance so that, in many cases, they can get the type of information necessary to pursue these cases successfully.

It is what is needed in partnership with local government. But there are some States that are unable or unwilling to move forward with hate crime activities. Only 31 States and the District of Columbia include sexual orientation or disability as a basis for hate crimes prosecution. So we have voids in the Nation and this gives us an opportunity to move forward.

This legislation is bipartisan. We have had support from both sides of the aisle to make it clear that in America we will not tolerate hate crimes activities. It strengthens the current law. It removes the limitation in the current law, the Federal law, that says you

only can move forward if it would involve a protected activity such as voting or attending school. That restriction is removed, so that we have more opportunities for the Federal Government to be of assistance in prosecuting hate crime activities. As I have indicated before, it includes sexual orientation, gender, gender identity or disability as categories of hate crime activities.

I am very pleased it has broad support from many organizations and groups around the Nation, including the Federal Law Enforcement Officers Association, the International Association of Chiefs of Police, the National District Attorneys Association, and the National Sheriffs' Association. It also enjoys support from civil rights groups including the Anti-Defamation League, Human Rights Campaign, Leadership Conference on Civil Rights, and the National Association for the Advancement of Colored People. The U.S. Conference of Mayors also supports this legislation. It is also supported by the Consortium for Citizens with Disabilities, including the Maryland Disability Law Center.

There is a broad group that supports this legislation because they know it is needed. They know we need to do a better job, and they know it is time for this Congress to act. Hate crimes are un-American. When they happen, we are all diminished and we have a responsibility to do something about it. It is time for the Senate to act.

I thank Senator KENNEDY for bringing this forward. I urge my colleagues to support it. The House has already taken similar action. It is time this legislation be submitted to the President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. McCASKILL. 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. 3016, 3010, 3043, 3009, AS MODIFIED; 3046, 3008, AS MODIFIED; 3006, AS MODIFIED; 2251, AND 2172 EN BLOC

Mrs. McCASKILL. I send a series of amendments to the desk which have been cleared by Chairman LEVIN and the ranking member. Therefore, I ask unanimous consent that the Senate consider those amendments en bloc, the amendments be agreed to and the motions to reconsider be laid upon the table. Finally, I ask that any statements relating to these individual amendments be printed in the RECORD.

Mr. WARNER. No objection on this side.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 3016

(Purpose: To require a report on the solid rocket motor industrial base)

At the end of title X, add the following:

**SEC. 1070. REPORT ON SOLID ROCKET MOTOR INDUSTRIAL BASE.**

(a) REPORT.—Not later than 190 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 status, capability, viability, and capacity of the solid rocket motor industrial base in the United States.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) An assessment of the ability to maintain the Minuteman III intercontinental ballistic missile through its planned operational life.

(2) An assessment of the ability to maintain the Trident II D-5 submarine launched ballistic missile through its planned operational life.

(3) An assessment of the ability to maintain all other space launch, missile defense, and other vehicles with solid rocket motors, through their planned operational lifetimes.

(4) An assessment of the ability to support any future requirements for vehicles with solid rocket motors to support space launch, missile defense, or any range of ballistic missiles determined to be necessary to meet defense needs or other requirements of the United States Government.

(5) An assessment of the required materials, the supplier base, the production facilities, and the production workforce needed to ensure that current and future requirements could be met.

(6) An assessment of the adequacy of the current and anticipated programs to support an industrial base that would be needed to support the range of future requirements.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after submittal under subsection (a) of the report required by that subsection, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the Comptroller General's assessment of the matters contained in the report under subsection (a), including an assessment of the consistency of the budget of the President for fiscal year 2009, as submitted to Congress pursuant to section 1105 of title 31, United States Code, with the matters contained in the report under subsection (a).

AMENDMENT NO. 3010

(Purpose: To require a report on the size and mix of the Air Force intertheater airlift force)

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

**SEC. 1044. REPORT ON SIZE AND MIX OF AIR FORCE INTERTHEATER AIRLIFT FORCE.**

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study on various alternatives for the size and mix of assets for the Air Force intertheater airlift force, with a particular focus on current and planned capabilities and costs of the C-5 aircraft and C-17 aircraft fleets.

(2) CONDUCT OF STUDY.—

(A) USE OF FFRDC.—The Secretary shall select to conduct the study required by subsection (a) a federally funded research and development center (FFRDC) that has experience and expertise in conducting studies similar to the study required by subsection (a).

(B) DEVELOPMENT OF STUDY METHODOLOGY.—Not later than 90 days after the date of enactment of this Act, the federally funded research and development center selected for the conduct of the study shall—

(i) develop the methodology for the study; and

(ii) submit the methodology to the Comptroller General of the United States for review.

(C) COMPTROLLER GENERAL REVIEW.—Not later than 30 days after receipt of the methodology under subparagraph (B), the Comptroller General shall—

(i) review the methodology for purposes of identifying any flaws or weaknesses in the methodology; and

(ii) submit to the federally funded research and development center a report that—

(I) sets forth any flaws or weaknesses in the methodology identified by the Comptroller General in the review; and

(II) makes any recommendations the Comptroller General considers advisable for improvements to the methodology.

(D) MODIFICATION OF METHODOLOGY.—Not later than 30 days after receipt of the report under subparagraph (C), the federally funded research and development center shall—

(i) modify the methodology in order to address flaws or weaknesses identified by the Comptroller General in the report and to improve the methodology in accordance with the recommendations, if any, made by the Comptroller General; and

(ii) submit to the congressional defense committees a report that—

(I) describes the modifications of the methodology made by the federally funded research and development center; and

(II) if the federally funded research and development center does not improve the methodology in accordance with any particular recommendation of the Comptroller General, sets forth a description and explanation of the reasons for such action.

(3) UTILIZATION OF OTHER STUDIES.—The study shall build upon the results of the recent Mobility Capabilities Studies of the Department of Defense, the on-going Intratheater Airlift Fleet Mix Analysis, and other appropriate studies and analyses. The study should also include any results reached on the modified C-5A aircraft configured as part of the Reliability Enhancement and Re-engining Program (RERP) configuration, as specified in section 132 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1411).

(b) ELEMENTS.—The study under subsection (a) shall address the following:

(1) The state of the current intertheater airlift fleet of the Air Force, including the extent to which the increased use of heavy airlift aircraft in Operation Iraqi Freedom, Operation Enduring Freedom, and other ongoing operations is affecting the aging of the aircraft of that fleet.

(2) The adequacy of the current intertheater airlift force, including whether or not the current target number of 301 airframes for the Air Force heavy lift aircraft fleet will be sufficient to support future expeditionary combat and non-combat missions as well as domestic and training mission demands consistent with the requirements of the National Military Strategy.

(3) The optimal mix of C-5 aircraft and C-17 aircraft for the intertheater airlift fleet of the Air Force, and any appropriate mix of C-5 aircraft and C-17 aircraft for intratheater airlift missions, including an assessment of the following:

(A) The cost advantages and disadvantages of modernizing the C-5 aircraft fleet when compared with procuring new C-17 aircraft, which assessment shall be performed in concert with the Cost Analysis Improvement Group and be based on program life cycle cost estimates for the respective aircraft.

(B) The military capability of the C-5 aircraft and the C-17 aircraft, including number of lifetime flight hours, cargo and passenger carrying capabilities, and mission capable rates for such airframes. In the case of assumptions for the C-5 aircraft, and any assumptions made for the mission capable

rates of the C-17 aircraft, sensitivity analyses shall also be conducted to test assumptions. The military capability study for the C-5 aircraft shall also include an assessment of the mission capable rates after each of the following:

(i) Successful completion of the Avionics Modernization Program (AMP) and the Reliability Enhancement and Re-engining Program (RERP).

(ii) Partially successful completion of the Avionics Modernization Program and the Reliability Enhancement and Re-engining Program, with partially successful completion of either such program being considered the point at which the continued execution of such program is no longer supported by cost-benefit analysis.

(C) The tactical capabilities of strategic airlift aircraft, the potential increase in use of strategic airlift aircraft for tactical missions, and the value of such capabilities to tactical operations.

(D) The value of having more than one type of aircraft in the strategic airlift fleet, and the potential need to pursue a replacement aircraft for the C-5 aircraft that is larger than the C-17 aircraft.

(4) The means by which the Air Force was able to restart the production line for the C-5 aircraft after having closed the line for several years, and the actions to be taken to ensure the production line for the C-17 aircraft could be restarted if necessary, including—

(A) an analysis of the costs of closing and re-opening the production line for the C-5 aircraft; and

(B) an assessment of the costs of closing and re-opening the production line for the C-17 aircraft on a similar basis.

(5) The financial effects of retiring, upgrading and maintaining, or continuing current operations of the C-5A aircraft fleet on procurement decisions relating to the C-17 aircraft.

(6) The impact that increasing the role and use of strategic airlift aircraft in intratheater operations will have on the current target number for strategic airlift aircraft of 301 airframes, including an analysis of the following:

(A) The appropriateness of using C-5 aircraft and C-17 aircraft for intratheater missions, as well as the efficacy of these aircraft to perform current and projected future intratheater missions.

(B) The interplay of existing doctrinal intratheater airlift aircraft (such as the C-130 aircraft and the future Joint Cargo Aircraft (JCA)) with an increasing role for C-5 aircraft and C-17 aircraft in intratheater missions.

(C) The most appropriate and likely missions for C-5 aircraft and C-17 aircraft in intratheater operations and the potential for increased requirements in these mission areas.

(D) Any intratheater mission sets best performed by strategic airlift aircraft as opposed to traditional intratheater airlift aircraft.

(E) Any requirements for increased production or longevity of C-5 aircraft and C-17 aircraft, or for a new strategic airlift aircraft, in light of the matters analyzed under this paragraph.

(7) Taking into consideration all applicable factors, whether or not the replacement of C-5 aircraft with C-17 aircraft on a one-for-one basis will result in the retention of a comparable strategic airlift capability.

(c) CONSTRUCTION.—Nothing in this section shall be construed to exclude from the study under subsection (a) consideration of airlift assets other than the C-5 aircraft or C-17 aircraft that do or may provide intratheater and intertheater airlift, including the potential that such current or future assets may

reduce requirements for C-5 aircraft or C-17 aircraft.

(d) COLLABORATION WITH TRANSCOM.—The federally funded research and development center selected under subsection (a) shall conduct the study required by that subsection and make the report required by subsection (e) in concert with the United States Transportation Command.

(e) REPORT BY FFRDC.—

(1) IN GENERAL.—Not later than January 10, 2009, the federally funded research and development center selected under subsection (a) shall submit to the Secretary of Defense, the congressional defense committees, and the Comptroller General of the United States a report on the study required by subsection (a).

(2) REVIEW BY GAO.—Not later than 90 days after receipt of the report under paragraph (1), the Comptroller General shall submit to the congressional defense committee a report on the study conducted under subsection (a) and the report under paragraph (1). The report under this subsection shall include an analysis of the study under subsection (a) and the report under paragraph (1), including an assessment by the Comptroller General of the strengths and weaknesses of the study and report.

(f) REPORT BY SECRETARY OF DEFENSE.—

(1) IN GENERAL.—Not later than 90 days after receipt of the report under paragraph 1, 2009, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study required by subsection (a).

(2) ELEMENTS.—The report shall include a comprehensive discussion of the findings of the study, including a particular focus on the following:

(A) A description of lift requirements and operating profiles for intertheater airlift aircraft required to meet the National Military Strategy, including assumptions regarding:

(i) Current and future military combat and support missions.

(ii) The planned force structure growth of the Army and the Marine Corps.

(iii) Potential changes in lift requirements, including the deployment of the Future Combat Systems by the Army.

(iv) New capability in strategic airlift to be provided by the KC(X) aircraft and the expected utilization of such capability, including its use in intratheater lift.

(v) The utilization of the heavy lift aircraft in intratheater combat missions.

(vi) The availability and application of Civil Reserve Air Fleet assets in future military scenarios.

(vii) Air mobility requirements associated with the Global Rebasin Initiative of the Department of Defense.

(viii) Air mobility requirements in support of peacekeeping and humanitarian missions around the globe.

(ix) Potential changes in lift requirements based on equipment procured for Iraq and Afghanistan.

(B) A description of the assumptions utilized in the study regarding aircraft performances and loading factors.

(C) A comprehensive statement of the data and assumptions utilized in making program life cycle cost estimates.

(D) A comparison of cost and risk associated with optimal mix airlift fleet versus program of record airlift fleet.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 3043

(Purpose: To strengthen the nuclear forensics capabilities of the United States)

On page 530, between lines 10 and 11, insert the following:

**SEC. 3126. AGREEMENTS AND REPORTS ON NUCLEAR FORENSICS CAPABILITIES.**

(a) INTERNATIONAL AGREEMENTS ON NUCLEAR WEAPONS DATA.—The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations to conduct data collection and analysis to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon.

(b) INTERNATIONAL AGREEMENTS ON INFORMATION ON RADIOACTIVE MATERIALS.—The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations—

(1) to acquire for the materials information program of the Department of Energy validated information on the physical characteristics of radioactive material produced, used, or stored at various locations, in order to facilitate the ability to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon; and

(2) to obtain access to information described in paragraph (1) in the event of—

(A) a nuclear detonation; or

(B) the interdiction or discovery of a nuclear device or weapon or nuclear material.

(c) REPORT ON AGREEMENTS.—Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall, in coordination with the Secretary of State, submit to Congress a report identifying—

(1) the countries or international organizations with which the Secretary has sought to make agreements pursuant to subsections (a) and (b);

(2) any countries or international organizations with which such agreements have been finalized and the measures included in such agreements; and

(3) any major obstacles to completing such agreements with other countries and international organizations.

(d) REPORT ON STANDARDS AND CAPABILITIES.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report—

(1) setting forth standards and procedures to be used in determining accurately and in a timely manner any country or group that knowingly or negligently provides to another country or group—

(A) a nuclear device or weapon;

(B) a major component of a nuclear device or weapon; or

(C) fissile material that could be used in a nuclear device or weapon;

(2) assessing the capability of the United States to collect and analyze nuclear material or debris in a manner consistent with the standards and procedures described in paragraph (1); and

(3) including a plan and proposed funding for rectifying any shortfalls in the nuclear forensics capabilities of the United States by September 30, 2010.

AMENDMENT NO. 3009, AS MODIFIED

At the end of title XXXII, add the following:

**SEC. 2206. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECT.**

(a) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of

Public Law 108-375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109-163; 119 Stat. 3493) and section 2205 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109-364; 120 Stat. 2452) is amended—

(1) in the item relating to Strategic Weapons Facility Pacific, Bangor, Washington, by striking “\$147,760,000” in the amount column and inserting “\$295,000,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$972,719,000”.

(b) CONFORMING AMENDMENT.—Section 2204 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2107), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109-163; 119 Stat. 3493) and section 2205 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109-364; 120 Stat. 2453) is amended—(2) in subsection (b)(6), by striking “\$95,320,000” and inserting “\$259,320,000”.

AMENDMENT NO. 3046

(Purpose: To improve and streamline the security clearance process)

After section 1064, insert the following:

**SEC. 1065. IMPROVEMENTS IN THE PROCESS FOR THE ISSUANCE OF SECURITY CLEARANCES.**

(a) DEMONSTRATION PROJECT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall implement a demonstration project that applies new and innovative approaches to improve the processing of requests for security clearances.

(b) EVALUATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall carry out an evaluation of the process for issuing security clearances and develop a specific plan and schedule for replacing such process with an improved process.

(c) REPORT.—Not later than 30 days after the date of the completion of the evaluation required by subsection (b), the Secretary of Defense and the Director of National Intelligence shall submit to Congress a report on—

(1) the results of the demonstration project carried out pursuant to subsection (a);

(2) the results of the evaluation carried out under subsection (b); and

(3) the specific plan and schedule for replacing the existing process for issuing security clearances with an improved process.

AMENDMENT NO. 3008, AS MODIFIED

On page 445, in the table preceding line 1, in the item relating to Naval Station, Bremerton, Washington, strike “\$119,760,000” and insert “\$190,960,000”.

On page 447, line 5, strike “Funds” and insert “(a) AUTHORIZATION OF APPROPRIATIONS.—Funds”.

On page 449, between lines 16 and 17, insert the following:

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(2) \$71,200,000 (the balance of the amount authorized under section 2201(a) for a nuclear

aircraft carrier maintenance pier at Naval Station Bremerton, Washington).

AMENDMENT NO. 3006, AS MODIFIED

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

**SEC. 2854. TRANSFER OF JURISDICTION, FORMER NIKE MISSILE SITE, GROSSE ILE, MICHIGAN.**

(a) TRANSFER.—Administrative jurisdiction over the property described in subsection (b) is hereby transferred from the Administrator of the Environmental Protection Agency to the Secretary of the Interior.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the former Nike missile site, consisting of approximately 50 acres located at the southern end of Grosse Ile, Michigan, as depicted on the map entitled “07-CE” on file with the Environmental Protection Agency and dated May 16, 1984.

(c) ADMINISTRATION OF PROPERTY.—Subject to subsection (d), the Secretary of the Interior shall administer the property described in subsection (b)—

(1) acting through the United States Fish and Wildlife Service;

(2) as part of the Detroit River International Wildlife Refuge; and

(3) for use as a habitat for fish and wildlife and as a recreational property for outdoor education and environmental appreciation.

(d) MANAGEMENT RESPONSE.—The Secretary of Defense shall manage and carry out environmental response activities with respect to the property described in subsection (b) as expeditiously as possible, consistent with the Department’s prioritization of Formerly Used Defense Sites based on risk and the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Solid Waste Disposal Act, using amounts made available from the account established by section 2703(a)(5) of title 10, United States Code.

(e) SAVINGS PROVISION.—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

AMENDMENT NO. 2251

(Purpose: To provide justice for victims of state-sponsored terrorism)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ JUSTICE FOR MARINES AND OTHER VICTIMS OF STATE-SPONSORED TERRORISM ACT.**

(a) SHORT TITLE.—This section may be cited as the “Justice for Marines and Other Victims of State-Sponsored Terrorism Act”.

(b) TERRORISM EXCEPTION TO IMMUNITY.—

(1) IN GENERAL.—Chapter 97 of title 28, United States Code, is amended by inserting after section 1605 the following:

**“§ 1605A. Terrorism exception to the jurisdictional immunity of a foreign state**

“(a) IN GENERAL.—

“(1) NO IMMUNITY.—A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.

“(2) CLAIM HEARD.—The court shall hear a claim under this section if—

“(A) the foreign state was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405 (j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later designated as a result of such act;

“(B) the claimant or the victim was—

“(i) a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(ii) a member of the Armed Forces of the United States (as that term is defined in section 976 of title 10); or

“(iii) otherwise an employee of the government of the United States or one of its contractors acting within the scope of their employment when the act upon which the claim is based occurred; or

“(C) where the act occurred in the foreign state against which the claim has been brought, the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with the accepted international rules of arbitration.

(b) DEFINITION.—For purposes of this section—

“(1) the terms ‘torture’ and ‘extrajudicial killing’ have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

“(2) the term ‘hostage taking’ has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

“(3) the term ‘aircraft sabotage’ has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

(c) TIME LIMIT.—An action may be brought under this section if the action is commenced not later than the latter of—

“(1) 10 years after April 24, 1996; or

“(2) 10 years from the date on which the cause of action arose.

(d) PRIVATE RIGHT OF ACTION.—A private cause of action may be brought against a foreign state designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)), and any official, employee, or agent of said foreign state while acting within the scope of his or her office, employment, or agency which shall be liable to a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))), a member of the Armed Forces of the United States (as that term is defined in section 976 of title 10), or an employee of the government of the United States or one of its contractors acting within the scope of their employment or the legal representative of such a person for personal injury or death caused by acts of that foreign state or its official, employee, or agent for which the courts of the United States may maintain jurisdiction under this section for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in this section. A foreign state shall be vicariously liable for the actions of its officials, employees, or agents.

(e) ADDITIONAL DAMAGES.—After an action has been brought under subsection (d), actions may also be brought for reasonably foreseeable property loss, whether insured or uninsured, third party liability, and life and property insurance policy loss claims.

(f) SPECIAL MASTERS.—

(1) IN GENERAL.—The Courts of the United States may from time to time appoint special masters to hear damage claims brought under this section.

(2) TRANSFER OF FUNDS.—The Attorney General shall transfer, from funds available for the program under sections 1404C of the

Victims Crime Act of 1984 (42 U.S.C. 10603c) to the Administrator of the United States District Court in which any case is pending which has been brought pursuant to section 1605(a)(7) such funds as may be required to carry out the Orders of that United States District Court appointing Special Masters in any case under this section. Any amount paid in compensation to any such Special Master shall constitute an item of court costs.

“(g) APPEAL.—In an action brought under this section, appeals from orders not conclusively ending the litigation may only be taken pursuant to section 1292(b) of this title.

“(h) PROPERTY DISPOSITION.—

“(1) IN GENERAL.—In every action filed in a United States district court in which jurisdiction is alleged under this section, the filing of a notice of pending action pursuant to this section, to which is attached a copy of the complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property located within that judicial district that is titled in the name of any defendant, or titled in the name of any entity controlled by any such defendant if such notice contains a statement listing those controlled entities.

“(2) NOTICE.—A notice of pending action pursuant to this section shall be filed by the clerk of the district court in the same manner as any pending action and shall be indexed by listing as defendants all named defendants and all entities listed as controlled by any defendant.

“(3) ENFORCEABILITY.—Liens established by reason of this subsection shall be enforceable as provided in chapter 111 of this title.”.

(2) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 97 of title 28, United States Code, is amended by inserting after the item for section 1605 the following: “1605A. Terrorism exception to the jurisdictional immunity of a foreign state.”.

(c) CONFORMING AMENDMENTS.—

(1) PROPERTY.—Section 1610 of title 28, United States Code, is amended by adding at the end the following:

“(g) PROPERTY IN CERTAIN ACTIONS.—

“(1) IN GENERAL.—The property of a foreign state, or agency or instrumentality of a foreign state, against which a judgment is entered under this section, including property that is a separate juridical entity, is subject to execution upon that judgment as provided in this section, regardless of—

“(A) the level of economic control over the property by the government of the foreign state;

“(B) whether the profits of the property go to that government;

“(C) the degree to which officials of that government manage the property or otherwise control its daily affairs;

“(D) whether that government is the sole beneficiary in interest of the property; or

“(E) whether establishing the property as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

“(2) UNITED STATES SOVEREIGN IMMUNITY INAPPLICABLE.—Any property of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from execution upon a judgment entered under this section because the property is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.”.

(2) VICTIMS OF CRIME ACT.—Section 1404C(a)(3) of the Victims of Crime Act of

1984 (42 U.S.C. 10603c(a)(3)) is amended by striking “December 21, 1988, with respect to which an investigation or” and inserting “October 23, 1983, with respect to which an investigation or civil or criminal”.

(3) GENERAL EXCEPTION.—Section 1605 of title 28, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (5)(B), by inserting “or” after the semicolon;

(ii) in paragraph (6)(D), by striking “; or” and inserting a period; and

(iii) by striking paragraph (7); and

(B) by striking subsections (e) and (f).

(d) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any claim arising under section 1605A or 1605(g) of title 28, United States Code, as added by this section.

(2) PRIOR ACTIONS.—Any judgment or action brought under section 1605(a)(7) of title 28, United States Code, or section 101(c) of Public Law 104-208 after the effective date of such provisions relying on either of these provisions as creating a cause of action, which has been adversely affected on the grounds that either or both of these provisions fail to create a cause of action opposable against the state, and which is still before the courts in any form, including appeal or motion under Federal Rule of Civil Procedure 60(b), shall, on motion made to the Federal District Court where the judgment or action was initially entered, be given effect as if it had originally been filed pursuant to section 1605A(d) of title 28, United States Code. The defenses of res judicata, collateral estoppel and limitation period are waived in any re-filed action described in this paragraph and based on the such claim. Any such motion or re-filing must be made not later than 60 days after enactment of this Act.

AMENDMENT NO. 2172

(Purpose: To modify limitations on the retirement of B-52 bomber aircraft)

At the end of subtitle D of title I, add the following:

SEC. 143. MODIFICATION OF LIMITATIONS ON RETIREMENT OF B-52 BOMBER AIRCRAFT.

(a) MAINTENANCE OF PRIMARY AND BACKUP INVENTORY OF AIRCRAFT.—Subsection (a)(1) of section 131 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2111) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph (C):

“(C) shall maintain in a common configuration a primary aircraft inventory of not less than 63 such aircraft and a backup aircraft inventory of not less than 11 such aircraft.”.

(b) NOTICE OF RETIREMENT.—Subsection (b)(1) of such section is amended by striking “45 days” and inserting “60 days”.

Mr. WARNER. That was a group of how many amendments?

Mrs. McCASKILL. Nine.

Mr. WARNER. We are making progress on this bill, but I strongly urge other colleagues to bring forward their amendments. We have a lot to do on this bill. We are dealing with a bill that is absolutely essential for the men and women of the Armed Forces and their families. We should move along as best we can to complete this important legislation.

I yield the floor.

Mrs. McCASKILL. 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. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 2196

Mr. SPECTER. Mr. President, I have sought recognition to respond to the amendment offered by the Senator from Oklahoma, Mr. COBURN, to eliminate the National Drug Intelligence Center, which is located in Johnstown, PA. That center was created in 1992 and performs a very important function. The National Drug Intelligence Center, commonly referred to as the NDIC, partners with the Department of Homeland Security and the Office of Counterterrorism Enforcement, to provide intelligence, to identify, track, and sever the nexus between drug trafficking and terrorism. The NDIC created an entity called Hashkeeper, a company software program which is provided to the Federal Government for use in Iraq. The cost of this center is about one-third of what it would be if it were located in the Washington, DC, area.

I think it makes good sense to decentralize Federal functions to the extent it is possible and practical. Everything does not have to be located in Washington, DC. Everything does not have to be located in a big city. Our country is more vulnerable when everything is concentrated in one area. Johnstown has the advantage of being much less expensive, being able to provide these vital Federal services for about one-third of the cost, while being reasonably close to Washington, DC, which is the location of many of the other entities with which it cooperates.

The jobs which are provided are very substantial for my constituents in Pennsylvania; an obvious interest that I have as a Senator representing the Commonwealth of Pennsylvania. These are several hundred jobs; they are very important. It is a legitimate interest to want to maintain our industrial base in Pennsylvania and to maintain governmental activities in Pennsylvania. But there is good value in having the NDIC function, in general, and there is extra good value in having it function in Johnstown, PA.

The NDIC has been complimented by a broad number of agencies. In a November 21, 2001, letter, the FBI praised the NDIC for its work on financial crimes, saying:

Through the analysis of these documents, over 400 specific intelligence products have been produced for the FBI, the Department of Justice, the Department of Treasury, and U.S. Attorney's Offices. The work NDIC produces continues to initiate actionable leads and identify avenues of investigation. NDIC has integrated seamlessly with the FBI investigation and has enhanced the way the FBI will investigate future financial cases. The participation of NDIC . . . continues to be invaluable.

In a June 23, 2006, letter, the Drug Enforcement Agency had this to say:

The Fort Worth Resident Office—

that is of DEA—

amassed thousands of documents, but was unable to properly exploit the information they contained. The valuable report—

referring to the NDIC report—

caused several of the principals to negotiate pleas to pending charges. If not for the willingness of the members of NDIC to confront these challenges in a cooperative effort, this investigation would not have reached its current level of success.

There have been many plaudits given to the NDIC by the special agents in charge of FBI offices, such as the FBI agent in charge of the Tampa Field Division, the FBI special agent in charge of the Detroit Field Division, the DEA special agent in charge of the Dallas Field Division, the FBI special agent in charge of the Charlotte Division, and the DEA special agent in charge of the Oklahoma City District Office. This last is ironic, in a sense. In a March 25, 2006, DEA cable, the DEA Oklahoma City District Office had this to say.

In support of phases one and two, NDIC deployed two teams in Oklahoma, each consisting of one special agent, one computer exploitation and five document exploitation personnel. Actionable intelligence was generated and passed to the appropriate DEA offices. The OKCDO thanks all NDIC personnel—

that is the Oklahoma City District Office thanks all NDIC personnel—

who planned and participated in this operation. The intelligence and operational knowledge gained was beneficial to OKCDO, and its law enforcement partners. . . .

President, National High Intensity Drug Trafficking Area, HIDTA, Director's Association Executive Board: May 24, 2007, Letter to the Attorney General in support of NDIC:

NDIC produced thirty-two HIDTA drug market analyses for the HIDTA program. Production of the HIDTA drug market analyses required a full-time effort of twenty-six analysts for extended periods of time working side-by-side with the HIDTA Intelligence Center personnel.

NDIC is a very valuable asset in addressing the nation's drug problem.

This entire effort lead to a valuable working relationship with not only the HIDTAs but federal, state and local drug enforcement entities.

FBI Special Agent in Charge—Tampa Field Division: January 16, 2007, Letter of Appreciation for NDIC assistance.

The purpose of this letter is to recognize the assistance of the National Drug Intelligence Center's (NDIC) Document and Computer Exploitation Branch for the superb analytical support they provided the Violent Crimes/Gang Squad on an investigation into the Almighty Latin King and Queen Nation.

FBI Special Agent in Charge—Detroit Field Division: December 11, 2006, Letter of Appreciation for NDIC:

The teamwork displayed in working with investigators from the DEA and the Federal Bureau of Investigation is a true measure of what can be accomplished when agencies work together. NDIC's analysis of the [redacted] Pharmacy evidence assisted in obtaining a sixty-two count indictment. . . .

The FBI characterized NDIC's performance as exemplary in this letter.

DEA Special Agent in Charge—Dallas Field Division: June 23, 2006, Letter of Commendation for Document Exploitation support to a major drug investigation:

The Fort Worth Resident Office (DEA) amassed thousands of documents, but was unable to properly exploit the information they contained. The valuable [NDIC] report listed the seized documents and collated them, which created a valuable tool for Investigators and Prosecutors in this investigation.

In conclusion, this effort caused several of the principals to negotiate pleas to pending charges.

Subsequently, 19 search warrants and over 100 seizure warrants were executed, which resulted in the seizure of approximately \$20 million, in assets.

If not for the willingness of the members of NDIC to confront these challenges in a cooperative effort, this investigation would not have reached its current level of success.

FBI Charlotte Division: May 2, 2006, Letter of Commendation for NDIC:

In February 2006, your staff presented to the North Carolina Law Enforcement Community, the most comprehensive Intelligence Assessment ever conducted within the state of North Carolina relating to gangs. I commend NDIC in exceeding all expectations in providing this valuable assessment.

Executive Office of the President—ONDCP Director: April 17, 2006, Letter of Commendation regarding drug market collection effort:

I want to express my thanks for NDIC's domestic market collection effort.

I know that this was a serious, time consuming undertaking by your agency, and I truly appreciate the efforts of everyone involved.

Thanks for the hard work.

DEA Oklahoma City District Office: March 25, 2006, DEA cable:

In support of phases one and two, NDIC deployed two teams to Oklahoma, each consisting of one special agent, one computer exploitation and five document exploitation personnel.

Actionable intelligence was generated and passed to the appropriate DEA offices.

The OKCDO thanks all NDIC personnel who planned and participated in this operation. The intelligence and operational knowledge gained was beneficial to the OKCDO and its law enforcement partners in the state. . . .

Executive Office of the President—ONDCP Assistant Deputy Director: March 13, 2006, E-mail of Appreciation for drug market collection effort:

Please, convey our thanks to your staff for their outstanding job on the ONDCP Market Collection Effort.

Once Again, we greatly appreciate the superb support and please pass on our thanks for a job well done!

U.S. Department of Justice—Assistant Attorney General: March 7, 2006, Letter of Commendation regarding the National Drug Threat Assessment:

In a letter to the Director of NDIC, the Assistant Attorney General praised NDIC's National Drug Threat Assessment (NDTA) stating:

The NDTA report is extremely helpful to me and prosecutors who are charged with de-

vising new and creative strategies to achieve that goal.

I know that you and your entire staff have put a tremendous amount of work into creating the NDTA. I wanted to let you know that the effort was well worth it.

U.S. Attorney—District of New Mexico: January 18, 2006, Letter of Praise for NDIC:

I am writing to express my thanks for a job not just well done, but rather for an extraordinary, and in my career, unprecedented collaborative effort to support the federal prosecution of significant drug traffickers and money launders.

Once again, thank you for allowing your amazing staff to dedicate their time, skills and NDIC resources to this important case. The work done in support of this case by NDIC is invaluable. . . .

U.S. Department of Treasury—Under Secretary, Office of Terrorism and Financial Intelligence: December 28, 2005, Letter of Appreciation for support in completing the national U.S. Money Laundering Threat Assessment:

I am very pleased to inform you that the Money Laundering Threat Assessment is complete.

[I]t is thanks to active and substantial contributions by the NDIC and the other participants.

I can't thank you enough for the extraordinary contribution.

Office of Counter Narcotics Enforcement/U.S. Interdiction Coordinator—Acting Director: September 7, 2005, Letter of Appreciation for support to a drug/terror tasking:

As I am sure you are aware, NDIC is actively supporting the expanded mission of the Office of Counter Narcotics Enforcement (CNE) by aiding us in the response to the new drug/terror nexus (DTX) tasking as assigned to my office in the Intelligence Reform & Terrorism Prevention Act of 2004. I wanted to take this opportunity to let you know how much I appreciate NDIC's support to this office and to our country's overall counterdrug interdiction efforts.

FBI—Chief, Terrorist Financing Operations Section, TFOS: March 5, 2003, Letter of Thanks for providing long term assistance to post-911 investigations:

As always, it is a pleasure to write to you, as it affords those of us within the Terrorist Financing Operations Section (TFOS) an opportunity to thank you for the continued exceptional assistance NDIC provides to the Counterterrorism Division here at FBI Headquarters.

FBI—Chief, Financial Crimes Section: November 21, 2001, Letter of Appreciation to Deputy Attorney General commanding NDIC:

Since 09/20/2001, the NDIC team, consisting of NDIC Intelligence Analysts and FBI Financial Analysts, has analyzed over 75,000 subpoenaed financial documents. Through the analysis of these documents, over 400 specific intelligence products have been produced for the FBI, the Department of Justice, the Department of Treasury, and U.S. Attorney's Office. The work NDIC produces continues to initiate actionable leads and identify avenues of investigation. NDIC has integrated seamlessly with the FBI investigation and has enhanced the way the FBI will investigate future financial cases. The participation NDIC in this investigation continues to be invaluable.

In concluding—the two most popular words in any speech—I acknowledge and respect the work the Senator from Oklahoma, Mr. COBURN, is doing. He and I have worked very closely in his almost 3 years in the Senate. I observed his work in the House of Representatives, and I know his work as a medical professional. I understand what he is doing in subjecting to an analytical eye Federal expenditures. But I do not believe he should target the NDIC.

I concur that we ought to be holding down Federal expenditures, and I think that close scrutiny of all such projects is very much in the national interest. But I believe the facts are very strong in support of continued operation of the NDIC in Johnstown, PA.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. COBURN. Will the Senator yield so I can respond to the Senator from Pennsylvania and then we can get this off the floor?

Ms. KLOBUCHAR. That is fine.

Mr. COBURN. A couple of points. You should be down here defending this. This is something in your State and it is appropriate that you do. The point I raise is the HashKeeper system is ineffective and doesn't work near to the way every other component works. We know it doesn't work, and it costs about 18 times what the NARL system does, plus the NARL system is admissible in court and the HashKeeper system is not, which is developed by the NDIC.

So there is no question that some of the work they do is valuable. But every example you cited was the DOCX program, which requires anybody there to travel somewhere else. So the location doesn't matter where.

The other point I would make—and the significance of that is we are not, overall, getting as good a value as we could. The idea is not to relocate this to Washington, what the Justice Department is recommending this DOCX portion of it be where it needs to be—which is all across the country—and the rest of the areas that are deemed vital, which is about 10 percent of what the NIDC does, be relocated to El Paso where the drugs come in, where our border is, and where they need it.

This is not a criticism of the people who work there or everything they do. What it is, the amendment as made is intended to give us a perspective about value that we are not getting. I have great respect and consider a friend the Senator from Pennsylvania. I understand his defense of this program. I do not believe it meets the scrutiny of any commonsense objective when you look at it, and what the Department of Justice, which runs it and manages it, and also the fact that in a time of war we can spend a whole lot less money and have that money available to defend this country.

I thank the Senator for listening to me.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2999

Ms. KLOBUCHAR. Mr. President, I am here to speak in support of amendment No. 2999, as amended. This is an amendment that is very important to me, and I appreciate the leadership of my colleagues Senator McCASKILL and Senator WEBB, and in fact all of the freshmen Democrats who are supporting this legislation, the goal of which is to bring more public accountability to the way our Government does business.

I think you and I both know, having spent the last 2 years going around our State, that people are yearning for more public accountability from our Government. They are yearning for more transparency. We heard calls for that—increased transparency. And here we have, in the area of Armed Services and the area of Government contracting, a chance to act on it.

This amendment establishes an independent, bipartisan commission to strengthen Government oversight and examine the true costs of a contracting culture that the Federal Government relies upon in Iraq. This idea is not unprecedented.

The legislation is inspired by the work of the Truman Commission and it is fitting Senator McCASKILL is from Missouri, as was Truman. The Truman Commission, as you know, conducted hundreds of hearings and investigations into Government waste during World War II, at an estimated savings of more than \$178 billion in today's dollars; \$178 billion. Think of what that would mean to the American taxpayer today at a time when we are spending somewhere between \$10 to \$12 billion a month in Iraq.

There is, unfortunately, a natural tendency in this country toward excess and corporate excess. So when people are given sort of unlimited contracts, no-bid contracts, I think you can expect excess.

I come from a prosecutor background. We know that when people are given leeway, and maybe even when they have the best intentions, the people in charge, the people on the ground, it leads to fraud and the Government is the one that is on the short end of the stick.

I think it is more than just a cost of doing business when we are looking at what we have been seeing in Iraq with private contractors over the last 5 years. The number of contractors in Iraq, the last estimate I had, was 180,000. It now exceeds the number of American combat troops in Iraq. We need to look at the effects these logistical and security contractors have on our military.

Now, I would say this: We are not talking about creating an additional bureaucracy. We are talking about expanding an infrastructure that already exists. The Special Inspector General for Iraq Reconstruction, with the excellent performance that we have seen

in uncovering waste, fraud, and abuse in Iraq reconstruction projects, is proof of its ability to conduct more interagency examination of wartime contracts.

The special inspector general has proven to be a powerful tool in investigating reconstruction contracts. In 2005 alone, he reported a loss of \$9 billion tax due to a contractor's inefficiency and bad management.

I can tell you this, in my job as county attorney, when we had a case in front of us, we would always say: Follow the money and you would find the bad guy.

Well, we need to do more of that with Iraqi contractors. This motto could not be more true than it is today as the GAO, the Defense Contract Audit Agency, and news reports continue to expose gross mismanagement in defense contracting.

That is why I am so proud to support this amendment. We have heard that of the \$57 billion awarded in contracts for reconstruction in Iraq that was investigated, approximately \$10 billion has been wasted; \$4.9 billion was lost through contractor overpricing and waste; \$5.1 billion was lost through unsupported contract charges. Of this \$10 billion, more than \$2.7 billion was charged by Halliburton. This means almost 1 in 6 Federal tax dollars sent to rebuild Iraq has been wasted. And while we have heard in dollars the staggering amount, this waste amount, \$10 billion, the costs of mismanaged contracts extends beyond that.

For instance, if you look at the electricity in Baghdad, you have seen the city only enjoying an average of 6.5 hours of electricity a day. It has actually gone down from where it was a year ago.

Water. Congress has provided nearly \$2 billion to provide clean drinking water and repair sewer systems. But according to the World Health Organization, 70 percent of Iraqis lack access to clean drinking water.

With jobs, the Defense Department has estimated that the unemployment rate is anywhere from 13.6 percent to 60 percent. In a recent survey, only 16 percent of Iraqis said their current incomes met their basic needs. These costs in every way are unacceptable. They are unacceptable to the people of Iraq, and they are unacceptable to the taxpayers of this country.

My colleagues and I—and you are one of them, Mr. President—came to Washington demanding accountability. Today I am proud to be part of a group that supports an important amendment to bring more transparency, to bring accountability to contracting in Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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